



ZONING BOARD OF APPEALS

December 9, 2013

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, December 9, 2013

(7:00 pm)

Portage City Hall

Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * November 11, 2013

OLD BUSINESS:

NEW BUSINESS:

- * 1. ZBA #13-9, Harvey Kragt, 5260 Bronson Boulevard: Appealing the decision that sale activities at 5260 Bronson Boulevard constitutes a non-permitted Home Occupation or business.
- * 2. ZBA #13-10, John Wright on behalf of Zoetis, 7725 Portage Road: Requesting a variance for a 115 square foot freestanding sign where a maximum 48 square foot sign is permitted.
- * 3. ZBA #13-11, Edward & Helen Clifford, 1006 Forest Drive: Requesting a variance to construct a new dwelling 26 feet eight inches in height where a maximum 25 feet is permitted.
- * 4. ZBA #13-12, Trigo Hospitality (Moe's Southwest Grill), 6225 South Westnedge Avenue: Requesting variances to: a) construct a vestibule 45 feet from the South Westnedge Avenue right-of-way where a 75 foot building setback is required; and b) erect a wall sign that extends 72 inches from the building wall where a maximum 18 inches is permitted.

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 – November 11, 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. Eight people were in the audience.

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

MEMBERS EXCUSED: James White

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

APPROVAL OF THE MINUTES: Bunch moved and Singer seconded a motion to approve the October 14, 2013 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

NEW BUSINESS:

ZBA #13-07, 3308 East Shore Drive: Mais summarized the request for a variance to expand an existing nonconforming garage by constructing a 446 square-foot addition 15 feet from the front property line where a minimum 27 foot front setback is required. Henry Ryskamp stated his proposed configuration was more logical than placing an attached garage on the west side of the dwelling, or attaching it to the east side of the dwelling where it would be adjacent to a bedroom. Singer inquired if the applicant had considered a tandem garage design. Mr. Ryskamp stated that alternative would not accommodate their parking needs. Bright inquired who owned the property to the west and if the applicant had spoken to his neighbors about the request. Mr. Ryskamp stated the undeveloped property to the west was owned by Pfizer, and he had spoken to the neighbor to the east who stated no objection.

A public hearing was opened. Sharon Ryskamp, 3308 East Shore Drive, inquired if the garage were constructed on the west side of the dwelling how could the driveway access be configured. Mais stated they had the option to either extend the existing driveway across the front yard, or could install a second driveway further west, as East Shore Drive was not a major thoroughfare. The public hearing was closed.

A motion was made by Smith, seconded by Singer to deny a variance to expand an existing nonconforming garage by constructing a 446 square-foot addition 15 feet from the front property line where a minimum 27 foot front setback is required for the following reasons: there are no exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district; 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 constructing a garage on the west side; the variance would be detrimental to adjacent property and the surrounding neighborhood, and; the variance would 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, Rhodus-Yes, Seyburn-Yes, Bunch-Yes, and Smith-Yes, Singer-Yes. Motion passed 7-0.

ZBA #13-08, 9033 West End Drive: Seyburn stated he would abstain from the discussion and voting since he was involved in the creation of the lot that occurred several years earlier. Mais summarized the request for 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. Mr. Verduzco inquired why eight foot side setbacks applied to this property, which has a 50 foot wide building envelope, and what setbacks applied to other 50-foot wide lots on West End. Mais stated 9033 West End Drive was 65 feet wide at the street and this width extended back 27 feet to the front building line where it then narrows to 50 feet. Because lot width is determined at the front building line the lot meets the required width at that point and is

considered conforming so eight foot side setbacks apply. If the lot was 50 feet wide for its entire length, then five-foot side setbacks would apply. Singer inquired if any portion of the lot met the required width beyond the front building line Mais replied about one inch. Singer inquired how wide most of the other lots were on West End Drive. Mais replied 50 feet. Rhodus inquired why the applicant didn't just purchase lot 12 and not the additional 15-foot by 27-foot portion of lot 13. Mais stated that wasn't an available option when the lot was split in 2000 and the city could only approve conforming parcels. Rhodus suggested that lot 12 was part of a recorded plat and it would be necessary to amend the plat in order to change the property lines. Attorney Bear stated the city could approve alteration of interior lot lines without amending a plat. Attorney Bear also that the Board should consider whether the lot configuration is a self-created hardship when 9033 West End Drive was created. Case law supports the position that self-created hardships can carry over to subsequent owners. Schaefer requested clarification if lot 12 at 50 feet wide was a buildable lot and the role of the 15-foot by 27-foot portion. Attorney Bear stated it was a buildable lot, and the 15-foot by 27-foot portion was to satisfy the minimum lot width requirement. Mais added that prior to the split in 2000, lots 12, 13, and 14 were considered a single tract when they came under contiguous ownership earlier and were combined. When the owner of the tract wanted to split a portion in 2000, the new parcel had to meet current code requirements, including minimum lot width.

A public hearing was opened. Mark Caley, 9039 West End Drive stated he had no objections and thought there would be adequate building separation between his house and the proposed dwelling. Mr. Caley stated he would rather see the proposed dwelling built with five-foot side yard setbacks than a narrower dwelling with conforming setbacks that extended closer to the street than the other houses along West End Drive. Singer agreed the houses along that street appeared to be more or less uniformly setback from the street at least 50 feet. The public hearing was closed.

Schaefer stated he was not in favor of the request because the lot was buildable and conforming alternatives were available. Bright stated he felt the city caused the practical difficulty when it created the unusual lot configuration. Mais stated the city must approve lot split applications that meet code requirements. Robbe stated the city may not have caused it, but did allow a lot split that took advantage of a loophole. A motion was made by Bright, seconded by Robbe to grant 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, conditioned upon the front setback be not less than 50 feet, for the following reasons: there are exceptional circumstances applying to the property that do not apply to other properties in the zoning district which include the size and shape of the parcel, the variance is necessary for the preservation and enjoyment of a substantial property right, the right to build on a lot 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, Rhodus-No, Bunch-No, Singer-Yes, and Smith-Yes. Motion passed 4-3.

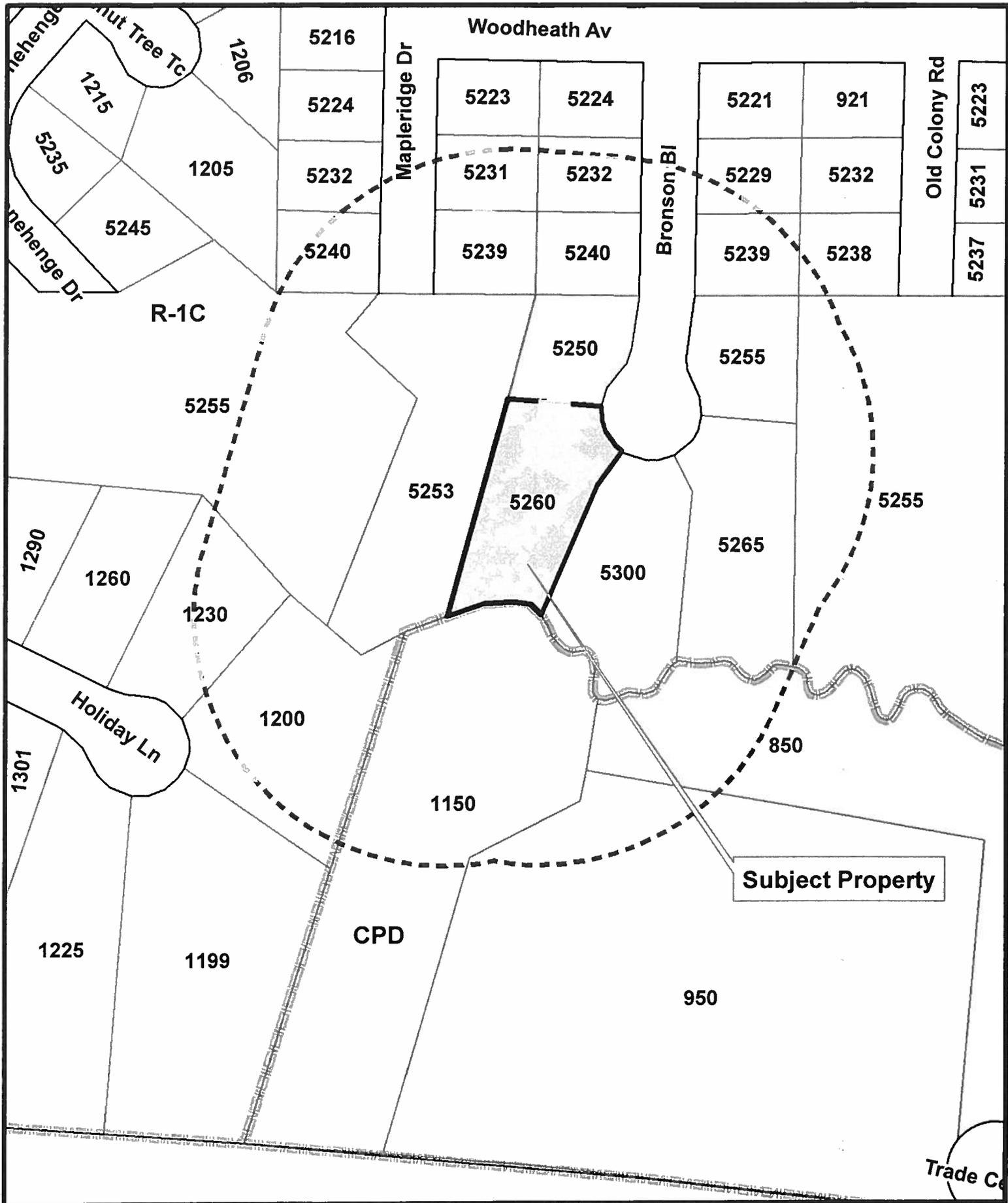
OTHER BUSINESS:

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
-  Notification Area

ZBA 13-09
5260 Bronson Boulevard



1 inch = 150 feet



RECEIVED

13-1000007

NOV 07 2013

Department of Community Development
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 11-5-13

Name of Applicant HARVEY KRAUT Harvey Kraut
Print Signature

Applicant's Address 5260 BRANSON BLVD Phone No. 269-385-2395

Name of Property Owner (if different from Applicant) _____
Address _____ Phone No. _____

Address of the Property that is the subject of this Application:
Street Address 5260 BRANSON BLVD
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 _____ 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: See attached

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>13-09</u>	Filing Date: <u>11/7/13</u>	Tentative Hearing Date: <u>12/9/13</u>
Previous Application Filed Regarding This Property:		

N/A

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.)

Harvey J. Knight
Signature of Applicant

11-6-13
Date

The city has contended that I'm running a business with my garage sales. I disagree with that interpretation. I had a meeting with Mr. Mais to discuss his interpretation and the basis for it. While I have not been shown anything in the code that prevents me from conducting my garage sale as I have, my goal was to see if there was a way to address the city's concerns nevertheless. He indicated that this was not a negotiating meeting, and therefore I am appealing his interpretation.

I have been having garage sales for 20+ years. I have a basement sale the first Saturday in February, and a garage sale the weekends before Memorial Day and Labor Day. This is well within the city's ordinance concerning the number of sales allowed. In addition to my household items, I also sell items that I find are bargains found at other garage sales and auctions. My daughter and son also put things in my sale. The city has known about this for many years, as I have always been open about what I do. To date the city has had no problems with it. I believe the city's decision came about because of a complaint filed by a neighbor. He doesn't like the garage sales and has filed false complaints with the city. I believe that due to the complaints of this one neighbor, the city is now saying that I cannot continue because it's a "business". I contend it's a hobby and not a business, much like numerous residents throughout the city. I am retired and I enjoy doing this, and gives me a reason to get up in the morning. You get to meet a lot of nice people.

Let me respond, by saying:

First of all, I only have garage sales 3 times per year – hardly an ongoing business.

Secondly, my attorney indicates that nothing in the ordinance prohibits me from doing what I am doing.

The city has stated that nothing can be sold that was bought with the purpose of selling it. There is no such provision in the ordinance. This would mean that my children cannot sell anything at my sale, because it is not "my household". It also means I cannot find bargains at other sales and resell them. It also means that I cannot help friends and others dispose of items when they do not have the means to do so. To me that is a very arbitrary interpretation of the ordinance.

Third, one of the city's complaints is that it is creating a traffic problem. Pictures were taken which indicated, that there were 24 cars along the road. I live in a very large cul-de-sac (65 feet across). The two times that I am aware of, the police have been called by the same neighbor because of "blocked" driveways resulted in the police saying they did not see the problems as claimed. I might also mention that of the 24 cars mentioned, 5 were ours. (My wife's, daughters, son-in-law, my son's and mine). As you know, parking at a garage sale is very fluid. People come and go all the time. So I really don't see it as a problem.

Because I have helped some elderly people, in our church (and others), as they have moved to nursing homes or passed away, I have accumulated a lot of household items to

sell. The city's decision would prevent me from selling any more of these items. This put me in a position of trying to figure out how to dispose of the items. Mr. Mais suggested that I sell at the flea market. Unfortunately, this is not possible as on Tuesdays and a lot of Wednesdays (when the flea market is open), I am volunteering at the Kalamazoo Deacons Conference and also drive for the Sheperds Center. Currently, I am volunteering between 20-30 hours per week. Again, this is not a business like those who sell at flea markets on a regular basis. I have the three permitted garage sales a year.

I have attached a listing of several neighbors who indicated that they are supportive of me, and have no problem with it. In fact, many of them put items out for sale, or have their own sales in conjunction with mine. One neighbor wanted to submit a letter supporting me, which is also attached.

I have also attached is listing of 100 other people who support my viewpoint.

I have a hard time understanding how 3 garage sales a year are interpreted to be impermissible. Garage sales are commonplace in residential neighborhoods and something you expect to find at homes. The city's code defines accessory uses as follows:

Accessory use and accessory: A use that is clearly incidental to, customarily found in connection with and located on the same zoning lot as the principal use to which it is related.

Garage sales certainly meet this definition. While this issue may seem insignificant to some, it is very important to me and my family. A decision to prevent me from having garage sales when every other resident of Portage would be able to does not seem appropriate.

I read with interest Section 42-622 C of the city's zoning code regarding the role and requirements of the Zoning Board of Appeals when faced with interpretation appeals. In part, it states that "Interpretations shall give weight to practical interpretations by the director and other administrative officials if applied consistently over a long period of time." I ask, is this a consistently applied interpretation over a long period of time? I am not aware of any such mandate. Further, and perhaps more importantly, this Section states:

"Where the intent of this chapter is unclear and the facts cannot be read to support only one interpretation, the benefit of doubt shall go to the property owner."

In this situation, there is a singular neighbor's complaint leading to an interpretation that my garage sale is a somehow a business. I have been not shown anything in the code that prohibits the reselling of items at a lawful garage sale, yet such a prohibition is being applied to me in a singled-out fashion. I am not sure the city truly wants to

administratively take that position. I think it is quite safe to say that there are several others in the community with similar types of garage sales.

In summary, I am asking the Zoning Board of Appeals to overturn the interpretation of the city and allow me to continue my hobby for the following reasons:

- 1) The ordinance does not prohibit me from doing what I am doing.
- 2) The city's decision to change the rules put me in the untenable situation of trying to dispose of purchases in ways that are not possible.
- 3) There are many friends and neighbors who support my petition.
- 4) This interpretation prevents me from helping friends and neighbors dispose of their items, when they do not have the means to do so.
- 5) This ruling prohibits my children from selling at my sale.

Thank you for your consideration.

Sincerely, Harvey Kragt

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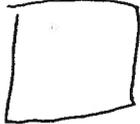
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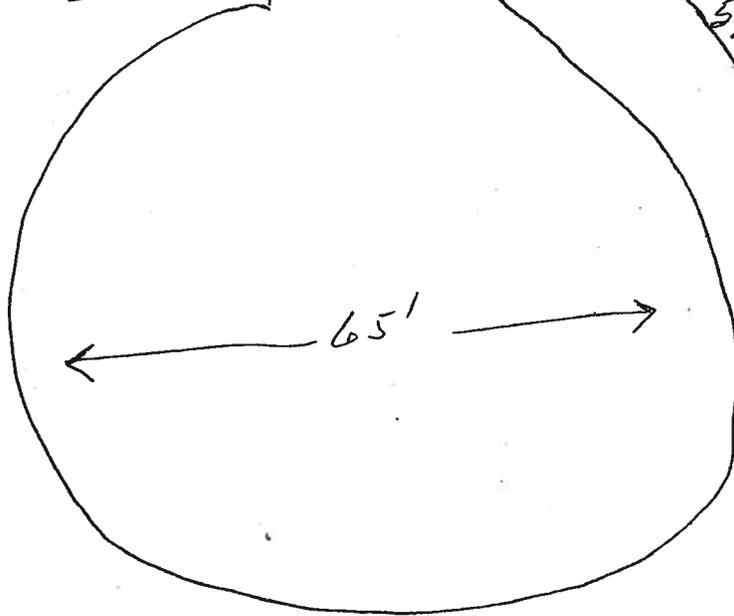
5250

5255

W

E

5260



S

10-9-13

We the undersigned are requesting that you permit Harvey King to continue his garage sales as he has done for the last many years:

1. Ed King 5250 BRANSON BLVD
2. Michelle Dooley 5234 BRANSON BLVD
3. Ed Dooley 5239 BRANSON BLVD
4. Mike & UTA Wooden 5221 BRANSON BLVD
5. Carrie & Tom Houser 5232 BRANSON BLVD
6. BOB & LOUARA AILDS - SEE ATTACHED 5229 BRANSON BLVD
7. AL & MARY VAN KAMPEN 5147 BRANSON BLVD
8. Carl & Joe Lutz 5137 Branson Blvd
9. Joseph H. Lutes, Jr 5139 BRANSON BLVD
10. Ed Lutz 5146 Branson Blvd
11. Karen E. Jensen 5121 Branson Blvd
12. KEN VAUGHNSONS (SEE P3-#12)

1

5229 Bronson Blvd
Portage, MI 49024
October 2, 2013

Jeff Mais
Department of Community Development
City of Portage
7900 South Westnedge Ave
Portage, MI 49002

Dear Sir,

This communication is hopefully a helpful response to your letter to Mr. Harvey Kragt of August 30, 2013, regarding his periodic garage sale activity at 5260 Bronson Blvd. As you can see I live in the same block, a few houses down from the sale activity in question. I have observed the sale activities for a number of years and often visit there several times a day while it is in process, so I consider myself well acquainted with Mr. Kragt and the event itself.

Over the years there have been unfounded complaints that Mr. Kragt was holding a "kegger", and/or that it was some kind of party and that emergency vehicles could not get through. These types of complaints have been duly evaluated by the police department and found to be unsubstantiated. The present complaint indicates that tables are being rented and this is without basis in fact. I have, on one or two occasions taken items down to be sold and Mr. Kragt has been very judicious in passing on to me whatever the item sold for. There were no middleman charges involved and again, no table or space was being rented. However, Mr. Kragt does bring in items from other locations for sale and so it is true that many of the items for sale do not originate from his household, thus giving it the appearance of a business. My observation over the years however, is that it truly is a hobby – something he truly loves to do with members of his family who come in for the event and assist with the project. I believe his parents or his wife's parents did this sort of thing so it's in a very real sense "in his blood". Observing him, he's obviously enjoying himself very much in the process. He becomes animated and enjoys very much interacting with customers and assists them in any way he can, even helping them load.

Based on my awareness of the careers of Mr. Kragt and his wife Donna, I am certain they do not "need the money" and considering the TREMENDOUS amount of work I've observed going into setting up and taking down the sale, it seems to me that whatever profit they generate is not worth the amount of work that goes into it. So the whole activity becomes a special time for the Kragt family. I feel the above factors establish that it is indeed not a "business" but a hobby, as Mr. Kragt describes.

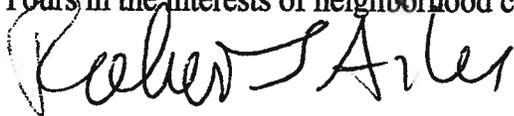
Now this enterprise does, at times, generate a fair amount of traffic and while I have never observed a situation where it would impede emergency vehicles, there are people who are inconsiderate and will sometimes block access to a mail box or make it difficult to use a driveway. Most people are considerate but not all. I am aware of one neighbor saying he missed two mail deliveries because his mailbox was blocked. This is indeed unfortunate. However, I

would question whether this is directly under the control of the Kragt family. Over the years I have enjoyed going to other such sales/events in the community and can verify that sometimes some of the people attending these events can be inconsiderate. But I would submit that these same unfortunate actions can potentially occur at any sale in the community and so are we to close all of them?

Constructively, could I suggest some compromises? Perhaps these sale could involve one less day – 2 days instead of the usual 3. Secondly it might help if the family could indicate concern to the immediate neighbors about customers who interfere with access to driveways and mailboxes and attempt to monitor such behavior and ask people to move their vehicles when they observe this going on? Perhaps signage put up by the family to that effect would be a step in the right direction. Perhaps better communication and a show of good faith and concerns as described above could help alleviate some of the neighborhood concerns. Skimming the enclosed statutes, I'm not sure I see anything making a distinction between items brought to the site for sale and items originating within the household.

In summary, I don't get the impression that most of the neighbors have a problem with this sale and many of them visit and socialize. Certainly I am not opposed to it and actually kind of look forward to it. However, I do not live adjacent to or across from the event itself. I just wish it were possible to alleviate some of these issues through better communication and goodwill between neighbors. Please feel free to contact me if you have any questions or need for clarification. – 349-9988.

Yours in the interests of neighborhood cooperation,

A handwritten signature in cursive script that reads "Robert S. Ailes". The signature is written in dark ink and is positioned below the typed name.

Robert S. Ailes

The following pages are friends who are requesting that the Zoning Board of Appeals overturn the decision made by the city that Harvey Krutz is running a business.

- 1 ~~John~~ Shawn Schipper
- 2 ~~Roy Schutte~~ Roy Schutte
- 3 ~~Paula Jones~~
- 4 ~~John King~~ Jonathan Morgan
- 5 Vincent R. Douglas
- 6 Tom Norden
- 7 Brenda Followell
- 8 ~~John~~
- 9 Joan E Bowers
- 10 Monique Mason
- 11 ~~John~~
- 12 Fannie Coates
- 13 Franklin D Bower
- 14 ~~Dee~~
- 15 Lynda J Medel
- 16 ~~John~~
- 17 Douglas Kennedy
- 18 Eugene A. Kramer
- 19 ~~John~~
- 20 John W. Hamer
- 21 Nancy C. House
- 22 Vickie Keech
- 23 ~~John~~
- 24 ~~John~~
- 25 Timothy J. Stevens
- 26 Sybil A. Leman
- 27 Lyni Blawdell
- 28 Sharon Merica
- 29 ~~John~~
- 30 ~~John~~

- 58 Yerrid. Simmons
- 59 Richard M. Simmons
- 60 Dr. Holt
- 61 Rebecca Speare
- 62 Kent Oakes
- 63 Don Baker
- 64 Thomas P. Kawaway
- 65 Ken Vail JR
- 66 Greg Doll
- 67 Shirley Hood
- 68 Kent de Dennis
- 69 Shelly Stuber
- 70 W. J. M.
- 71 Nanci
- 72 Joby Newby
- 73 Sarah Halden
- 74 Maureen McQuire
- 75 Kim Peterson
- 76 Gary H. H. H.
- 77 Robert G. Lee
- 78 Edward Lewis
- 79 ~~Paul~~
- 80 Regina Richardson
- 81 Allen Ritzema
- 82 ~~John~~
- 83 Melody Langford
- 84 Dale Brewer
- 85 Big McCarver
- 86 Ethelyn De Haan

- 87 Carol Crossema
- 88 Jeffery M. Dunn
- 89 David Wilson
- 90 Penny Olson
- 91 Paul New
- 92 LES MINOR
- 93 LEN Adams
- 94 Bruce Meyers
- 95 Mike Stone
- 96 Sam A. Eddington
- 97 Judy A Eddington
- 98 ~~John~~ Sparks
- 99 Julie Parker
- 100 Elaine Roseboom

TO: Zoning Board of Appeals **DATE:** November 27, 2013
FROM: Vicki Georgeau, ^{VB} Director of Community Development
SUBJECT: ZBA #13-09; Harvey Kragt, 5260 Bronson Boulevard, R-1C, One Family Residential

CODE SECTION: 42-622(A); Appeals, p. CD42:140.1
42-622(C)(1); Interpretation, p. CD42:44

APPEAL: Appealing the decision that sale activities at 5260 Bronson Boulevard constitutes a non-permitted Home Occupation or business.

STAFF RECOMMENDATION:

The applicant makes the above appeal per the enclosed application, site sketch, letter of explanation and other related materials. The 0.4 acre property is improved with a 2,468 square foot dwelling and 1,224 square foot attached garage. The property is zoned R-1C, One Family Residential, and is located at the end of a cul-de-sac in a residential neighborhood.

City staff has received complaints concerning the operation of the garage sales at 5260 Bronson Boulevard, traffic congestion in the cul-de-sac, the length and size of the sale, and whether or not a resale business was being operated.

On August 28, 2013 the city again received a complaint regarding a large-scale sale that had characteristics of a flea market business. During the course of staff review, the applicant admitted that many of the items being sold were purchased from other locations with the express intent of being resold at 5260 Bronson Boulevard.

Consequently, the attached letter dated August 30, 2013 was sent to the property owner advising that future garage sales must be limited to items from the household. Contrary to the applicant's assertion, the City has not prohibited *any* future garage sales, just not resale of items purchased for sale on site, which is not customary of household sales. The letter further stated that if the property owner wished to continue the resale of household goods, he should consider renting space at a flea market or sell the items at a consignment store.

The applicant notes garage sales are an accessory use and can be found occurring at many residences throughout the city. In this regard, city staff agrees. However, the sales activities at 5260 Bronson Boulevard differ in character from other garage sales in several important respects. Typically, garage sales are intended as a means for residents to remove unwanted household items and recoup a portion of the original cost. The number of items sold is typically relatively small since they are customarily limited to existing household items. In contrast, attached is a

Craigslist advertisement for the garage sale at 5260 Bronson Boulevard that occurred from August 28 through 31, 2013 indicating “*we have 55+ tables full of [items].*” Also attached are photos of the event showing the sales tables displayed in the garage, on the driveway and in the front lawn area and on-street parking associated with the sale. During a site inspection of August 31st, 24 vehicles were parked in the street with several of them parked in the middle of the cul-de-sac (the Public Safety Department, Fire Division has indicated that emergency vehicle access is problematic due to the on-street parking arrangement). As can be seen, the volume of inventory and number of customers in connection with the event exceed what a reasonable person may consider a typical household garage and/or yard sale. The sale at 5260 Bronson Boulevard is more akin to a home based business.

The applicant has questioned if city staff has consistently applied its interpretation of the Zoning Code over a long period of time. Garage sales do not require a permit application and subsequent review by the city. Rather, city staff involvement with the operation of garage sales has generally occurred in response to resident complaints associated with the frequency or duration of the events, or where the customers were parking in front of mailboxes and/or driveways. While the scope of the applicant’s activity is unique, city staff have responded consistently to such household sale complaints.

The applicant also notes Section 42-622(C) states “*where the intent of this chapter is unclear and the facts cannot be read to support only one interpretation, the benefit of the doubt shall go to the property owner.*” The definition of home occupation, however, is clearly defined as “*a home based activity or service conducted on a zoning lot used for residential purposes by an occupant as a subordinate and accessory use involving the sale or exchange of services. The sale or exchange of products and goods is permitted only if incidental to the services of the home occupation...*” Prohibiting a home based activity conducted on a residential zoning lot that involves the purchase and resale of goods from off-premises and the presence of numerous customers on-site multiple times a year is consistent with the intent of this chapter as stated in Section 42-180 “*the intent of these regulations is to protect residential neighborhoods from incompatible land uses and associated effect.*” For these reasons staff recommends the Board uphold the determination that the sale activities at 5260 Bronson Boulevard (especially involving goods purchased with the express intent of resale) constitutes a non-permitted Home Occupation or business. If the applicant wishes to continue with the sales, two options are apparent: 1) find an alternative location, or 2) significantly scale back the size and duration of the sales and actively monitor on-street parking during sales events.

**PRACTICAL
DIFFICULTY:**

Not applicable.

August 30, 2013

Harvey Kragt
5260 Bronson Blvd.
Portage, MI 49024

Re: Garage Sales at 5260 Bronson Blvd.

Dear Mr. Kragt,

This letter is a follow-up to our phone discussion this morning. As you are aware, the city received a complaint about neighborhood parking and traffic-related impacts involving the two to three annual garage sale events you have at 5260 Bronson Blvd. During our conversation, you clarified your earlier comments made on Thursday, August 29th that the garage sale events were a “hobby” for you and some of the items being sold were purchased expressly for resale.

As you may be aware, household/garage sales events are not specifically regulated by the city. They are intended as a means for residents to get rid of typical household items they no longer need or want and recoup a portion of their original cost. The acquisition of other non-household merchandise with the specific intent to resell it for a profit is not consistent with the purpose of a garage sale. As experienced yesterday afternoon during my site visit, larger inventories of merchandise attract increased numbers of customers resulting in an increase of the negative impacts on other neighborhood residents. Moreover, this type of “retail” activity may be considered a home occupation (a regulated activity) since it could provide a source of income. However, the retail sale of household items from the garage and/or driveway at a dwelling is not permissible because it cannot meet several of the provisions under Section 42-129(B). Enclosed for your convenience is a copy of the home occupation ordinance.

Pursuant to our conversation this morning, the current garage sale must cease by the end of day on Saturday, August 31, 2013. If you decide to have future garage sales, the items sold must be limited to items from your own household. If you would like to continue to pursue the resale of household goods as a hobby, you should consider renting a booth or table at one of the area flea markets, or sell items at a consignment shop.

If you have any additional questions, please feel free to contact me at (269) 329-4476.

Sincerely



Jeff Mais
Zoning & Codes Administrator

S:\2013-2014 Department Files\Address Files\B\Bronson Blvd\2013 08 30 JAM Bronson, 5260 (illeg home occ).doc









8/31/13

[CL](#) > [kalamazoo](#) > [all for sale / wanted](#) > [garage & moving sales](#)

[[Reply](#)] w76qr-4030309205@sale.craigslist.org [ⓧ] flag [ⓧ]: [miscategorized](#) [prohibited](#) [spam](#) [best of](#) Posted: 2013-08-27, 9:50PM EDT

5260 Bronson Blvd, Portage, Mi 49024 (5260 Bronson Blvd, Portage, Mi 49024)

Harvey's annual fall sale.

When: Wednesday, Aug 28 from 5pm to 8:30 pm

Thur - Sat, Aug 29-31, 8:00 am to 5:30 pm

Where: 5260 Bronson Blvd, Portage, Mi 49024

what we have: 55+ tables full of:

1000's of records (no 45's)
 CD's, DVD's, VHS
 milk bottles
 sportscards
 Beer advertising
 tools.
 kitchen ware
 collectibles
 books
 cameras/assessoris
 several fishing reels, incl 3 Shakespeare
 3 Madame Alexander dolls
 knick, knacks
 toys, games
 Mother Earth News
 Hotwheels, Matchbox
 pictures,
 girls clothes (my granddaughters are now 10 & 13
 M&M collectibles
 NASCAR
 small display cases
 school supplies - pens, paper items, glue, etc
 stereo equipment
 lanterns
 10' x 20' canopy - all parts are there, is not waterprrof anymore
 lawnmower
 much, much, more. More out every day.

Questions? you can call me at 269-385-2395

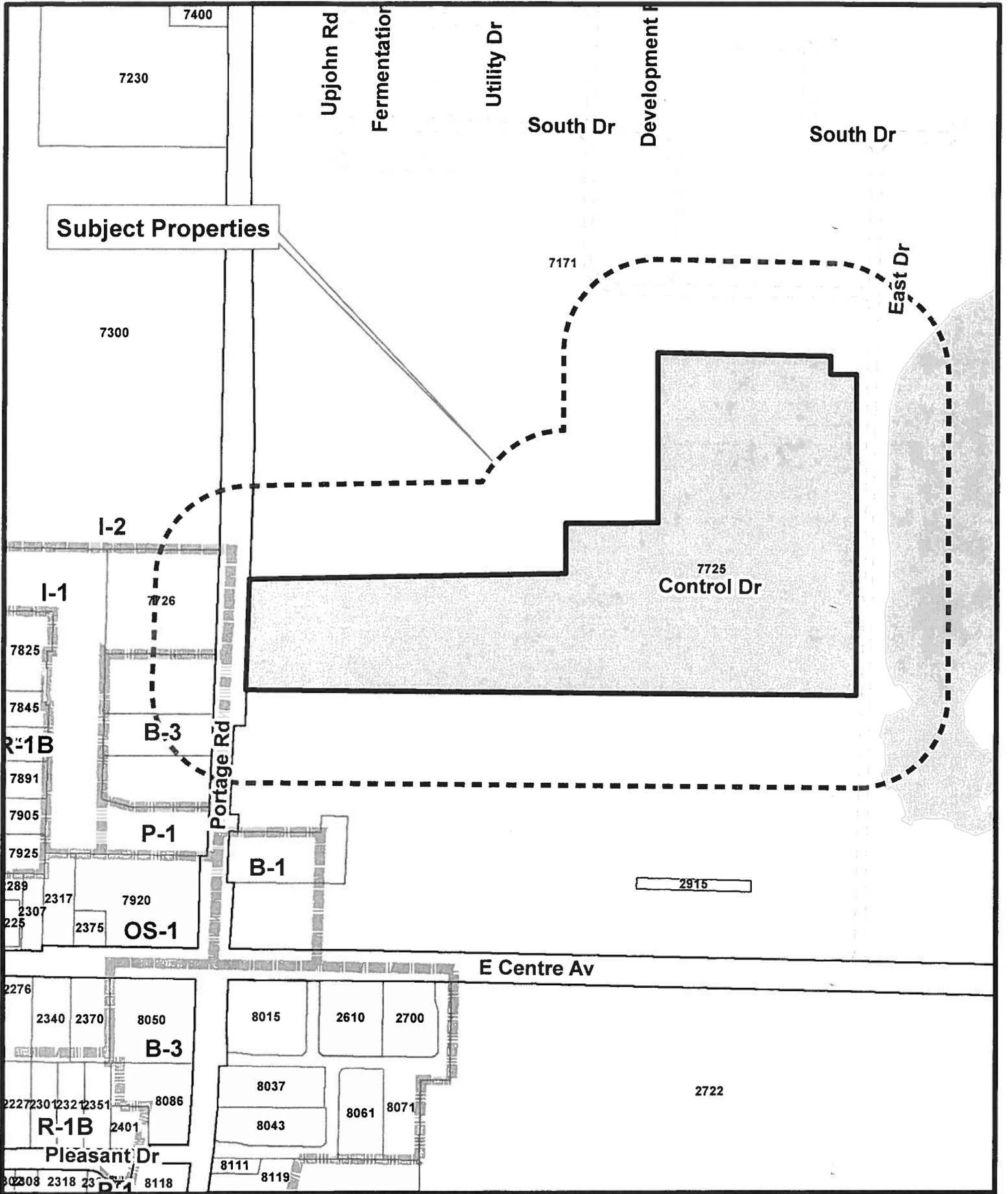
- Location: 5260 Bronson Blvd, Portage, Mi 49024
- it's NOT ok to contact this poster with services or other commercial interests

Posting ID: 4030309205 Posted: 2013-08-27, 9:50PM EDT Updated: 2013-08-27, 9:50PM EDT [email to a friend](#)

[Avoid scams, deal locally!](#) Do NOT wire funds (Western Union, Moneygram).
 Beware cashier checks, money orders, shipping, non-local buyers/sellers. [More info](#)

FORMAT: [mobile](#) [regular](#)

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-  Subject Property
-  Zoning Boundary
-  Notification Area

ZBA 13-10

7725 Portage Road



1 inch = 400 feet



13-1000008

RECEIVED

Department of Community Development

NOV 11 2013

COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 11/11/2013
Name of Applicant John Wright
Applicant's Address 2605 E. Kilgore Rd
Name of Property Owner (if different from Applicant) Zoetis LLC
Address 7725 Portage Rd
Street Address 7725 Portage Rd
Applicant's interest in Property that is the subject of this Application: Attached

Application Fee (Residential Uses) 330.00 (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 Section Paragraph
Regarding: Use Area X Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application): Zoetis entrance sign is equivalent to existing Pfizer signs showing manufacturing site.

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

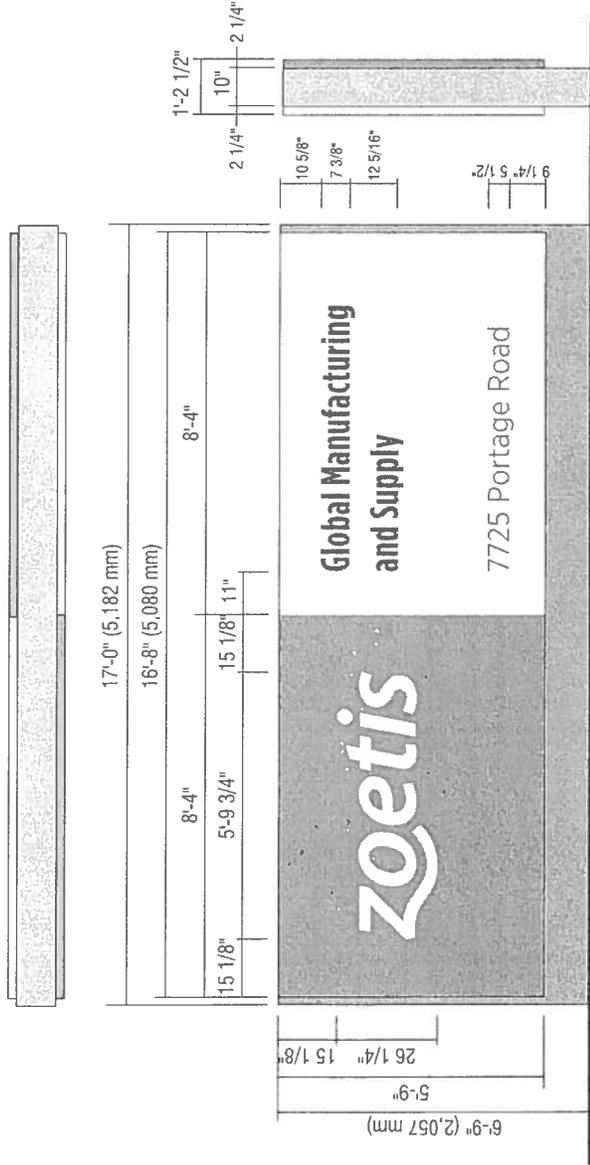
Table with 3 columns: Application Number (13-10), Filing Date (11/11/13), Tentative Hearing Date (12/9). Row 2: Previous Application Filed Regarding This Property:

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.)
Zoetis LLC has 358 ft of property along Portage Rd and the sign matches existing sign along Portage Rd to the North.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
The Zoetis sign is equivalent to Pfizer signs to the North.
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)
Yes
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.)
The sign is equivalent to Pfizer signs to the north denoting that this is Zoetis manufacturing.
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.)
The Zoetis parcel and location of the sign are on the East side of Portage Rd and more that 300 ft to nearest sign.
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.)
Sign is off road to East and does not hinder sight of vehicles leaving site.
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.)
Zoetis is the #1 Animal Health company in the world as is Pfizer the #1 Pharmaceutical and we would like same size sign.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
The sign is equivalent to Pfizer signs along Portage Rd so Zoetis is just matching existing.

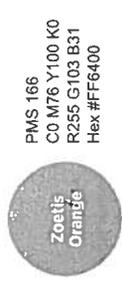
Jim E. Wynn
Signature of Applicant

11/11/2013
Date



MIH-17-L Secondary Text - D.F. Illuminated Monument

SCALE: 1/4" = 1'-0"



SIGN 1

ADDRESS: 7000 Portage Rd.
CITY/STATE: Kalamazoo, MI
ZIP: 49001

PROJECT #:	3954	SCALE:	As Noted	Rev 1	PS	12/26/12	Rev 8	XXX	00/00/00	Rev 15	XXX	00/00/00
LOCATION #:	35491	DRAWN BY:	II	Rev 2	XXX	00/00/00	Rev 9	XXX	00/00/00	Rev 16	XXX	00/00/00
DATE:	11/16/12	PAGE #:	5	Rev 3	XXX	00/00/00	Rev 10	XXX	00/00/00	Rev 17	XXX	00/00/00
FILE PATH:	Active\ACCOUNTS\Z\Zoetis\Locations\3954\35491_Kalamazoo MI			Rev 4	XXX	00/00/00	Rev 11	XXX	00/00/00	Rev 18	XXX	00/00/00
				Rev 5	XXX	00/00/00	Rev 12	XXX	00/00/00	Rev 19	XXX	00/00/00
				Rev 6	XXX	00/00/00	Rev 13	XXX	00/00/00	Rev 20	XXX	00/00/00
				Rev 7	XXX	00/00/00	Rev 14	XXX	00/00/00	Rev 21	XXX	00/00/00

DRAWINGS PREPARED BY:



Drawings are the exclusive property of Icon Identity Solutions Inc.
Any unauthorized use or duplication is not permitted.

TO: Zoning Board of Appeals **DATE:** November 27, 2013

FROM: Vicki Georgeau, ^hDirector of Community Development

SUBJECT: ZBA #13-10; John Wright on behalf of Zoetis, 7725 Portage Road, I-2, Heavy Industrial District

CODE SECTION: 42-553(B)(1); Sign regulations I-1 light industrial and I-2 heavy industrial districts, p. CD42:132.3

APPEAL: Requesting a variance for a 115 square foot freestanding sign where a maximum 48 square foot sign is permitted.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, letter of explanation, drawing, and related materials. The property is zoned I-2, Heavy Industrial, is 28.5 acres in size and was created in February 2013 when it was divided from a Pfizer owned parcel addressed as 7171 Portage Road. The property is developed with several buildings that total approximately 120,000 square feet, off-street parking lots, and industrial related equipment, which are setback over 1,000 feet from Portage Road.

The proposed Zoetis sign is 115 square feet in area, where a maximum 48 square feet is permitted in industrial districts. The sign has been fabricated, was installed without first obtaining a sign permit, but has been subsequently removed pending a decision on the variance request.

The applicant indicates that the proposed Zoetis signage is in keeping with the existing Pfizer campus signage along Portage Road. Additionally, the applicant maintains that due to the general lack of signage along Portage Road between Romence and East Centre Avenue, the sign will not block or hinder other existing signage. For Board information, the Pfizer campus freestanding sign on Portage Road is 83 square feet in area and Pfizer's directional signs range between 14 and 24 square feet as the result of a 2006 variance request that was granted due to the unique nature and large manufacturing campus, and the number of buildings and entrances to Pfizer properties.

A 48 square foot sign is typically sufficient for a manufacturing operation that does not generally attract pass-by traffic. Furthermore, the signage permitted by the Zoning Code should be adequate for this location given the lack of competing signage and unobstructed visibility.

ZBA #13-10
7725 Portage Road

However, due to fact that the buildings are over 1,000-feet from the road frontage, the effective use of wall signage is significantly compromised which presents a unique circumstance for this property. If the Board determines there is a practical difficulty and the standards for granting a variance are met, then a variance, or lesser variance, may be granted.

**PRACTICAL
DIFFICULTY:** Significant setback of buildings. See Suggested Motion form.

S:\2013-2014 Department Files\Board Files\Zoning Board\13-10; 7725 Portage\2013 11 01 VG ZBA 13-10, Portage 7225 (staff rpt).doc

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

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

be:

a. granted for all of the following reasons:

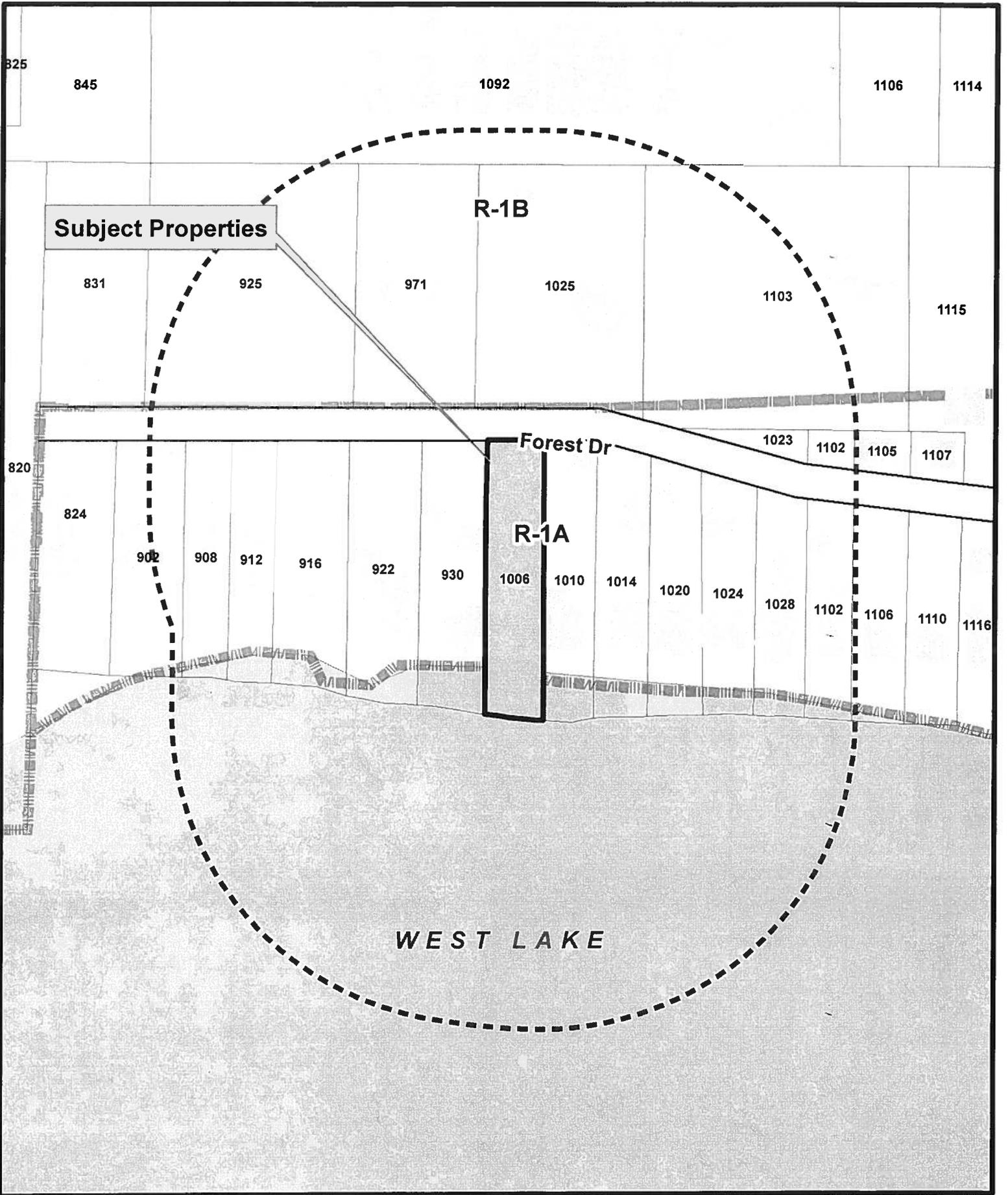
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

-or-

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

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

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



-  Zoning Boundary
-  Subject Property
-  Notification Area

ZBA 13-11
1006 Forest Drive



1 inch = 120 feet



Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 07-NOV-1013

Name of Applicant EDWARD A CLIFFORD Print

Signature

Applicant's Address 3164 MILL CREEK DR APT 3, K200, 49009 Phone No. 26A-978-3395

Name of Property Owner (if different from Applicant)

Address Phone No.

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

Street Address 1006 FOREST DR, PORTAGE MI

For Platted Property: Lot 6 of REED 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: PROPERTY OWNER, INTEND TO BUILD NEW HOUSE

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): PLEASE SEE ATTACHED; HEIGHT WILL EXCEED ORDINANCE; FOR SAFETY + VALUE; + APPEAL TO NEIGHBORS, REQUESTING 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

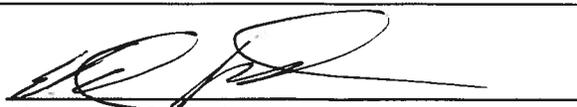
Reason for Request:

FOR STAFF USE

Table with 3 columns: Application Number (13-11), Filing Date (11/11/13), Tentative Hearing Date (12/9). 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.)
YES, 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.)
DEPENDS ON WHAT FOR, TO BUILD THE HOUSE DESIRED, NO, AND NOT FOR U.S.
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.)
THE VARIANCE REQUESTED IS NEEDED TO PROCEED WITH THE PLANS AS PROPOSED.
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.)
PROPERTY WAS PURCHASED TO BUILD TWO STORY WALK OUT AS MARKETED
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 - Nov - 2013
Date

Edward A. & Helen J. Clifford
3164-3 Mill Creek Dr
Kalamazoo, MI 49009
November 8, 2013

City of Portage
Zoning Board of Appeals

RE: 1006 Forest Dr, Portage MI, 49009

Lot 6 of Reids plat in Portage on West Lake located at 1006 forest Dr, Portage MI, 49009, Tax Item # 06960-006-A, was purchased under a land contract on May 3, 2012. This land contract was documented with Devon Title under file # 859703 and registered with the county of Kalamazoo.

Dear Zoning Board:

I am requesting a variance to the height ordinance on lake front properties that are less than 80' in width for the property of 1006 Forest Dr, Portage, MI, 49009. We are requesting a variance of 1' 8" to the ordinance to build the attached home. The proposed house as measured by direction of the ordinance is 26' 7.5" on average.

We purchased this property last summer with the soul intent to build a new house with a "walk out" for safety and value purposes. Since there are at least two houses that our builder has built on this West Lake that also exceed this ordinance, we would not consider the request out of question. One of those houses is 1216 Forest Drive.

The reasons for the variance are as follows:

- Safety for our family: Due to the layout of the property the house designed to suit our needs will be a walk out. This is safer for our family so there will not be a 12 foot hill prior to the lake. The topography demonstrates the hill that would be removed to create the walk out space.
- Useable/livable outdoor square footage: The re-design that is acceptable to the building code would cause us to loose over 100sq ft of usable covered outdoor living space. With the amount of money we are spending and the size of the lot being small, every square foot counts. Losing living space is unacceptable.
- Loss of Value: The changes required for the original design to conform would create a significant loss in value to us. The loss in value is explained in three different ways. One is from losing exterior, covered living space. This is over 100 sq ft. The second is from losing our view of the lake from the home looking out, and the third is a less aesthetically pleasing home from the lake view. The changes to the house design would not look as pleasing to the eye from the neighborhood, and we would also lose our view of the lake. The home would

not cost us any less to build; therefore we would lose a great deal of value if we need to change our original design. The professional opinion of a realtor also confirmed a loss in value/resale with the house built as the builder proposed in accordance with the city ordinance. So overall, we are losing value as a dollar amount and also a lifestyle value if we cannot build the house we originally designed. We are paying extra money to have this space and to be usable and the proposed changes would require us to still spend the money and not get the return. The professional opinion of a realtor suggested a loss of value as well.

- Issues with Snow and ice: The original design had 8/12 and 6/12 pitch lines on the roof. This would be adequate for a MI home with snow and ice prevention. The proposed would have some pitch lines down to 4/12 to meet the regulation. This would create a high risk of snow and ice buildup, which would cause damage to the house long term and cause major issues and cost.

Other factors to consider:

- We have verbally discussed with the two immediate neighbors and several other neighbors and they all are ok and would sign a petition to state they would accept the variance on our property if needed. The immediate neighbors would not lose any line of site or any adverse effects as a result of the variance.
- As can be seen by the attached drawings, the proposed structure would line up with the lake faces of the houses on either side. The relative height of some of the neighboring properties would be as tall if not taller than the proposed structure.
- The current structure has not been lived in for several years and requires significant remodeling if not complete removal.
- If the variance to build the proposed design is not granted, we would not build.

Please grant our request for variance to the height ordinance as requested and allow the original design to be built.

Sincerely,

Edward A. & Helen J. Clifford



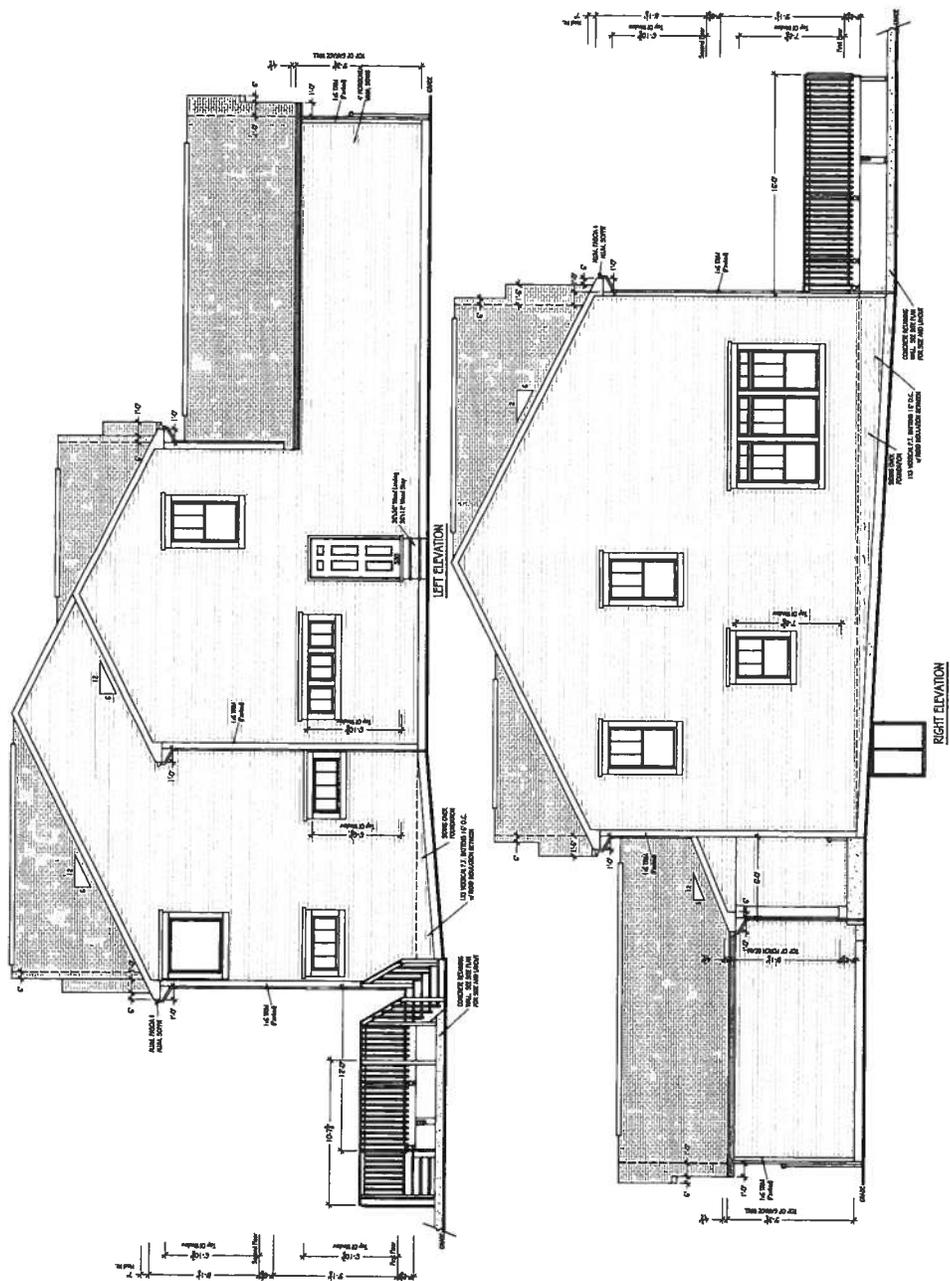
ALLEN EDWIN HOMES
 2186 E. CENTRE STREET
 PORTAGE, MI 49002
 269-321-2600
 WWW.ALLENDW.COM



A ELEVATIONS CUSTOM

DRAWN BY:	MFR
DATE:	9.23.13
SCALE:	3/16" = 1'-0"
REVISION:	5.04-8
JOB:	KOS 038

SHEET: 2 9



ALLEN EDWIN HOMES
 2186 E. CENTRE STREET
 PORTAGE, MI 49002
 269-321-2600
 WWW.ALLENDW.COM



We value what you value.

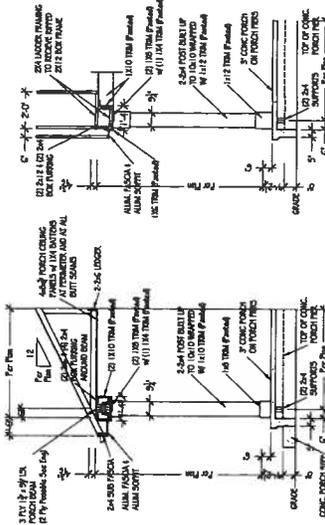
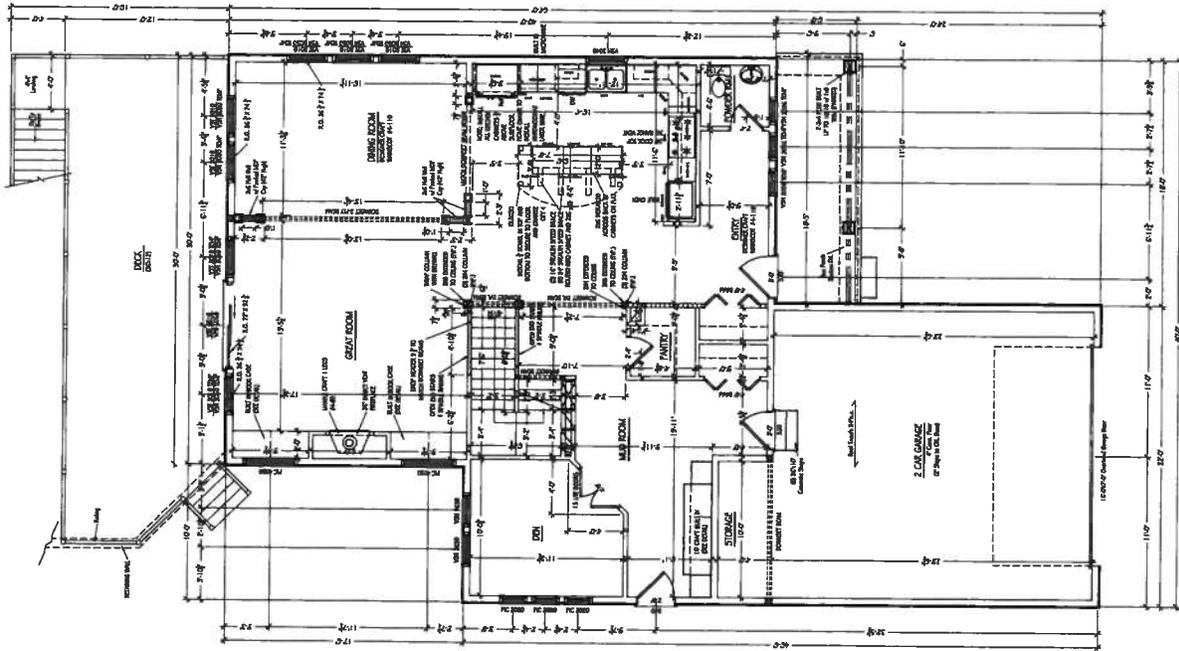
FIRST FLOOR PLAN

CUSTOM

Drawn by: MFR
 Date: 9.23.13
 Scale: 3/16" = 1'-0"
 Revision: 5.0a-B
 Job: XOS 018

SHEET: 4

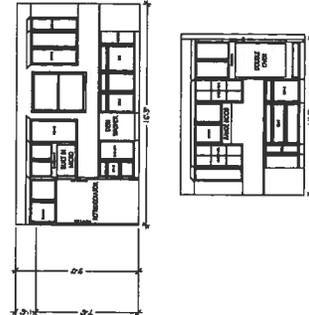
9



BOX RETURN SECTION

PORCH BEAM SECTION

10' COLUMN PORCH DTL



- GENERAL NOTES:
1. 5'-11" UP COLLARS BEHIND LAMBS NOTED OTHERWISE
 2. ALL INTERIOR NON-LOAD BEARING WALLS TO BE 2x4 STUDS @ 16" O.C.
 3. WINDOWS TO BE WITH SCHED. FRAMES ON PLAIN GLASS WINDOW SCHEDULE UNLESS OTHERWISE NOTED
 4. DIMENSIONS ARE FROM FACE OF STUDS
 5. PROVIDE BLOCKING ABOVE WINDOWS AT HEAD AND SILL LOCATIONS
 6. PROVIDE EXTRA STUDS AS INDICATED AT BEAM BRACING LOCATIONS
 7. ALL WINDOW HT. TO BE 6'-0" TYP ABOVE FLOOR UNLESS OTHERWISE NOTED
 8. PROVIDE 2x4 STUDS AT WINDOW HEADS FOR BEARING OF SILLING @ 2' O.C. MIN. AND GREATER
 9. SILL BRACKETS @ 16" O.C. ABOVE SILLING
 10. 1/2" BORE SUTURE @ 16" O.C. ABOVE SILLING
 11. 1" O.C. STUDS AT INTERIOR WALLS W/ CABINETS

- 1x4" WALL (See plan for loc.)
- 2x4 WALL (See plan for plan loc.)
- 2x4 LOAD-BEARING WALL
- 2x6 WALL (See plan for plan loc.)
- 2x6 LOAD-BEARING WALL

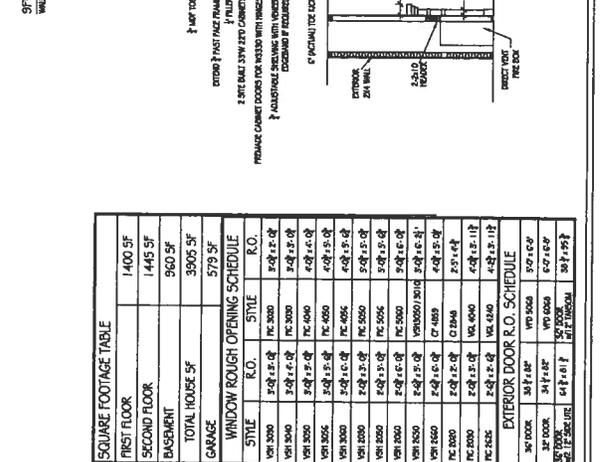
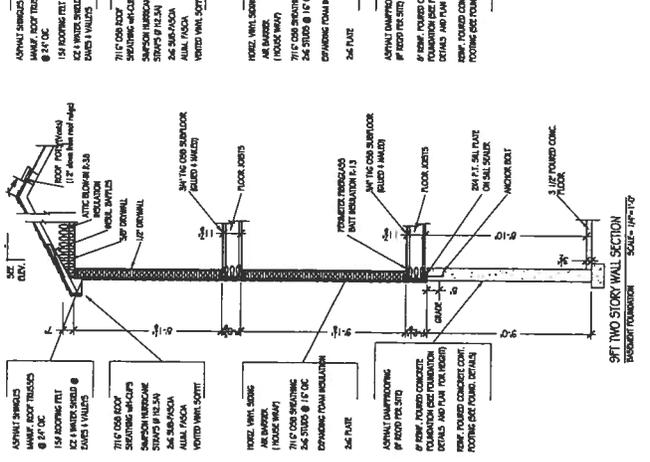
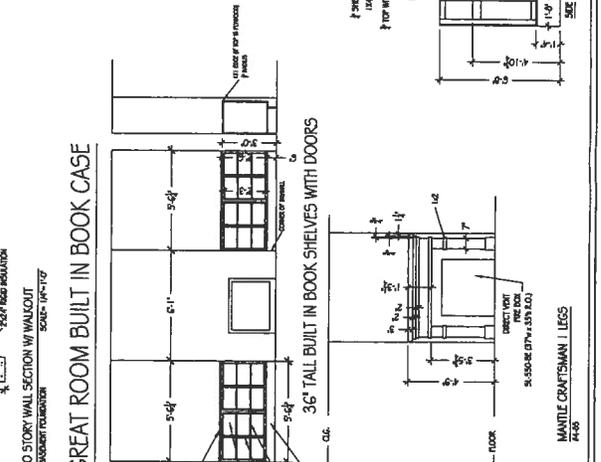
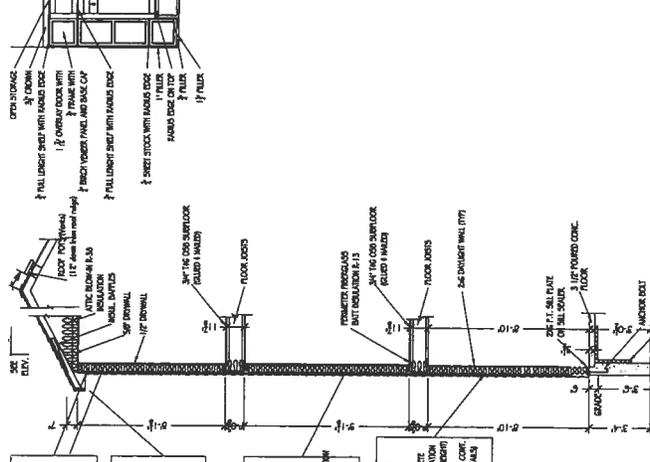
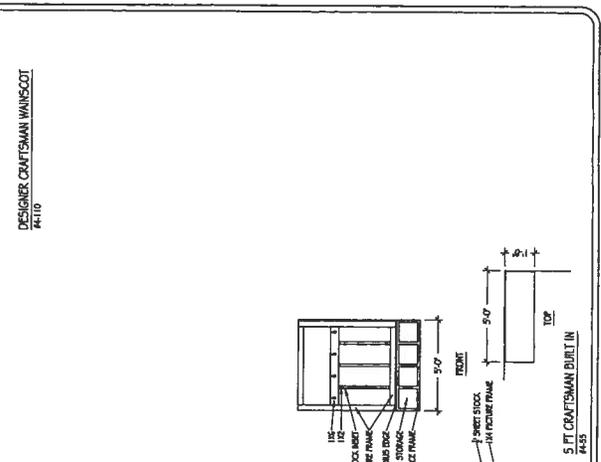
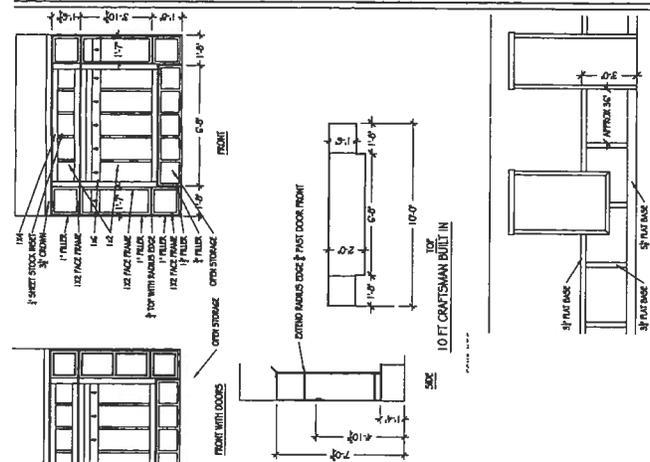
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 WWW.ALLENDW.COM



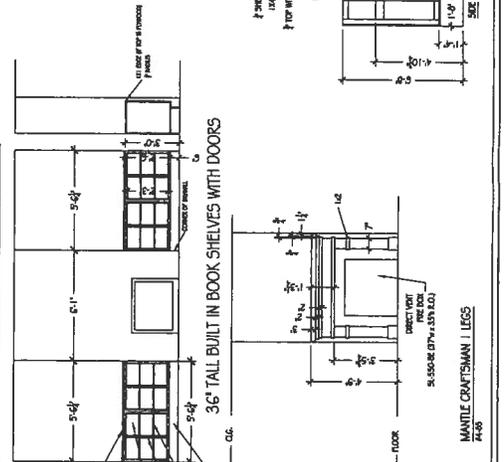
DETAILS SHEET
 CUSTOM

DESIGNED BY: MPR
 DATE: 9.22.13
 SCALE: 1/4" = 1'-0"
 REVISION: 5.0a-4
 JOB: KOS 018

SHEET: 8
 9



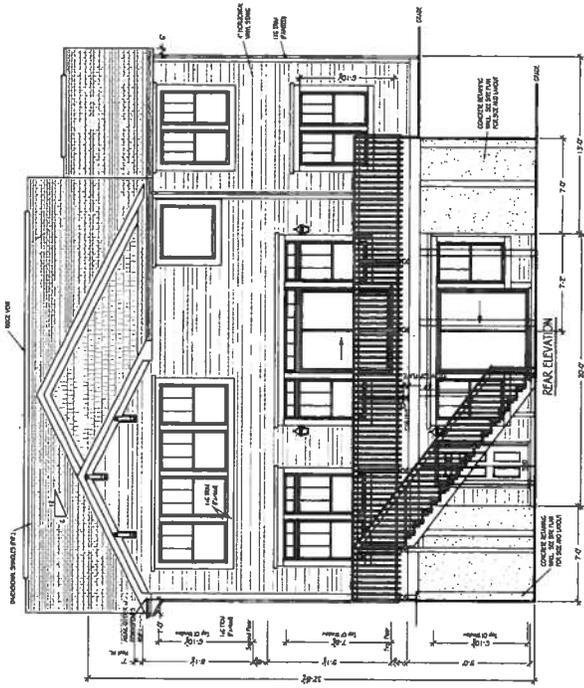
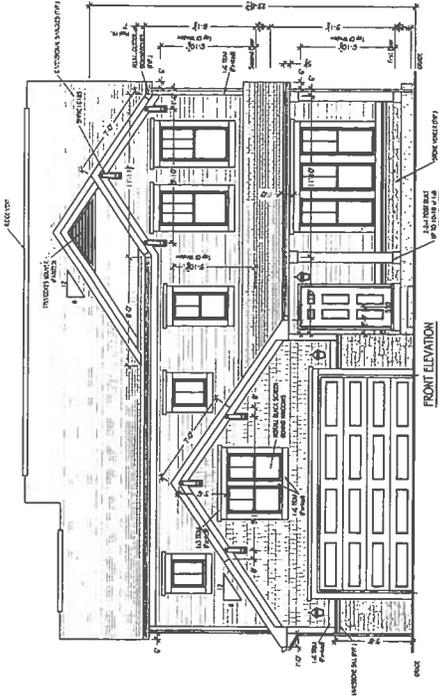
GREAT ROOM BUILT IN BOOK CASE



SQUARE FOOTAGE TABLE			
FIRST FLOOR	1400 SF		
SECOND FLOOR	1445 SF		
BASEMENT	960 SF		
TOTAL HOUSE 5F	3805 SF		
GARAGE	579 SF		
WINDOW ROUGH OPENING SCHEDULE			
STYLE	R.O.	STYLE	R.O.
WH 3000	2'-0\"/>	PC 3000	3'-0\"/>
WH 5000	2'-0\"/>	PC 5000	3'-0\"/>
WH 6000	2'-0\"/>	PC 6000	4'-0\"/>
WH 8000	2'-0\"/>	PC 8000	4'-0\"/>
WH 10000	2'-0\"/>	PC 10000	5'-0\"/>
WH 12000	2'-0\"/>	PC 12000	5'-0\"/>
WH 14000	2'-0\"/>	PC 14000	5'-0\"/>
WH 16000	2'-0\"/>	PC 16000	5'-0\"/>
WH 18000	2'-0\"/>	PC 18000	5'-0\"/>
WH 20000	2'-0\"/>	PC 20000	5'-0\"/>
WH 22000	2'-0\"/>	PC 22000	5'-0\"/>
WH 24000	2'-0\"/>	PC 24000	5'-0\"/>
WH 26000	2'-0\"/>	PC 26000	5'-0\"/>
WH 28000	2'-0\"/>	PC 28000	5'-0\"/>
WH 30000	2'-0\"/>	PC 30000	5'-0\"/>
WH 32000	2'-0\"/>	PC 32000	5'-0\"/>
WH 34000	2'-0\"/>	PC 34000	5'-0\"/>
WH 36000	2'-0\"/>	PC 36000	5'-0\"/>
WH 38000	2'-0\"/>	PC 38000	5'-0\"/>
WH 40000	2'-0\"/>	PC 40000	5'-0\"/>
WH 42000	2'-0\"/>	PC 42000	5'-0\"/>
WH 44000	2'-0\"/>	PC 44000	5'-0\"/>
WH 46000	2'-0\"/>	PC 46000	5'-0\"/>
WH 48000	2'-0\"/>	PC 48000	5'-0\"/>
WH 50000	2'-0\"/>	PC 50000	5'-0\"/>
WH 52000	2'-0\"/>	PC 52000	5'-0\"/>
WH 54000	2'-0\"/>	PC 54000	5'-0\"/>
WH 56000	2'-0\"/>	PC 56000	5'-0\"/>
WH 58000	2'-0\"/>	PC 58000	5'-0\"/>
WH 60000	2'-0\"/>	PC 60000	5'-0\"/>
WH 62000	2'-0\"/>	PC 62000	5'-0\"/>
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WH 96000	2'-0\"/>	PC 96000	5'-0\"/>
WH 98000	2'-0\"/>	PC 98000	5'-0\"/>
WH 100000	2'-0\"/>	PC 100000	5'-0\"/>

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Conforming option



ALLEN EDWIN HOMES
2186 E. CENTRE STREET
PORTAGE, MI 49002
269-321-2600
WWW.ALLENDWIN.COM



CUSTOM FRONT ELEVATION

CUSTOM

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DRAWN BY:	MPS
DATE:	10/24/13
SCALE:	3/16" = 1'-0"
REVISION:	5.0a-9
JOB:	KOS 008

SHEET: 1

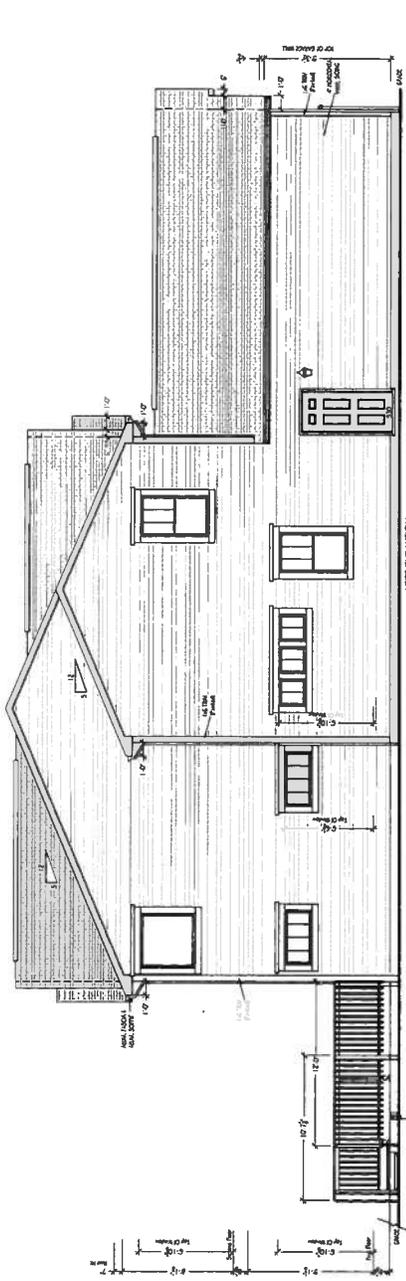
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 PORTAGE, MI 49002
 269-321-2600
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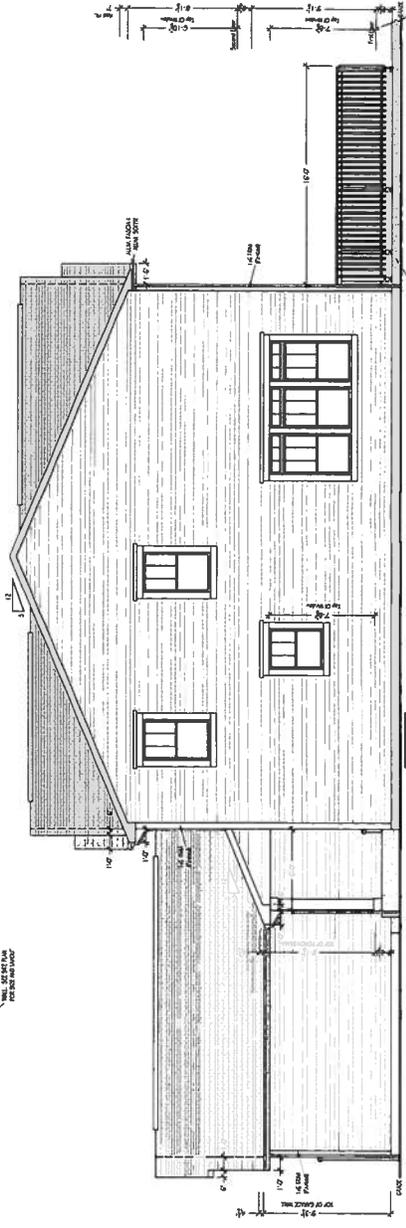
A ELEVATIONS CUSTOM

Copyright 2013 by C. Kasper. All rights reserved. This drawing, including all text, notes, specifications, and schedules, is the property of C. Kasper and shall remain the property of C. Kasper. No part of this drawing may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of C. Kasper.	
DRAWN BY:	MFR
DATE:	10.24.13
SCALE:	3/16" = 1'-0"
REVISION:	5.08-9
JOB:	KOS 038

SHEET: 2 / 9



LEFT ELEVATION



RIGHT ELEVATION

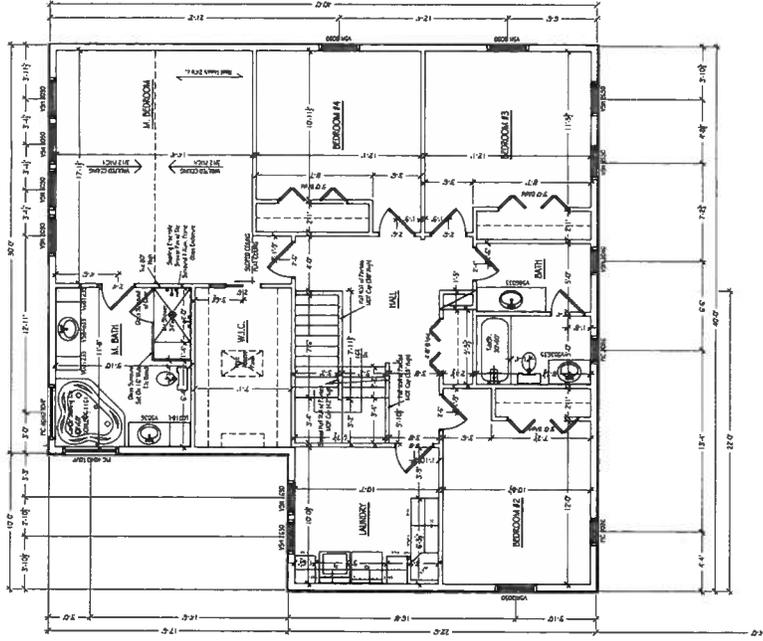
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 269-321-2600
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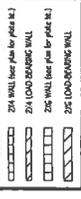
SECOND FLOOR PLAN
 CUSTOM

DRAWN BY:	MPR
DATE:	10/24/13
SCALE:	3/16" = 1'-0"
REVISION:	5.04-9
JOB:	KOS 008

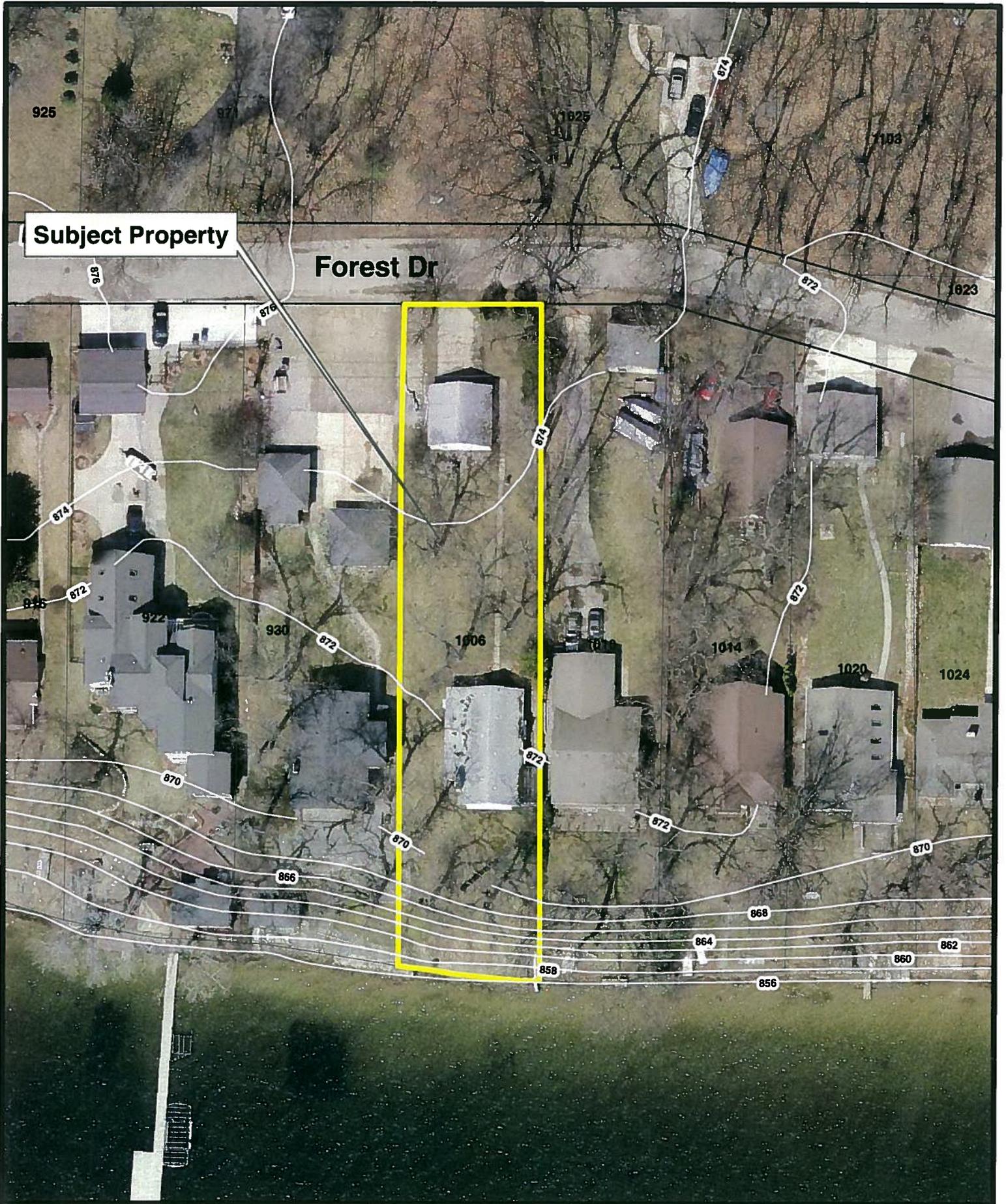
SHEET: **5**
 9



- GENERAL NOTES:**
1. ALL WINDOW HEIGHTS UNLESS NOTED OTHERWISE.
 2. ALL WINDOW AND DOOR SIZES TO BE 2x4 STUDS 2x4 O.C.
 3. WINDOWS TO BE VENT. SINGLE-HUNG. NOT AS INDICATED BY MANUFACTURER'S CATALOGUE UNLESS NOTED OTHERWISE.
 4. BRACKETS ARE FROM FACE OF SILL.
 5. PROVIDE BLOCKING ABOVE WINDOWS.
 6. DOORS 1 5/8" O.C. TP.
 7. PROVIDE LATH STUDS AS INDICATED.
 8. ALL WINDOWS TO BE 6.0 O.D. 2x4 ABOVE FLOOR UNLESS OTHERWISE NOTED.
 9. PROVIDE DOUBLE CORNERS UNDER DOORS FOR DOORS AT OPENINGS.
 10. SHIP DOOR DOORS 1 1/2" DOORS 1/2" ABOVE SUELFLOOR.
 11. 1/2" ABOVE SUELFLOOR.
 12. 1/2" O.C. STUDS IN SUELFLOOR W/ LATH.
 13. 1/2" O.C. STUDS IN SUELFLOOR W/ LATH.



SECOND FLOOR



Subject Property

Forest Dr

Subject Property

Aerial Photo 1006 Forest Drive



1 inch = 50 feet

TO: Zoning Board of Appeals **DATE:** November 27, 2013
FROM: Vicki Georgeau  Director of Community Development
SUBJECT: ZBA #13-11; Edward & Helen Clifford, 1006 Forest Drive, R-1A, One Family Residential

CODE SECTION: 42-350; Schedule of Regulations, p. CD42:84

APPEAL: Requesting a variance to construct a new dwelling 26 feet eight inches in height where a maximum 25 feet is permitted.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, site sketch, building plans, and letter of explanation. The lakefront lot is 50 feet wide by 262 feet deep and is improved with a 1,172 square-foot dwelling and 576 square-foot detached garage. The property is zoned R-1A, One Family Residential, and is adjacent to other single family residences.

The applicant recently purchased the property and proposes to demolish the existing dwelling and construct a new 2,845 square-foot two story walkout. The topography of the property will be modified by excavating a significant amount of earth to accommodate a walkout design, including the construction of two retaining walls along each side property line that will extend toward West Lake. The topography in this area is fairly level with the exception of an embankment near the waters edge. Other dwellings in this immediate area do not have lower level walkouts.

The proposed dwelling would measure 26 feet eight inches in height when the distance from grade to mid-point of the roof (between the peak and eaves) is averaged for all four sides. When the applicant was made aware their initial house plans exceeded the maximum allowed 25 foot building height, the home builder, Allen Edwin Homes, provided the applicant plans (see attached plans) for a conforming alternative. The conforming alternative meets code through a combination of providing a more shallow predominant roof pitch (5/12 instead of 6/12) and partially raising the finished grade on the rear/lake elevation of the house. The applicant indicates the conforming alternative is not acceptable as it results in a loss of 100 square feet of floor area, retains the existing topography, and would result in shallow pitch roofs (which according to the applicant creates high risk of snow and ice buildup and therefore costly repairs). The applicant cites 1216 Forest Drive as an example of a dwelling that exceeds the maximum permitted 25 foot building height, however, review of the 2010 building permit shows the builder altered the roof pitch and grade from their original plans in order to make the dwelling conforming.

The desire for a particular house plan is understandable, but conforming alternatives are readily available. Further, the applicant has not demonstrated the property has unique features that present a practical difficulty with regard to compliance with the code. The variance is therefore not recommended.

**PRACTICAL
DIFFICULTY:** Not applicable.

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:

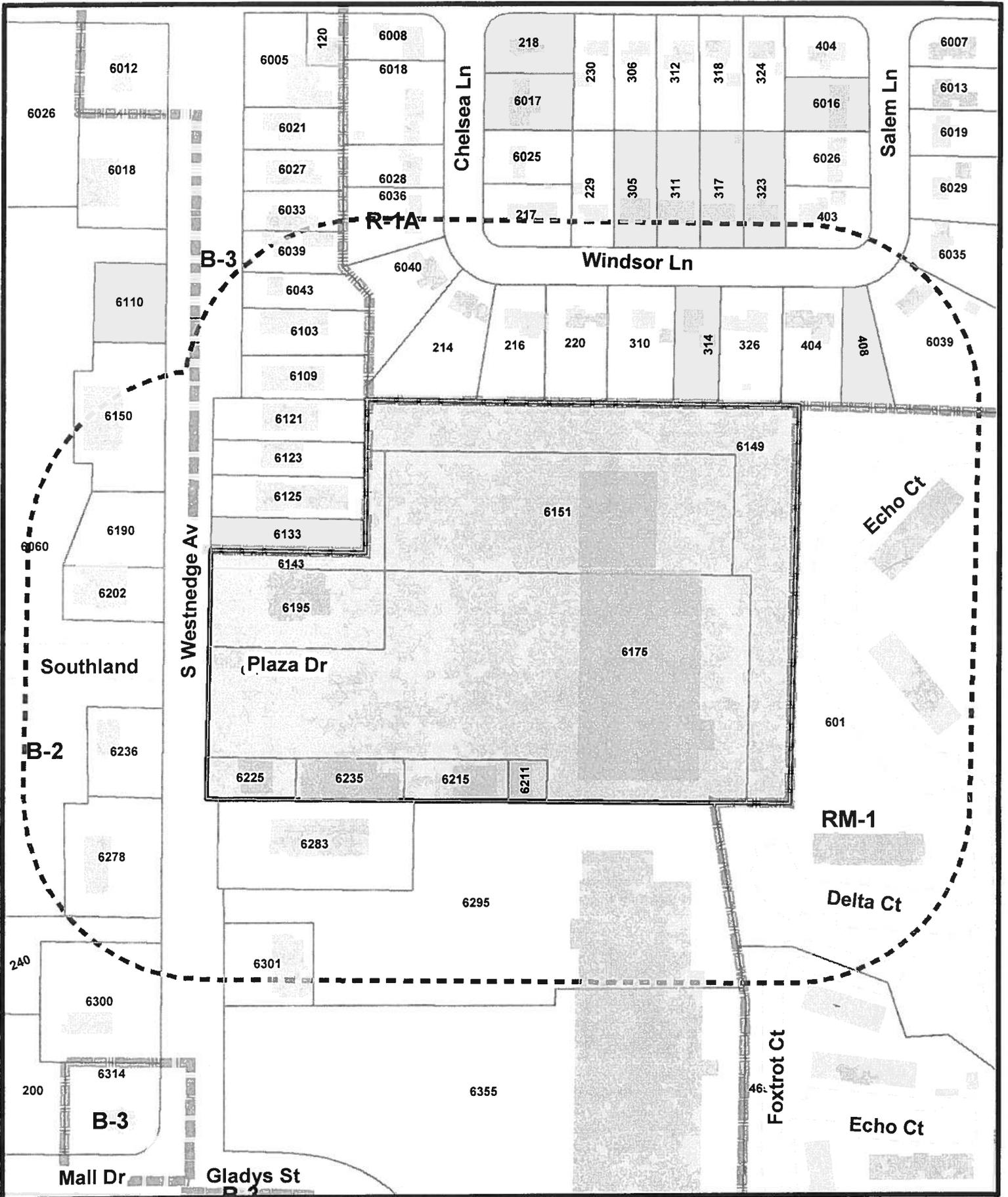
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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

ZBA 13-12

6143-6235 South Westnedge Avenue



1 inch = 200 feet



Department of Community Development

13-100010

RECEIVED

NOV 13 2013

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 11-11-13

Name of Applicant Glenn R. Rahn

Signature

Applicant's Address 7580 48th St SE, GR, MI 49512

Phone No. 616-634-2253

Name of Property Owner (if different from Applicant) Trigo Hospitality

Address 3090 Johnson Rd #2, Stevensville, MI

Phone No. 269-556-5000

Address of the Property that is the subject of this Application: 49127

Street Address 6225 S. Westnedge Ave

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: Architect representing business owner

Application Fee _____ (Residential Uses) \$330 (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-A Paragraph _____

Regarding: Use _____ Area _____ Yards _____

Setbacks X Parking _____ Other signage

Reason for Request (Also complete page 2 of application): This building is existing and non-conforming to the required 75' setback. Requesting to encroach by 5:5' for an exterior vestibule. Signage requirements require 18" max for mounting.

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: _____

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NOV 13 2013

COMMUNITY DEVELOPMENT

FOR STAFF USE

Table with 3 columns: Application Number (13-12), Filing Date (11/12), Tentative Hearing Date (12/19). 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.)

ll ll

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

ll ll

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.)

ll ll

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.)

ll ll

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.)

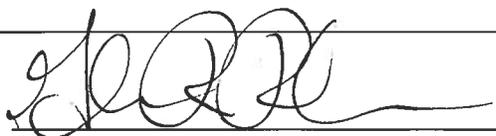
ll ll

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.)

ll ll

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

ll ll


Signature of Applicant

11-11-13
Date

RECEIVED
NOV 21 2013
COMMUNITY DEVELOPMENT

Reason for Variance request

1. This building is very unique in that it is a portion of a property that was developed as a PUD and has since been split up by partners of the original development company. This property was developed well before the current ordinance that requires a 75' set back. Additionally, this building is very recognizable due to its "clamshell" style roof which was a unique design statement for the era in which it was built. There are very few of these styled buildings left in existence and utilizing and harmonizing with this unique feature should be an overriding consideration. The building is also landlocked because of the aforementioned property split so adding on to it beyond the requested vestibule would not be feasible. The first request is for an additional 5'-6" encroachment to the already encroached upon area. The current building is approximately 50.4' from the right of way so the resulting setback will be reduced to approximately 45' from the Westnedge right of way.
2. I believe you would be hard pressed to find this type of uniqueness in any other part of the city to the degree that we have here.
3. Not for the use that is presented. In order to make the building suitable for a sit down restaurant, you need to have a minimum number of seats and the building as designed is at that minimum. The vestibule is being requested, in part, to comply with the Energy Code.
4. What is being proposed is the minimum as the Accessibility Code requires minimum clearances for disabled people and the vestibule was designed to the minimum.
5. The addition will not impair visibility or grant an unfair advantage to this property over others in the adjoining properties because they are either in compliance at this point or have vestibules that protect from the weather already. As for the signage, the signage proposed meets with the size requirements, but wanting to take advantage of the unique nature of the building, and desiring to have meaningful exposure to the Southbound traffic on Westnedge, a suspended disc sign is proposed. This sign will be suspended from the roof steel already in place. Total weight of signage is less than 200 lbs.
6. The vestibule will not impact traffic at all as it just extends out from the existing doors on the building. The signage will give visibility for patrons trying to find the building from the North thereby reducing the risk of congestion.
7. No, the uniqueness of the building is the overriding factor and balancing the signage over the storefront is enhanced by suspending it in the middle of the overhang and bringing attention to the patron as to the entrance to the restaurant.
8. In regard to the signage, I believe the 18" maximum projection was decided on to make sure that signs weren't unsafe or unsightly. Our second request is that we be allowed to mount the sign so that it is approximately 6' from the building at the corner. There is a very unique 12' projection of the roof, taking advantage of this architectural feature would not be something

that a framer of the requirement could have taken into consideration. With the vestibule, the building is getting new life, but it is non-conforming. Had the vestibule been installed on the building when originally built it would have been in conformance with the laws on the books back then. I will also add that the vestibule is proposed to be built over the existing sidewalk, it is not going to be expanded beyond that.

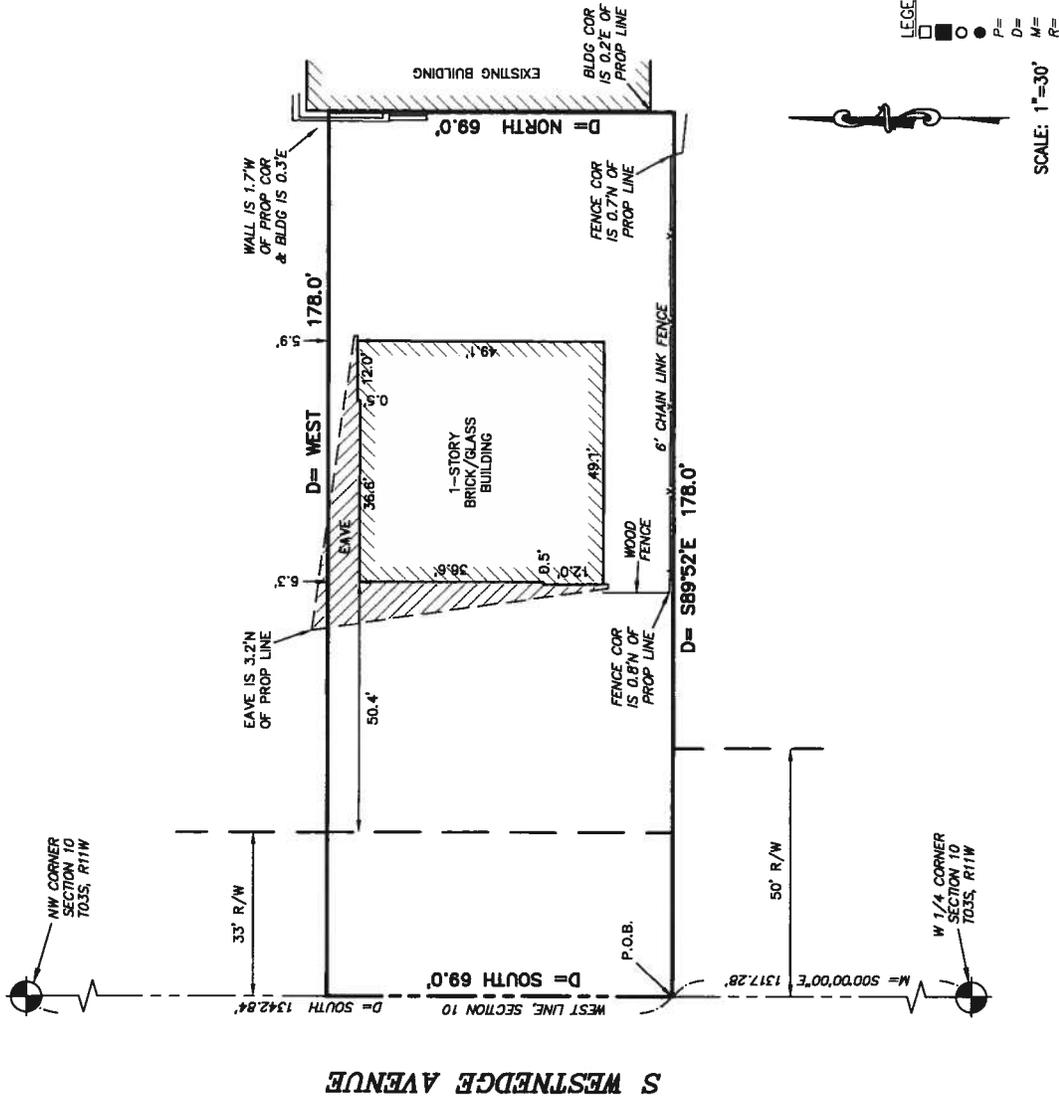
SKETCH OF DESCRIPTION

LEGAL DESCRIPTION PER CITY OF PORTAGE TAX DESCRIPTION

SITUATED IN THE CITY OF PORTAGE, COUNTY OF KALAMAZOO, STATE OF MICHIGAN AND IS DESCRIBED AS FOLLOWS:

PART OF SECTION 10, T03S, R11W, BEGINNING AT A POINT 1342.84 FEET SOUTH OF THE NORTHWEST CORNER OF SECTION 10; THENCE S89°52'E 178 FEET; THENCE NORTH 69 FEET; THENCE WEST 178 FEET; THENCE SOUTH ALONG SAID WEST LINE 69 FEET TO THE PLACE OF BEGINNING.

NOTE: BUILDING DIMENSIONS TAKEN FROM FACE OF BRICK, BLOCK, OR METAL. (NOT FACE OF STONE)



- LEGEND**
- Set Conc. Mon.
 - Found Conc. Mon.
 - Set Capped Rebar #57885
 - Found Iron
 - P= Plotted
 - D= Described
 - M= Measured
 - R= Record

SCALE: 1"=30'

ADDRESS: 8225 S WESTNEDGE AVE
TAX PARCEL NO.: 00010-125-0



DRIESENKA & ASSOCIATES, INC.
Engineering - Surveying - Testing
www.driesengas.com

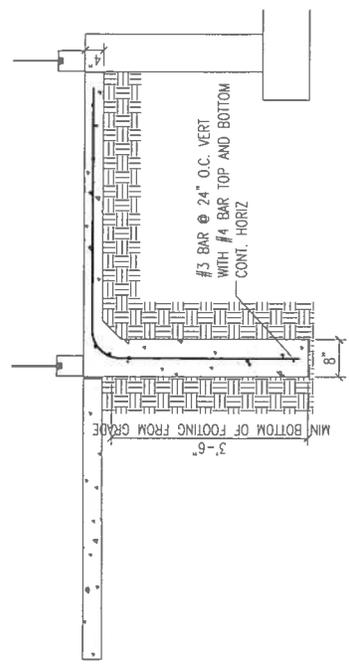
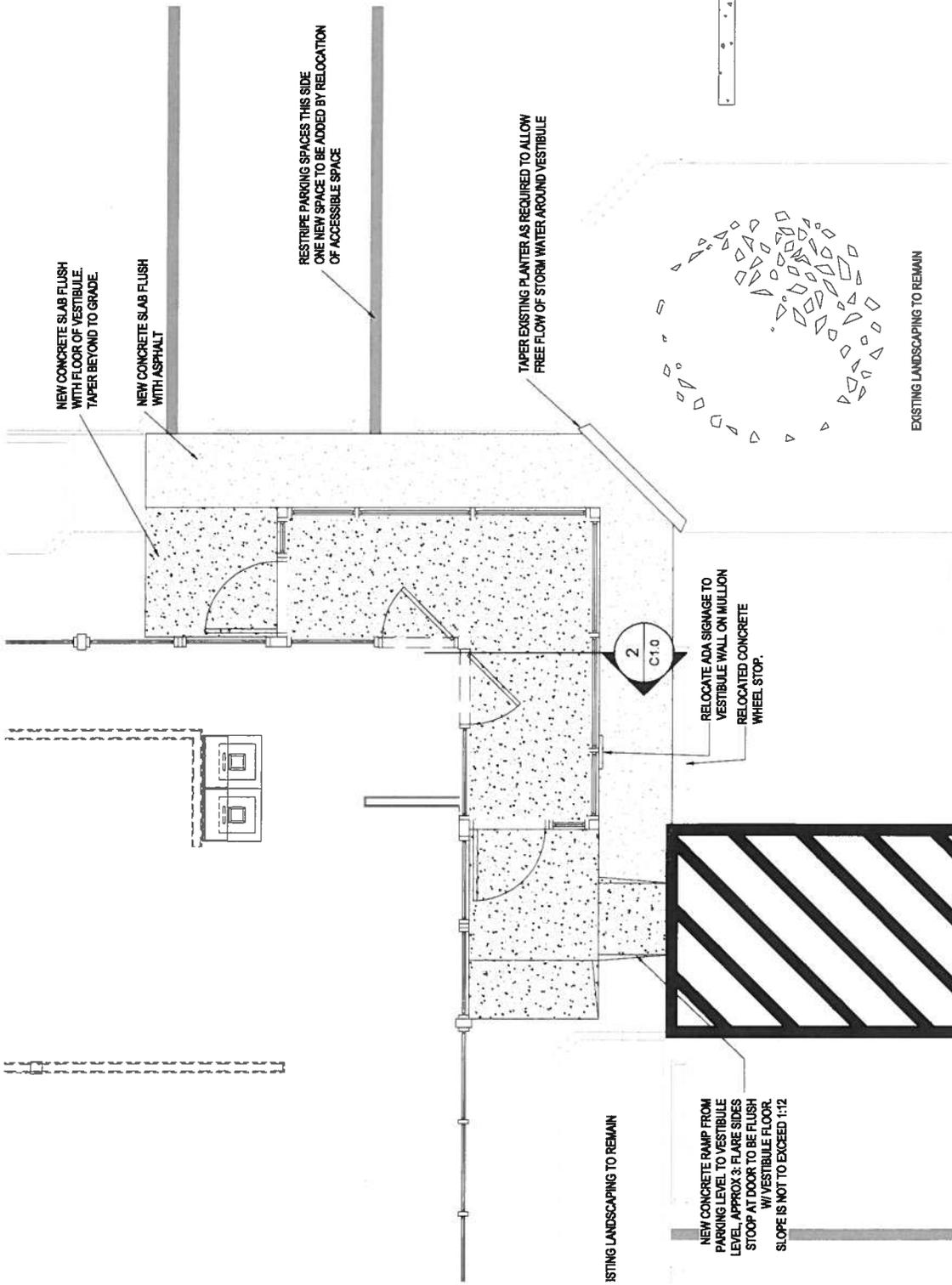
Holland, MI - 616-396-0255
Grand Rapids, MI - 616-249-3800
Kalamazoo, MI - 269-544-1455
Detroit, MI - 616-396-0255

FOR **TRIGO HOSPITALITY**

IN SECTION 10, T03S, R11W, CITY OF PORTAGE

DATE 11/13/13 DRAWN BY SBL

SHEET 1 OF 1 JOB No. 1350575.5A



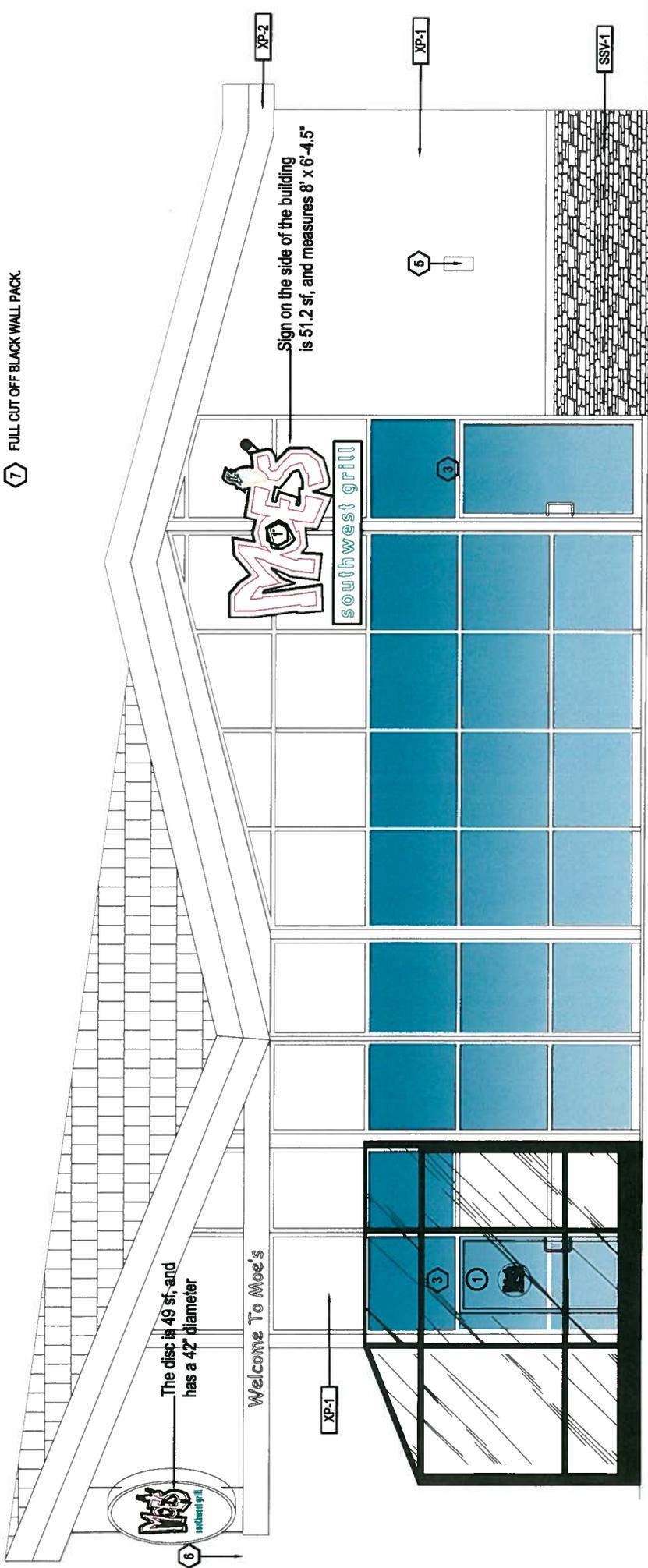
2 VESTIBULE FOUND. SECTIO

C1.0 SCALE: 1/2" = 1'-0"



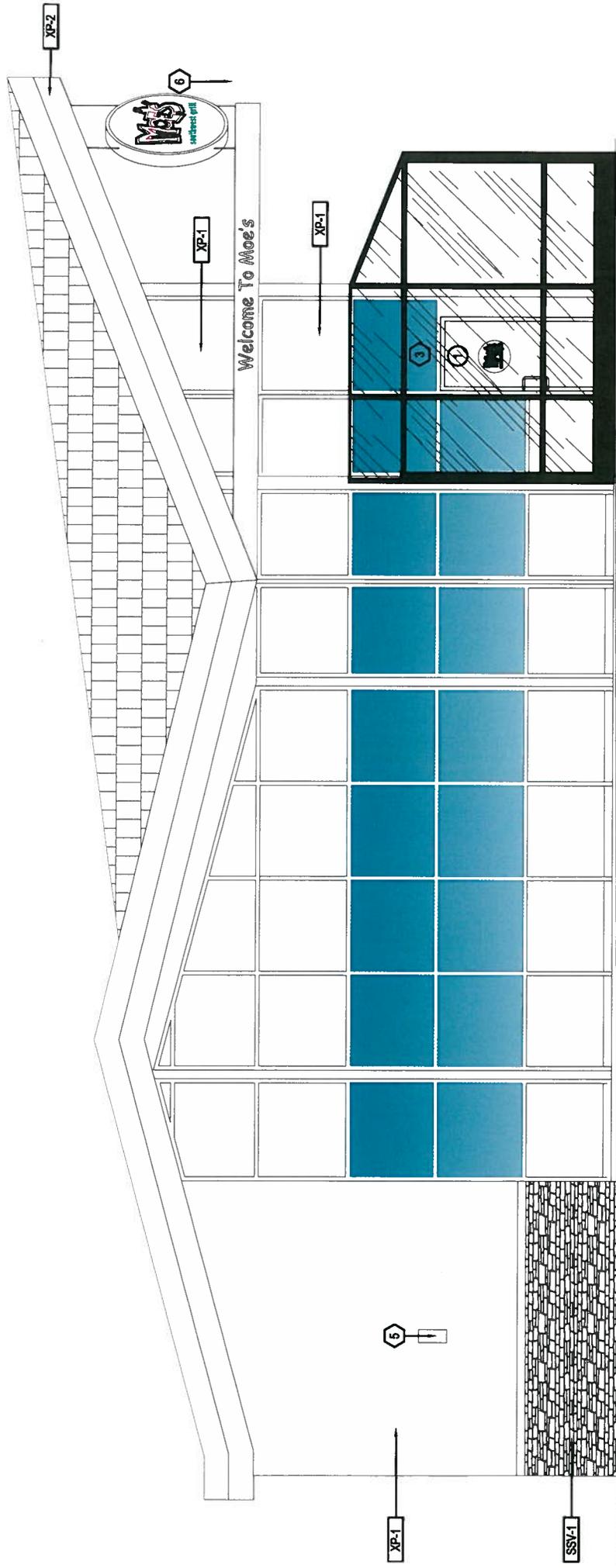
VENDOR). SEE DETAIL THIS SHEET.

7 FULL CUT OFF BLACK WALL PACK.



WEST ELEVATION

SCALE: 1/4" = 1'-0"



NORTH ELEVATION

SCALE: 1/4" = 1'-0"



November 13, 2013

City of Portage
Jeff Mais, Zoning and Codes Administrator
7900 South Westnedge Ave
Kalamazoo, MI 49002

Re: Authorization

Dear Jeff:

I am writing to let you know that I authorize Glenn R. Rahn of Retail Design Consultants to act on our company's behalf to apply for a zoning appeal for our space at 6225 S. Westnedge Ave.

Should you have any questions, please don't hesitate to call.

Sincerely,

Brian Cronkrite

TO: Zoning Board of Appeals **DATE:** November 27, 2013
FROM: Vicki Georgeau, ^{MD} Director of Community Development
SUBJECT: ZBA #13-12; Trigo Hospitality (Moe's Southwest Grill), 6225 South Westnedge Avenue; B-2, Community Business

CODE SECTIONS: 42-350(A); B-2 Front Yard Setback, p. CD42:84
42-541(B)(18); B-2 Wall Sign Extension from Building Wall, p. CD42:122

APPEAL: Requesting variances to: a) construct a vestibule 45 feet from the South Westnedge Avenue right-of-way where a 75 foot building setback is required; and b) erect a wall sign that extends 72 inches from the building wall where a maximum 18 inches is permitted.

STAFF RECOMMENDATION: The applicant requests the above variances per the enclosed application, sketches, and site plan. The zoning lot is comprised of several parcels: 6143, 6149, 6151, 6175, 6195, 6211, 6215, 6225, 6235 South Westnedge Avenue. While these properties are not under the same ownership, due to shared access and parking, these properties comprise a single zoning lot. The property addressed as 6255 South Westnedge Avenue is part of the zoning lot, is 0.23 acres in size (69-feet by 145-feet) and improved with a 2,400 square-foot commercial building constructed in 1965. A Moe's Southwest Grill sit-down restaurant is proposed to reoccupy the building/site. The property is zoned B-2 Community Business, and is adjacent to other commercial properties to the north, south, east and west (across South Westnedge Avenue).

With regard to request a), the existing building is nonconforming since it is setback 50.4 feet from the South Westnedge Avenue right-of-way. In conjunction with the reuse of the building by Moe's Southwest Grill, a 105 square-foot glass vestibule is proposed to enclose the main entrance located at the northwest corner of the existing building. The applicant indicates the vestibule will provide protection from the wind and other elements for customers entering the building and will assist, in part, with compliance with the Energy Code. The vestibule will project 5.5 feet west and north of the existing building resulting in a setback of 45 feet from the South Westnedge Avenue right-of-way. Since this vestibule addition to the existing nonconforming building will not maintain a minimum 75-foot front yard setback, a variance is needed.

The variance can be supported. The new vestibule will be constructed over the existing sidewalk and beneath the existing cantilevered "clamshell" style building roof. The vestibule will not extend any further in to the front yard setback area than the existing roofline. Furthermore, the applicant notes that the existing building size is limited for the use and options for an addition somewhere else on the zoning lot are not feasible.

Regarding request b), the applicant is proposing to erect a 49 square foot (42-inch diameter) round sign suspended beneath the existing roof and above the proposed vestibule 72 inches from the building wall. According to the applicant, the sign will be located within the middle portion of the building projection/overhang in order to balance the sign over the storefront and to improve visibility. Since this suspended sign will be in excess of 18 inches from the building wall, a variance is needed.

The variance can be supported. As noted above, the building has a unique “clam shell” building roofline that presents challenges with regard to wall signage installation. The proposal by the applicant to suspend the sign utilizing the existing architectural features of the building represents a creative and unique way to display the sign. Also, the sign will be located beneath the existing roofline with the wall of the building in the background, and thus will have the appearance of a typical wall sign.

Finally, and for Board information, there is an existing nonconforming freestanding sign also present at the site. The applicant has indicated the property owner will enter into a Five-Year Nonconforming Sign Agreement to permit the reuse of the sign, and will subsequently install a conforming sign upon expiration of the agreement.

In support of the requested variances, the applicant cites the existing nonconforming building, the unique “clamshell” style building projection/overhang on the northwest portion of the existing building, enhanced customer and building protection from weather elements and improved signage visibility.

**PRACTICAL
DIFFICULTY:**

Existing nonconforming building, unique building design, improved customer and building protection. 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 or 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.**