



ZONING BOARD OF APPEALS

March 28, 2016

CITY OF PORTAGE ZONING BOARD OF APPEALS
Special Meeting
Agenda

Monday, March 28, 2016

(7:00 pm)

Portage City Hall
Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * February 8, 2016 meeting

OLD BUSINESS:

NEW BUSINESS:

- * ZBA #15-13, Mavcon Properties, 9110 Portage Road: Requesting variances: a) for a four-foot wide greenstrip where a minimum ten-foot width is required; b) to provide 603 square feet of interior parking lot landscaping where a minimum 1,252 square feet is required; c) from the requirement to provide a loading/unloading area.
- * ZBA #15-17, Bickford Cottage Assisted Living and Memory Care, 4707 West Milham Avenue: Requesting a variance to retain an approximate 8,400 square foot building addition along the west side of the existing Bickford Cottage facility to within 10-feet of the west property line (side yard) where a 30-foot setback is required.
- * ZBA #15-18, Dockerty Memory Care, 710 and 732 East Centre Avenue: Requesting variances to allow construction of an approximate 31,900 square foot, 42-bed memory care facility a) to within 12-feet of the east property line (side yard) where a 30-foot setback is required, and b) within 25-feet of the south property line (rear yard) where a 30-foot setback is required.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – February 8, 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. Eight people were in the audience.

MEMBERS PRESENT: John Byrnes, Phillip Schaefer, Michael Robbe, Jeffrey Bright, Chadwick Learned, Lowell Seyburn, Randall Schau, and Alexander Philipp.

MEMBERS EXCUSED: Glenn Smith.

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 December 14, 2015 minutes with the correction that Vice Chair Schaefer called the meeting to order. Upon voice vote, the motion was approved 7-0.

NEW BUSINESS:

ZBA #15-10, Kristen Salmon, 10513 Sudan Street: Mais summarized the variance request 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 setback is required. Ms. Salmon stated she found the double lot difficult to maintain and wanted to sell half the property to reduce the burden. Schau inquired if it would be possible to do a lot line adjustment ‘jog’ to maintain the required side yard setback. Mais responded a variance would still be necessary as the vacant lot would then fall below the minimum lot width at the building line. Bright inquired if there were many other properties in the neighborhood that did not meet the required side yard setback. Mais replied yes.

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

A motion was made by Learned, seconded by Robbe to grant 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 setback is required for the following reasons: 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 the location of the dwelling on site, and that the two lots were each intended to be buildable lots; the variance is 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, the right to sell property and retain a home; the immediate practical difficulty causing the need for the variance request was not created by the applicant; and the variance would 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, Learned-Yes, Seyburn-Yes, Bright-Yes, Robbe-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

ZBA #15-11, Christine Pelletier, 4415 Raborn Court: Mais summarized the variance requests 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. Robbe stated he would be abstaining from participation on the item due to a potential conflict of interest. Ms. Pelletier explained she was unaware of code requirements, but that her husband and eldest son began construction of a number of accessory buildings a few years ago and thought they probably knew what they were doing. Her husband passed away in 2012 and shortly afterwards she became estranged from her children and moved out of the house that same year. Construction of the accessory buildings was continued by her eldest son after she had moved out, but he too is now deceased. Ms. Pelletier stated she will remove most of the accessory buildings but wished to retain the 169 square-foot shed in the east side yard and the 1,102 square foot barn in the rear yard, which are both higher than the maximum permitted 14 feet. Bright inquired what the applicant’s plans with the property were. Ms. Pelletier stated she intended to live

there a while but may sell the property. Learned inquired if the accessory buildings were currently being used. Ms. Pelletier stated the barn was previously used to house animals but all of the livestock have been removed. She thought the barn would be a good place for a future owner to keep horses. Seyburn noted staff's recommended condition that the accessory buildings be brought into compliance with applicable building codes and wondered if the applicant felt that six months was adequate time to accomplish that. Ms. Pelletier stated she hoped she could. Seyburn inquired if the applicant had looked into the costs associated with bringing the structures into compliance and if she knew what specifically needed to be done. Ms. Pelletier said she had not. Ken Schaffer, friend of the applicant, stated that even with church assistance eight months was a more realistic timeframe for compliance. Learned inquired if the applicant had read the letter submitted by Wayne Debroske and if so could she respond. Ms. Pelletier stated she got the impression they were objecting to some property maintenance issues and not to the buildings themselves. Byrnes inquired what purpose the "boiler room" served and was it connected in any way to heating the home. The applicant stated the boiler was not connected with heating the house and that the late Mr. Pelletier intended it to house a steam engine but it was discovered the boiler was not large enough to power the desired steam engine and the project was abandoned. Schau inquired if the applicant knew why the buildings were constructed as tall as they were. The applicant stated no. Schau noted the applicant also had the option of reducing the height of the buildings to a conforming height.

A public hearing was opened. Ken Schaffer, 58001 Lanphear Drive Paw Paw, MI stated he did not believe Ms. Pelletier had the resources available to shorten the buildings even with church assistance. Mr. Schaffer stated the requested variances were not unreasonable as the buildings were largely out of view of neighboring properties. The public hearing was closed.

A motion was made by Schau, seconded by Learned, to grant a variance 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 for the following reasons: 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 the size of the property and the lack of visibility to neighboring properties; the variance is 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, the right to construct an accessory building; the immediate practical difficulty causing the need for the variance request was not created by the applicant in that she was dispossessed of the property at the time of its construction; and the variance would 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, with the following conditions: a building permit be obtained within 30 days; the buildings identified as 1 through 4 in the staff report must be removed; and the structure be brought into compliance with all applicable building codes by November 1, 2016. Upon roll call vote: Philipp-Yes, Learned-Yes, Seyburn-Yes, Bright-Yes, Byrnes-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

Seyburn stated that when the Board grants variances for accessory buildings they are usually related to a specific purpose and it was not immediately apparent what that was in the case of the barn. Learned stated he saw the barn's purpose as being horse-related, which is permitted in residential districts. Schaefer stated he was troubled that the applicant did not know what was specifically needed to bring the barn into compliance with building code, nor have a clear idea of the associated costs, and felt the applicant should be given the opportunity to determine the full scope of work needed and costs associated with either: upgrading the barn to meet building code, demolishing the barn, or reducing its height, and thought the item should be tabled to give the applicant the opportunity to more thoroughly evaluate how realistic each of those options were. A motion was made by Schaefer, seconded by Seyburn, to postpone request b) until the April 11, 2016 meeting. Upon roll call vote: Philipp-Yes, Byrnes-Yes, Seyburn-Yes, Bright-Yes, Learned-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

ZBA #15-12: Miled Awad, 6527 Naomi Street: Mais summarized the request for 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. Mr. Awad stated he wanted to replace the accessory building which had stood for many years in the same location. The applicant stated the old garage was destroyed by a snowstorm and the reason they were requesting a variance to rebuild in the same location was because they did not rebuild the nonconforming structure within the timeframe specified by code (Section 42-133 D.2). Mais stated staff disputed the claim that the roof collapse was 'an act of God' as the old structure was in very poor repair having been neglected for many years, and the roof collapsing under snow was the result of deferred maintenance. The applicant stated he had attempted years earlier to purchase the city-owned property to the west (714 Ruth) which also could have eliminated the need for a variance. Bright noted the applicant's property was largely surrounded by wetlands and industrial properties. Schau inquired why the applicant could not construct a garage in a conforming location near the northeast corner. The applicant replied the existing driveway was to the west of the house, not the northeast, and building by the northeast corner would require them to remove the decorative small pond in their front yard. Learned inquired if the applicant had considered rezoning to residential and seeking a lesser variance. The applicant stated they had but it would be too expensive. Seyburn stated given the orientation of the house he could understand why the applicant would not want to build near the northeast corner, as it would place the garage in front of their living room window. Schau noted the garage could also be built in the southeast corner and felt the applicant's difficulties in this case were financial.

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 Seyburn, to grant 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 for the following reasons: 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 having an accessory building in the same location as the previous garage; the variance is 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, the right to use property without a garage in front of the house; the immediate practical difficulty causing the need for the variance request was not created by the applicant; and the variance would 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, Learned-No, Seyburn-Yes, Bright-Yes, Robbe-Yes, Schau-No, Schaefer-Yes. The motion passed 5-2.

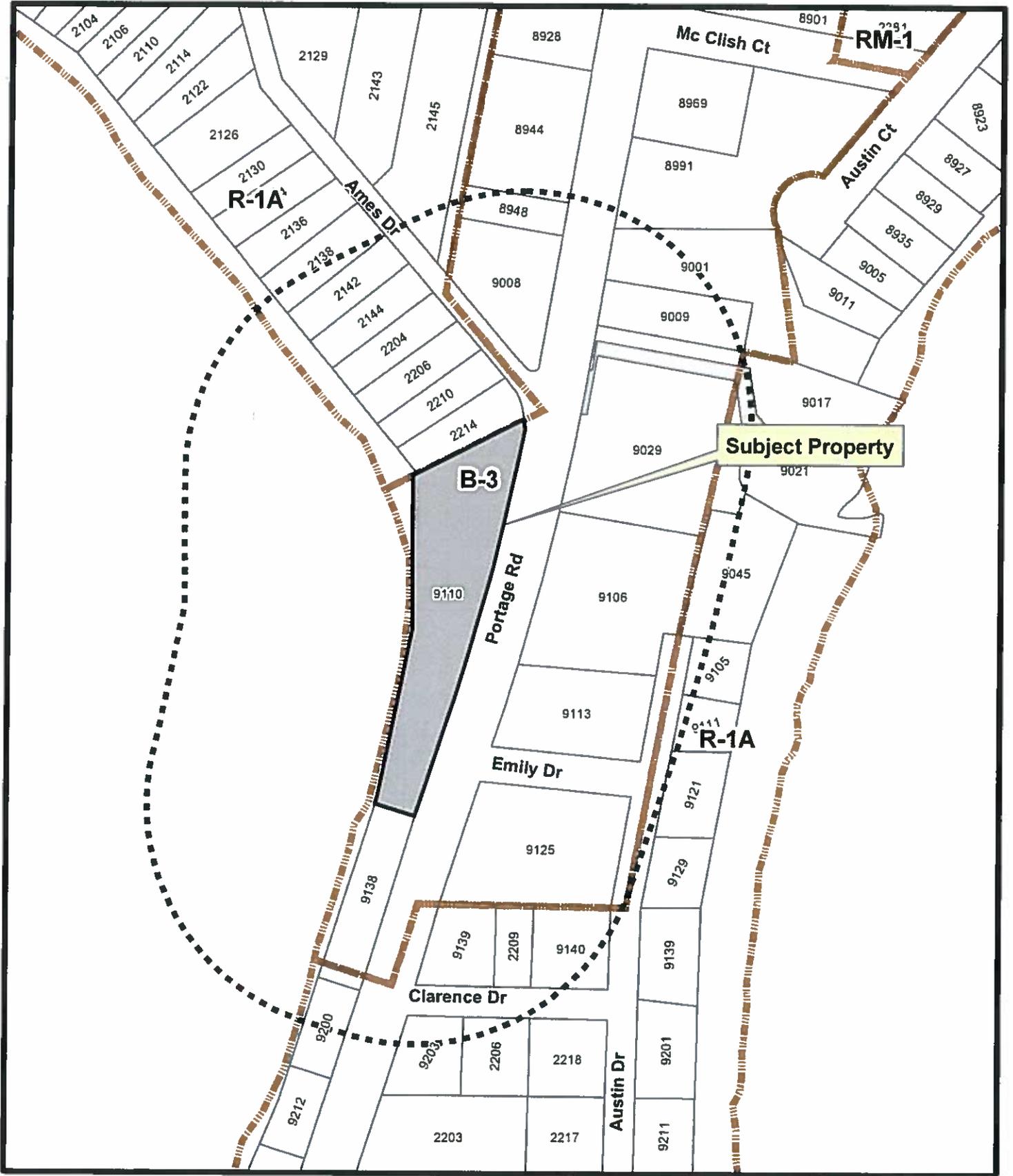
OTHER BUSINESS: Seyburn stated he would not be available to attend the March meeting.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:02 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



-  Zoning Boundary
-  300' Notification
-  9110 Portage Road

Zoning Board of Appeals: 15-13

9110 Portage Road



1 inch = 167 feet



ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date January 8, 2016 (revised February 18, 2016)

Name of Applicant Mavcon Properties
Print

Signature James Dally

Applicant's Address 9110 Portage Road, Portage, MI 49002

Phone No. (269) 381-0776

Name of Property Owner (if different from Applicant) (same as applicant)

Address (see above) Phone No. (see above)

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

Street Address 9110 Portage Road, Portage, MI 49002

For Platted Property: Lot _____ of (see attached Exhibit "A") Plat _____

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.] (see attached Ex. "A")

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

Application Fee n/a (Residential Uses) \$330.00 (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 _____

See Exhibit "B" Regarding: Use See Exhibit "B" Area _____ Yards _____

Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): See Exhibit "B"

n/a **Appeal of Administrative Decision:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

n/a **Interpretation of the Zoning Ordinance:** Article _____ Section _____ Paragraph _____

Reason for Request: _____

n/a **A Temporary Permit for:** Building _____ Use _____ Other Approval _____

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

| | | |
|---|--------------|-------------------------------------|
| Application Number: <u>15-13</u> | Filing Date: | Tentative Hearing Date: <u>5-28</u> |
| Previous Application Filed Regarding This Property: <u>83-25, 96-30, 17-29</u> | | |

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)
The shape and width of the existing property, the location of the existing building / parking areas, the location of the Portage Road right-of-way, and the location of the water's edge for West Lake present many issues when trying to strictly comply with the Ordinance.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
The characteristics described above are shared to a certain extent by the adjoining property to the south, but not by other properties in the area and not by other properties in the B-3 zoning district.
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)
Most, if not all, of the variance requests are related to the size and location of the existing building, the minimal width of the property, and parking requirements.
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 requested variances are reasonable based on the site constraints, and they will have little or no negative impact on other properties in the area.
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 requested variances, if granted, would allow the property to be redeveloped with the proposed restaurant use. Redevelopment would improve the look of this property and would help generate increased activity for nearby businesses.
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.)
Although redevelopment of this site would result in slightly increased traffic near the property (during busy times) and increased noise from vehicles in the parking lot, the overall impact would be minimal. Required screening would minimize these impacts.
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 size and shape of this property, as well as the size and location of the existing building, was not determined by the current property owner.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
Granting of the variances would allow the property to be developed after City Site Plan review in accordance with general guidelines within the City's Ordinance. Granting of the requested variances would allow the property to be utilized based on existing site constraints.


Signature of Applicant James Dally

February 18, 2016
Date

7900 South Westnedge Avenue + Portage, Michigan 49002 + (269) 329-4477
www.portagemi.gov

Exhibit "A"

Parcel No. 1:

Lots 1, 2, 3, 4, and the North 10.0 feet of Lot 5 of Assessor's Plat of Dixie-Mac Park, according to the Plat thereof as recorded in Liber 14 of Plats on Page 20, Kalamazoo County Records; Also beginning at the Southwest corner of Lot 89 of said Plat and running thence North 03° 22' West along the Westerly line of said Lot 60.0 feet; thence South 84° 17' East parallel to the Southerly line of said Lot, 110.71 feet to the Easterly line of said Lot (said Easterly line being the Westerly line of Portage Road); thence South 16° 46' West along the Easterly line of said Lot and the Westerly line of Portage Road 60.37 feet to the Southeast corner of said Lot; thence North 84° 17' West along the Southerly line of said Lot 89.67 feet to the place of beginning. Also including all land lying between the Westerly line of said Lots 1, 2, 3, 4 and the North 10.00 feet of Lot 5 and that part of Lot 89 as described above of Assessor's Plat of said Dixie-Mac Park and the water's edge of West Lake.

Parcel No. 2:

Lot 57 of Ames West Lake Park, according to the Plat thereof as recorded in Liber 13 of Plats on Pages 8 and 9, Kalamazoo County Records. Also including all land between the Westerly line of Lot 57 of said Ames West Lake Park and the water's edge of West Lake.

Parcel No. 3:

A part of Lot 89 of the Assessor's Plat of Dixie-Mac Park, according to the recorded Plat thereof on file and of record in the office of the Register of Deeds for said County in Liber 14 of Plats on Page 20, described as: Commencing at the Southwest corner of Lot 89 of the Assessor's Plat of Dixie-Mac Park, Section 26, Town 3 South, Range 11 West; thence North 03° 22' West along the West line of said Lot 89, 60.0 feet for the place of beginning; thence continuing North 03° 22' West along said West line 113.20 feet to the Northwest corner of said Lot 89; thence South 87° 25' East along the North line of said Lot 89, 143.6 feet to the Northeast corner of said Lot 89; thence South 08° 48' West along the East line of said Lot 89, 60.45 feet; thence South 16° 46' West along the East line of said Lot 89; 60.37 feet to a point 60.37 feet North of the Southeast corner of said Lot 89 as measured along said East line; thence North 84° 17' West parallel to the South line of said Lot 89, 110.71 feet to the place of beginning. Also including all the land between the Westerly line of said Lot 89 as described above of said Assessor's Plat of Dixie-Mac Park and the water's edge of West Lake.

Exhibit "B"

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

X Variance from Zoning Ordinance: Article 4 Section 42-572 Paragraph A
~~42-350~~ Paragraph ~~B (9)~~
Regarding: Use _____ Area _____ Yards X
Setbacks _____ Parking X Other Landscaping

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

Variance required with regards to width of landscaped greenstrip between parking lot and right-of-way line for Portage Road.

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

X Variance from Zoning Ordinance: Article 4 Section 42-350 Paragraph B (11)
~~42-522~~ Paragraph ~~A & B~~
Regarding: Use _____ Area _____ Yards _____
Setbacks _____ Parking _____ Other Loading / Unloading space

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

Variance required due to the lack of a proposed loading / unloading space on-site.

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

X Variance from Zoning Ordinance: Article 4 Section 42-572 Paragraph B
Regarding: Use _____ Area _____ Yards _____
Setbacks _____ Parking _____ Other Landscaping

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

Variance required with regards to interior parking lot landscaping.

SIELATYCKI LAW FIRM, PLC

516 Whites Road, Suite 4
Kalamazoo, MI 49008
steve@sielatyckilaw.com

Office: 269-978-2525
Direct: 269-718-3012
Fax: 269-585-6066

Letter

March 4, 2016

SENT BY EMAIL
ON MARCH 4, 2016

Victoria Georgeau, AICP
Director, Department of Community Development
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002
Facsimile: (269) 329-4506
Email: georgeav@portagemi.gov

**Re: 9110 Portage Road Redevelopment
Lake Center Subarea Plan**

Ms. Georgeau:

Pursuant to our discussion on Friday, February 26, 2016, and the subsequent email correspondence, please find below and attached information responsive to your requests.

First, as requested, please find attached as **Exhibit A** a revised plan with final details and dimensions of the planned redevelopment. The plan will likely undergo further revisions as we finalize a design that meets the needs of our prospective tenant, we anticipate any further revisions to be minor. You will also find attached as **Exhibit B** a preliminary floor diagram of the restaurant layout.

Second, we believe that the revised plan and floor diagram comply with the parking ordinance. Suite 1 constitutes 3,148 square feet of usable floor area ("UFA"), and Suite 2 constitutes 761 square feet of usable floor area. The total UFA as defined by the ordinance, therefore, is 3,909 square feet, which equates to 52.1 parking spaces.

After further review of the ordinance, we remain of the view that the exterior patio space is entirely excluded from the definition of usable floor area, as floor area "does not include...terraces, breezeways or open porches, provided that not more than 50 percent of the perimeter of any such terrace, breezeway or open porch is *enclosed*." In this case, none of the exterior patio is enclosed. The existence of a retractable awning does not serve to "enclose" any of the exterior patio. Moreover, even if the retractable awning did actually enclose portions of the exterior patio, it would not meet the minimum threshold of 50 percent

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Fax: 269-585-6066

Letter

of the exterior patio that would be necessary in order to include the exterior patio in the calculations of usable floor area.

All of that said, even when including the portion of the exterior patio covered by an awning, approximately 1,812 square feet, this adds only an additional 24.16 parking spaces. This would bring the total parking space requirements to 76.26 parking spaces, still below the 81 parking spaces identified in the site plan.

In addition to complying with the ordinance, we are confident that the current proposed parking will exceed the demands of the redevelopment for at least the following reasons:

1. The exterior patio space will only be used seasonally and transitionally. Not only will the exterior patio not be used for customers for much of the year, but, when it is used, the interior space will likely be less utilized. Our prospective tenant has indicated as much based upon their prior experience at other locations.
2. The redevelopment also includes 22 customer boat slips that will serve as "parking spaces" in the same seasonal manner that coincides with the use of the exterior patio. These 22 customer boat parking spaces will serve the many homes on both West Lake and Austin Lake as well as public access lake travelers.
3. The redevelopment expects significant foot traffic from the surrounding neighborhoods many of which are in easy walking distance. In fact, at the suggestion of the City of Portage, our client has included a proposed sidewalk to Ames Avenue to further facilitate this foot traffic.
4. Lastly, the redevelopment will constitute two concepts – a coffee shop and a restaurant. It is expected that the two concepts will have variant busy times, with the coffee shop busier in the mornings and the restaurant busier in the evenings. The estimated employee total for both concepts is 15 employees.

Given the foregoing, we are requesting City staff support for the following three variances before the Zoning Board of Appeals on Monday, March 28, 2016: (1) Interior Parking Lot Landscaping (2) Width of Landscaped Greenstrip Along Portage Road, and (3) Lack of Loading/Unloading Space within Parking Lot, as well as a letter of support for the redevelopment and its contribution to the City's Lake Center Subarea Plan.

- next page -

SIELATYCKI LAW FIRM, PLC

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Kalamazoo, MI 49008
steve@sielatyckilaw.com

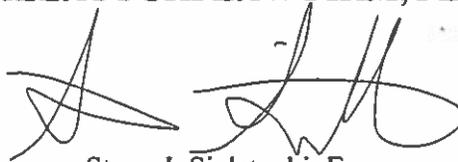
Office: 269-978-2525
Direct: 269-718-3012
Fax: 269-585-6066

Letter

We are looking forward to working with you towards a successful redevelopment and the furthering of the Lake Center Subarea Plan. Please let me know if you need anything further for the ZBA submission.

Very truly yours,

SIELATYCKI LAW FIRM, PLC

A handwritten signature in black ink, appearing to be 'Steve J. Sielatycki', written over a horizontal line.

Steve J. Sielatycki, Esq.

cc: Client File

EXHIBIT A

RECEIVED

MAR 04 2016

COMMUNITY DEVELOPMENT

NOTE: DURING SITE PLAN APPROVAL STAGE, A SIDEWALK MAY BE PROPOSED FROM NORTHEAST CORNER OF PARKING LOT NORTHEASTERLY AND NORTHERLY TO PUBLIC STREET TO THE NORTH.

SEE NOTE: WILL BE RECALCULATED WITHIN PARKING LOT AND PORTAGE ROAD CURBING

NOTE: NEW LANDSCAPING ALONG THE WEST SIDE OF PORTAGE ROAD WILL INCLUDE TREES, SHRUBS, GROUNDCOVER, AND/OR FLOWERS (NOT NECESSARILY REQUIRED DUE TO WIDTH OF LANDSCAPING REQUIRED ALONG WEST SIDE OF PORTAGE ROAD)

NOTE: APPROPRIATE SIGHT DISTANCE WILL NEED TO BE PROVIDED FOR PUBLIC SAFETY

SHOWN PROPOSED PARKING LOT LAYOUT IS PRELIMINARY AND SUBJECT TO ADJUSTMENT CITY SITE PLAN APPROVAL REQUIRED.

- GENERAL NOTES**
- 1) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 2) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 3) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 4) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 5) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 6) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 7) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 8) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 9) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.
 - 10) ALL DIMENSIONS ARE SHOWN TO CENTER UNLESS OTHERWISE NOTED.

OWNER & APPLICANT:
MAYCON PROPERTIES
9110 PORTAGE ROAD
PORTAGE, MI 49002
PHONE: (269) 381-0776

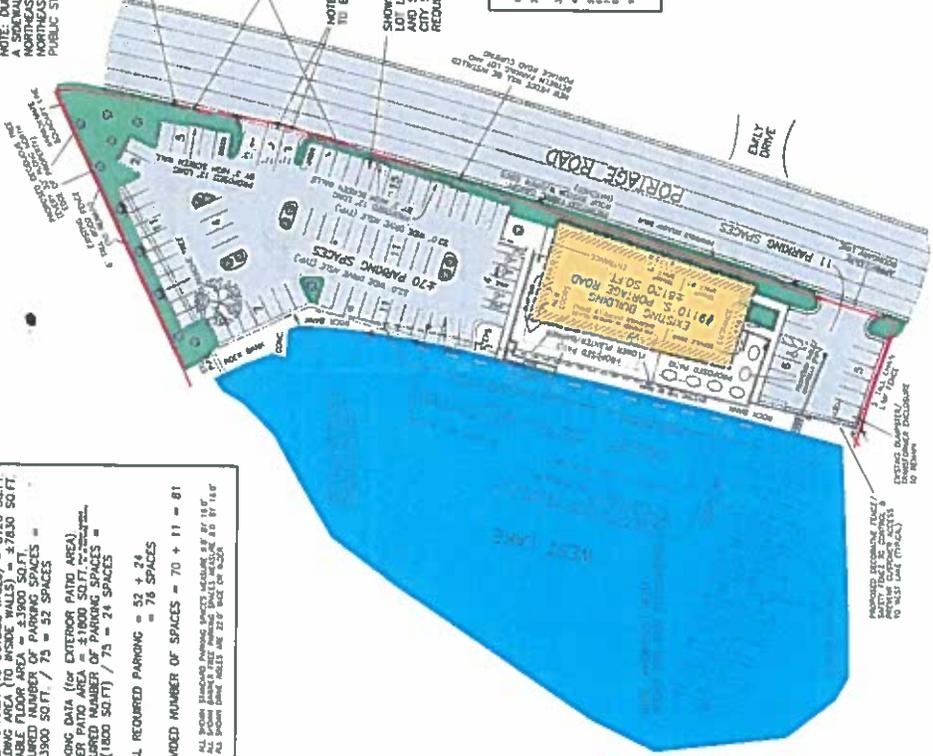
MAYCON PROPERTIES
Ingersoll, Watson & McEachern, Inc.
3000 East Main Road • Portage, Michigan 49782 • Phone: 269.381.0776 • Fax: 269.381.0888
www.maycon.com
DATE: 2/18/2016
PROJECT: 15-001
SHEET: 1 OF 1
38432

PARKING DATA (FOR BUILDING INTERIOR):
 BUILDING AREA (TO OUTSIDE WALLS) = 8120 SQ.FT.
 BUILDING AREA (TO INSIDE WALLS) = 37430 SQ.FT.
 REQUIRED NUMBER OF PARKING SPACES = 75
 3500 SQ.FT. / 75 = 52 SPACES

PARKING DATA (FOR EXTERIOR PATIO AREA):
 UPPER PATIO AREA = 1400 SQ.FT.
 LOWER PATIO AREA = 1800 SQ.FT.
 REQUIRED NUMBER OF PARKING SPACES = 24
 (1800 SQ.FT) / 75 = 24 SPACES

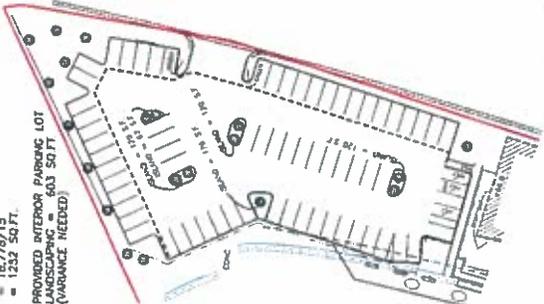
TOTAL REQUIRED PARKING = 52 + 24 = 76 SPACES
PROVIDED NUMBER OF SPACES = 70 + 11 = 81

NOTE: ALL SPACES STANDARD PARKING SPACES MEASURE 8'6" BY 18'6".
 ALL SPACES STANDARD PARKING SPACES MEASURE 8'6" BY 18'6".
 ALL SPACES STANDARD PARKING SPACES MEASURE 8'6" BY 18'6".



PARKING LOT LANDSCAPING (NORTH PARKING LOT)

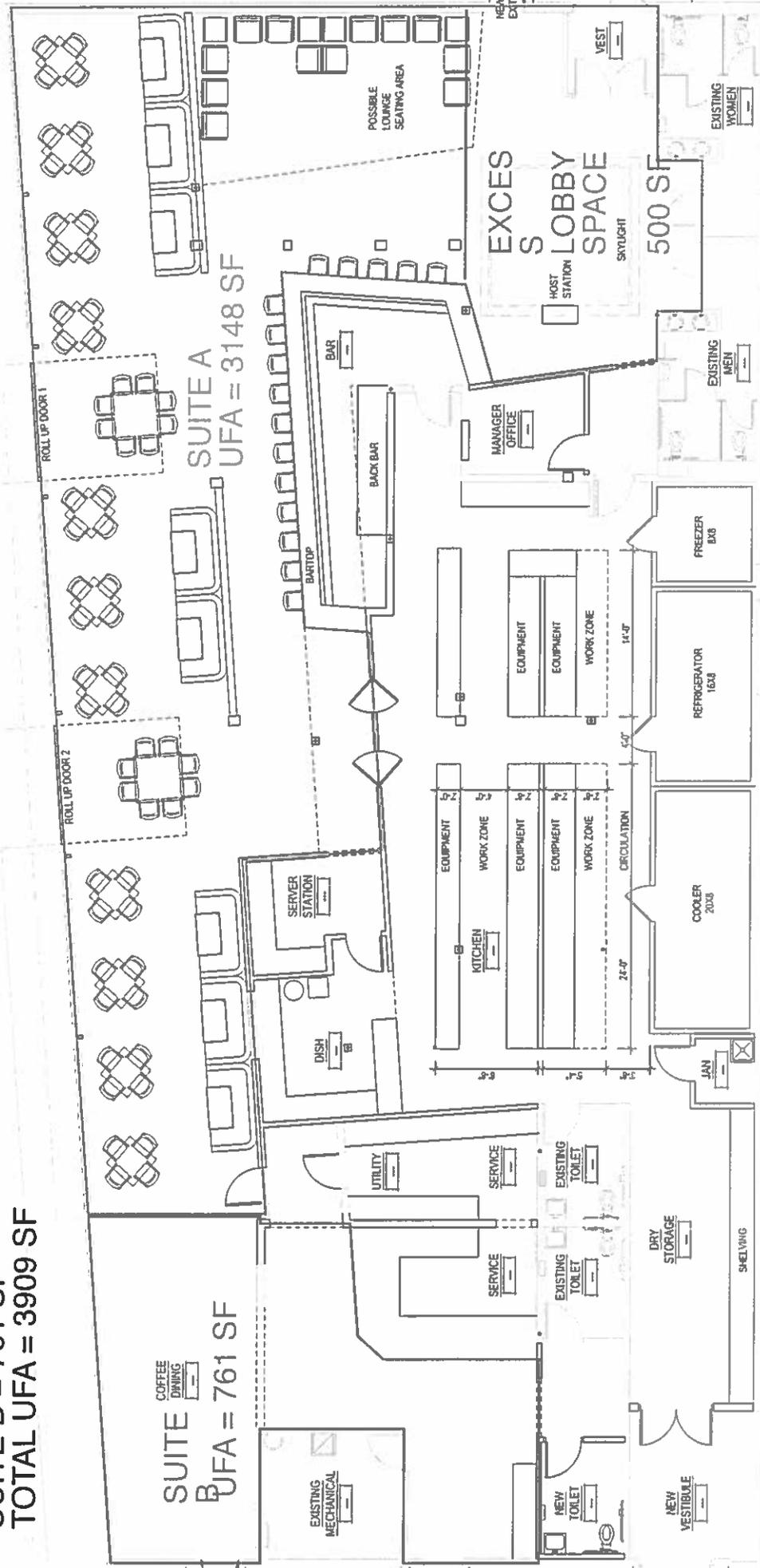
SHOWN HATCHED AREA = 18,778 SQ.FT.
REQUIRED INTERIOR PARKING LOT LANDSCAPING PER CITY ORDINANCE = 18,778/15 = 1252 SQ.FT.
PROVIDED INTERIOR PARKING LOT LANDSCAPING 603 SQ.FT. (VARIANCE NEEDED)



DATE: 2/18/2016
PROJECT: 15-001
SHEET: 1 OF 1

EXHIBIT B

UFA DIAGRAM
 SUITE A = 3148 SF
 SUITE B = 761 SF
 TOTAL UFA = 3909 SF



WEST LAKE 3/3/16

TO: Zoning Board of Appeals **DATE:** March 18, 2016
FROM: Vicki Georgeau, ^{VB} Director of Community Development
SUBJECT: ZBA #15-13, Mavcon Properties, 9110 Portage Road, B-3, General Business
CODE SECTION: 42-572(A)(B), Parking Lot Landscaping, p. CD42:133
42-522(A), Loading Facilities p. CD42:117

APPEAL: Requesting variances: a) for a four-foot wide greenstrip where a minimum ten-foot width is required; b) to provide 603 square feet of interior parking lot landscaping where a minimum 1,252 square feet is required; c) from the requirement to provide a loading/unloading area.

STAFF RECOMMENDATION:

The applicant is requesting the above referenced variances per the enclosed application, site sketch, and related materials. The one acre lake front property is zoned B-3, general business and located within the Lake Center Business District, which extends from East Centre Avenue to East Osterhout Avenue.

The adjacent property to the north is zoned R-1B, one family residential and accommodates a single family dwelling. The properties to the south and across the street to the east are zoned B-3, general business. The property is improved with a nonconforming 8,120 square-foot commercial building, off-street parking lot and associated site improvements. The building is nonconforming because it does not meet the minimum 30-foot front yard setback. A building was originally constructed in 1948 and remodeled several times to accommodate various restaurants, but was destroyed in a fire in 1996. The Board granted a variance (ZBA #97-29) in 1998 permitting a new building to be reconstructed in the same location more than 18 months after its destruction. The reconstructed building currently accommodates an office use. The applicant has submitted a conceptual plan to redevelop the property with a coffee shop and sit down restaurant. The use will feature exterior patios, a boardwalk, and a dock for customer boat "parking." No boat access from the property is proposed, rather the dock is provided as an amenity to existing lake users.

Concerning requests a) and b), the restaurant operator believes more off-street parking will be needed than the minimum required by code consistent with other sit down restaurant developments in the city. The applicant proposes no changes to the size of the existing building, but in order to provide space for the additional parking and maneuvering lanes, the applicant has reduced the amount of parking lot landscaping to 603 square feet. The off-street parking lot will have 18,778 square feet, which requires a minimum 1,252 square feet of interior landscaping. The greenstrip along Portage Road north of the building will likewise be narrowed to four feet in width to accommodate an additional row of parking.

The 2014 Comprehensive Plan includes a Lake Center Subarea Plan, which recognizes unique issues and opportunities, and identifies the isthmus area where West and Austin Lakes converge as the Lake Center Core Node, which includes

the subject property. This core node area is a focal point of the Subarea Plan recommendations, which includes leveraging the West Lake waterfront. Included in the subarea plan are several site design recommendations to aid in the revitalization of this commercial corridor.

At the time the Lake Center Subarea Plan was prepared, the Mavcon property was for sale and, as a result, ready for redevelopment. The subarea plan envisioned the reestablishment of a restaurant at this location or other active complementary uses. Additionally, the subarea plan includes several building and site design recommendations. With regard to parking and access design recommendations, the Subarea Plan recognized that some properties may have insufficient room to accommodate a greenbelt between the parking lot and public street. The Mavcon property is one such property due to its size, configuration and need to provide an appropriate number of off-street parking spaces to accommodate a restaurant at this location. In these situations where there is insufficient area to accommodate a landscaped greenbelt, the Subarea Plan suggests installation of a knee-wall or hedge. As shown on the preliminary site plan, the applicant is proposing the construction of several 3-foot high knee-walls together with a landscaped hedge.

Reduction in the width of the greenstrip area makes installation of a 5-foot wide concrete sidewalk along Portage Road problematic. As an alternative, the applicant is proposing to install a sidewalk from the northeast corner of the parking lot to the southeast corner of Ames Drive and Portage Road. The final location of this sidewalk will be determined during formal site plan review.

The property has unique characteristics which include the size and configuration of the property and location of the existing building. Additionally, the redevelopment of the property is consistent with the Lake Center Subarea Plan. For these reasons variances a) and b) can be recommended subject to the following: 1) Installation of a 3-foot high knee-wall and landscape hedge as illustrated on the concept plan; and 2) installation of sidewalk to connect the northeast corner of the parking lot the southeast corner of the Ames Drive/Portage Road intersection.

Concerning request c), the applicant indicates redevelopment of the site will include a coffee shop and a restaurant. The peak time for the coffee shop will be during morning hours and the peak time for the restaurant will be during the evening hours. The restaurants that have previously operated at this location utilized the building's south entrance for deliveries and had no designated loading and unloading area. The applicant similarly proposes to schedule deliveries during off hours and utilize the building's south entrance. These operational characteristics and the previously noted shallow lot depth create practical difficulties with respect to providing a designated loading/unloading area while maintaining adequate off-street parking. For these reasons the variance can be recommended.

**PRACTICAL
DIFFICULTY:**

Size and configuration of the property. See suggested motion form

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

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

be:

a. granted for all of the following reasons:

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

-OR-

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

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

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



 Subject Property

Aerial Photo 4707 West Milham Avenue



1 inch = 100 feet

Date of Photography: March 2013



Department of Community Development
RECEIVED
MAR 02 2016
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 3/2/2016
Name of Applicant Richard Eby Richard Eby
Print Signature

Applicant's Address 13795 S. Murken, Olathe, Ks Phone No. 913-254-2225

Name of Property Owner (if different from Applicant) HCP Eby Portage MI L.L.C.

Address 1920 Main St, suite 200, Irvine, CA Phone No. 949-407-0414

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

Street Address 4713 W. Melham Av

For Platted Property: Lot _____ of Parcel ID: 00007-100-0 (See Attached 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/Leasee/Operator of Bickford Assisted Living residence Also construction manager of expansion

Application Fee _____ (Residential Uses) N/A (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 42-243 Paragraph A (2)

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

Reason For Variance *See Attached*

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

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

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

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

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

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

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

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

Richard Eby

Signature of Applicant

3/2/2016

Date

Land Identification and Description

Parcel ID: 00007-100-0-

Common Address: 4713 W Milham Ave, Portage MI

Legal description:

(A)The land in the City of Portage, County, Kalamazoo, generally described as 4713 West Milham Ave, legally described as Sec 7-3-11, Begin N LI SEC 7 at PT 490.3 ft E of NW COR SD SEC CONT TH E ALG SD N LI 82.5 ft TH S PAR W LI SD SEC 528 ft Th W PAR N LI SD SEC 528 TH W PAR N LIN SD SEC 82.5 FT TH N 528 FT TO PT OF BEG (the "Land");

Reason For Variance (response to questions)

1. The 1 AC Parcel generally described as 4713 W Milham Ave, Portage MI was purchase to allow construction of a memory care addition to the existing Bickford residence at 4707 W. Millham Av. The parcel was rezone from B-2 to OS-1 and a special use and a site plan approved by the City of Portage. When construction was 70% complete it was determined that there was an incorrect interpretation of the setback requirement for a special use within an OS-1 district. The approved site plan and construction documents show a 10 ft. setback along the west property line but has been recently identified as requiring a 30 ft. setback. The building addition currently has a 77 ft. length of building which is 12 ft. from the property line. A zoning variance is being requested to amend the setback requirement from 30 ft. to 10 ft. for the projection of the building, approved and under construction, onto the west property line. See attached "
2. The 1 Ac Parcel generally described as 4713 W Milham Av. was rezoned from B-2 to OS-1 except for the west ten feet (10 ft.) along the west property line. This was done for the convenience and benefit of the parcel to the west of the property line. Maintaining a ten foot wide strip along the east side of the west property as B-2 zoning would allow the west property owner to maintain a 10 building setback. However, the property east of the property line would be required to maintain a 30 foot setback as result of being a special use within OS-1 zoning. This places and unequal and undue burden on the east property owner.
3. The current addition is 70% complete and to achieve a 30 foot setback would require demolition, new architectural plan, city plan review and new construction.
4. The requested zoning variance is to reduce the setback to 10 feet for that portion of the current approved building not in compliance. The 30 foot building setback will remain along the remainder of the property lines.
5. This variance will have NO impact on the adjacent property owner's ability to develop the property. Had the previous B-2 zoning been maintained a building would be permitted to be constructed within 10 feet of the property line, which is the same distance off the property line as the new addition. The Special Use site plan which included the 10 foot setback was approved by the Planning Commission at a public hearing with no opposition from neighboring residence or property owners. The approved single story expansion has a residential finish and severs as a buffer transition between the residential neighborhood to the east and the B-2 zoning west of the property.
6. The Variance has NO impact of traffic. The Memory Care expansion will have less impact on traffic compared to the potential traffic generated by developing the property as B-2.

7. The zoning variance is being requested due to a misinterpretation of the setback requirements during the Entitlement process and Plan Review which resulted in the minor setback intrusion.
8. The building setback requirements are intended to protect adjacent property owner from overcrowding and encroachment along property lines. The previous B-2 zoning, on both sides of the property line, would allow a 10 foot building setback for each owner. The current physical condition meets this intent.

TO: Zoning Board of Appeals **DATE:** March 18, 2016

FROM: Vicki Georgeau, ^{jk} Director of Community Development

SUBJECT: ZBA #15-17, Bickford Cottage Assisted Living and Memory Care, 4707 West Milham Avenue; OS-1, Office Service with the exception of west 10-feet (B-2, Community Business), east 30-feet (RM-1, Multiple Family Residential) and south 30-feet (R-1B, One Family Residential).

CODE SECTION: 42-243(A)(2), Site Development Requirements, p. CD42:71

APPEAL: Requesting a variance to retain an approximate 8,400 square foot building addition along the west side of the existing Bickford Cottage facility to within 10-feet of the west property line (side yard) where a 30-foot setback is required.

STAFF RECOMMENDATION: The applicant is requesting the above referenced variance per the enclosed application, site plan, and related materials. As information for the Board, the approximate 8,400 square foot building expansion of the Bickford Cottage facility received Planning Commission approval and is currently under construction. A summary of events is provided below.

On January 20, 2015, City Council rezoned the western approximate 1.0 acre of the subject site from B-2, community business to OS-1, office service to facilitate property acquisition and expansion of the Bickford Cottage facility. On March 19, 2015, the Planning Commission approved a special land use permit and site plan to allow construction of the 16-bed memory care addition along the west side of the existing 24,500 square foot Bickford Cottage Assisted Living facility. On October 14, 2015, the Department of Community Development issued a building permit for the memory care addition and construction is nearing completion (occupancy request expected in the next 30-45 days).

The approved site plan for the approximate 8,400 square foot building addition identifies a 10-foot setback from the west property line (side yard) where a 30-foot setback is required. Regrettably, the Department of Community Development did not identify this building setback issue during administrative review of the site plan and subsequently recommended to the Planning Commission approval of the site plan with a portion of the building setback 10-feet from the west property line. While principal permitted uses in the OS-1 district (e.g., office buildings, medical clinics, banks/credit unions, art/photographic studios, personal service establishments) typically have a 10-foot side yard building setback requirement, special land uses in the OS-1 district, with the exception of funeral home related establishments, have a larger 30-foot building setback requirement from all property lines. This requirement is not listed in Section 42-350, Schedule of Regulations, but is contained in Section 42-243, Site Development Requirements in the OS-1 district.

As stated above, the 4.8 acre property is primarily zoned OS-1, office service and occupied by the 24,500 square foot Bickford Cottage Assisted Living facility (constructed in 2005), the approximate 8,400 square foot memory care addition (currently under construction) and associated site improvements. Single family residences located in the Andover Woods subdivision and zoned R-1B, one family residential and RM-1, multiple family residential border the subject site to the south and east, respectively. The adjacent property to the west is vacant land zoned B-2, community business: Future development on this adjacent property will need to maintain a minimum 10-foot side yard building setback from the property line. As information for the Board, the applicant did approach the owner of the adjacent property to the west (4721 West Milham Avenue) to inquire about possibly purchasing an approximate 20-foot wide by 100-foot long strip of property to eliminate the need for the variance request. According to the applicant, the adjacent property owner was not interested in selling the property at this time.

There are unique characteristics and circumstances associated with the property and development project. Although the existing Bickford Cottage building is situated in excess of 130-feet from the south property line, significant grade differences and the presence of a storm water retention pond prevented construction of the addition along the south side of the existing facility. Expansion options to the east and north were also restricted due to limited land area and the presence of existing parking areas and the resident drop-off/pick-up loop. Importantly, only a small portion of the overall 32,900 square foot building encroaches into the 30-foot setback area along the western portion of the site. The approximate 8,400 square foot memory care addition is one-story in height and was constructed with an east-west orientation with the narrow portion of the building (approximately 80-feet in width) facing the west property line. Because of the architectural design, the actual building setback from the west property line varies from between 10-22 feet. Additionally, only two of the 16 memory care living units have windows along the west side of the building: The majority of the windows along with entrance doors are located along the north and south sides of the building addition. According to the applicant, the facility is also highly secured and residents utilize an enclosed outdoor courtyard area located within the middle portion of the existing Bickford Cottage facility for walking and recreation. As such, adequate light, air and ventilation is provided and no building/fire code related issues are present. For the above stated reasons, the building setback variance can be recommended.

**PRACTICAL
DIFFICULTY:**

Significant grade differences along southern portion of site, existing development features, 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:

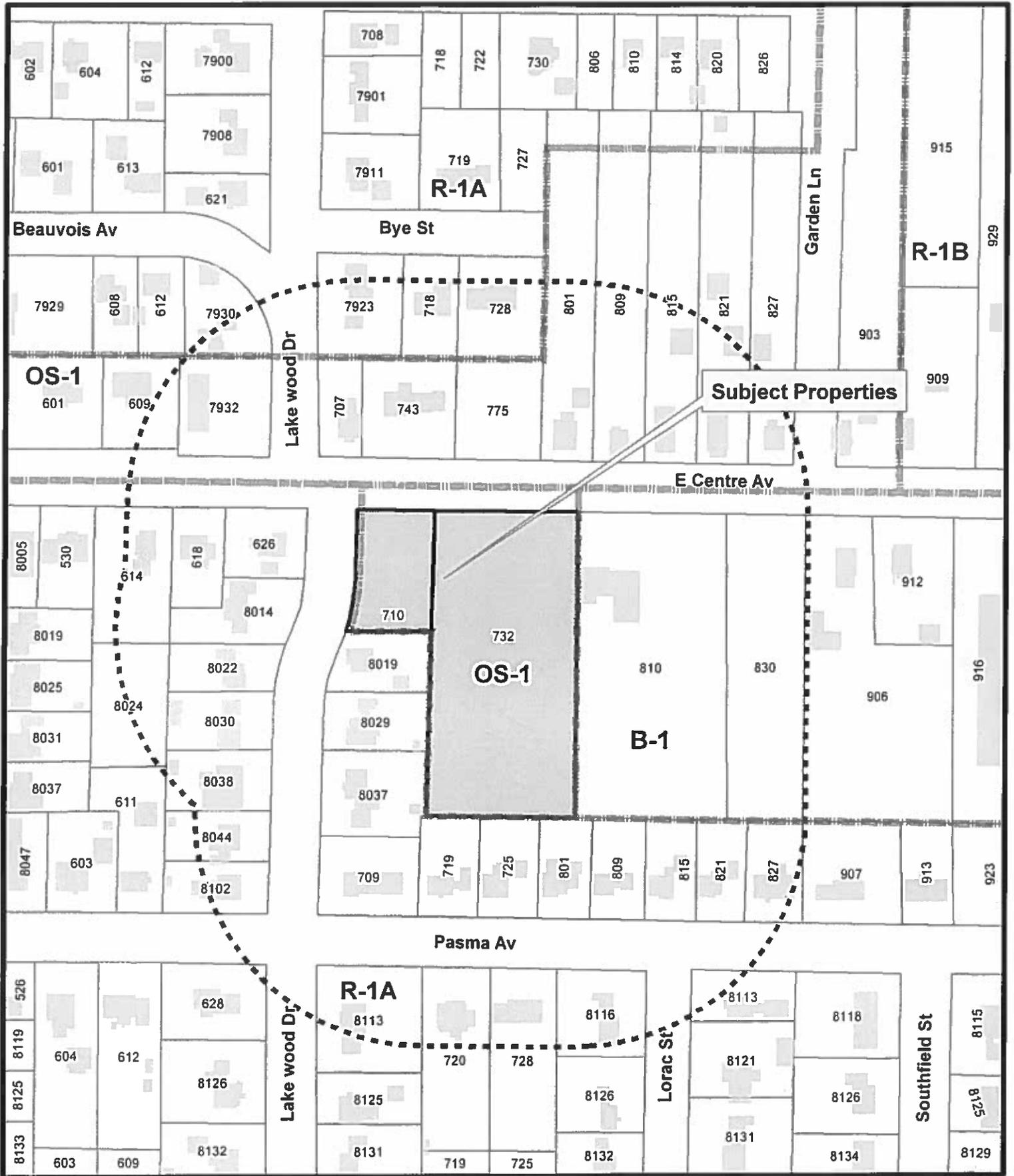
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right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



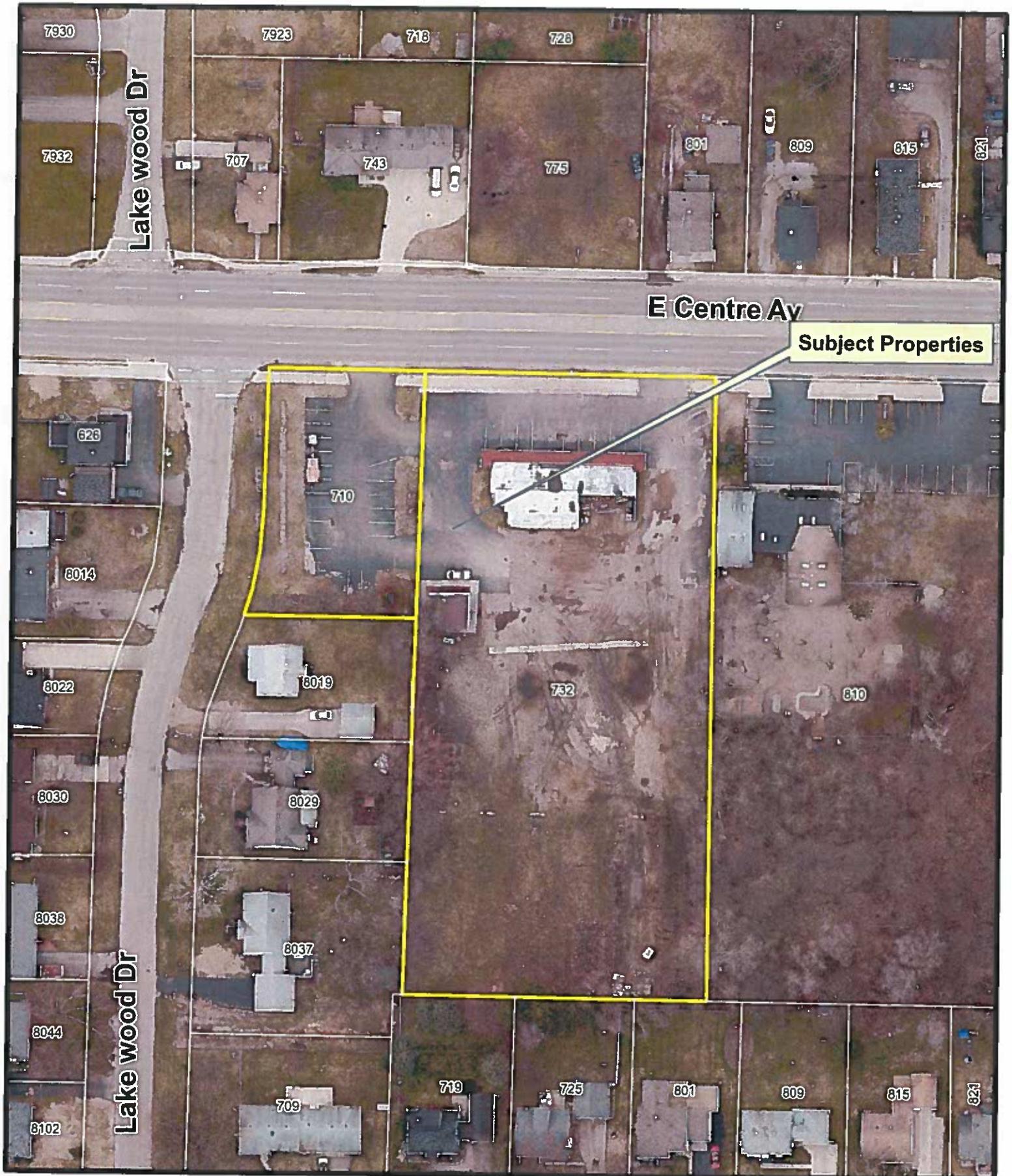
-  Zoning Boundary
-  Subject Property
-  Notification Area

ZBA 15-18

710 & 732 East Centre Avenue



1 inch = 167 feet



 Subject Property

Aerial Photo 710 & 732 East Centre Avenue



1 inch = 80 feet

Date of Photography: March 2013

RECEIVED
MAR 03 2016
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 03/02/16

Name of Applicant Timothy Dockerty _____
 Print Signature

Applicant's Address 8850 Red Arrow Hwy _____ Phone No. 269.465.7600 _____

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

Address of the Property that is the subject of this Application:
 Street Address 732,710 E. Centre St. _____
 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 4 Section 42-243 Paragraph A 2
 Regarding: Use _____ Area _____ Yards _____
 Setbacks Side and Rear 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 4 Section 42-243 Paragraph A 2
 Reason for Request: Side and Rear _____

 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.)

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.)

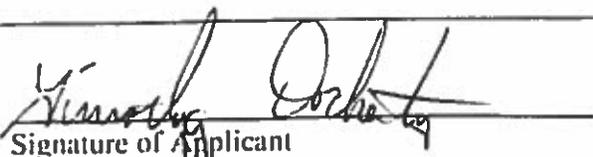
See attached

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

3/3/16
Date



RECEIVED

MAR 18 2016

COMMUNITY DEVELOPMENT

March 3, 2016

Portage Zoning Board of Appeals
7900 South Westnedge Ave.
Portage, MI 49023

RE: Variance Request
Dockerty Memory Care Facility – 710 & 732 E. Centre Avenue

Dear Board Members,

In June, 2015 we began the process of taking the above-referenced parcels of land, from a zoned district that has a higher potential of adverse impacts to residential zoned lots, and rezoning to it to a district with less of an impact on the neighboring residential lots. Since that time, the applicant, and now owner of the properties has spent a significant amount of time, money and resources creating a development that meets the setback requirements set forth in Article 42-350. Prior to this rezoning and property purchase, the developer worked closely with City staff to develop a conceptual plan that meets the required 20-foot rear setback, and 10-foot side setback as spelled out in Article 42-350. This plan was reviewed by City Planning and Fire Department staff and tweaked in order to address any concerns. The owner then moved forward with the rezoning and purchase of the property based on these reviews.

Upon completing architectural and site plans, it was brought to our attention that under Article 42-243, A (2) there is a conflicting 30-foot setback from all property lines. Our plans do not meet this requirement along the south and east sides. We have modified and moved the building and tried to maximize the setbacks but we cannot attain the 30-foot setback in on the south and east sides.

We request a 5.0-foot variance on the south property line abutting the residential district, and an 18.0-foot variance on the east property line abutting the business district. We believe that the current design reflects the intent to, "...serve as transitional area between residential districts and commercial districts and between major thoroughfares and residential districts." as described in Sec. 42-240. We offer the following explanations to the questions section of the variance application:

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

The property has an usual configuration with narrow frontage on Centre Avenue and a relatively deep lot to the south. We cannot fit the building closer to the road and have not been able to provide parking in the rear of the lot. It does have natural features such as trees that would help further meet the intention of the zoning ordinance by, "...serv[ing] as transitional area between residential districts and commercial districts..." and blocking any potential views from these abutting uses.

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

Yes, the parcels' shape is unique and not shared by neighboring properties.



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

Yes, most any property can be developed for the uses permitted, but may not be practical.

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?

Yes, we have revised the site layout to reduce the setback variance required and eliminated windows on the building wall adjacent to the Otis Montessori School.

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

Due to the low volume of traffic anticipated and the naturally quiet nature of memory care facilities, granting the variance will not adversely impact the abutting properties. Residents of this facility are continuously monitored by staff and have designated outdoor courtyard areas that they will utilize. They will not be permitted to roam the grounds freely without escort.

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.

We do not believe that building setback variances increase traffic congestion, the noise on the site is minimal due to the naturally quiet nature of memory care facilities, and all other concerns and dangers are not increased due to the proximity of a building to a lot line.

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?

We do not believe that the reason for the variance request is due to an act of the applicant, but is rather due to the discrepancy in the zoning ordinance, and the financial decisions based on the preliminary development feedback received.

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

Again, as described in Sec. 42-240 of the zoning ordinance we feel that we meet the spirit of. "...serv[ing] as transitional area between residential districts and commercial districts..." and we meet the intent of the setback requirements set forth in Article 42-350.

Thank you for your time and understanding.

Sincerely,
HURLEY & STEWART, LLC.

Timothy A. Stewart, P.E.

TO: Zoning Board of Appeals **DATE:** March 18, 2016

FROM: Vicki Georgeau, ^{WJ} Director of Community Development

SUBJECT: ZBA #15-18, Dockerty Memory Care, 710 and 732 East Centre Avenue; OS-1, Office Service with the exception of the west 5-feet of 710 East Centre Avenue (R-1A, One Family Residential).

CODE SECTION: 42-243(A)(2), Site Development Requirements, p. CD42:71

APPEAL: Requesting variances to allow construction of an approximate 31,900 square foot, 42-bed memory care facility to a) within 12-feet of the east property line (side yard) where a 30-foot setback is required, and b) within 25-feet of the south property line (rear yard) where a 30-foot setback is required.

STAFF RECOMMENDATION: The applicant is requesting the above referenced variances per the enclosed application, site plan, and related materials.

The 2.24 acre property is currently vacant, but was previously occupied by the Centre Street Market (demolished 2015). The adjacent property to the east is zoned B-1, local business and occupied by the Otis Montessori Academy preschool and child care facility. Single family residences located in the Loehr Acres subdivision and zoned R-1A, one family residential border the subject site to the south and west.

In May 2015, the applicant submitted a conceptual site plan for the proposed memory care facility for preliminary staff review. This conceptual site plan identified the building with a 10-foot setback from the east property (side yard) and a 20-foot setback from the south property line (rear yard), consistent with the B-1 district. During this preliminary review, staff did inform the applicant that a zoning change from B-1 to OS-1 would be necessary to support the proposed memory care use (institutional land uses are not permitted in the B-1 district) and also commented on the percentage of lot coverage by building (>30%). However, staff did not identify the building setback deficiency along the east and south property lines that would be required within the OS-1 zoning district. On November 2, 2015, City Council rezoned the subject property from B-1 to OS-1 (except the west 5-feet of 710 East Centre Avenue remained zoned R-1A) to facilitate the proposed Dockerty Memory Care facility. On February 4, 2016, the applicant submitted the finalized site plan for formal staff review. During this formal review, staff identified the larger building setback requirement and informed the applicant of the need to revise the site plan to provide a 30-foot building setback from all property lines.

While a 10-foot side yard and 20-foot rear yard building setback is typical in the B-1 district and for principal permitted uses in the OS-1 district (e.g., office

buildings, medical clinics, banks/credit unions, art/photographic studios, personal service establishments), special land uses in the OS-1 district, with the exception of funeral home related establishments, have a larger 30-foot building setback requirement from all property lines. This requirement is not listed in Section 42-350, Schedule of Regulations, but is rather contained in Section 42-243, Site Development Requirements in the OS-1 district.

In support of the variance request, the applicant does note unique characteristics and circumstances associated with the property and development project. The overall zoning lot, which includes the 710 and 732 East Centre Avenue parcels, is flag-shaped and bordered by single family residential land use/zoning to the west and south. The 710 East Centre Avenue parcel is a corner lot with a dimension of 102-feet by 162-feet, while the 732 East Centre Avenue parcel is longer and narrower with a dimension of 198-feet wide by 407-feet deep. The applicant cites the unusual configuration of the zoning lot as a unique physical characteristic that prevents strict compliance with the 30-foot building setback requirement along the east and south property lines. The applicant indicates that the original design of the building has been altered to increase building setbacks to the extent possible and windows along the east side of the northern portion of the building have been eliminated, where facing the adjacent Otis Montessori building. The east side of the southern portion of the proposed memory care building does contain windows, however, these living units face the rear portion of the Otis Montessori parcel that is currently wooded open space. The southern portion of the building, where a 25-foot building setback is proposed, faces adjacent single family residences. However, conflicting land use screening in the form of a 6-foot tall wooden privacy fence, 10-foot wide greenstrip and deciduous tree plantings will be provided along the southern property line. This altered building design does provide adequate light, air and ventilation and, importantly, no building/fire code related issues are present.

**PRACTICAL
DIFFICULTY:**

Unusual zoning lot configuration, surrounding zoning/land use pattern. See suggested motion form

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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.