



ZONING BOARD OF APPEALS

February 11, 2013

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, February 11, 2013

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- January 28, 2013

OLD BUSINESS:

NEW BUSINESS:

- ZBA #12-20, Andy Wenzel, 5260 Lovers Lane: Requesting: a) a variance to erect a sign 64 feet above the adjacent I-94 street grade, where a maximum 40-foot high sign is permitted; and b) a variance to erect a 378 square-foot sign where a maximum 300 square-foot sign is permitted.
- ZBA# 12-21, James Mikrut, 6123 South Westnedge Avenue: Requesting a variance to replace the panels on nonconforming freestanding sign.
- ZBA#12-22, Darrel Greathouse, 8818 Portage Road: Requesting a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

DRAFT

Minutes of Meeting – January 28, 2013

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. Seven people were in the audience.

MEMBERS PRESENT: Rob Linenger, Timothy Bunch, Doug Rhodus, Betty Schimmel, Michael Robbe, Mariana Singer, and Glenn Smith.

MEMBERS EXCUSED: Lowell Seyburn, Jeffrey Bright

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

APPROVAL OF THE MINUTES: Singer moved and Schimmel seconded a motion to approve the December 10, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

NEW BUSINESS:

ZBA #12-18, 251 and 325 Mall Drive: Mais summarized the request for a 29-foot variance to construct a 7,575 square-foot restaurant 46 feet from the front (north) property line, where a minimum 75-foot setback is required. Josh Weiner and Tim Timmons were present to answer any questions. Mr. Weiner stated he agreed with the staff report and that the neighbors supported the request as well. Linenger inquired if the applicant had received site plan approval already. Mr. Weiner stated the site plan may vary in some details, but would closely resemble the conceptual plan the Board was looking at when it comes up for site plan review. Linenger inquired if they had considered altering their access arrangement onto Mall Drive so that the Southland Mall access would align directly with this development's access. Mr. Weiner stated they had and that the issue has been discussed on previous occasions with staff where it was determined the existing arrangement was preferable. Rhodus inquired who owned the property. Mr. Weiner stated BW3 Acquisitions LLC was an entity created by his corporation.

A public hearing was opened. No one was present to speak for or against the request. The public hearing was closed.

A motion was made by Bunch, seconded by Singer, to grant a 29-foot variance to construct a 7,575 square-foot restaurant 46 feet from the front (north) property line, where a minimum 75-foot setback is required, conditioned upon 1) the building height be limited to 25 feet to ensure a low-profile building ; and 2) the building design and materials include masonry (brick) materials and several window openings consistent with the conceptual building elevations. There are exceptional circumstances applying to the property which include the location of the existing building and limited building width along the north side of the building; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to construct a business of reasonable dimensions; the immediate practical difficulty causing the need for the variance request 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, 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, Smith-Yes, Schimmel-Yes, Singer-Yes Linenger-Yes, Rhodus-No, Robbe-No. Motion passed 5-2.

ZBA #12-19, 6600 Ring Road: Mais summarized the request for a 194 square-foot variance to erect a 194 square-foot wall sign where there already exists a sign that is the maximum permitted 225 square feet. Scott Urbane and Roger Lubs were present to answer questions. Mr. Lubs stated that the IMAX theater was unique in the area, and that the next nearest theaters were in Grand Rapids or Lansing. Mr. Lubs said the business draws many school busses for field trips and other patrons from outside the community who are not familiar with the area and that the IMAX sign was necessary to help with way-finding. Mr. Urbane

showed photographs depicting the limited visibility of the site from Ring Road. Linenger noted the request greatly exceeds what is permitted and wondered if the applicant had considered removing or reducing the existing wall sign. Mr. Lubs said they had not because they wanted to achieve roughly equal balance between signs identifying "Celebration Cinema" and the "IMAX" theaters. Mr. Lubs stated the IMAX theater is bigger than regular theaters and wanted the sign to reflect that. Schimmel inquired that if the Celebration Cinema sign was not even visible from Ring Road, why not remove it and allocate the sign area for IMAX. Mr. Lubs stated the existing Celebration sign is visible from the food court at the mall and is important to draw customers from the mall. Schimmel and Smith both inquired if other businesses around the mall got wall sign variances. Mais responded that several businesses including Cole-Century, Sears, and JC Penney got wall sign variances of various sizes, but were for smaller signs than the present application. Smith stated he did not see an aesthetic problem with the theater having larger signage, but wondered if the applicant would consider reducing the size of the IMAX sign as recommended by staff. Mr. Lubs said IMAX was almost like a separate entity and it was important to maintain a rough balance between the Celebration and IMAX sign sizes. Bunch stated he was concerned about granting a variance for the largest sign in vicinity as it would set a precedent. Singer stated she did not see why 70 inch tall letters were needed for the IMAX sign. Mr. Lubs stated they would be willing to make do with a 120 square-foot sign. Robbe stated the applicant should be making a choice to either advertise Celebration Cinema or IMAX and if they wanted to choose a large IMAX sign, the Celebration sign should be removed from the east elevation.

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 Singer to grant a 120 square-foot variance to erect a 120 square-foot wall sign, where a the maximum permitted 225 square feet of signage already exists. There are exceptional circumstances or extraordinary circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include: much of the wall signage is obscured from view of Ring Road due to the elevation change and that IMAX was like a second entity. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify a business, and that other businesses in the area had received wall sign variances; the immediate practical difficulty causing the need for the variance request 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, 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-No, Smith-Yes, Schimmel-Yes, Singer-Yes Linenger-Yes, Rhodus-No, Robbe-No. Motion passed 4-3.

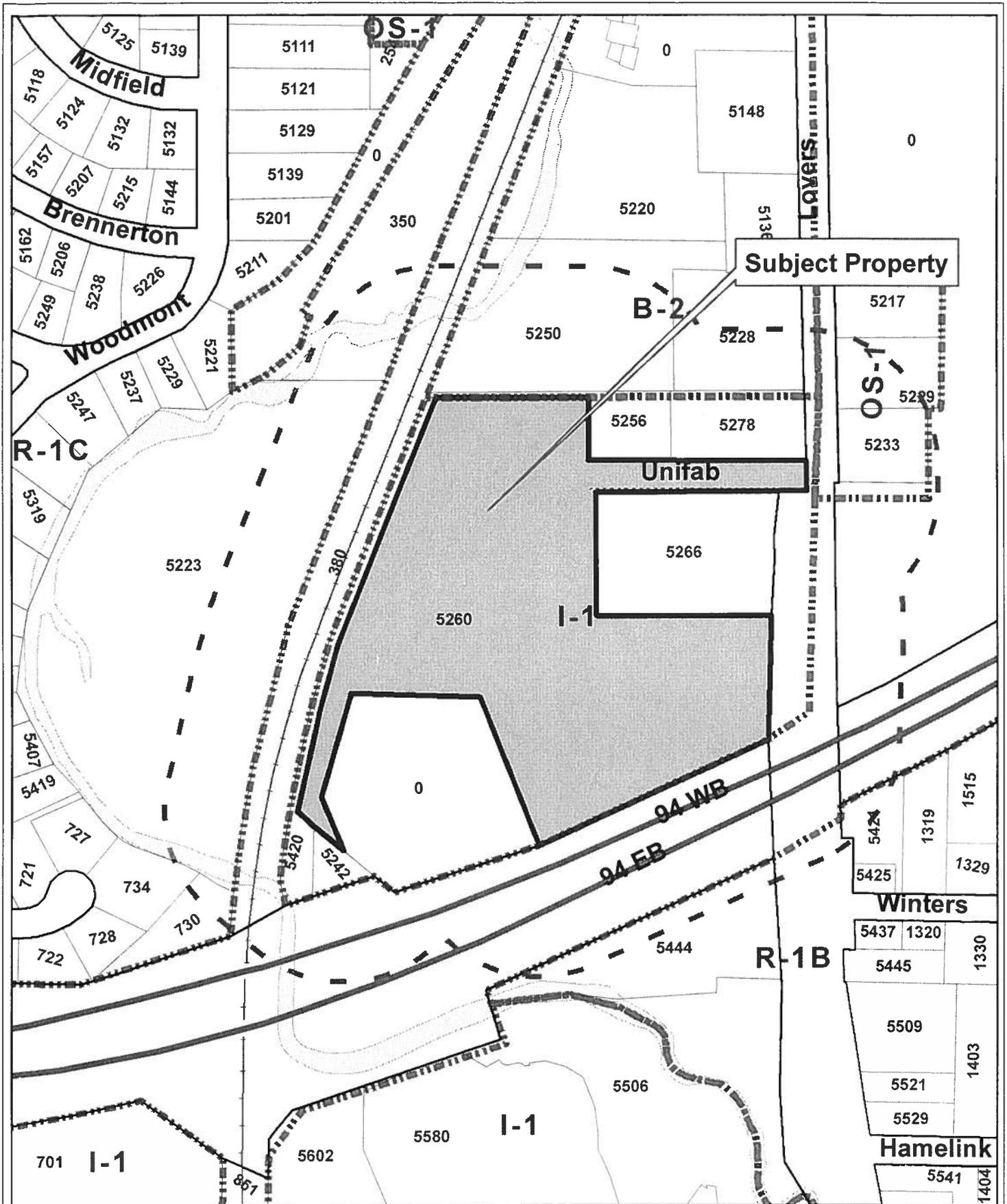
OTHER BUSINESS: Schimmel noted the Board would soon be losing the Chair and Secretary due to term limits and that perhaps elections should be scheduled for new officers soon. Mais stated the rules & procedures stated the Vice Chair takes over as chair for the remainder of the term, but would look into what needed to be done to replace the Secretary.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:07 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



ZBA 12-20

5260 Lovers Lane

- Legend**
-  Zoning Boundary
 -  300' Notification
 -  Subject Property


1 inch = 299 feet

RECEIVED

JAN 29 2013

COMMUNITY DEVELOPMENT

CITY OF PORTAGE A Place for Opportunities to Grow

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 1-18-13
Name of Applicant INSIGHT OUTDOOR ADVERTISING
Applicant's Address 1234 Main Hi Drive, Kalamazoo, MI 49008
Name of Property Owner (if different from Applicant) PAVNEE PROPERTIES, LLC
Address 5260 Lovers Lane, Portage, MI

Address of the Property that is the subject of this Application:
Street Address 5260 LOVERS LANE, PORTAGE
For Platted Property: Lot of 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: Leasehold

Application Fee (Residential Uses) (All Other Uses)

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

X Variance from Zoning Ordinance: Article 42-542.553 Section B C Paragraph 34
Regarding: Use 42-553 Area C Yards 2
Regarding: Setbacks Parking Other Sign Height, AND SIZE MEASUREMENT

Reason for Request (Also complete page 2 of application): See ATTACHED

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

Reason for Request:

FOR STAFF USE

Table with 3 columns: Application Number, Filing Date, Tentative Hearing Date. Row 1: 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.)

There are topography characteristics with the subject property and I-94 being lowered and lowers LAUS being elevated - see attached.

- 2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

This property is the only commercial/Industrial use and a unique measurement standard has been established.

- 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 use is approved and granted, the variance is for a reasonable application of the use.

- 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 - this sign is lower than the adjacent sign and 5' lower than signs not adjacent to "elevated roadways".

- 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.)

This is an approved use on an industrial zoned property along I-94. Granting this variance will improve visibility to the highway. Adjacent properties will see the sign from either elevation.

- 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.)

Granting the variance will assist with any possible traffic visibility 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.)

No. Due to the act of the MDOT & City to improve roadways.

- 8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

The spirit and intent of the ordinance is to allow measurement "From adjacent street grade... that permits the greatest height to the highest point of such sign". Please see attached.

Alfred J. [Signature]

Signature of Applicant

1-21-13

Date

Requests for Variance: For Sign Height and Sign Face Size
5260 Lovers Lane, Portage, MI
Zoning Board of Appeals
Meeting Date: 2/11/13

Variance Request #1: Section 42-553C4 Sign Height:

Request: To allow a sign height of 64' above the adjacent road grade of I-94 when the allowed height is 40', due to the lowered section of I-94 and raised section of Lovers Lane at this location.

Elevation Information:

Elevation at sign base: 846

Elevation at I-94 (depressed/lowered): 840

Established I-94 elevation before depression/lowering under bridge: 869

Elevation at Lovers Lane: 864

The proposed sign height is 58' measured from the grade at the sign location and 64' from the adjacent I-94 elevation. Proposed sign elevation is 904.

The sign ordinance states that “the height of a sign is measured from the adjacent street grade or upper surface of the nearest street curb other than an elevated roadway that permits the greatest height to the highest point of such sign.” The ordinance considers an elevated roadway, but does not consider a depressed or lowered roadway. In this case, the closest adjacent streets are I-94 and Lovers Lane. The closest point of Lovers Lane is an “elevated roadway” to accommodate for the bridge over I-94. The closest point on I-94 is lowered to go under the Lovers Lane Bridge. Therefore, this elevation is significantly lower than the natural grade elevation of I-94 in this section of roadway.

The spirit and intent of the ordinance would appear to support the proposed elevation. A sign constructed at the height of 40' above the adjacent grade of I-94 would only be 16' to the top and 5.5' to the bottom of the sign face above the Lovers Lane elevation. Granting the requested height would place the sign elevation just above the street lights and street trees in the median on Lovers Lane. Using this elevation also provides for consistency between adjacent signs in this area.

The proposed sign height is lower than the closest advertising sign to the west on the south side of I-94.

A sign permit application submitted by the applicant for a conforming height of 40' at this location would be approved by City staff for a sign permit from the City of Portage. The Michigan Department of Transportation has approved MDOT sign permits for this location, therefore, all requirements for both governmental are satisfied. However, the practical difficulties explained herein compel us to ask for these variances to provide reasonable height and size to be most effective.

The proposed height is in the spirit of the ordinance as the ordinance allows non-accessory (billboard) advertising signs to be 40' high while commercial signs are limited to 25' high. From the recently established measurement elevation of 869, the sign will be constructed 35' high.

The sign cannot be moved to another location on this or any adjacent property to overcome the difficulties identified due to City and MDOT requirements.

5260 Lovers Lane, Portage, MI
Zoning Board of Appeals
Meeting Date: 2/11/13
Page 2

Variance request #2: Section 42-553C2 Signs, Non-accessory signs, display surface (advertising face size):

Request: To allow a display surface of 378 square feet when the ordinance allows 300 square feet; due to increased setback from the I-94 Right of Way.

To accommodate a clear viewing location, retain adjacent trees and meet the city zoning requirements, the sign is setback from the I-94 right of way by a greater distance than normal. Therefore, a variance is requested as stated above to increase the sign face size to 378 square feet.

This is a standard face size in the industry, 300 square feet is not. Signs manufactured to a 300 square feet face size do not fit the standard advertising template that the user (local businesses) use for artwork at other standard locations. To modify the artwork to fit this size equates to greater cost.

Signs on the highway are more effective if they are somewhat larger. The standard size for highway signs is 672 square feet. We are not asking for this, however, this is a standard sign for a reason. Based on traveling speeds on highways, this has been established as an effective standard size.

The sign immediately west of the subject location on the north side of I-94 is 378 square feet. The sign immediately west of the subject location on the south side of I-94 is 504 square feet.

Thank you for your time and consideration reviewing these requests.

This sign is greatly needed at this location. The above requests will provide for reasonable height and size to be the most effective. We have local businesses that cannot purchase space on the MDOT provided advertising at the exit because they do not meet the requirements or there is no additional space available in their category. There are limited advertising signs in this area. This sign will provide a service to the traveling public and local business to help grow our local economy.

5260 LOVERS LANE - ROAD & SIGN ELEVATIONS (1-16-13)

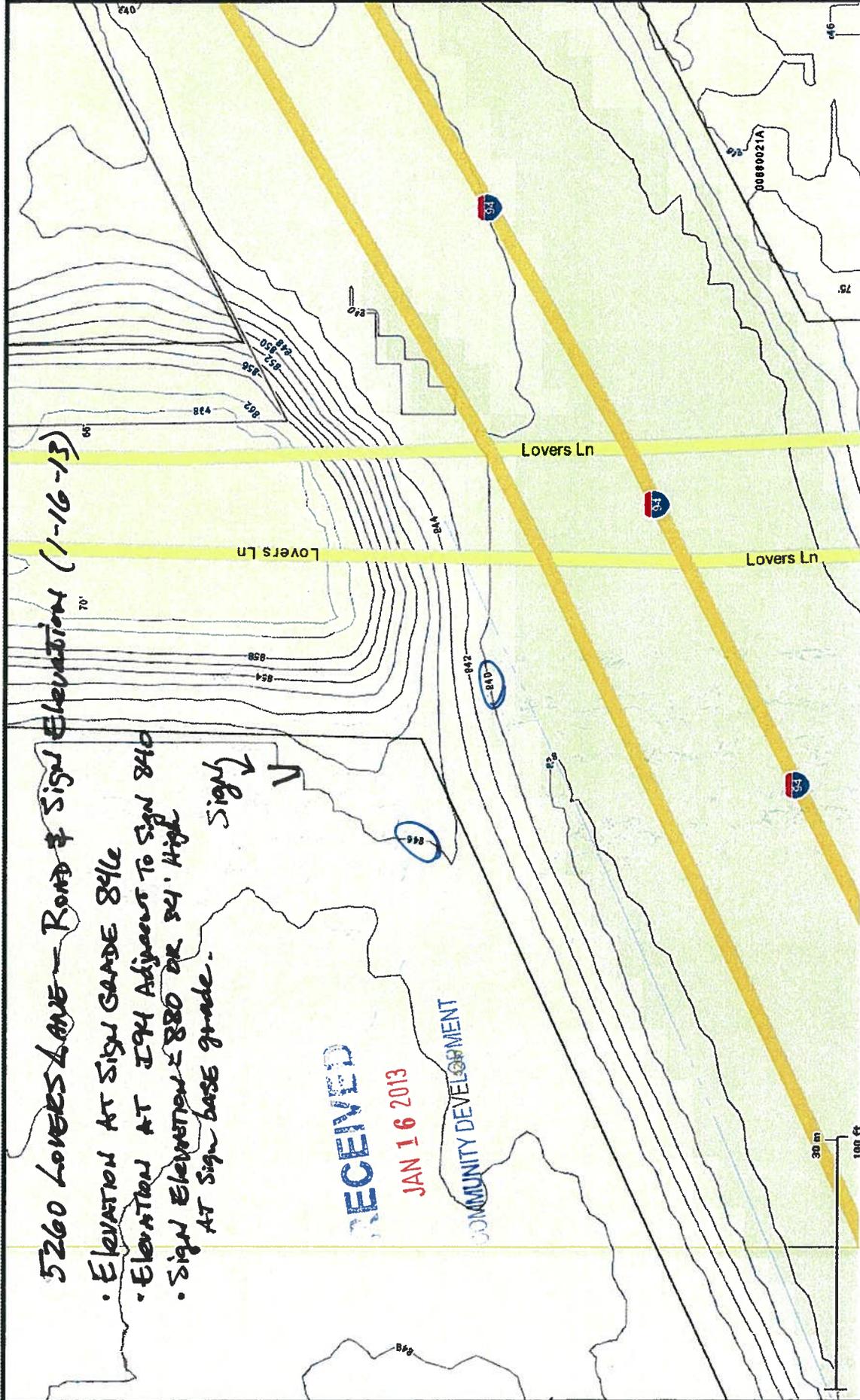
- ELEVATION AT SIGN GRADE 846
- ELEVATION AT I94 ADJACENT TO SIGN 846
- SIGN ELEVATION ± 880 OR 841' HIGH AT SIGN BASE GRADE.

Sign
↓

RECEIVED

JAN 16 2013

COMMUNITY DEVELOPMENT



Disclaimers:

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1:900

Map Publication:

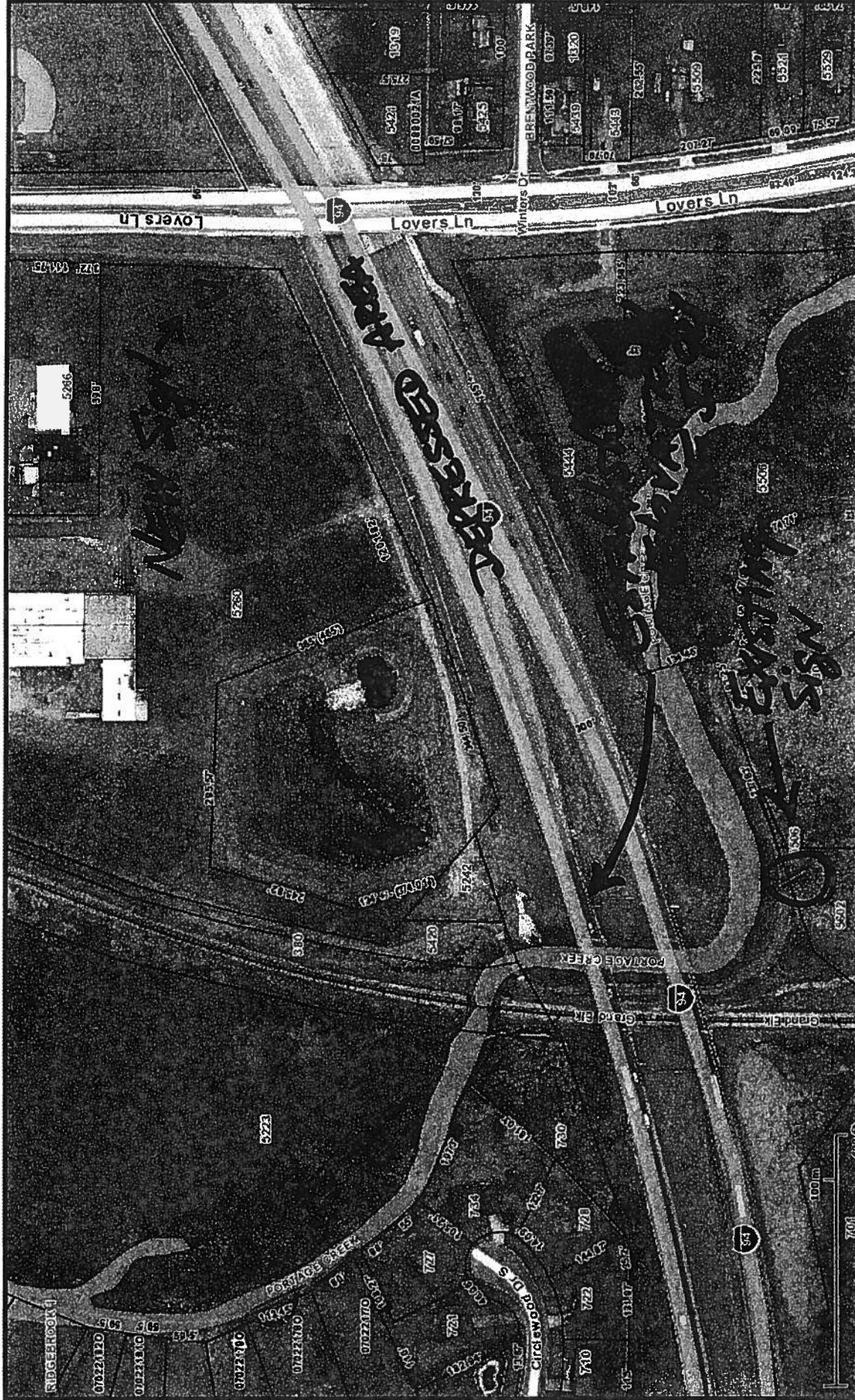
Wed Jan 16 2013 09:07:33 AM



City of Portage Map Document

web mapping by
Amalgam LLC

CITY OF
PORTAGE
A Place for Opportunities to Grow



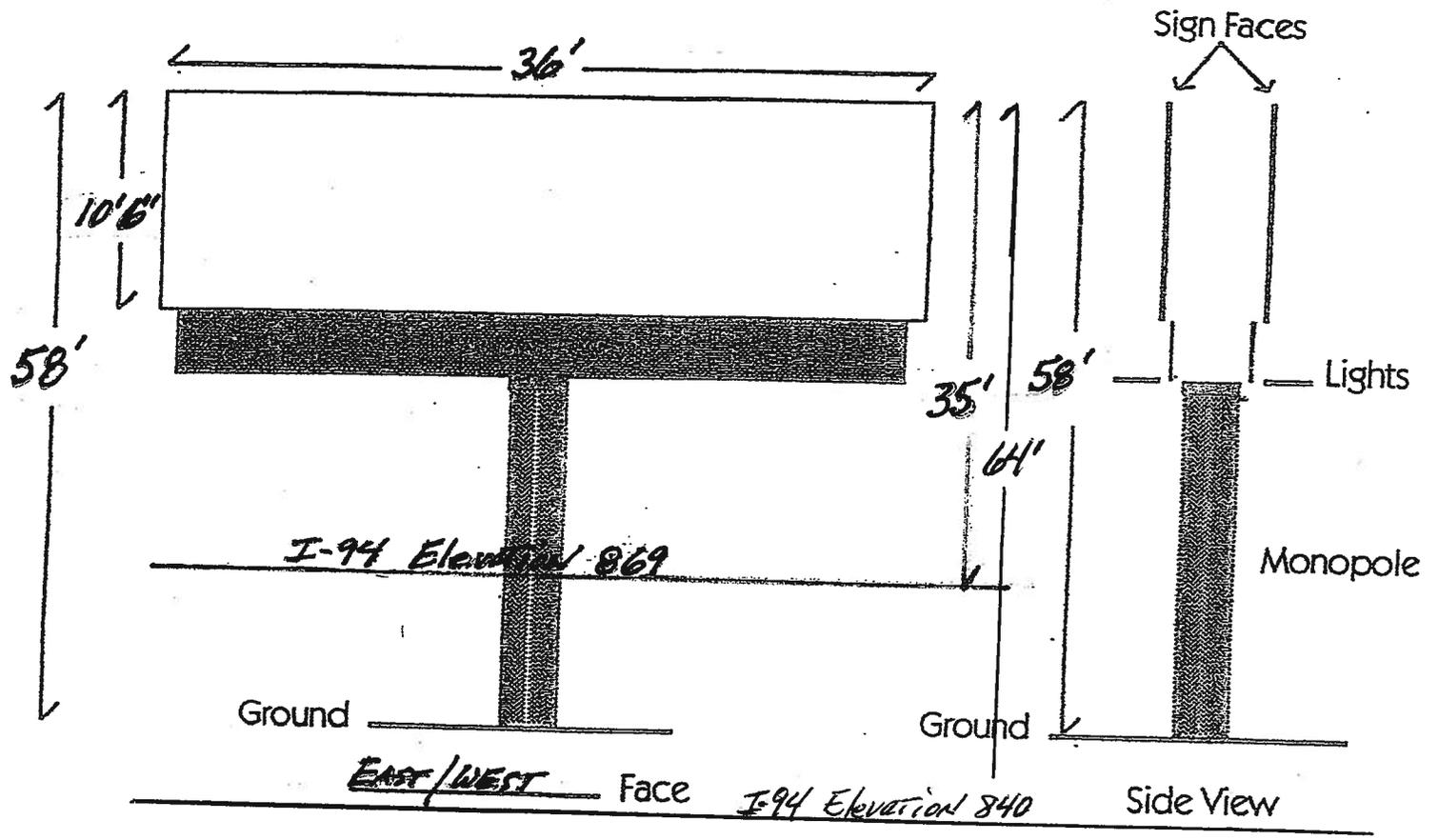
Disclaimer:
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Map Publication:
 Wed Jan 16 2013 08:54:17 AM

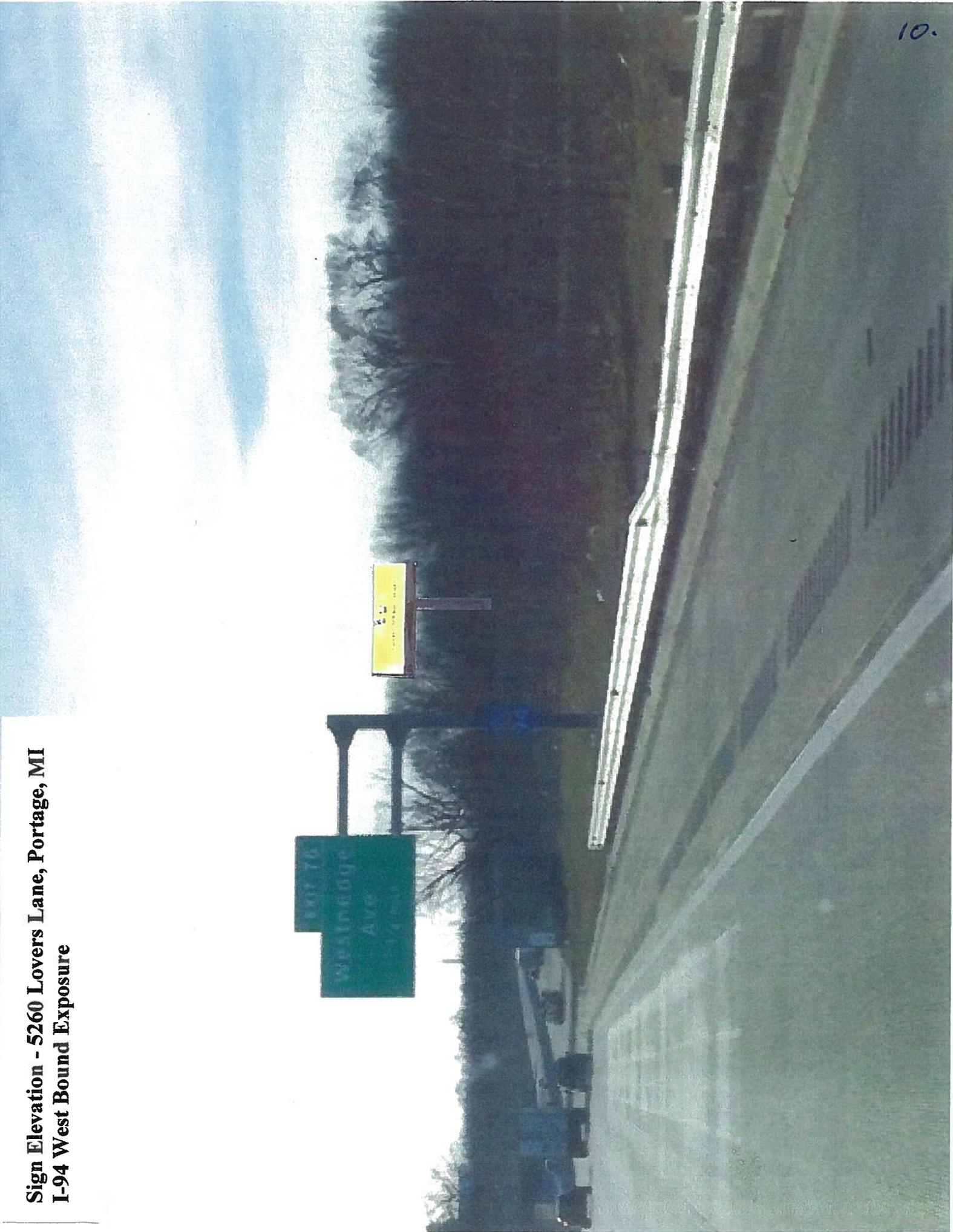
City of Portage Map Document


 Web mapping by
Amalgami LLC
PORTAGE
A Place for Opportunities to Grow

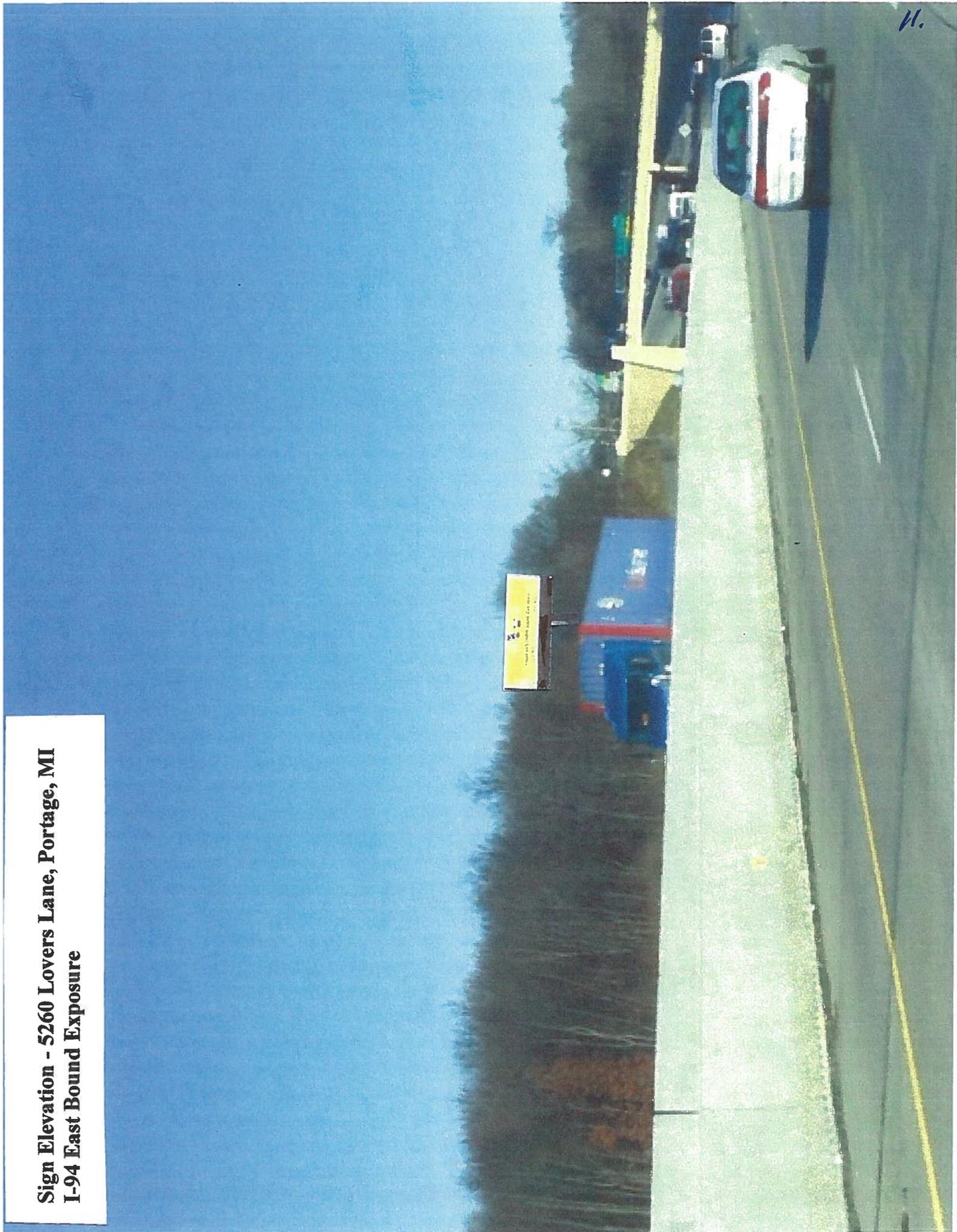
Location: 5260 LOVERS LANE
PORTAGE, MI



**Sign Elevation - 5260 Lovers Lane, Portage, MI
I-94 West Bound Exposure**



**Sign Elevation - 5260 Lovers Lane, Portage, MI
I-94 East Bound Exposure**



H.

TO: Zoning Board of Appeals **DATE:** January 31, 2013
FROM: Vicki Georgeau, ^WDirector of Community Development
SUBJECT: ZBA #12-20; Insight Outdoor Advertising, 5260 Lovers Lane; I-1, Light Industrial
CODE SECTION: 42-553(C)(4) Non-accessory Sign Height; p. CD42:132
42-553(C)(2) Non-accessory Sign Area; p. CD42:132

APPEAL: Requesting: a) a variance to erect a sign 64 feet above the adjacent I-94 street grade, where a maximum 40-foot high sign is permitted; and b) a variance to erect a 378 square-foot sign where a maximum 300 square-foot sign is permitted.

STAFF RECOMMENDATION:

The applicant requests the above variances per the enclosed application, letter of explanation, sign sketches, and associated materials. The property is zoned I-1, Light Industry, encompasses approximately 16 acres of land and is improved with an approximate 40,000 square foot industrial building for the Unifab Corporation. Other parcels in the immediate vicinity of Unifab Court and I-94 are also zoned I-1. Further north is the Trestlewood/Trestlebridge Office Park zoned B-2, community business, to the west is the Grand Elk railroad line and to the south is I-94. On the south side of I-94, opposite the proposed billboard location, is a city-owned and maintained storm water retention basin zoned R-1B and an industrial park zoned I-1. To the east, on the east side of Lovers Lane, are the Loy Norrix High School athletic fields.

The applicant proposes to erect a 378 square-foot Electronic Message Display (EMD) non-accessory (billboard) sign measuring 64 feet above the adjacent street grade of I-94. The proposed billboard will be located 45 feet west of Lovers Lane, which is elevated for the I-94 bridge crossing and 95 feet north of the I-94 right-of-way. Because the proposed sign exceeds the maximum permitted 40-foot height and 300 square-foot area, variances are requested.

The applicant is proposing to construct a 58-foot tall sign structure that, when measured from the elevation of I-94, will extend to a height of 64 feet. For Board information, Section 42-542(B)(3) requires signs be measured from the adjacent street grade, not from elevated roadways such as Lovers Lane. The elevation of the grade at I-94 (840) is six feet lower than the grade at the proposed sign base (846). The street grade elevation of Lovers Lane is 18 feet higher (864) than the grade at the proposed sign base. Installation of a 40-foot tall sign (with the height measured from the I-94 grade elevation) would result in the bottom of the sign being approximately six feet above the Lovers Lane street grade. Given the elevated nature of Lovers Lane and presence of trees in the immediate area, the applicant indicates visibility of the sign for westbound I-94 motorists will be impacted. Relocating the sign further west for viewing after the westbound I-94 traffic passes under the Lovers Lane bridge is not an option, as an existing billboard at 5242 Lovers Lane is located 1,030 feet west of the proposed sign and,

the Zoning Code requires a minimum 1,000 foot separation distance between billboards on the same side of the right-of-way. The combination of the elevated Lovers Lane roadway and the depressed elevation of I-94 in the vicinity of the proposed sign represent unique circumstances that create a practical difficulty. For these reasons, request a) is recommended for approval.

Concerning request b), the applicant states increased sign area is needed due to the increased setback from the I-94 right-of-way. While there is a 20-foot wide strip of land between the I-94 right-of-way and the subject property (that provides access to 5242 Lovers Lane), the sign will be setback approximately 95 feet from the I-94 right-of-way and approximately 145 feet from the nearest travel lane of I-94. In addition, the width of the I-94 right-of-way is not unusual and does not vary in proximity to the proposed sign. The right-of-way width along the north side of the highway and the sign setback does not appear to present a practical difficulty with respect to maintaining sign visibility.

The applicant notes two other signs larger than 300 square feet are located to the west of the subject sign. For Board information, the sign at 5242 Lovers Lane is 378 square feet in area, and was erected as a result of a court settlement between the sign owner and the city (negotiated to facilitate the I-94/Lovers Lane bridge project), whereby the current EMD sign was allowed to replace a larger 672 square-foot nonconforming sign. This sign is setback approximately 122 feet from the nearest travel lane of I-94. The sign at 5602 Lovers Lane (located on the south side of I-94) was recently granted a variance (ZBA #11-16) permitting a single-face 504 square-foot sign oriented towards westbound traffic based on the practical difficulty that the sign was setback a significant distance (350 feet) from the westbound travel lane of I-94. In addition, the Board found that there was a reduction in the degree of nonconformity since the sign face for the eastbound traffic was eliminated.

In the aforementioned cases, the larger signs were the result of reductions in the degree of nonconformity and/or the significant distance from the highway, neither of which circumstance applies to the present application. Lastly, the applicant contends a variance for a 378 square-foot sign is needed because that is a standard size in the industry. However, the manufacturer of the sign, Daktronics, also indicates that 10-foot x 30-foot signs are "common in the industry". In any event, additional costs which might result from nonstandard advertising formats would be considered financial hardships, and therefore, not subject to consideration by the Board. The applicant has failed to demonstrate a practical difficulty why a larger sign is necessary, and request b) is not recommended.

**PRACTICAL
DIFFICULTY:**

Topography, proximity of Lovers Lane overpass, lowered I-94 street grade elevation. See Suggested Motion form.

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:

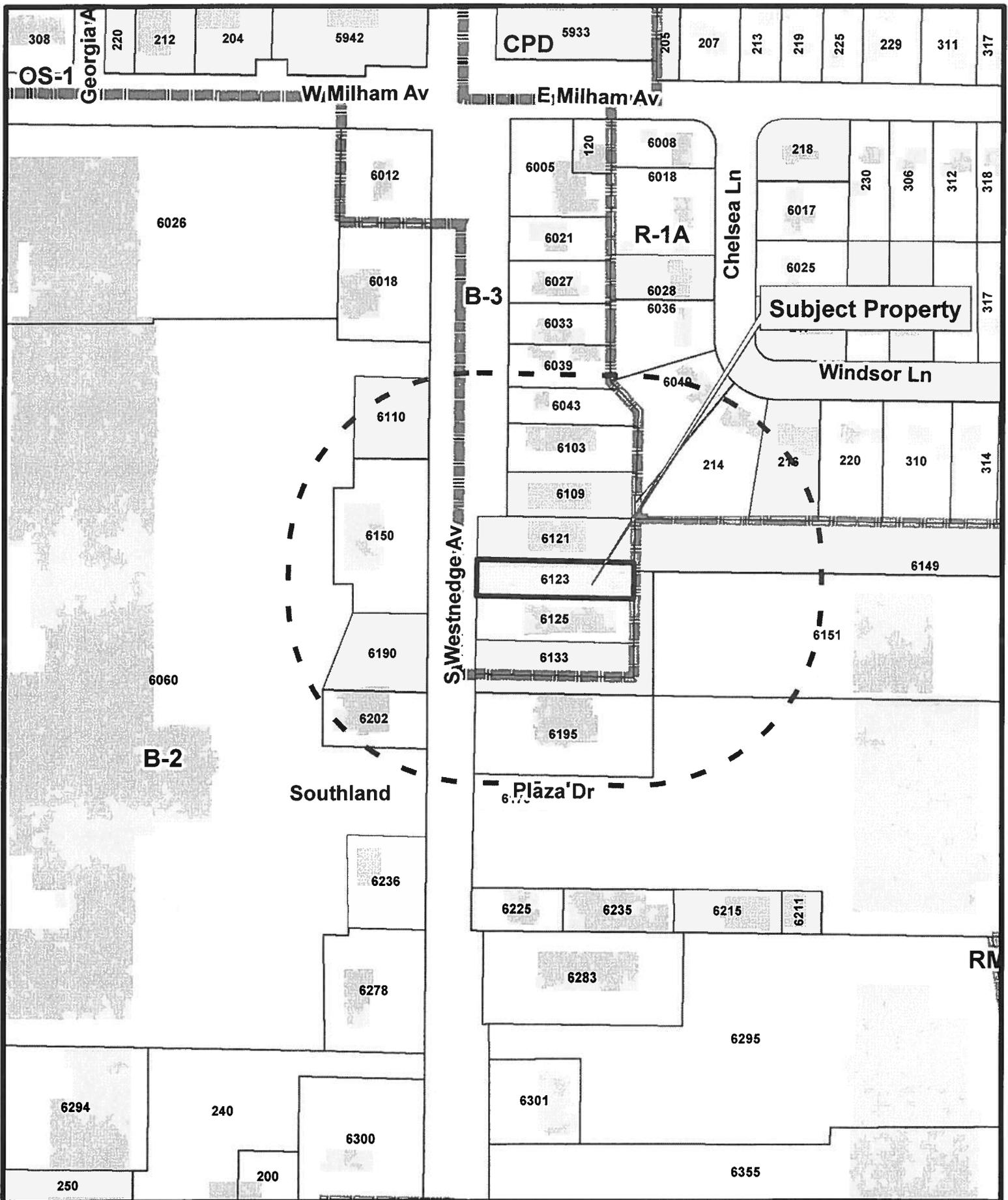
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right 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.**



-  Zoning Boundary
-  Subject Properties
-  Notification Area

ZBA 12-21
6123 South Westnedge Avenue



1 inch = 200 feet

RECEIVED

JAN 16 2013

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 1.14.13
 Name of Applicant JAMES A. MIKWT 
 Print Signature

Applicant's Address 3 Leonard St NE, Grand Rapids MI 49503 Phone No. 616-726-7200

Name of Property Owner (if different from Applicant) Steve Jepson / Rx Optical

Address 1700 S. Park Kalamazoo, MI 49001 Phone No. 269-342-0003

Address of the Property that is the subject of this Application:
 Street Address 6123 S. Westnedge, Portage, MI 49002

For Platted Property: Lot _____ of _____ 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: _____

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 _____ Section _____ Paragraph _____
 Regarding: Use _____ Area _____ Yards _____
 Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): _____

 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: Update panels on an existing pylon sign. To prevent the need to return to zoning board of appeals for future updates to existing approved sign.

FOR STAFF USE

Application Number: <u>12-20</u>	Filing Date: <u>1/16/13</u>	Tentative Hearing Date: <u>2/11/13</u>
Previous Application Filed Regarding This Property: <u>81-47; 00-41</u>		

* SEE ATTACHMENTS *

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.)

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)

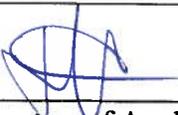
4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)

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.)

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.)

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.)

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)



Signature of Applicant

1.14.13

Date

January 14, 2013

Briefly describe your request:

(Answer 1 & 2) Rx Optical needs a variance because The City of Portage requires a variance to make any updates to a non-compliant sign. The existing pylon sign is not compliant with the zoning ordinances due to the setback distance. The pylon has been approved for their current setback during a previous variance. The variance was granted due to the lack of landscape and small lot size, the proper set back would place the pylon sign too far back into the lot.

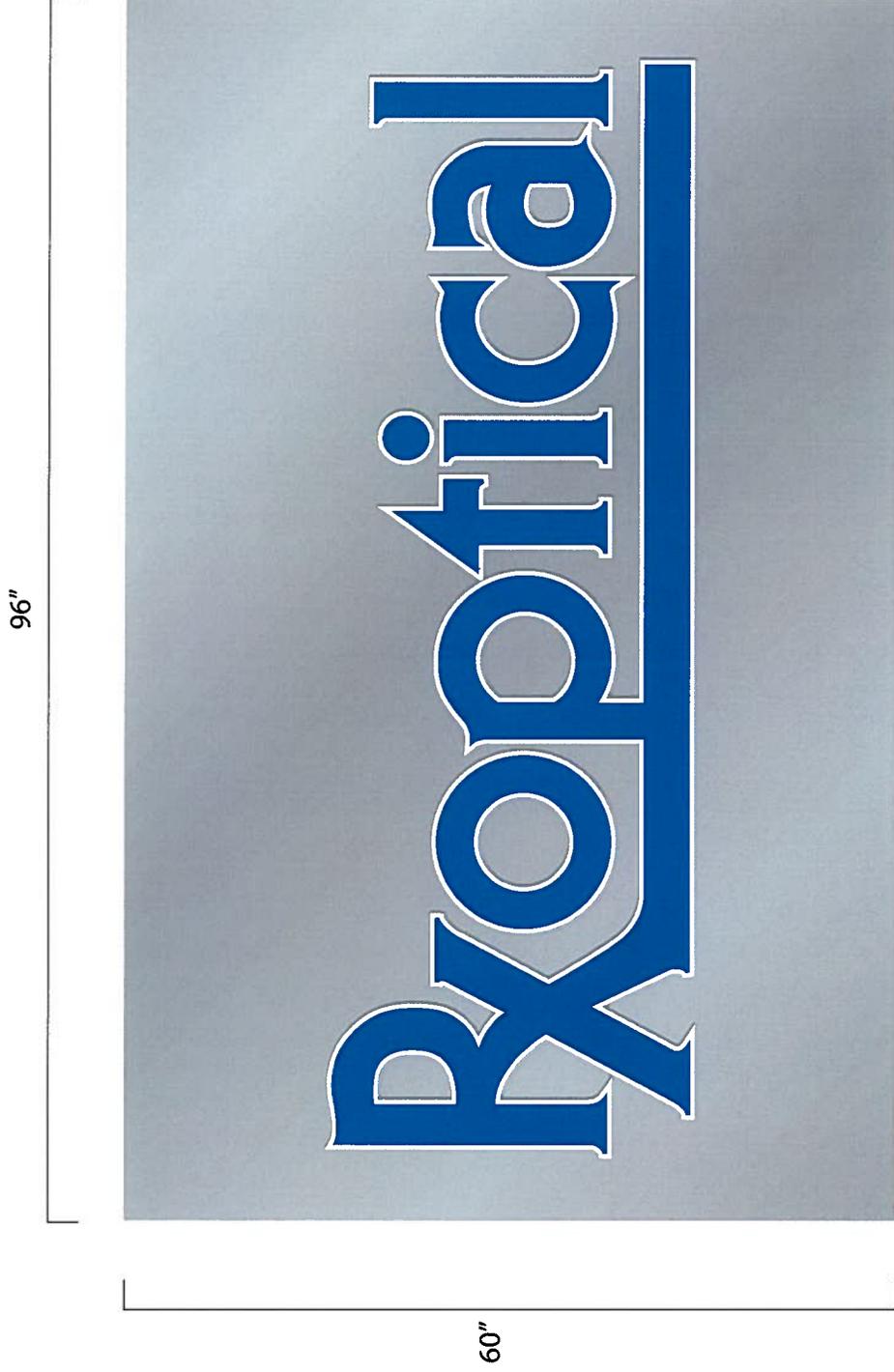
(Answer 3) Neighboring properties have the same hardship as RX Optical that can be seen in Attachment A photo B. The lack of landscape and lot space requires Rx Optical and neighboring properties to place their pylon sign in inconvenient spots unless a variance is submitted.

(Answer 4)The Rx Optical pylon sign cannot be reasonably used if the variance is denied because it is an existing sign and the variance has already been approved for the setback, we are simply asking to update the panels and to request that for future updates to the existing approved pylon to not have to bring it back to the Zoning Board of Appeals.

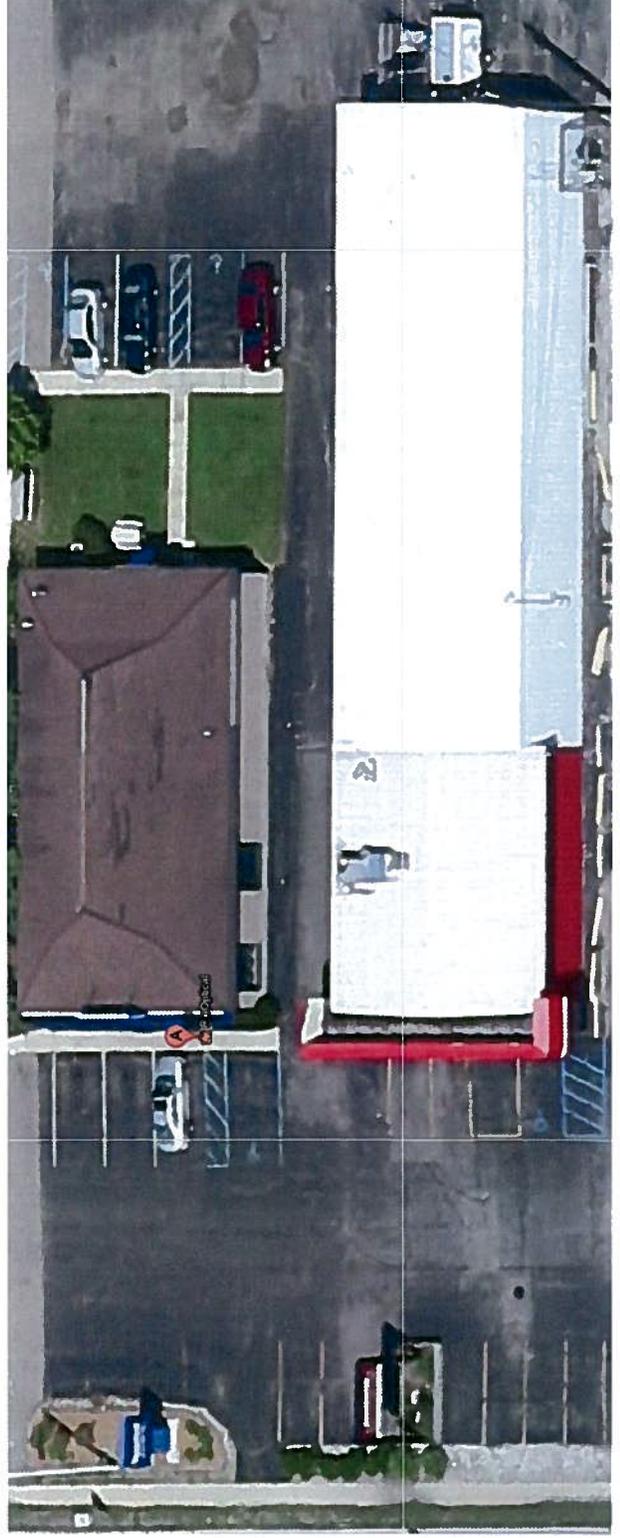
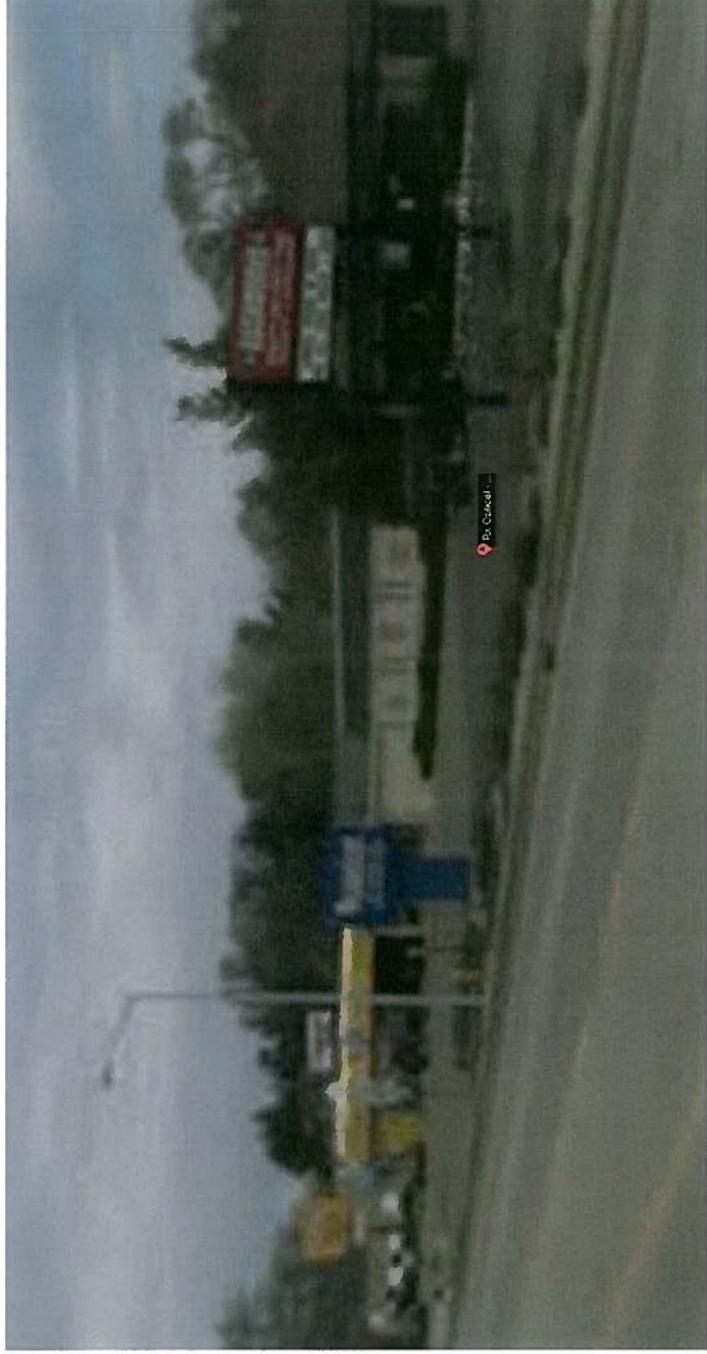
(Answer 5)The setback of the pylon sign is as far back from the roadside that it could be without obstructing the parking lot. Surrounding businesses have placed their pylon signs in-line with Rx Optical due to the same hardship. (Shown in Attachment A)

(Answer 6)The updated panels will not be a traffic hazard because it is not a bright, flashing or moving. The pylon sign is above eye level to where it would not be considered to increase traffic congestion.

(Answer 7 & 8)The zoning committee is there to help correct business owner hardships that were not self-inflicted such as Rx Optical, who is the original tenant of the building but is not the building owner. Neighboring properties shown in attachment A are suffering from the same hardship as RX Optical and have placed their pylon sign in-line with Rx Optical. Being granted the variance to update the panels on the existing pylon sign will allow Rx Optical to increase curbside appeal.



Brushed aluminum background with routed push thru back lit acrylic letters with translucent vinyl applied to face to mimic the channel letter appearance.
Only letters will illuminate.



TO: Zoning Board of Appeals **DATE:** January 31, 2013

FROM: Vicki Georgeau, ^{VG} Director of Community Development

SUBJECT: ZBA #12-21; James Mikrut of Icon Sign Company LLC, on behalf of RX Optical, 6123 South Westnedge Avenue; B-3, General Business

CODE SECTION: 42-544(B)(2). Nonconforming Signs; p. CD42:128

APPEAL: Requesting a variance to replace the sign panels on a nonconforming freestanding sign.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, sign sketch, and photographs. The property is 58 feet wide by 264 feet deep and is improved with a 2,992 square-foot commercial building and off-street parking lot. The property is zoned B-3, General Business, and is surrounded by other commercial properties.

The applicant proposes to change the sign panels on the nonconforming freestanding sign. The sign is nonconforming because the leading edge of the sign is located approximately six feet from the front property line and does not meet the required 10-foot setback. As background for the Board, variances were approved to install a new sign cabinet on the existing support structure in 1981 (ZBA #81-47) and for a sign panel change in 2001 (ZBA #00-41), conditioned upon additional landscaping be installed between the parking lot and sidewalk, which was accomplished. The applicant requests a variance allowing them to update the panels of the nonconforming sign, and to be able to make future panels changes without additional Board review and approval. The applicant has noted the small, shallow lot size, building setback and parking lot location as practical difficulties.

Conforming alternatives are available. The landscaped area could be expanded and the sign moved to a conforming location. However, the sign location, site layout and property lines, have not changed since the 2001 variance. The immediate practical difficulty causing the need for the variance was not created by the applicant; and as the sign has been in its current location for over 30 years, the variance will not be detrimental to adjacent property and the surrounding neighborhood. Finally, the request is minimal and the variance will not materially impair the intent and purpose of the Zoning Ordinance. For these reasons, staff recommends approval of the variance, with the condition that future sign panel replacements may be approved by the City Administration, provided no structural changes to the sign are proposed and a sign permit is obtained.

PRACTICAL DIFFICULTY:

Small shallow lot; Building setback; Location of existing nonconforming sign and landscaping. See Suggested Motion form.

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:

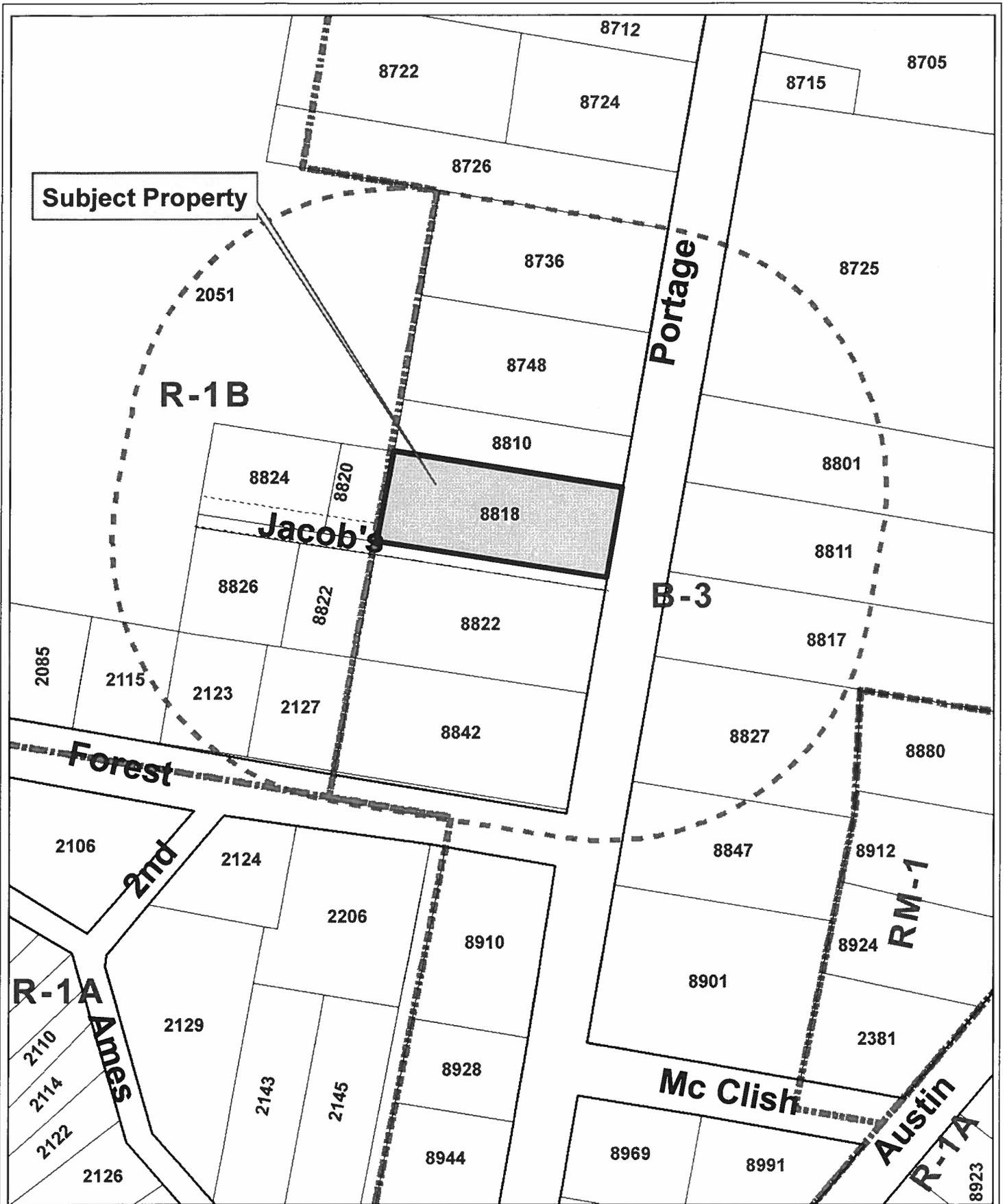
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right 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.**



Subject Property

R-1B

Jacob's

Portage

B-3

Forest

2nd

R-1A

Ames

RM-1

Mc Clish

Austin

R-1A



1 inch = 150 feet

ZBA 12-22
8818 Portage Road

Legend



300' Notification Boundary
Subject Properties
Zoning Boundary

RECEIVED

JAN 22 2013

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 1-21-12
Name of Applicant Darnell Grou House Darnell Grou
Print Signature
Applicant's Address 2554 Portico Portage 49002 Phone No. 269-324-5762
Name of Property Owner (if different from Applicant) Chuck Minor
Address _____ Phone No. _____

Address of the Property that is the subject of this Application:
Street Address 8878 Portage Rd
For Platted Property: Lot _____ of _____ 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: To purchase and remodel as a veterinary hospital

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 _____ Section _____ Paragraph _____
Regarding: Use Area _____ Yards _____
Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): _____

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: <u>12-22</u>	Filing Date: <u>1/22/13</u>	Tentative Hearing Date: <u>2/18/13</u>
Previous Application Filed Regarding This Property: <u>289 11-04</u>		

Please see attached sheet

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.)

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets is needed.)

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.)

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.)

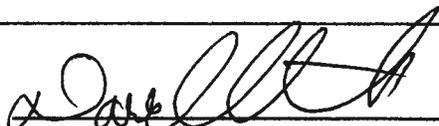
Please see attached sheet

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.)

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.)

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

Please see attached sheet.


Signature of Applicant

1-21-12
Date

RECEIVED

JAN 22 2013

To the Zoning Board of Appeals

COMMUNITY DEVELOPMENT

I am requesting that the zoning for 8818 Portage Rd. be changed to allow a veterinary office to be placed in the former "Movie Stars" building. When this subject was broached one year ago, there was no objection by the residents of the adjacent properties. The Zoning board of appeals also approved the process, but I elected not to pursue the building at that time. Circumstances have changed to make the building more appealing to me, and I am requesting again that a variance be enacted.

I believe the restricting ordinance was enacted when many veterinarians conducted livestock and small animal work. The Lakeview Animal Hospital is a small animal (domestic pets) only practice and would never be used for haul-in livestock work. It was also enacted at a time when many veterinarians had their own crematory services. The Lakeview Animal Hospital does not have a crematory and will not acquire one. And the ordinance was enacted at a time when many practices had large outside kennels. While the Lakeview Animal Hospital does occasionally hospitalize dogs and cats they are not kept outside and no outside kennels would be built. We make every attempt to send all but the most needy patients home to their families in the evening.

The Lakeview Animal Hospital is a very viable business that would add to the value of the property along Portage Rd. and I feel that a variance would benefit the neighboring properties and property owners.

Sincerely

Darrell Greathouse, DVM
10336 Portage Rd, Portage, Michigan 49002

TO: Zoning Board of Appeals **DATE:** January 31, 2013

FROM: Vicki Georgeau, ^{VG} Director of Community Development

SUBJECT: ZBA #12-22; Darrell Greathouse, 8818 Portage Road; B-3, General Business

CODE SECTION: 42-262(C)(3)(a); Special Land Uses, p. CD42: 75

APPEAL: Requesting a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application and letter of explanation. The Board granted a variance one year ago (ZBA #11-14, see attached minutes, staff report and related application materials) to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential. The property was not subsequently purchased by the applicant, and per Section 42-623(C)(4) the variance expired after six months. The applicant is again interested in purchasing the property and requests the Board approve the same variance granted previously.

The same circumstances and practical difficulties - the operational characteristics of the proposed small scale veterinary clinic and location of existing building from adjacent residential dwelling - still apply to the present request. It is recommended the Board, consistent with its previous action, grant the variance with the same conditions: 1) a six-foot privacy fence along the west property line be maintained to protect adjacent residential properties; 2) no outdoor kennels or runs are provided on site; 3) the hospital/clinic be limited to the treatment of small animals (i.e. domesticated pets); and 4) no animal crematory facilities shall be provided on site.

**PRACTICAL
DIFFICULTY:**

Operational characteristics of the proposed small-scale veterinary hospital/clinic noted by the applicant, location of existing building from adjacent residential dwelling. See Suggested Motion form.

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – January 9, 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. Four people were in the audience.

MEMBERS PRESENT: Mariana Singer, Daniel Douglas Rhodus, Timothy Bunch, Betty Schimmel, Rob Linenger, and Jeffrey Bright.

MEMBERS EXCUSED: Lowell Seyburn, David Felicijan

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

APPROVAL OF THE MINUTES: Bright moved and Singer seconded a motion to approve the December 12, 2011 minutes as submitted. Upon voice vote, motion was approved 6-0.

NEW BUSINESS:

ZBA #11-14, 8818 Portage Road: Staff summarized the request for a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential. The applicant, Darrell Greathouse, stated he is proposing to relocate his veterinary clinic from 10336 Portage Road to 8818 Portage Road. Mr. Greathouse stated impacts on the adjacent residences associated with the operation of veterinary clinic would be less than the previous tenant, Movie Stars Video, due to less traffic and fewer hours of operation each day. Linenger asked the applicant to explain the practical difficulty. Mr. Greathouse explained the operational characteristics of a modern veterinary clinic that caters to “companion” animals are different, resulting in fewer impacts than a veterinary clinic that operated 40-50 years ago. Linenger inquired if the applicant objected to the conditions suggested in the staff report. Mr. Greathouse stated he had no objections. Schimmel inquired if the applicant had spoken to the neighbors about the variance request. The property owner, Chuck Minor, stated he had spoken to all but one and that none stated any objections. Rhodus inquired if the conflicting land use screening fence was located on the applicant’s property. Mr. Minor said it was erected on his property.

A public hearing was opened. No one was present to speak for or against the request. The public hearing was closed.

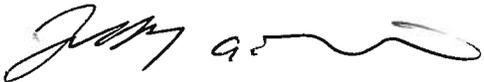
A motion was made by Bright, supported by Singer to grant a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential conditioned upon: 1) A six-foot privacy fence along the west property line be maintained to protect adjacent residential properties; 2) No outdoor kennels or runs are provided on site; 3) The hospital/clinic be limited to the treatment of small animals (i.e. companion pets); and 4) No animal crematory facilities shall be provided on site. The motion to grant a variance is based on the exceptional circumstances or conditions applying to the property that do not generally apply to other properties in the same zoning district, which include the operational characteristics of the small-scale veterinary hospital/clinic; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to provide services for pet owners; the immediate difficulty causing the need for the variance request 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 related materials, staff report and all discussion and additional materials presented at this hearing shall be incorporated into the record of this hearing and

the findings of the Board, and action of the Board shall be final and effective immediately. Upon roll call vote: Schimmel–Yes, Singer–Yes, Linenger–Yes, Bunch–Yes, Rhodus–Yes, Bright–Yes. The motion carried 6-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:30 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Mais", with a long, sweeping flourish extending to the right.

Jeff Mais
Zoning & Codes Administrator

RECEIVED

DEC 07 2011

11-10000014

COMMUNITY DEVELOPMENT
 Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 11-30-11
 Name of Applicant Darrell Greathouse Darrell Greathouse
Print Signature
 Applicant's Address 2554 Portside Phone No. 269-324-5762
(w) 323-3434
 Name of Property Owner (if different from Applicant) Chuck Minor
 Address 8643 South 6th, Kal, 49009 Phone No. _____
 Address of the Property that is the subject of this Application:
 Street Address 8818 Portage Rd
 For Platted Property: Lot _____ of _____ 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: Purchase

Application Fee _____ (Residential Uses) Commercial (All Other Uses)

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

Variance from Zoning Ordinance: Article _____ Section 42-262 Paragraph B
 Regarding: Use Veterinary Area _____ Yards _____
 Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): would like to convert property to veterinary hospital

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: <u>11-14</u>	Filing Date: <u>12/7/11</u>	Tentative Hearing Date: <u>1/9/12</u>
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.)

See attached letter

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)

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.)

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.)

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.)

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.)

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

Signature of Applicant

Date

To the Zoning Board of Appeals

Thank you for taking the time to read this appeal. As noted in the application, I would like to have the building in question, approved for remodeling as a veterinary hospital. The very rear of the property is adjacent to residential property rather than property zoned commercial.

My intention would be to remodel 2/3 of the existing building for use as a veterinary hospital and move my existing business from 10336 Portage Rd. into this facility. The other 1/3 would then be available for commercial lease.

I do not feel that this would impact the residential experience for several reasons.

- 1) This would not be a kennel. The only patients staying the night would be the occasional hospitalized patient. This is relatively uncommon event in our current hospital, and is reserved for only the sickest of patients. Due to liability concerns of having unattended hospitalized patients we recommend referral to the 24 hour facility in downtown Kalamazoo or send most patients home for the night.
- 2) There would not be any outside runs or kennels. While we do take hospitalized dogs for short walks, they are leashed and are for elimination purposes only. The large grassy area behind the hospital could be used for that purpose. This is not a frequent occurrence.
- 3) The traffic flow of 30 to 40 people on weekdays and only 15 people on Saturday mornings with no Sunday or evening hours would actually DECREASE the traffic flow for the property. (at it's peak, there were 1600 cars per day going in and out of the Movie Stars business).
- 4) Unlike veterinary practices of the 60's and 70's, this is an exclusive small animal practice—there are no cattle, horses or pigs being hauled in for treatment. We do not have a crematorium or outdoor kennels and as stated above, we rarely even hospitalize patients overnight. There is minimal noise or odor associated with a veterinary hospital. With the 24 hour emergency hospital in downtown Kalamazoo, we almost never even see an emergency so after hours and weekend traffic is very low.

In summary, I think that a veterinary hospital would be a very good neighbor to have and certainly would prefer it over many of the retail alternatives that could be placed in this building without changes to the zoning. I appreciate your consideration in this request.

Thank you,


Darrell Greathouse, DVM

12/01/2011

City of Portage
7900 South Westnedge
Portage, Michigan 49024

RECEIVED

DEC 07 2011

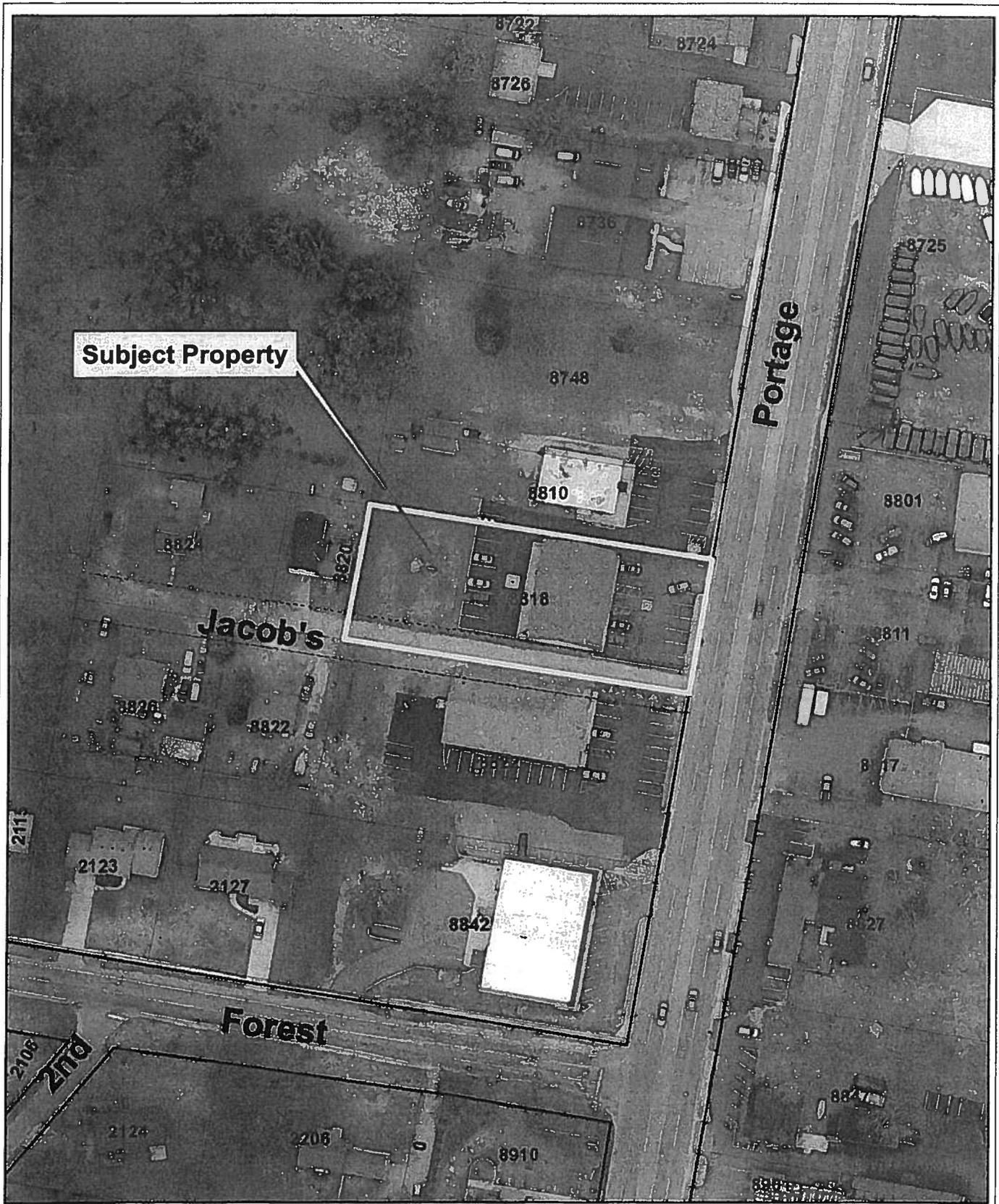
COMMUNITY DEVELOPMENT

Attn: Mr. Jeff Mais
Zoning Board of Appeals

I Charles J. Minor the present owner of the commercial property at 8818 Portage Road give my permission for Darryl Greathouse to proceed with his request for a special use Variance for the property listed above.

Thank you
Charles J. Minor, Owner

Charles J. Minor



Subject Property

Aerial Photo 8818 Portage Road



1 inch = 100 feet

Legend

 Subject Property

TO: Zoning Board of Appeals **DATE:** December 30, 2011
FROM: Vicki Georgeau, ^{VB} Director of Community Development
SUBJECT: ZBA #11-14; Darrell Greathouse, 8818 Portage Road; B-3, General Business
CODE SECTION: 42-262(C)(3)(a); Special Land Uses, p. CD42:75
APPEAL: Requesting a variance to allow operation of a veterinary hospital adjacent to property zoned R-1B, One Family Residential.

**STAFF RECOM-
MENDATION:**

The applicant requests the above variance per the enclosed application and letter of explanation. The 0.64 acre property is improved with a 3,750 square-foot commercial building and off-street parking lot constructed in 1990. The property is zoned B-3, community business. The property to north, south and east across Portage Road is also zoned B-3 and occupied by commercial uses. To the west the property is zoned R-1B, one-family residential and occupied by four, one-family dwellings. Access to the four dwellings is provided from Portage Road via a private drive (Jacob's Court).

The applicant currently operates Lakeview Animal Hospital at 10336 Portage Road and proposes to relocate. Veterinary hospitals and clinics are permitted in the B-3 district subject to review and approval of a special land use permit. Two conditions must be fulfilled: The site must be located so that all adjacent property is zoned B-1, B-2, B-3, OS-1, I-1, or I-2 district and all activities must be conducted in a completely enclosed main building. Since the abutting property to the east (8820 Jacob's Court) is zoned R-1B, a variance is needed. The applicant will comply with the second condition.

Veterinary hospitals and clinics have been permitted in the B-3 district subject to review and approval of a special land use permit (with the same conditions) since the initial adoption of the Zoning Code in 1965. Locating veterinarian hospitals/clinics adjacent to non-residential properties is intended to minimize potential negative impacts on neighborhoods. According to the applicant, changes in the treatment of animals and the operation veterinary hospitals/clinics since the 1960's have occurred. Most urban practices treat only small animals (domesticated pets), do not have crematory facilities, and have minimal patient stays due to advancements in treatment.

With specific regard to this application, only small animals are treated, patients would be boarded overnight only when necessary due to the medical condition/treatment, and there would be no outdoor kennels/runs. The hours of operation are from 7:30 a.m. to 6:00 p.m. on weekdays, and 8:00 a.m. to noon on Saturdays. Approximately 30-40 clients visit the practice on weekdays, with approximately 15 clients on Saturday mornings. The proposed use will not be more intensive than a dog grooming business which is permitted within the B-3 district without special conditions. In addition, the location of the existing building is approximately 140 feet from the nearest dwelling to the west, and a six foot privacy fence is located

along the west property line. Based on the above, the requested variance is not anticipated to be detrimental to the adjacent property and neighborhood, and will not materially impair the intent of the Zoning Code. If the Board finds a practical difficulty exists, the following conditions of approval are recommended:

- A six-foot privacy fence along the west property line be maintained to protect adjacent residential properties;
- No outdoor kennels or runs are provided on site;
- The hospital/clinic be limited to the treatment of small animals (i.e. domesticated pets);
- No animal crematory facilities shall be provided on site

**PRACTICAL
DIFFICULTY:**

Operational characteristics of the proposed small-scale veterinary hospital/clinic noted by the applicant, location of existing building from adjacent residential dwelling. See Suggested Motion form.

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.**