

Zoning Board of Appeals

Regular Meeting Agenda

Monday, January 25, 2016, 2015
7:00 p.m., City Council Chambers



City of South Haven

1. **Call to Order**
2. **Roll Call**
3. **Approval of Agenda**
4. **Approval of Minutes** – October 26, 2015
5. **Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**
6. **New Business** – Public Hearings
 - a. Bill Fries, currently of Portage MI, requests a front setback variance for his residence at 310 Eagle Street. The applicant is asking for a four (4) foot setback when a 12 foot, 10.5 inch variance had been previously approved. The requested variance relates to zoning ordinance section 402-1. The parcel number is 80-53-019-007-00.
 - b. Lawrence and Donna Zeppiero of South Haven request a landscaping variance for their commercial business at 380 73 ½ Street. The subject property is in the Corridor Overlay Zone and the variance is requested from section 2406 of that ordinance. The parcel number for the property is 80-53-620-051-00.
7. **Commissioner Comments**
8. **Adjourn**

RESPECTFULLY SUBMITTED,

Linda Anderson
Zoning Administrator

South Haven City Hall is barrier free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Hall.

Zoning Board of Appeals

Regular Meeting Minutes

Monday, October 26, 2015
7:00 p.m., City Council Chambers



City of South Haven

1. Call to Order by Lewis at 7:00 p.m.

2. Roll Call

Present: Boyd, Bugge, Paull, Stegeman, Wheeler, Lewis
Absent: Miller

3. Approval of Agenda

Motion by Bugge, second by Stegeman to approve the October 26, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – September 28, 2015

Motion by Stegeman, second by Wheeler to approve the September 28, 2015 regular meeting minutes as written.

All in favor. Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

6. New Business – Public Hearings

- a) Phillip and Kimberly Roehm of South Haven are requesting the following variances for a new home planned at **77 Northshore Drive #19**: Front setback of 23 feet where 25 feet is required; Side setbacks are 10 feet and 8 feet where 12 feet on both sides is required; Lot coverage is 39.5% where 30% maximum is required. The parcel number for this property is 80-53- 701-011-01.

Anderson explained this is a situation that has been seen in other zones; some small lots in a zone which has larger lots in general. Lewis asked if this lot was in the R1-A zone would it

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comply to which Anderson responded, "Yes, totally in compliance with setbacks and just over on lot coverage."

Motion by Paull, second by Boyd to open the public hearing.

All in favor. Motion carried.

Phillip Roehm, 77 Northshore Drive. Stated he and his wife have owned property in South Haven for twenty (20) years and want to build an "aging in place" home with first floor living. Noted this property was purchased from Waters Edge Condo Association. The new address will be 80 Woodman Court #18. Does not feel they are asking for a large amount in the variances. Noted they have been working with Glas Associates out of Kalamazoo. "The variances will allow us to put a home on that we can be proud of and our neighbors will be proud to have around. The setbacks we are asking for will allow us to have plenty of green space around our home."

In response to a query by Bugge, Roehm stated that the home being planned will be a two-story home.

Motion by Paull, second by Boyd to close the public hearing.

All in favor. Motion carried.

Bugge asked about the width of a typical lot in in the R-1A zone. According to Anderson fifty (50) feet x one hundred (100) feet is typical. Anderson noted that the lot at 77 Northshore Drive is twenty (20) foot deeper than a typical R1-A lot. Bugge asked about variances granted for other houses on Northshore. "We made them comply with twenty-five (25) foot setback and the house north also has a deep setback". Stegeman noted that it appears the neighbors are in support based on the letters received.

Motion by Stegeman, second by Boyd to approve the variances requested.

Boyd suggested wording to add to the motion, "to approve the three (3) variances to the code for parcel # 80-53- 701-011-01."

Bugge is concerned with variances to front or rear setbacks because it is a deep lot. "And we required the previous applicant to comply with the twenty-five (25) foot setback as well as their other neighbor having a deep setback."

Lewis reiterated that if it were zoned differently this proposal would be in compliance and the lot is one hundred twenty (120) feet deep as opposed to one hundred (100) feet.

In response to a question regarding why the two extra feet are needed in the front when it seems there is room in the back, Roehm stated that they are asking for two (2) extra feet on the front yard so we can use the space in the garage. "When you come off Northshore Drive and come onto Willow Court, we need turning area to get into the garage, and need the space for our cars and extra storage. There will also be access in the garage for our basement which requires a little extra space in our garage."

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Lewis noted that the garage is quite large to which Roehm responded that it is designed for two cars and storage. We have neighbors in the back and would like to have a back yard for outdoor activities. Roehm pointed out that the neighbor has a deck that extends into the front setback and the proposed garage will not extend beyond the front of the neighbor's deck area.

In response to a question about why the north setback variance was requested, Roehm stated it is so cars can be parked there as opposed to having cars parked off Willow which would be sticking into the street. Lewis noted the board had seen photos of what it looks like to have cars extending over the sidewalk and off the driveway in some previous variance requests.

Bugge said the garage can be compressed two feet or the house can be compressed two feet.

Boyd commented that he sees having a wider entrance to their garage important for traffic safety and maneuvering. "The wider opening makes sense to me." Bugge responded that if the garage were back two feet it would be even wider. Boyd clarified he is talking about the width of the garage opening.

Motion by Bugge to amend the motion by removing the front setback variance request on North Shore Drive.

Lewis called for a second.

For lack of support the motion failed.

A roll call vote on the original motion to approve the variances as requested was taken:

Ayes: Paull, Stegeman, Wheeler, Boyd, Lewis

Nays: Bugge

Motion carried.

b) Richard Braunz, owner of **820 Green Street**, is requesting an east side setback variance of 1.7 feet. The proposed setback will be 10.3 feet where 12 feet is required. The property is currently vacant but the applicant is planning to move a house onto the site. The parcel number for this property is 80-53-470-039-00.

Anderson noted that the applicant will have to split the lot, which is a double lot. The resulting lots would both be conforming lots but the house he is proposing to move onto one of the lots would need a variance of almost two feet (2') on the side. Anderson explained that the city owns the house and planned to demolish it but Braunz wanted to purchase the house and move it. "This has been a long process with many hurdles still ahead."

Paull commented that there were some engineering issues to which Anderson responded that the city engineer has some concerns about power lines and utilities for that lot that will have to be resolved to determine whether or not the move could actually happen.

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Lewis suggested making a motion that would apply for only this house being moved across the street. Boyd asked for clarification and Lewis explained, after which Anderson pointed out that a variance granted stays with the property and this variance, if granted, will stay with the property whether or not the house gets moved. Bugge suggested that a contingency could be added referring to this particular house.

Boyd said when he hears engineer has concerns it makes his ears perk up and he wondered what the city engineers concerns are.

Anderson said the foundation of the house, due to water infiltration, has sustained some water damage; a new foundation has to be put in on the new lot. There are some issues with water and sewer and overhead lines. The person seeking to move the house would have to have a professional moving company do it and have bonding in place. There are a number of things the city engineer would have to have in place before the house is moved. Anderson noted that building permits are not issued until all engineering concerns are eliminated.

Boyd asked whether the house could still be demolished, as was the city's original intent, and Anderson said it could.

Motion by Stegeman, second by Boyd to open the public hearing.

All in favor. Motion carried.

Richard Braunz, 820 Green Street. Said he saw the newspaper article about the house and asked Laraway (movers) to come look at it. Stated he's been waiting and waiting, in the meantime had the survey done and working on the land split. Stated, "The house is eight feet (8') too wide; four feet (4') on each side, if you can imagine." Braunz has been waiting for the city to respond. In response to questions, Braunz explained that Laraway is going to pick the house up off the old foundation; the house will be moved across the street onto the new lot and set up on "Lincoln Logs" while the foundation is built. Noted he wants to move the house for his son to move into next to him. Braunz lives on half of the double lot in question.

After discussion, it was clarified that the overhang of the eaves is one foot seven inches (1'7") which is the variance Braunz is asking for.

Boyd asked about the costs incurred by the city; "What are the city costs and your costs in moving this home?" Braunz commented on electric utilities costs which are unknown at this time; costs for tree removal. Has to get with the cable company to move a couple of poles for a couple hours. The movers, Laraway, charge twenty thousand (\$20,000) to twenty-five thousand (25,000) and the cost for diggers for the basement about \$6,000.

Bugge said the costs are the applicant's problem and not our concern. Boyd asked if city employees are involved in this to which Braunz responded that the city has to move a pole for him for about five hundred dollars (\$500). Braunz noted he is trying to save a house and is not planning on turning it into a vacation rental yet.

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Wheeler asked if the city engineer's concerns are only for the disconnect and reconnect issues to which Anderson responded that the city is also concerned about the water and sewer connection.

Paull asked the condition of the house. Braunz said he believes it is in good condition; noted the house was built around 1965. The only problem Braunz was aware of is the basement, due to water issues. Paull asked if the house was condemned. Anderson said the house itself is in good condition; she has also been inside the house but believes that over time there would be water damage to the basement and structure of the house. Braunz noted the owners lived in it until May 2015. Anderson noted it does not qualify as a dangerous building under the building codes.

Bugge said the other issues would have to be resolved before this could proceed. So the only concern of the zoning board is the minimal variance.

Motion by Paull, second by Bugge to close the public hearing.

All in favor. Motion carried.

Lewis said the only concern he has (moving the house is no problem with a variance for that) is that the variance goes with the property. If the move does not happen, the variance still stands. Bugge said, "If you put a condition on it that would have some weight." Wheeler noted a condition could be challenged to which Bugge responded that anything can be challenged.

Lewis noted that if we grant this variance we want to put conditions on it that will hopefully hold up. Paull said if it could be locked to this particular building, he would feel pretty good about it. He does not want to give a general variance for this that in this neighborhood something similar would not need a variance.

Bugge asked what the address is for the property that the house is located on to which Braunz responded the address where the house is located is 801 Green Street.

Stegeman pointed out that if this variance is granted you want a stipulation to stick to this house on the correct lot number. Bugge noted the lot number may change with the split.

Paull asked if this is a bit premature, to grant a variance to move a house to a non-existent lot. Anderson stated that the city owns the house and lot where the house is currently located. In order for Braunz to apply for a lot split or make any arrangements he has to take ownership of the house. The City Council will go into an agreement with him on selling the house; once that is completed Braunz can start doing what he needs to do.

Paull clarified that Braunz needs to get everything else done and then ask for a variance. Anderson pointed out that if Braunz's request for a variance does not go through the project will proceed no further.

Lewis said he doesn't have a hard time deciding this now.

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Motion by Bugge to permit the variance of one and seven-tenths feet (1.7') for placement of the house currently at 801 Green Street on the proposed lot adjacent to 820 Green Street, subject to meeting the City Engineer's criteria. Second by Stegeman.

Boyd asked for clarification of whether that motion is tying the current house at 801 to the vacant lot.

Paull commented that he will vote no since this is asking for a horse and granting a camel.

A roll call vote was taken:

Ayes: Stegeman, Wheeler, Bugge, Lewis

Nays: Paull, Boyd

Motion carried.

c) Woodhams Ford, **1111 La Grange Street**, is requesting a side yard setback and front and side landscaping variances as part of a large renovation project. The parcel number for this property is 80-53-615-025-00 and 80-53-615-009-00.

Anderson said this is a major renovation the Woodhams have been talking about since before the city developed the overlay zone; without the overlay zone they would have been fine but with the more strict landscaping requirements there they are running into a problem. Corporate requirements are also an issue to deal with. The overlay ordinance requires a twenty-five (25) foot greenbelt in the southern part of the road front (except along the building) and the applicant is showing no greenbelt in the southern part of the road front and in the north section a greenbelt between seventeen (17) and twenty-five (25) feet.

The applicants have made an effort to put as much greenscaping as they could in as many places as they should.

Motion by Boyd, second by Bugge to open the public hearing.

All in favor. Motion carried.

Jeffrey Saylor, Vice President, Abonmarche.

Saylor noted he would give an overview and turn it over to Amy Cook, Project Manager for more detail. Saylor stated this project is driven by two constraints, economic and requirements by Ford Corporate. Our client could not afford to tear down the auto parts store on the corner; Abonmarche had to rework that store to make this economically viable. There were hundreds of thousands of dollars involved in a tear down while recycling the auto parts store made the project more viable. "We did remove the western thirty (30) feet of the building so we could get it a reasonable distance from the street. The present showroom will be away from its proximity from the street and the auto store will be thirty (30) feet away from LaGrange, turning the two into one cohesive design." Saylor noted that Ford dictates that the present site layout and design be followed to continue. The present site makes it hard to know where to park, where to enter the building, as a customer. The new design gives some clarity to 'Where do I park?' and 'Where is the front door?' Saylor concluded, "By

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unifying these two buildings, reducing the proximity of the two buildings to La Grange, creating a driving lane, a walkway to the front entrance and a green buffer, we hope you will agree this will be a real asset to the community.”

Amy Cook, Project Manager, Abonmarche Consultants. Stated Abonmarche has been working on this project for quite a while. We are now moving forward with Pioneer as a design-build team. She presented a slide show to help explain the project:

1st slide. Shows what will be removed from the site, which is a sea of asphalt and visually bereft. The plan is to remove pavement to add square feet of greenscape that was not there before and taking more pavement out that will be replaced. The number of curb cuts will be reduced from four (4) entrances and exits to two (2) curb cuts. Abonmarche is presently in the review stage with M-Dot. Also being taken care of is the non-green belt between the property line and street curb which will be improved with greenscaping and an inlet for run off.

2nd slide. Indicates the building improvement, which includes linking the two existing buildings. With a drive-through service lane, the northern building will be service related, helping to orient the customer. Cook noted the designers are bound by Ford requirements to provide this parking, thus we cannot meet the landscape buffer, but are providing it in the northern aspect. In between, small buffers for landscaping have been provided.

Cook pointed out the wide swath at the north, bounded by tall deciduous trees and the north most corner and smaller ornamental deciduous trees close to the Ford sign. Between the property line and street curb are lawn buffer areas. Ornamental trees, shrubs and grasses will be provided on LaGrange and Aylworth facades.

3rd & 4th slides. Show the before and after photos from the same vantage point. Cook noted that the second variance is for the front setback along Aylworth currently which is twenty-five (25) feet and we want to build the sign wall to eleven feet and seven inches (11’7”). This wall does not enclose interior space and is strictly a design wall. Looking to the south this shows the current green buffer to which we will be adding quite a bit and the current sales lot. Then the slide showing the after and a slide (5th slide) showing the curb cuts. M-Dot’s suggestion is a right-turn only exit for the curb cut closest to Aylworth.

Boyd talked about the architectural wall and asked what the building setback is. Bugge asked if this cannot be done in another way.

Jeff Saylor said you will see dozens of completed Ford buildings all over Michigan. “This brand wall cannot block the showroom glass, so we can’t push that appendage north and block the showroom, the branding wall is a standard Ford Lincoln requirement.” Boyd asked why you can’t put “Lincoln” where “Woodhams” is. Saylor explained that it is a corporate requirement where the Ford and Lincoln walls are and that this component has been shrunk to the bare minimum.

Bugge said different communities have different standards and Ford does not set the standard for this community. “I have dealt with many corporations professionally and there is a big fudge factor. I don’t appreciate that approach.”

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Saylor won't argue the point but this is the optimal that Ford would like.

Bugge commented on the overhang behind that wall which Saylor said is a sheltered overhang for new delivery. We would be measuring to there. Saylor said the overhang is back about six (6) feet back from the Lincoln wall. Cook noted there are four (4) setbacks along that wall.

Cook noted the building wall complies but not the overhang or the design wall. Bugge asked what the side setback is and how far back the overhang is. Being told the setback is 17' 7" Bugge calculated it to be two (2) feet over what is required.

Bugge asked about the front façade where the Ford sign is, "Is it part of the building?" Saylor said it is twenty-four (24) feet while the Lincoln wall is twenty-two (22) feet. Saylor noted that the high wall of the service building has us stuck with the height for the horizontal lines. From the main power pole that we can't move near the most southern curb cut, the power lines will disappear under the property or buildings.

"The existing free standing sign is staying?" Bugge asked. Anderson said the sign is okay as long as they do not take it down. Saylor indicated a smaller sign is being taken down and will not be coming back.

Lewis asked how wide the drive is along LaGrange which Cook said is twenty-five (25) feet and then asked, "Along the south side?" to which Cook responded that the drive reduces down to fifteen (15) feet, a one lane drive along Aylworth.

Bugge questioned the area being taken up and commented that the right-of-way designation is actually city property. Cook agreed and noted there is currently lawn in that area and Abonmarche are just adding to that so we have a consistent twenty-five (25) feet. Saylor noted the greenspace presently tapers and "we are going to make it twenty-five (25) feet all the way to McDonald's".

Bugge asked about the green space along McDonald's, "Is that in compliance?" to which Anderson responded that is in compliance.

Paull pointed out that one of the purposes for creating the overlay zone was to try to do away with the kind of thing that is happening with this building, a huge wall sign. A big advertising wall, these are the kinds of things we are trying to do away with in this overlay zone. And here is Ford saying "You've got to build this great big sign." "That is not what we are looking for," Paull stated, adding, "You can tell a corporation you can't do that because of the zoning and they will conform to local zoning ordinances. In one respect I appreciate your efforts to make everyone happy. We (the Zoning Board) aren't here to make people happy; we're here to make it pretty."

Bugge asked if it would be possible to put some additional landscaping in the northern area, to which Saylor said, "Woodhams would be willing to add more trees, not big trees, but ornamental trees." Lewis asked whether the landscaping requirements apply along that part of the parcel. Anderson said it does because we have requirements for planting and ornamentals, however they may be bunched together. Bugge agrees with what Paull said

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and wonders if this goes before the Planning Commission. Anderson responded that it will go to the Planning Commission.

Bugge asked what these cement bump outs are for in front of the building which Amy Cook explained those are display areas for new cars. Discussion ensued regarding the one being done in Holland with one person describing it as dramatic and another as ugly.

Saylor said after being in architecture for thirty (30) years he has learned that it is very subjective: what one thinks is attractive another thinks is ugly and vice versa. Bugge noted that the proposed plan it is a vast improvement over what exists.

Stegeman said he thinks the Woodhams family has been working on this a long time and now the city has changed the rules. Rhetorically, Stegeman asked, "Should they have done it two years ago? Yes. But they didn't. This entrance into the town will be quite a different thing."

John Frego with Pioneer Construction. Stated that his question is if the brand wall that is protruding out would be approved if there were no variances needed. Bugge said the Planning Commission will be looking at the sign. Lewis noted that the variance can be split up; it is not all or nothing. Frego explained the reason that wall and canopy were located there. "That old parts store will be the showroom and the canopy works really well for the new car delivery; it just works very well on the site."

Motion by Wheeler, second by Boyd to close the public hearing.

All in favor. Motion carried.

Paull commented that he does not know how to modify the request but the massive Lincoln wall bothers him. Lewis repeated that the variance request can be divided up.

Boyd pointed out that it is a wall, not a Lincoln wall. "Let's look at it in our own vein. What I am trying to say is, I see a wall, is fifteen (15) feet enough?" Planning Commission can deal with the sign. Boyd commented that the board is looking for improvement and "I see improvement."

Motion by Wheeler that we approve the variance request for the landscaping as illustrated on the plan provided.

Following several comments about placement of trees, Wheeler noted that we are not here to do exterior design. We have criteria, and their landscape designer can do that. Bugge said she is suggesting that a revised landscaping plan be submitted.

Lewis suggested reducing the front yard setback of the buildings, noting providing greenscape along the building would be a hardship to provide along the west and south sides. To enforce the overlay ordinance according with the existing building would be difficult.

Second by Paull.

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A roll call vote was taken on the landscaping variances:

Ayes: Paull, Stegeman, Wheeler, Boyd, Bugge, Lewis
Nays: None

Motion carried.

Bugge would like to see the addition of some trees on the north twenty-five (25) foot section, from the building south towards the roadside in compliance with the ordinance to that portion.

Discussion ensued regarding what the Zoning Board of Appeals is actually tasked to do.

Lewis said the board will take up the side yard variance, noting that he has an issue with the southern variance. Paull noted this is not a building serving something; this is a wall, Lewis said part of the setback involves the canopy behind the wall. Boyd asked if that wall could be reduced by six (6) feet reducing the setback from the side yard so it would be reduced to the same dimension as the overhang.

Frego said we could go back to Ford and request it, Maybe we could move the canopy back so it is the only thing encroaching. Boyd said he would like to give them the entire canopy and bring the wall back.

Paull asked for the wording of the side yard setback. Paull asked for the dimension which was reported to be eleven feet nine inches (11'9") based on a twenty-five (25) foot setback. Since it was planned for twenty (20) feet, because Abonmarche thought both road frontages were front yards. Amy said the wall is 11'9" from property line.

Motion by Paull, second by Bugge to deny the side wall setback.

Boyd said reading through the nine criteria he cannot find anything it fails. Paull said it fails the ordinance.

Discussion ensued regarding whether the proposed greenspaces meets the ordinance.

A motion and second were made to deny the side yard variance.

A roll call vote was taken. Lewis clarified that an "aye" vote is to deny.

Ayes: Bugge, Paull, Lewis
Nays: Stegeman, Wheeler, Boyd

Motion failed.

Motion by Boyd to approve the side yard variance. Second by Stegeman.

A roll call vote was taken.

Ayes: Boyd, Stegeman, Wheeler

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Nays: Bugge, Paull, Lewis

Motion failed.

- d) Steve and Virginia Goble of Northville, MI are requesting a rear yard variance to construct a house at **429 Van Buren Street**. The proposed setback is 12.05 feet where 25 feet is required. The parcel number for this property is 80-53-006-015-00.

Anderson stated that this is a really unique situation; this lot has two large easements that run diagonally across the lot, cutting down on the buildable part of this lot. The applicants have designed everything on the property except the second stall of the garage to fit within the building envelope left by the easements; one stall of the garage is over into the setback area. Anderson noted the applicants worked to develop a house that is set up with some weird angles and also noted regarding the proposed driveway, "We don't allow driveways that wide, he will have to reconfigure that and do that before the building permit is issued. The applicant has agreed to this." There is only twenty-four percent (24%) lot coverage mostly because so much of the lot is not usable. The only thing they are asking for is the rearmost garage space, with a setback of 12'8" instead of twenty-five (25) feet is required. The applicants had been working with the city engineer for several months before I was involved; the city engineer does acknowledge they have some issues and what they are proposing is fine with him, and it really is a difficult lot.

Motion by Bugge, second by Wheeler to open the public hearing.

All in favor. Motion carried.

Virginia and Steve Goble, 355 Orchard Drive, Northville, MI. Virginia Goble: Have been property owners in South Haven for almost ten (10) years; owned the home next to the subject property which they developed. The applicants have been working with Larry Halberstadt since 2012. Halberstadt has written a letter in support. We are trying to build a home relative to homes in the area; this home is identical to the home next door in size. We worked really hard to be able to work within the building envelope and with the road commission to get approval to pour the driveway over the easement. We tried to be compliant and build something reasonable; we are covering a very small portion of the lot and the house is not out of character with other homes in the area.

Lewis expressed that he gives a lot of credit to the applicants for trying to work within the limits of the lot. Anderson added there has always been a lot of interest in this lot but so many people saw the easements and backed away so she has to applaud the Gobles for continuing on.

Steve Goble noted that the house fits really well while Virginia Goble noted that it is unique and added that they have owned that lot and split it and have been paying property taxes on it since 2006.

Wheeler commented that he has gone through all nine (9) criteria and does not see one that would be a problem with #3 (Exceptional Circumstances) fitting the situation well.

Motion by Bugge, second by Wheeler to close the public hearing.

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All in favor. Motion carried.

Motion by Boyd, second by Wheeler to approve the rear setback variance to allow 12.08 feet where 25 feet is required.

A roll call vote was taken:

Ayes: Boyd, Bugge, Paull, Stegeman, Wheeler, Lewis

Nays: None

Motion carried.

7. Commissioner Comments

Stegeman: At the last meeting Anderson was going to try to find some alternate members. Anderson stated that she thought they had someone but he has changed his mind and asked that if anyone can think of someone who would be willing to help to send them in.

Anderson: No meeting in November. Due to moving the meeting from the fourth to the third week in November to accommodate the holiday, the deadline has already passed. The same thing is true in December. Nothing on the horizon right now.

Bugge: Really has dealt professionally with corporations and franchises; they always have alternatives, if they want to go somewhere or are somewhere they want to stay. They know there are rules.

Boyd said the applicant was forced into buying the property next to him. An example of Corporate bullying of both the city and the applicant. Bugge noted if that wall comes back, the south side has additional space that could be used for landscaping.

8. Adjourn

Motion by Paull, second by Boyd to adjourn at 8:49 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a 310 Eagle Street Variances

City of South Haven

Background Information: William Fries, Jr. of Portage, MI first came before the ZBA at the November 2014 meeting seeking variances for front setback and lot coverage. It was understood in the application that the existing nonconforming two-family house was planned for demolition to allow the construction of a single family home. The proposed deck on the new house would be three (3) feet from the front property line where nine (9) feet is required and the house setback was proposed for nine (9) feet where fifteen (15) feet is required. The applicant was also asking for lot coverage that exceeded the limit. The ZBA decision in this matter was tabled so the applicant could clarify what constituted the front line of the proposed house and thus the front setback that is actually being asked.

The applicant then submitted another plan (December 19, 2014, minutes attached) which showed the front line of the house and the deck and the setback for both. The setbacks presented were the same as found in the original application but it has been clarified that the balcony and related roofline established the front of the house. The front variance was granted to allow the house to be in line with neighboring properties but not less than ten (10) feet. The lot coverage variance was denied.

Mr. Fries was issued a building permit on July 14, 2015 and work commenced. When staff checked on the progress it was found that the building wall was in compliance with the terms of the variance and work on the deck was beginning. A later inspection showed that a roof over the deck extended into the required setback area. Mr. Fries was immediately notified and work on the deck ceased pending another variance request. Any roof, even over an open deck, is considered part of the building and subject to the required setbacks. The covered portion of the deck extends six (6) feet into the setback leaving a total setback of just under eight (8) feet. The lot coverage remains at an acceptable 39%.

Staff believes the applicant misunderstood the difference between the building foundation and the deck roof as the requirement for the setback. The ZBA members will need to determine if the adjustment to the variance is warranted.

Recommendation: Staff recommends that the ZBA members review the revised drawing and visit the property before making a determination on the variance. The members must find that the request complies with all standards of zoning ordinance section 2205 to approve a variance.

Similar applications in this neighborhood are attached (May 20, 2013)

Support Material:

Application and narrative

Revised plan
Photos
Minutes of the December 19, 2014 meeting
Minutes of the May 20, 2013 meeting
Letter of Support
Staff Findings of Fact

ZONING VARIANCE REQUEST
CITY OF SOUTH HAVEN
BUILDING DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760

NOTE: Incomplete applications will not be processed. A fee of \$300 will be required at the time the application is submitted.

Name: William F. Fries Jr. Date: 12/19/15

Address: 310 EAGLE ST Phone: _____

Address of Property in Question: 310 EAGLE ST Present Zoning of Property: RIA

Name of Property Owner(s): SAME

Dimensions and area of property 50' x 100' (Survey provided)

Dimensions of all buildings on the property (also shown on a diagram) _____
HOUSE 47x28 + 22 x 15.5

Setback measurements of all structures on the property (also shown on diagram)
FRONT: 6' 10.5"
REAR: 25' 11" SIDES: 18' & 3' 10"

Present Zoning of Neighboring Properties to the :
North RIA South RIA East RIA West RIA

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from? Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): 402-1 Front Setback RI-A zone

Under Article XXII, Section 2205 of the South Haven Zoning Ordinance, the Zoning Board of Appeals may not grant a variance from the regulations within the Ordinance unless certain conditions exist. No variance in the provisions of this Ordinance shall be authorized unless the Board finds, from reasonable evidence, that all of the following standards have been met:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

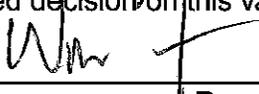
See attached

2. Such variance will not impair the intent and purpose of this Ordinance.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

9. That the variance will relate only to property under the control of the applicant

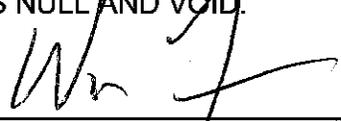
I hereby give permission for the members of the Zoning Board of Appeals and City Staff to access and inspect the property in question for the purpose of gathering information to make an informed decision on this variance request.



Property Owner

12/19/15
Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.



Applicant Signature

12/19/15
Date

MICHIGAN PLAT OF SURVEY

Surveyor's Certificate:

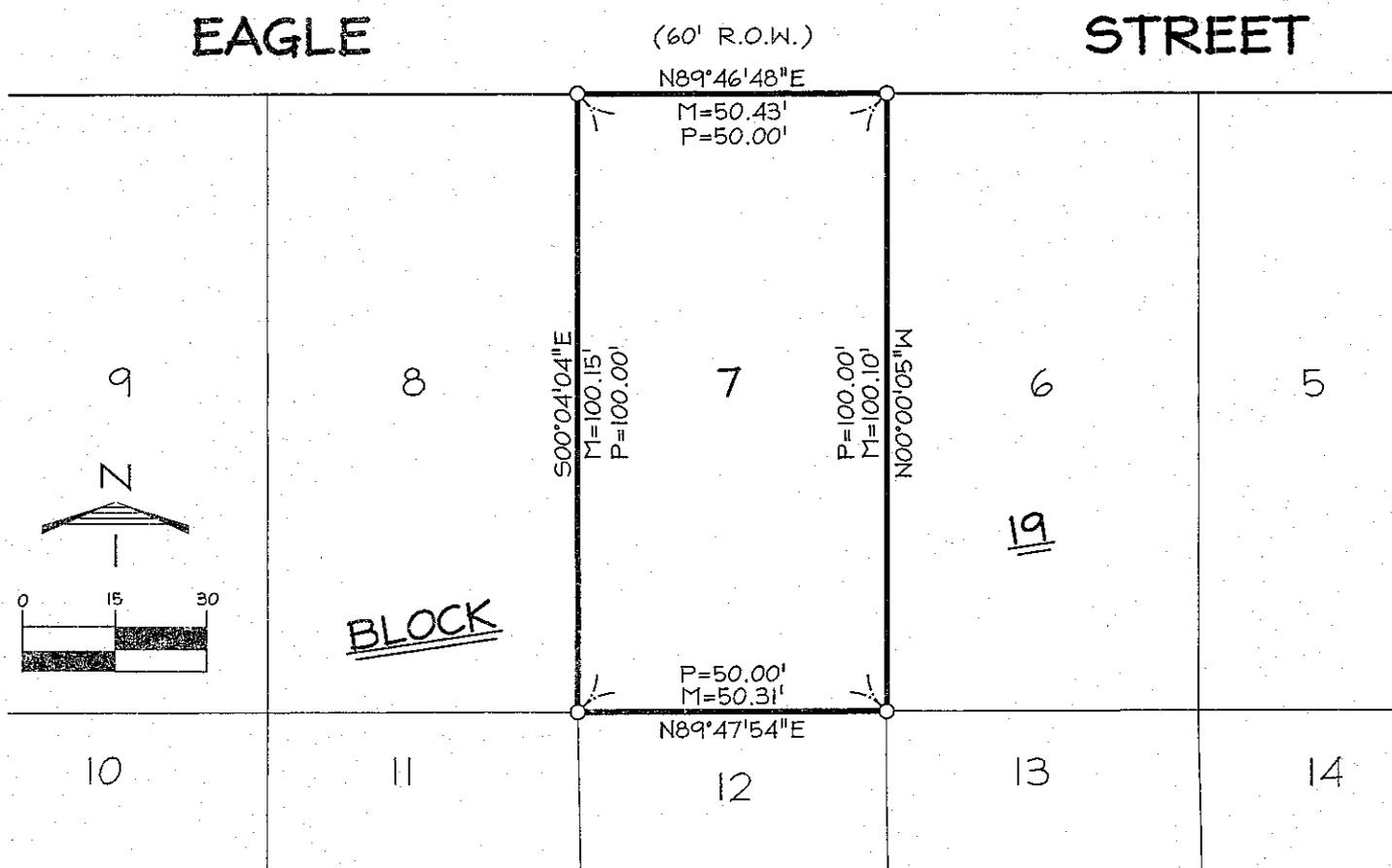
On the basis of my knowledge and belief, I, Edward C. Morse, Professional Surveyor, certify that I have completed a boundary survey and examination of the parcel of land described below, made on the ground to the normal standard of care of professional land surveyors practicing in Michigan. This survey was performed in accordance with a description furnished by others and should be compared to the abstract of title or title insurance policy for accuracy, easements, or exceptions. This survey was prepared for **Bill Fries** and does not extend to any unnamed person without expressed re-certification by the surveyor naming said person.

1-14-15
Date

Edward C. Morse
Edward C. Morse
Mitchell & Morse Land Surveying
Professional Surveyor 47966

Furnished Description: Situated in the City of South Haven, Van Buren County, Michigan.

Lot 7, Block 19, the Village (now City) of South Haven, according to the plat thereof, recorded in Liber H of Plats, Page 67, Van Buren County Records.



SURVEY NOTES:

- 1.) THE RATIO OF CLOSURE OF UNADJUSTED FIELD OBSERVATIONS IS NOT GREATER THAN 1 PART IN 5,000.
- 2.) BEARINGS ARE REFERENCED TO PREVIOUS SURVEYS IN THE AREA.
- 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR THE CLIENT ONLY. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE LAND SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR.

MITCHELL & MORSE LAND SURVEYING

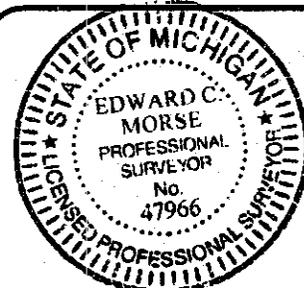
234 VETERANS BLVD. SOUTH HAVEN, MICHIGAN 49090
OFFICE: (269) 637-1107 FAX: (269) 637-1907
A DIVISION OF MITCHELL SURVEYS, INC.

THE ABOVE SURVEY COMPLIES WITH PUBLIC ACT 132 OF 1970, ACT 288 OF MICHIGAN PUBLIC ACTS OF 1967 AS AMENDED BY PUBLIC ACT 591 OF 1997 SHOULD BE CHECKED TO SEE THAT ANY PROPERTY CONVEYANCE DOES NOT VIOLATE THAT ACT.

CLIENT **BILL FRIES**
DATE 1-14-15 JOB No. 14-1209 SHEET 1 OF 1
DWG. BY J. MITCHELL DWG. CK _____ DESC. BY _____ DESC. CK _____
BEING IN THE NW 1/4 SECTION 10, T 1 S., R 17 W.
SOUTH HAVEN (CITY) TWP. VAN BUREN Co., MICHIGAN
SCALE 1"=30' BOOK FILE PAGE FILE REVISION _____

LEGEND

- FOUND IRON - ○
- SET IRON - ●
- MONUMENT - ⊙
- RECORDED - R
- MEASURED - M
- PLATTED - P
- DEEDED - D



Dear Linda Anderson and South Haven Zoning Board,

Thank you for the opportunity to appear before you to explain and address any concerns and questions you may have about my personal residence on 310 Eagle Street. I appeared before you a year ago for a front yard "set back". At that time, I submitted a "hand drawing" of my home's proposed "set back". There were questions, confusion, and several misunderstandings of what was considered to be a "porch" and a "deck" (covered and uncovered). I was asked to attend the next month's meeting for further discussion and review.

At this second meeting, I was granted a variance for a three (3) foot front yard "set back" from the sidewalk. (The old structure was actually less than 2 feet from the sidewalk in places) The foundation of the new structure was to match existing structures, thus moving my home's foundation back nearly four feet.

I then hired DeLoof builders to professionally design, draw, and subcontract the initial stages of my home. These detailed drawings which included all the house elevations and measurements were submitted to Linda and Ross for review and approval. I was notified by a personal phone call that my house plans were approved and that my building permit was granted.

The next process began with removing the old structure and excavating the new foundation. Once the foundation and the basement walls were set in place, I invited Ross and Linda to my job site to ensure compliance. I was told the structure was in compliance. My home building process continued to move forward as scheduled.

- I have provided you with a copy of the main floor elevation which was previously submitted to City Hall
- Also enclosed is my survey- "plated and measured"
- My home is less than 39% lot coverage.
- My home is not interfering with anyone's original view, and it actually enhances their views when compared to the old structure.

- See photo from sidewalk towards lake - West

- I have the support from my entire neighbors on the south side of Eagle Street
Roger and Marilyn Ward - next door at 314 Eagle Street
Tom and Laura Jager - 316 Eagle Street
Len and Lynette Stack - 320 Eagle Street
Jack and Sally Morris - 324 Eagle Street
Leslie Baldacci- 324 Eagle Street

Also northside neighbors supporting my new home structure
Sue DeNise - 325 Eagle Street
Richard and Mary Plese, owners of the Tribune Building on the corner of Eagle Street and Kalamazoo Street

I sincerely apologize for any misunderstanding that may have taken place in this process, I have tried to be as truthful and transparent as possible in building my new home. My neighbors and I truly believe I have made a positive addition to the neighborhood. I honestly believe that I have followed all the regulations set before me and asked for approval at appropriate intervals to ensure this. I ask for your favorable vote on allowing my structure on 310 Eagle Street to remain as currently built.

Sincerely,

William F Fries Jr.
310 Eagle Street
South Haven, MI 49090

269-806-7000

January 2, 2015

Ms. Linda Anderson and the South Haven Zoning Board

Re: New Home Construction
310 Eagle Street

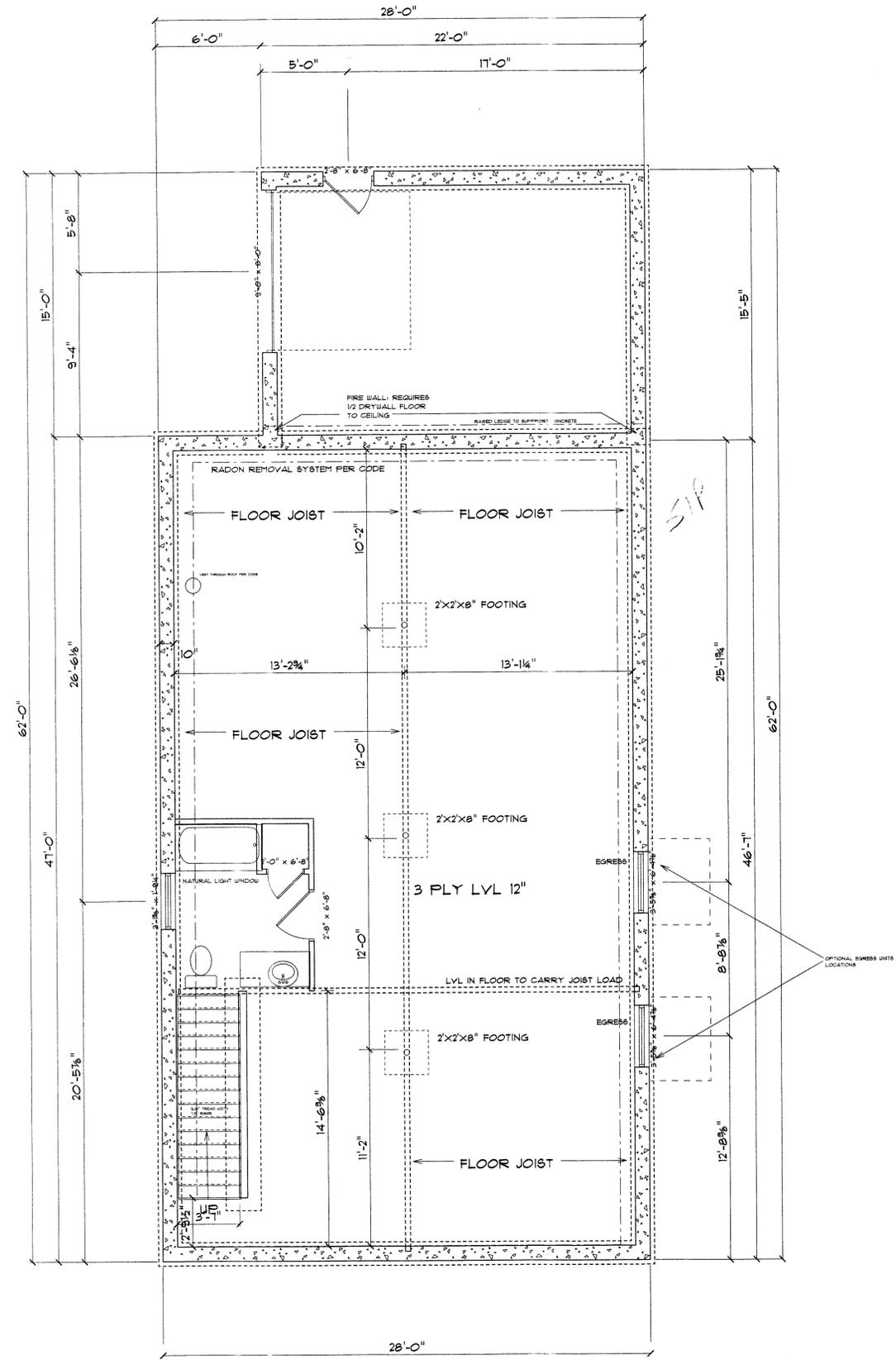
We are fully supportive of the new home construction occurring at 310 Eagle Street.

Our views of the harbor will be improved and the home will complement the style and construction of our home.

Please allow the structure on 310 Eagle Street to remain as currently built.

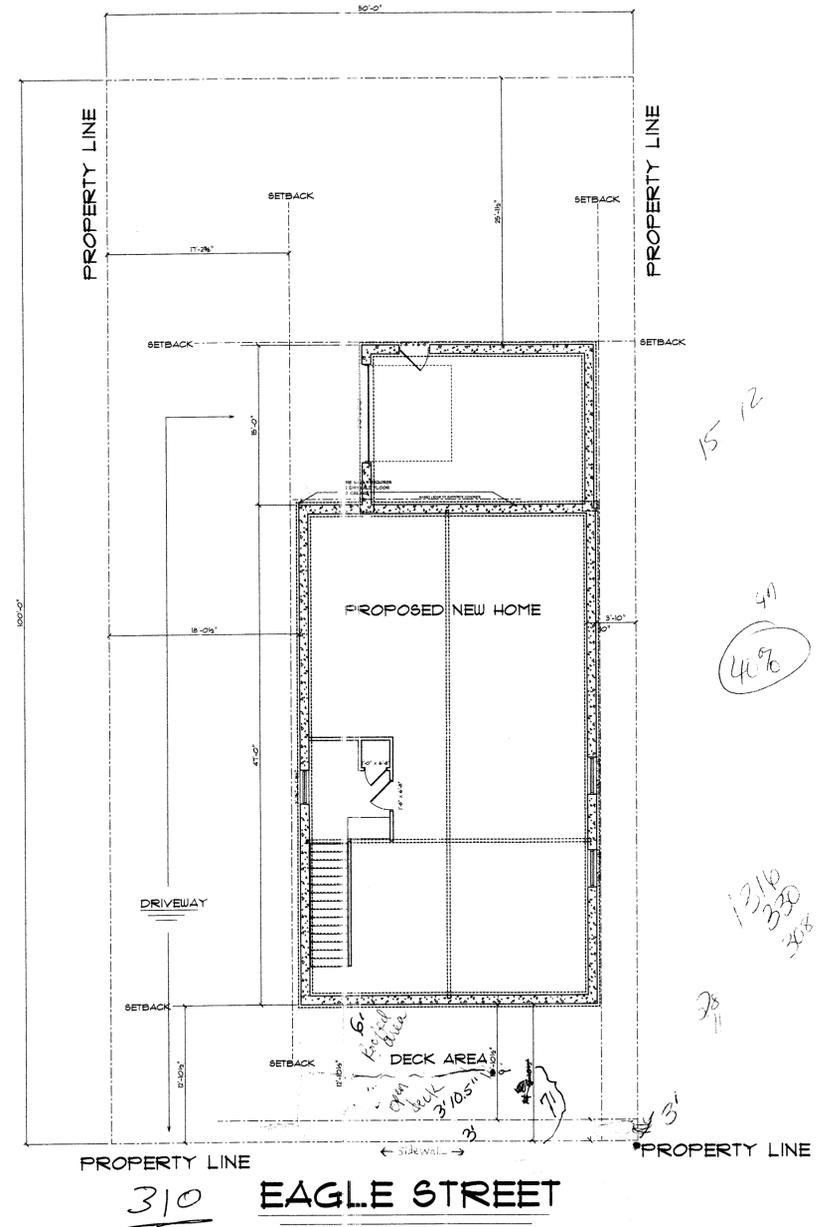
Sincerely,

Roger and Marilyn Ward
314 Eagle Street
South Haven, MI 49090



BASEMENT PLAN

This plan was drafted by DeLoof Builders. Its design and construction is solely the responsibility of the purchasing party. DeLoof Builders is not responsible for the construction of this structure and its compliance with any building codes. It is the responsibility of the purchaser and/or builder of this plan to see that the structure is built in strict compliance with all governing municipal codes (city, county, state, and federal) The purchaser and/or builder of this plan releases DeLoof Builders, its director, officers and employees from any claims or lawsuits that may arise during the construction of this structure or anytime thereafter.



SITE PLAN



BUILDER NOTES:

DELOOF BUILDERS REQUIRES BOUNDRY MARKER TO BE CLEARLY MARK BEFORE SITE WORK IS STARTED

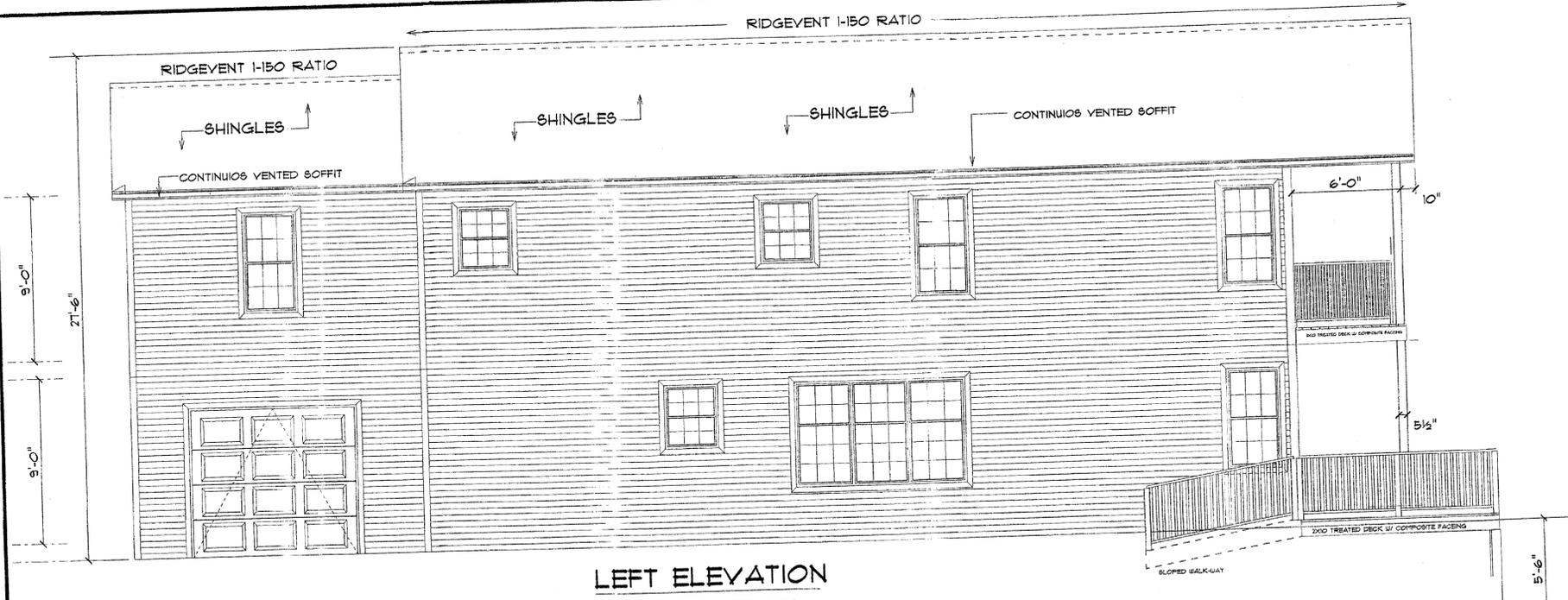
LOT COVERAGE:

MAIN FLOOR: 1646 SQFT
OVERHANG: 109 SQFT
2ND FLOOR ROOF: 196 SQFT
TOTAL: 1951 SQFT
ALLOWED: 2000 SQFT

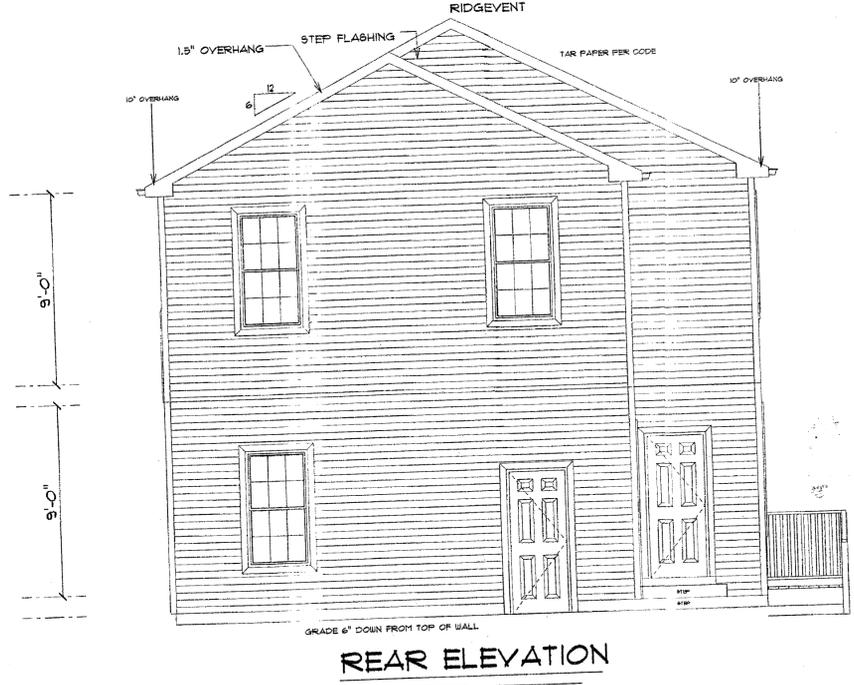
Copyright DeLoof Builders LLC

THE PURCHASER OF THESE PLANS IS GIVEN A LIMITED LICENSE TO REPRODUCE THESE PLANS FOR CONSTRUCTION PURPOSES ONLY AND FURTHER DISTRIBUTION IS PROHIBITED

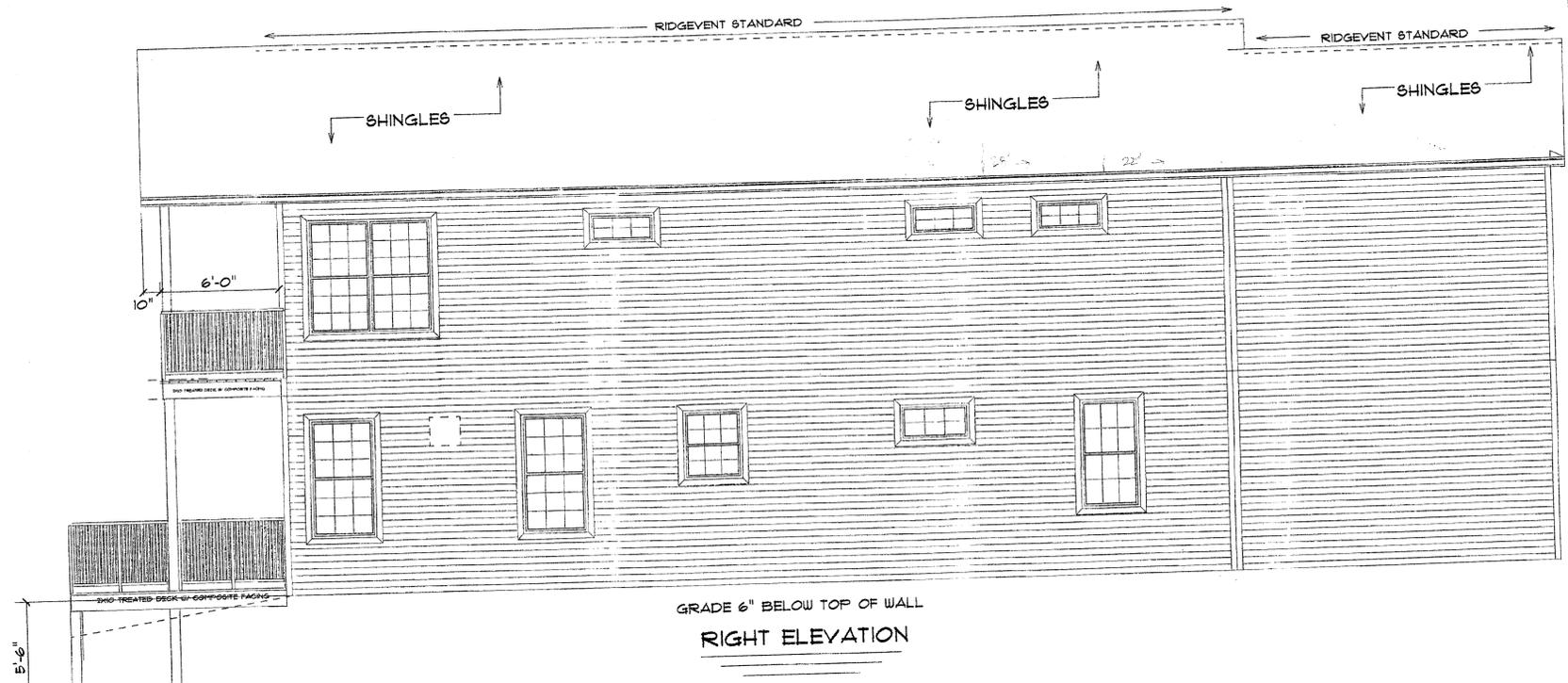
BASEMENT LAYOUT	
SCALE: 1/4" = 1'-0"	
SCALE 1/4"=1'	DELOOF BUILDERS LLC
BILL FRIES	
DESIGNED BY JEFF DELOOF	Plan #



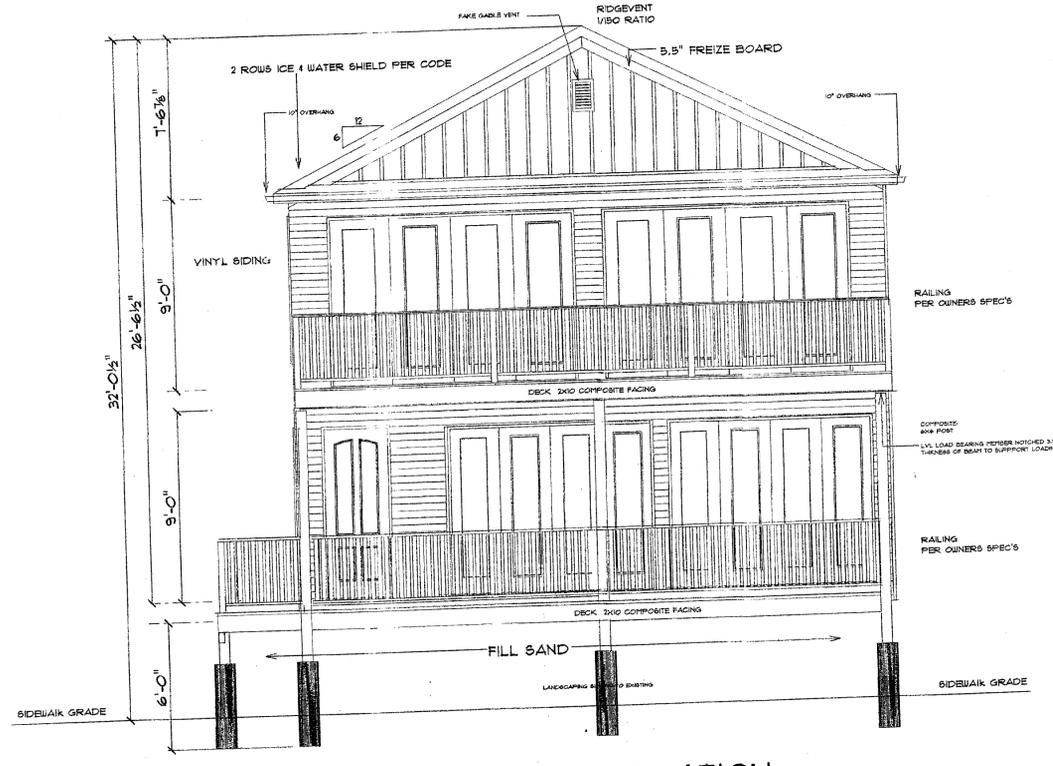
LEFT ELEVATION



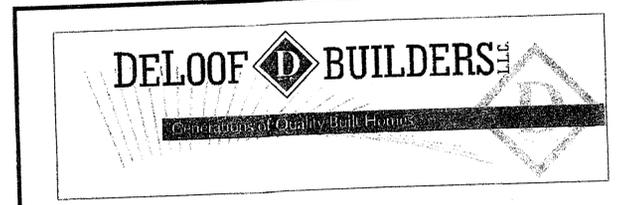
REAR ELEVATION



RIGHT ELEVATION



FRONT ELEVATION

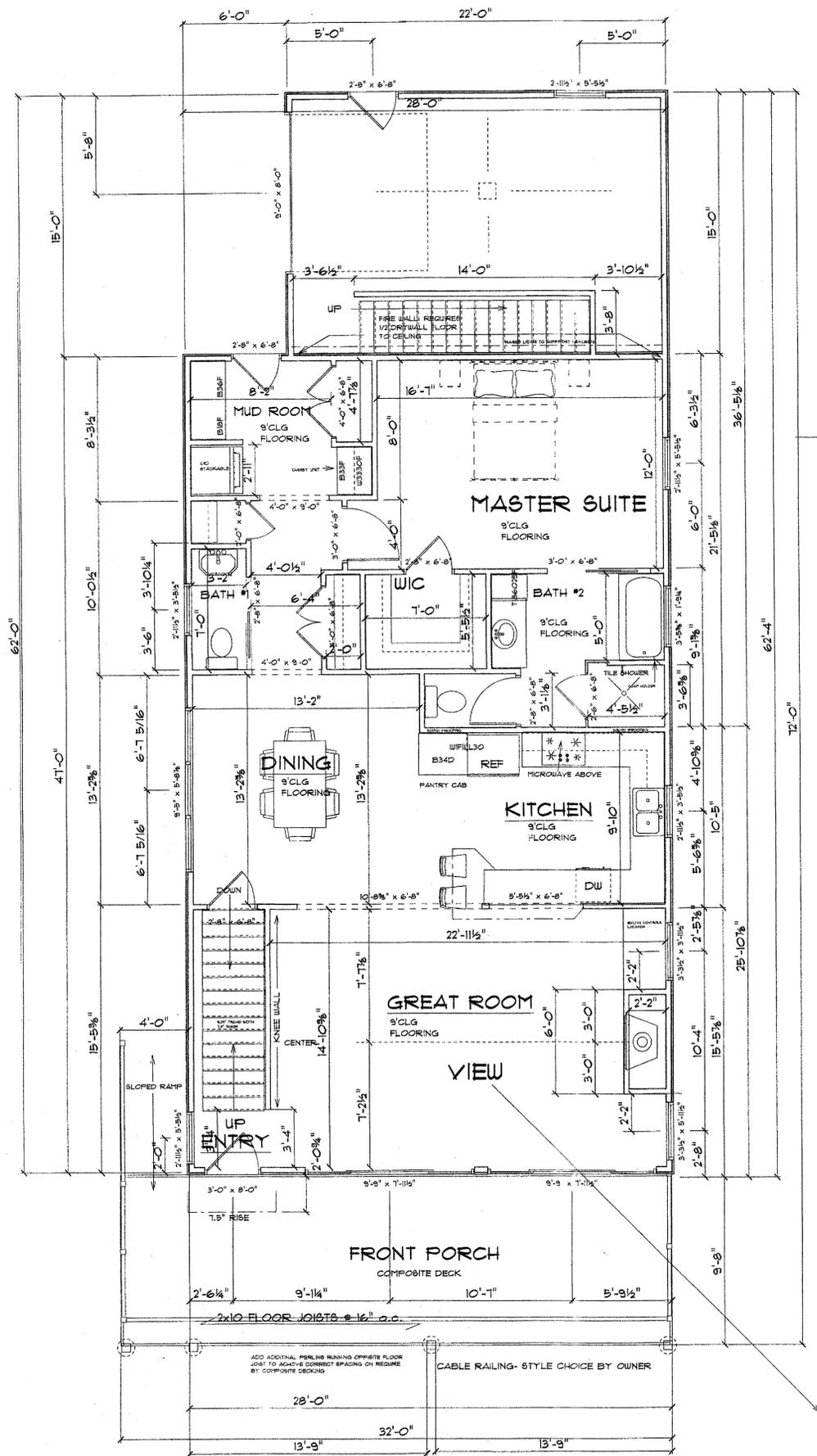


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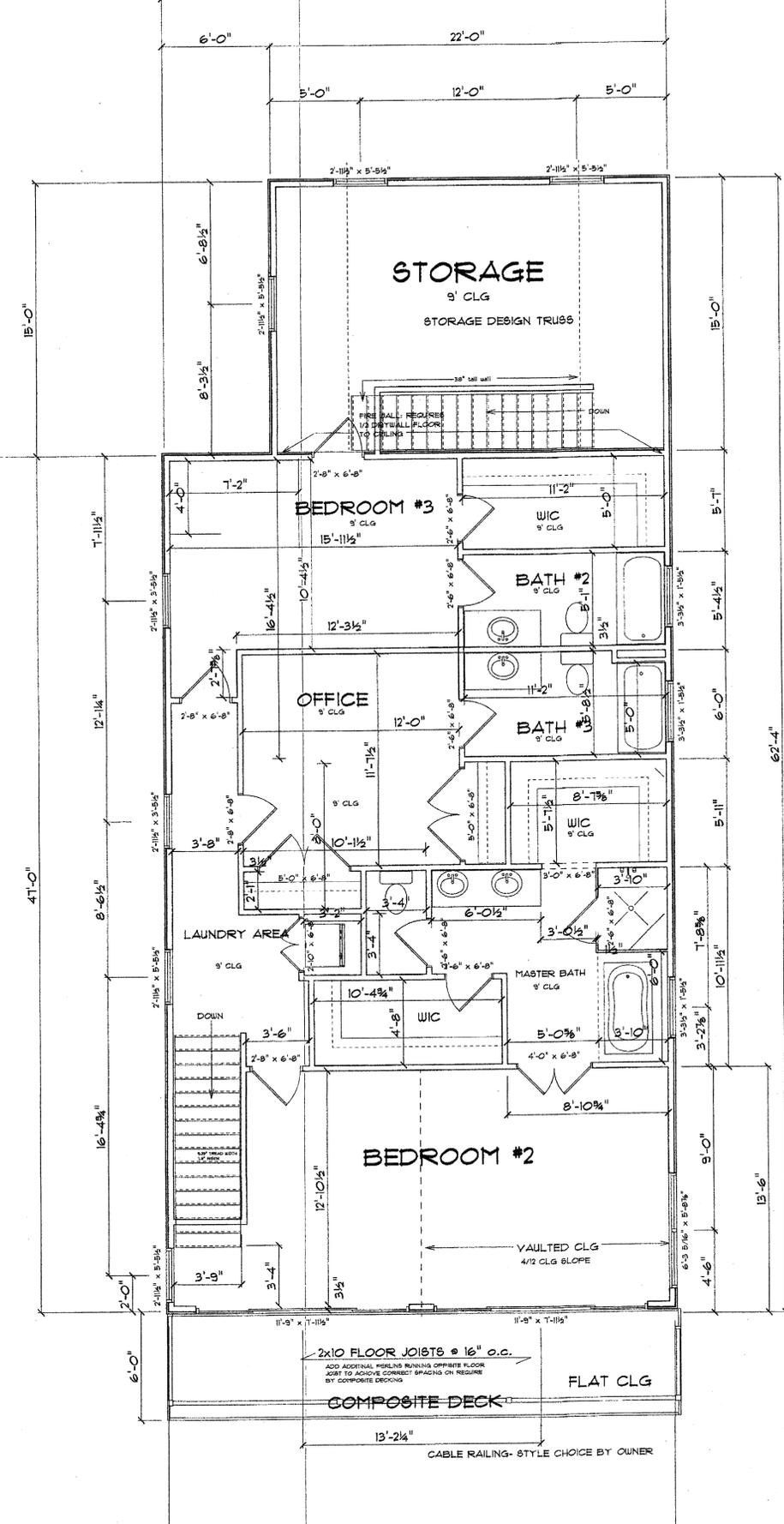
ELEVATION	
SCALE: 1/4" = 1'-0"	
SCALE 1/4"=1'	DELOOF BUILDERS LLC
BILL FRIES	
DESIGNED BY JEFF DELOOF	Plan #

This plan was drafted by DeLoof Builders. Its design and construction is solely the responsibility of the purchasing party. DeLoof Builders is not responsible for the construction of this structure and its compliance with any building codes. It is the responsibility of the purchaser and/or builder of this plan to see that the structure is built in strict compliance with all governing municipal codes (city, county, state, and federal). The purchaser and/or builder of this plan releases DeLoof Builders, its director, officers and employees from any claims or lawsuits that may arise during the construction of this structure or anytime thereafter.



1ST FLOOR PLAN

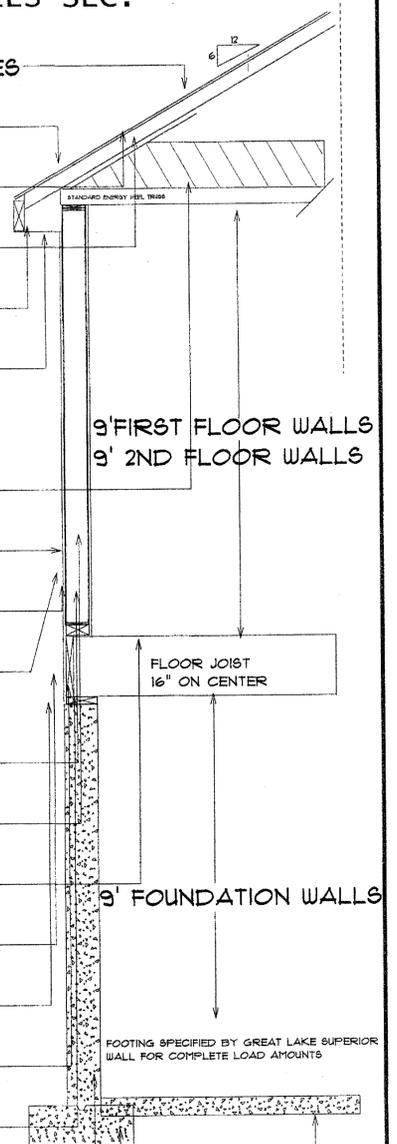
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2ND FLOOR PLAN

TYPICAL WALLS SEC.

- 30 YEAR DIMENSIONAL SHINGLES
- 2 ROWS ICE & WATER
- TAR PAPER
- 1/2 ROOF SHEATHING
- ALUMINUM SOFFIT AND FACIA
- 10" OVERHANG-VENTED SOFFIT
- 10" GABLE OVERHANG
- W/BIRDCAGES
- R-50 INSULATION
- VINYL EXTERIOR
- 7/16 WALL SHEATHING
- TYVEK WEATHER BARRIER
- 2X4 EXTERIOR WALLS
- 16 O.C INSULATION
- 3/4 T/G FLOOR
- RIM JOIST
- SILL PLATE
- SILL GASKET
- TREATED PLATE
- 10" SUPERIOR WALL
- 10"X 24" STONE FOOTING
- 4" CONCRETE FLOOR W/ WIRE



DELOOF BUILDERS
Celebrations of Quality Built Homes

1st floor:	1344 sq
2nd floor:	1344 sq ft
basement:	1225 sqft
garage:	336.4 sqft
front porch:	348 sqft
2nd floor porch:	308 sqft

Copyright DeLoof Builders LLC
THE PURCHASER OF THESE PLANS IS GIVEN A LIMITED LICENSE TO REPRODUCE THESE PLANS FOR CONSTRUCTION PURPOSES ONLY AND FURTHER DISTRIBUTION IS PROHIBITED

FLOOR PLANS 1/4" = 1'
SCALE 1/4"=1' **DELOOF BUILDERS LLC**

BILL FRIES PROJECT
DESIGNED BY JEFF DELOOF

Plan #

VIEW Looking
West along
Eagle St





Zoning Board of Appeals

Regular Meeting Minutes

Monday, December 15, 2014
7:00 p.m., City Hall Basement



City of South Haven

1. Call to Order by Lewis at 7:00 p. m.

2. Roll Call

Present: Bugge, Paull, Wheeler, Wittkop, Lewis
Absent: Boyd, Miller

3. Approval of Agenda

Motion by Wittkop, second by Bugge to approve the December 15, 2014 Regular Meeting Agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – November 17, 2014

Motion by Bugge, second by Wittkop to approve the November 17, 2014 Regular Meeting Minutes as revised.

Page 12, roll call vote for Kenneth Hogan request. Change the roll call vote to read as follows:

Yeas: Paull, Wheeler, Wittkop, Lewis
Nays: Bugge

Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

There were none.

6. New Business – None

7. Unfinished Business – 310 Eagle Street variances

Anderson gave the background of this being last month's request which was continued for clarification. The original request was correct as advertised and did not need to be re-noticed. The applicant's proposal is that the house will have a nine foot (9') setback where fifteen feet is required and three foot (3') setback for an open deck where a six foot (6') setback is required. Neighbors were generally in favor of the request at last month's public hearing.

Bugge questioned whether the required lot coverage is thirty-five percent (35%) or forty percent (40%). After discussion of what the lot coverage requirements are in the zone, Anderson stated that a variance is not required for lot coverage. Lewis thought that was the question last time which Bugge agreed with. After discussion regarding which zone the lot is in it was determined that the lot is in the R-1A zone which requires forty percent (40%) lot coverage, and further discussion on whether the garage square footage had been considered in the calculations. Anderson clarified that the lot coverage, including the garage, is forty-three and one-half percent (43.5%), which makes the proposed lot coverage three and one-half percent (3.5%) over the maximum.

To clarify, Wheeler noted that the two issues are the front setbacks to the drip edge and to the deck and the percentage of lot coverage.

Bugge asked about whether there are variances on the adjacent houses. Anderson noted that she did research that question and at the time those houses were issued building permits, zoning permits were not apparently issued as a separate document as they are now. The building inspector would have reviewed the zoning and if it was over must have let it go. In researching, Anderson found that the zoning on those properties was the same then as it is now. There was no evidence that a variance had been granted. Anderson explained that the adjacent houses were close so perhaps the averaging rule was used. Anderson did not find documentation regarding when the averaging rule went into effect.

Fries wondered whether the lot coverage requirement was the same then as now because 314 Eagle exceeds the lot coverage he is requesting.

The board decided that the three variances would be considered separately.

Bugge clarified the dimensions of the proposed setback as being twelve feet (12') to the existing foundation. Wheeler asked, "So the setback request is officially nine feet (9')?" which was agreed to by the board.

Bugge said she would not be comfortable with the new setback but would rather see it be similar (to match) the setback on the adjacent houses. Bugge, however, does not know whether those houses sit at the ten foot (10') line or would be less. Discussion ensued regarding the request and exactly what the applicant is asking for. Bugge stated that we are considering the setback to the house.

Lewis asked for comments on the house setback, noting that he is inclined to keep it all straight. Wittkop asked if we knew what the distance is from the street to the adjacent houses, to which Anderson said, "No." Bugge thinks it is about ten feet (10') and Anderson said it could be ten (10) feet if averaging were used, but no closer. Lewis asked for the

December 15, 2014
Zoning Board of Appeals
Regular Meeting Minutes

purpose of the motion, noting that the board does not need the measurement to make a motion.

Motion by Bugge, second by Wittkop, to grant a variance to the front *setback* of the house equivalent to the adjacent houses.

A Roll Call vote was taken:

Ayes: Bugge, Paull, Wheeler, Wittkop, Lewis
Nays: None

Motion carried.

Lewis moved on to discussion of the deck request, which is to be within three feet (3') of the property line when the required setback is nine feet (9'). It was noted that the applicant had already removed the railroad ties. Anderson pointed out that since the structure is currently nonconforming, once the applicant took it down he would need a variance to rebuild.

Motion by Paull, second by Bugge to approve the variance as requested because it is not going to change the current footprint.

A Roll Call vote was taken:

Ayes: Paull, Wheeler, Wittkop, Bugge, Lewis.
Nays: None

Motion carried.

Lewis suggested that regarding the lot coverage, that the house should not exceed the foundation as current. Anderson did a quick calculation regarding the setback and lot coverage, noting that if the applicant did that it would be thirty-one and thirty-six hundredths percent lot coverage (31.36%) for the house. Bugge pointed out that the applicant might come back with a different design. Lewis would like to see the numbers. Anderson stated that with the garage figured in the lot coverage would be two and eight-tenths percent (2.8%) less if the applicant took the one foot (1') off the front. Bugge would like to see the applicant just conform with the ordinance.

Motion by Bugge to deny the variance for lot coverage.

Lewis asked for support.

Hearing none, motion fails.

Lewis commented that he does not have too much problem with lot coverage approval; contingencies can always be added. For example, the applicant could build to the required coverage; they could also enclose that front. Lewis explained that a condition that could be put on the property is a requirement that the porch remain an open porch; he remembers doing that with other roof porches. Once someone did enclose such a porch and we made them rip it out.

December 15, 2014
Zoning Board of Appeals
Regular Meeting Minutes

Wittkop stated that it was at Maple and Erie Streets.

Wheeler questioned whether Lewis is thinking of giving some grace since part of it is open deck. Lewis said we can consider that.

Bugge asked what the design of the house they are going to build will be. Paull said we have to grant lot coverage of a certain percentage but we have no idea now what that is going to be. Wittkop said that lot is currently all house and no green space. Discussion ensued about concrete being open space but it is not green space.

Fries said he would agree with that to leave the upper deck open. Bugge said the open deck is not the issue. Fries clarified he is talking about the upper and lower covered porches.

Bugge noted that on the drawing it looks like the deck is about 3' from the roofline to the foundation. Bugge asked what the width of the floor from the wall of the building to the roofline. Fries noted that the measurement does not matter; the set back to the roofline is what matters.

Bugge asked for clarification of the scale of the drawing; it was noted that the drawing is not to scale but the noted measurements are accurate.

Paull observed that what the board has approved so far will send the applicant back to the drawing board for a new design, stating, "If we deny the request for the variance on lot coverage, he has to go back and redesign his house, and then wait to come back to us in a year. We don't want that."

Lewis asked about continuing this request until a design is submitted. Paull stated that the request should not be continued but tabled, because if the applicant complies with the current required lot coverage he will not have to come back, and he won't have to wait a year because we denied it.

Motion by Paull, second by Wittkop to table any action on the lot coverage variance request.

Paull noted to Fries that when he gets a new design he should bring it in to Anderson. If the design complies with the forty percent (40%) limit then a variance will not be needed. Bugge noted this does not mean that the applicant would automatically be granted a variance if he came back with more than 40% within the year.

All in favor. Motion carried.

8. Member Comments

Bugge: Happy Holidays, Merry Christmas, Happy New Year, etc.

Wittkop: Will it snow?

Paull: None

Wheeler: None

Wittkop: None

Lewis: None

8. Adjourn

December 15, 2014
Zoning Board of Appeals
Regular Meeting Minutes

Motion by Paull, second by Wheeler to adjourn at 7:35 p. m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary

January 2, 2015

Ms. Linda Anderson and the South Haven Zoning Board

Re: New Home Construction
310 Eagle Street

We are fully supportive of the new home construction occurring at 310 Eagle Street.

Our views of the harbor will be improved and the home will complement the style and construction of our home.

Please allow the structure on 310 Eagle Street to remain as currently built.

Sincerely,

Roger and Marilyn Ward
314 Eagle Street
South Haven, MI 49090

Zoning Board of Appeals

Regular Meeting Minutes

Monday, May 20, 2013
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order by Ingersoll at 7:00 p.m.

2. Roll Call

Present: Miller, Lewis, Paull, Wheeler, Ingersoll
Absent: Boyd (excused), Wittkop (unexcused)

3. Approval of Agenda

Motion by Lewis, second by Wheeler to approve the May 20, 2013 Planning Commission agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – February 25, 2013

Motion by Lewis, second by Wheeler to approve the February 25, 2013 Planning Commission regular meeting minutes as written.

All in favor. Motion carried.

5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

None at this time.

NEW BUSINESS –Variance Requests - Public Hearings

6. Four Leaf Homes, LLC is asking for a variance to install a sign which identifies the relocated entrance to Pleasant View Estates manufactured home park on property located 1223 and 1233 Phoenix Street (Meijer property). The proposed off-premise sign is not permitted in the B-4 zoning district. The parcel number for the variance request is 80-53-869-009-10.

Motion by Miller, second by Wheeler to open the public hearing. All in favor. Motion carried.

May 20, 2013
Zoning Board of Appeals
Minutes

Anderson introduced the item, noting that the Michigan Department of Transportation (MDOT) closed the access road that went to the mobile home park. The owner of Pleasant View mobile home park wants to move the sign from where the old entrance to the park was onto the Meijers' property where the new park entrance will be. Anderson pointed out that the Zoning Ordinance does not allow off-premise signs. The sign as it stands right now is off-premise, because it is on city property while the park is in the township. From a planning standpoint, Anderson noted, having the sign close to the main access road will avoid confusion and possibly rear end accidents as people try to find the entrance to their destination.

Ingersoll asked if Meijer's was on board to which Anderson responded that Meijers is in agreement with the proposal.

Cindy Compton, representing Four Leaf Homes, Inc., demonstrated on a large drawing of the area being discussed, where the existing drive is; where the current sign is; and noted that the existing sign will not be moved; rather a new monument sign has been designed.

Ingersoll asked whether the entrance sign would be combined with the Meijer sign. Compton explained that Meijer did not want their retail center sign confused with a manufactured home park so the proposed sign is separate from the Meijer entrance sign.

Paull asked whether any future development would be able to use that sign, rather than putting up new signs. Compton responded yes, based on the cross access agreement, the proposed sign has several spaces which can be used to identify any future businesses that may locate in the area which a part of the property Pleasant View Estates previously occupied.

Lewis asked if the sign that is being proposed is 48 sq. ft. Compton said the 200 sq. ft. includes the posts, not just the face of the sign. After further discussion, Compton said she was off-track with her remark regarding 200 sq. ft., clarifying that 200 sq. ft. was noted in the ordinance but the proposed sign will not be that large. Anderson explained this proposed sign would be in keeping with the proposed overlay zone for that area, which will have provisions for signage and other elements.

Motion by Lewis, second by Wheeler to close the public hearing.

All in favor. Motion carried.

Ingersoll called for discussion.

Lewis stated that he has no problem with the request stating, "this is not self-created in any way whatsoever. It would alleviate a safety concern."

Ingersoll stated the request is in the best interest of both the park and Meijers.

Lewis believes the proposed sign meets all the variance standard criteria in the ordinance.

Motion by Lewis, second by Paull to grant Four Leaf Homes, Inc. the variance for an off-premise sign in a B-4 district because the request meets all zoning criteria and includes exceptional conditions as put forth in our zoning regulations, is definitely not self-created but

May 20, 2013
Zoning Board of Appeals
Minutes

created by the Michigan Department of Transportation (MDOT), and is a very unique situation.

All in favor. Motion carried.

7. Janet and Wesley Todd, 327 Eagle Street, request a front yard variance from zoning ordinance section 402-1 to extend a porch to 12 inches from the property line. The property number for the request is 80-53-020-002-00.

Anderson introduced the request and noted this is a request for a front set back variance. If someone has an open porch, open stairs or patio, it may extend 6 feet from the front of the house giving them 9 feet to the right of way. The uncovered porch currently extends to 4 feet of the right-of-way. The applicant is asking to extend the porch another 3 feet toward the front property line, leaving a set-back of 1 foot from the city right-of-way.

Motion by Lewis, second by Paull to open the public hearing. All in favor. Motion carried.

Wesley Todd, 327 Eagle Street, the applicant with his wife Janet Todd, stated the existing porch is hardly functional because of the opening of the door which forces one to step back to get the door open and step around it. The porch is also not in good repair which would double the improvement.

Paull asked about the house adjacent; how close is that house to the front sidewalk. Todd stated that the house on one side has extensions out to the sidewalk, while the commercial building on the other side is right up to the sidewalk. Ingersoll asked whether he was correct that ingress was from the side, not the front, on the existing porch. Todd stated that is correct.

Bertha Keithly, 317 Huron Street. Read the letter she had previously sent to the Building Department and which Anderson had forwarded to members of the board.

Todd noted that he appreciates the interest and is glad Keithly likes the brickwork, which he stated is in ill repair.

Motion by Lewis, second by Wheeler to close the public hearing. All in favor. Motion carried.

Lewis has concerns about such Zoning Ordinance requests; "it seems we get a lot of them." Stated that as far as he is concerned, 'making the place look better' does not cut it as a reason to approve a variance. Agreed with Keithly that structures that close to the city sidewalk can be a hazard. Lewis noted that "If you go back into the Zoning Board's criteria, #3 asks for exceptional circumstances. In the applicant's own words the reason for the request 'is not exceptional or extraordinary'."

Paull noted that such a request concerns the board because it seems to be pushing the limits of what the ordinance expects to see in the city and when there is a request like this that limits the front yard to one foot, where the house is already non-conforming, the fact of the matter is that even a 4 foot front yard is pretty skimpy. Since the house is already non-conforming and there is no specific reason for the variance, Paull stated that he would be opposed to approving it.

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Wheeler asked if Paull is opposed to building a front porch or just this particular porch. Ingersoll pointed out that there is at least one other house that goes all the way up to the sidewalk and he is not sure how or when that got there. Wheeler is not so sure that this is such an untenable situation.

Motion by Lewis to deny the variance for the simple fact that the exceptional or extraordinary circumstances as required in the zoning ordinance do not exist as responded by the applicant and because it is possible for a structure that close to the sidewalk to be a safety hazard. Second by Paull.

Ingersoll objects to the safety issue, indicating that there are other houses with structures right out to the sidewalk line. Wheeler said for the sake of saying it, he would be probably be willing to give permission for a lesser variance, but as it stands right now with only one foot of green left it would be difficult for him to say he is in favor of that variance. Lewis noted that the board is able to grant a lesser variance than what is requested. Paull pointed out that the board does not have any plans in front of them requesting a lesser variance. Lewis said he mentioned that for future reference of the applicants.

After discussion, Ingersoll said he would be willing to consider tabling the request at this point, should Lewis' motion go through to deny it.

Anderson explained that once something has been denied you cannot table or hold off. Tabling has to come before denying or approving.

Ingersoll called the vote. A Roll Call vote was taken, with a yes vote to deny the variance request.

Ayes: Todd, Lewis, Paul, Wheeler, Ingersoll
Nays: None

Motion carried, variance denied.

8. Leonard and Lynette Stack, 320 Eagle Street, request a front yard variance from zoning ordinance section 402-1 to extend an open porch to 6 feet from the property line where 9 feet is required. The property number for the request is 80-53-019-004-00.

Anderson noted it is a coincidence that we have two very similar variance requests right across the street from each other. This house, however, is in current compliance with the ordinance. The applicants have asked to move their deck three feet toward the property line.

Motion by Lewis, second by Paull to open the public hearing. All in favor. Motion carried.

Lynette Stack, 320 Eagle Street. Asked if her request also included going 2 (two) feet toward the side of the house, noting that this has been a learning process.

Anderson explained that no variance is needed to make the deck wider; only the request to build out closer to the front property line requires a variance.

Stack: Noted that the exception to the zoning rule is that they share a driveway with their neighbor and one of the attractions was there is no green space in front of the house except

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the parkway. Stack pointed out that the house and driveway take up the entire lot with the exception of the area for which they are requesting the porch variance. The porch is in disrepair and the bricks are sunken, which is a hazard for people coming in and out the front door. "What we are really looking for, with the request for the variance, was to at least be able to put a table and chairs out there", Stack added, "when there are three or four cars in the driveway there is nowhere else to sit." Stack noted that she did a little more homework, pointing out that on 216 Huron there is a massive addition going up and Anderson said any change to the property cannot interfere with the view and Stack is sure that addition will block someone's view. Seeing some of the changes made in town and new structures going up, Stack stated, "it doesn't seem like it is always an even playing field. The new Marina building is blocking one house on the bluff and 216 Huron has a huge addition." (Anderson clarified explaining the difference between a clear vision area for traffic and view protection.)

Ingersoll explained that nobody ever sees all the reasons why something is granted or denied unless they are here at the meeting; there are usually very good reasons. As far as the view goes, you cannot buy a view. There is nothing in there that says you can prevent someone from blocking a view, particularly down on the lakeshore.

Wheeler noted the only way you have a guaranteed view is to buy whatever property is between your place and the view.

Ingersoll noted that the projects Stack is referring to did not go through the Zoning Board of Appeals (ZBA).

Stack stated that she is trying to do whatever she can to be cooperative. But there is no green space. Paull asked what she has in front of her house between the house and the parkway, to which Stack responded it is red rock. Paull replied that that is "green space".

Bertha Keithly, 317 Huron Street. Stated she owns three properties on Eagle Street. Read the letter she sent to the Building Department and which Anderson had sent to the members of the board.

Motion by Wheeler, second by Lewis to close the public hearing. All in favor. Motion carried.

Lewis stated he is against this variance request, too.

Wheeler noted that the dilemma is that this board is a judicial body charged to uphold the ordinance; unless there are extenuating circumstances which justify going against the ordinance, the board cannot grant a variance.

Paull did not hear any extenuating reason, so would be inclined to disapprove, as well.

Ingersoll noted that the difference with this request is that this one has a house in compliance, unlike the previous request. Noted that a variance would make the porch more functional, but that is not the reason the board exists. This board exists to provide relief in cases where there are extenuating circumstances that would lead to exceptional difficulty if the property owner was forced to comply with zoning regulations.

Motion by Wheeler to deny the variance because there are no extenuating circumstances in this request that would warrant going against the Zoning Ordinance. Second by Lewis.

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Lewis stated that granting these variances would set a precedent which could lead to more requests for similar improvements.

Ingersoll called the vote. A Roll Call vote was taken, with a yes vote to deny the variance request.

Ayes: Lewis, Paull, Wheeler, Miller, Ingersoll.
Nays: None

Motion carried.

9. Member Comments

Lewis recognized the two board members who are being term-limited for their service.

Ingersoll thanked Lewis.

Paull noted that the two applicants that were denied today ran up against why there is a Zoning Board of Appeals and why there is a Zoning Ordinance. A while back, this community decided that there are certain standards for the way this community will change and grow and to go against that there has to be an exceptional circumstance.

Wheeler commented that while he might personally feel differently he has to abide by the ordinance.

Miller noted it is his first meeting.

10. Adjourn

Motion by Lewis, second by Wheeler to adjourn at 7:58 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: October 27, 2014
ADDRESS: 310 Eagle Street
ZONING DISTRICT: R-1A Residential
LOT DIMENSIONS: 50x100
LOT AREA: 5000 square feet
LOT COVERAGE: 39%

REQUIRED FRONT SETBACK: The applicant received a variance previously to allow a front setback in line with neighboring properties and a deck extending to 3 feet from the property line. The required setback for a dwelling wall in the R1-A is 15 feet. Open stairs, uncovered porches and patios may extend up to 6 feet into the setback area allowing a setback of 9 feet.

VARIANCE REQUEST: The applicant would like a covered part of the deck and balcony to extend to 8 feet of the lot line. The edge of the deck remains as approved. The wall of the house is consistent with the previously granted variance.

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

This neighborhood has several residences that were constructed close to the front lot lines, including some structures that are built to the lot line. The request is not of an unusual nature for this neighborhood. Staff has attached the minutes of a meeting where 2 similar requests were heard.

2. Such variance will not impair the intent and purpose of this Ordinance.

It is the intent of the R1A zoning district to preserve the character of the single-family neighborhoods. The owner lessened nonconformity by demolishing a two-family home to build a single family home. The proposed construction will improve the appearance of the property and will not impair the intent of the residential purpose.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

Staff does not find exceptional or extraordinary conditions as far as lot size or configuration within this neighborhood. Most residences in this area were constructed close to the front lot line regardless of the depth of the lot.

4. Such 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. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The applicant stated in his original application that his desire was to preserve the lot as a single family residence for his enjoyment. The single family home could be completed but this would require demolition of a portion of the front deck and balcony roof. The ZBA needs to decide if this places an unnecessary burden on the owner.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

This does not appear to be a recurrent type of variance request in this zoning district as a whole. On this block of Eagle Street, however, the request is not uncommon due to the short front setback that exists. Staff does not recommend amending the zoning ordinance to permit a decrease in front setback for this particular neighborhood only. It is more prudent to consider these requests as they arise.

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

The problem is not self-created except in the sense that the applicant states that he misunderstood the difference between the building wall and an open sided deck in terms of setback.

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Without the requested variance, the applicant would need to remove the upper balcony and roof over the lower deck. He would still be able to finish construction of a single family home.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **The initial variance would have permitted a front setback as close as 10 feet. The variance request now is for a setback of 8 feet to accommodate the roof over the deck and balcony. The main wall of the house is in compliance.**

9. That the variance will relate only to property under the control of the applicant. **The variance request only involves the property owned by the applicant.**



Agenda Item #6b Landscaping Variance Request for 380 73 ½ Street

City of South Haven

Background Information: Larry and Donna Zeppiero own the two buildings located at 380 73 ½ Street and have long used these buildings for warehousing and wholesale sales for the D&L business. The retail part of that business was formerly located in the downtown on Phoenix Street. This relocation of retail sales to 73 ½ Street constitutes a change in use. The business will be in the east half of the southern building using 2925 square feet of space.

The Zeppieros are asking for a variance from the landscaping requirements of the Overlay Zone due to the current configuration of buildings on their property as well as the amount of existing pavement. The existing trees shown on the north side of the property are on the Goodwill property. The southwestern area of the site has a woodlot with 5 mature trees and 15 immature trees. The Zeppieros are proposing additional trees along the south side of the property as well as a landscaped island with three trees along 73 ½ Street. The existing landscaping would have been adequate for reuse without the application of the overlay zone. Section 2404 of that ordinance (Applicability Matrix) provides that even minor use changes require compliance with landscaping and sign improvements. Following the requirements of the Overlay Zone, six (6) shade trees and nine (9) ornamentals would be required along the frontage street. The greenbelts along the south side and rear of the property are adequate but could use some trees or other plantings. Section 2404 also states that the planning commission may require other discretionary improvements as they feel necessary.

Recommendation: The applicant is making some effort to comply with the landscaping requirements by adding additional trees and maintaining those which exist on the property. The ZBA should review all materials and determine if the proposed variance is warranted. Given that the new retail area is such a small part of the overall property, the efforts presented by the applicant appear satisfactory to staff.

If the ZBA approves this variance, with or without conditions, it should be part of the motion that signage is NOT included in this request, the parking spaces need to be striped and the owner will require an occupancy permit from the city prior to conducting any retail business.

Support Material:

Application with narrative
Application photos
Required greenbelt graphics (2)
Staff Findings of Fact

ZONING VARIANCE REQUEST
CITY OF SOUTH HAVEN
BUILDING DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760

NOTE: Incomplete applications will not be processed. A fee of \$300 will be required at the time the application is submitted.

Name: _____ Date: 12/31/2015

Address: 76641 11th Avenue; South Haven, MI 49090 Phone: 616-405-3556

Address of Property in Question: 380 73 1/2 Street; South Haven, MI 49090 Present Zoning of Property: B4

Name of Property Owner(s): Larry and Donna Zeppiero

Dimensions and area of property 130,478 square feet

Dimensions of all buildings on the property (also shown on a diagram) see attached

Large building - 36,200 sq. ft Small blg. - 7200 sq feet

Setback measurements of all structures on the property (also shown on diagram)

Side yards - 20' Rear yard - 20' Front yard - 35'

Present Zoning of Neighboring Properties to the :
North B4 South township East B4 West B4

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from? Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): Landscape variance

Under Article XXII, Section 2205 of the South Haven Zoning Ordinance, the Zoning Board of Appeals may not grant a variance from the regulations within the Ordinance unless certain conditions exist. No variance in the provisions of this Ordinance shall be authorized unless the Board finds, from reasonable evidence, that all of the following standards have been met:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

See attached

2. Such variance will not impair the intent and purpose of this Ordinance.



3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

4. Such 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. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

9. That the variance will relate only to property under the control of the applicant

I hereby give permission for the members of the Zoning Board of Appeals and City Staff to access and inspect the property in question for the purpose of gathering information to make an informed decision on this variance request.

Lawrence Zeppiero/ Donna Zeppiero

12/31/2015

Property Owner

Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.

Donna Zeppiero
Applicant Signature

L.A. Zepp

12/31/15
Date

The property at 380 73 ½ Street is currently being used as warehousing and wholesale distribution by D&L Sales (Larry Zeppiero). The present zoning of the property is B4 and the property is located in the Major Thoroughfare Business District. D & L Sales has been in operation since 1982 and has operated the wholesale business from this location since 1999. At this time, D & L would like to convert the wholesale showroom into a retail outlet and sell to the general public from this portion of the property. We are not requesting any additions or physical changes to existing structures or any new structures.

The lot is 130,478 square feet. The lawn/green space is 39,380 square feet.

There are two buildings on the property. The main building is used 100% for warehousing and wholesale distribution and will continue to be used as such. This building measures approximately 36,200 square feet. Dimensions are 215' 4" north side; 181' 5" south side; 165' west and east side. The room heights in this building are 21' 6". There are loading docks on the east side.

The second and much smaller building is currently used for warehousing with a portion used as wholesale showroom. The building measures 7200 square feet. The dimensions are 45' wide and 160' long. The height is 20' to the peak of the roof. The total square footage of both buildings is 43,400.

The proposed retail outlet would be in the east end of the small building. The remainder of the small building would continue to be used as warehousing. The dimensions of the outlet would be 45 feet wide by 65 feet long. The outlet would be approximately 2925 square feet.

The space between the large and small buildings is approximately 65 feet wide.

At this time we are requesting a landscaping variance. The retail outlet takes up a very small percentage of overall building space – 6.7%. To put in interior landscape islands in the parking area would restrict the smooth flow of traffic on the property, which could potentially be a safety hazard in the event of a fire or other emergency.

The south side of the small building is lawn – dimensions are approximately 40' by 380' or 15,200 square feet. The west end of the property (the rear of both buildings) is grass, mature trees and bushes. This is approximately 40' by 330' or 13,200 sq. feet. The east side of the small building is lawn with a mature tree; this is the front of the building facing the road.

The proposed landscaping additions are shown on the site plan. The existing landscaping is shown in green; the proposed additional landscaping is blue. Additional landscaping is as follows: 1) Add evergreens on the south side of the small building. The plantings would start at the front and end before the sewer line. 2) Add a raised landscape island with 3 ornamental trees directly south of the warehouse loading docks. The trees would be planted in containers. 3) Add ornamental pots, a bench and an ornamental tree at the east end of the retail outlet.

Thank you.

warehouse

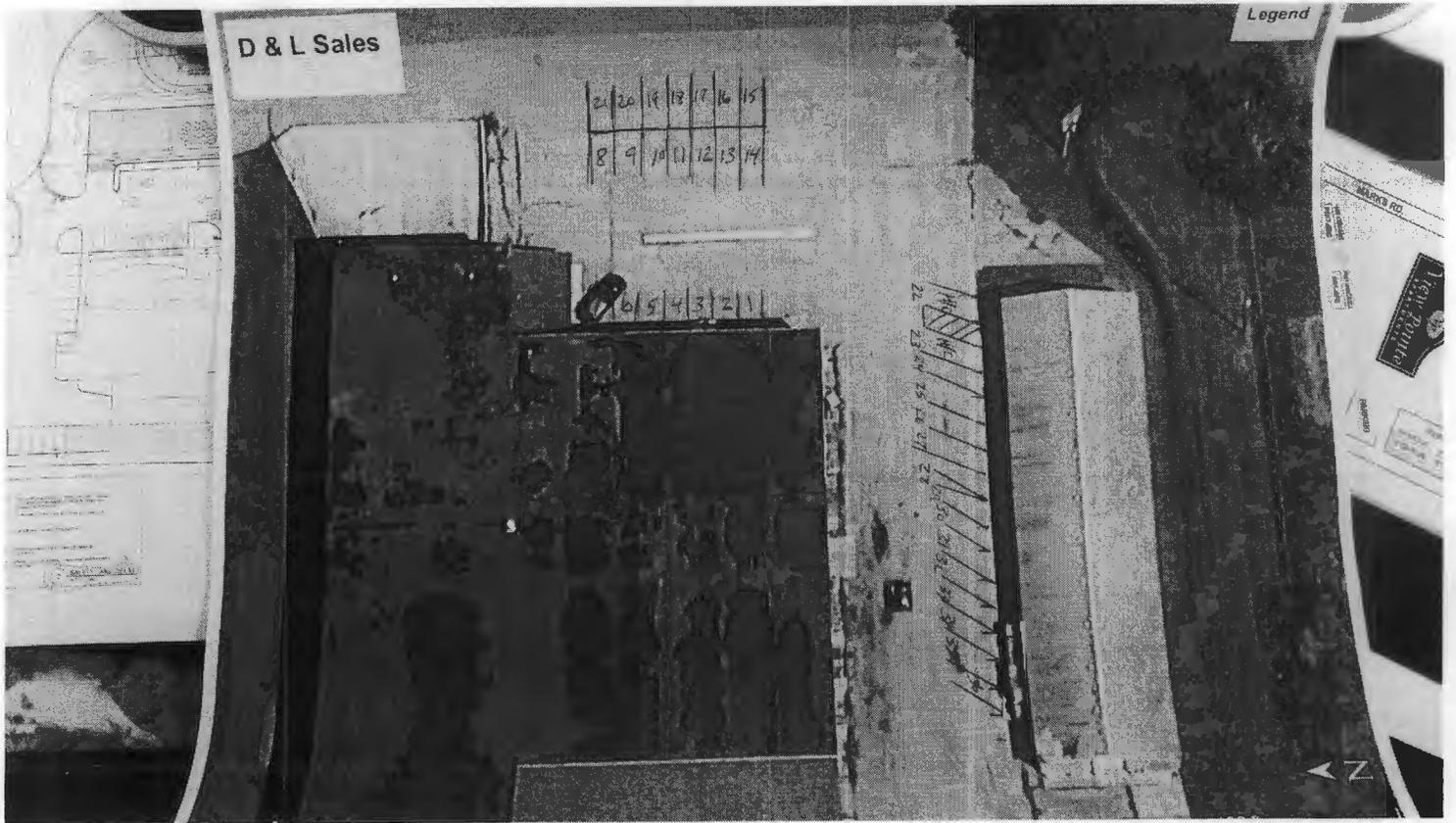


Google earth

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5.77 ft



Untitled Map

Write a description for your map.

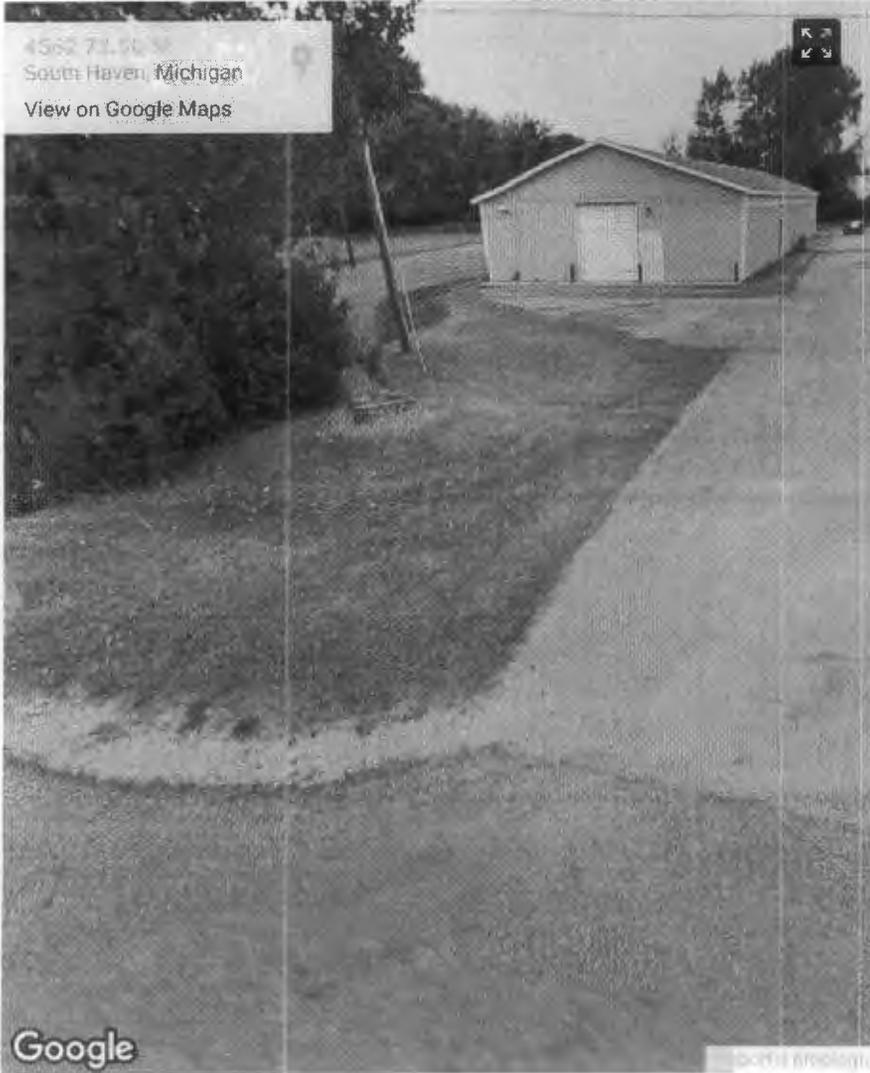
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Van Buren County Community Information Center

Parcel 80-53-620-051-00



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Van Buren County Property Information

If you have Questions or find Incorrect Information Send an Email.

Jurisdiction: South Haven City

Plate Number: B851

Owner Name: ZEPPIERO LAWRENCE A & DONNA J

Parcel Address: 380 73RD ST
SOUTH HAVEN, MI 49090

Mailing Address: 76641 11TH AVE
SOUTH HAVEN, MI 49090

Property Information

School District: 80010

Current Property Class: 201

Current Assessment: \$278,800

Previous Assessment: \$278,800

Taxable Value: \$278,800

Homestead %: 0%

Calculated Acreage: 2.8

Legal Description

B851 11-1-17 995-713 1028-289,298 1336-579 COM AT N1/4 PT OF SEC, TH S88D2'20"W ON N SEC L 399.92' (ALSO REC'D AS 400.0'), TH S0D22'E PAR WITH N&S 1/4 L 472.78' TO BEG, TH CON S0D22'E 258.5', TH N88D5'40"E 20.0', TH S0D22'E 80.0', TH N88D5'10"E 379.84' TO N&S 1/4 L, TH N0D22'W ON SAME 290.43', TH S89D38'W 35.0', TH NLY 51.64' ALG CURVE TO THE LEFT WITH A R OF 302.04' AND CH BEARING N5D15'50"W 51.58', TH S66D49'47"W 36.1', TH S89D36'44"W 327.0' TO BEG. UNPLATTED FORMER TWP. NO. 70-B2, 80-17-011-013-20.

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380 73 1/2 St
Overlay Zone A
Greenbelt Requirements



73 1/2 St

380 73 1/2 St
Overlay Zone A
Greenbelt Requirements



STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: January 25, 2016

ADDRESS: 380 73 ½ Street

ZONING DISTRICT: B-4 with Overlay

LOT DIMENSIONS: Entire property is 363.1 by 379.84

LOT AREA: 3.17 acres

LOT COVERAGE: 31.4%

REQUIRED SETBACKS: Right-of-way setback – 50'; Rear – 30'; Sides – 30'

EXISTING SETBACKS: Rear – 120'; Front – 100"; Sides – 60' to other building on property and 40' to the south (subject building only)

PROPOSED SETBACKS: No change to building proposed

VARIANCE REQUEST: The Zeppieros are asking for a variance from the landscaping requirements of the Overlay Zone due to the current configuration of buildings on their property as well as the amount of existing pavement.

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

This is an area of highway commercial uses and will likely remain so. If the variances are approved it would not change the property as it now stands and has so for many years. Staff does not find undue detriment to the neighborhood.

2. Such variance will not impair the intent and purpose of this Ordinance.

It is the intent of the B-4 zoning district to provide area for those businesses which serve a larger area than the immediate city. The Corridor Overlay Zone was “established to enhance the quality and compatibility of development, to establish consistent design guidelines, to encourage the most appropriate use of lands, to promote the safe and efficient movement of traffic and preserve property values along the M-43/I-196 Business Loop”. The subject property lies in the overlay area A. Although the business is off the main corridor of the overlay area and is largely developed, attempt should be made to have at least minimal compliance. The applicant intends to plant some trees and maintain existing vegetation on site. Given the current conditions of the site and the fact that this is not a complete renovation or rebuild, it may be determined that the ordinance intent is being met with the improvements proposed.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

This property has certain issues that do create a hardship on compliance. The lot has two buildings, the larger of which is and will continue to be used as warehousing. The smaller building is the subject of this variance. The total property is over 3 acres in size but the area which is considered for retail sales

and associated parking is a small portion of the overall area. Much of the property is paved but there is significant greenspace along the south and west sides. The applicant proposes some trees along the south side and is planning a landscape island along the front (east side). Adding additional front plantings would require extensive hard surface removal which could meet the definition for a practical difficulty. In other similar instances, the ZBA has required plantings in either pots or boxes. The same may be required in this case.

4. Such 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. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

Financial return is an issue in this case only to the extent that the property owner wishes to relocate a downtown business to this location. Any return at all depends on some level of variance being granted. The ZBA has heard variances to the overlay regulations in the past including one (La Grange Street) very similar to this one. Variances were also granted to the Goodwill property directly north of this site.

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

While not a totally unusual request type in the overlay areas, this situation does not occur generally throughout the zone. Staff does not recommend amending the zoning ordinance to accommodate this situation.

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

The problem is not self-created except in terms that the applicant closed the store on Phoenix Street intending to reopen at this location. He was unaware that site plan approval would be required resulting in compliance with overlay regulations. This would have been acceptable, provided commercial building codes were met, without the application of the overlay zone. Section 2404 of that ordinance (Applicability Matrix) provides that even minor use changes require compliance with landscaping and sign improvements. That section also states that the planning commission, during site plan review, may require other discretionary improvements as they feel necessary.

7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

Strict compliance would prevent any change in use to this site without major demolition. Whether that is unnecessarily burdensome is a decision for the ZBA.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

The applicant is asking for a variance from landscaping. It is possible for the applicant to make some additional landscaping improvements without removing hard surfaces if required by the ZBA. As examples, the applicant could place large

planters along the building and at the property lines to break up the open appearance and help in creating a more attractive street view.

9. That the variance will relate only to property under the control of the applicant.
The variance request only involves the property owned by the applicant.