PORTAGE

A Natural Place to Move

ZONING BOARD OF APPEALS

August 12, 2013

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, August 12, 2013
(7:00 pm)
Portage City Hall
Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

* July 8, 2013

OLD BUSINESS:

NEW BUSINESS:

* 1. ZBA #13-1, Mulligan's Grill & Sports Bar, 9136 Shaver Road: Requesting a variance from the conflicting land use screening requirements along the north property line where abutting a nonconforming single family dwelling.
* 2. ZBA #13-2, Meyer C. Weiner Co., 665 Mall Drive: Requesting: a) variance to erect a 194 square-foot Dunham's Sports wall sign on the west elevation where a maximum 150 square feet is permitted; b) variance to erect a 112 square-foot Sears Outlet wall sign on the west elevation where a maximum 100 square feet is permitted; c) variance to erect a 15 square-foot merchandise pickup directional sign on the north elevation where a maximum four square feet is permitted; and d) variance to erect an 859 square-foot Dunham's Sports wall sign on the east elevation where no additional wall signage is permitted.
* 3. ZBA #13-3, Larry Lutz, 9033 West End Drive: Requesting a variance to construct a 30-foot by 40-foot accessory building on a zoning lot separate from the principal use.

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 – July 8, 2013

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

MEMBERS PRESENT: Doug Rhodus, Glenn Smith, Tim Bunch, Michael Robbe, and Mariana Singer.

MEMBERS EXCUSED:

Jeffrey Bright, Lowell Seyburn, James White

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

APPROVAL OF THE MINUTES: Robbe moved and Bunch seconded a motion to approve the June 10, 2013 minutes as submitted. Upon voice vote, motion was approved 5-0.

OLD BUSINESS:

None

NEW BUSINESS:

ZBA #12-27, 1115 Forest Drive: Mr. Mais summarized the variance requests from: a) rear yard requirement for coop/pen; and b) maximum six-foot high fence height and 80 square-foot requirement for coop/pen. Mr. Schubkegel stated the outbuilding being used to house chickens was built in the 1940's and has been used since that time to house a variety of farm animals. The applicant stated placing a coop in a conforming location would impact neighbors more than it does in the existing location. Singer inquired when the eight foot fence was constructed. Mr Schubkegel said in 1996. The applicant provided the Board with a petition in support of the request signed by: Erin Rich, 1122 Forest Drive; Linda Kaminski, 1116 Forest Drive; Debby Taylor, 1106 Forest Drive; Barbara & David Sneath, 1102 Forest Drive; David Akiyama, 971 Forest Drive; Marie Gleesing 912 Forest Drive; Amy & Rod Green, 908 Forest Drive, Judy Vliek, 820 Forest Drive; Susan Thompson, 1202 Forest Drive; Elisabeth Smith, 1110 Forest Drive; and Pete Everts, 1103 Forest Drive.

A public hearing was opened. Letters of opposition from Carol Hogg, 1217 Forest Drive and Richard Voci, 1202 Orchard were read. Mr. Schwencer, 1114 Orchard Drive stated he did not want any chickens near his property and did not think Mr. Schubkegel needed a pen larger than 80 square feet. Bunch observed that the applicant could construct a coop in a conforming location that would actually be closer to properties on Orchard Drive than the existing location where the variance was being requested for. The public hearing was closed.

A motion was made by Bunch, seconded by Robbe to grant a variance from: a) rear yard requirement for coop/pen; and b) maximum six-foot high fence height and 80 square-foot requirement for coop/pen, conditioned upon: the applicant formally making application for a chicken permit pursuant to Section 42-121(D), the mature trees and vegetation between Forest Drive and the pen and lattice fence be maintained to provide additional screening, and no roosters be permitted. There are exceptional circumstances applying to the property that do not apply generally to other properties in the zoning district which include the existing site conditions, location and design of barn used to house farm animals, size of property and distance from neighboring residences, and orientation of nearby lake houses along the south side of Forest Drive; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to house chickens; the immediate practical difficulty was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and; the variance will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and

supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Robbe-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Smith-Yes. Motion passed 5-0.

ZBA #12-30, 10719 Portage Road: Mais summarized the request for variances to construct a 32-foot by 30-foot detached accessory building that would result in the accessory building area exceeding: a) 20 percent of the required rear yard area by eight square feet; and b) the ground floor living area of the dwelling by 330 square feet. The applicant, Ray Schneider, stated the existing garage was old, in poor repair, and was not adequate for his storage needs. Mr. Schneider stated there was a fence along the north property line that would partially screen the proposed garage and that he had already spoken to many of his neighbors about the request and no one had an objection. Bunch inquired why the applicant did not reduce size of the garage by eight square feet so he did not need two variances. The applicant stated he would end up having to remove more than eight square feet because garage packages come in regular dimensions and not fractions of feet. Singer inquired how large a garage could the applicant have without a variance. Mais stated 633 square feet. Bunch stated he liked how the applicant's proposal upgraded appearances, but was concerned about setting a precedent in granting a variance. Singer stated she too was concerned about setting a precedent for properties with lake access wanting more accessory building area. Rhodus inquired if the applicant could store his boats on a vacant lot. Mais said no.

A public hearing was opened. Letters of support were read from Molly & Wayne VanSweden, 10743 Portage Road, and Jeff & Robin Bertolissi, 10748 Portage Road. Shannon Butler, 10726 Portage Road stated she would like to see the accessory building be smaller. No one was present to speak for or against the request. The public hearing was closed.

A motion was made by Robbe, seconded by Bunch to deny variances to construct a 32-foot by 30-foot detached accessory building that would result in the accessory building area exceeding: a) 20 percent of the required rear yard area by eight square feet; and b) the ground floor living area of the dwelling by 330 square feet. There are no exceptional circumstances applying to the property that do not apply generally to other properties in the 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 building a smaller structure; the immediate practical difficulty causing the need for the variance was created by the applicant; the variance would be detrimental to adjacent property and the surrounding neighborhood. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Robbe-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Smith-Yes. Motion passed 5-0.

ZBA #12-31; 1103 & 1023 Forest Drive: Mais summarized the request for a variance to construct a 24-foot by 30-foot (720 square feet) detached accessory building that would result in the combined accessory building area exceeding the ground floor area of the dwelling by 164 square feet. Peter Everts stated the request was small and that he'd spoken to his neighbors and none objected to the request. Bunch inquired why the applicant did not simply build a smaller building or increase their living area. Mr. Everts stated he needed the storage space and did not have the money to add on to the house.

A public hearing was opened. David Akiyama, 971 Forest Drive stated the applicant's property was heavily wooded and the proposed garage would be screened from view of Forest Drive and he felt having to add living area to the dwelling constituted a practical difficulty.

A motion was made by Smith, seconded by Robbe to deny a variance to construct a 24-foot by 30-foot (720 square feet) detached accessory building that would result in the combined accessory building area exceeding the ground floor area of the dwelling by 164 square feet. There are no exceptional circumstances

applying to the property that do not apply generally to other properties in the 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 building a smaller accessory building; the immediate practical difficulty causing the need for the variance was created by the applicant; the variance would be detrimental to adjacent property and the surrounding neighborhood. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Robbe-Yes, Singer-Yes, Bunch-No, Rhodus-Yes, Smith-Yes. Motion passed 4-1.

OTHER BUSINESS:

A communication from Bob Soltis was read advising of his resignation from the Board.

STATEMENT OF CITIZENS:

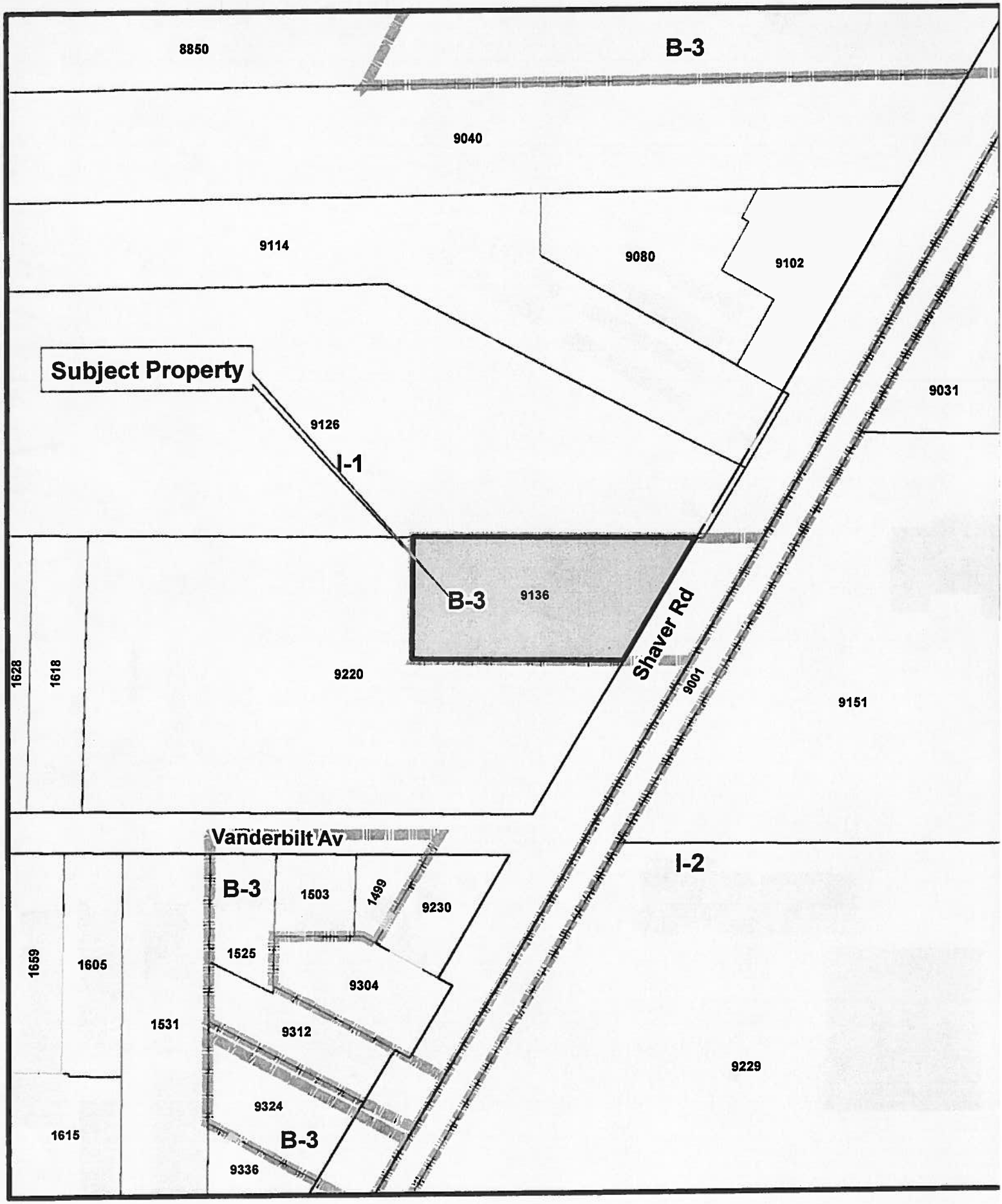
None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator

S:\2012-2013 Department Files\Board Files\ZBA\ZBA Minutes\2013 06 10 JAM ZBA minutes.doc



Zoning Boundary
Subject Properties
Notification Area

ZBA 13-01
9136 Shaver Road

1 inch = 200 feet

PORTAGE
A Natural Place to Move

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 7-1-2013

Name of Applicant LARRY HARRIS (Print) Larry L Harris (Signature)

Applicant's Address 3503 GREENLEAF BLVD. KAL. Phone No. 269-375-6859

Name of Property Owner (if different from Applicant) MULLIGAN'S GRILL & SPORTS BAR

Address 9136 SHAVER RD. PORTAGE, MI. Phone No. 269-492-1711

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

Street Address 9136 SHAVER RD. PORTAGE, MI.

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: SITE PLAN CONSULTANT

Application Fee $330.- (~~Residential Uses~~) _____ (All Other Uses)

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

X **Variance from Zoning Ordinance:** Article _____ Section 42-575 Paragraph B & C

Regarding: Use _____ Area _____ Yards _____

Setbacks _____ Parking _____ Other BUFFER NON-CONFORMING US

Reason for Request (Also complete page 2 of application): HARDSHIP - SEE LETTER & PHOTO'S

____ **Appeal of Administrative Decision:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

____ **Interpretation of the Zoning Ordinance:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

____ **A Temporary Permit for:** Building _____ Use _____ Other Approval _____

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

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

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)
TOPOGRAPHY / EXIST PHYSICAL FEATURES & UTILITY IMPROVEMENTS

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

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

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

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.)
REVIEW PHOTO'S & EXPLAIN WHY THE BUFFERING SHOULDN'T BE THE OTHER WAY AROUND.

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.)
ANY VISUAL IMPACTS WILL BE SUFFERED BY MULLIGAN'S.

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.)
DUE IN PART BY THE OCCUPANT NEXT DOOR, THE FACT THAT CONSUMERS ENERGY & ATT HAVE CONTROL OF THE EASEMENT, DUE ALSO TO EXISTING TOPOGRAPHY.

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
THE PROPERTY NEXT DOOR IS AGGRESSIVELY BEING MARKETED FOR MORE INTENSE USES.

Signature of Applicant

July 1, 2013
Date

L. L. HARRIS & ASSOCIATES, INC.

Landscape Architecture / Site Planning / Environmental Analysis

3503 Greenleaf Boulevard, Kalamazoo, MI 49008 Phone: 269.375.6859 Fax: 269.375.0410

1 July 2013

RECEIVED
JUL 02 2013
COMMUNITY DEVELOPMENT

City of Portage Zoning Board of Appeals
Department of Community Development
7900 South Westnedge Ave.
Portage, MI 49002

Re: Mulligan's Grill & Sports Bar

Gentlemen;

On March 21, 2013 the Portage Planning Commission approved building and site plans for a new Mulligan's Grill & Sports Bar. The plans outline the construction of the new building and extensive site improvements at the same location as the existing building who's address is 9136 Shaver Road, Portage, Michigan.

During the planning approval process, we discovered that the property abutting Mulligan's site to the north is a non conforming residential use in a I-1 light industrial zone. Because Mulligan's is a commercial venture abutting a residential use, the zoning ordinance requires Mulligan's to erect a 6' high opaque fence, and install 2.5" caliber deciduous shade trees on 30' centers along the north property line. Specifically, the intent of section 42-573 of the ordinance is to protect neighboring residential properties from the external effects and negative impacts of a non residential development.

The property adjacent to Mulligan's north line is a non-conforming residential use to be sure, but, it is also in great dis-repair and a blight on the area. For years this home has had junk car and boat parts piled on its western portions of the lot. Closer to Shaver Road piles of broken concrete, brush, and other debris, can be found piled about. Even a cursory inspection of the home will confirm that the site is being actively marketed for non residential uses, and the existing structure is in poor shape. Surprisingly, upon closer inspection, it is Mulligan's who should insist on a northern buffer, provided by the residence to reduce the impact of visual blight and gain some spatial separation.

On behalf of the owner of the property at 9136 Shaver Road, I respectfully request a variance from the requirements noted in section 42-573 of the zoning ordinance, specifically sub-paragraph's B and C. It is our opinion that the zoning ordinance imposes a unnecessary hardship and expense over which we have no control, and frankly, threatens the investment we are making on the improvements next door.

I offer the following considerations for our request:

- Consumers Energy Company and AT&T share a 16 ½' wide easement parallel to the north property line on the Mulligan site. Telephone lines and electrical transmission lines fill this space both over head and underground, and utility poles are scattered around the easement as well. These utility companies are unlikely to permit the installation of any landscape planting, especially trees.

- The erection of a 6' high opaque fence would not be an effective screen for the existing residence because the grade raises sharply to the north to a height of at least 8' above the Mulligan site. The windows of the residence are at least 4' off the ground which places the resident of the house above the 12' level when looking south towards Mulligan's from the house interior.

- Because the existing residence sits so far forward (encroaching into the 30 foot front set-back line), and is positioned at approximately at 30 degree angle to Mulligan's north line, it will be difficult to provide an effective screen for the entire structure.

- The existing residence already has a 5' to 6' opaque stockade fence at a higher elevation that screens off more of the Mulligan site than a lower screen could ever hope to do.

We would appreciate consideration of the extenuating circumstances surrounding this request. Specifically, we are hopeful that you recognize the hardship to the property, and that it is beyond our control to remedy. I would ask that you grant a variance as it relates to Section 42-573 from erecting a 6' fence and providing a landscape buffer we will never be permitted to install.

Cordially,

L. L. HARRIS & ASSOCIATES, INC.

Larry L. Harris, President

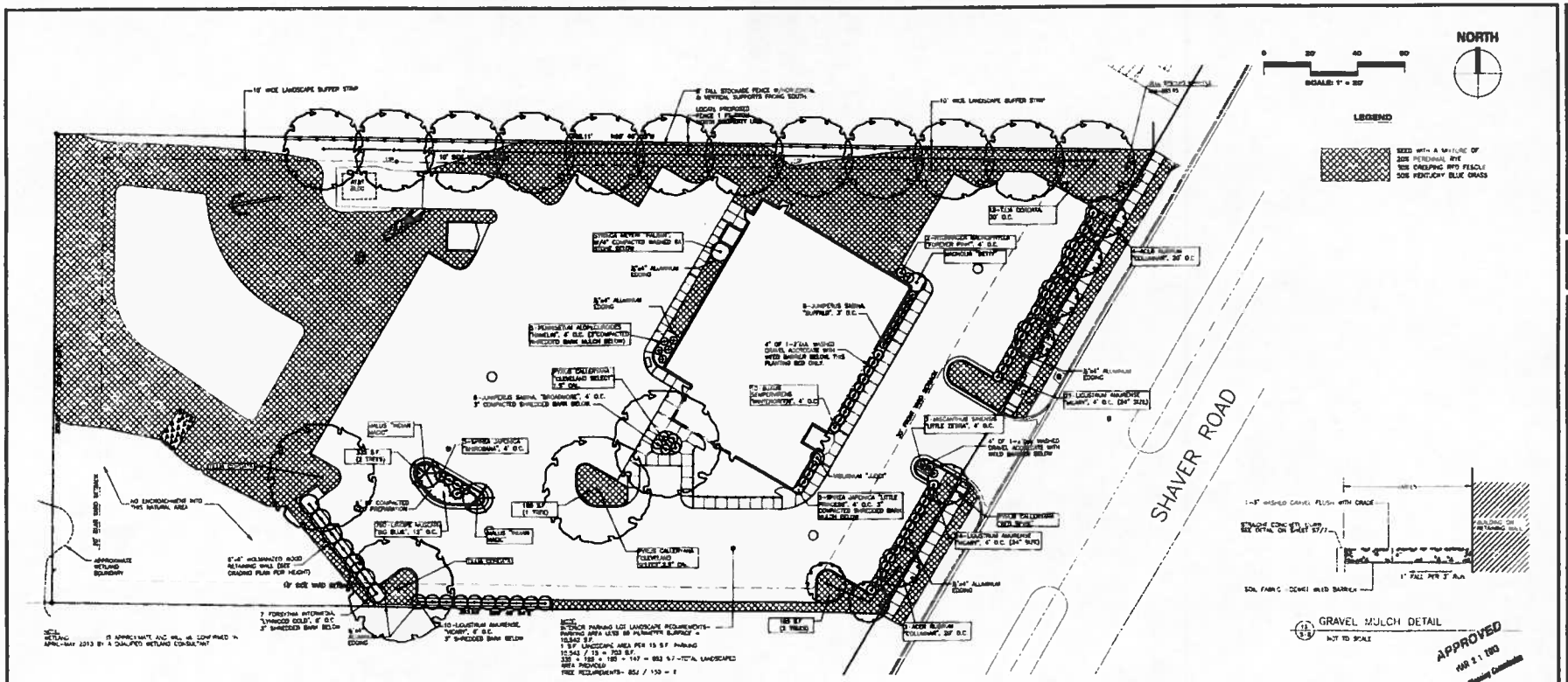
Aerial Photo
9136 Shaver Road

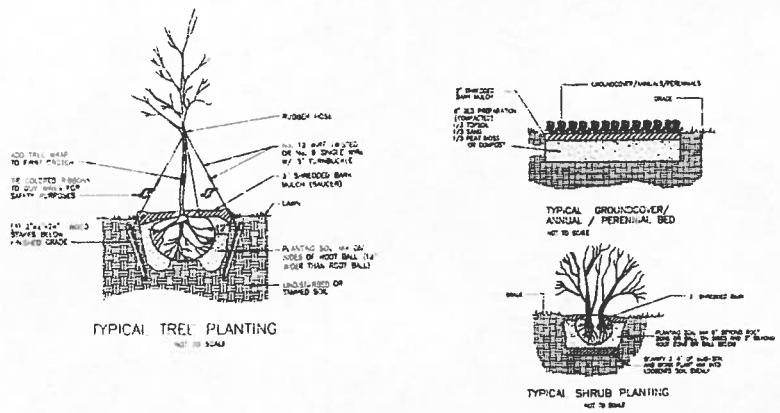
Subject Property

1 inch = 100 feet

07/22/2013 10:32

07/22/2013 10:32





PLANT MATERIAL LIST

QTY.	SIZE	SCIENTIFIC NAME	COMMON NAME	REMARKS
7	2.5"CAL	ACER RUBRUM "COLUMNAR"	COLUMNAR RED MAPLE	MATCHED STRAIGHT TRUNKS
10	15-18"	BUXUS SEMPERVIRENS "WINTERGREEN"	WINTERGREEN BOXWOOD	FULL / BUSHY
7	15-18"	FORSYTHIA INTERMEDIA "LYNWOOD GOLD"	LYNWOOD'S FORSYTHIA	MATCHED
2	18-24"	HYPERICUM MACROPHYLLA "FOREVER PINK"	PINK HYDRANGEA	
5	12-15"	JUNIPERUS SABINA "BROADMOOR"	BROADMOOR JUNIPER	
6	12-15"	JUNIPERUS SABINA "BUFFALO"	BUFFALO JUNIPER	
35	24-30"	LIGUSTRUM AMURENSE "ACARY"	WALDEN SHAVER	FULL / BUSHY, MATCHED
10	15-18"	LIGUSTRUM AMURENSE "ACARY"	GOLDEN SHAVER	FULL / BUSHY
750	CELL PACK	LIRIOPE MUSCARI "BIG BLUE"	BIG BLUE LILY TURF	
1	1.5"CAL	MAGNOLIA "BETTY"	BETTY MAGNOLIA	WELL FORMED, MIN 6' TALL
2	2.5"CAL	MALUS "INDIAN MAGIC"	INDIAN MAGIC CRAB APPLE	STRAIGHT TRUNKS, FULL CROWN, MIN 6' TALL
3	2 CAL	MISCANTHUS SINENSIS "LITTLE ZEBRA"	DWARF ZEBRA GRASS	
5	2 CAL	PENNISETUM ALOPECUROIDES "HAMELIN"	HAMELIN FOUNTAIN GRASS	
1	2.5"CAL	PYRUS CALLERYANA "CLEVELAND SELECT"	CLEVELAND SELECT PEAR	
1	1.5"CAL	PYRUS CALLERYANA "CLEVELAND SELECT"	CLEVELAND SELECT PEAR	
1	2.5"CAL	PYRUS CALLERYANA "RED SPIRE"	RED SPIRE PEAR	
4	12-15"	SPIREA JAPONICA "LITTLE PRINCESS"	LITTLE PRINCESS SPIREA	FULL
5	12-15"	SPIREA JAPONICA "SHIROBANA"	SHIROBANA SPIREA	FULL
1	3-4'	SPIRAEA MEYER "PALUBIN"	PALUBIN LILAC	FULL FOR SIZE
14	2.5"CAL	TILIA CORDATA	LITTLE LEAF LINDEN	STRAIGHT TRUNKS, FULL CROWN
1	30"	VIBURNUM "JUDD"	APPROVED CARLESS VIBURNUM	FULL / BUSHY

LANDSCAPING PLAN

LARRY L. HARRIS
3503 FREEWEAR BOULEVARD
KALAMAZOO, MICHIGAN 49008
PHONE: (269) 375-8859
FAX: (269) 375-0410
LICENSED LANDSCAPE ARCHITECTS-SITE PLANNERS

MULLIGAN'S GRILL AND STEAK HOUSE
9135 SHAVER ROAD
PORTAGE, MICHIGAN

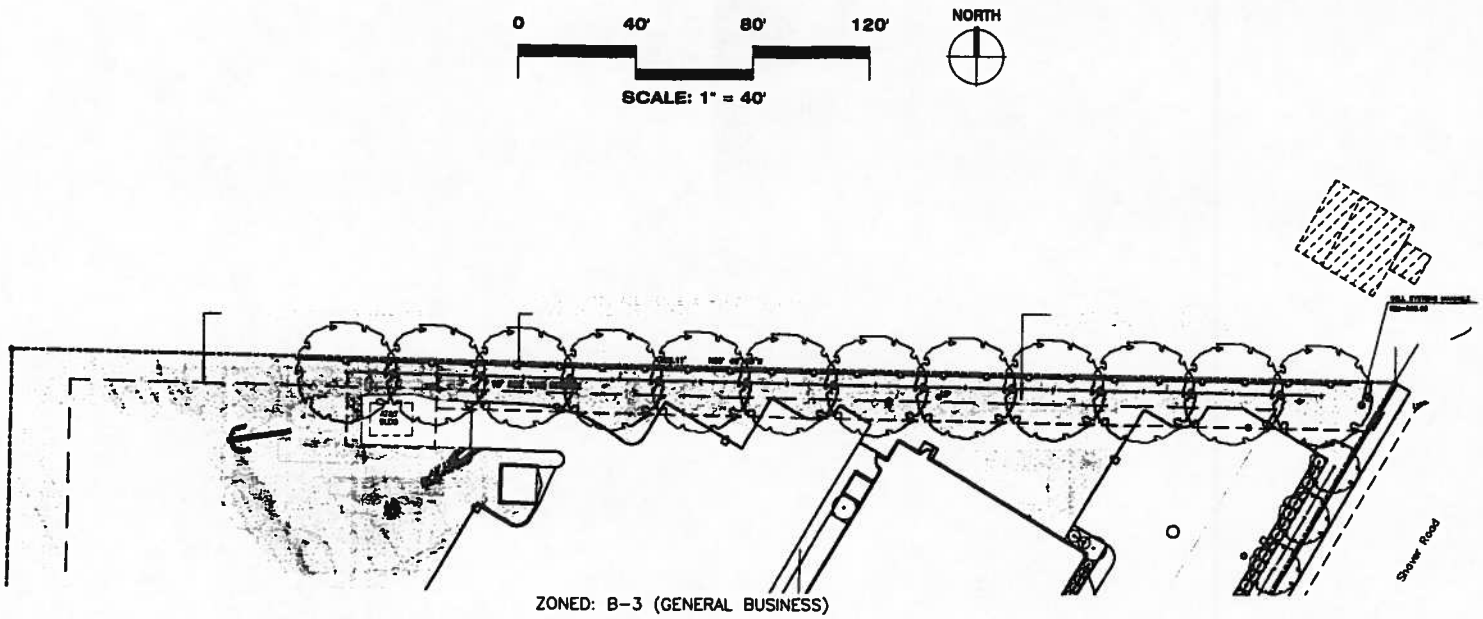
SCALE 1" = 20'

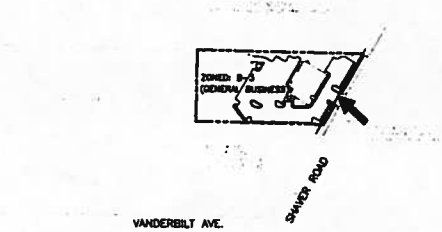
DATE 03/27/13

PROJECT 3-1146-1

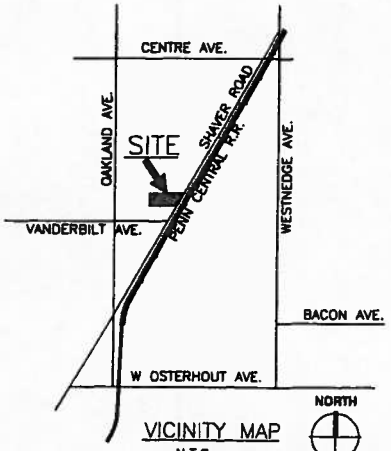
REVISED 03/12/13

S 6/7





ADJACENT OWNERS AND ZONING
N.T.S.
NORTH



VICINITY MAP
N.T.S.
NORTH

LARRY L. HARRIS
3003 GREENLEAF BOULEVARD
KALAMAZOO, MICHIGAN 49008
PHONE: (269) 375-0858
FAX: (269) 375-0410
LICENSED LANDSCAPE ARCHITECTS-SITE PLANNERS

APPLICATION FOR VARIANCE
MULLIGAN'S GRILL AND STEAK HOUSE
9136 SHAVER ROAD PORTAGE, MICHIGAN

SCALE 1"=20'

DATE 04/18/13
PROJECT 13-1146-1

REVISED
-

PORTAGE
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Department of Community Development

TO: Zoning Board of Appeals **DATE:** August 1, 2013

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: ZBA #13-01; Mulligan's Grill & Sports Bar, 9136 Shaver Road; B-3, General Business

CODE SECTION: 42-573(C); Conflicting Land Use Screening, p. CD42:134

APPEAL: Requesting a variance from the conflicting land use screening requirements along the north property line where abutting a nonconforming single family dwelling.

STAFF RECOMMENDATION: The applicant requests the above variance per the enclosed application, site plan and letter of explanation. On March 21, 2013, the Planning Commission approved a site plan for construction of a new 6,000 square foot Mulligans Grill and Sports Bar building and associated site improvements and construction is currently ongoing. The 1.9 acre parcel is zoned B-3, general business and a nonconforming single family dwelling and associated accessory buildings zoned I-1, light industry abuts the site to the north. While the approved site plan identifies conflicting land use screening consistent with ordinance requirements (10-foot wide greenstrip, 6-foot tall wooden fence and deciduous tree plantings every 30-feet) along the northern portion of the development, the applicant is requesting a variance from this standard citing several factors including the zoning and nonconforming status of the residence to the north, topographic differences between the two sites and the presence of a private utility easement and aboveground/underground utilities along the northern portion of the development.

As stated in the application materials, the existing two-story dwelling located to the north of the Mulligan's site is nonconforming with the property zoned I-1, light industry. The nonconforming residential property is also designated on the City of Portage Future Land Use Map as appropriate for industrial/general business land use (Shaver Road Business Corridor) and is being actively marketed for nonresidential redevelopment.

The parking lot for Mulligan's Grill and Sports Bar is situated approximately 4-6 feet lower than the adjacent nonconforming dwelling that will minimize the effectiveness of any screening installed along the north property line. However, and as shown on the attached photographs, there is a wooden fence that extends from the southwest corner of the house approximately 150-feet west and many mature trees are present along the southern portion of the nonconforming residential parcel that provides some measure of screening for the dwelling. Finally, the northern 16½-feet of the Mulligan's property is encumbered by a private utility easement that is shared by AT & T and Consumers Energy Company and the presence of overhead and underground utilities will likely cause conflicts with screening installation.

With regard to the debris and vehicles located in the rear yard behind the dwelling and detached accessory buildings at 9126 Shaver Road mentioned in the applicant's correspondence, staff became aware of this condition during review of the Mulligan's Grill and Sports Bar redevelopment project. The owner/occupant of 9126 Shaver Road has been noticed regarding the condition of the property and staff is working with the property owner to correct the code violations.

The existing zoning/land use pattern, topographic differences between the two sites and the presence of the private utility easement create unique circumstances and practical difficulties for the applicant. The variance would not be inconsistent with the intent of the Zoning Code, and given the presence of existing mature trees/vegetation, any impact on the abutting property to the north will be minimal. Based on the above, approval of the variance is recommended.

PRACTICAL DIFFICULTY: Existing aboveground and underground utilities; Topographic differences between sites; Nonconforming status of adjacent residence; Surrounding zoning/land use pattern. See Suggested Motion form.

S:\2013-2014 Department Files\Board Files\ZBA\13-01, 9136 Shaver\2013 08 01 VG ZBA 13-01 , Shaver, 9136 (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;

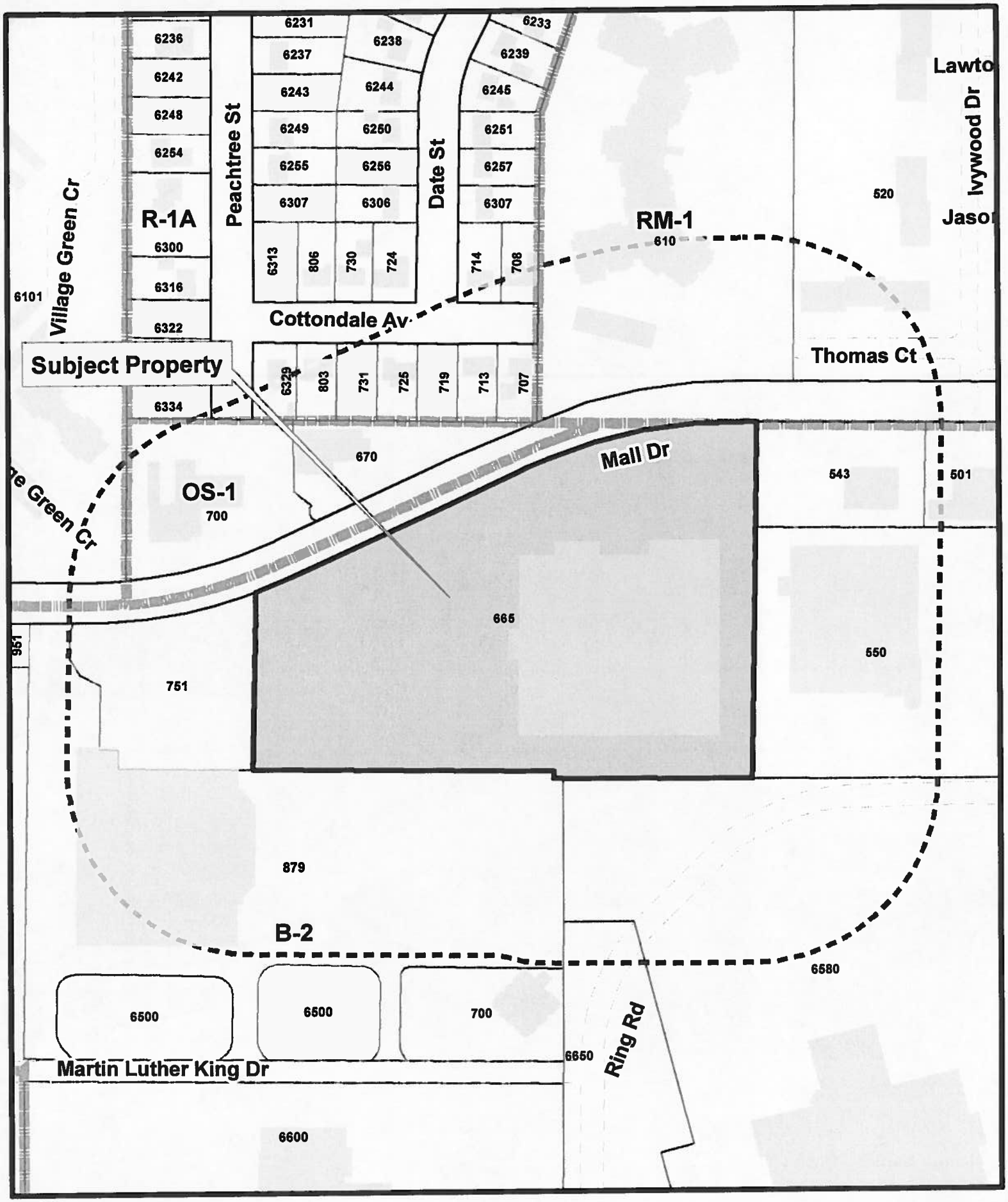
2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as_____
_____.

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 Properties
Notification Area

ZBA 13-02
665 Mall Drive

1 inch = 200 feet

PORTAGE
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Department of Community Development

RECEIVED
JUL 16 2013
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 7-12-13

Name of Applicant SignArt, Inc. - Steve VanderSloot (Print) _____ Signature

Applicant's Address 5757 East Cork Street Phone No. 269.381.3012 (c) 217-1771

Name of Property Owner (if different from Applicant) Meyer C. Weiner Co.

Address 700 Mall Drive Phone No. 269.323.2441

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

Street Address 665 Mall Drive

For Platted Property: Lot _____ of _____ Plat

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

Applicant's interest in Property that is the subject of this Application: Specialty sign contractor.

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 4 Section 42 Paragraph 552

Regarding: Use _____ Area X Yards _____

Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): Dunham's Sports requests to install two (2) wall signs totaling 462.37 sq. ft. and Sears Outlet requests to install two (2) wall signs totalling 127.53 sq. ft.

____ **Appeal of Administrative Decision:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

____ **Interpretation of the Zoning Ordinance:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

____ **A Temporary Permit for:** Building _____ Use _____ Other Approval _____

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

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

Reason For Variance

cs suc

1. Please explain how the property has characteristi
features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)
See attached.

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

3. Can the property be reasonably used for the use permitted in the zoning district without granting the variance? (Attach additional sheets is 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 <u>not</u> 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 <u>not</u> 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 <u>would fulfill</u> the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
See attached.

Signature of Applicant

7-12-13
Date

1. Please explain how the property has characteristics, features that prevent compliance with the Zoning Ordinance.

   This 24 year old, nearly 100,000 sq. ft. structure was built on the 8.28 acre site in November 1989 specifically for retailer Pace Membership Warehouse. Sam's Club purchased Pace and later relocated to its current location at 7021 South Westnedge Avenue. The building has been vacant since 2005 with the exception of a few events such as the Kalamazoo Home Expo.

   It is a light industrial building in a commercial district with high ceilings and loading docks oriented toward the only street frontage. Another unusual characteristic is that the building's front elevation faces west rather than the more logical north, or, arguably east, as the surrounding buildings are oriented.

   A portion of the east elevation can be seen from the intersection of South Westnedge Avenue and Mall Drive due to the rise in elevation.

   Placing signage in compliance with the ordinance will prevent the building's main occupant, Dunham's Sports, from having identification discernible from Westnedge Avenue. This lack of identification for *any* tenant willing to occupy this large, industrial-natured and long-underutilized building off Westnedge Avenue will prevent its successful use of this building.

2. Are the physical characteristics you explained unique and not shared by neighboring properties?

   Neighboring properties do not possess a light industrial building with a customer entrance oriented west, both perpendicular to the adjacent street and *away* from the South Westnedge Avenue retail corridor. Also, the neighboring retail is comprised of smaller more destination oriented retail/entertainment such as Celebration Cinema, the Teachers Center and Marshall Music.

3. Can the property be reasonably used for the use permitted in the zoning district without granting the variance?

   While it may be *physically* used for the commercial uses permitted in the B-2 zoning district, given the characteristics of this building and property, the interest in this property is low as evidenced by the 8-year vacancy. The current trend of retailers is toward a reduction in the retail footprint and expansion of online sales. Thus, the number of potential tenants is greatly limited for a building of this size and nature. Effective signage for both the west primarily and east elevation is critical for any *reasonable* occupancy of this property to occur given its unique design and building orientation.

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?

   Both Dunham's Sports and Sears Outlet feel the signs, *as requested*, are critical for their reasonable use of the building given the unique physical circumstances burdening this property. No other property owners possess these unique circumstances. In the case of Dunham's Sports, the majority use for the building, the Lease is conditioned upon this sign.

5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area.

   No adverse affects would be experienced on adjacent properties or alter the character of the area as the property will finally be used once again as permitted.

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 the area.

   The variance would not result in any circumstances detrimental to the property or the area as the building, site layout, and the recently improved Mall Drive have been designed to handle the associated demands. Rather, the proposed signage will improve wayfinding, safe ingress/egress, as well as the overall character of the surrounding area.

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?

   The practical difficulty is due to the fact the building was built specifically for a single warehouse tenant, Pace, 23 years ago.

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance.

   The ordinance states, "Sign needs may vary based on particular circumstances." We would submit that in this instance, the sign needs of any occupant of this unique building and property vary significantly from those of more appropriately situated commercial properties. Reasonable relief from the sign ordinance would permit the tenant(s) to have identification upon the western façade that is visible from Westnedge Avenue. The spirit and intent of the Ordinance would be satisfied in granting deviation from the wall sign limitations, as proposed, without leading to pedestrian or driver confusion and distraction, and would not endanger the public health, safety and welfare.

SignArt

DUNHAM'S SPORTS

28'-3¾"

5'-0"

3'-0"

Dunham's SPORTS

17'-6¾"

Square Footage

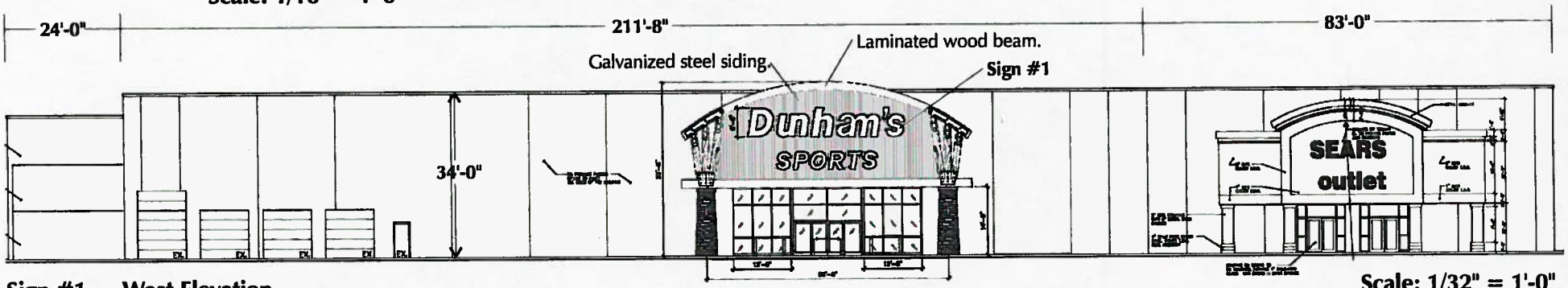
'Dunham's'	5'-0" x 28'-3¾" =	141.56 Sq.Ft.
'SPORTS'	3'-0" x 19'-6¾" =	52.69 Sq.Ft.
	Total =	**194.25 Sq.Ft.**

Laminated wood beam example

Galvanized steel siding example

Sign #1 — Illuminated Channel Letters

Scale: 1/16" = 1'-0"



Sign #1 — West Elevation

Scale: 1/32" = 1'-0"

34'-2¾"

19'-9¾"

6'-0"

Dunham's SPORTS

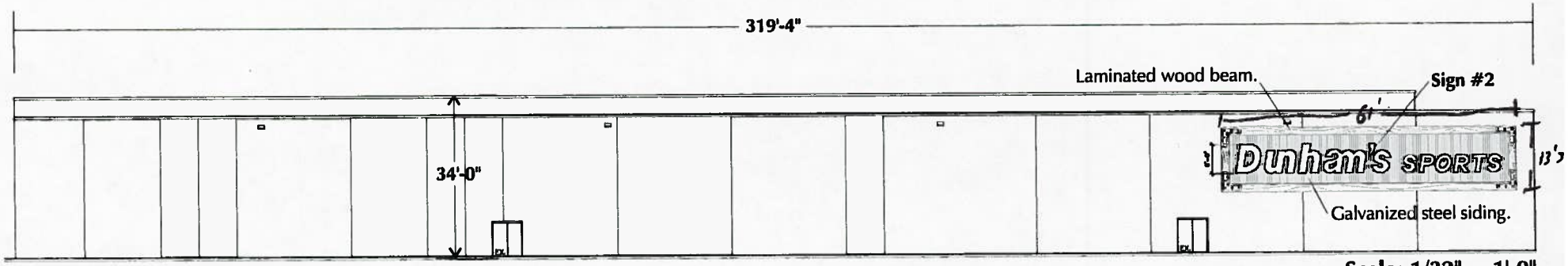
3'-2"

Square Footage

'Dunham's'	6'-0" x 34'-2¾" =	205.38 Sq.Ft.
'SPORTS'	3'-2" x 19'-9¾" =	62.74 Sq.Ft.
	Total =	**268.12 Sq.Ft.**

Sign #2 — Illuminated Channel Letters

Scale: 1/16" = 1'-0"



Sign #2 — East Elevation

Scale: 1/32" = 1'-0"

Dunham's Sports — 665 Mall Drive, Portage, MI

Lead #

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dunhams1

JH 7-15-13 Approved for: _____ By: _____ Date: _____

STORE FRONT - OPTION 1
PROPOSED SIGNAGE
SCALE = 1/8":1'-0"

INSTALL NEW CHANNEL LETTERS ON RACEWAY "SEARS OUTLET".
RACEWAY TO MATCH EFIS COLOR (TBD)

"SEARS OUTLET" CHANNEL LTRS - ON RACEWAY - LED FACE LIT
SCALE: 3/16" = 1'-0" 112.75 S.F

SEARS FACES - WHITE PLEX FACES WITH FIRST SURFACE
PERFORATED BLUE VINYL (3632-36 BLUE COLOR OR EQUIVALENT).

OUTLET FACES - WHITE PLEX FACES WITH FIRST SURFACE
RED VINYL(3632-33 RED COLOR OR EQUIVALENT).

GE LED ILLUMINATION (SEARS WHITE LED, OUTLET RED LED)

RACEWAY COLOR TO MATCH E.F.I.S.

NIGHT ILLUMINATION VIEW

PRIMARY ELECTRIC TO BE SUPPLIED BY OTHERS
WITH THE J-BOX PLACED WITHIN 6'-0" OF EACH SIGN.
(ONE 20 AMP CIRCUIT PER SIGN.)
BACKING FOR SIGN ATTACHMENT TO BE INSTALLED BY OTHERS.
(5/8" PLYWOOD OR COMPARABLE REQUIRED.)

It is the intent and purpose of this color rendering to provide a basic color representation of your sign finish and color. However, digital media and printed colors will vary from actual paint finish and color. Existing painted surfaces will have a perceptible difference in shade and sheen from your sign finish. Providing a sample of the paint you wish to match or a Matthews paint color formula will minimize the differences.

16265 Star Road Nampa, ID 83687 toll free: 800.592.8058 tele: 208.345.4020 fax: 208.336.9886 www.imagenational.com

image national signs
...bringing your image to light!

PROJECT TITLE	LOCATION	DATE	DRAWN BY	NAMPA PLANT
sears	665 Mall Dr. Portage MI	06.11.13	MLP	UL #433195-001
		S.D.	COMPUTER FILE: SEARS-PORTAGE MI-R2-061413-MLP	
		ACCOUNT EXEC. Jenny G.	REVISION: R2-061413-MLP	

page # DS- 1

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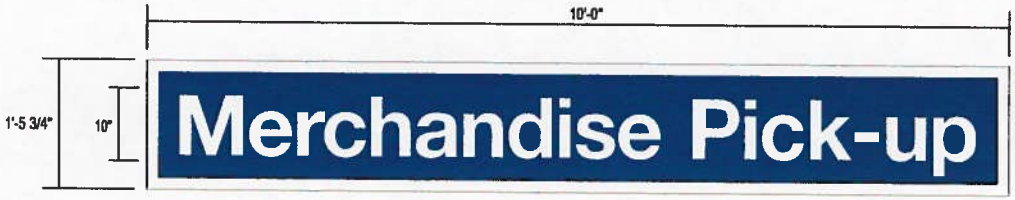
STORE SIDE
EXISTING CONDITIONS

STORE SIDE
PROPOSED SIGNAGE

INSTALL NEW CABINET "MERCHANDISE PICK-UP".
SIZE OF SIGN BAND REQUIRED TO
ACCURATELY DEPICT PROPOSED SIGNAGE.



S/F WALL CABINET
SCALE: 3/4" = 1'-0"
14.79 SF

WHITE .177 POLYCARBONATE FACE WITH
FIRST SURFACE BLUE VINYL B/G TO MATCH 3M 3632-36.
INTERNAL FLUORESCENT ILLUMINATION.

16265 Star Road Nampa, ID 83687 toll free: 800.592.8058 tele: 208.345.4020 fax: 208.336.9886 www.imagenational.com

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		ACCOUNT EXEC: Jenny G.	REVISION: R2-061413-MLP

NAMPA PLANT
UL #433195-001

page #
DS- 4

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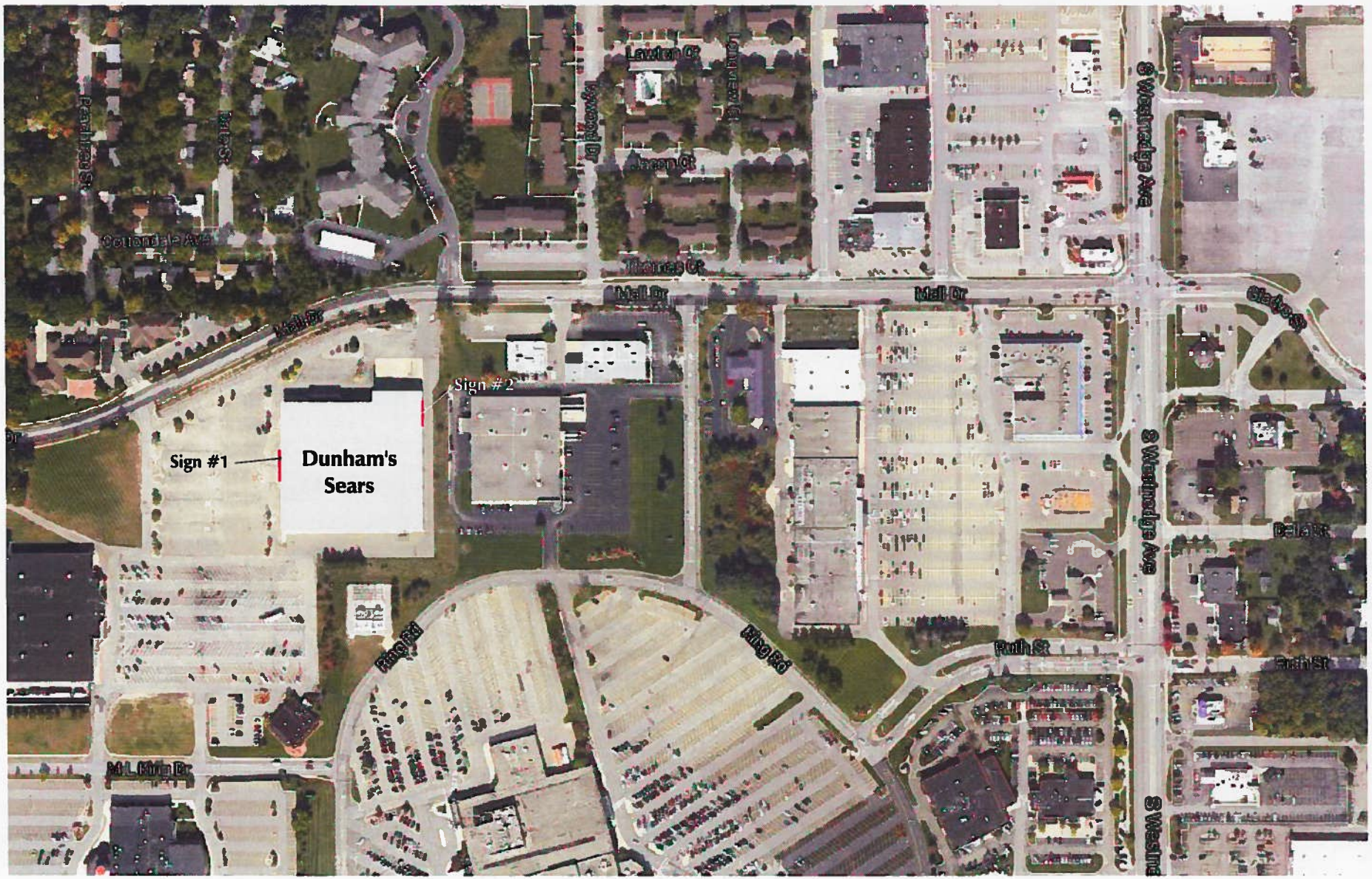
SignArt

DUNHAM'S SPORTS



Site Plan **Scale: None**

Dunham's Sports — 665 Mall Drive, Portage, MI

Lead #

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dunhams1

JH **7-15-13** **Approved for:** _____ **By:** _____ **Date:** _____

13'8" x 62'10½" = 859.29 ☐

PORTAGE
A Natural Place to Move

Department of Community Development

TO: Zoning Board of Appeals **DATE:** August 1, 2013

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: ZBA #13-02; Sign Art, on behalf of Meyer C. Weiner Co., 665 Mall Drive; B-2, Community Business

CODE SECTION: 42-552(H); B-2 Wall Signs, p. CD42:132.1 – 132.2

APPEAL: Requesting: a) a variance to erect a 194 square-foot "Dunham's Sports" wall sign on the west elevation where a maximum 150 square feet is permitted; b) a variance to erect a 112 square foot "Sears Outlet" wall sign on the west elevation where a maximum 100 square feet is permitted; c) a variance to erect a 15 square-foot "merchandise pickup" directional sign on the north elevation where a maximum four square feet is permitted; and d) a variance to erect an 859 square-foot "Dunham's Sports" wall sign on the east elevation where no additional wall signage is permitted.

STAFF RECOMMENDATION: The applicant requests the above variances per the enclosed application, sign sketches and aerial photograph. The 8.2 acre parcel is zoned B-2, Community Business and is improved with a 97,992 square foot commercial building constructed in 1990. The property is adjacent to other commercial properties to the west, south and east, and across the street to the north are offices and a multi-family apartment complex.

The property was originally developed as a Pace Membership Warehouse, but has been vacant since 2005 since a subsequent use, Sam's Club, relocated to 7021 South Westnedge Avenue. Two potential new tenants, Dunham's Sports and Sears Outlet, now propose to lease the building. The Board previously granted a variance in 1994 permitting a 135 square-foot wall sign on the east elevation and a 104 square-foot sign on the west elevation where a maximum 100 square feet of wall signs were permitted. The practical difficulty cited was the setback from Ring Road. In 2003, the Zoning Code was amended to permit additional wall sign area for large retail stores. Based on the tenant wall areas of the west elevation, Dunham's may have wall signs of up to 150 square feet in area and Sears may have 100 square feet of wall signage. The applicant proposes to erect: a) a 194 square-foot "Dunham's Sports" wall sign on the west elevation; b) a 112 square-foot "Sears Outlet" wall sign on the west elevation; c) a 15 square-foot "merchandise pickup" directional sign for Sears Outlet on the north elevation where the maximum permitted size is four square feet; and d) an 859 square-foot "Dunham's Sports" wall sign on the east elevation. As all of these signs exceed the maximum permitted areas, variances are requested.

Concerning requests a) and b), the applicant notes both tenants' customer entrances are on the west side of the building, instead of the more logical north

side facing Mall Drive. The orientation and size of the building does, however, lend itself to identifying the businesses from Mall Drive and the off-street parking lot in front of the main customer entrance on the west building elevation. A freestanding sign near the principal entrance will also serve to identify the businesses for Mall Drive traffic. Conforming signs would be legible to traffic along Mall Drive, and a practical difficulty has not been established why wall sign variances on the west elevation are needed.

Concerning request c), the 'merchandise pickup' sign serves as a directional sign for Sears Outlet, and would be located near the northeast corner of the building. Given the size of the building and because the main customer entrance would be located near the southwest corner of the building, the proposed sign would both increase legibility from the secondary Mall Drive entrance and off-street parking lot and assist with way finding to the merchandise pick-up door. The variance is therefore recommended.

Concerning request d), the applicant indicates compliance with the ordinance will prevent the building's main occupant, Dunham's Sports, from having identification discernable from South Westnedge Avenue. While this desire is understandable, it should be noted the building's east elevation is more than 1,600 feet away from South Westnedge Avenue and at 859 square feet, the proposed sign would be larger than most highway billboards. The request is excessive and out of character with the surrounding area. During conversations with the applicant, installation of a second freestanding along Mall Drive was discussed. Based on the subject property's public street frontage, the applicant is entitled to a second freestanding sign of up to 135 square feet. A second freestanding sign could be erected near the building in the same general viewing area where the wall sign is proposed on the east elevation. As an alternative to a second freestanding sign, a 135 square foot wall sign could be placed on the east elevation, similar to the variance granted in 1994. Staff is supportive of this east elevation wall sign in lieu of a second freestanding sign.

PRACTICAL DIFFICULTY: Variances a) and b): none noted by staff. Variance c) scale of building and customer entrance on opposite side of building from merchandise pick-up door. Variance d): size of additional freestanding sign otherwise permitted. See Suggested Motion form.

S:\2013-2014 Department Files\Board Files\Zoning Board\13-02, 665 Mall\2013 08 01 VG ZBA 13-02, Mall, 665 (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;

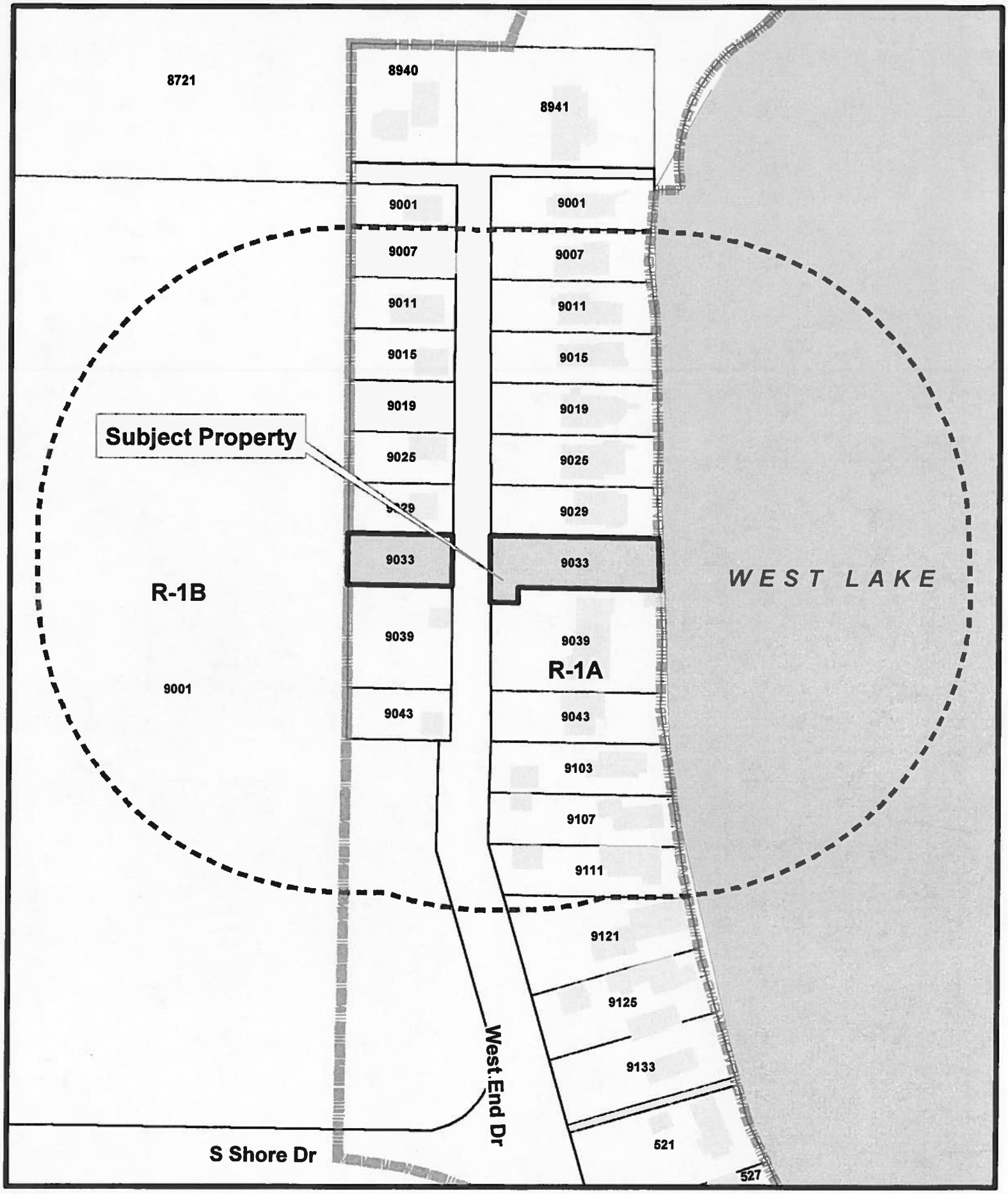
2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as_____
_____.

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 Properties
Notification Area

ZBA 13-03
9033 West End Drive

1 inch = 120 feet

12 -1000094

PORTAGE
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RECEIVED
JUL 16 2013
COMMUNITY DEVELOPMENT

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 7-16-13

Name of Applicant Larry Lutz, Tricia Lutz (Print) [signature] (Signature)

Applicant's Address 7176 Crown Point Circle Phone No. 269-760-0662

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 Dr

For Platted Property: Lot 45 of Matteson's Park 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: I wish to purchase this property Lot 12 for personal residence and Lot 45 for a garage.

Application Fee $135.00 (Residential Uses) _____ (All Other Uses)

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

✓ **Variance from Zoning Ordinance:** Article _____ Section _____ Paragraph _____

Regarding: Use _____ Area _____ Yards _____

Setbacks _____ Parking _____ Other _____

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

____ **Appeal of Administrative Decision:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

____ **Interpretation of the Zoning Ordinance:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

____ **A Temporary Permit for:** Building _____ Use _____ Other Approval _____

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

Application Number: 13-3	Filing Date: 7/16	Tentative Hearing Date: 8/12
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.)
This property is 50 ft wide, It is split by West End Dr leaving a 50' x 100' Lot across the street from where a home could be built, We would like this lot for an accessory use where there is no principle use.

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
No. All neighbors have the same split property, All the neighbors have garages across the street on the same 50' x 100' lots.

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets is needed.)
Perhaps, but the property will not be consistent with the community without a garage across the street, the property would not compare in value to the surrounding properties.

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 is the minimum necessary. It would equal the surrounding property owners without exceeding it. It would be logical and equitable to the other property owners to have a similar property.

5. Explain how the variance would <u>not</u> result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)
The variance would not alter the area, only make it more uniform. All surrounding properties have garages, a new garage would not alter the character of the area.

6. Explain how the variance would <u>not</u> 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.)
Single family residence with a garage would not increase existing traffic. West End Dr is a dead end street. A new garage would pose no additional risk compared to the existing garages from the neighbors.

7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)
No. Variance is only requested because this is an accessory use where there is no principle use. All land has never been built on.

8. Explain how the variance <u>would fulfill</u> the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
The variance would actually enhance the spirit of the zoning ordinance by making this property consistent with the community. The variance would not make this property stand out, but only blend in.

Signature of Applicant

7-16-13
Date

RECEIVED
JUL 23 2013
COMMUNITY DEVELOPMENT

07/23/13

Dear Zoning Board,

We are applying for a variance to the zoning for the address 9033 West End Dr, Plated Property Lot 12 and 45 of Matteson's Park. This is currently vacant land. I wish to purchase this property Lot 12 for a personal residence, with an approximate 2200 square ft. footprint and its accompanied Lot 45 across the street for a garage, approximately 30 X 40 for cars, personal boat storage, and a workshop area. This garage will not be used for any business or commercial purposes. It is zoned R1A, and would meet the minimum front setback of 27 feet. I have the current owner's support and permission to apply for this variance, see attached letter.

This is a lake substandard 50ft wide lot. When West End Dr was built the lot was split into two parcels, Lot 12 and Lot 45. This made Lot 45 50 ft. by 100 ft. Because of it's size, no home can be built, but also because it is split by West End Dr., no accessory use structure can be built without a principle use structure, thus requiring this variance. All neighbors on this street have the same Lot configuration. All neighbors also have garages across West End Dr. In keeping with the consistency of the community, a garage should be allowed on Lot 45. The property would not compare in value with the other Lots on the street without the ability to have a garage across the street.

This variance would make Lots 12 and 45 equal to the existing homes and garages on West End Dr. and in no way have an adverse affect on the neighborhood. The variance would actually enhance the spirit of the zoning ordinance by making this property consistent with the community. The variance would not make this property stand out, but only blend in.

Thank you for your consideration in this matter.

Larry and Tricia Lutz

RECEIVED
JUL 19 2013
COMMUNITY DEVELOPMENT

From: Doug Atkin <datkin@ocphx.com>
Subject: 9033 West End Drive
Date: July 16, 2013 10:35:54 PM EDT
To: Larry Lutz <llutzenterprises@gmail.com>

Portage Zoning,

This letter is to provide Larry Lutz my permission to pursue and obtain a building variance for my property at 9033 West End Drive. 9033 West End Drive is defined as Lot 12 and 45 of Assessor's Plat of Matteson's Park. Upon purchase of 9033 West End Drive it was my intention to build a home on Lot 45 and a garage on Lot 12. The ability to build a garage on lot 12 was added value in the property. Upon purchasing the lots, it was communicated to me via the previous owner and was confirmed through a phone call to Portage zoning that a garage would be permitted. Zoning communicated that no 'living' space would be permitted on lot 12, but a garage was allowed. Larry communicated to me that a variance was required for the garage. This was a surprise to me, based on the information above. If there is any information needed from me please let me know, I would like to maintain the value and functionality of my lot through the required variance.

Thank you

Doug Atkin

DOUG ATKIN
DATKIN@OCPHX.COM
WWW.OCPHX.COM
269.207.3070

This message may contain privileged or confidential information. If you are not the intended recipient, please disregard and notify the sender. Thank you.

City of Portage Map Document

PORTAGE
A Natural Place to Move

web mapping by
Amalgam LLC

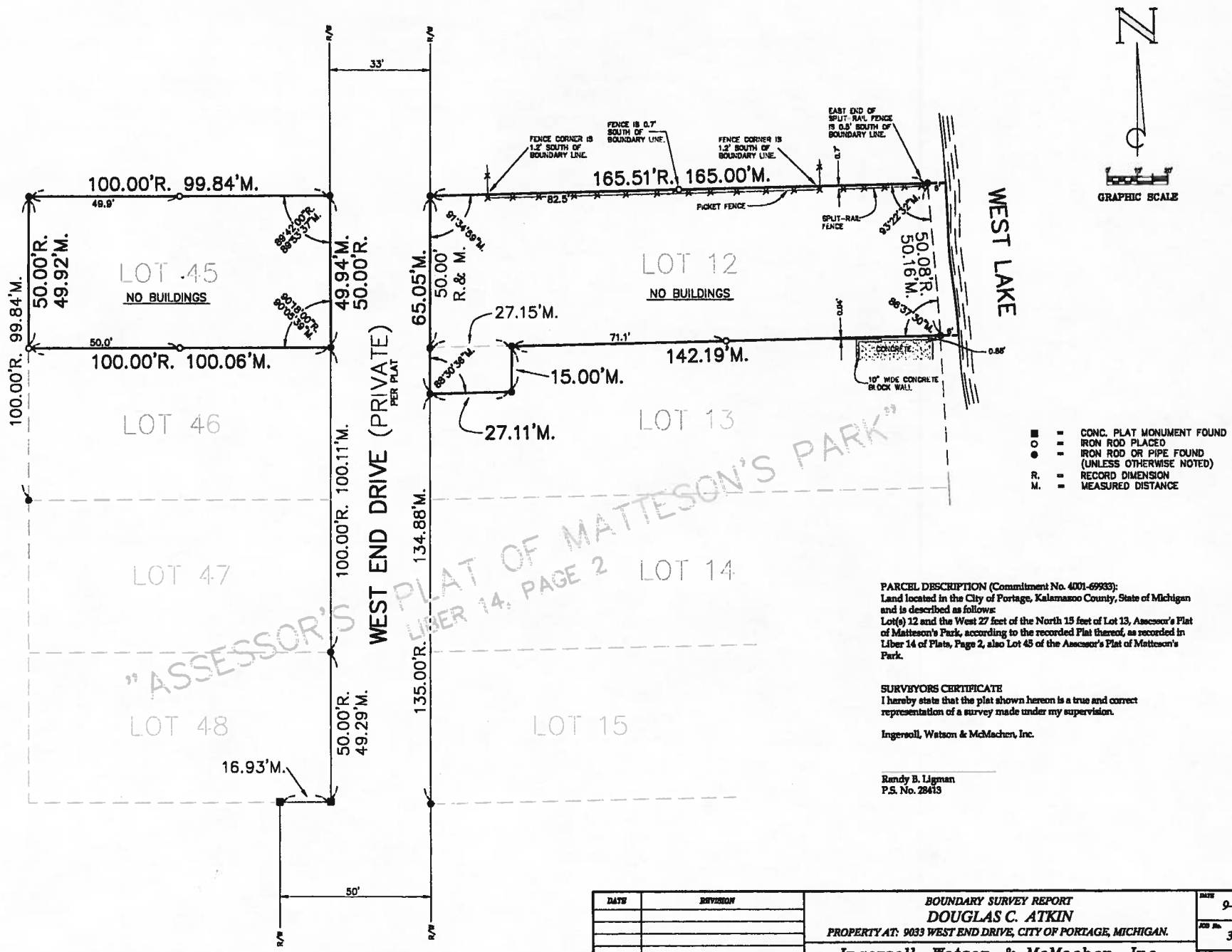
1:900

Map Publication:

Tue Jul 23 2013 08:27:16 AM

Disclaimer:

This map does not represent a survey or legal document and is provided on an "as is" basis. City of Portage expresses no warranty for the information displayed on this map document.



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 Matteson'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 Matteson'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

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
1153 East Milham Road • Portage Michigan 49002 • Area 269-344-6165 • Fax 269-344-0555

DATE 9-22-11
JOB No. 35951
SHEET No. 1

PORTAGE
A Natural Place to Move

Department of Community Development

TO: Zoning Board of Appeals **DATE:** August 1, 2013

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: ZBA #13-03; Larry Lutz, 9033 West End Drive, R-1A, One Family Residential

CODE SECTION: 42-181; Principal Permitted Uses R-1A, One Family Residential, p. CD42:64.1-42:64.2
42-121; Accessory Uses, p. CD42:28 - 42:29

APPEAL: Requesting a variance to construct a 30-foot by 40-foot accessory building on a zoning lot separate from the principal use.

STAFF RECOMMENDATION: The applicant requests the above variance per the enclosed application, site sketch, letter of explanation, and related materials. The property addressed as 9033 West End Drive consists of two lots: lot 45 and lot 12 of Assessor's Plat of Matteson's Park (see attached plat drawing), which are located across from each other on opposite sides of West End Drive (the north 550 feet of which is a private road). The lakefront property (lot 12) is zoned R-1A, One Family Residential and 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.

As background for the Board, aerial photographs dating from 1950 show a development pattern along West End Drive where houses were constructed on the lakefront lots and detached accessory buildings were located on the on the west side of the street. The Board has granted several variances (ZBA applications 96-08, 90-63, 84-84, 84-28) permitting new accessory buildings or expansions of existing buildings involving the lots on the west side of West End Drive where the principal residential uses were located on the lakefront (east) side of the street. Public sewer runs the length of West End Drive, but leads were only provided to the lakefront (east) lots.

The applicant proposes to construct a 30-foot by 40-foot detached accessory building on lot 45 (located on west side of street) and a new dwelling on lot 45 (located on east side of street). Because the accessory building will be located on a separate zoning lot from the principal use, a use variance is required.

The applicant has not yet purchased the property and does not have detailed house plans available, but has been made aware of the maximum lot cover, setback, and total accessory building area provisions for the R-1A zoning district and indicates they do not intend to seek any variances for the dwelling or any attached accessory building area. The existing development pattern found along the private drive portion of West End Drive, constitutes a unique circumstance for this small neighborhood area. The proposed use will not alter the character of the

neighborhood and the immediate unnecessary hardship was not created by the applicant. While a single-family dwelling can be constructed on lot 45, if the Board finds the land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district, the variance may be authorized. It is recommended any approval be conditioned upon: 1) construction of the accessory building on lot 45 be conducted concurrent with construction of the dwelling on lot 12; 2) the combined accessory building area of the proposed 1,200 square-foot detached accessory building on lot 45 and any accessory building constructed on lot 12 not exceed the ground floor living area of the dwelling; and 3) that the accessory building on lot 45 be owned and used in conjunction with the dwelling (principal use) to be constructed on lot 12.

UNNECESSARY HARDSHIP: Existing development pattern of West End Drive neighborhood. See Suggested Motion form.

S:\2013-2014 Department Files\Board Files\Zoning Board\13-03, 9033 West End Dr\2013 08 01 VG ZBA 13-03, West End, 9033 (staff rpt).doc

26070

FILED IN AUDITOR GENERAL'S DEPT
5-31-34
Lyle G. Fordon
DEPUTY AUDITOR GENERAL

Examined and Approved
5-18-34
Lyle G. Fordon
Deputy Auditor General

I HEREBY CERTIFY THAT THIS DOCUMENT IS A TRUE COPY OF THE MAP OR PLAT FURNISHED THE REGISTER OF DEEDS FOR RECORDING.
5-18-34
Lyle G. Fordon
DEPUTY AUDITOR GENERAL

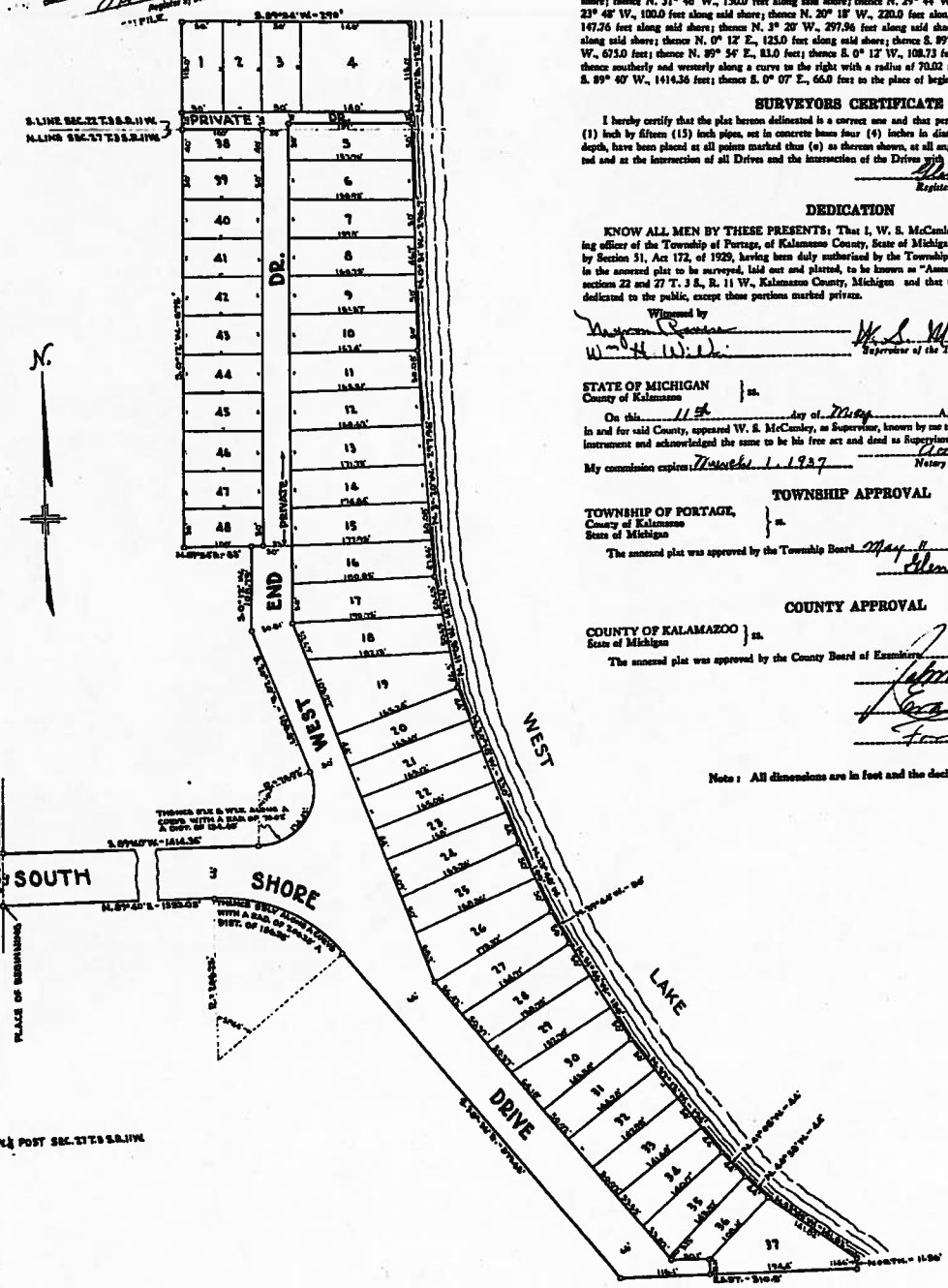
COPY
Register's Office
Kalamazoo County, } ss. Assessors Plat of
Plat of Matteson's Park
was received this 29 day of May A.D., 1934 at 11:30 o'clock
in liber 14 of Plats
Glen Harrison
Register of Deeds.

ASSESSOR'S PLAT OF
MATTESON'S PARK

Sections 22 and 27, T. 3 S., R. 11 W.
KALAMAZOO COUNTY, MICHIGAN

GLEN C. WHEATON, *Registered Civil Engineer and Surveyor*

Scale, 100 feet per inch.



DESCRIPTION

The land embraced in the annexed plat is located in sections 22 and 27 T. 3 S., R. 11 W. and is more particularly described as follows; commencing at the west ¼ post of said section 27 and running thence N. 0° 07' W., along the west line of said section 27, 1650.0 feet; thence N. 89° 40' E., 33.0 feet for the place of beginning of the following described land and running thence N. 89° 40' E., 1353.05 feet; thence southeasterly along a curve to the right with a radius of 206.25 feet a distance of 186.35 feet; thence S. 38° 36' E., 573.63 feet; thence east, 310.5 feet; thence north, 11.96 feet to the shore of West Lake; thence N. 53° 40' W., 141.82 feet along said shore; thence N. 44° 58' W., 44.0 feet along said shore; thence N. 41° 05' W., 44.0 feet along said shore; thence N. 37° 12' W., 194.0 feet along said shore; thence N. 31° 46' W., 150.0 feet along said shore; thence N. 29° 44' W., 50 feet along said shore; thence N. 23° 48' W., 100.0 feet along said shore; thence N. 20° 18' W., 220.0 feet along said shore; thence N. 11° 03' W., 147.76 feet along said shore; thence N. 3° 20' W., 297.96 feet along said shore; thence N. 0° 51' W., 296.7 feet along said shore; thence N. 0° 12' E., 125.0 feet along said shore; thence S. 89° 54' W., 200.0 feet; thence S. 0° 12' W., 675.0 feet; thence N. 89° 54' E., 83.0 feet; thence S. 0° 12' W., 108.73 feet; thence S. 20° 20' E., 188.87 feet; thence southerly and westerly along a curve to the right with a radius of 70.02 feet, a distance of 134.43 feet; thence S. 89° 40' W., 1414.36 feet; thence S. 0° 07' E., 66.0 feet to the place of beginning.

SURVEYORS CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent monuments consisting of one (1) inch by fifteen (15) inch pipes, set in concrete bases four (4) inches in diameter and forty-eight (48) inches in depth, have been placed at all points marked thus (o) as thereon shown, at all angles in the boundaries of the land platted and at the intersection of all Drives and the intersection of the Drives with the boundaries of the plat.

Glen C. Wheaton
Registered Civil Engineer and Surveyor.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That I, W. S. McCamley as Supervisor, and being the assessing officer of the Township of Portage, of Kalamazoo County, State of Michigan, by virtue of authority in me vested by Section 51, Act 172, of 1929, having been duly authorized by the Township Board have caused the land described in the annexed plat to be surveyed, laid out and platted, to be known as "Assessors Plat of MATTESON'S PARK," sections 22 and 27 T. 3 S., R. 11 W., Kalamazoo County, Michigan and that the Drives as shown on said plat are dedicated to the public, except those portions marked private.

Witnessed by
Gertrude Rossner
W. H. Wilde

W. S. McCamley
Supervisor of the Township of Portage, Assessing Officer.

STATE OF MICHIGAN
County of Kalamazoo } ss.

On this 11th day of May A. D. 1934, before me a Notary Public, in and for said County, appeared W. S. McCamley, as Supervisor, known by me to be the person who executed the above instrument and acknowledged the same to be his free act and deed as Supervisor.

My commission expires March 1, 1937

Clara M. Sweet
Notary Public, Kalamazoo County, Mich.

TOWNSHIP APPROVAL

TOWNSHIP OF PORTAGE,
County of Kalamazoo
State of Michigan } ss.

The annexed plat was approved by the Township Board May 11, 1934.

Glenn Barrierla
Township Clerk.

COUNTY APPROVAL

COUNTY OF KALAMAZOO
State of Michigan } ss.

The annexed plat was approved by the County Board of Examiners May 11, 1934.

John L. Hollander
Judge of Probate.
Ira M. Tenbrunsel
County Clerk.
Fred Williams
County Treasurer.

Note: All dimensions are in feet and the decimals thereof.

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.**