

CITY OF  
**PORTAGE**  
*A Place for Opportunities to Grow*

# ZONING BOARD OF APPEALS

June 11, 2012



# **CITY OF PORTAGE ZONING BOARD OF APPEALS**

**Monday, June 11, 2012**

**(7:00 pm)**

**Portage City Hall  
Council Chambers**

## **CALL TO ORDER**

## **PLEDGE OF ALLEGIANCE**

## **ROLL CALL**

## **APPROVAL OF MINUTES:**

- \* May 14, 2012

## **OLD BUSINESS:**

## **NEW BUSINESS:**

- \* ZBA# 11-23, RSVP International, 5825 and 5901 Willoughby Drive: RSVP International, 5825 and 5901 Willoughby Drive, is requesting a five-foot side yard setback, where a 12-foot setback is required, to construct a 300 square foot enclosed loading dock addition to the existing building that is seven feet from the (east) side property line.

## **STATEMENT OF CITIZENS:**

## **ADJOURNMENT:**

Materials Transmitted

Star (\*) indicates printed material within the agenda packet



## Minutes of Meeting – May 14, 2012

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Linenger at 7:00 p.m. in the Council Chambers. Eight people were in the audience.

**MEMBERS PRESENT:** Glenn Smith, Doug Rhodus, Timothy Bunch, Betty Schimmel, Rob Linenger, Lowell Seyburn, Michael Robbe, and Jeffrey Bright.

**MEMBERS EXCUSED:** Mariana Singer

**IN ATTENDANCE:** Jeff Mais, Zoning & Codes Administrator and Charles Bear, Assistant City Attorney

**APPROVAL OF THE MINUTES:** Schimmel moved and Singer seconded a motion to approve the April 9, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

**OLD BUSINESS:**

**ZBA #11-16, 5602 Lovers Lane:** Staff summarized the variance requests for a) a single face 672 square-foot non-accessory sign that exceeds the maximum allowed 300 square-foot sign area; b) a 99 foot variance to erect a sign two feet from the (north) property line where a maximum 101 foot setback is required; and c) a 43-foot variance to erect a sign seven feet from the (east) property line where a minimum 50 foot setback is required. Kevin Green was present on behalf of Adams Outdoor Advertising and stated the proposed billboard would be located over 350 feet from the westbound lane. Mr. Green stated that 672 square-foot billboards were an industry standard size sign found throughout the state and country, and while a maximum permitted 300 square-foot sign may be a reasonable standard for the billboards found along surface roads in town, the higher traffic speeds on highways necessitated larger signs for improved legibility. Mr. Green stated the MDOT sound wall erected in 2010 reduced visibility of the existing sign for east bound traffic and because they were proposing to eliminate the west face of the sign they were also reducing the degree of nonconformity. Linenger noted the city issued a permit for a 300 square-foot sign in 1994 and inquired how it came to pass that a 672 square-foot sign was erected. Mr. Green noted the State of Michigan issued a permit for a 672 square-foot sign, but could not otherwise account for the actions of his predecessor 18 years ago. Smith inquired if there were any other 'standard' size signs produced in between the 378 square-foot sign referenced in the staff report and the proposed 672 square-foot sign. Mr. Green stated there was also a 504 square-foot 'substandard-sized' sign available. Robbe inquired why detuning equipment was needed now. Mr. Green said Midwest Communications, owner of the broadcast towers to the east, suggested they should equip their sign with the device to eliminate electrical interference and Adams has already agreed to install the equipment. Seyburn inquired how large the billboard on the other side of I-94 was. Staff stated the sign was 378 square feet and its size was the result of a Settlement Agreement between the city and the sign owner. Seyburn inquired if there was a "me too" clause in that Agreement. Staff and Mr. Bear both stated no.

A public hearing was opened. A communication from Kevin Green to staff was read into the record and a maintenance agreement between the property owner of 5602 Lovers Lane and Adams Outdoor Advertising was also entered into the record. Mr. Peter Tanz, Midwest Communications, stated he was present to answer any other questions the Board may have about the detuning equipment. There were no further questions or comments. The public hearing was closed.

A motion was made by Seyburn, seconded by Schimmel, to grant a) a variance for a one-sided 504 square foot (12' x 42') sign conditioned upon the installation of a de-tuner, and painting the back side

of the billboard to minimize potential aesthetic impacts to properties to the south and west, the practical difficulties include giving up rights to have a two-sided sign is a reduction in the degree of nonconformity and the significant distance of the sign from the westbound lane of I-94 (which is much further than the sign on the opposite side of the highway); the variance is necessary for the preservation of a substantial property right, the right to have a freestanding sign that can be seen from the highway which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

A motion was made Smith, seconded by Bright, to grant variances allowing the sign to be setback b) two feet from the north property line and c) seven feet from the east property line. The practical difficulty is the significant distance of the sign from the westbound lane of I-94; the variance is necessary for the preservation of a substantial property right, the right to have a freestanding sign that can be seen from the highway which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

### **NEW BUSINESS:**

ZBA #11-20, 7634 Hampton Oaks: Staff summarized the request for a) a four-foot variance to retain an existing garage six feet from the (north) side property line; and b) a four-foot variance to construct a 12-foot by 14-foot three season porch six feet from the north property line where a 10-foot setback is required. Mr. Donald Kitchin was present to answer any questions.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Smith, seconded by Seyburn, to grant a) a four-foot variance to retain an existing garage six feet from the (north) side property line; and b) a four-foot variance to construct a 12-foot by 14-foot three season porch six feet from the north property line where a 10-foot setback is required. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the narrow corner lot, the existing floor plan (split level design) and orientation of existing dwelling on the lot. The variance is necessary for the preservation of a substantial property right, the right to have a screened-in porch which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood and; the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of

the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

ZBA #11-21, 6430 South Westnedge Avenue: Staff summarized the request for a 10 square-foot variance to replace a nonconforming 96 square-foot sign, with a 75 square-foot sign for Harding's Market, where 65 square feet is the maximum allowed. Steve Vandersloot, Sign Art, was present on behalf of the applicant to answer questions. Robbe inquired if the applicant had looked into different sign configurations to possibly erect a conforming sign. Mr. Vandersloot stated they had but felt the proposed sign represented the best sign design based on both aesthetic and functional characteristics.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Seyburn, seconded by Smith, to grant a 10 square-foot variance to replace a nonconforming 96 square-foot sign with a 75 square-foot sign for Harding's Market, where 65 square feet is the maximum allowed, as the proposed sign represents an appreciable reduction in the degree of nonconformity consistent with Section 42-544(C)(2) and (3); the variance will not be detrimental to adjacent property; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Singer-Yes, Bright-Yes. Motion passed 7-0.

ZBA #11-22, 6605 Lovers Lane: Staff summarized the request for a variance to modify a nonconforming freestanding sign. Mr. Locey explained he received a variance in 1984 that allowed him to have the sign and did not understand why he needed another variance. Staff responded that the Zoning Code did not allow staff to issue sign permits for tenant panel changes to nonconforming signs without Board approval. Smith noted it appeared there were two freestanding signs in close proximity that looked nearly identical. Staff clarified the 1984 variance included two signs but that ownership of the two adjacent properties had subsequently changed along with the zoning lots. Seyburn and Smith observed it would look strange if one of the signs were moved to a conforming location and that the view of one sign would be partially blocked by the other sign.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

After additional discussion, a motion was made by Bright, seconded by Smith, to grant a variance to modify a nonconforming freestanding sign, with the condition that the owner be permitted to change sign panels without additional review and approval by the Board, provided the sign is not structurally altered or increased in size and a sign permit is obtained, and that no more than four tenant panels be permitted on each sign face. There are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include that the two freestanding signs are located approximately equal distance (one foot) from the road and that moving the sign to a conforming location would block the view of one sign and cause them not to line up; the variance is necessary for the preservation of a substantial property right, the right to identify tenants which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and; the variance will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report and all comments, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board

be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

**STATEMENT OF CITIZENS:**

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 8:55 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator

Portage

6000  
Portage

City of Kalamazoo

City of Kalamazoo

City of Kalamazoo

Subject Properties

5837

5905

5911

5919

5929

5977

5845

2603

I-1

5825

5901

5909

5913

5921

2711

2725

B-3

Willoughby

Mitham

6151

I-2



1 inch = 200 feet

ZBA 11-23

5825, 5901 Willoughby Drive

Legend



Zoning Boundary  
Subject Properties  
Notification Boundary

**ZONING BOARD OF APPEALS APPLICATION**

Application Date 4-30-12 **FOR COMPLETION BY APPLICANT**  
 Name of Applicant DON HAMMING *Don Hamming*  
Print Signature  
 Applicant's Address 8213 NEPTUNE Phone No. 269-381-4708  
 Name of Property Owner (if different from Applicant) \_\_\_\_\_  
 Address \_\_\_\_\_ Phone No. \_\_\_\_\_

Address of the Property that is the subject of this Application:

Street Address 5825 WILLOUGHBY DR. PORTAGE MI  
 For Platted Property: Lot 20 TR4 29 of WILLOUGHBY-HENRY Plat

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]

Applicant's interest in Property that is the subject of this Application: NEW LOCATION FOR  
RSVP INTERNATIONAL WORLDWIDE LOGISTICS

Application Fee \_\_\_\_\_ (Residential Uses) \_\_\_\_\_ (All Other Uses)

Type of Appeal (Please check one of the following bold choices and provide the requested information):

**Variance from Zoning Ordinance:** Article LAND REZS Section 42-350 Paragraph 19  
 Regarding: Use \_\_\_\_\_ Area \_\_\_\_\_ Yards \_\_\_\_\_  
 Setbacks 12'-0" Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): ADDITION OF NEW LOADING  
DOCK TO THE EAST SIDE (15'-0")

\_\_\_\_\_ **Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_\_ **Interpretation of the Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_\_ **A Temporary Permit for:** Building \_\_\_\_\_ Use \_\_\_\_\_ Other Approval \_\_\_\_\_

Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

**FOR STAFF USE**

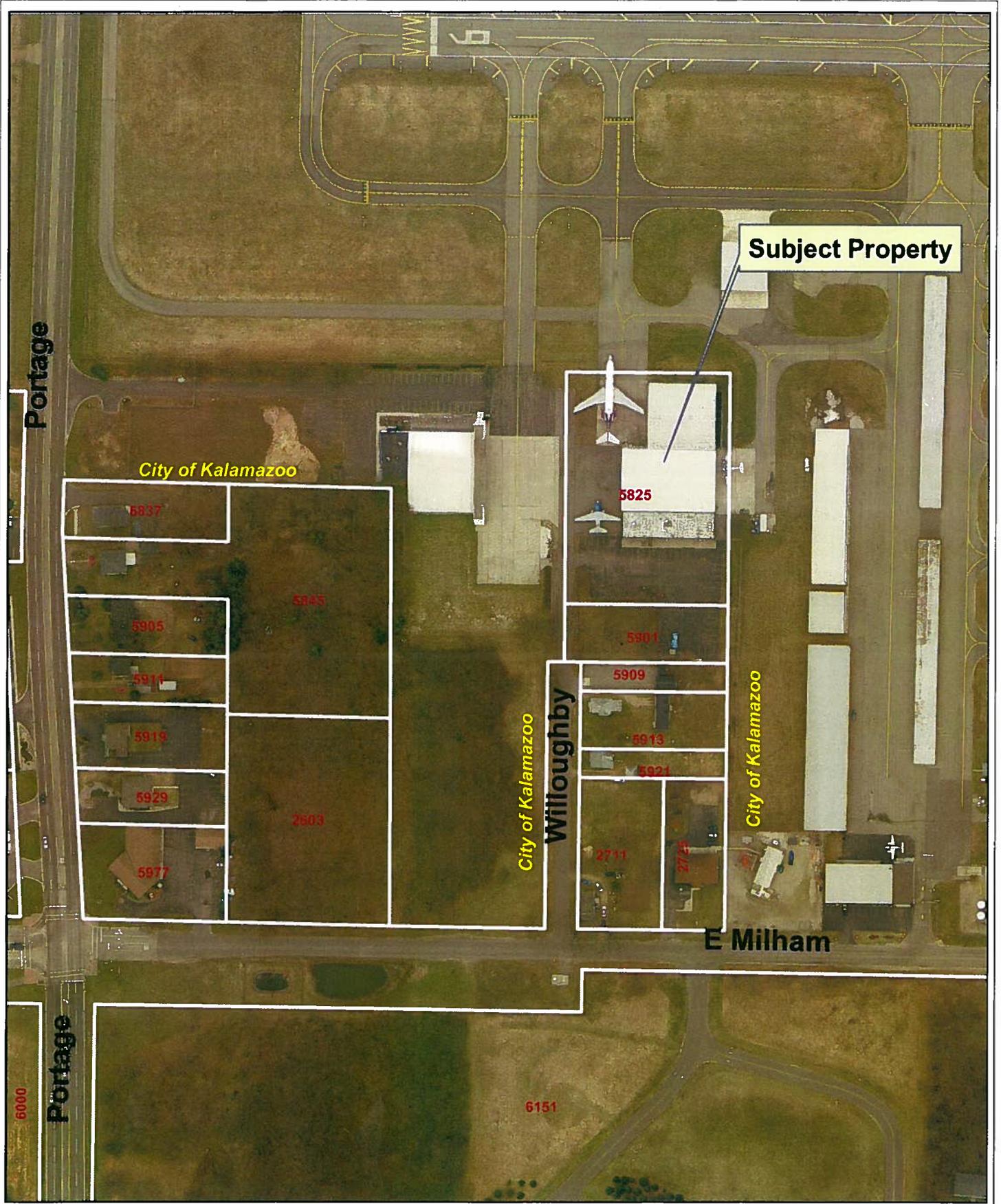
Application Number:	Filing Date:	Tentative Hearing Date:
Previous Application Filed Regarding This Property:		

### Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)  
THE PROPOSED LOADING DOCK REQUIRES A MIN HEIGHT OF 14'0", THE REQUIRED BUILDING SETBACK IS 12'0", WE ARE REQUESTING A 7'0" INTO THAT SETBACK
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
THE SITE IS UNIQUE THAT IT ABUTS AN EXISTING AIRFIELD APRON AND HAS NO IMPACT ON ADJACENT BUILDINGS
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)  
THE LOADING AREA IS REQUIRED FOR THE NEW OWNERS TRANSPORTATION & LOGISTICS OPERATION
4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)  
YES CURRENTLY THERE ARE NO LOADING AREAS AT THIS SITE, THERE IS NO IMPACT ON ADJACENT PROPERTIES
5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)  
THERE IS NO IMPACT ON ADJACENT PROP. THE EAST SIDE OF BUILDING HAS A CONCRETE APRON, CLOSEST BUILDING IS APPROX 150'0" TO EAST
6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)  
BECAUSE OF LIMITED NUMBER OF TRUCKS PER DAY/DELIVERIES TRUCKS DO NOT STAY ON SITE, NO HAZARDOUS MATERIALS ARE STORED AT SITE, NO LIFE-SAFETY CONCERNS
7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)  
THE HARDSHIP IS THIS FACILITY HAS NO LOADING AREAS
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
THE INTENT OF THE ORDINANCE IS TO NOT CREATE A HARDSHIP FOR ADJACENT PROPERTIES. NO LIFE-SAFETY ISSUES WE WILL STILL HAVE ACCESS AROUND BUILDING FOR FIRE EQUIPMENT.

Signature of Applicant

Date



**Subject Property**

City of Kalamazoo

City of Kalamazoo

City of Kalamazoo

E Milham



1 inch = 200 feet

# Aerial Photo

## 5825 Willoughby Drive



**FLOOR PLAN**

HOWARD I. OVERBERG  
 ARCHITECT, P.C.  
 135 EAST CENTER  
 PORTAGE, MICHIGAN  
 PHONE (269) 333-2122  
 FAX (269) 333-3440

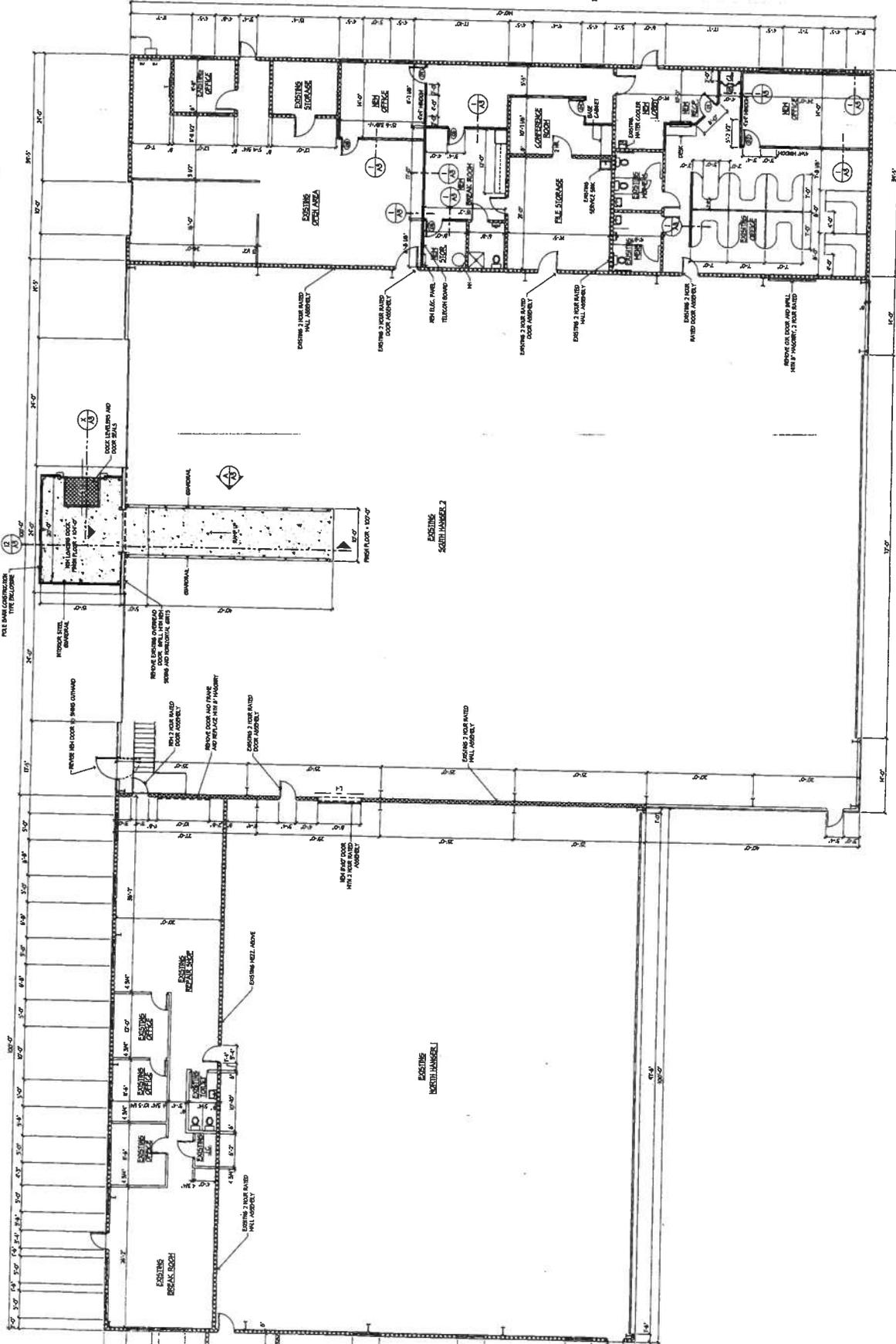
PROJECT NO.  
 0000

DATE  
 11/11/07

REVISION

SHEET  
**A1**

**FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"



Architectural Plans, Inc. 2007. All rights reserved. 3/11/07 11:00 AM. 3/11/07 11:00 AM. 3/11/07 11:00 AM.

BUILDING RENOVATIONS TO  
**RSVP INTERNATIONAL WORLDWIDE LOGISTICS**  
 SEE WORKORDER DETAILS  
 PORTAGE, MICHIGAN 49883

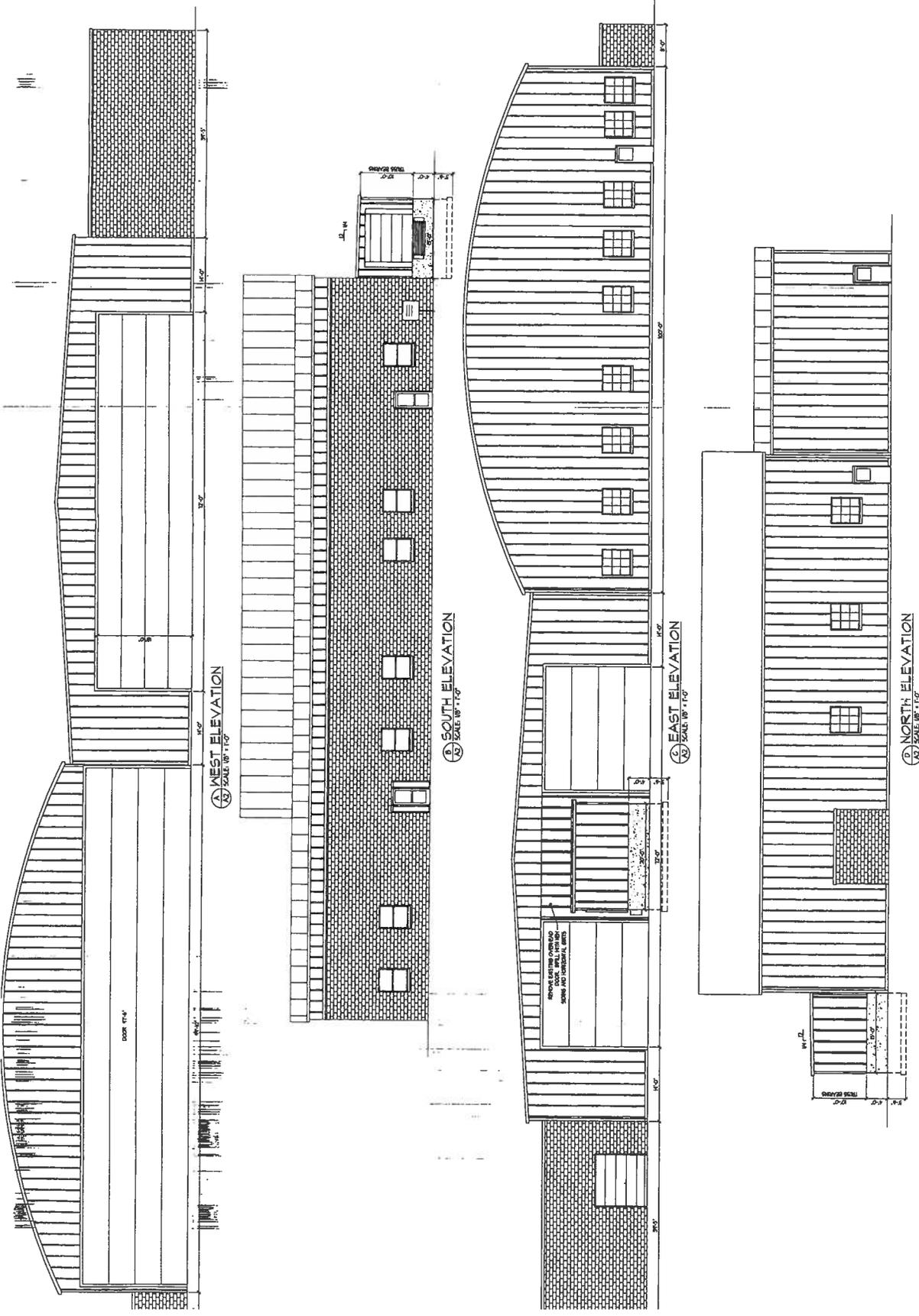
**ELEVATIONS**

HOWARD L. OVERBERG  
 ARCHITECT, P.C.  
 100 EAST CENTER  
 PORTAGE, MICHIGAN  
 PHONE 616 223-3400  
 FAX 616 223-3400

  
 PROJECT NO. 000

DATE  
 CHAIR  
 REVISION

SHEET  
**A2**



All dimensions are in feet and inches. All elevations are shown in black ink on white paper.





**TO:** Zoning Board of Appeals **DATE:** June 1, 2012

**FROM:** Vicki Georgeau, <sup>WJ</sup> Director of Community Development

**SUBJECT:** ZBA #11-23; RSVP International, 5825 and 5901 Willoughby Drive; I-1, Light Industry

**CODE SECTION:** 42-350(A) Schedule of Regulations; p. CD42:84

**APPEAL:** Requesting a seven-foot variance to allow construction of a 300 square foot (15-foot by 20-foot) covered loading dock five feet from the east/side property line where a 12-foot setback is required.

**STAFF RECOMMENDATION:**

The 3.42 acre property is improved with a 29,530 square-foot aircraft hanger and office facility constructed in 1963 with a 10-foot setback from the north property line and a 20-foot setback from the east property line. Subsequent additions and remodeling occurred in the early 1970s. The site is currently owned by the Kalamazoo Aviation History Museum and a sale to RSVP International Worldwide Logistics is pending. The property is zoned I-1, Light Industry and is situated adjacent to other light industrial land uses (south), Willoughby Drive/aircraft hangar (west) and the Kalamazoo-Battle Creek International Airport (north/east).

The applicant requests a variance to construct a 300 square foot (15-foot by 20-foot), 14 foot high covered loading dock along the east side of the building, five feet from the east property line (Zoning Code requires a side setback of 12-feet or ½ the building height, whichever is greater). According to the applicant, the loading dock will be utilized for truck deliveries and will be accessed through the existing parking lot/gate located along the southeast side of the building. This new loading dock will be enclosed by a chain-link fence to prevent truck traffic from entering the adjacent airport property. For safety and security purposes, the applicant has indicated the Kalamazoo-Battle Creek International Airport will not permit truck deliveries on the west or north sides of the building where access to the airport tarmac and runways is available. Truck deliveries through the south side of the building are also not possible given the internal floor plan of the building, which includes offices, meeting rooms, restrooms, etc. There is currently no loading dock at the site and according to RSVP International, the proposed 15-foot by 20-foot covered loading dock is necessary in order to conduct business operations.

With truck deliveries restricted by the airport from the west and north sides of the building and the internal floor plan of the building preventing truck deliveries from the south side of the building, unique circumstance exist involving this property that precludes practical conforming alternatives. The requested variance will not be detrimental to adjacent properties (proposed loading dock will be situated in

excess of 130-feet from the nearest hanger building located on the adjacent airport property). Additionally, and as shown on the attached aerial photograph, there is an existing taxiway that separates the subject property from the adjacent aircraft hangars to the east that will ensure appropriate building separation should the hangars to the east be expanded. Based on the above analysis, the variance request is not inconsistent with the intent and purpose of the Zoning Ordinance. For these reasons, the variance is recommended.

**PRACTICAL  
DIFFICULTY:**

Airport security and safety; location and setback of existing building; no existing loading dock at site; internal building floor plan. See Suggested Motion form.

S:\2011-2012 Department Files\Board Files\ZBA\11-23; 5825 Willoughby\2012.06.01 VG ZBA 11-23 Willoughby,5825 (staff report).doc

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

I move, in regard to ZBA # \_\_\_\_\_, the application by \_\_\_\_\_  
for a variance from \_\_\_\_\_  
\_\_\_\_\_

**be:**

**a. granted** for all of the following reasons:

- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to \_\_\_\_\_, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

**-OR-**

**b. denied** for one of more of the following reasons:

- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as \_\_\_\_\_.
- 3b. The immediate practical difficulty causing the need for the variance request was created by the applicant;
- 4b. The variance would be detrimental to adjacent property and the surrounding neighborhood, and;
- 5b. The variance would materially impair the intent and purpose of the zoning ordinance.

**c. In addition**, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, **and that action of the Board be final and effective immediately.**