



# ZONING BOARD OF APPEALS

October 10, 2016

# CITY OF PORTAGE ZONING BOARD OF APPEALS

## Agenda

Monday, October 10, 2016

(7:00 pm)

Portage City Hall  
Council Chambers

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### APPROVAL OF MINUTES

- \* September 12, 2016 meeting

### OLD BUSINESS:

- \* ZBA #16-04, Adam & Sarah Beuker, 2611 Woodbine Avenue: Requesting: a) variance to construct a 25-foot wide by 20-foot deep attached garage 5.6 feet from the front property line where a minimum 30-foot setback is required; or b) a variance to retain the existing dwelling 25.6 feet from the front property line where a minimum 30-foot front setback is required.
- \* ZBA #16-06, Wal-Mart Stores, Inc.: Requesting a variance to allow 735 square feet of wall signage where a maximum 325 square feet is permitted.

### NEW BUSINESS:

- \* ZBA #16-07, Kim Neeb, 9138 Portage Road: Requesting a variance to retain two freestanding signs where one sign is permitted.
- \* ZBA #16-08, Dan Jaqua, 408 and 414 West Milham Avenue: Requesting: a) a variance to reconstruct an off-street parking lot 2.5 feet from the (north) side property line where a minimum 10-foot greenstrip is required; and b) a variance to locate a refuse container and enclosure nine feet from the north property line and six feet from the east property line where a 20-foot setback from each property line is required.
- \* ZBA #16-09, Plaza Corp, 6525 South Westnedge Avenue and 150, 206 Ruth Street: Requesting: a) a variance to erect a 5,120 square-foot commercial building 60 feet from the (north) front property line where a minimum 75-foot setback is required; and b) a variance to locate a refuse container in a P-1 vehicular parking district.

### OTHER BUSINESS:

### STATEMENT OF CITIZENS:

### ADJOURNMENT:

### MATERIALS TRANSMITTED

- \* - September, 2016 Michigan Planner article. Information only

## Minutes of Meeting – September 12, 2016

The City of Portage Zoning Board of Appeals meeting was called to order by Vice-Chairman Schaffer at 7:00 p.m. in the Council Chambers. Seven people were in the audience.

**MEMBERS PRESENT:** John Byrnes, Phil Schaffer, Chadwick Learned, Alexander Philipp, Lowell Seyburn, Jay Eichstaedt.

**MEMBERS EXCUSED:** Michael Robbe, Jeffrey Bright, and Randall Schau

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

**APPROVAL OF THE MINUTES:** Learned moved and Seyburn seconded a motion to approve the August 8, 2016 minutes as submitted. Upon voice vote, the motion was approved 6-0.

**OLD BUSINESS:**

**ZBA #16-4, Adam & Sarah Beuker, 2611 Woodbine Avenue:** Vice-Chairman Schaeffer explained that since there were only six Board members present, the applicant had the option to either move forward with Board consideration of the request tonight or request postponement to the next regularly scheduled meeting when seven voting members may be present. The applicant stated he would like to request a postponement. A motion was made by Seyburn, seconded by Learned, to postpone the item until the October 10, 2016 meeting. Upon voice vote, the motion passed 6-0.

**NEW BUSINESS:**

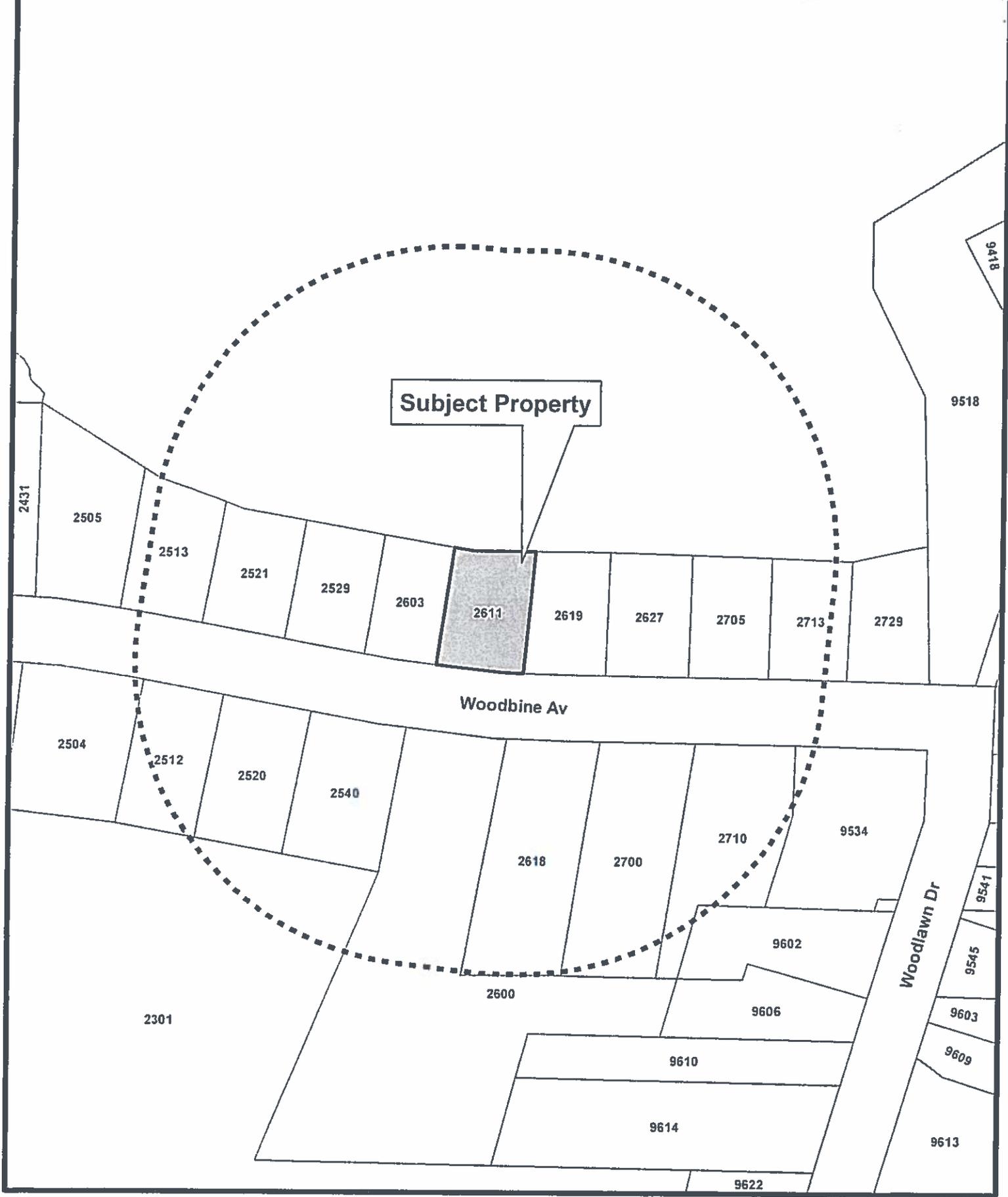
**ZBA #16-6, WalMart Stores Inc., 8350 Shaver Road:** Vice-Chairman Schaeffer explained that since there were only six Board members present, the applicant had the option to either move forward with Board consideration of the request tonight or request postponement to the next regularly scheduled meeting when seven voting members may be present. The applicant requested an opportunity to confer with his office. The Board recessed for five minutes. After the recess, the applicant stated he would like to request a postponement. A motion was made by Seyburn, seconded by Learned, to postpone the item until the October 10, 2016 meeting. Upon voice vote, the motion passed 6-0.

**OTHER BUSINESS:****STATEMENT OF CITIZENS:**

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 7:13 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator



Subject Property

**Legend**

300'

2611 Woodbine

**ZBA #16-04**  
**2611 Woodbine Avenue**



1 inch = 125 feet



Subject Property

2603

2611

2619

Woodbine Av

**Legend**

 2611 Woodbine

**ZBA #16-04  
2611 Woodbine Avenue**



1 inch = 25 feet

**ZONING BOARD OF APPEALS APPLICATION**

FOR COMPLETION BY APPLICANT

Application Date 6/30/2016  
 Name of Applicant Adam & Sarah Beuker Sarah J. Beuker Adam B. Beuker  
Print Signature  
 Applicant's Address 2611 WOODBINE AVENUE Phone No. (269) 323-7802  
 Name of Property Owner (if different from Applicant) SAME AS ABOVE  
 Address \_\_\_\_\_ Phone No. \_\_\_\_\_  
 Address of the Property that is the subject of this Application:  
 Street Address 2611 WOODBINE AVENUE  
 For Platted Property: Lot 6 of MCCAMLEY MANOR 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: JOINT OWNERS / JOINT TENANCY

Application Fee \$13500 (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. Zoning Section 42-350 Paragraph A  
 Regarding: Use \_\_\_\_\_ Area \_\_\_\_\_ Yards \_\_\_\_\_  
 **Setbacks** front Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): variance of the prescribed front setback, necessary to alleviate structural problems & safety hazards.

\_\_\_\_ **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>16-4</u>	Filing Date: <u>7/30</u>	Tentative Hearing Date: <u>8/8/16</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.)

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

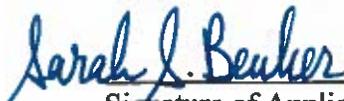
SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

  
Signature of Applicant



  
Date

## Addendum to Zoning Board of Appeals Application

Re: Variance Requested for the Property at 2611 Woodbine Avenue, Portage, MI 49002  
(also known as "Lot 6, McCamley Manor"; and "Parcel Number: 05160-006-O")

Portage's Zoning Board of Appeals has the power to hear an appeal and grant variances, interpret code provisions and grant temporary uses as authorized in the Zoning Code (Chapter 42, Land Development Regulations, Division 7 of the Zoning Code). The process of review by the Zoning Board of Appeals is established in the Zoning Code. The property located at 2611 Woodbine Avenue, in the City of Portage (hereinafter the Subject Property) is zoned R1-B per the Zoning Code, which prescribes a 30-foot setback from the front property line. For the reasons set forth below, the Applicants Adam and Sarah Beuker, the current owners of the Subject Property request a variance of this prescribed setback.

### 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.

Although the Subject Property generally meets the minimum standards set by the R-1B regulations, there are exceptional or extraordinary circumstances or conditions applying to the Subject Property that do not apply generally to other properties in the same zoning district. The Subject Property's driveway is unusual, with an abnormally steep grade. The Subject Property's driveway begins at street level, but descends steeply in order to enter the garage, which is at basement level. This configuration has led to both structural problems and potential safety hazards.

The structural problems are caused by water infiltrating the garage from the abnormally steep driveway. The rainwater and snowmelt inevitably gathers at the driveway's low-point, where the driveway meets the existing garage. The previous owners of the Subject Property have taken measures to alleviate the water problem (such as installing multiple drains and relocating eaves troughs). The current property owners have worked diligently to clean and maintain these measures. However, this drainage is insufficient to solve the problem – water continues to gather at the driveway's low-point and in the drain(s), soaking and rotting the concrete base of the steel column located between the two garage doors, causing sinking of this column, which supports the garage structure and the bedrooms above the garage. Cracks are visible in the brick mortar above this column, and the façade is beginning to sag.

There are also safety hazards which result from the existing configuration. The slope of the driveway, when coupled with ice and/or snow, makes backing out of the garage onto the street treacherous. In winter months, even after adequate plowing and salting of the driveway, rapid acceleration is often

required in order to get up the steep and slippery drive. However, rapid deceleration is then immediately necessary to prevent the vehicle from entering the street. Even when executed successfully, such maneuvers are startling to oncoming traffic, which has been observed swerving to avoid what they perceive as a potential collision.

To remedy this situation, Applicants request a variance of the Required Setback from the Street/Right-of-Way. The existing garage structure is setback 25.6 feet from the Front Property Line/Right-of-Way, approximately 46 feet from the edge of the street. In order to eliminate the steep slope of the driveway, applicants propose building a new attached garage, immediately adjacent to the existing garage. The new garage would be accessed via a new driveway, as close as possible to grade level, in order to remedy the structural and safety-related hardships caused by the current steep slope.

Although many two car garages are 22 or 24 feet deep, the proposed garage would only be 20 feet deep, in order to minimize the variance required. The proposed garage would thus be setback 5.6 feet from the front property line, approximately 26 feet from the edge of Woodbine Avenue, leaving adequate room for vehicles to safely and completely exit Woodbine Avenue before maneuvering into the garage.

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

Yes. The driveway configuration is unusual, with an abnormally steep grade, hampering the intended use of the garage and driveway and causing safety and structural concerns (outlined above). The requested 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 and in the vicinity. There are many other properties in the vicinity with functional two stall garages capable of safe ingress and egress; there are numerous properties in the vicinity with no structural damage or safety hazards as a result of abnormally steep driveways.

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

No, as set forth above.

**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, the variance for a garage with 20 foot depth is the minimum necessary to permit the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same

zoning district and in the vicinity. Although many two car garages are 22 or 24 feet deep, the proposed garage would only be 20 feet deep, in order to minimize the variance required.

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

The variance will not adversely affect adjacent property or the surrounding neighborhood. The garage addition will not negatively impact the use or enjoyment of adjacent land owners. The requested variance does not impact the setback requirements for the property lines shared with adjacent properties. The requested variance only impacts the required setback from the street / right-of-way.

Nor will the requested variance alter the character of the area. Several nearby homes have garage / setback configurations very similar to that requested in the instant variance:

Address	Feet from Right-of-Way	Feet from Street Edge
9541 Woodlawn	N/A	18 ft
9629 Woodlawn	8 ft	20 ft
9637 Woodlawn	9 ft	20 ft
9533 Woodlawn	12.8 ft	21 ft
2611 Woodbine (proposed)	5.6 ft	26 ft
9643 Woodlawn	17 ft	32ft
2729 Woodbine	18 ft	36 ft
2705 Woodbine	19.5 ft	40 ft
2611 Woodbine (current)	25.6 ft	46 feet

Note: Measurements for 2611 Woodbine are based on April 5, 2016 Survey by Wightman & Associates, Inc., which included staking of the property. Measurements for the neighboring properties are approximate, obtained by utilizing the City of Portage's online GIS tool.

The proposed garage will actually improve the curb appeal of the home and allow for vehicles, along with landscaping equipment, to be easily stored in the garage addition. The proposed driveway would also remove the safety hazards caused by the existing configuration.

**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.**

The requested variance will not result in any of the above detrimental conditions. As set forth above, it will have little or no impact on adjacent or nearby properties, but will significantly improve the value and utility of the Subject Property. Further, the requested variance will actually improve traffic on Woodbine Ave, by removing the safety/traffic hazards caused by the existing driveway configuration.

**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?**

No. The practical difficulty causing the need for the variance request was not created by the applicant, but by a previous (original) property owner and/or home builder. The House was constructed in 1967 with a brick exterior. Over the years, settling of the soil has been exacerbated by the increased water run-off toward the basement level garage, garage doors and structural support. This has weakened the dwelling's structural integrity and has also made pulling out of the driveway difficult, even hazardous, particularly in the winter. Numerous attempts to increase (previous owners) and meticulously maintain (previous and current owners) optimal drainage of this area have not remediated the problem.

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

The variance will not materially impair the intent and purpose of the Zoning Code, i.e., promoting the public's health, safety, comfort, convenience and general welfare. <sup>1</sup> Because Woodbine Avenue has a standard right-of-way width of 66 feet, the depth of the right-of-way will allow ample space for vehicles to safely and completely exit Woodbine Avenue before maneuvering into the proposed garage. The requested variance will fulfill the spirit and intent of the Zoning Ordinance by improving the structural integrity of the existing dwelling, providing safer egress and ingress to the Subject Property, thus improving traffic flow, while maintaining the character of the neighborhood, improving the dwelling's functionality and curb appeal, and permitting Applicants to enjoy a substantial property rights possessed by other properties in the vicinity.

**CONCLUSION**

The requested variance should be granted in light of the proffered evidence of hardship and because of the property's unique conditions. The requested variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by others in the same zoning district and in the vicinity. The variance will not be detrimental to adjacent properties or the surrounding neighborhood. Rather, it will enhance curb appeal and traffic safety, and is in keeping with the neighborhood's character. The variance will not materially impair the intent and purpose of the Zoning Ordinance. See Ord. No. 03-01, § 42-702 (2003). The immediate hardship necessitating the variance request was not created by the applicants. Accordingly, the Applicants hereby request a variance from the prescribed setback from the Right-of-Way (City of Portage Code of Ordinances §42.350).

Respectfully submitted,



Signature of Applicant (Adam B. Beuker)

June 30, 2016

Date



Signature of Applicant (Sarah S. Beuker)

June 30, 2016

Date

<sup>1</sup> The City of Portage's Zoning Ordinance provides that: "In its interpretation and application, the provisions of this article shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or general welfare." City of Portage Code of Ordinances, § 42-100.

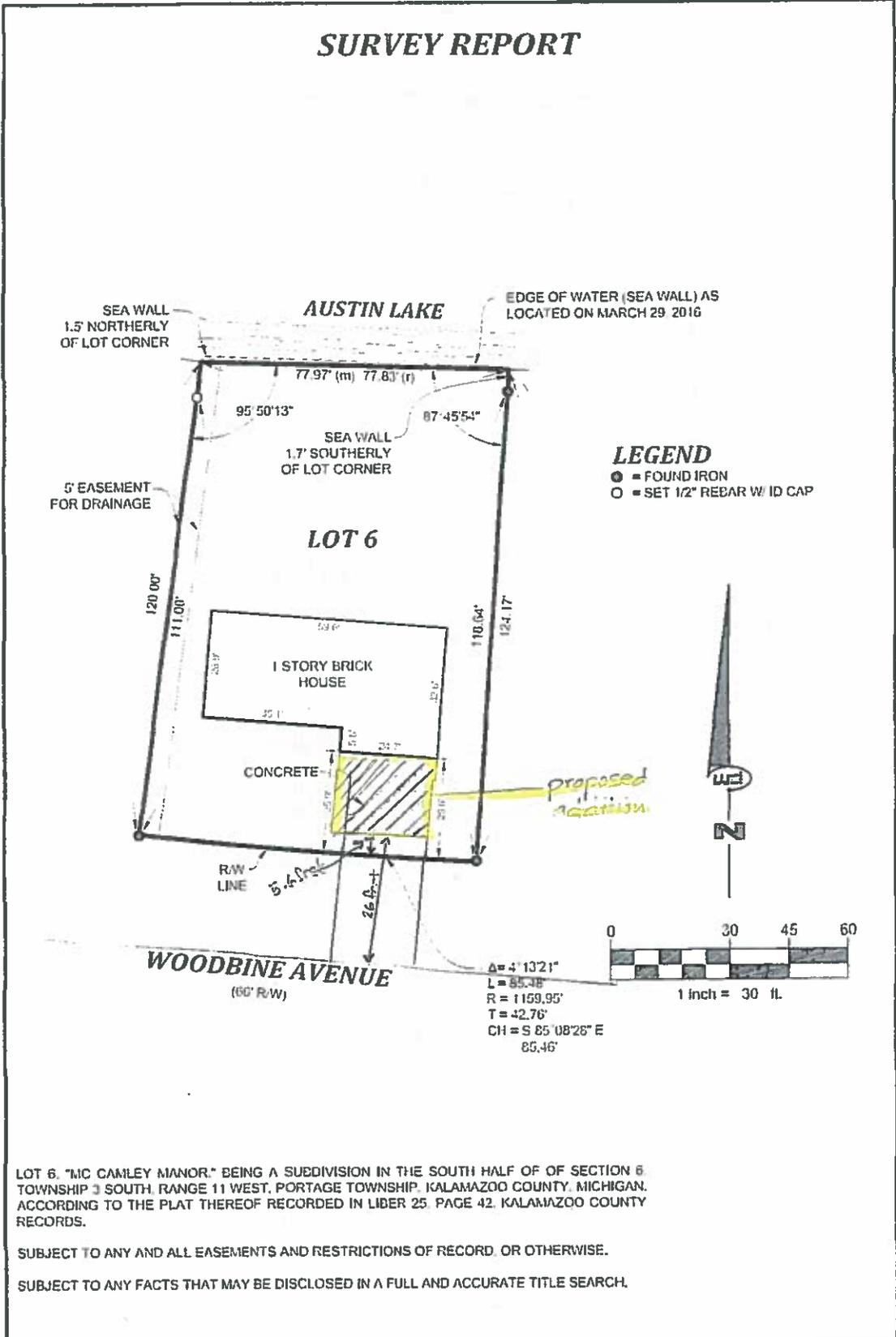
**2611 Woodbine Avenue – Existing Configuration:**



Proposed garage would extend essentially to the back end of the red SUV (seen above), at a grade even with or slightly below the edge of the retaining wall. The following photo is a very rough approximation of the proposed design. Applicants would work closely with an architect to ensure that the new garage is aesthetically pleasing and consistent with the existing structure.



# SURVEY REPORT



CITY OF PORTAGE, KALAMAZOO COUNTY  
SECTION 26 T 3 S R 11 W A-164065

LOT 6, "MC CAMLEY MANOR," BEING A SUBDIVISION IN THE SOUTH HALF OF OF SECTION 6 TOWNSHIP 3 SOUTH, RANGE 11 WEST, PORTAGE TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 25 PAGE 42, KALAMAZOO COUNTY RECORDS.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

<p><b>WIGHTMAN &amp; ASSOCIATES, INC.</b>          ENGINEERING • SURVEYING • ARCHITECTURE</p> <p>204 Woodbine Avenue          Portage, MI 49801          Phone: (269) 777-1600</p> <p>2000 Pine Grove Road          Hartsville, Pa MI 49822          Phone: (269) 777-1600</p> <p>9044 15th Street, NE          Grand Rapids, MI 49506          Phone: (269) 777-1600</p> <p>www.wightman-associates.com</p>	<p>CLIENT: ADAM BEUKER</p> <p>JCR#: 164065</p> <p>DATE: APRIL 5 2016</p> <p>SCALE: 1" = 30'</p> <p>DRAWN BY: BKG</p> <p>CHECKED BY:</p>	<p>AARON D. SMITH</p> <p>PS-4270</p>

Dr.../

This plat has been examined and approved on the \_\_\_\_\_ day of \_\_\_\_\_, 1960, by the Kalamazoo County Board of Road Commissioners.

the taxes for said period of five years are paid, as shown by the records of this office. This certificate does not apply to taxes, if any, now in process of collection by the Township, City or Village collecting officers.

**CERTIFICATE**

is a correct one and that permanent monuments are placed at all (1/2) inch in diameter by thirty-six (36) inches in depth, as thereon shown, at all angles in the boundaries of the Avenue, Road and Drive and at the intersection of the plat.

William H. Wilkins  
Registered Land Surveyor No. 2777

COEN  
160.87.00  
25.00  
12.00

*Merle Veberg*  
*Richard J. ...*

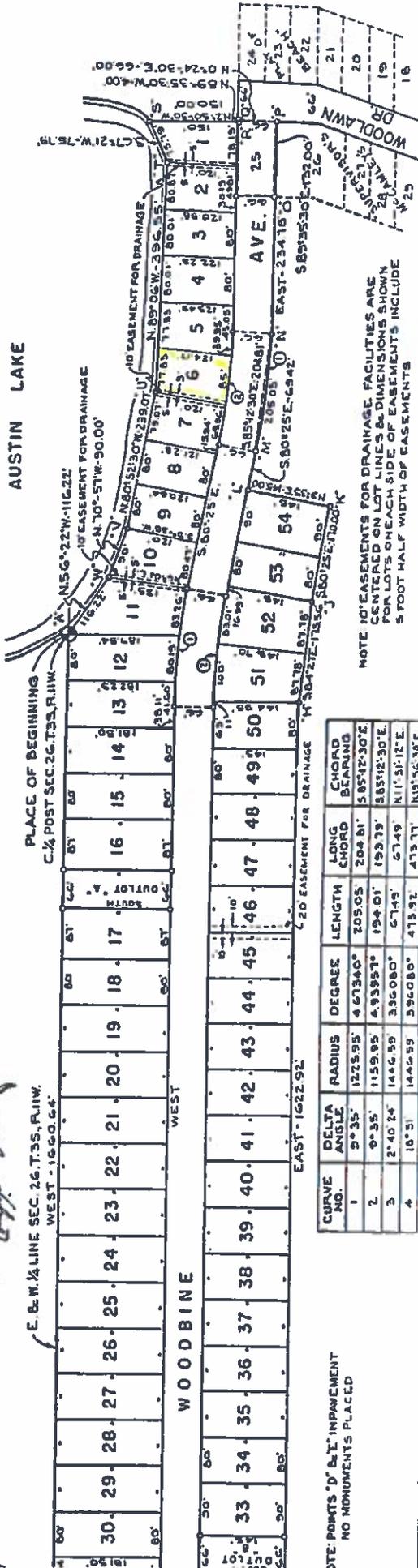
R. L. Olds, Chairman

Arthur J. Mulholland Sr., Member

Merle Veberg, Member

NOTE: All dimensions are in feet and decimals thereof.

NOTE: 20' EASEMENT FOR DRAINAGE FACILITIES IS CENTERED ON LOT LINE AND DIMENSIONS SHOWN FOR LOTS ON EACH SIDE OF EASEMENT INCLUDES 10' HALF WIDTH OF EASEMENT.



CURVE NO.	DELTA ANGLE	RADIUS	DEGREE	LENGTH	LONG CHORD	CHORD BEARING
1	9° 35'	1225.95'	4° 17' 30"	205.05'	204.81'	S 85° 12' 30" E
2	0° 35'	1159.85'	4° 33' 57"	194.01'	193.79'	S 85° 12' 30" E
3	2° 40' 24"	1446.59'	3° 00' 00"	67.49'	67.49'	N 11° 51' 12" E
4	10° 51'	1446.59'	3° 00' 00"	475.92'	475.77'	N 15° 56' 30" E

NOTE: POINTS "D" & "E" IMPROVEMENT NO MONUMENTS PLACED

NOTE: 10' EASEMENTS FOR DRAINAGE FACILITIES ARE CENTERED ON LOT LINES & DIMENSIONS SHOWN FOR LOTS ON EACH SIDE OF EASEMENTS INCLUDE 5 FOOT HALF WIDTH OF EASEMENTS

42529

Plan 7

RECEIVED  
JUN 18 2011  
COMMUNITY DEVELOPMENT

Adam and Sarah Beuker • 2611 Woodbine Avenue • Portage, Michigan 49002

Dear Neighbors,

We moved into our home at 2611 Woodbine Avenue about one year ago. We love our new home and neighborhood. However, our driveway is a bit of a problem. It is unusual, with an abnormally steep grade. The driveway begins at street level, then descends rather steeply four feet, to enter the garage at basement level. Over the past year, we realized this configuration has caused structural problems and safety hazards.

The **structural problems** are caused by water (rainwater and snowmelt) flowing down the driveway and gathering at the base of the garage doors. The previous owners attempted to solve this problem by installing a large drain and relocating eaves troughs. Since we've moved in, we have been diligent and meticulous about keeping the drains clear, but water still gathers at the driveway's low-point, soaking and rotting the concrete base of the steel column between the two garage doors, causing sinking of this column, which supports the garage structure and the bedrooms above. Cracks are visible in the driveway and in the brick mortar above this column, and the façade is beginning to sag.

There are also **safety concerns**. The steep driveway, when coupled with ice and/or snow, makes backing out of the garage onto the street treacherous. In winter months, even after plowing and salting the driveway, rapid acceleration is often required to get up the steep and slippery drive. It is then immediately necessary to throw on the car's brakes, to avoid entering the street before you can look for oncoming traffic. Even when executed successfully, such maneuvers are startling to oncoming traffic, which sometimes swerves to avoid what they perceive as a potential collision. Obviously this is concerning. We are both lifetime residents of Michigan, experienced drivers in winter conditions, and we both had harrowing experiences backing out of the driveway this past winter. We also have two teenage children who will soon be driving, and who are not experienced at driving in Michigan winters. The steep driveway, unlike any other in our neighborhood, has caused structural problems and a safety concern for us and others, particularly those driving or walking past our house in the winter months. We did not create this problem, and we are anxious to solve it.

Our proposed solution is to bring the driveway as close as possible to grade level and build a new garage, attached to the existing structure. To do so, we need a variance of the Zoning Ordinance which states our home (zoned R1-B) must be setback 30 feet from the front property line. Although many garages are 22 or 24 feet deep, our proposed garage is only 20 feet deep, to minimize the variance needed. The new garage would end 5.6 feet from the front property line (which is marked by survey stakes), about 26 feet from the edge of Woodbine Ave. This would leave ample room for driveway parking and for vehicles to safely exit Woodbine Ave. before entering the garage. Although closer to the street than other homes on Woodbine Ave., the new garage would be consistent with the neighborhood, which includes Woodlawn Avenue, where several homes have structures closer to the street than our proposed garage.

Sincerely,

Adam and Sarah Beuker

We do not object to Adam and Sarah Beuker's requested variance of the R1-B Zoning Ordinance. Specifically, we do not object to Adam and Sarah Beuker building a new garage (approximately 20-foot deep) attached to the street-side of their existing home at 2611 Woodbine Avenue.

Gerald F. Comer Aug. 20, 2016  
Gerald & Kathleen Comer, 2603 Woodbine Avenue

Kathleen L. Comer Aug. 20, 2016

Narance Campbell Aug. 20, 2016  
Clarence & Brenda Campbell, 2619 Woodbine Avenue

Brenda Campbell Aug. 20, 2016

Timothy & Christine Sanborn Aug. 20, 2016  
Timothy & Christine Sanborn, 2705 Woodbine Avenue

Sanborn Aug. 20, 2016

Patrick & Melinda Nelson Aug. 20, 2016  
Patrick & Melinda Nelson, 2540 Woodbine Avenue and 2600 Woodbine Avenue

Melinda Nelson Aug. , 2016

Steven & Mary Dencau Aug. 27, 2016  
Steven & Mary Dencau, 2504 Woodbine Avenue and 2512 Woodbine Avenue

Aug. , 2016

Jason & Kristine Sibley Aug. 27, 2016  
Jason & Kristine Sibley, 2529 Woodbine Avenue

Sibley Aug. 27, 2016

Donald & Lisa Chapman Aug. , 2016  
Donald & Lisa Chapman, 2618 Woodbine Avenue

Aug. , 2016

Robert & Karen Spencer Aug. 27, 2016  
Robert & Karen Spencer, 2513 Woodbine Avenue

Aug. , 2016.

Tyler & Lindsey Monroe Sep 6th / Aug. , 2016  
Tyler & Lindsey Monroe, 2520 Woodbine Avenue and 2521 Woodbine Avenue

Lindsey Monroe Sept / Aug. 6, 2016

Timothy Leto Aug. 20, 2016  
Timothy Leto, 2713 Woodbine Avenue

Aug. , 2016

Derek & Renee Theil Aug. 28, 2016  
Derek & Renee Theil, 2700 Woodbine Avenue

DAS-Theil Aug. 28, 2016

Diane Decker & S. Evans Aug. 27, 2016  
Diane Decker & S. Evans, 2710 Woodbine Avenue

Sandra Evans Aug. 30, 2016  
Susan Evans 8/30/16

**TO:** Zoning Board of Appeals **DATE:** July 29, 2016  
**FROM:** Vicki Georgeau, <sup>vb</sup> Director of Community Development  
**SUBJECT:** ZBA #16-04, Adam & Sarah Beuker, 2611 Woodbine Avenue; R-1B, One Family Residential.

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

**APPEAL:** Requesting: a) variance to construct a 25-foot wide by 20-foot deep attached garage 5.6 feet from the front property line where a minimum 30-foot setback is required; or b) a variance to retain the existing dwelling 25.6 feet from the front property line where a minimum 30-foot front setback is required.

**STAFF RECOMMENDATION:**

The applicant is requesting the variances per the enclosed application, plot plan, and related materials. The lakefront property is zoned R-1B, one family residential, and is located in a single-family residential neighborhood. The subject property is improved with a nonconforming 1,690 square-foot bi-level house with an attached (bottom level) two-stall garage constructed in 1967. The dwelling is nonconforming because it is setback 25.6 feet from the front property line where a 30-foot front setback is required, but meets all other setback and lot coverage requirements.

The applicant indicates the descending slope of the driveway in front of the dwelling causes safety problems for vehicles pulling in and out of the property, especially during winter months, and also caused structural problems due to water collecting at the low point and eroding the concrete base of the steel support column between the garage doors. The applicant proposes to alleviate these issues by constructing an attached 25-foot wide by 20-foot deep two-stall garage in front of the dwelling thereby permitting vehicles to enter/exit the garage at street grade level. The proposed garage would extend to within 5.6 feet of the front property line. During the course of conducting research for the variance it was discovered the original 1967 building permit was issued in error: the house was permitted with a front setback of 25.6 feet where a 30-foot setback applies. Variances are therefore requested.

Concerning a), the drainage problems caused by the descending slope of the driveway and bi-level design are acknowledged. The proposed garage location, however, presents problems of its own. The City Code requires two (2) off-street parking spaces per dwelling unit and a 10-foot setback for off-street parking. Due to the proposed 5.6-foot setback, vehicles in the driveway would be primarily parked in the in the city street right-of-way, as opposed to private property. Further, under this scenario, necessary future roadway improvements may be adversely impacted by the proposed garage location. Finally, the proposed garage would also project considerably closer to the street than any other dwelling on Woodbine Avenue.

Conforming alternatives are available. For example, the applicant could modify the grade of the driveway near the road to reduce drainage onto the property, install a heated driveway system with additional drainage and/or install a sump pump in the existing garage. Another alternative is to convert the bedrooms currently over the existing garage into a new garage, and add new living space on the north (lake) side of the dwelling. For the aforementioned reasons, the variance is not recommended.

Regarding b) the existing setback was erroneously permitted by the city in 1967 and no complaints have been received during that time. The immediate practical difficulty causing the need for the variance request was not caused by the applicant, and the variance will not be detrimental to adjacent property and the surrounding neighborhood. For these reasons variance b) is recommended.

**PRACTICAL**

**DIFFICULTY:** None noted by staff. Building permit issued in error. See suggested motion form.

T:\COMMDEV\2016-2017 Department Files\Board Files\Zoning Board\16-04 2611 Woodbine\2016 07 29 VG ZBA 16-04 Woodbine, 2611 (staff rpt) docx

**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:

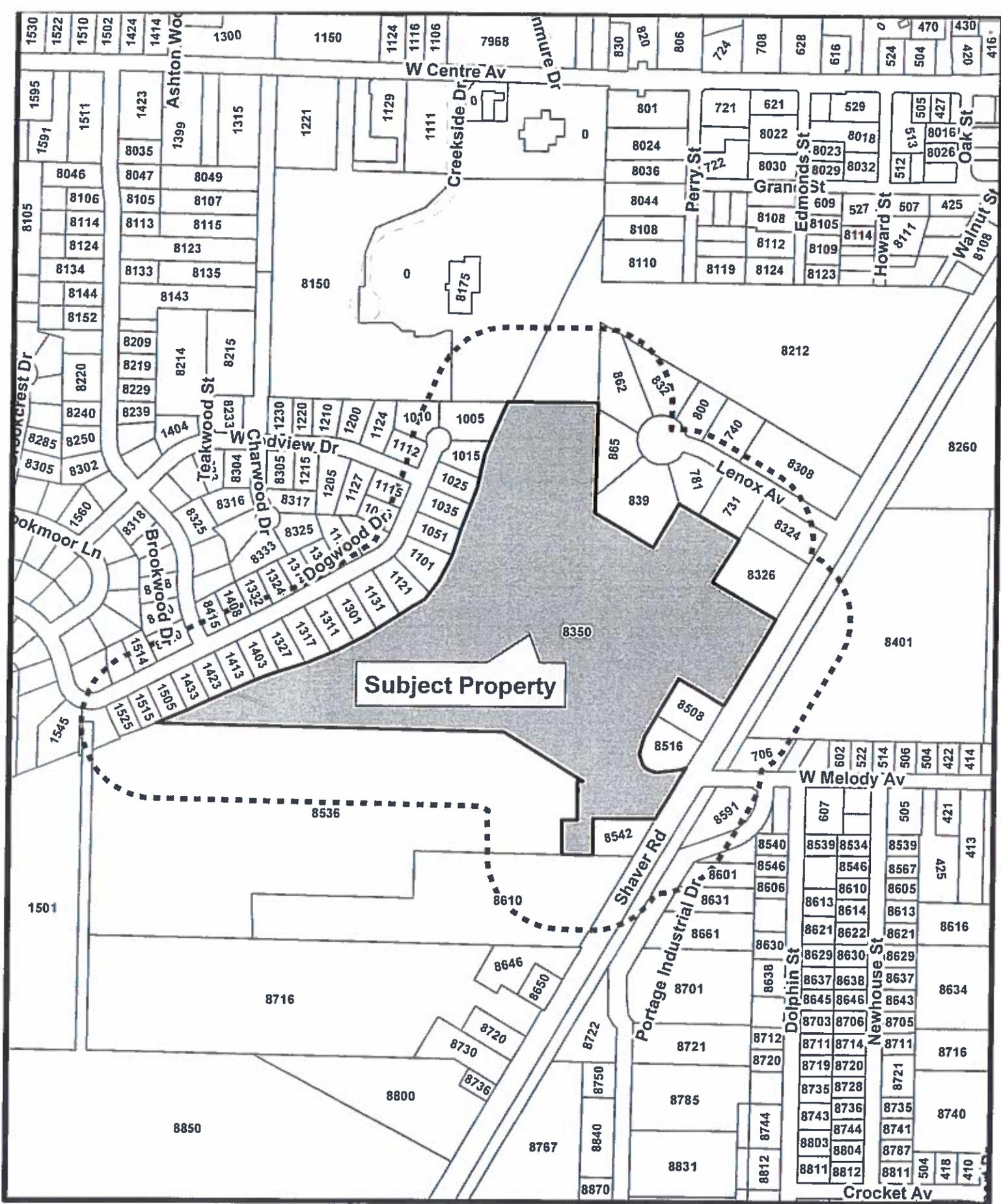
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right,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

300'

8350 Shaver

**ZBA #16-06**

**8350 Shaver Road**



1 inch = 500 feet



**Subject Property**

**Legend**

 8350 Shaver

**ZBA #16-06  
8350 Shaver Road**



1 inch = 175 feet



RECEIVED

JUL 21 2016

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 07/18/16

Name of Applicant Polo Padilla
Print

Signature
Phone No. 214-290-7062

Applicant's Address 211 N. Record St; Ste 222

Name of Property Owner (if different from Applicant) Wal-Mart Stores, Inc

Address 2001 S.E. 10th Street - Bentonville, AR
Phone No.

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

Street Address 8350 Shaver Road, 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: Architect

Application Fee (Residential Uses) 330.00 (All Other Uses)

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

X Variance from Zoning Ordinance: Article 4 Section 42 Paragraph
Regarding: Use Retail Area Yards
Setbacks 590 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: Variance is to request additional 410.45 square footage. The ordinance allowance would be 325 SQ. The existing signage is 347 and proposed is 735.45

the existing store was 480'-8" and has been expanded additional 114'-2" for total of 594'-10"

FOR STAFF USE

Table with 3 columns: Application Number (16-06), Filing Date (7/20), Tentative Hearing Date (9/12/16). Row 2: Previous Application Filed Regarding This Property (03-23 / 03-23 / 04-30 (WITHDRAWN))

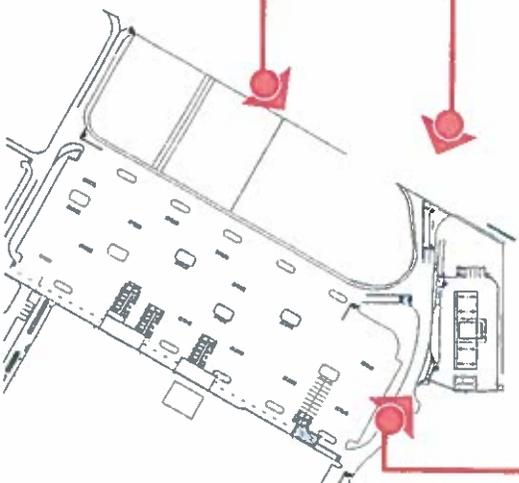
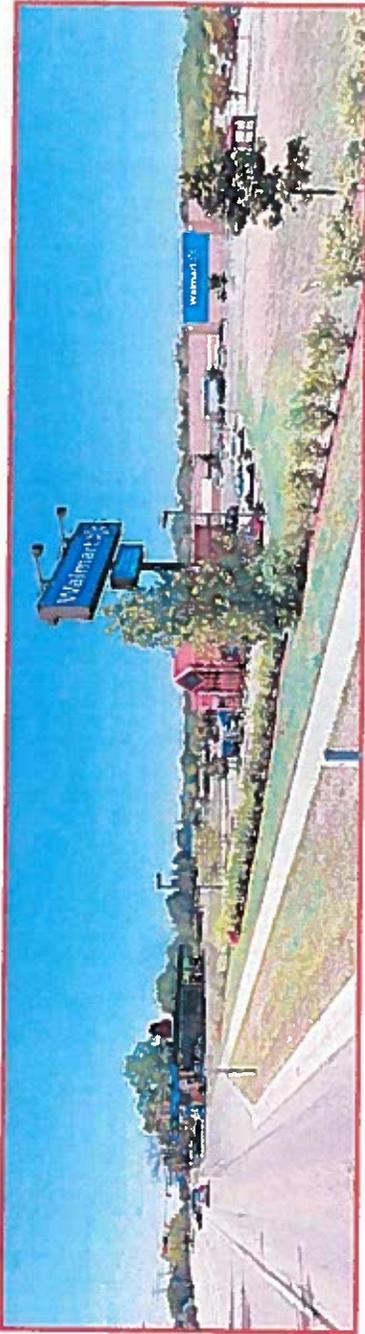
### Reason For Variance

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.)  
Our current setback back from road is 590 ft, larger signs would be better suited for visibility. This also includes future development on Shaver Road that would also alter the visibility of the proposed signs and could have negative affect of proposed business.
  
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
Wal-Mart has several operating departments functioning inside store, which will require additional signage. Most of the neighboring business are conveniently located right on Shaver Road and majority do not have businesses in front of to affect view.
  
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets is needed.)  
Yes, however the proposed signs helps to indentify the building and the nature of the proposed businesses that Wal-Mart proves (ie Pharmacy, Auto center, etc) resulting in substantial justice for the public's benefit
  
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 amount of current store frontage and the proposed sign is proportionate with the overall store and the depth of our property
  
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.)  
We believe the adjacent properties and neighborhood will not have any negative affect for our sign proposal. Our intent is to provide information to neighborhood and provide a great looking building that would benefit the overall area
  
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 intent of a Walmart store is to provide a pedestrian friendly design and insure safety and quality for the surrounding patrons. The requested signs of the Walmart designs does not create a physical or visual hazard for site; therefore, the public safety and welfare are secured.
  
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.)  
Practical difficulty - Large retail buildings require a lot of parking spaces that are located between the front of the building and the street. With setback, it would greatly assist on having adequate sign size and secondary signs to promote the services provided
  
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
We believe our current proposal follows the intent of ordinance of 15% of wall area. Our frontage is 16,276 SF, 15% would be 2,442 Sq ft of signage. We understand ordinance wanting to cap the total square footage, but believe we meet intent of not oversizing signs and our proposed signage is adequate for the size/setback of building.

  
\_\_\_\_\_  
Signature of Applicant

07/18/16  
\_\_\_\_\_  
Date





**RECEIVED**

SEP 28 2016

COMMUNITY DEVELOPMENT

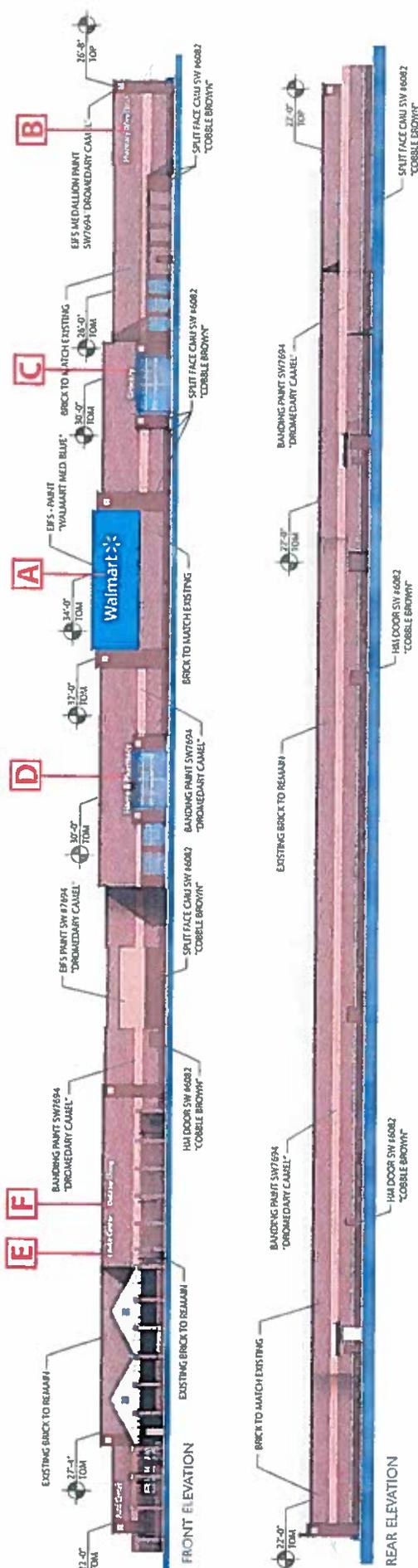


Portage, MI #5280

September 28, 2016

2

DESIGN REPRESENTATION ONLY - NOT FOR CONSTRUCTION The building images shown are a representation of the current design intent only. The building images may not reflect variations in color, tone, hue, line, shading, ambient light intensity, materials, textures, contrast, font style, construction variations required by building codes or inspectors, materials or final design detailing



**RECEIVED**  
 SEP 28 2016  
 COMMUNITY DEVELOPMENT

Elevation	Sign	Qty	Illuminated	Color	Area (sq ft)	Total Area (sq ft)
Front	A	1	Yes	White	298.03	298.03
	B	1	No	White	74.66	74.66
	C	1	No	White	42.05	42.05
	D	1	No	White	97.66	97.66
	E	1	No	White	34.50	34.50
	F	1	No	White	77.17	77.17
	<b>FRONT TOTALS:</b>				<b>624.07</b>	
Right	G	2	No	White	39.50	79.00
Left	H	1	No	White	31.31	31.31
	<b>RIGHT TOTAL:</b>				<b>79.00</b>	
	<b>LEFT TOTAL:</b>				<b>31.31</b>	
	<b>TOTAL BUILDING SIGNAGE:</b>					<b>734.38</b>



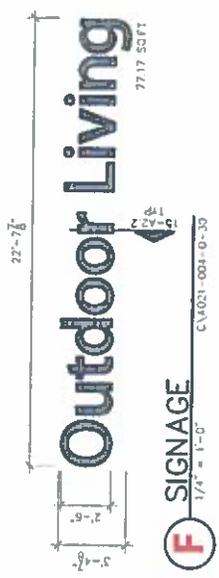
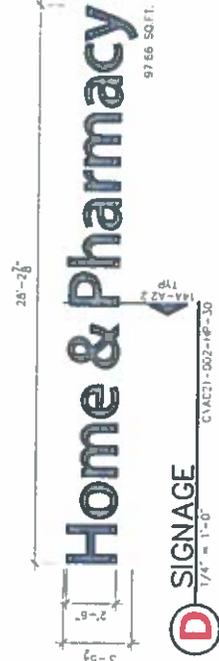
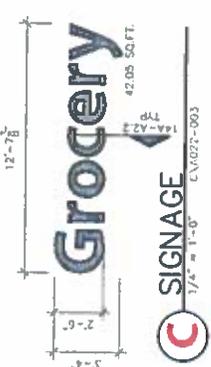
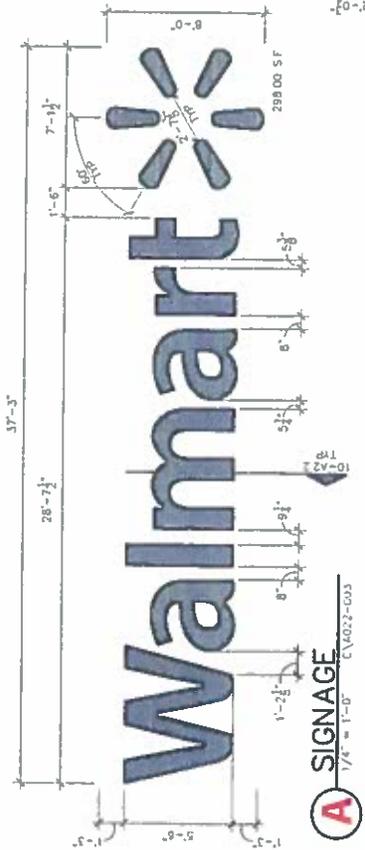
September 28, 2016

Portage, MI #5280

Elevations

1

DESIGN REPRESENTATION ONLY - NOT FOR CONSTRUCTION The building images shown are a representation of the current design intent only. The building images may not reflect variations in color, tone, hue, tint, shading, ambient light intensity, materials, texture, content, font style, construction variations required by building codes or inspectors, material or final design detailing.



**RECEIVED**  
SEP 28 2016  
COMMUNITY DEVELOPMENT

	September 28, 2016	<b>Walmart</b>	Portage, MI #5280
Building Sign Details			<b>3</b>

DESIGN REPRESENTATION ONLY - NOT FOR CONSTRUCTION. The building images shown are a representation of the current design intent only. The building images may not reflect variations in color, tone, hue, tint, shading, ambient light intensity, material, texture, contrast, font style, construction variations (required by building codes or inspectors, material or final design detailing).

September 5, 2016

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

**RECEIVED**  
SEP 08 2016  
COMMUNITY DEVELOPMENT

To the Zoning Board of Appeals:

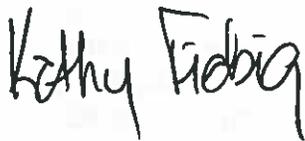
This letter is in reference to the Wal-Mart Stores request for a wall signage variance (to be heard on September 12, 2016).

I would respectfully ask the Board to turn down this application. The request is for more than double the amount permitted by City code, and I see no compelling reason to grant such a request. Wal-Mart already enjoys strong brand recognition, and those that are going to shop there will do so without allowing them to ignore the sign code.

Please do not set a precedence that would then encourage future requests. Bigger is not always better.

Thank you.

Sincerely,



Kathy Fiebig  
1423 Dogwood Drive  
Portage MI 49024-5233

**TO:** Zoning Board of Appeals **DATE:** September 2, 2016

**FROM:** Vicki Georgeau, <sup>VG</sup> Director of Community Development

**SUBJECT:** ZBA #16-06, Wal-Mart Stores, Inc., 8350 Shaver Road; CPD, Commercial Planned Development.

**CODE SECTION:** 42-552(I) CPD Wall Signs; p. CD42:131

**APPEAL:** Requesting a variance for 735 square feet of wall signage where 325 square feet is permitted.

**STAFF RECOMMENDATION:**

The applicant is requesting the variance per the enclosed application, site plan, and sign sketches. The 34.42 acre zoning lot is zoned CPD, commercial planned development, and improved with a 149,997 square-foot commercial building (Walmart), off-street parking lot and related improvements. Construction is currently underway on a recently approved 40,892 square-foot building addition on the north side, and a 1,440 square-foot fueling station near the zoning lot's south entrance. Walmart holds in reserve an additional 1.7 acres along Shaver Road for future outlot developments and/or banked parking.

The applicant proposes to erect nine (9) wall signs: Walmart (298 sq. ft.); Home & Pharmacy (97.6 sq. ft.); Outdoor Living (77.1 sq. ft.); Grocery (42 sq. ft.); Auto Center (east elevation 34.5 sq. ft.); Auto Center (rear elevation 31.5 sq. ft.); Pharmacy Drive-Thru (east elevation 74.7 sq. ft.); and two (2) Pharmacy Drive-Thru (north elevation 39.9 sq. ft.). The combined wall sign area measures 735 square feet. Based on 595 feet of building wall length and a building setback of 570 feet, Walmart is permitted up to 325 square feet of wall signs. As background for the Board, the applicant was denied a similar variance request for 732 square feet of wall signs in 2004 (ZBA #03-22). In its decision, the Board cited Section 42-552(I) of the Zoning Code (adopted in 2003) that permits wall sign area bonuses specifically to accommodate 'big box' retailers having significant building setback and wall length. Subsequent to the Board decision, Walmart erected a 120 square-foot freestanding sign and currently has 262 square feet of wall signs.

With regard to this variance request, the applicant indicates most businesses along Shaver Road do not have businesses in front of them that impact the view of the main store. However, development of outlots in front of the Walmart store is a self-created hardship. Based on the zoning lot street frontage, Walmart is permitted a second 120 square foot freestanding sign that would improve visibility. The desire to identify the addition of the superstore with sale of groceries and pharmacy drive-through is acknowledged. However, much of the proposed increase in sign area is the result of the applicant increasing the Walmart sign above the main entrance from 123 square feet to 298 square feet. In addition to a second freestanding sign, Walmart has available 63 square feet of additional wall sign area that can be used to advertise the superstore expanded goods and services. For the reasons noted above, including the availability of conforming alternatives, staff does not recommend the variance request.

**PRACTICAL**

**DIFFICULTY:** Building setback 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.**



**Subject Property**



**Legend**

 9138 Portage Road

**ZBA #16-07  
9138 Portage Road**



1 inch = 33 feet

**RECEIVED**

SEP 07 2016

**ZONING BOARD OF APPEALS APPLICATION**

FOR COMPLETION BY APPLICANT

COMMUNITY DEVELOPMENT

Application Date 9/2/16  
 Name of Applicant Kim Naebo [Signature]  
Print Signature  
 Applicant's Address 607 S Shore Dr Phone No. 269 327 9580  
 Name of Property Owner (if different from Applicant) \_\_\_\_\_  
 Address 9138 Phone No. \_\_\_\_\_  
 Address of the Property that is the subject of this Application:  
 Street Address 9138 Portage Rd  
 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: seeking VARIANCE

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 42-55-2 Paragraph A  
 Regarding: Use \_\_\_\_\_ Area \_\_\_\_\_ Yards \_\_\_\_\_  
 Setbacks \_\_\_\_\_ Parking \_\_\_\_\_ Other \_\_\_\_\_

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

\_\_\_\_ **Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_ **Interpretation of the Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_ **A Temporary Permit for:** Building \_\_\_\_\_ Use \_\_\_\_\_ Other Approval \_\_\_\_\_

Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: so sign can be seen, travel

is south on portage rd, currently sign up now  
is obstructed by tree-telephone pole and large  
bush

FOR STAFF USE

Application Number: <u>16-7</u>	Filing Date: <u>9/7/16</u>	Tentative Hearing Date: <u>10/10</u>
Previous Application Filed Regarding This Property: <u>[Signature]</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.)

because of the zoning ordinance the position of sign can only be seen from one direction of traffic flow highish pole prevent being seen from both directions

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.)

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

yes because of narrowness of lot we use every foot of space for parking, putting sign on both ends of lot is only space where a sign could be placed

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

the sign would be in front of a big tree + see no problem for adjacent properties

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.)

big tree

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

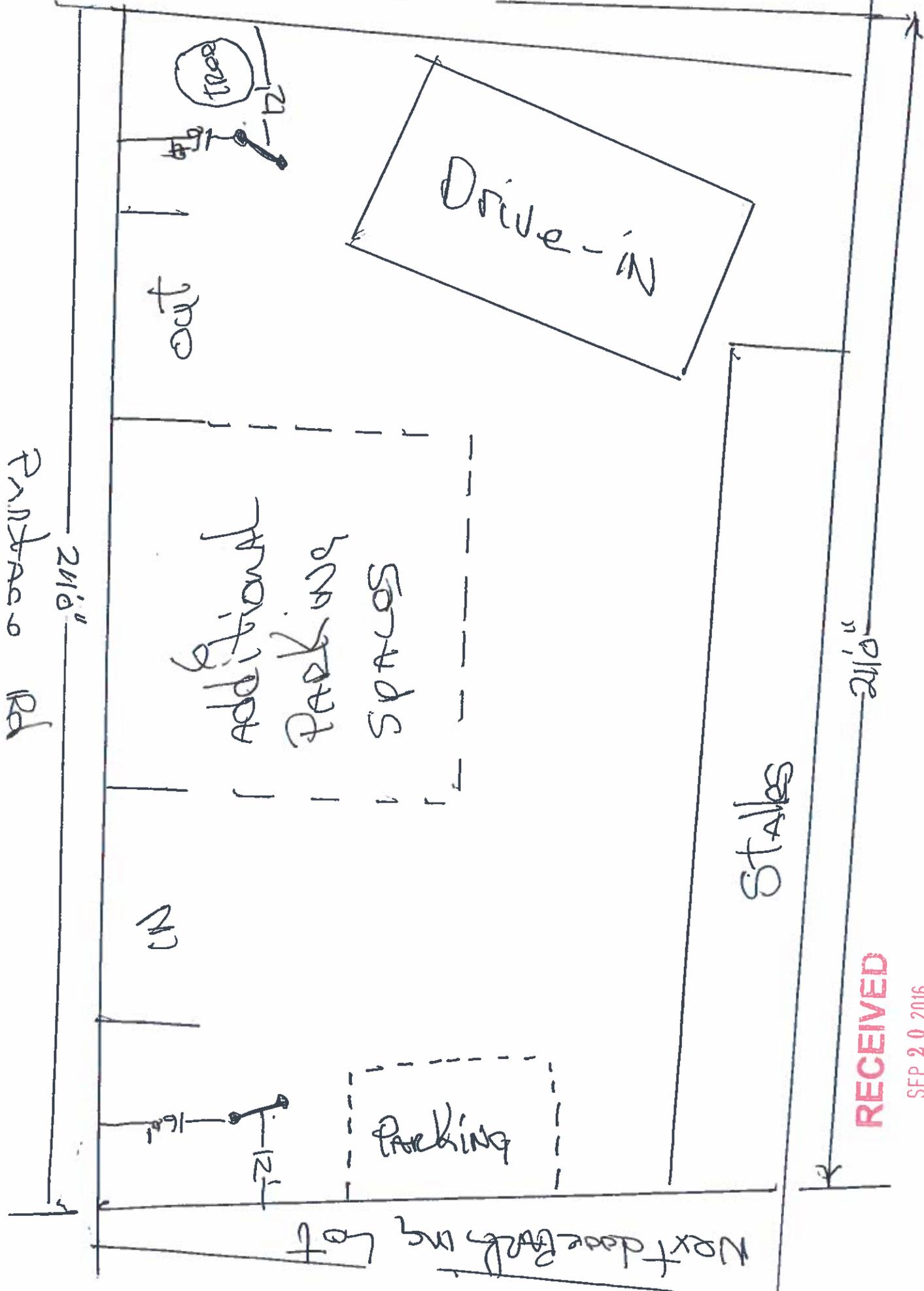
No

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

  
Signature of Applicant

9/2/14  
Date

Parkway Rd



Next door parking lot

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SEP 20 2016

COMMUNITY DEVELOPMENT

LAKE



**TO:** Zoning Board of Appeals **DATE:** September 30, 2016  
**FROM:** Vicki Georgeau, <sup>kg</sup> Director of Community Development  
**SUBJECT:** ZBA #16-07, Kim Neeb, 9138 Portage Road, B-3, General Business  
**CODE SECTION:** 42-552(A), B-3 Signs, p. CD42:132.1  
**APPEAL:** Requesting a variance to retain two freestanding signs where one sign is permitted.

**STAFF RECOMMENDATION:**

The applicant is requesting the above referenced variance per the enclosed application and related materials. The property at 9138 Portage Road accommodates a seasonal drive-in restaurant (West Lake Drive-In) that includes a 560 square-foot building, drive-in canopy and gravel off-street parking lot. The lakefront property is zoned B-3, general business and is adjacent to residentially zoned property to the south, commercial property to the north, and commercial and residential properties across the street on Portage Road.

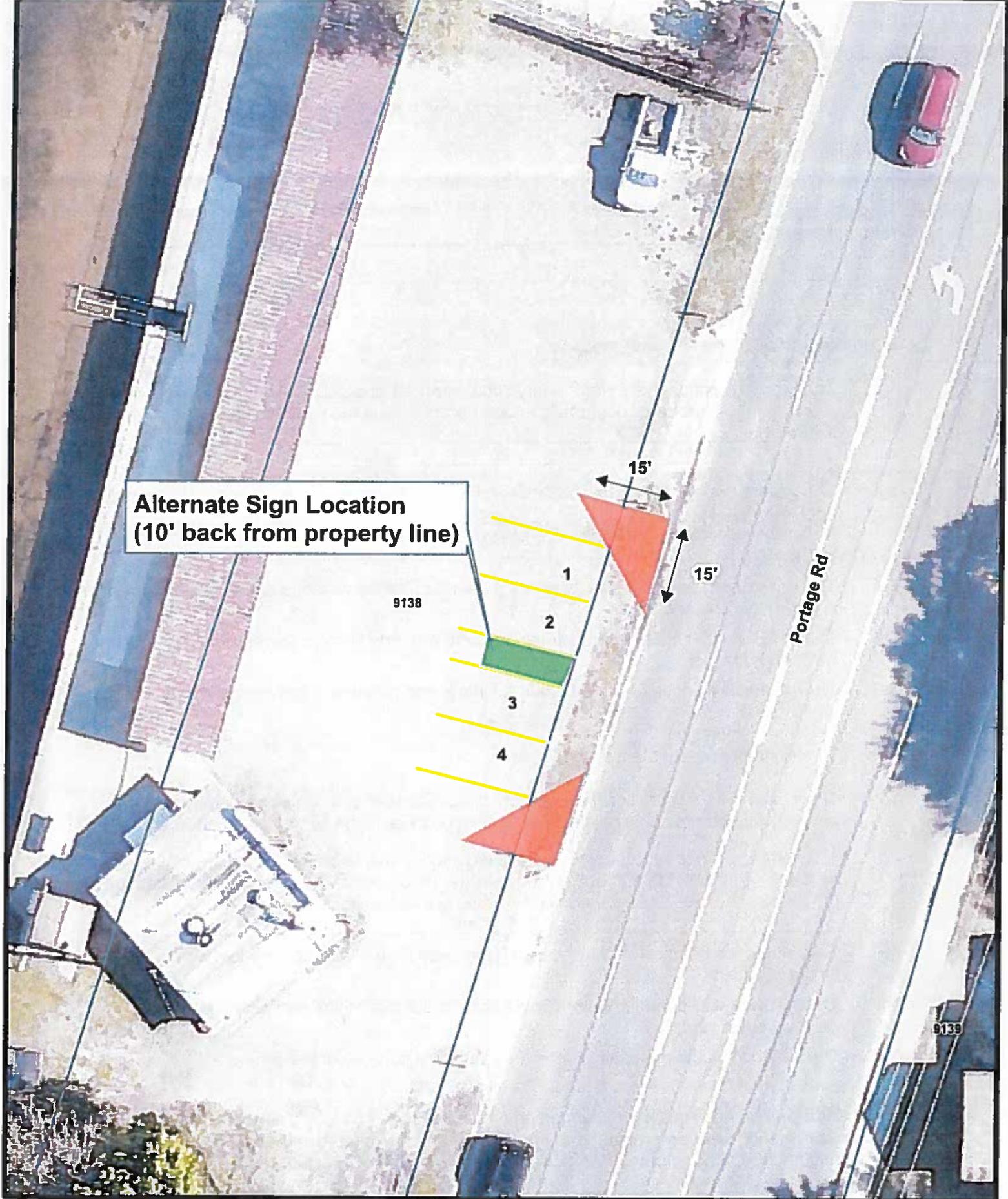
As background, in 2015 the applicant erected a 12 square-foot freestanding sign at the north end of the property without a sign permit (a permit, however, was later obtained). This sign is single-sided and oriented towards northbound Portage Road traffic. More recently, the applicant erected an additional 12 square-foot freestanding sign at the south end of the property without a permit. This sign is also single-sided and oriented towards southbound Portage Road traffic. Based on the street frontage, one freestanding sign up to 80 square feet in area and 25 feet in height is permitted.

The applicant contends the southerly sign is needed because the sign near the north property line is visually obstructed from southbound traffic by a tree, power pole and a bush. However, a conforming alternative exists, which involves erecting a larger and taller double-sided freestanding sign between the Portage Road access drives. This alternative location would allow one sign oriented to all traffic on Portage Road and would provide a clear, unobstructed view. While the applicant has provided a site sketch that indicates the area between the two access drives is utilized for off-street parking, the gravel parking lot does not clearly define parking on the site. Furthermore, even if the applicant were to define off-street parking in this area, it would need to be provided in a manner that does not create a vision obstruction and traffic hazard at the access drives. As shown on the attached concept sketch, up to four off-street parking spaces could be defined in this area and still provide sufficient space to locate a conforming sign on the property.

As noted above, the practical difficulty in this instance is self-created and a viable conforming alternative is available to the applicant. Therefore, the variance is not recommended.

**PRACTICAL DIFFICULTY:**

None noted by staff. See suggested motion form.



**Alternate Sign Location  
(10' back from property line)**

9138

1

2

3

4

15'

15'

Portage Rd

9139

-  Alternate Sign Location
-  Parking Line
-  Clear Vision Triangle

# 9138 Portage Road



1 Inch = 20 feet

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

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

**be:**

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

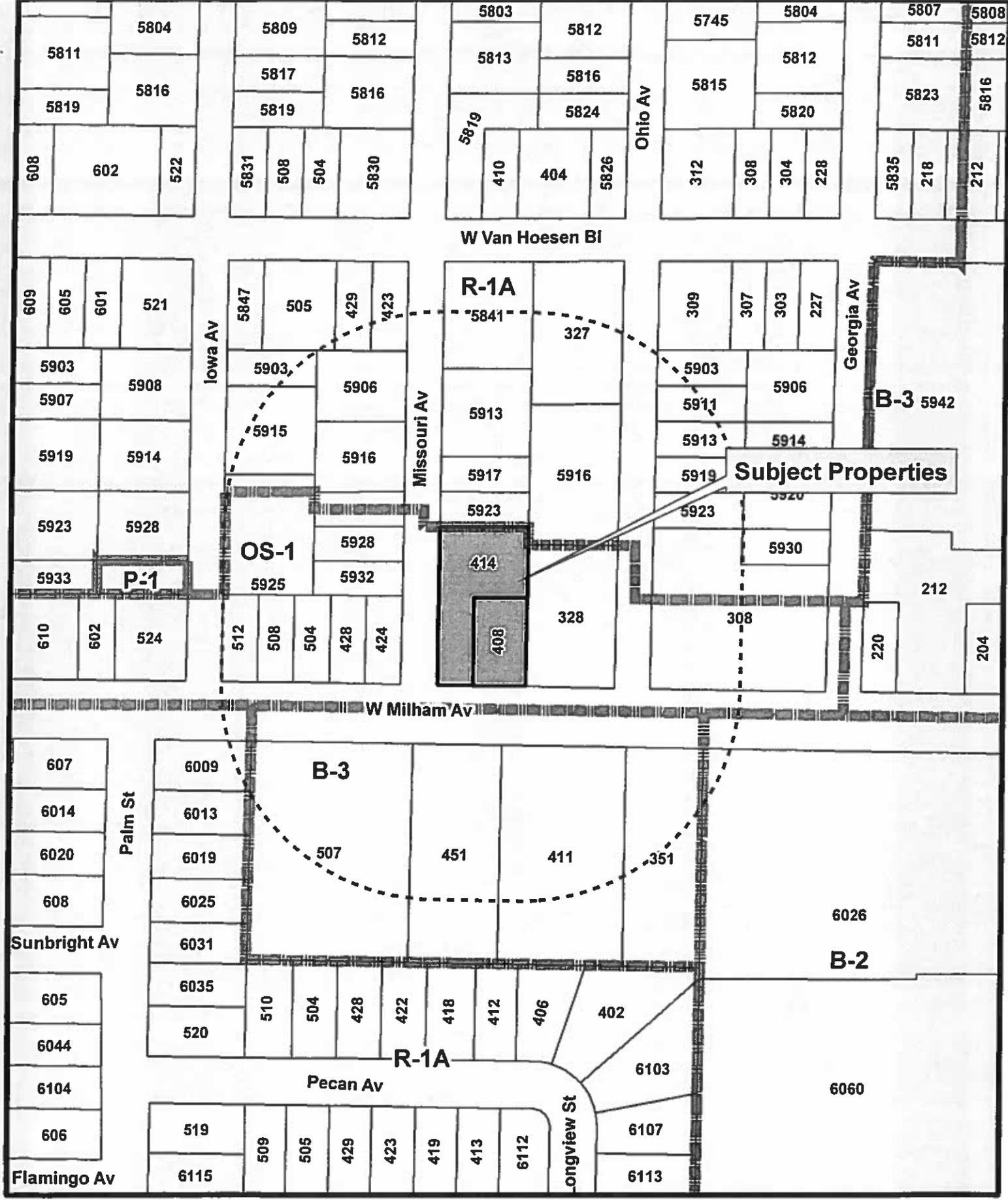
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right,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

**-OR-**

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

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

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

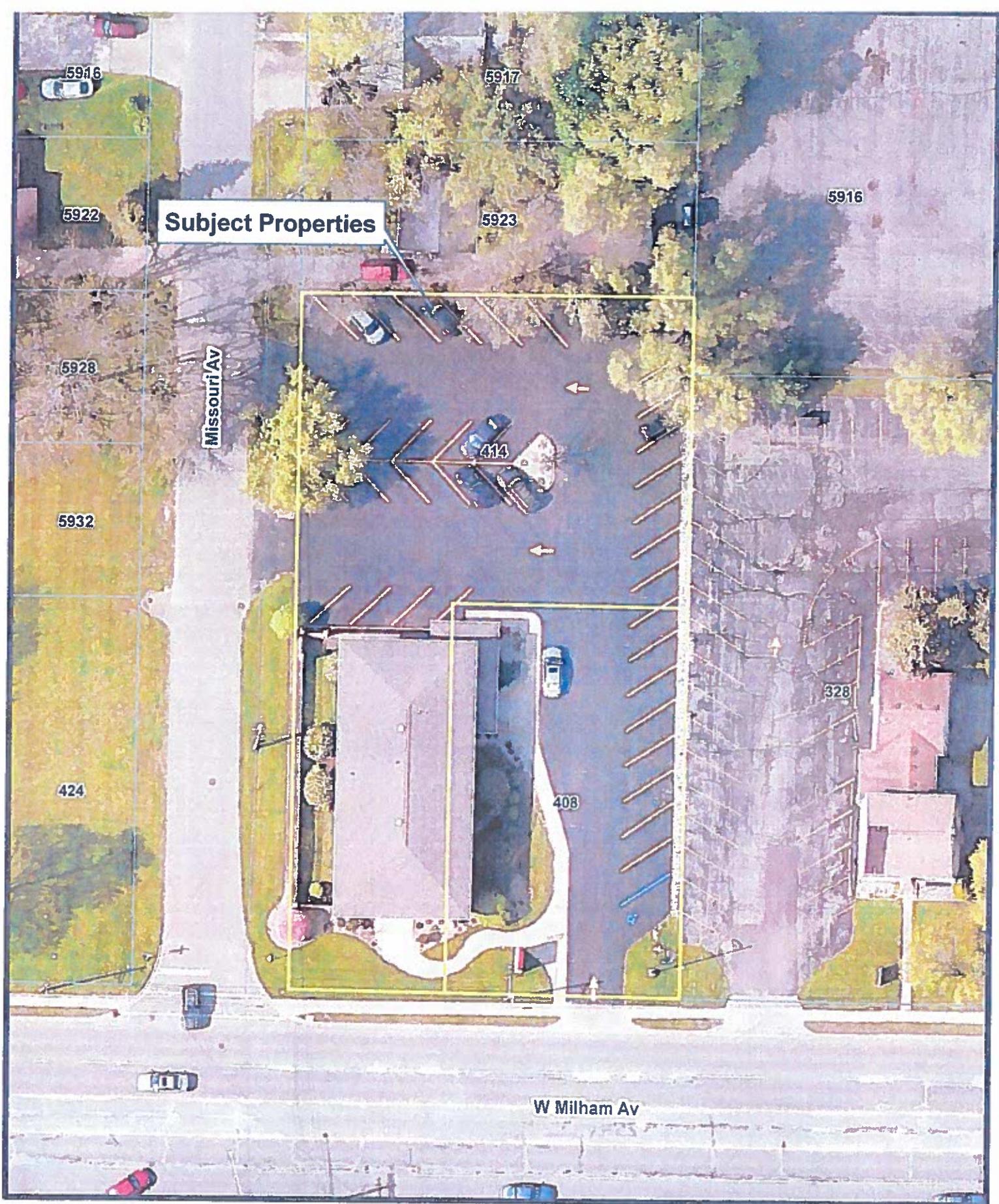


-  Subject Properties
-  300' Notification Area
-  Zoning Boundary

**ZBA #16-08**  
**408 & 414 West Milham Avenue**



1 inch = 175 feet



 Subject Properties

**ZBA #16-08**  
**408 & 414 West Milham Avenue**



1 inch = 40 feet



RECEIVED

SEP 20 2016

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 9/12/2016  
 Name of Applicant Dan Jaqua Print [Signature] Signature  
 Applicant's Address 414 W. Milham Ave Phone No. 269-297-2940  
 Name of Property Owner (if different from Applicant) Milham Ventures, LLC  
 Address 414 W. Milham Ave Phone No. 269-391-7653

Address of the Property that is the subject of this Application:  
 Street Address 414 W. Milham Ave  
 For Platted Property: Lot 56-14, Block D of Westnedge Heights 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 Agent

Application Fee N/A (Residential Uses) \$330 (All Other Uses)

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

**Variance from Zoning Ordinance:** Article 4 Section 42 Paragraph 350 + 572  
 Regarding: Use \_\_\_\_\_ Area \_\_\_\_\_ Yards Req. 10' buffer for Rear yard  
 Setbacks Req. Rear 20' Parking \_\_\_\_\_ Other \_\_\_\_\_

Reason for Request (Also complete page 2 of application): Provide Desired Parking + Infrastructure Improvements for 414 + 328 Milham Ave. (See Attachments for more D+Is)

**Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_  
 Reason for Request: \_\_\_\_\_

Parking: Request 7.5' variance from North boundary line.

**Interpretation of the Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_  
 Reason for Request: \_\_\_\_\_

Dumpster: request 11' variance from North boundary line and 14' variance from East boundary line

**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**

*\* Refer to Attachments for responses to the following questions.*

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.)  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

9/9/14  
Date

**MILHAM VENTURES, LLC**  
**REQUEST FOR A VARIANCE FROM SETBACK REQUIREMENTS**  
**FOR 414 W. MILHAM**  
**September 9, 2016**

The applicant is seeking a variance from the requirements of the Portage City Zoning Ordinance regarding yard setbacks. The Ordinance provides that this property must have a (10) ten foot setback for its parking from the North boundary line and a (20) twenty foot setback for its dumpster from the North and East boundary lines. The applicant is requesting a (7.5) foot variance for its parking from the North boundary line, a (11) foot variance for its dumpster from the North boundary line and a (14) foot variance for its dumpster from the East boundary line.

Since this is a dimension variance, the applicant must show that there are practical difficulties which prevent the applicant from using the property in compliance with the Ordinance.

**1. The property characteristics that prevent compliance with the Zoning Ordinance.**

This parcel is rather narrow, which eliminates the possibility of creating any additional parking to the east of the existing building. The location of the existing angled parking spaces to the east of the building is not a very efficient use of the site. Moving the parking to the west to be closer to the building with the rest of the parking in the rear will provide for improved traffic flow and in and out automobile movement within the site. The existing building already covers a large portion of the site, leaving nowhere else on site to add parking. Due to the narrowness of the site and existing site improvements, and traffic lanes, there is no other logical place to locate the dumpster.

**2. The physical characteristics that are unique to this property.**

The property is located on a corner with an existing building on site. It is surrounded by improved parcels.

**3. Can the property be reasonably used without granting the variance?**

The Jaqua real estate office has been located at this site for many years. Due to the type of business being operated from this site, all of the proposed parking spaces are needed to accommodate the Jaqua sales agents and clients visiting the offices. If the parking spaces in the rear that infringe on the 10 foot setback have to be eliminated, it will hurt the Jaqua business. In order to remain competitive in the market and allow the business to continue to be successful and grow, all of the parking spaces shown on the proposed plan are needed to service this building.

**4. Is this variance the minimum necessary to permit the reasonable use of the land and the existing building?**

Yes, this is the minimum necessary. There is no other place on this site where parking spaces can be located.

**5. The granting of the variance will not adversely affect adjacent properties or alter the character of the area.**

If the variance is granted, the use of this site will remain essentially the same as the existing use, and thus, will not alter the character of the area. The site is surrounded on two sides by streets. The property to the east is occupied by a commercial use. The granting of this variance will have a positive impact on that property as it will move the angled parking off of the shared boundary line and allow for a sensible redevelopment of that adjacent parcel. The property to the north is a residential home that is owned by the applicant. There has been parking on the rear portion of this site for many years. Thus the granting of the variance will have no impact on that property.

**6. The granting of the variance will not result in increased traffic or congestion, noise or other potential concerns that would be detrimental to the property or to the area.**

The variance will not create any additional traffic, congestion, noise or other issues that would be detrimental to the area because, as stated above, this variance will continue the current use of the property, and allow for reconfiguration of parking on the site to promote better traffic flow within the site and more opportunities for the redevelopment of the parcel to the east.

**7. The practical difficulty is not self-created.**

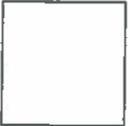
The difficulty in providing adequate parking to service the agents for this business and the clientele visiting this business has always existed.

**8. The granting of the variance will fulfill the spirit and intent of the ordinance.**

It is in the best interest of the applicant and the other property owners in this area that this existing successful business remain open, easily accessible and successful. If the variance is granted it will allow the applicant to invest in improvements to this property which will enhance both the property and the surrounding area.

RECEIVED  
 SEP 20 2016  
 COMMUNITY DEVELOPMENT

Jagua Millham Ave  
 414 & 328 W. Millham Ave  
 Portage, MI 49924



COOL

- 1. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
- 2. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
- 3. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
- 4. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
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- 7. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
- 8. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
- 9. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.
- 10. THE INFORMATION CONTAINED HEREIN IS NOT TO BE USED AS A BASIS FOR ANY DECISION.



CONCEPTUAL SITE PLAN  
 SCALE: 1/8\"/>

**TO:** Zoning Board of Appeals **DATE:** September 30, 2016  
**FROM:** Vicki Georgeau, <sup>VG</sup> Director of Community Development  
**SUBJECT:** ZBA #16-08, Dan Jaqua, 408 & 414 West Milham Avenue, OS-1, Office Service  
**CODE SECTION:** 42-572(A)(1) Parking Lot Landscaping, p. CD42:133  
42-574(B)(1) Refuse Containers, p. CD42:135

**APPEAL:** Requesting: a) a variance to reconstruct an off-street parking lot 2.5 feet from the (north) side property line where a minimum 10-foot greenstrip is required; and b) a variance to locate a refuse container and enclosure nine feet from the north property line and six feet from the east property line where a 20-foot setback from each property line is required.

**STAFF RECOMMENDATION:**

The applicant is requesting the above referenced variances per the enclosed application and site sketch. The property at 414 West Milham Avenue is improved with an existing 5,954 square-foot commercial building, off street parking lot and related improvements. The building and parking lot were originally constructed in 1962. The subject zoning lot is zoned OS-1, office service. To the east, (328 West Milham Avenue) the property is zoned OS-1, office service, which was recently acquired by the applicant and is intended for redevelopment in the near future. The adjacent property to the north (5923 Missouri Avenue) is a single family dwelling. As shown on the attached drawing, a small portion of 414 West Milham Avenue located near the northeast corner abuts an off-street parking lot (5916 Ohio Avenue) that is zoned R-1A, one family residential, and owned by Victory Baptist Church. Across the street to the south are commercial properties, and across the street to the west is undeveloped property zoned OS-1, office service.

In conjunction with the redevelopment of 328 West Milham, the applicant proposes to remove and reconstruct the off-street parking lot for 414 West Milham Avenue. As a result, the new parking lot must meet current ordinance standards, which requires a 10-foot greenstrip when the adjacent property is zoned or used for residential purposes. The existing parking lot is setback 2.5 feet from the north property line and the applicant is requesting to maintain this 2.5-foot setback as part of the removal and reconstruction project. The refuse container is currently located in the southwest corner of the Victory Baptist Church off-street parking lot (with their permission) at 5916 Ohio Avenue. The applicant proposes to relocate the refuse container/enclosure to the northeast corner of the property nine feet from the north property line and six feet from the residential property at 5916 Ohio Avenue, where a 20-foot setback is required. Variances are therefore requested.

Concerning request a), the applicant is proposing to maintain the existing setback distance of 2.5 feet as part of the proposal to reconstruct the parking lot. Staff notes a conforming alternative is available. The eight parking spaces along the northern row of parking could be eliminated. Based on the Usable Floor Area, 24 parking spaces are required and 37 spaces are proposed. However, the applicant has indicated the additional parking spaces are needed to accommodate their parking needs, and that

the current configuration has existed for over five decades without any complaints. If the Board finds the additional parking need to be a practical difficulty, the variance may be approved. If the Board is inclined to approve the variance, then staff recommends a 6-foot high screening fence be installed along the north property line.

Concerning request b), it is noted a conforming alternative is available. The refuse container/enclosure could be relocated 25 feet south and re-oriented to face West Milham Avenue and occupy the two parking spaces shown near the northeast corner of the lot. The applicant, however, has indicated the narrowness of the lot and location of the existing site improvements and traffic lanes precludes logical placement of the dumpster anywhere else but the proposed location. If the Board finds these to be practical difficulties, the variance may be approved.

**PRACTICAL  
DIFFICULTY:**

None noted by staff. Narrowness of lot and location of existing building indicated by applicant. See suggested motion form.

T:\COM\DEV\2016-2017 Department Files\Board Files\Zoning Board\Agenda\2016 09 30 VG ZBA 16-08 w milham, 414 (staff rpt).doc

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

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

**be:**

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

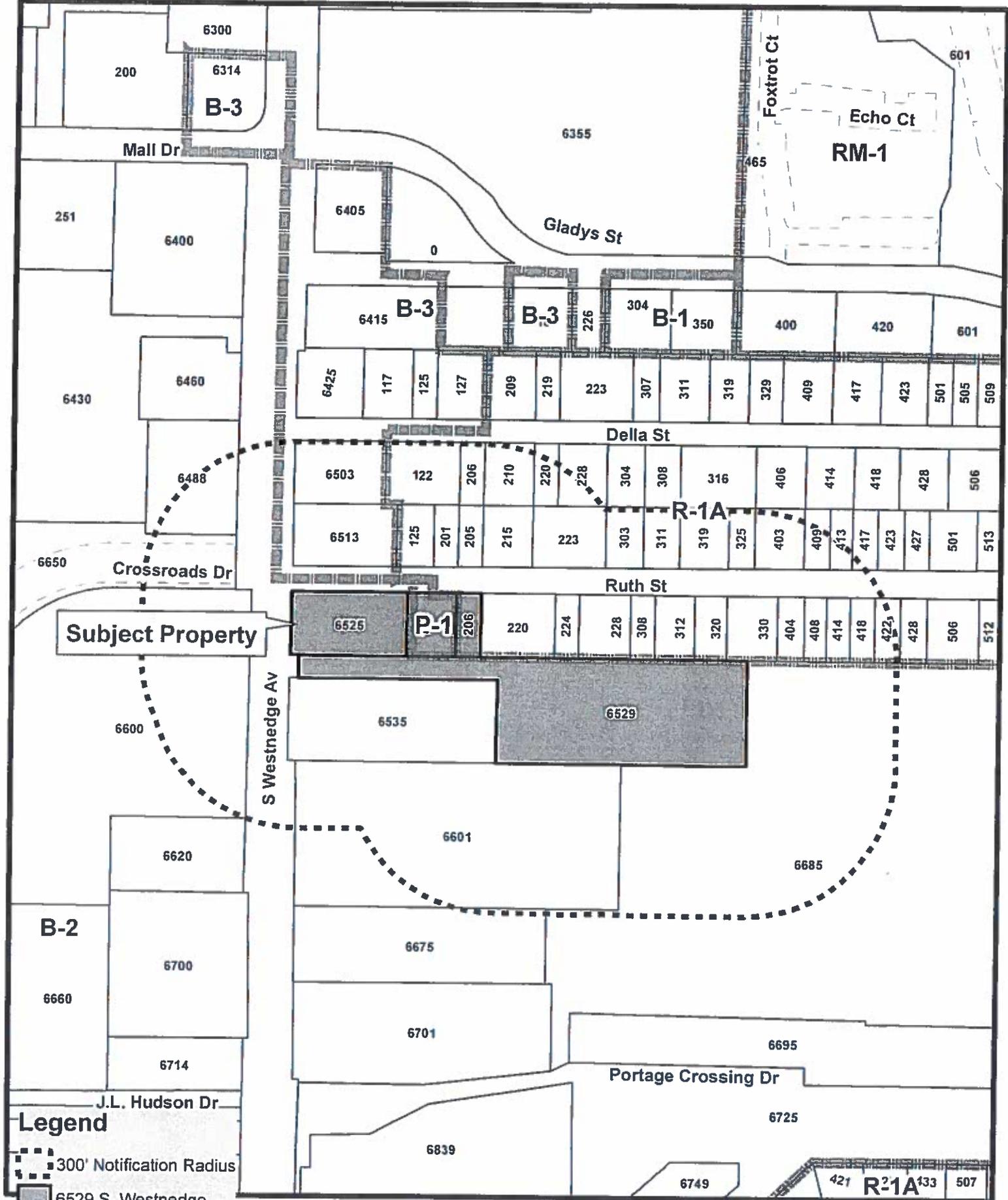
- 1a. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include \_\_\_\_\_;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right,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

**-OR-**

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

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

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



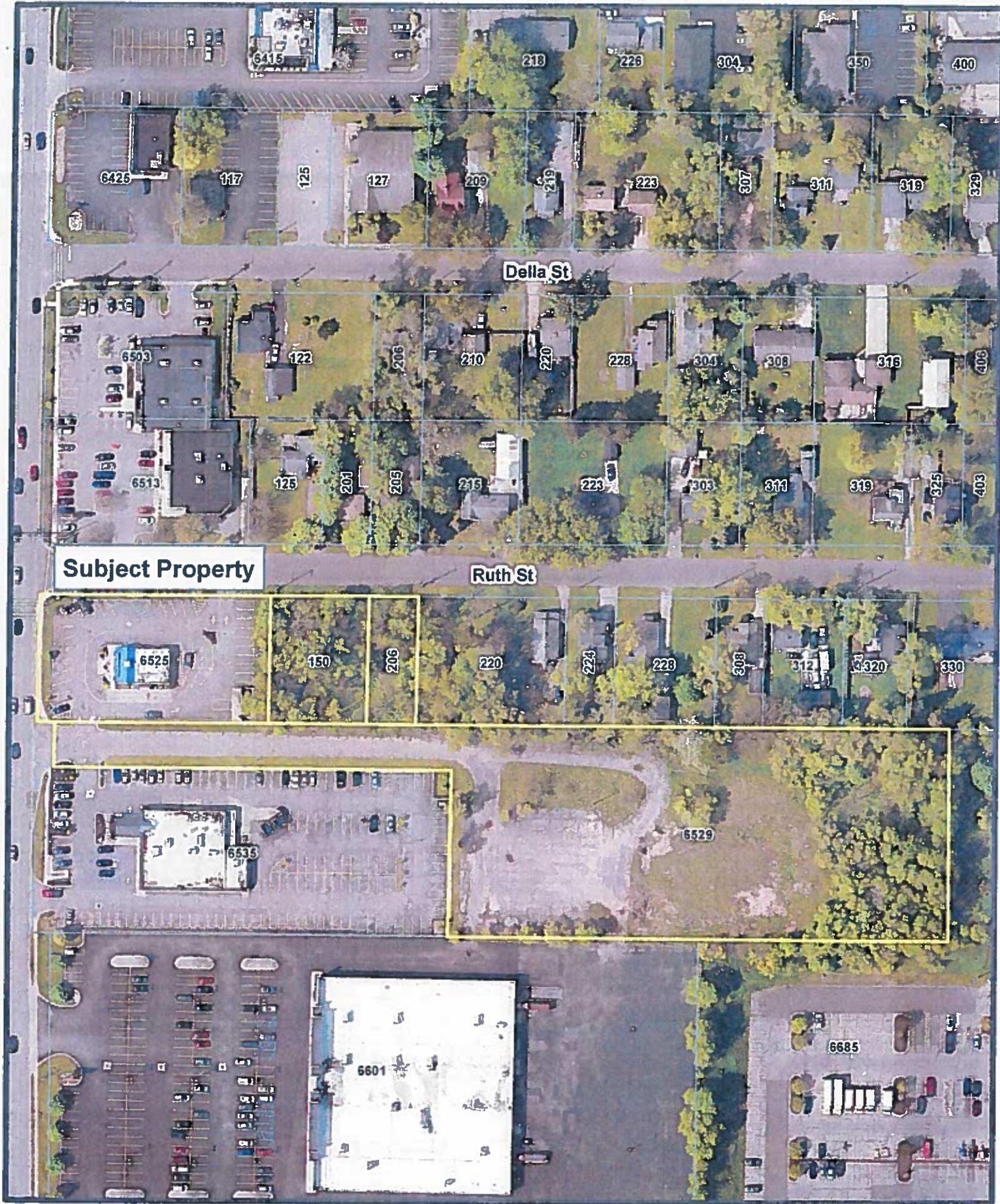
**Subject Property**

- Legend**
- 300' Notification Radius
  - 6529 S. Westnedge
  - 206 Ruth
  - 150 Ruth
  - 6525 S. Westnedge

**ZBA # 16-09**  
**6525 & 6529 South Westnedge Avenue**  
**150 & 206 Ruth Street**



1 inch = 250 feet



**Subject Property**

**Della St**

**Ruth St**

**Legend**

 Subject Properties

**ZBA # 16-09**

**6525 & 6529 South Westnedge Avenue  
150 & 206 Ruth Street**



1 inch = 125 feet

**RECEIVED**  
SEP 13 2016  
COMMUNITY DEVELOPMENT

**ZONING BOARD OF APPEALS APPLICATION**

FOR COMPLETION BY APPLICANT

Application Date 9/12/16  
 Name of Applicant Plaza Corp Realty Advisors Signature [Handwritten Signature]  
Print  
 Applicant's Address 211 E. Water St., Suite 209 Phone No. 269-323-5775  
Kalamazoo, MI 49007  
 Name of Property Owner (if different from Applicant) Plaza Acquisitions, LLC Phone No. \_\_\_\_\_  
 Address SAME

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

Street Address 6525 S. Westnedge Ave., Portage, MI  
 For Platted Property: Lot \_\_\_\_\_ of \_\_\_\_\_ Plat \_\_\_\_\_

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

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

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

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

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

Reason for Request (Also complete page 2 of application): Redevelopment of site.

\_\_\_\_ **Appeal of Administrative Decision:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_ **Interpretation of the Zoning Ordinance:** Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_ **A Temporary Permit for:** Building \_\_\_\_\_ Use \_\_\_\_\_ Other Approval \_\_\_\_\_

Article \_\_\_\_\_ Section \_\_\_\_\_ Paragraph \_\_\_\_\_

Reason for Request: Existing building on site is closer to the ROW than the proposed new building. The proposed new building reduces an existing non-complying use.

FOR STAFF USE

Application Number: <u>16-07</u>	Filing Date: <u>9/13</u>	Tentative Hearing Date: <u>10/10/16</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 property narrowness and dual ROW frontage narrow the development area of the property.
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.)  
Not reasonably & economically.
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 request is the minimum required to meet site specifications & development standards.
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 request reduces an existing greater non-conforming use. Therefore, reducing the non-conformancy, increasing distance from the ROW, increasing buffer between adjacent residential plots.
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 request provides for better circulation and greater setbacks.
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 hardship currently exists, created by a prior owner.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
The request allows for redevelopment of a key site with existing development criteria & specifications putting the site to the highest & best use.

John Blund

Signature of Applicant

9/12/16

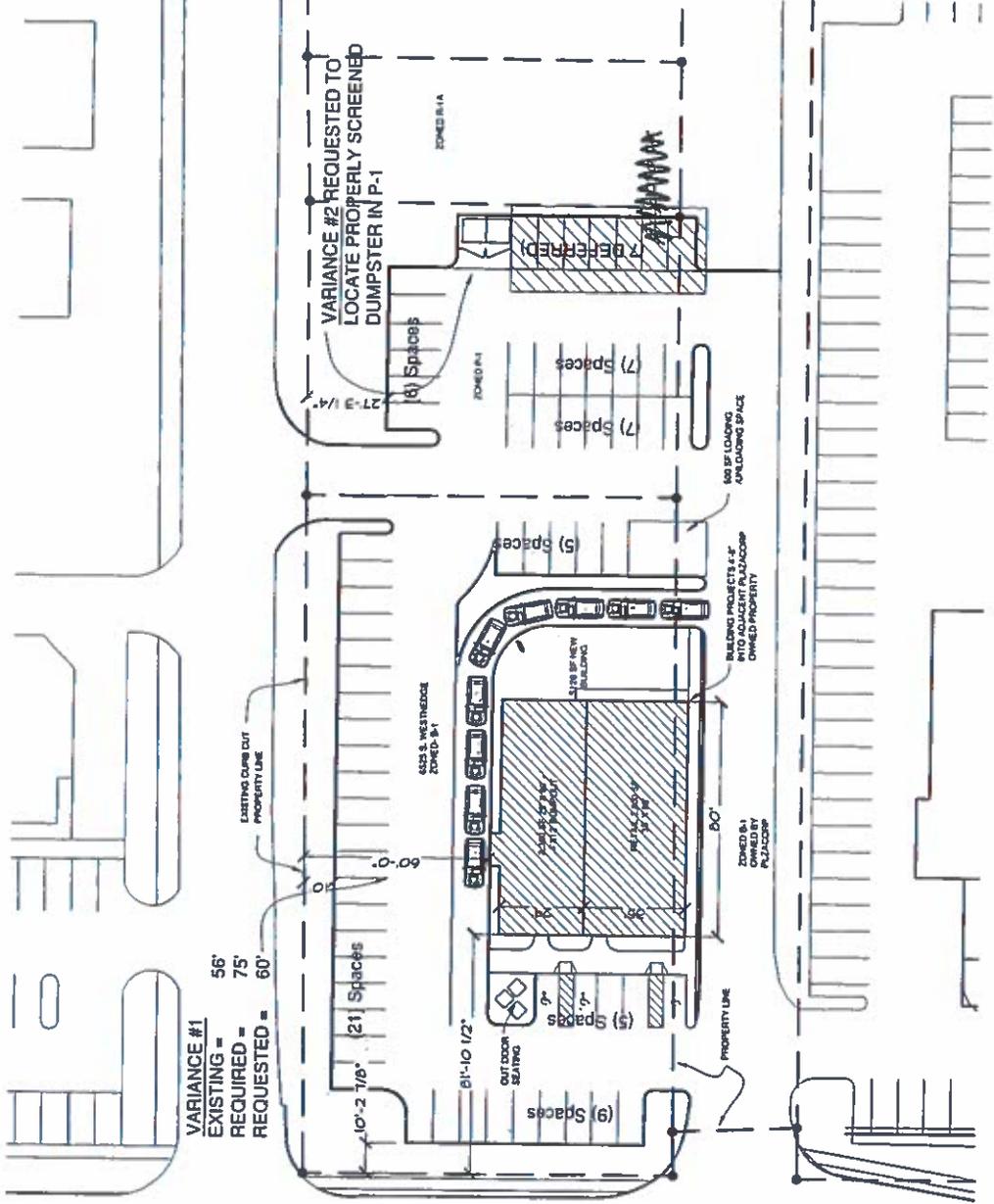
Date

**PARKING REQUIREMENTS**  
 Coffee shop - 2320 - 1160/25 ufa = 51  
 Retail - 2800 - 1960/150 ufa = 13  
**SPACES REQUIRED = 64**

**SPACES PROVIDED = 67**

**INTERIOR LANDSCAPING REQUIREMENTS**  
 SITE AREA AFTER 20' SETBACK AT LOCATIONS  
 ALONG PUBLIC RIGHT OF WAY WHERE  
 SCREENING IS PROVIDED = 27062 \* (1SF LANDSCAPING FOR 15SF SITE) = 1804 SF LANDSCAPING

**2332 SF INTERIOR LANDSCAPING PROVIDED**



**1 PARKING LAYOUT**

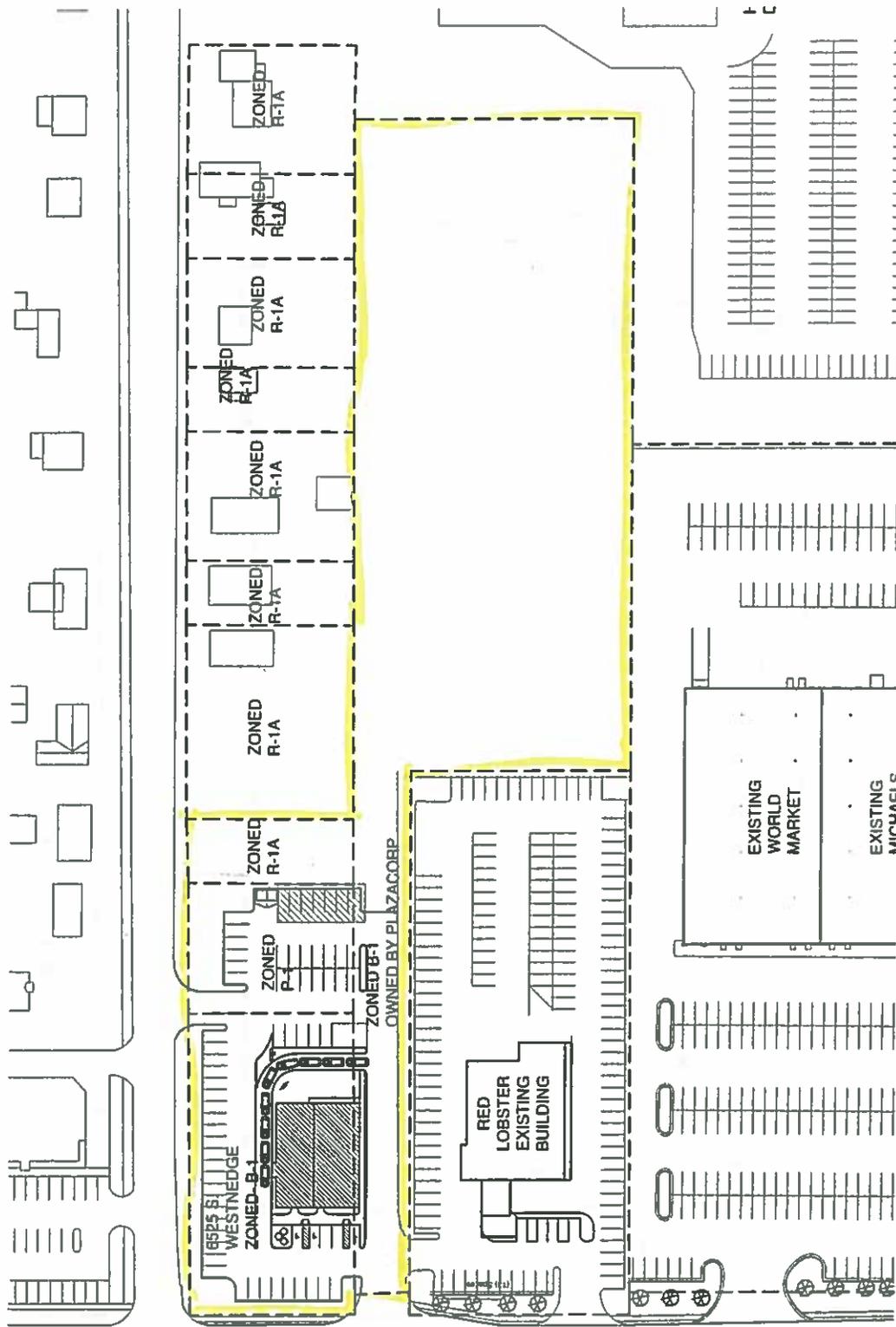
**M3 ARCHITECTS**  
 1000 WEST 10TH AVENUE  
 SUITE 1000  
 DENVER, CO 80202  
 TEL: 303.733.1111  
 WWW.M3ARCHITECTS.COM

Professional Seal  
 License No. 12345  
 State of Colorado  
 Exp. 12/31/2025

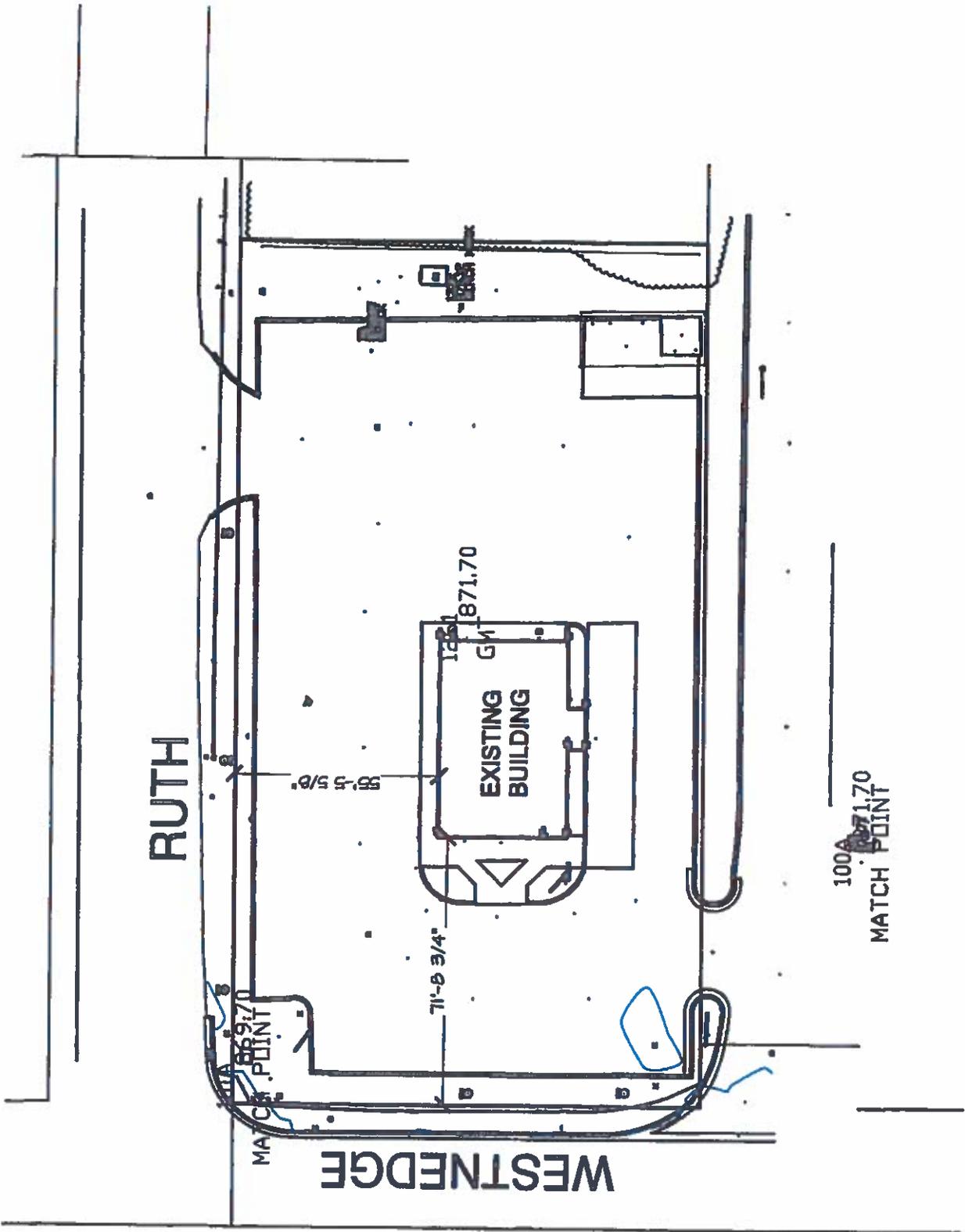
**Westledge Property**  
 Project No. 12345  
 Date: 12/31/2025

**SCALE**  
 1" = 10'-0"

**A1**



1 OVERALL PARKING LAYOUT  
1"=80'



**1** EXISTING BUILDING SURVEY  
1"=40'

**TO:** Zoning Board of Appeals **DATE:** September 30, 2016  
**FROM:** Vicki Georgeau, <sup>VG</sup> Director of Community Development  
**SUBJECT:** ZBA #16-09, Plaza Corp, 6525, 6529 South Westnedge Avenue and 150, 206 Ruth Street, B-2 Community Business, P-1 Vehicular Parking, R-1A One Family Residential

**CODE SECTION:** 42-350 Schedule of Regulations p. CD42:84  
42-574(B)(1) Refuse Containers, p. CD42:135

**APPEAL:** Requesting: a) a variance to erect a 5,120 square-foot commercial building 60 feet from the (north) front property line where a minimum 75-foot setback is required; and b) a variance to locate a refuse container in a P-1, vehicular parking district.

**STAFF RECOMMENDATION:**

The applicant is requesting the above referenced variances per the enclosed application and site sketch. The subject zoning lot consists of four parcels: 6525, 6529 South Westnedge Avenue, and 150, 206 Ruth Street. The properties at 6525 and 6529 South Westnedge Avenue are zoned B-2, community business. The property at 150 Ruth Street is primarily zoned P-1, vehicular parking, whereas the west 10 feet of the property is zoned B-2, and a 50-foot wide by 5-foot deep portion at the northeast frontage is zoned, R-1A, one family residential. The property at 206 Ruth Street is zoned R-1A, one family residential. Across the street to the north of the property at 6525 South Westnedge Avenue is commercial property; across the street to the north of 150 and 206 Ruth Street is a residential neighborhood. 206 Ruth is adjacent to residential property to the east. The zoning lot is adjacent to other commercial properties to the south, and across the street to the west.

The subject properties have been acquired and assembled by the applicant who now proposes to redevelop the former Long John Silver's site with a new 5,120 square-foot commercial building, off street parking lot, and related improvements. The proposed building will meet the required 75-foot setback from South Westnedge Avenue, but will be located 60 feet from the (north) front property line on Ruth Street. In addition, the applicant proposes to place the dumpster enclosure on the east side of the property at 150 Ruth Street, which is zoned P-1, vehicular parking. Variances are therefore necessary.

Concerning request a) this relatively narrow commercial corner lot has presented redevelopment challenges in the past, and the property received variances in 1994 (ZBA #94-10) allowing reduced width front landscape greenstrips and the existing building's 55-foot setback from the (north) front property line. The applicant's current proposal will provide conforming 10-foot greenstrips along both South Westnedge Avenue and Ruth Street, and the proposed 60-foot front setback would result in a reduction in the degree of nonconformity. For these reasons the variance can be recommended.

Concerning request b), the applicant has limited options for placement of a dumpster while affording trash removal trucks easy/straight access within the parking lot. One

of the intended functions of P-1 zones is to act as a buffer between residential areas and more intensive uses. In this instance, the applicant owns the adjacent parcel (206 Ruth Street) to the east. In addition, the dwelling (220 Ruth Street) on the densely wooded residential property to the east of 206 Ruth Street would be over 160 feet away from the proposed dumpster enclosure. The variance should therefore not be detrimental to adjacent property and will not materially impair the intent and purpose of the Zoning Ordinance. For the aforementioned reasons, the variance can be recommended.

**PRACTICAL  
DIFFICULTY:**

Narrow lot. Significant distance from adjacent residence. See suggested motion form.

T:\COMMDEV\2016-2017 Department Files\Board Files\Zoning Board\16-09, 6525 SWA\2016 09 30 VG ZBA 16-09 SWA, 6525 (staff rpt) doc

**SUGGESTED NON-USE VARIANCE MOTION FORM**

Mr. Chairman:

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

**be:**

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

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

**-or-**

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

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

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

## Reviewing Zoning Board of Appeals Petitions: Part 1 – Gathering Information

Excerpted from the *Zoning Board of Appeals Toolkit*, a Michigan Association of Planning publication

***Before decisions can be made by a zoning board of appeals, information must be gathered to facilitate the decision making process. Information is gathered from many different sources including documents submitted by the applicant, public input, site analysis, and review of the zoning ordinance and other applicable municipal codes.***

Applicants are generally required by a community to provide information adequate to ensure that the request can be understood. Specific application requirements should be listed in the community's zoning ordinance. Application submittal requirements should be consistently applied to all applications. All application materials become part of the official record of the request.

Typical submittal requirements include:

**Application form.** A community typically requires a written application for each request. The application form will specify the type of relief being sought (e.g., use variance, non-use variance, or appeal of an administrative decision), ownership information, and site data (e.g., site location, location of structures, site size, zoning district, etc.).

**Written response.** With all requests, **the burden of proof is on the applicant**, therefore, the most important information submitted is a written description of why approval of the request is warranted. For use and non-use variances, the ordinance must outline a list of review criteria in accordance with the Michigan Zoning Enabling Act. **The applicant must explain how their application meets the criteria.** For appeals, interpretations, and other approvals within the ZBA's authority, there may or may not be criteria set forth in the ordinance. However, the burden of proof still exists, and the applicant must provide a written explanation of the situation and the requested relief.

*A typical application form should include:*

- A legal description of the property
- Signatures of all with interest in the property
- A plot plan with any easements on the property
- Description of the variance request, including the stated hardship or practical difficulties

# MICHIGAN PLANNER <sup>'E-dition'</sup>



American Planning Association  
Michigan Chapter

Making Cities Communities Happier

A Publication of the Michigan Chapter of the American Planning Association

**Other information.** The ZBA or staff can require that additional information be submitted in order to fully evaluate the application. In the case of a use variance, for example, detailed information about the proposed use, such as operation information, should be requested. For non-use variances, a scaled drawing is necessary to understand the dimensions being considered along with existing site conditions. Other helpful data may include photographs, aerial photos, slides, or videotape.

In addition to application materials, ZBA members should review all available and relevant information needed to make a decision. Additional sources of information could include:

**Information from staff.** ZBA members should ask for additional information from the community's staff. For example, some cases may warrant review of the community's master plan or special studies to understand the community's vision for the area in which the subject site is located. In addition, it may be important to evaluate data on lot sizes and/or lot configuration in the vicinity of the site in order to determine whether an extraordinary circumstance exists. Any information you receive individually should also be made available to each of the other members.

**Site visits.** Visiting the site can assist in understanding existing site conditions in the context of the application. Site visits can also help ZBA members determine whether conditions of approval are warranted. The following are important tips when visiting a site:

- Site visits should be made individually rather than as a group. Group visits, even with less than quorum, raises several issues. A site visit with the majority of the membership requires that the meeting be posted in accordance with the Michigan Open Meetings Act and that steps be taken to ensure accessibility in accordance with the Americans with Disabilities Act (ADA). In addition, it is difficult for the visiting members (even if there is no quorum) to avoid talking amongst themselves about the proposal, which violates the spirit of the Michigan Open Meetings Act.
- Look closely at traffic conditions, natural features, surrounding land uses, adjacent structures, development patterns, and general neighborhood characteristics. Any of these may influence the ZBA's determination regarding potential impacts of the request or whether an extraordinary circumstance exists.
- Visit the site in the most appropriate context to address your questions and concerns. Visiting a site during a peaceful Sunday afternoon may not be representative of traffic conditions during rush hour.

# MICHIGAN PLANNER 'E-dition'



American Planning Association  
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- Do not discuss the proposal with the property owner or neighbors while conducting a site visit. If the property owner is present, explain that you are only there to verify the conditions of the variance request.
  
- Do not go onto the site unless the property owner grants specific written permission or the site is otherwise available to the public (such as an existing shopping center). This can help avoid misunderstandings and problems with trespassing. If permission has not been granted and you feel as though your decision cannot be made without viewing the site, look for other ways to get the same information. Do not allow your decision to be influenced by the applicant's reluctance to allow you on the site. Many people are concerned about liability and protecting their privacy.
  
- Describe your site visit findings to the rest of the ZBA at the meeting so that they have the benefit of your observations.

Next in the series: Effective Decision-making

To purchase a copy of the Zoning Board of Appeals Toolkit, go to  
<http://www.planningmi.org/publications.asp>.