



ZONING BOARD OF APPEALS

September 8, 2014

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, September 8, 2014

(7:00 pm)

Portage City Hall
Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * August 11, 2014 meeting

OLD BUSINESS:

NEW BUSINESS:

- * 1. ZBA #14-4 David Schram, 710 East Osterhout Avenue: Requesting a variance to construct a 20-foot high accessory building where a maximum 14-foot height is permitted.
- * 2. ZBA #14-6 Hansen Building and Design on behalf of Kelly Motson, 1622 West Milham Avenue: Requesting a variance from the conflicting land use screening requirements along the west property line where abutting a residentially zoned property.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – August 11, 2014

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

MEMBERS PRESENT: Tim Bunch, Randall Schau, Michael Robbe, Doug Rhodus, Jeffrey Bright, Lowell Seyburn, Glenn Smith, and Chadwick Learned.

MEMBERS EXCUSED: A motion was made by Bunch, seconded by Robbe to excuse Phillip Schaefer. Upon voice vote motion passed 7-0

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator and Randy Brown, City Attorney

APPROVAL OF THE MINUTES: Robbe moved and Bunch seconded a motion to approve the June 9, 2014 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #14-02, 2375 East Centre Avenue: Mr. Mais summarized the request for a variance to construct a new freestanding sign 5 feet from the front property line where a minimum 10-foot setback is required. Mr. Poulsen was present to answer any questions. There were no questions.

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

A motion was made by Robbe, seconded by Bunch to grant a variance to construct a new freestanding sign 5 feet from the front property line where a minimum 10-foot setback is required for the following reasons: there are exceptional circumstances applying to the property that do not generally apply to other properties in the zoning district which include the public street right-of-way width was incorrectly shown on the original site plan; the variance is necessary for the preservation of a substantial property right, the right to have a sign visible from the right-of-way, which is similar to that possessed by other properties in the same zoning district and in the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and the variance will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report and 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, Rhodus-Yes, Seyburn-Yes, Schau-Yes, Bunch-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

ZBA #14-03, 6151 and 6000 Portage Road: Mr. Mais summarized the requests for: a) a Temporary Use Permit to allow an outdoor promotional event, the “2014 High on Kalamazoo Balloon Fest” from September 26 through September 28, 2014; and b) a variance to modify a nonconforming non-accessory sign at 6000 Portage Road. Kim Robinson stated the Air Zoo learned from last year’s event and this year they made arrangements for overflow parking at 6901 Portage Road and would be running shuttle busses between that parking lot and the Air Zoo throughout the event. Seyburn inquired how far back the sign was from the street itself and if the city was concerned the proposed sign addition might obstruct traffic visibility. Mr. Mais stated he did not know the exact distance but it was more than 50 feet back from East Milham and did not believe the proposed sign would cause traffic visibility problems. Bright inquired how many were expected to attend the balloon fest at peak times. Ms. Robinson stated last year about 2,500 but those figures might be higher this year due to the Talons Out Honor Flight. Bright inquired who else the Air Zoo had to coordinate with for the balloon launch near the airport. Ms. Robinson said they had to coordinate with the FAA.

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

A motion was made by Seyburn, seconded by Bunch, to approve a Temporary Use Permit to allow an outdoor promotional event, the “2014 High on Kalamazoo Balloon Fest” from September 26 through

September 28, 2014 with the following conditions: 1) on-street parking is prohibited along East Milham Avenue (City of Portage Parks, Recreation and Public Services Department will provide and place necessary signage); 2) all fire lanes and apparatus access roads remain unobstructed during the event; 3) emergency plans be provided to the Fire Marshal prior to the event detailing procedures in the event of fire, power loss, or medical emergencies; and 4) plans for overflow parking be provided to city staff prior to the event. Upon roll call vote: Robbe-Yes, Rhodus-Yes, Seyburn-Yes, Schau-Yes, Bunch-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

A motion was made by Seyburn, seconded by Robbe to approve a variance to modify a nonconforming non-accessory sign at 6000 Portage Road for the following reasons: there are exceptional circumstances applying to the property that do not generally apply to other properties in the zoning district which include the city acquiring additional public street right-of-way; the variance is necessary for the preservation of a substantial property right, the right to have a non-accessory sign; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, as it sits far back from the streets and is significantly smaller than a conforming 300 square-foot sign, 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 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, Rhodus-Yes, Seyburn-Yes, Schau-Yes, Bunch-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

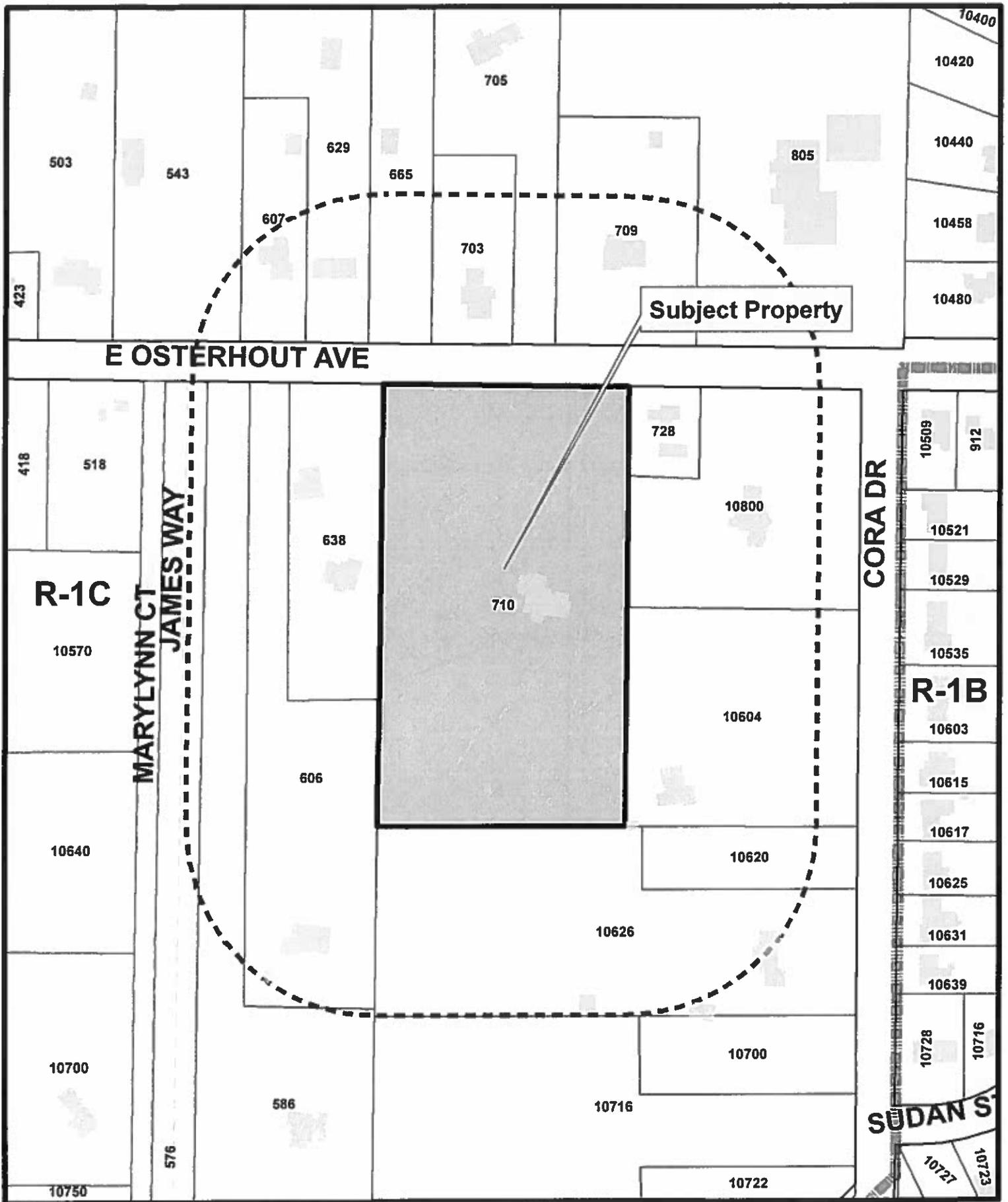
OTHER BUSINESS: Mais stated city staff was looking into making arrangements for additional training for Board members as is done periodically.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



-  Zoning Boundary
-  Subject Properties
-  Notification Area

ZBA 14-04
710 East Osterhout Avenue



1 inch = 200 feet



 Subject Properties

Aerial Photography 710 East Osterhout Avenue



1 inch = 101 feet

13-10000078



Department of Community Development

RECEIVED

AUG 11 2014

ZONING BOARD OF APPEALS APPLICATION COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 8/11/14
Name of Applicant David Schram
Applicant's Address 710 E Osterhout Ave
Name of Property Owner (if different from Applicant)
Address
Phone No.

Address of the Property that is the subject of this Application:
Street Address 710 E Osterhout 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:

Application Fee (Residential Uses) (All Other Uses)

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

X Variance from Zoning Ordinance: Article Section 42-12B Paragraph B-1(a)
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

Table with 3 columns: Application Number (14-04), Filing Date (8/11/14), Tentative Hearing Date (9/8/14). Row 2: Previous Application Filed Regarding This Property.

Reason For Variance

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

see attached

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

see attached

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

see attached

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

see attached

5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)

see attached

6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)

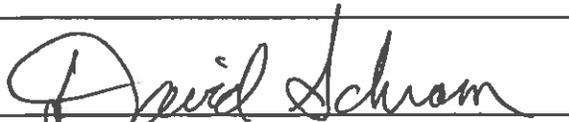
see attached

7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)

see attached

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

see attached


Signature of Applicant


Date

David Schram
710 E Osterhout
Portage, MI 49002

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AUG 18 2014

COMMUNITY DEVELOPMENT

RE: PERSONAL STORAGE BUILDING VARIANCE

I would like to build a detached accessory building (barn) for personal storage on my property, near my home at 710 E Osterhout. Principally, I would like to use this barn to store a camper, though I intend to build it large enough to also park my pickup truck and snow plow, garden tractor, outdoor tools, etc. in as well. The main overhead door needs to be at least twelve and a half feet high and twenty feet wide in order to comfortably and safely get my camper in. When the track and structure needed to support and operate the door are taken into account, the building is nearly at the maximum height allowed by the city code, without accounting for the roof. I believe the most aesthetically pleasing roof pitch for my barn will be 6/12, to match the architecture and style of my home. The final design of the building is not complete, but I expect the footprint will be approximately 48 feet wide and 56 feet deep. I believe the door height and pitch constraints outlined above will require my barn to stand at a height (as defined by the code) of twenty feet (see attached front elevation).

The physical characteristics of the barn are not unique to the area. The neighbor directly to the west has a similar building of similar height and in a similar location relative to his home. As stated before, there is no other realistic way to protect a camper of the size I am buying from the elements, falling tree debris, etc on my heavily wooded property. The variance I am requesting is based on the desire to keep my barn as architecturally similar to my house as possible by maintaining the same roof pitch. It is in the interest of the property owners in the area for all new construction to be attractive, well built, and long lasting. I believe by using similar geometry and quality roofing and siding materials, I will achieve this result.

The closest neighbor's home is about one hundred seventy (170) feet away from the proposed building (distances to adjacent properties are shown on attached drawing from the city GIS) and it will be screened from view by all neighbors and from the street by trees. I believe the construction of a barn will in no way increase traffic, noise or have any other detrimental effect on the surrounding properties.

I believe this structure will obey the spirit of the zoning ordinance, despite the variance since the purpose of the particular rule in question is meant to protect surrounding homeowners from the construction of excessively large or unattractive structures close to their homes. I am planning on building a very nice looking barn that matches the look of my home (which is very much in line with the spirit of the rule), and the distance between the proposed structure and the surrounding properties combined with the forest that screens them from view effectively prevents the negative effects this rule is meant to prevent.



PROXIMITY OF SURROUNDING PROPERTIES AND STRUCTURES TO PROPOSED BARN

web mapping by
Amalgam LLC

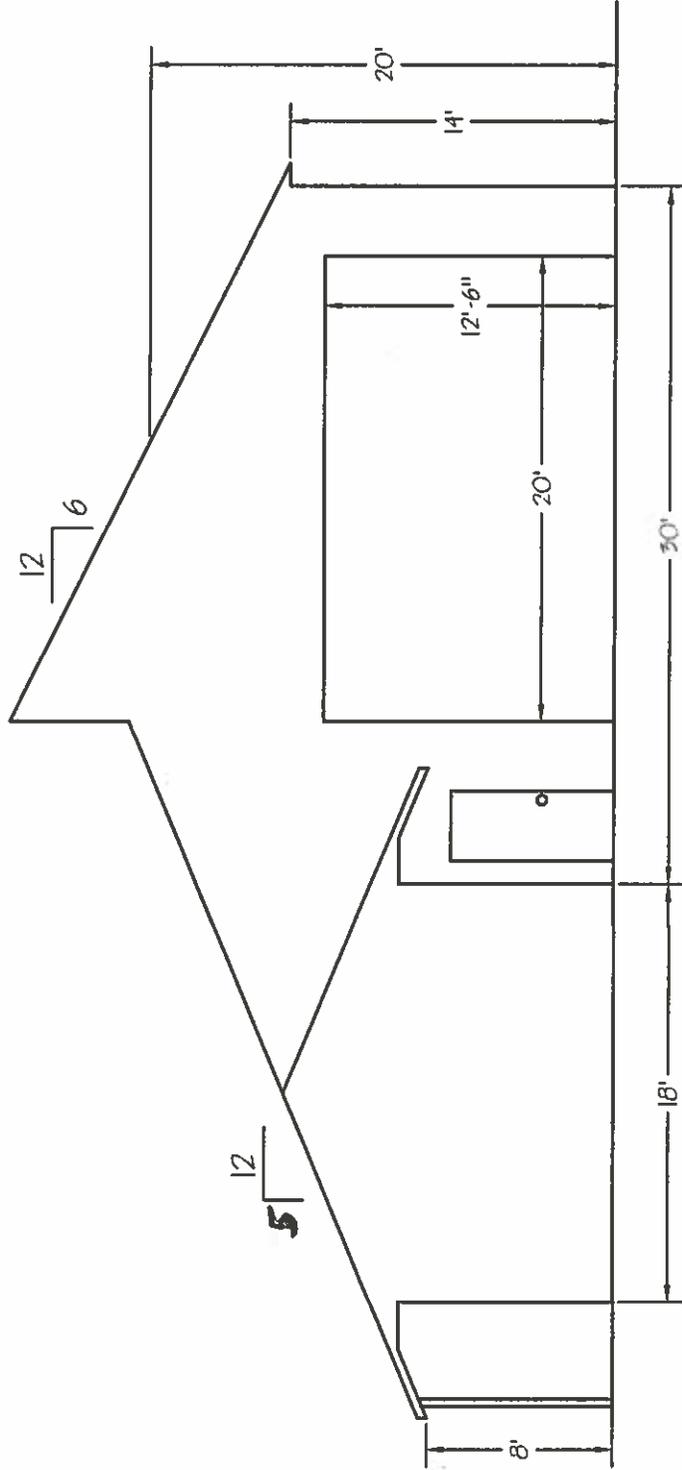
1:2300
Map Publication:
Sun Aug 10 2014 07:03:34 PM

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.

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AUG 13 2014

COMMUNITY DEVELOPMENT



NEW BARN FOR DAVE SCHRAM - FRONT ELEVATION

710 E OSTERHOUT

PORTAGE, MI 49002

SCALE: 1/8" = 1'-0"

Dave Schram has explained to me why he wants to build a barn on his property and has made clear to me the intended uses and proposed location of the structure. I have also seen conceptual sketches of the structure and approve of the design intent they reflect. It is my belief this structure will in no way negatively impact the value of my home or property, and I have no interest in contesting his request for a variance regarding the height of the structure.

- (1) Mark Frederick, 638 E Osterhout (W)
- (2) Robert Shane, 728 E Osterhout (E)
- (3) Tim Carlisle, 10800 Cora Dr. (E)
- (4) Gary Lewis, 10604 Cora Dr. (E)
- (5) Bill & Theresa Newberry, 607 E Osterhout (NW)
- (6) Clifford Wheeler, 629 E Osterhout (N)
- (7) Mark Gerard, 703 E Osterhout (N)
- (8) Harold & Laura Betz, 705 E Osterhout (N)
- (9) Donald Osterhout, 709 E Osterhout (N)

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AUG 13 2014

COMMUNITY DEVELOPMENT

Signature

Date

(1) Mark Frederick 8-11-14

(2) Robert M. Shane 8-11-14

(3) Tim Carlisle 8-12-14

(4) Gary Lewis 8-11-14

(5) Bill Newberry 8-12-14

(6) Vacant - For Sale

(7) M D A 8-11-14

(8) Harold C. Betz 8-11-14

(9) Donald Osterhout 8-11-14

TO: Zoning Board of Appeals **DATE:** August 29, 2014
FROM: Vicki Georgeau, ^{VG} Director of Community Development
SUBJECT: ZBA #14-4; David Schram, 710 East Osterhout Avenue, R-1C, One Family Residential
CODE SECTION: 42-121(B)(1)(a); Accessory Buildings, p. CD42:28

APPEAL: Requesting a variance to construct a 20-foot high accessory building where a maximum 14-foot height is permitted.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application, letter of explanation, building sketch and related materials. The property is 6.1 acres in area, zoned R-1C, One Family Residential and is improved with a 2,640 square-foot two-story dwelling and 976 square-foot attached garage. The property is surrounded by other R-1C zoned single family residences.

The applicant proposes to construct an accessory building measuring approximately 48 feet by 56 feet (applicant indicates the design has not been finalized but will not differ substantially from this size). The applicant indicates the accessory building is needed for personal storage including: a camper, pickup truck, snow plow, garden tractor and tools. A 12.5 foot high main overhead door is proposed to provide adequate clearance for a camper and the applicant proposes the building be constructed using the same 6:12 pitch roof used on the dwelling. Because the proposed accessory building measures 20 feet high where a maximum 14 feet is permitted, a variance is necessary. As information, the Board granted a variance (ZBA#98-62) permitting a 15-foot high accessory building for the adjacent property at 638 East Osterhout Avenue.

Although the applicant has a conforming alternative (flat roof) or a reduction in the pitch of the roof that would require a lesser variance, a flat roof is not practicable given the Michigan climate and a reduction in the roof pitch would not, according to the applicant, be consistent with the architecture of the dwelling. The subject property, however, is a large parcel in a semi-rural location, is heavily wooded, would be 170 feet from the nearest residence, and is not inconsistent with the character of the surrounding area. These factors would serve to mitigate negative impacts and the Board may grant the variance if it finds a practical difficulty. Finally, as information for the Board, if the variance were to be granted, the applicant would next be required to get approval from the Planning Commission for an accessory building that exceeds the ground floor living area on a parcel over two acres in area.

PRACTICAL DIFFICULTY:

None noted by staff. Applicant notes the need for a 12.5 foot high door and consistent with character of neighborhood; See Suggested Motion form.

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

I move, in regard to ZBA # _____, the application by _____

for a variance from _____

be:

a. granted for all of the following reasons:

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

-Or-

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

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

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



 Subject Properties

Aerial Photography

1622 West Milham Avenue



1 inch = 50 feet

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 8-12-14
 Name of Applicant Hansen Building and Design Corp
 Applicant's Address 2027 Woodhams, Portage
 Name of Property Owner (if different from Applicant) KEITH MCKSON DDS.
 Address 1622 W. Millham, Portage

[Signature]
 Signature
 Phone No. 269-599-4212
 Phone No. 381 0564

Address of the Property that is the subject of this Application:
 Street Address 1622 W. Millham
 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: DEVELOPER OF PROJECT

Application Fee _____ (Residential Uses) \$330⁰⁰ (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 42-573-C Paragraph _____
 Regarding: Use _____ Area _____ Yards _____
 Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): VARIOUS FOR SCREENING REQUIREMENTS along West Property Line

Appeal of Administrative Decision: Article _____ Section _____ Paragraph _____

Reason for Request: _____

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

Reason for Request: _____

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

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

Application Number: <u>14-06</u>	Filing Date: <u>8/12/14</u>	Tentative Hearing Date: <u>9/8</u>
Previous Application Filed Regarding This Property: _____		

RECEIVED
 AUG 12 2014
 COMMUNITY DEVELOPMENT

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)
The westernly adjacent property is 30 feet in width and zoned R-1A. THE PROPERTY IS NOT A DEVELOPABLE PARCEL.
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 if needed.)
YES - HOWEVER THE INTENT OF THE ZONING ORDINANCE IS FOR RESIDENTIALLY ZONED PROPERTIES TO BE PROTECTED BY SCREENING OF ADJACENT PRICE ZONED 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.)
N/A. SEE OTHER STATEMENTS
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 WESTERN PARCEL CANNOT AND CERTAINLY WOULD NOT BE DEVELOPED FOR RESIDENTIAL USE.
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.)
BY OMITTING THE SCREENING REQUIREMENT IT WOULD NOT BE DETRIMENTAL TO THE PROPERTY IN ANY WAY.
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
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
SEE PREVIOUS COMMENTS

[Signature]
Signature of Applicant

8-12-14
Date

GENERAL DEMOLITION NOTES

- 1 NEW PARKING LOT TO BE COMPLETED AFTER DEMO OF TREE.
- 2 ALL UTILITIES TO BE DEMOLISHED AND REMOVED FROM SITE.
- 3 ALL UTILITIES TO BE CONTACTED AND ALL UTILITIES TO BE DEMOLISHED AND REMOVED FROM SITE.
- 4 ALL UTILITIES TO BE CONTACTED AND ALL UTILITIES TO BE DEMOLISHED AND REMOVED FROM SITE.
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- 9 ALL UTILITIES TO BE CONTACTED AND ALL UTILITIES TO BE DEMOLISHED AND REMOVED FROM SITE.
- 10 ALL UTILITIES TO BE CONTACTED AND ALL UTILITIES TO BE DEMOLISHED AND REMOVED FROM SITE.

GENERAL NOTES

- 1 THE OWNER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM PRIOR TO COMMENCING ANY WORK.
- 2 THE OWNER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM PRIOR TO COMMENCING ANY WORK.
- 3 THE OWNER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM PRIOR TO COMMENCING ANY WORK.
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- 9 THE OWNER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM PRIOR TO COMMENCING ANY WORK.
- 10 THE OWNER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF BIRMINGHAM PRIOR TO COMMENCING ANY WORK.

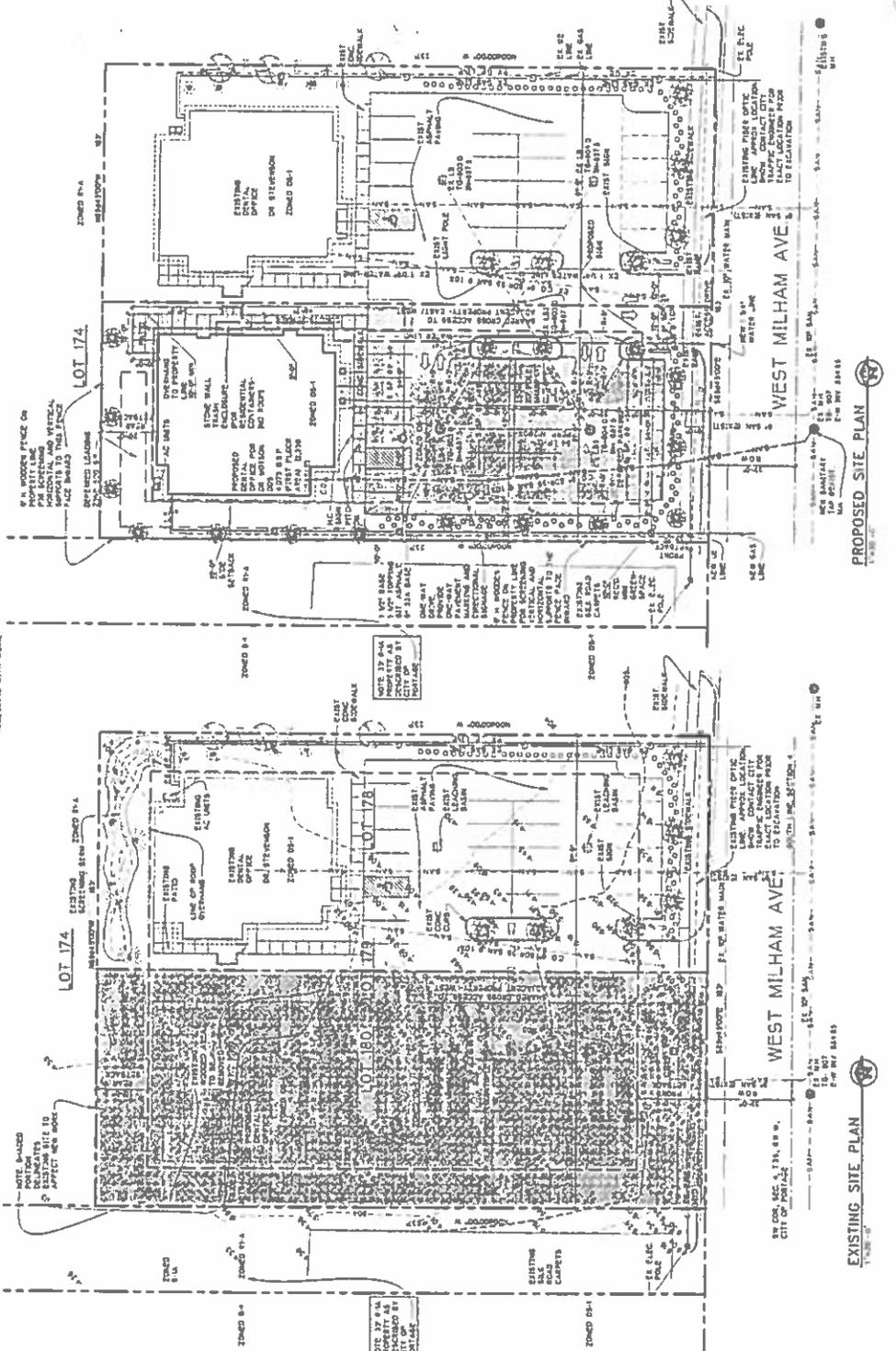
**GENERAL SITE LIGHTING NOTES
(SEE SHEET C-2 FOR DETAILS)**

- 1 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BIRMINGHAM LIGHTING CODE.
- 2 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BIRMINGHAM LIGHTING CODE.
- 3 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BIRMINGHAM LIGHTING CODE.
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- 9 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BIRMINGHAM LIGHTING CODE.
- 10 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BIRMINGHAM LIGHTING CODE.

SITE DATA:

- 1 PROPERTY OWNER: DR. KELLY MOTSON, 1200 SOUTH ST. STREET, PORTAGE, MICHIGAN 49881
- 2 PROPERTY ADDRESS: 1200 SOUTH ST. STREET, PORTAGE, MICHIGAN 49881
- 3 DEVELOPER: HANSEN BUILDING AND DESIGN CORP., 1200 SOUTH ST. STREET, PORTAGE, MICHIGAN 49881
- 4 ARCHITECT: HANSEN BUILDING AND DESIGN CORP., 1200 SOUTH ST. STREET, PORTAGE, MICHIGAN 49881
- 5 SPECIAL INSURANCE: 100% BOND AND 100% LIABILITY
- 6 SPECIAL INSURANCE: 100% BOND AND 100% LIABILITY
- 7 SPECIAL INSURANCE: 100% BOND AND 100% LIABILITY
- 8 SPECIAL INSURANCE: 100% BOND AND 100% LIABILITY
- 9 SPECIAL INSURANCE: 100% BOND AND 100% LIABILITY
- 10 SPECIAL INSURANCE: 100% BOND AND 100% LIABILITY

Dr. Kelly Motson D.D.S.
 3027 WOODLAND
 PORTAGE, MICHIGAN 49881
 616-235-1111
 616-235-1112
 616-235-1113
 616-235-1114
 616-235-1115
 616-235-1116
 616-235-1117
 616-235-1118
 616-235-1119
 616-235-1120



EXISTING SITE PLAN

PROPOSED SITE PLAN



Project # 13-140
 Date January 21, 2014
 01.0



TO: Zoning Board of Appeals **DATE:** August 29, 2014
FROM: Vicki Georgeau, ¹Director of Community Development
SUBJECT: ZBA #14-06; Hansen Building and Design, on behalf of Kelly Motson, 1622 West Milham Avenue; OS-1, Office Service
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 west property line where abutting a residentially zoned property.

STAFF RECOMMENDATION:

The applicant requests the above variance per the enclosed application and site plan. Site plan approval was granted on February 7, 2014 for construction of a new 4,000 square-foot dental office and associated site improvements, and construction is currently nearing completion. The 0.5 acre parcel is zoned OS-1, office service. The property to the west is a vacant, 33-foot wide parcel (1626 West Milham Avenue) zoned R-1A, one family residential. This 33-foot wide parcel is the southern 528 feet of "Outlot A" contained in the Homeacres plat recorded in 1930. Outlot A extends from West Milham Avenue northward to Quaker Avenue. On the west side of Outlot A is a commercial development zoned B-1, local business (1710 West Milham Avenue). The owner of 1710 West Milham Avenue also owns the south 528 feet of Outlot A. The property to the north is zoned R-1A, one-family residential and occupied by a single family residence (5924 Mt. Vernon). To the east, the property is also zoned OS-1 and occupied by a dental office (1618 West Milham Avenue). Across West Milham Avenue to the south is a single family residence and cemetery.

The approved site plan shows the installation of a six-foot high privacy fence and one deciduous tree every 30 feet to satisfy the conflicting land use screening requirements from the adjacent residentially zoned property to the north and west. The applicant will install the screening fence and trees along the north property line but is requesting a variance from these provisions along the west property line. For Board information, the applicant has already planted the deciduous trees (and non-required shrubs) along the west property line.

The intent of the conflicting land use screening requirements is to buffer residences from more intensive, non-residential land uses. The existing zoning/land use pattern; however, creates unique circumstances and practical difficulties for the applicant, as the property is not adjacent to a buildable nor desirable residential lot. Furthermore, during review of this variance request, it was noted the parking lot associated with the commercial use located at 1710 West Milham Avenue has encroached onto Outlot A and, as a result, the property

ZBA #14-06
1622 West Milham Avenue

should be rezoned to a commercial classification consistent with the Future Land Use Plan Map component of the Comprehensive Plan. The need for the variance was not created by the applicant, and the variance would not be inconsistent with the intent of the Zoning Code. Based on the above, approval of the variance is recommended.

**PRACTICAL
DIFFICULTY:**

Surrounding zoning/land use pattern. See Suggested Motion form.

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

I move, in regard to ZBA # _____, the application by _____

for a variance from _____

be:

a. granted for all of the following reasons:

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

-or-

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

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

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