



# ZONING BOARD OF APPEALS

February 8, 2016

**CITY OF PORTAGE ZONING BOARD OF APPEALS  
Agenda**

**Monday, February 8, 2016**

**(7:00 pm)**

**Portage City Hall  
Council Chambers**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF MINUTES:**

- \* December 14, 2015 meeting

**OLD BUSINESS:**

**NEW BUSINESS:**

- \* ZBA #15-10, Kristin Salmon, 10513: Requesting a variance to divide 10513 Sudan Street into two 80-foot wide lots, which would result in the existing house being setback seven and a half feet from the (south) side property line where a minimum 10-foot side yard setback is required.
- \* ZBA #15-11, Christine Pelletier, 4415 Raborn Court: Requesting variances to: a) retain a 13-foot by 13-foot (169 sq. ft.) two-story accessory building in the side (east) yard that is 16 feet in height where a maximum 14-foot height is permitted and; b) retain a partially constructed 58-foot by 19-foot (1,102 sq. ft.) two-story accessory building in the rear (south) yard that is 19.5 feet in height where a maximum 14-foot height is permitted.
- \* ZBA #15-12, Miled Awad, 6527 Naomi Street: Requesting a variance to construct a 24-foot by 48-foot detached accessory building 18 feet from the (west) front property line where a minimum 75-foot setback is required.

**OTHER BUSINESS:**

**STATEMENT OF CITIZENS:**

**ADJOURNMENT:**

Star (\*) indicates printed material within the agenda packet

## Minutes of Meeting – December 14, 2015

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. Five people were in the audience.

**MEMBERS PRESENT:** John Byrnes, Phillip Schaefer, Glenn Smith, Chadwick Learned, Lowell Seyburn, Randall Schau, and Alexander Philipp.

**MEMBERS EXCUSED:** Michael Robbe, Jeffrey Bright.

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

**APPROVAL OF THE MINUTES:** Learned moved and Schaefer seconded a motion to approve the November 9, 2015 minutes as submitted. Upon voice vote, the motion was approved 7-0.

**NEW BUSINESS:**

**ZBA #15-8, Bruce Sperling, 425 Brittany Drive:** Mais summarized the variance request to retain an existing 120 square-foot detached accessory building, that when combined with the area of the existing attached garage and recent garage addition, exceeds the ground floor area of the dwelling by 120 square feet. Mr. Sperling was present to answer questions. Learned noted the applicant had provided no practical difficulty in the application and asked if the applicant had anything to add at this time. Mr. Sperling stated no.

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

A motion was made by Seyburn, seconded by Schau to deny a variance to retain an existing 120 square-foot detached accessory building, that when combined with the area of the existing attached garage and recent garage addition, exceeds the ground floor area of the dwelling by 120 square feet for the following reasons: 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; 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 increasing the ground floor living area; the immediate practical difficulty causing the need for the variance request was created by the applicant; and the variance would materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting material, 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: Philipp-Yes, Byrnes-Yes, Seyburn-Yes, Smith-Yes, Learned-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

**ZBA #15-07, Pfizer Inc., 7171 Portage Road:** Mais summarized the requests for: a) a variance to construct a 97,500 square-foot industrial warehouse addition 50 feet from the front (north) property line where a minimum 100-foot front setback is required; and b) a variance to locate a loading area in a required front yard. Tome Kaste, Project Manager, explained the new warehouse addition is needed to accommodate increased production. The applicant explained the warehouse must be located at the north end of building 41 to accommodate the logistical flow, as raw materials enter from south and end up as finished products ready to ship at the north end of building. Mr. Kasten stated constructing a separate warehouse building in a conforming location was not an option as federal regulations prohibit finished products from leaving the building until they are shipped directly to market, and no other practical conforming locations for a warehouse addition were available. Mr. Kasten added the proposed addition would have landscaping in front of both the building addition and the loading dock areas and the addition would be very unlikely to impact any neighbors negatively as the nearest building would be about 400 feet away on the north side of Romence Road East. Learned noted no manufacturing activities were proposed in the addition but wondered if that could change in the future. Mr. Kasten stated Pfizer had no such plans. Learned inquired of staff if it could happen with a future owner. Mais responded the possibility exists. Byrnes noted the addition would be removing parking spaces along the north side of the facility and wondered if more parking would be added elsewhere. Mr. Kasten stated yes.

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

A motion was made by Seyburn, seconded by Smith, to grant: a) a variance to construct a 97,500 square-foot industrial warehouse addition 50 feet from the front (north) property line where a minimum 100-foot front setback is required; and b) a variance to locate a loading area in a required front yard, with the condition that 8-foot tall evergreens obscuring the view of the loading area be placed every 20 lineal feet beginning at a point parallel to the northeast corner of the proposed addition and extending 220 feet east along Romence Road East (except the driveway) for the following reasons: there are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include federal regulatory requirements and the location of previously constructed buildings; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to continue to manufacture and ship pharmaceutical products; 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 material, 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: Philipp-Yes, Byrnes-Yes, Seyburn-Yes, Smith-Yes, Learned-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

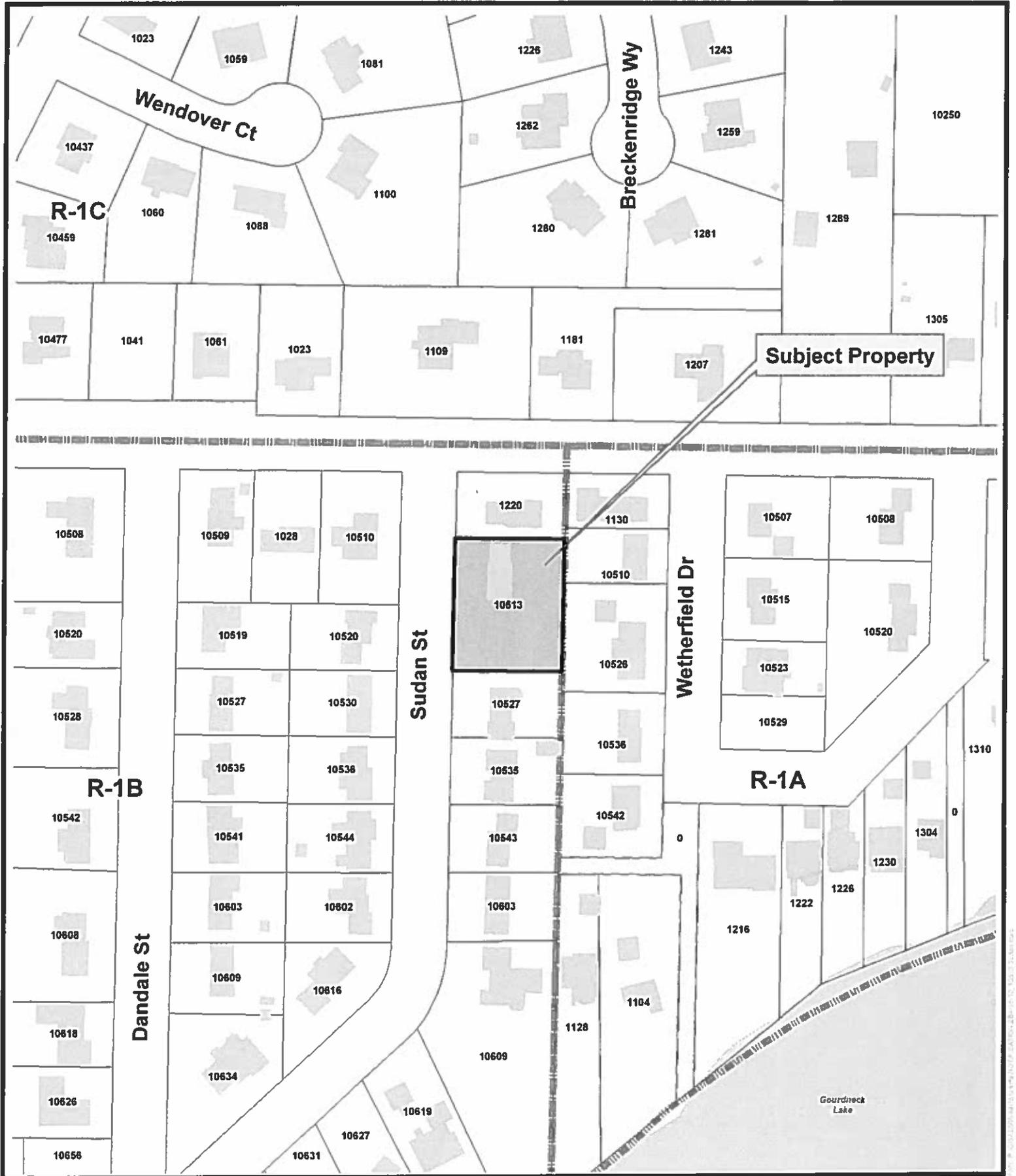
**OTHER BUSINESS:** Seyburn stated he would not be available to attend the January meeting.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 7:34 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator



**Legend**

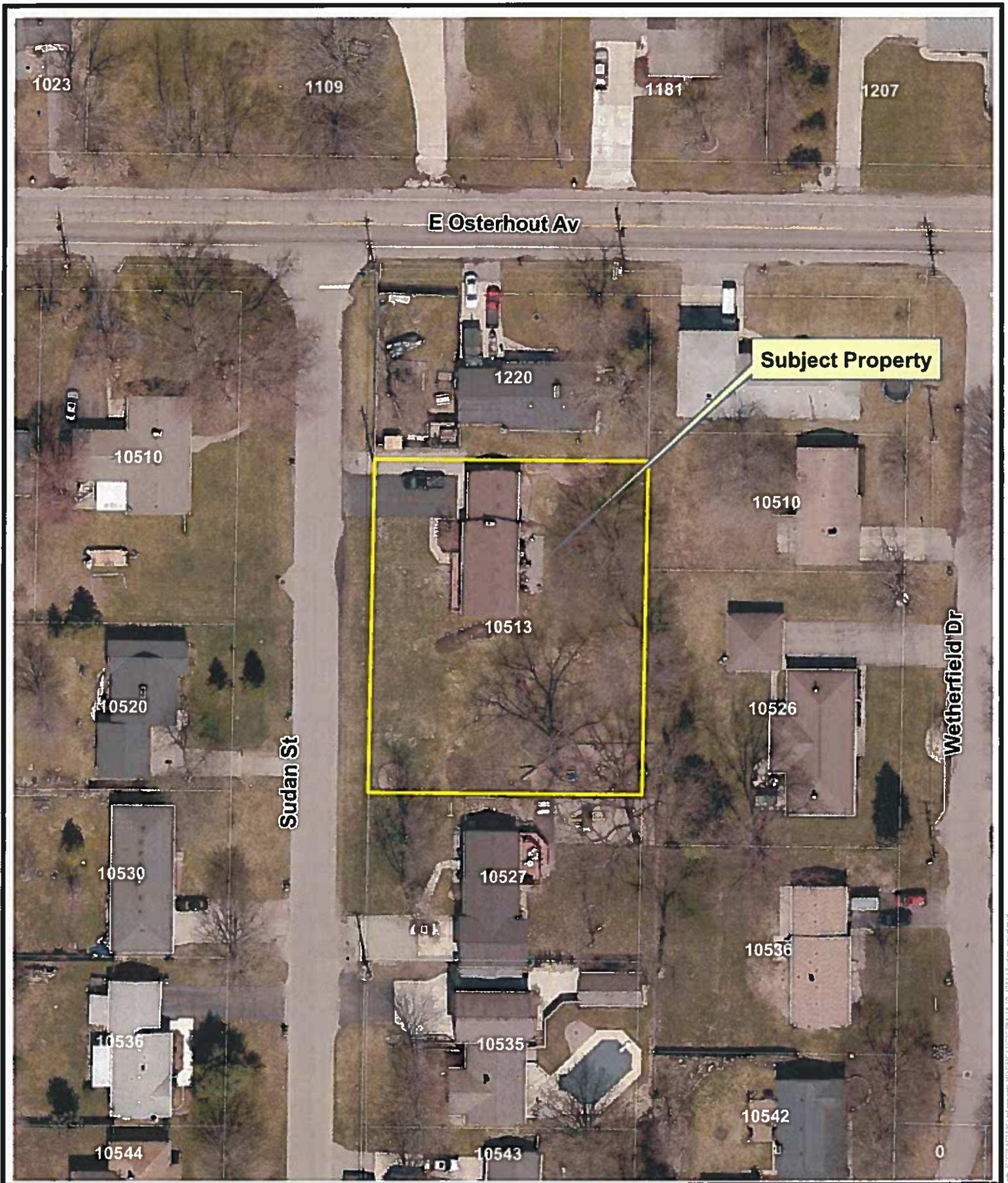
-  Subject Property
-  Zoning Boundary
-  Notification Area

# ZBA 15-10

## 10513 Sudan Street



1 inch = 150 feet



**Legend**  
[Yellow Box] Subject Property

# Aerial Photography 10513 Sudan Street



1 inch = 60 feet

Feb. 8<sup>th</sup>



Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 12/17/2015

Name of Applicant KRISTIN R.M. SALMON

*[Handwritten Signature]*

Applicant's Address 10513 SUDAN ST. PORTAGE MI 49002

Phone No. (616) Father - Bob SALMON (269) 744-0705

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

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

Street Address 10513 SUDAN, PORTAGE MI 49002

For Platted Property: Lot 19 & 20 of BOURNECK TERRACE, LIBERTY Plat

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

Applicant's interest in Property that is the subject of this Application:

to allow variance between Lot 19 House & Property line

Application Fee \$135.00 (Residential Uses) \_\_\_\_\_ (All Other Uses) *(See attached letter)*

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 \_\_\_\_\_

RECEIVED

Reason for Request (Also complete page 2 of application): \_\_\_\_\_  
DEC 24 2015

\_\_\_\_ **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>15-10</u>                          | Filing Date: <u>12/24/15</u> | Tentative Hearing Date: <u>2/8/16</u> |
| Previous Application Filed Regarding This Property: _____ |                              |                                       |

**Reason For Variance**

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

*The location of the set back property line between lots*

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

*See Attached letter*

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 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.)

*See Attached 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.)

*See Attached letter*

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.)

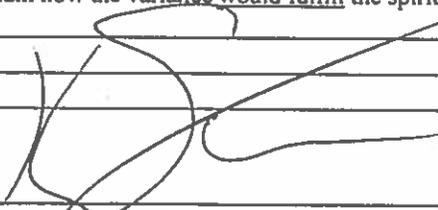
*See Attached letter*

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 letter*

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

*See Attached letter*

  
Signature of Applicant

*12/24/11*  
Date

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Department of Community Development  
City of Portage, Michigan  
7900 South Westnedge,  
Portage, MI 49002

Kristin Saimon  
c/o D. Robert Saimon  
9939 Woodlawn Drive,  
Portage, MI 49002  
[b.salmon@charter.net](mailto:b.salmon@charter.net)

To the zoning board of appeals:

In February, 2015 I purchased a house at 10513 Sudan Street, on Lot 20 of Gourdneck Terrance in Liber 22 Plats. The purchase of this property included a double lot, including Lot 19, on which my house sits, and the adjacent empty lot, Lot 20.

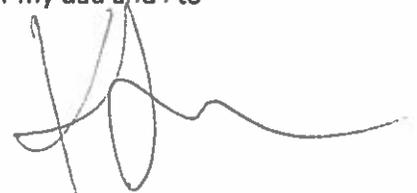
The purpose of this letter is to apply for a Variance from the current zoning ordinance. Specifically, the setback ordinance from property line to house structure is, as I understand the current ordinance, 10 feet. Having just completed a formal property survey of both lots 19 and 20, I have confirmed that the distance from my house to the south property line is only 7.5 feet. While both lots measure the required 80 x 132 foot dimension, the setback does not meet with the current zoning setback distance of 10 feet between house and the south property line.

It is my understanding that at the time the home was constructed that the zoning requirements mandated ONLY five (5) feet between dwelling and property line, as is reflected in the distances between of a number of properties/property line in this Plat. It is my understanding that this ordinance was changed by the city of Portage long after the original house construction, which I believe was @ 1957. It is also my understanding that the empty lot (#19) is of the correct dimension, already has sewer "link/line" already in place, and as such meets current ordinance criteria for a single separate lot.

Our purpose for applying for a zoning variance is likely self-explanatory, but for the purpose of clarifying our ultimate intent, we are attempting to apply for a zoning variance for the purpose of separating Lots 19 and 20 with the intention of then applying for a land division and subsequently attempting the selling of a separated Lot 19. Based on the fact that many of the houses in the Plat have less distance than the current 7.5 feet between house and lot line, and that the empty lot is of adequate dimension for land division, and that sewer lines are already in place, we are asking the City of Portage to allow a zoning variance of 2.5 feet on the south end of lot 20. If approved we would then move forward with an application for land division for the purpose of selling Lot 19.

Because I am currently living with my mom and dad at their place of residence in Portage, I would prefer that all written communication on this matter be sent to their address as specified above, 9939 Woodlawn Drive. My dad is helping me move forward with this application, and I am only occasionally at Sudan Street, hence any mail response to my parents address makes it easier for my dad and I to communicate on these issues.

Thank for your consideration of this application, Sincerely, Kristin Salmon





**City of Portage Map Document**

web mapping by  
Amalgam LLC

**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.

1:700  
Map Publication:  
Thu Dec 24 2015 11:14:24 AM

# CERTIFICATE OF SURVEY

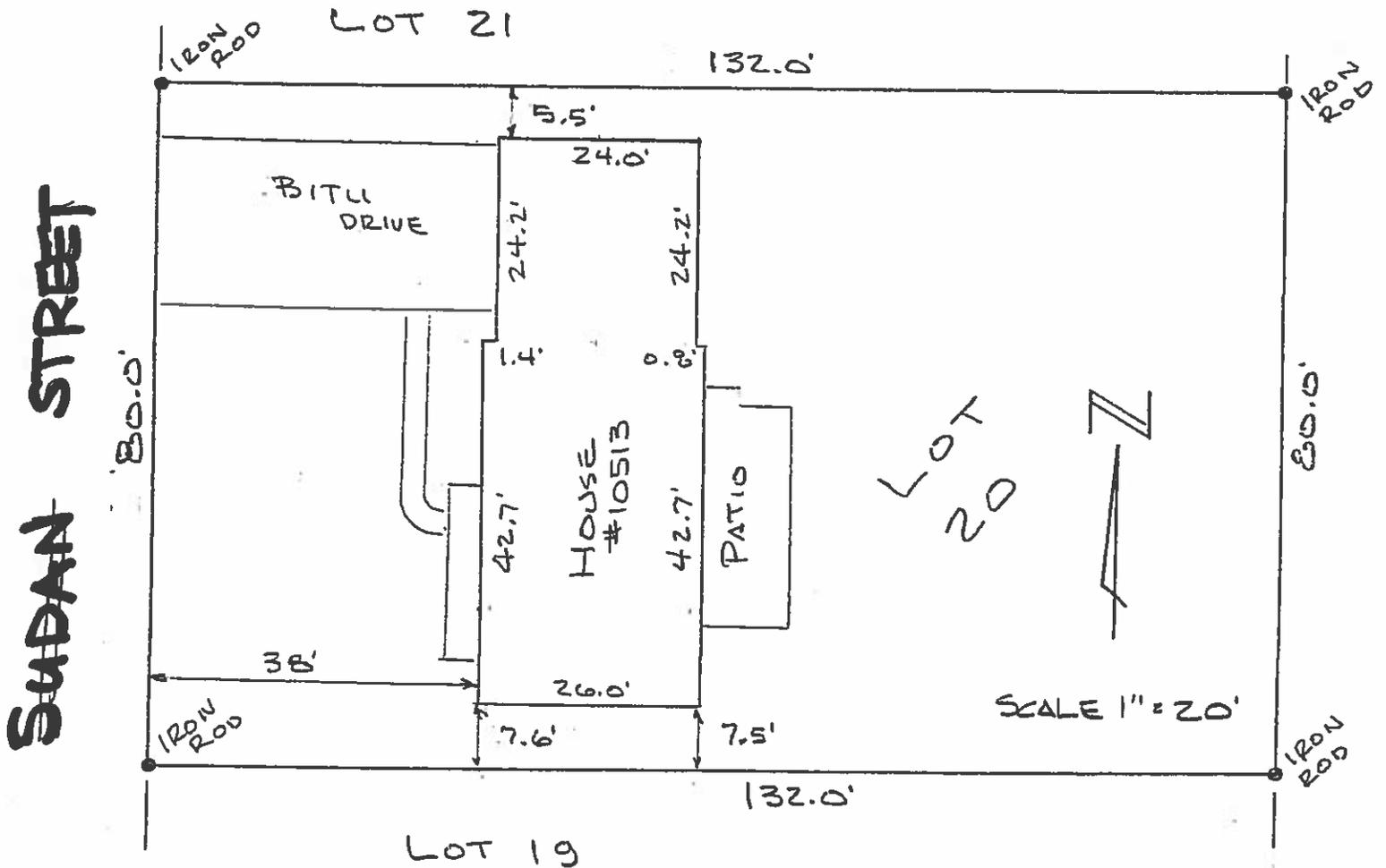
The undersigned, a Registered Land Surveyor under the laws of the State of Michigan, certifies that he has made a survey of the following described property. Measurements were made and corners perpetuated in accordance with the true and established lines of the property as described.

Situated in the City of Portage, Kalamazoo County, Michigan:

Lot 20, Gourdneck Terrace, according to the plat thereof as recorded in Liber 22 of Plats, on Page 15, Kalamazoo County Records.

Owner: Bob Salmon

Property Address: 10513 Sudan Street, Portage, MI 49002



I hereby certify that the survey as shown above is correct as described.

Surveyed December 7, 2015

Survey No. 2015-062

By: *Tom J. Woldring*  
Professional Surveyor #22446

## WOLDRING SURVEYING

1801 Schuring Road  
Portage, MI 49024  
Ph: 269-327-8643

**TO:** Zoning Board of Appeals **DATE:** January 29, 2016  
**FROM:** Vicki Georgeau, <sup>VG</sup> Director of Community Development  
**SUBJECT:** ZBA #15-10, Kirsten Salmon, 10513 Sudan Street; R-1B, One Family Residential.  
**CODE SECTION:** 42-350 Schedule of Regulations; p. CD42:84.

**APPEAL:** Requesting a variance to divide 10513 Sudan Street into two 80-foot wide lots, which would result in the existing house being setback seven and a half feet from the (south) side property line where a minimum 10-foot side yard setback is required.

**STAFF RECOMMENDATION:** The applicant is requesting the variance per the enclosed application, letter of explanation, survey, and related materials. The 160-foot wide by 132-foot deep property is in a residential neighborhood, zoned R-1B, One Family Residential, and is improved with a legally nonconforming 1,092 square-foot one-story dwelling and attached 576 square-foot attached garage constructed in 1958. The dwelling is nonconforming because it located five and half feet from the (north) side property line where a minimum 10-foot side yard setback is required.

The Gourdneck Terrace plat, where the property is located, was recorded in 1958. The dwelling was built on Lot 20. Lots 19 and 20, however, were combined (by a previous owner) to create the current double lot. The applicant proposes to re-divide the property into the original two 80-foot wide by 132-foot deep lots and sell Lot 19 as a separate buildable lot. The two proposed lots would conform to all lot area and dimension requirements but would place the existing dwelling seven and a half feet from the proposed south side property line, where a minimum 10-foot side yard setback is required. A variance is therefore requested.

There are exceptional or extraordinary circumstances applying to the property that do not apply generally to other properties in the zoning district. The Gourdneck Terrace plat was developed during the late 1950's/early 1960's at a time when the Portage Township zoning code required minimum five-foot side yard setbacks. Consequently, there are many examples of dwellings in the neighborhood that do not meet the 10-foot side yard setback, the proposed land division would therefore not be out of character for the neighborhood. The applicant did not construct the dwelling, combine the properties, nor create the practical difficulty causing the need for the variance. Lastly, both properties were intended to be developed as separate buildable lots, and each lot has its own water and sewer lead. For these reasons the variance is recommended.

**PRACTICAL DIFFICULTY:** Location of dwelling on lot. 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:

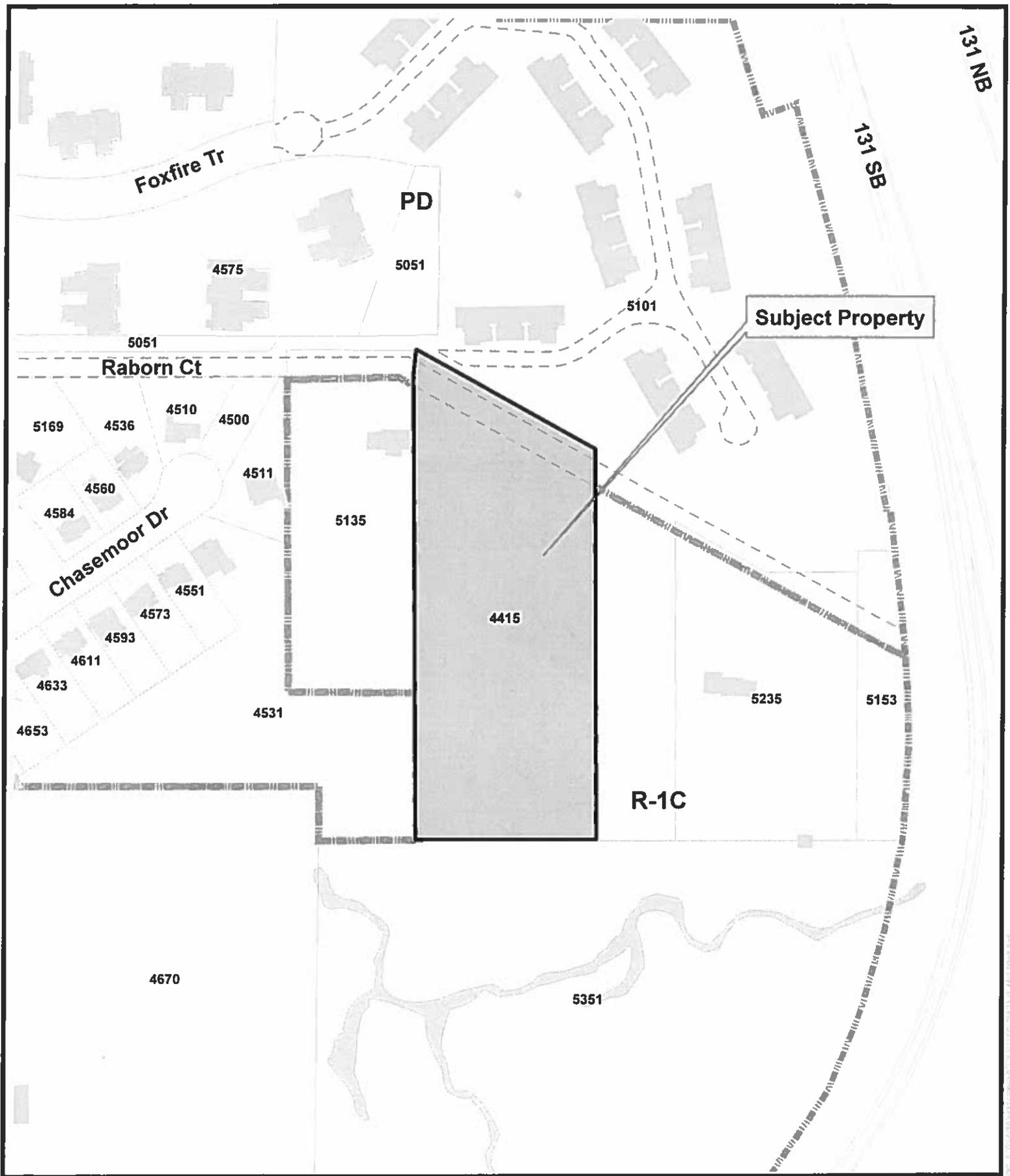
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right,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



**Legend**

-  Subject Property
-  Zoning Boundary

**ZBA 15-11**  
**4415 Raborn Court**



1 inch = 200 feet



**Legend**  
[Yellow Outline] Subject Property

# Aerial Photography 4415 Raborn Court



1 inch = 100 feet

File: R:\02-1017\Aerial\p\02-1017-CA\02-28\15-11-4-15-raborn\_aerial.mxd



Department of Community Development

RECEIVED

JAN 06 2016

COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 1/6/2016
Name of Applicant Christine Pelletier
Applicant's Address 4415 Raborn Ct, Portage, MI 49024
Name of Property Owner (if different from Applicant)
Address
Phone No.

Address of the Property that is the subject of this Application:
Street Address 4415 Raborn Ct, Portage, MI 49024
For Platted Property: Lot of Plat

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

Applicant's interest in Property that is the subject of this Application: owner

Application Fee (Residential Uses) (All Other Uses)

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

Variance from Zoning Ordinance: Article Section 41-121 Paragraph B
Regarding: Use Area Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application): buildings were built without permits and I would like to keep two of them.

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 (20A 15-11), Filing Date (1/6/16), Tentative Hearing Date (2/8/16). 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.)

The two buildings I would like to keep were built without permits. (See attached photograph of Barn and Boiler building.) They both exceed the fourteen foot (14') height limit. (See attached sheet)

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.)

No, we can't use these two buildings without this variance

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.)

As the buildings have already been built, it is required for reasonable use.

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 buildings are not visible from the road nor from any neighboring structure. These two structures create no adverse affect to my neighbors. (See attached sheet)

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

These buildings are not for commercial use. They have no effect on traffic, noise, or other problems.

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.)

My husband and eldest son started construction of the buildings. I had no knowledge of any permit requirements. I moved away after my husband died. (See attached sheet)

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

The intent of the Zoning Ordinance is to make sure the actions of the homeowners are safe and do not unreasonably harm neighbors. I believe (see attached sheet)

Christina Politano  
Signature of Applicant

1/6/2016  
Date

Reason for Variance: (Continued)

1. The square footage of the barn would have required permission from the Planning Committee to build.
  
5. The buildings were built around 2010. We never had a complaint from anyone regarding these buildings.
  
7. in 2012. I anticipated my children buying the property. When this did not work as planned, I was forced to evict my children from the home. I am trying to bring the property into compliance with the City of Portage without the unnecessary hardship that removing the buildings would cause.
  
8. these two structures can meet the spirit of the Portage Zoning Ordinance.

1/26/16

TO: DEPARTMENT OF COMMUNITY DEVELOPMENT  
ATTN: VICKI GEORGEAU

SUBJECT: PELLETIER REQUEST FOR VARIANCE

TOTAL PAGES: 2

FROM: KAREN/WAYNE DEBROSKE

PHONE: 269-372-0872



Karen & Wayne DeBroske  
4559 Foxfire Trail  
Portage, MI 49024  
269-491-0102

January 25, 2016

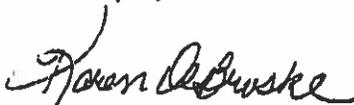
Portage  
Department of Community Development  
7900 South Westnedge Avenue  
Portage, MI 49002

RE: Christine Pelletier, 4415 Raborn Court request for variances

Dear Zoning Board:

I feel there should NOT be a variance allowed for a) to construct a new building that is 16 ft in height, and b) she should not be allowed a 19.5 ft accessory building as stated in your letter of 1/22/16. We need to avoid the excess buildings and buildings over the maximum height. The property is already too unsightly. The ordinances are in place for a reason and we need to follow them to keep up the appearance of our community and neighborhood.

Thank you,

  
Karen DeBroske

  
Wayne DeBroske

**TO:** Zoning Board of Appeals **DATE:** January 29, 2016  
**FROM:** Vicki Georgeau, <sup>JS</sup> Director of Community Development  
**SUBJECT:** ZBA #15-11, Christine Pelletier, 4415 Raborn Court; R-1C, One Family Residential.  
**CODE SECTION:** 42-121(B)(1) Accessory Buildings; p. CD42:29

**APPEAL:** Requesting variances to: a) retain a 13-foot by 13-foot (169 sq. ft.) two-story accessory building in the side (east) yard that is 16 feet in height where a maximum 14-foot height is permitted and; b) retain a partially constructed 58-foot by 19-foot (1,102 sq. ft.) two-story accessory building in the rear (south) yard that is 19.5 feet in height where a maximum 14-foot height is permitted.

**STAFF RECOM-  
MENDATION:**

The applicant is requesting the variance per the enclosed application. The 4.4 acre property is zoned R-1C, One Family Residential, and is adjacent to multiple family dwellings, zoned Planned Development, to the north; undeveloped properties, zoned R-1C to the south; and single family dwellings, zoned R-1C, one family residential, to the east and west. Access is provided from Raborn Court, a private drive. The property is improved with a 2,669 square-foot two-story dwelling (1,630 square feet of living area on the ground floor level) and attached 336 square-foot garage. The house and attached garage were constructed in 1959. In 1969, a permit was issued to construct a 672 square-foot detached garage in the side (west) yard. More recently, several other accessory buildings have been constructed without permits (see attached notated aerial photo) including:

1. 20-foot by 17-foot covered wood storage crib;
2. Partially constructed 24-foot by 32-foot attached greenhouse;
3. 8-foot by 12-foot clapboard shed;
4. Small chicken coop;
5. 6-foot by 8-foot shed;
6. 13-foot by 13-foot two-story accessory building; and
7. Partially constructed 58-foot by 19-foot two-story barn.

The applicant has indicated buildings 1-4 listed above (wood crib, greenhouse, clapboard shed, and chicken coop) will be removed but wishes to retain the 6-foot by 8-foot shed, 13-foot by 13-foot accessory building and 58-foot by 19-foot barn. The applicant will obtain a permit for the 6-foot by 8-foot shed as no special approvals are necessary. Variances to retain the two-story buildings are necessary since the buildings are 16 and 19.5 feet in height, respectively (refer to attached photographs). Additionally, and if the variance is granted, the applicant would next need to obtain approval from the Planning Commission regarding the 1,102 square foot barn since the area of this building, when combined with the total area of the other accessory buildings, will exceed the ground floor of the dwelling by 697 square feet.

While building permits were not obtained, the applicant indicates that due to the size of the property and location of the accessory buildings, the buildings cannot be seen from the street or from neighboring dwellings and the subject property and the adjacent properties are densely wooded. An approximate 18-foot change in elevation exists between Raborn Court at the north end and the barn in the rear (south) yard. The intent of the maximum 14-foot accessory building height is to limit potential negative impacts on neighboring properties. This maximum height requirement is particularly important in more densely developed neighborhoods where dwellings and accessory buildings are in close proximity. The nearest dwelling (5235 Raborn Court) is approximately 270 feet from the 13-foot by 13-foot accessory building and 280 feet from the barn. The size of the subject property, , topography, screening fence, and presence of mature vegetation, effectively screen both buildings from view of adjacent properties.

If the Board finds a practical difficulty exists, the variances may be granted. It is recommended that any variance approval be conditioned upon the following:

1. Obtain a building permit for both structures within 30 days;
2. The buildings be brought into compliance with all applicable building codes within six months; and
3. The 20-foot by 17-foot covered wood storage crib, partially constructed 24-foot by 32-foot attached greenhouse, 8-foot by 12-foot clapboard shed and chicken coop be removed within six months.

**PRACTICAL  
DIFFICULTY:**

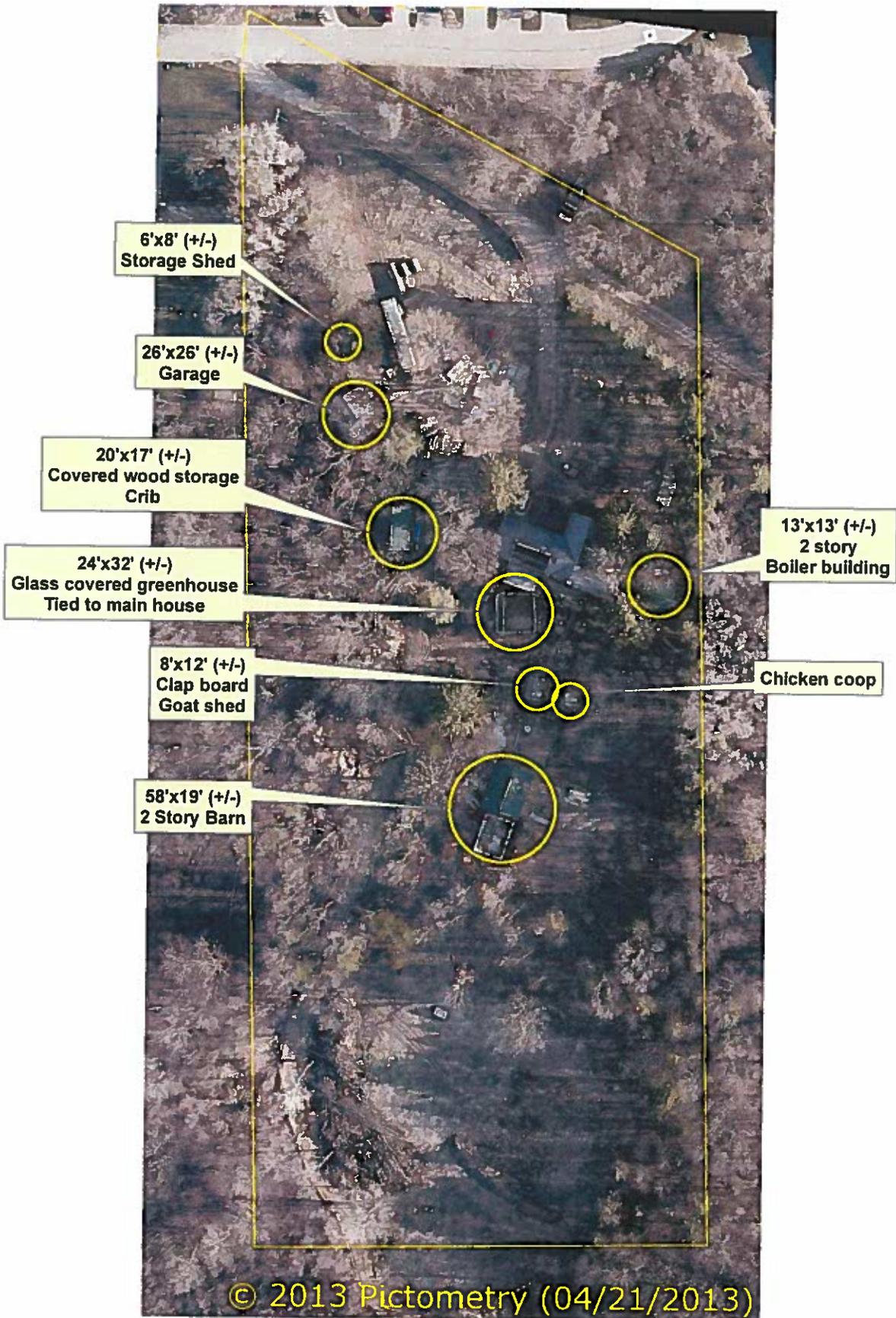
Size and topography of property and presence of mature trees, the buildings are not visible to adjacent properties, and location of buildings on property noted by applicant. See suggested motion form.

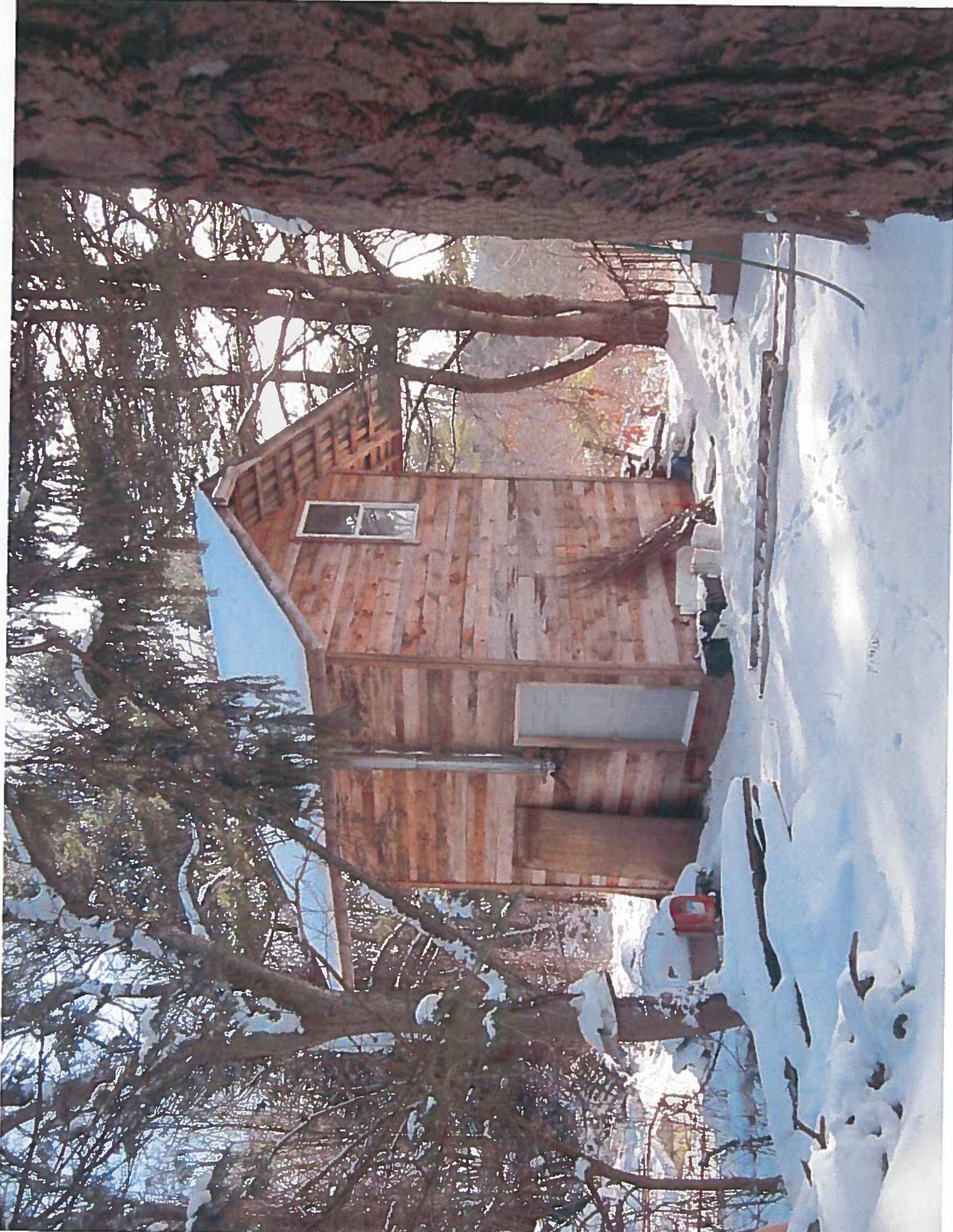


# Aerial Photography - 2013

## 4415 Raborn Court

### (Overhead)









**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:

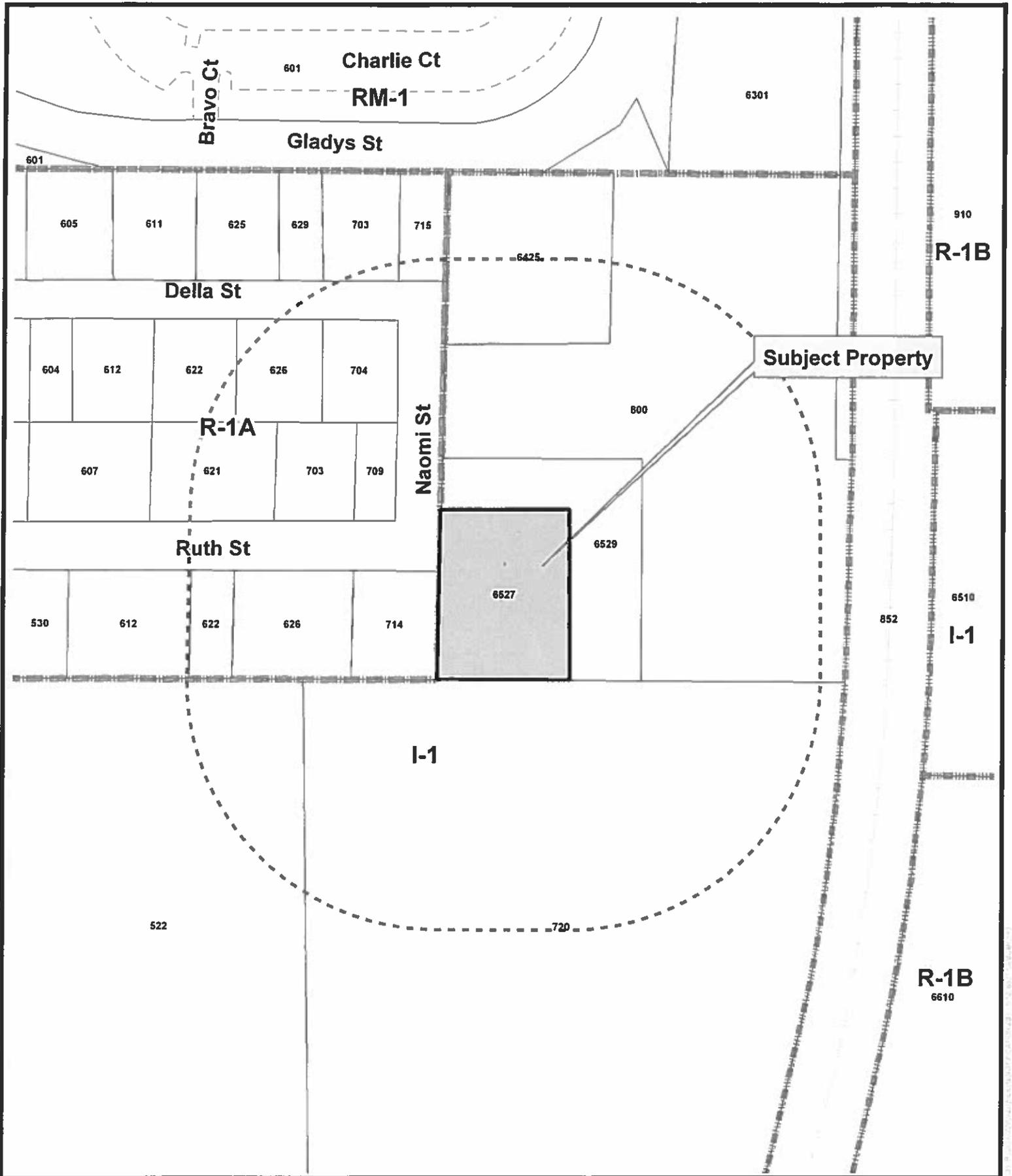
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right,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



**Legend**

-  Subject Property
-  Zoning Boundary
-  Notification Area

ZBA 15-12  
6527 Naomi Street



1 inch = 150 feet



# Aerial Photography 6527 Naomi Street

**Legend**  
 Subject Property



1 inch = 100 feet



Department of Community Development

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JAN 12 2016

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date Jan 8, 2016

Name of Applicant Miled M. AWAD  
Print

Miled AWAD  
Signature

Applicant's Address 6527 Naomi Street

Phone No. 269-254-2653

Name of Property Owner (if different from Applicant) \_\_\_\_\_

Address 6527 Naomi Street Portage MI 49002 Phone No. 269-254-2651

Address of the Property that is the subject of this Application:  
Street Address 6527 Naomi Street Portage MI 49002

For Platted Property: Lot \_\_\_\_\_ of \_\_\_\_\_ Plat \_\_\_\_\_

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

Applicant's interest in Property that is the subject of this Application: \_\_\_\_\_

Application Fee \_\_\_\_\_ (Residential Uses) \_\_\_\_\_ (All Other Uses)

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

**Variance from Zoning Ordinance:** Article 4 Section 42 Paragraph 350  
Regarding: Use \_\_\_\_\_ Area \_\_\_\_\_ Yards \_\_\_\_\_  
Setbacks  Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): Rebuilding a garage on the same slab as previous garage which was destroyed by snow storm

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: Rebuilding a garage on the same slab as the previous garage.

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.)  
The Property is a corner property that shares a driveway with the parcel on the Ruth Street.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
My property is oddly shaped compared to the rest of the properties nearby.
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)  
The slab in the ground cannot be used for rebuilding the destroyed garage, without a variance.
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.)  
To the best of my knowledge, this variance is the minimum necessary to permit reasonable use of the ~~property~~ wooden slab and driveway.
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.)  
I do not see any adverse effects on adjacent properties. I actually see an improvement in the ~~area~~ appearance and hygiene of the property. The old garage was three different colors with three sheds behind it.
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.)  
The garage is for personal use. It is a simple rebuild process to improve on what was there before.
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.)  
The reason for the request is the difficulty created by the way the house sits in the middle and the garage of it from the house is designed to go ~~out~~ out to that part of the property.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
The only zoning ordinance that this garage would affect is the 10 foot setback from the property that is owned by city of Portage.

Miled AWAB  
Signature of Applicant

Jan 8, 2016  
Date

49.5'

26

99'

Owned By  
City Of Portage

714

128

001

000101800

X

AWAD, MILED B & MIAROUN, AMINE

6527 NAOMI ST

more details...

parcel report...

I-1

Proposed  
Garage/Barn



6527

24

10

32

48

24



Shed

24

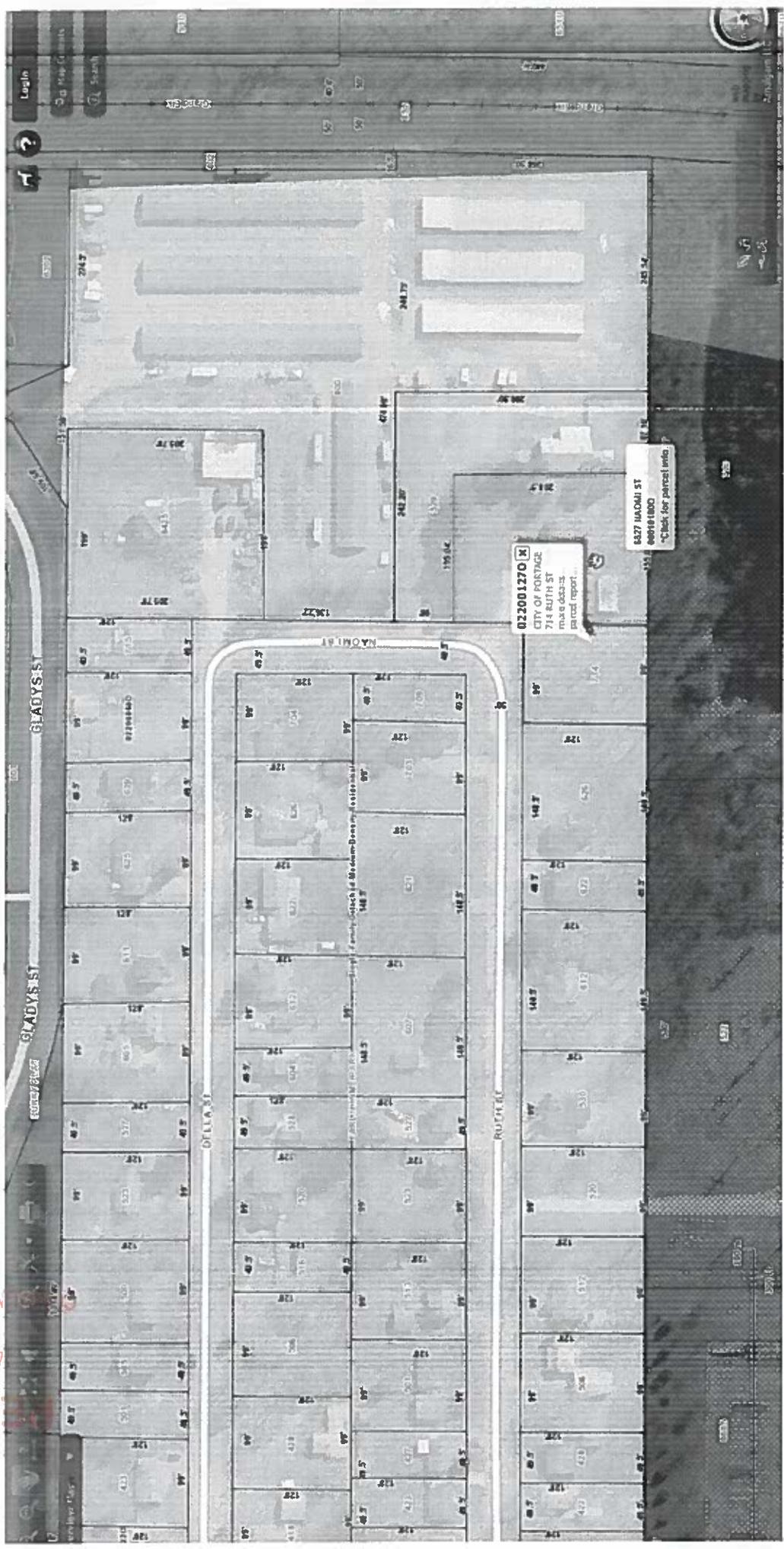
18-20 Ft.

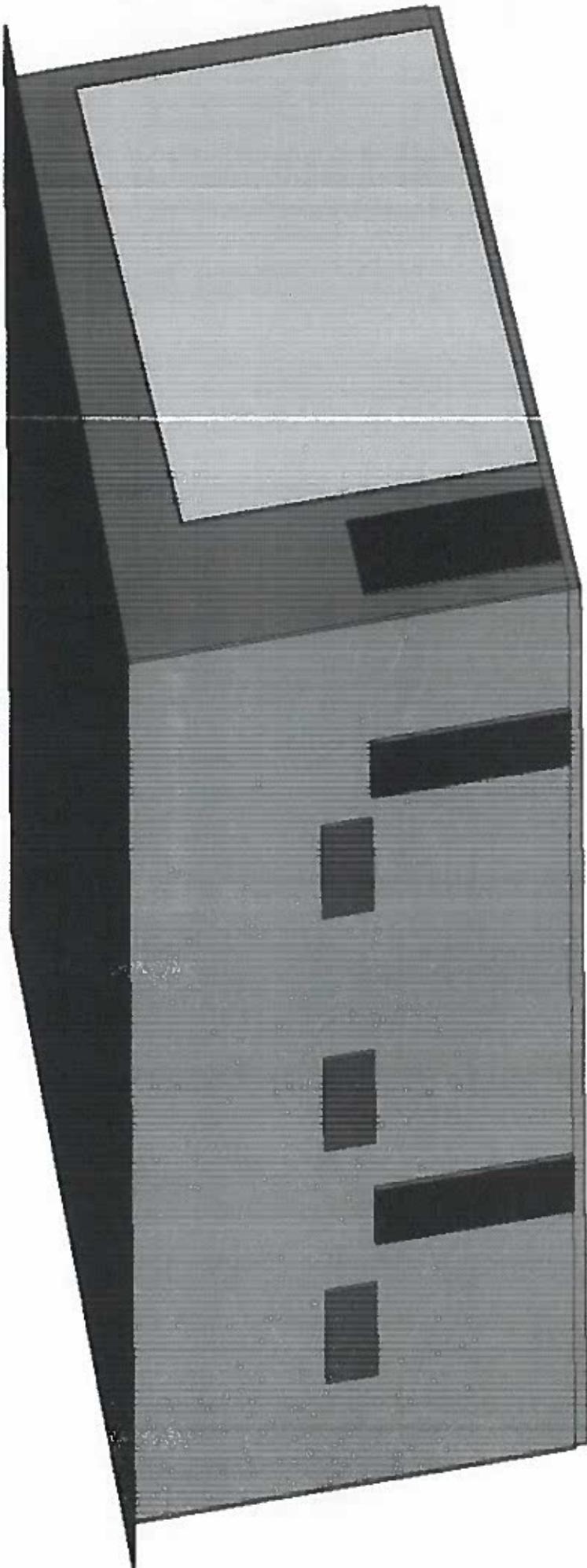
48

208.5'

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JAN 12 2016  
COMMUNITY DEVELOPMENT

*Future Zoning is Residential.*

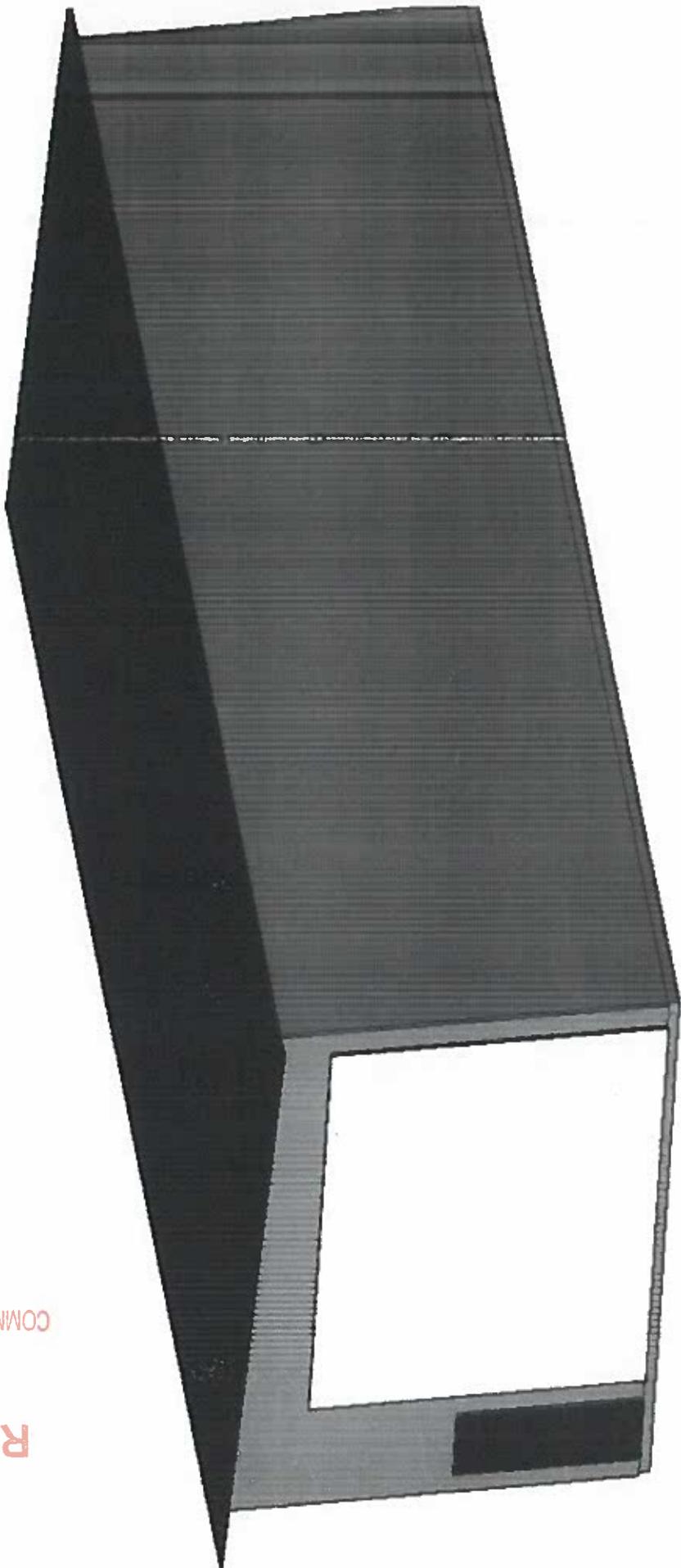




COMMUNITY DEVELOPMENT

JAN 12 2016

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COMMUNITY DEVELOPMENT

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COMMUNITY DEVELOPMENT

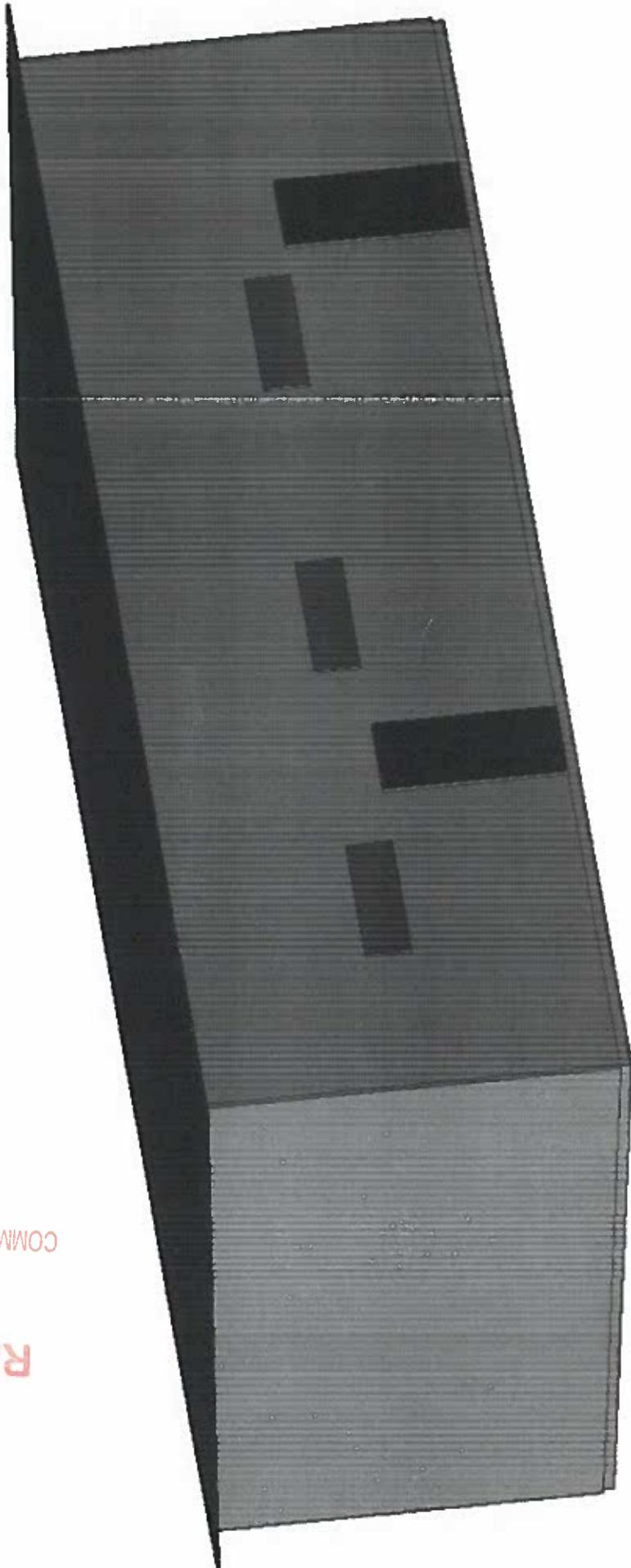
JAN 12 2016

RECEIVED

COMMUNITY DEVELOPMENT

JAN 12 2016

RECEIVED





**TO:** Zoning Board of Appeals **DATE:** January 29, 2016  
**FROM:** Vicki Georgeau, <sup>VA</sup> Director of Community Development  
**SUBJECT:** ZBA #15-12, Miled Awad, 6527 Naomi Street; I-1, Light Industrial.  
**CODE SECTION:** 42-350 Schedule of Regulations; p. CD42:84  
**APPEAL:** Requesting a variance to construct a 24-foot by 48-foot detached accessory building 18 feet from the (west) front property line where a minimum 75-foot setback is required.

**STAFF RECOMMENDATION:**

The applicant is requesting the variance per the enclosed application, plot plan and related materials. The 155-foot deep by 280-foot wide property (1 acre) is zoned I-1, light industrial. To the north and east is a self-storage facility zoned I-1, light industrial (construction of additional storage buildings occurred after the attached 2013 aerial photograph). To the south (720 Ruth Street) is a city-owned wetland area also zoned I-1, light industrial. The vacant property to the west (714 Ruth Street) is also owned by the City of Portage and zoned R-1A, one family residential.

The subject property is improved with a nonconforming 1,184 square-foot dwelling constructed in 1925. A nonconforming 1,632 square-foot detached accessory building and several sheds were previously located southwest of the dwelling. The accessory building was observed by city staff to be in poorly maintained condition when the property was in foreclosure under the previous owner. The building reportedly sustained damage during the winter of 2014-2015 and the accessory building along with several dilapidated sheds were subsequently removed by the applicant. A 100 square-foot shed was subsequently placed (without a permit) near the southwest corner of the lot by the applicant following removal of the larger accessory building, which the applicant indicates will be removed. The applicant proposes to construct a new 24-foot by 48-foot (1,152 square feet) accessory building on the same slab where the 1,632 square-foot accessory building previously stood. Since the property is zoned I-1, the height of the accessory building may be up to 25 feet, but not more than one-story since the property to the west is zoned for one-family residential use. As proposed by the applicant, the height of the building will be 14-feet high as measured at the mid-point between the eave and peak. The building is proposed 18 feet from the (west) front property line where a minimum 75-foot setback is required. A variance is therefore requested.

While the applicant desires to utilize the existing slab foundation for the proposed garage, a conforming alternative is available and involves placement of the building near the northeast corner of the lot. Such placement is more desirable since it locates it away from the residentially zoned property to the west and the mass of the building will be near the adjacent self-storage development. As another alternative, the applicant could (consistent with the Future Land Use Plan) request a rezoning of the property from I-1 light industrial to R-1A, one family residential, which would thereby reduce the setback from 75 feet to

27 feet. The applicant would still need a variance, albeit a lesser variance. Such a zoning change would allow placement of the building closer to other residential properties to the west, however, the building height would be limited to 14 feet and restricted to residential purposes. For the aforementioned reasons the variance is not recommended.

**PRACTICAL  
DIFFICULTY:**

Adjacent undeveloped city-owned property noted by applicant. None noted by staff. See suggested motion form.

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

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

**be:**

**a. granted** for all of the following reasons:

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

**-Or-**

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

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

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