



ZONING BOARD OF APPEALS

November 11, 2013

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, November 11, 2013

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * October 14, 2013

OLD BUSINESS:

NEW BUSINESS:

- * 1. ZBA #13-7, Henry Ryskamp, 3308 East Shore Drive: Requesting a variance to expand an existing nonconforming garage by constructing a 446 square-foot addition 15 feet from the front (north) property line where a minimum 27 foot front setback is required.
- * 2. ZBA #13-8, David Verduzco, 9033 West End Drive: Requesting a three-foot variance to construct a new dwelling five feet from the north and south property lines where a minimum eight-foot side yard setback is required.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – October 14, 2013

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

MEMBERS PRESENT: Jeffrey Bright, Lowell Seyburn, Tim Bunch, Glenn Smith, Michael Robbe, and Philip Schaefer.

MEMBERS EXCUSED: Marianna Singer, Doug Rhodus, James White

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

APPROVAL OF THE MINUTES: Robbe moved and Bunch seconded a motion to approve the September 9, 2013 minutes as submitted. Upon voice vote, motion was approved 6-0.

OLD BUSINESS:

NEW BUSINESS:

ZBA #13-5, 9625 Woodlawn Drive: Mais summarized the request for a 2.5 foot side yard setback to construct a new dwelling 2.5 feet from the (north) side property line where a minimum five-foot side yard is required. James Deters stated the 2.5 foot setback was requested for only the garage portion of the dwelling and that the remainder of the dwelling would only need a six inch variance. He stated there was strong neighborhood support for the request and that granting the variance would result in an aesthetically appealing addition to the neighborhood. Mr. Deters stated when the property was surveyed he found the lot was parallelogram shaped, making it slightly narrower than he realized. Mr. Deters inquired that if the Board did not grant his request, could they consider as an alternative granting a six inch variance allowing the garage to be flush with the rest of the dwelling. Mais replied the Board could consider lesser variances. Seyburn inquired if the applicant had attempted to negotiate an easement with the neighbor to the north. Mr. Deters stated he had already asked if the neighbor would be willing to sell additional land to avoid the need for a variance but the neighbor was not agreeable.

A public hearing was opened. Robert Keech, 2523 Stanley Avenue stated he did not understand why someone would buy property without knowing whether the house they wanted to build would be permitted. Mr. Keech stated there were already enough access problems with lakefront properties caused by people wanting to build larger homes on narrow lots and was therefore opposed to the variance. John Seelman, 9613 Woodlawn, stated he owned the adjacent property to the north and was in favor of the variance as the proposed dwelling would be obscured from his view due to the detached garage at the south end of his property. Arthur Roberts, 9614 Woodlawn, and Dan Buskirk, 9602 Woodlawn, both stated they were in favor of the variance. The public hearing was closed.

Schaefer requested clarification whether the subject property was a buildable lot without needing a variance, and if a new dwelling could be constructed in a conforming location. Mais stated both were the case. Bunch stated he appreciated the challenges narrow lots present, but observed the Board could not cite financial considerations as a reason to grant a variance. A motion was made by Robbe, seconded by Bunch to grant a variance for a new dwelling to be constructed 4.5 feet from the (north) side property line where a minimum five-foot side yard is required. There are exceptional circumstances applying to the property that do not apply to other properties in the zoning district, which include the substandard size and width of the lot, the variance is necessary for the preservation and enjoyment of a substantial property right, the right to use a limited width property which is similar to that possessed by other properties in the vicinity; the immediate practical difficulty causing the need for the variance request was not created by the applicant, 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 and 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: Bright-Yes, Robbe-Yes, Schaefer-No, Seyburn-Yes, Bunch-Yes, and Smith-Yes. Motion passed 5-1.

ZBA #13-06, 6295 & 6355 South Westnedge Avenue: Mais summarized the request for a variance to erect 172 square feet of wall signs where a maximum 100 square feet is permitted. David Kapusansky stated the practical difficulties stemmed from the building being setback almost 600 feet and that the view of the building was partly obstructed by other buildings in front. Smith inquired if Aldi had gotten sign variances at their other locations in Kalamazoo County and if the wall signs were comparable. Mr. Kapusansky stated they did not need sign variances but also did not face the same visibility issues at the other locations, and that the signage was similar.

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

A motion was made by Bright, seconded by Bunch to grant a variance to erect 172 square feet of wall signs where a maximum 100 square feet is permitted. There are exceptional circumstances applying to the property that do not apply to other properties in the zoning district which include the significant building setback and partially obstructed view, the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify a business which is similar to that possessed by other properties in the vicinity; the immediate practical difficulty causing the need for the variance request was not created by the applicant, 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 and 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: Bright-Yes, Robbe-Yes, Schaefer-Yes, Seyburn-Yes, Bunch-Yes, and Smith-Yes. Motion passed 6-0.

OTHER BUSINESS:

The Board welcomed Philip Schaefer as the new alternate.

Seyburn stated he recently became aware that he had helped prepare a land division many years earlier involving the property at 9033 West End Drive, which the Board recently granted a variance for (ZBA 13-03) but did not at the time of deliberations recall the connection. He stated even in the event that he would have made the connection at the time of deliberations, it would have made no difference in his findings or vote, nor would he consider it a conflict of interest.

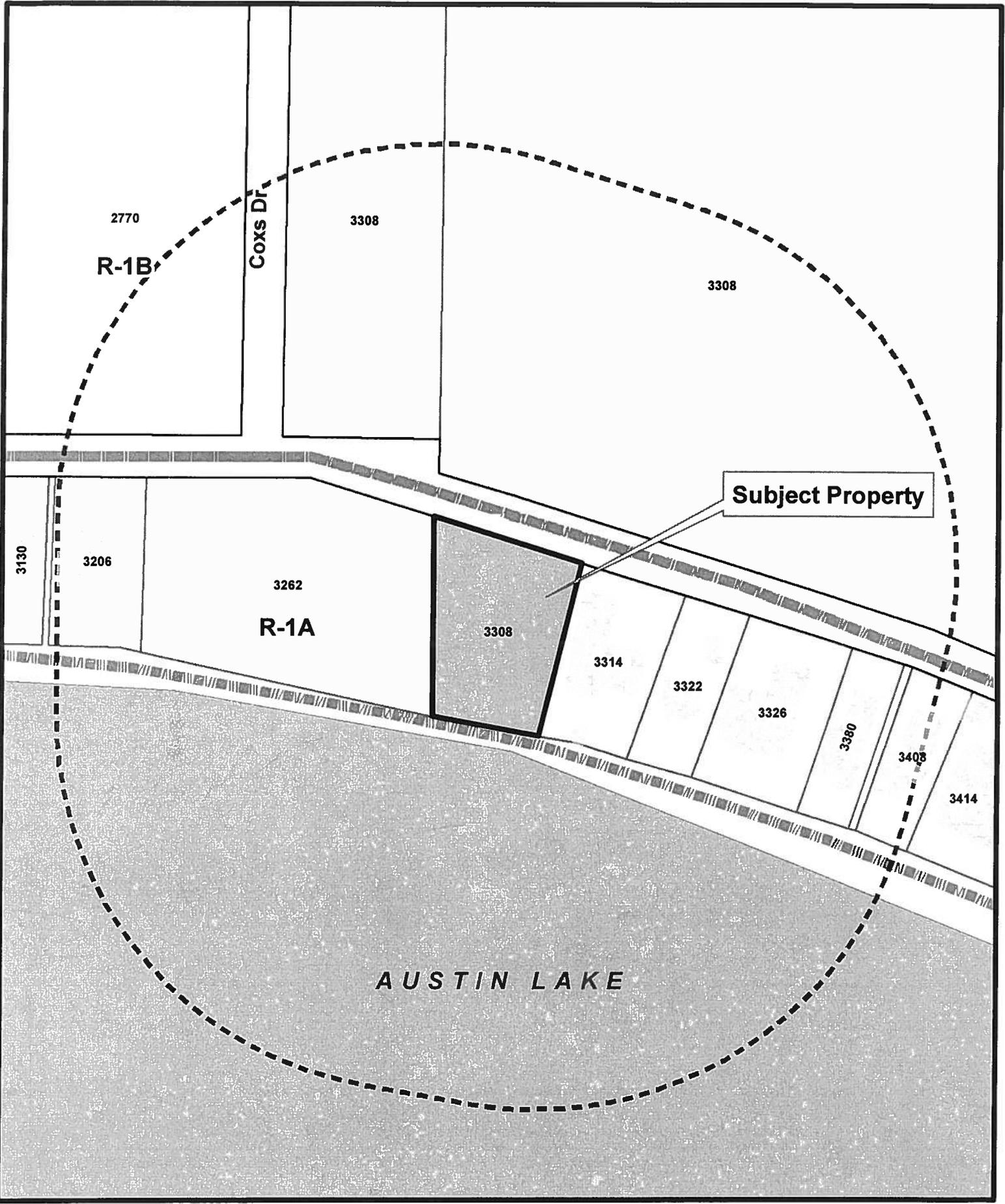
STATEMENT OF CITIZENS:

None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:11 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



-  Zoning Boundary
-  Subject Properties
-  300' Notification

ZBA 13-07
3308 East Shore Drive



1 inch = 100 feet



Department of Community Development

RECEIVED

OCT 14 2013

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 10-14-13
Name of Applicant H.S. RYSTAMP
Applicant's Address 3308 EAST SHORE
Name of Property Owner (if different from Applicant)
Address
Phone No.

Address of the Property that is the subject of this Application:
Street Address 3308 EAST SHORE
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: OWNER

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 42 Section 350 Paragraph
Regarding: Use Area Yards
Setbacks Parking Other

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

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: FRONT PROPERTY LINE SETBACK VARIANCE

FOR STAFF USE

Table with 3 columns: Application Number (13-07), Filing Date (10/14), Tentative Hearing Date (11/14/13). Row 2: 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

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

SEE ATTACHED

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

SEE ATTACHED

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.)

SEE ATTACHED

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.)

SEE ATTACHED

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.)

SEE ATTACHED

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.)

SEE ATTACHED

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

SEE ATTACHED


Signature of Applicant

10-14-13
Date

1. The proposed is an addition to a non-conforming existing structure.
2. Characteristics not shared by neighboring properties
3. Property can not be used for the proposed addition without variance
4. Variance is the minimum necessary for the proposed use
5. Variance would not result in adverse affects to adjacent properties or character of the area, as the proposed is an addition to the west side of the existing structure.
6. Proposed structure is a garage addition for residential use, (no change from current use), with no adverse effect to traffic or neighboring properties.
7. Existing building, (detached garage), placed by previous property owner.
8. See attached

The proposed addition is an expansion of an existing two-car garage. The purpose of the addition is twofold; first to provide additional parking/storage space and second to enable attaching this structure to the residence, thus to enjoy the benefits of an attached garage.

No change in sightlines for neighboring properties would ensue, (such as view of approaching traffic), as the addition would not be closer to the roadway than the existing structure.

Thank you for your consideration,



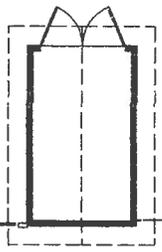
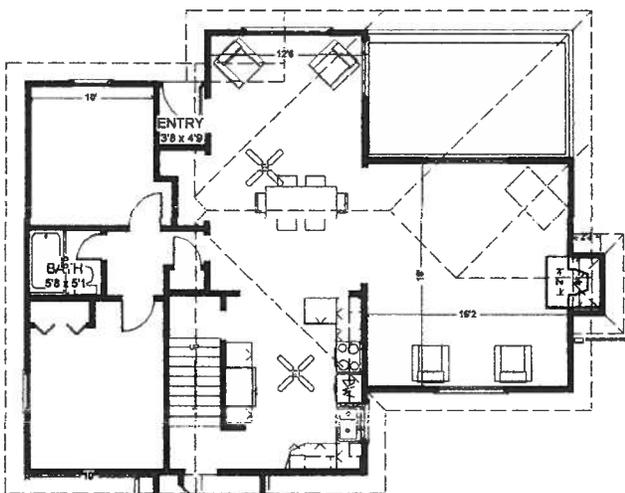
H.S. Ryskamp
3308 East Shore
327-2568

94



146

165



SHADED AREA IS NEW ADD

EXISTING ASPHALT

PROPERTY LINE

EDGE OF ROADWAY

14'

18'-9"

6'

12'

15'

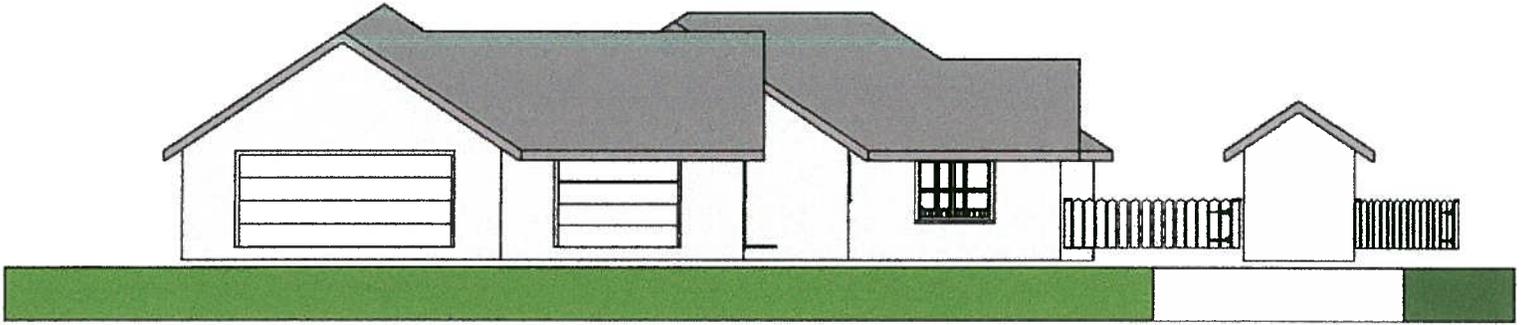
21

27

125







FRONT
(NORTH)



SIDE
(WEST)

TO: Zoning Board of Appeals **DATE:** November 1, 2013
FROM: Vicki Georgeau, ^{VJ} Director of Community Development
SUBJECT: ZBA #13-07; Henry Ryskamp, 3308 East Shore Drive, R-1A, One Family Residential

CODE SECTION: 42-350; Schedule of Regulations, p. CD42:84
42-133(D)(1) Nonconforming Structures, p. CD42:44

APPEAL: Requesting a variance to expand an existing nonconforming detached garage by constructing a 446 square-foot addition 15 feet from the front (north) property line where a minimum 27 foot front setback is required.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, site sketch, and related materials. The 0.3 acre lakefront property is zoned R-1A, One Family Residential and is adjacent to a residence to the east, and to undeveloped residential zoned property to the west and north. The subject property is improved with a 1,399 square-foot one and one-half story dwelling constructed in 1947 and nonconforming 576 square-foot detached garage. The garage is nonconforming because it is located six feet from the (north) front property line at the nearest point where a 27-foot setback is required.

The applicant proposes to construct a 446 square-foot garage addition that would attach the nonconforming garage to the dwelling. The proposed addition would extend to within 15 feet of the front property line. As background, the Board denied a similar request (ZBA 00-06) for an attached garage addition in September, 2000 for failure to demonstrate a practical difficulty. As was the case in 2000, conforming alternatives are still available. The applicant could remove the front entry and construct an attached garage in a conforming location. Alternately, an attached garage could also be constructed on the west side of the dwelling. The applicant has not demonstrated a practical difficulty, and because practical conforming alternatives are available, the variance is not recommended.

PRACTICAL DIFFICULTY:

None noted by staff. 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:

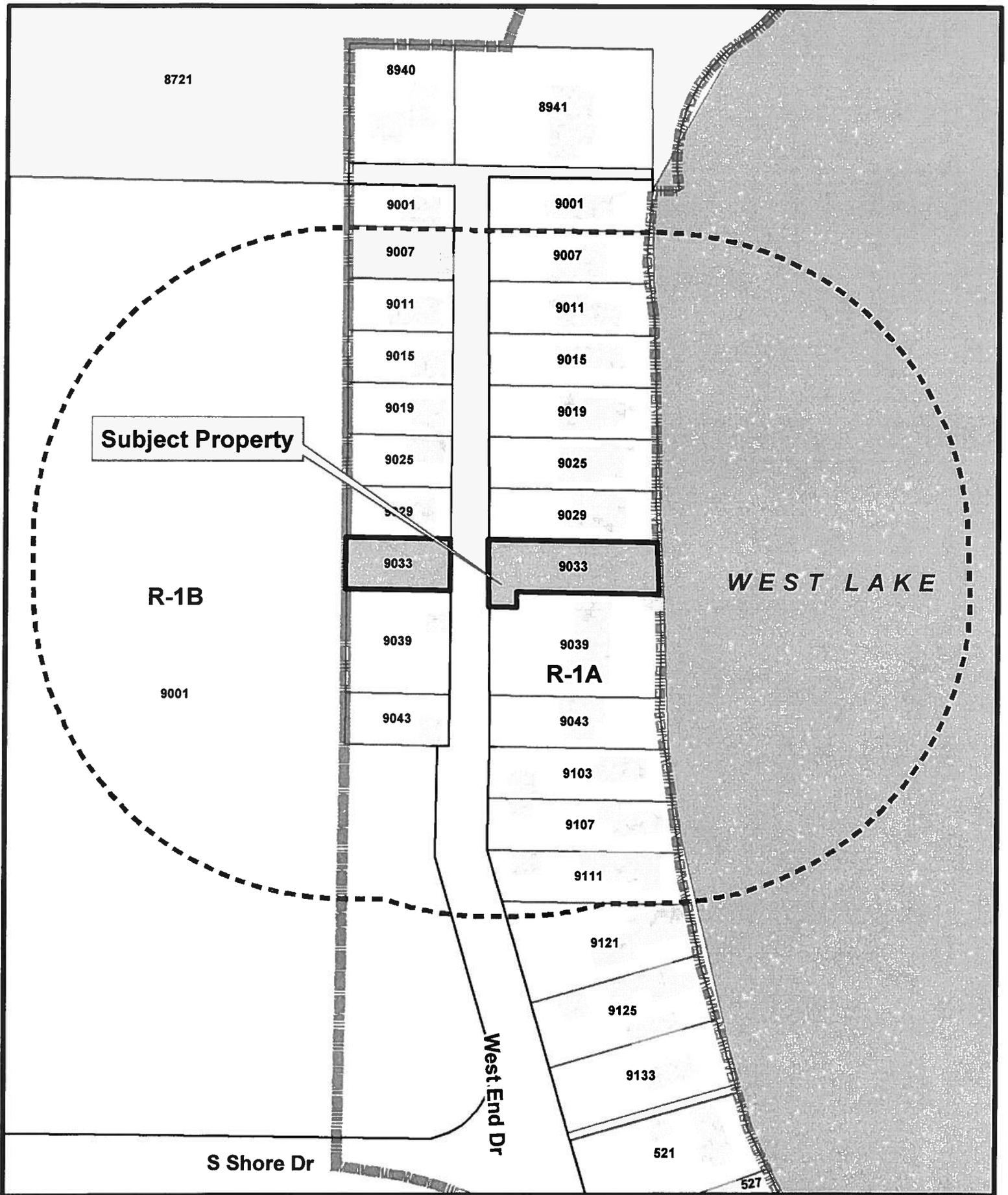
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

WEST LAKE

R-1A

S Shore Dr

West End Dr

-  Zoning Boundary
-  Subject Properties
-  Notification Area

ZBA 13-08
9033 West End Drive



1 inch = 120 feet

Jeff Mase



Department of Community Development

RECEIVED

OCT 15 2013

COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 10-15-13
 Name of Applicant David Verdusco [Signature]
Print Signature
 Applicant's Address 7077 Dorval Road Phone No. 269-903-7355
 Name of Property Owner (if different from Applicant) Doug Atkin
 Address 8131 Via Rosa, Orlando, FL 32836 Phone No. 269-207-3070
 Address of the Property that is the subject of this Application:
 Street Address 9033 West End, 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: Purchasing property to build home on it.

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 42-350 Paragraph _____
 Regarding: Use _____ Area _____ Yards _____
 Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): section 42-350 schedule of regulations side setbacks

_____**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>13-8</u>	Filing Date: <u>10/15</u>	Tentative Hearing Date: <u>11/11</u>
Previous Application Filed Regarding This Property: <u>ZBA 13-03</u>		

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

10-15-13
Date

To whom it may concern,

Hello, my name is David Verduzco. My wife and I are seeking approval for a variance on the side setbacks on lot #9033 West End Drive in Portage, MI. We are purchasing the property from Doug Atkin. We are currently in the Due Diligence phase of the purchase, which has brought us to this point. We hope that the information below adequately captures the current situation and supports the request for a variance.

1. Some years ago, I am told that Lot #9033 was split off from a larger parcel. At this time, #9033 was zoned with a 65 foot road-side width that extends toward the lake 27 feet. At this point, the property abruptly narrows to 50 feet and extends all the way to the shoreline of West Lake at this 50 foot width. So, although this property is 65' wide for 15' deep at the roadside, the remaining 138' (where the home is to be built) is much narrower at 50'.
2. None of the surrounding properties have this type of "jog" section in their lot shapes. These lots are approximately the same size and shape as #9033 (minus the 27' x 15' section added at the road side). So, yes, Lot #9033 is unique in this regard.
3. No, the home that we want to build on Lot #9033 does not conform to the permitted side setbacks by 3' on each side. If the setbacks could be changed to 5' on each side as opposed to 8', then the home fits perfectly.
4. The request for 5' side setbacks is the space needed in order for Allen Edwin to build this modest 2,400 square foot home and is the minimum needed. Also, given the fact that the lot shape is unique, I believe that the request for this variance would be understood as logical to the property owners in the area. Again, if Lot #9033 had been originally zoned as the other surrounding lots were back when it was split off, its shape would match the other surrounding lots and the lot would have 5' side setbacks.
5. There would be no adverse effects on adjacent properties. Again, the surrounding properties in the area have the approx 50' x 165' shape without the little 27'x x15' section that is added to Lot #9033. This section is "non-functional" and #9033 is seen as just another narrow 50' x 165' lot in the neighborhood. We have spoken with both adjacent property owners (Tim and Betsy to the north and Mark to the south) and neither have any problem with this variance request, as they also see the property as another "narrow 50' property".

6. Lot #9033 is located in the middle of a dead-end street. All this variance does it allow us to build a home that in total it 40' wide. This is the reason for the request of 5' side setbacks. There would be no other impact on the surrounding areas.
7. The reason for this request is not due to the impact of something done by the applicant or the property owner, but to the decision made years ago when the property was originally split off. When this was done years ago, a decision was made (for whatever reason) to add this 27' x 15' section to the 50' x 165' lot, thus causing this current situation.
8. If Lot #9033 had been zoned years ago without the little 405 square foot section (only 5% of the lot's square footage), then the lot would have 5' side setbacks and this would not be an issue. Also, given that the lot will be functionally used at the 50' width as opposed to the 65' width by the street (that is to say that the home will be built on the 50' wide part of the lot), we believe that this another reason that this request honors the intent and spirit of the Zoning Ordinance.

Humbly, we would like to thank you very much for your time and consideration of this request.

David Verduzco



Amy Verduzco



Subject: Variance
From: Doug Atkin (datkin@ocphx.com)
To: verduzco9439@yahoo.com;
Cc: datkin@ocphx.com;
Date: Tuesday, October 15, 2013 10:48 AM

David,

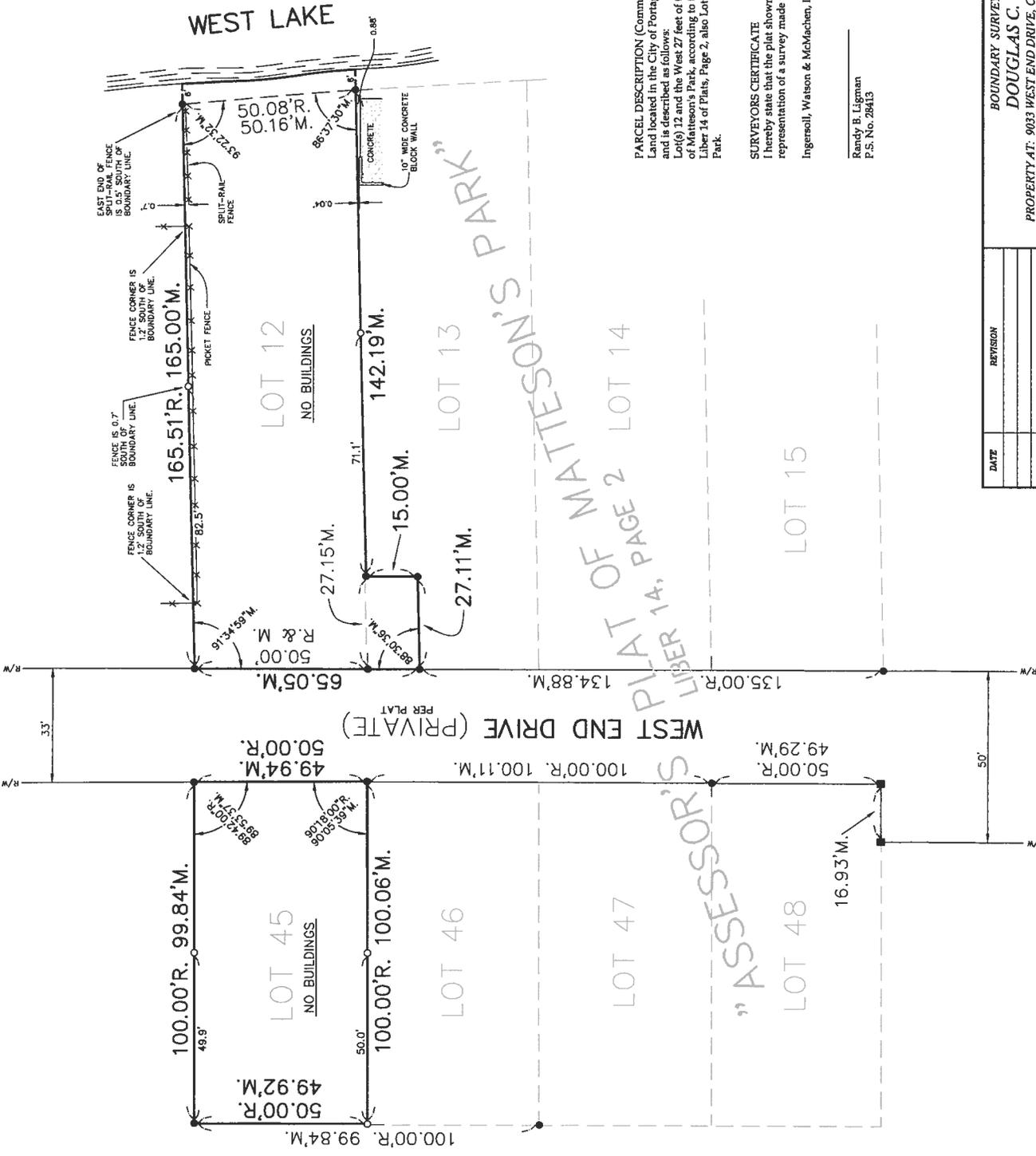
As you requested for Portage Zoning.

City of Portage:

I Doug Atkin the owner of 9033 West End Drive give David Verduzco my permission to seek and obtain a zoning variance in regards to side setbacks.

Thank You,

Doug Atkin
datkin@ocphx.com
269.207.3070



- = CONC. PLAT MONUMENT FOUND
- = IRON ROD PLACED
- = IRON ROD OR PIPE FOUND (UNLESS OTHERWISE NOTED)
- = RECORD DIMENSION
- R. = MEASURED DISTANCE
- M. =

PARCEL DESCRIPTION (Commitment No. 4001-69933):
 Land located in the City of Portage, Kalamazoo County, State of Michigan and is described as follows:
 Lot(s) 12 and the West 27 feet of the North 15 feet of Lot 13, Assessor's Plat of Matthewson's Park, according to the recorded Plat thereof, as recorded in Liber 14 of Plats, Page 2, also Lot 45 of the Assessor's Plat of Matthewson's Park.

SURVEYORS CERTIFICATE
 I hereby state that the plat shown hereon is a true and correct representation of a survey made under my supervision.
 Ingersoll, Watson & McMachen, Inc.

Randy B. Ligman
 P.S. No. 28413

DATE	REVISION	DATE	REVISION
		9-22-11	
		JOB No.	35951
		ASSET No.	1
			2010 Aug LLC

BOUNDARY SURVEY REPORT
DOUGLAS C. ATKIN
 PROPERTY AT: 9033 WEST END DRIVE, CITY OF PORTAGE, MICHIGAN.
Ingersoll, Watson & McMachen, Inc.
 CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS
 1155 East Millham Road • Portage Michigan 49682 • Area 800-544-0166 • Fax 800-544-0665

HOUSE DIMENSIONS:

- A = 16'-0"
- B = 24'-8"
- C = 10'-0"
- D = 20'-4"
- E = 1'-0"
- F = 4'-8"
- G = 2'-0"
- H = 12'-0"
- I = 42'-0"
- J = 14'-0"
- K = 6'-0"

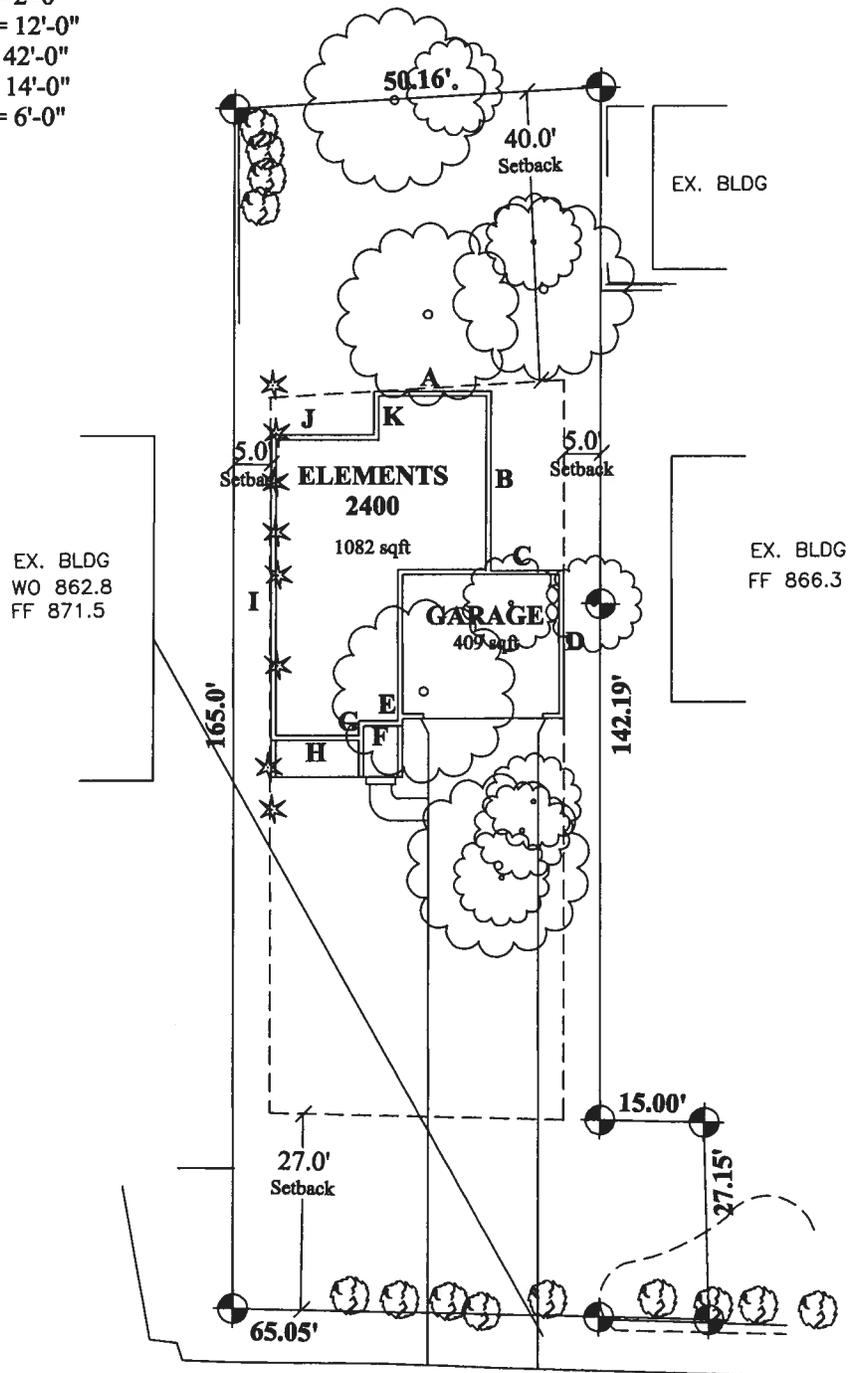
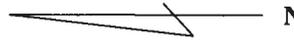
GARAGE

FRONT:
22'-8"

PORCH

PIERS:
5'-0"

EX. WATER 856.30'



Scale: 1" = 20'-0"
Date: October 15, 2013

SITE PLAN
KOS040 (Verusco)
9033 WEST END DRIVE
ALLEN EDWIN HOMES
2186 EAST CENTRE
PORTAGE, MI 49002



TO: Zoning Board of Appeals **DATE:** November 1, 2013
FROM: Vicki Georgeau, ^{VA} Director of Community Development
SUBJECT: ZBA #13-08; David Verduzco, 9033 West End Drive, R-1A, One Family Residential
CODE SECTION: 42-350; Schedule of Regulations, p. CD42:84
APPEAL: Requesting a three-foot variance to construct a new dwelling five feet from the north and south side property lines where a minimum eight-foot side yard setback is required.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application and site sketch. The property addressed as 9033 West End Drive consists of two undeveloped lots: lot 45 and lot 12 of the Assessor's Plat of Matteson's Park, which are located across from each other on opposite sides of West End Drive (the north 550 feet is a private road). The property is zoned R-1A, One Family Residential and the lakefront portion (lot 12) is adjacent to single family residences to the north and south. The non-lakefront property (lot 45) is adjacent to existing accessory buildings to the north and south and West Lake Nature Preserve to the west.

The Board recently approved a variance (ZBA #13-03) allowing an accessory building to be constructed on lot 45, if constructed concurrently with a dwelling on lot 12. Mr. Verduzco now has an option to purchase the property and is proposing a new approximate 2,400 square-foot, two-story dwelling with an attached 409 square-foot garage five feet from the side property lines. Mr. Verduzco has been advised of this Board approval involving lot 45 and the six month timeline associated with Board decisions.

With regard to the configuration of lot 12, 9033 West End Drive was split from 9039 West End Drive in 2002. While the applicant indicates the configuration is unusual, the lot dimensions were required so that the resulting lot was conforming and not therefore eligible for reduced setbacks. If this is now presented as a practical difficulty, it is one that has been self created (by the previous owner). The lot width as measured at the building line or setback line met the minimum Zoning Code requirements for lot width and is considered conforming. Construction of a dwelling on the lot with the required eight foot side yard setbacks would permit up to a 34-foot wide building envelope. The applicant could construct a 34-foot wide dwelling and numerous examples of these can be found around the lakes. Because practical conforming alternatives are available, the variance is not recommended.

PRACTICAL DIFFICULTY:

Narrow lot width noted by applicant. None noted by staff. 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.**