

Zoning Board of Appeals

Regular Meeting Agenda

Monday, April 27, 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 – March 30, 2015
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business –Variance Requests
 - a) Sue Whitener of Saline Michigan is requesting a side yard variance to allow a balcony to extend three (3) feet further into the north side yard than allowed in zoning ordinance section 1722-1. The property of the variance request is 721 Northshore Drive. The parcel number is 80-53-840-008-00.
 - b) Joe Wiltgen, representing JWILCO, is requesting a rear yard variance for a proposed shopping center at 330 Blue Star Highway. The rear yard proposed will be 17 feet where 25 feet is required in zoning ordinance section 2405. The applicant will also need a front yard green belt variance per zoning section 2406.1.c. The parcel number for the property is 80-53-552-016-01.
7. Other Business
 - a) An interpretation of a section of the sign ordinance has been requested.
8. Member Comments
8. Adjourn

RESPECTFULLY SUBMITTED,

Linda Anderson
Zoning Administrator

Zoning Board of Appeals

Regular Meeting Minutes

Monday, March 30, 2015
7:00 p.m., City Council Chambers



NOTE: This was a postponement of the March 23, 2015 meeting

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 Bugge, second by Wittkop to approve the March 30, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – March 2, 2015

Bugge abstained as she was not present at the March 2, 2015 meeting.

Motion by Wittkop, second by Paull to approve the March 2, 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

There were none.

6. New Business – Civica Engineering Variance Requests

Tim Woodhams, representing Civica Engineering of Portage, MI, requested variances from two (2) sections of the zoning ordinance as part of an application to refurbish the building and site at 237 Broadway Street (formerly Save-a-Lot grocery store). One variance is requested from zoning ordinance section 1709 which details landscaping requirements. The second variance request relates to zoning ordinance

section 1800, Parking. The ordinance requires 114 parking spaces and the applicant is proposing 66 vehicle parking spaces and 18 bicycle parking spaces.

Anderson noted that she prepared responses and found that most of the criteria appeared to be met. She also stated that there were a lot of neighbor concerns, which would affect the detriment to the neighborhood portion of the standards in 2205.

Lewis asked how the number of spaces is calculated which Anderson explained is calculated by the usable floor area; just the area of the building that is used by customers. For restaurants that would be one (1) parking space for every seventy-five feet (75') of usable floor area.

Lewis said he saw something about one (1) spot for every two (2) patrons, but maybe that is for occupancy. Anderson said that is based on maximum occupancy load which is unknown for this building for this use at this time.

Bugge pointed out that in the report from the applicant it was suggested there might already be a variance on the property. Anderson said she went through the older computer and paper files but could not find anything.

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

All in favor. Motion carried.

Tim Woodhams, Civica Engineering and Investor/Partner in the brewery. Thanked the board for allowing them to come and discuss the proposed project; a brewery in the back half with a small tap room, and the other section for a western themed restaurant with line dancing. The building is a former Save-A-Lot. Woodhams noted that his intent in the responses was to state that the current use would require a variance under the current ordinance to have been in existence and apologized for the misunderstanding. He stated that those two-and-a-half blocks are a challenge when it comes to the zoning, whereas if he were further south, down near the McDonald's, it would be easier. Our property is in the Downtown Development Authority (DDA) within walkable distance of the downtown and we believe the majority of clients will be tourists and walk in from downtown.

Woodhams noted that the hardships faced are similar to what anyone would face in that area. Woodhams said two groups have expressed some concern, the shopping center to the north and the synagogue to the south. "I haven't heard about any other individuals who have concerns; our property is surrounded by a big valley behind it so there are not a lot of adjacent residential uses." Our proposed use is consistent because of the location of the areas noted along this block of Broadway, similar to the Central Business District (CBD). "The redevelopment of our site will see the number of parking spaces remain unchanged from the current use."

Woodhams excused himself and left council chambers for a few minutes, asking Larry Hollenbeck to take his place.

Larry Hollenbeck identified himself as another partner in the property. Stated that he is very aware of the neighbor concerns in the area; has a meeting Thursday night with the board at the synagogue. Stated the developers want to work with the synagogue board on trying to maintain the integrity of their worship area and services. Want to make sure we can provide them with assurance that they will be respecting that. This project was started a year ago when they began to look at the property; they plan an inside venue, not an outside venue; knows the city has noise issues as occur with any resort area. "We won't have open windows and won't be obtrusive from outside. Can't control the motorcycles and loud cars, what happens across the street at Joe's might be something that the city might want to address at some time. We're inside, in a block building, won't be a noise level problem outside."

Woodhams returned to council chambers.

Woodhams: Noted there are sixty-six (66) parking spaces; the calculation according to the zoning ordinance requires one hundred fourteen (114) spaces. The building is 17,250 square feet, under B-3 zoning is going to be non-conforming for that building and that is where our hardship is. Somebody asked if the building would be more appropriate for a strip mall or shopping center; at approximately eighty percent (80%) of usable floor area would require one hundred thirty-eight (138) parking spaces, as opposed to one hundred fourteen (114) spaces as the calculation requires for our use. Woodhams noted that almost six thousand (6,000) square feet of that building is taken up with brewery equipment.

The other issue Woodhams noted is landscaping. "We can't conform to the buffer requirement or landscaping planning requirement; this is a pretty compact parking lot. I've done the best I can with the existing parking lot; we have added an island, landscape with trees and native grasses along the north property line; along the west was able to find a spot to add additional trees and landscaping and in the rear another landscaped island for the site." Stated there are plans to have an outdoor seating area, which will also be landscaped; in the mown grass area we have proposed to add some Douglas firs to soften the block wall for adjoining neighbors.

Wittkop asked if the landscaped island is taking up parking spaces. Woodhams responded that some areas out there are unusable due to trucks coming in and out daily so deliveries and pickups would be scheduled in the early morning so we do not have to double book the space. "The same with the dumpster; we propose to make arrangements to have our garbage picked up at appropriate times."

Bugge pointed out that having the angle parking takes advantage of the space well and asked about the square as you come into the property. Woodhams explained that is the striped entry area and we hope to make a nice patio, maybe stamped concrete and plantings.

Bugge asked about where the other door will be located. Woodhams responded that the plan is to use the existing door for the restaurant and for the brewery to make a doorway and patio where the existing chimney is. "We are also going to have a large bike rack area with the intention to have plenty of room for bikes; maybe could even add more."

Bugge asked Anderson if the trees they are proposing are required under the ordinance to which Anderson responded that they are required and they did add those and it meets the requirement as well as improve the appearance of the property.

Woodhams: Gave consideration to the detriment to the neighborhood issue; were the property to be a shopping center, it would have the same use and same typical hours as the adjacent strip mall. With our proposed uses, the peak hours for parking will not be the same; for example the title company is mostly daytime use. Our uses will be mostly evening, with some daytime hours.

Wittkop asked what the occupancy would be to which Woodhams said they have not gotten to that point in planning yet.

Bugge said you are indicating an outdoor patio contradicts with what Hollenbeck said. Woodhams said outdoor seating would be for dining, not bands or entertainment, due to the noise ordinance in the city. "Our intention is to have a brewery for people to have some dinner and sample our beers."

Bugge asked how many people the patio would accommodate to which Woodhams responded maybe twenty (20) seats. Bugge asked how many parking spaces it would take up and Woodhams responded perhaps three (3) spaces but he would also lose his bike parking. "The demographic for the brewery is the age forty-five (45) and up crowd, mostly husband and wife or a small group; they stay a while and move on. That's the crowd we anticipate." Woodhams stated he does not see the brewery being open past 10:00 p.m.

In response to Bugge's question about the hours of the restaurant in the summer, Woodhams does not know what the restaurant hours would be. Anderson said we are getting off track of the variance request but last call is typically 1:30 a.m.

Condition 4. Woodhams noted that every building in that area does not meet the requirements of the zoning ordinance; not the strip mall; not the synagogue; not the Vineyard and certainly not that across the street. Unless approved we will not have similar property rights.

Condition 5. Woodhams noted that a new development could reasonably be expected to conform, however this is the redevelopment of an existing property

clearly built before the existence of the B-3 zone, which he believes was started in the 1950s.

Lewis noted the grocery store used to share that parking lot with a furniture store to the north.

Condition 6. Woodhams stated that both are not the result of the current owners, and that his development is in the same situation as the rest of the neighbors on that stretch of Broadway.

Condition 7. Woodhams said there is not a reasonable use that would fit within that property that would have adequate parking to conform. "Our use is one of the lesser intense uses parking wise for that piece because of the large component of the brewery we are proposing. Shopping would even require more parking than we propose."

Condition 8. Woodhams noted that it is understood that the applicant is asking for the minimum variance.

Woodhams concluded that one of the reasons the applicants think this is the correct use of this property is that "we anticipate this being a walking destination for the tourists in this area, unlike a shopping center where people would likely be driving in."

Lewis explained the requirements for those speaking, noting that Anderson will act as time keeper.

Attorney Drew Taylor, representing Tom DeGroot, adjacent property owner. Mr. DeGroot, the owner of the strip mall, is concerned that the change of usage from grocery store to brew pub and restaurant will increase the use of the property with heavier use during certain times, that his parking lot will become the overflow for the new use. The applicant is requesting sixty-six (66) parking spaces out of the required one hundred fourteen (114) which is basically less than sixty percent (60%) of the number of spots required under the ordinance, patio removal would add three (3) additional spots, and there are other uses that would be more conforming than a restaurant and brew pub, according to Taylor. "There are two ways to go about the parking; one is the maximum occupancy for the restaurant, which hasn't been determined at this time. So it would be premature to approve this based on that."

Barry Fidelman, President of First Hebrew Congregation. Stated he is trying to limit this to strictly parking situation. Has the unique situation of being the representative of two (2) entities as he is also a resident of River Terrace Apartments directly across the street from the considered development. There is a resident petition going around the building, according to Fidelman. "The street is already very busy, and these people are migratory, they go from Joe's, to Idler and other bars, and many of the residents are using walkers or wheelchairs." Fidelman cited issues such

as the sidewalk being littered with broken bottles, etc. "Parking is a serious issue for the synagogue. We have five bars near us; no other church has even one. Our patrons cannot park on Church Street for our worship services, because of overflow parking from Joe's, whose patrons and employees are parking on Church Street." Fidelman stated that he thinks this proposal will be tremendously successful and it will be a nightmare. "We ask that you protect us."

Steve Tolen, Synagogue Board member. Stated that the parking at the synagogue is very limited; there is not very much. This looks like this could be a busy business; parking is not enough as it is. The regulations are in place for a reason. A certain number of parking spots are needed for a business; if this is approved it will make parking worse. Stated the proposed hours conflict with the Synagogue's Sabbath, which starts Friday night at sundown. "So in the summer 9:00 or 9:30 p.m. is when we need parking for the synagogue. So we ask that you deny the variance."

Bugge asked how many people attend when your services in the summer are as late as 9:00 to 9:30 p.m. to which Tolen noted it really varies from thirty (30) to sixty (60). Bugge asked how late the services last and was told from an hour to an hour and a half. Tolen clarified, "That's Friday and Saturday. The Sabbath runs from sundown on Friday night to Saturday night." Tolen explained in the fall the high holiday services vary and there are many more people who come to that service; they can start in the morning and end at night. Wittkop asked if there is any off street parking. Tolen said there is very little but what there is exists behind the synagogue. Tolen noted he grew up here and there has always been a grocery store there as long as he remembers and parking has never been a problem in his memory.

Remie Ruben, First Hebrew Congregation Board member. Stated that their concern is the parking and the fact that our people have to walk from the City Hall area and from over by the Congregational Church. If they reduce the parking by sixty percent (60%) it will be a big impact on us. If it is a successful business, the lot will be jammed. Motorcycle parking can be a problem, but the impact is the noise that goes on during our services. Noted that the outside activity on the patio could impact the synagogue with noise.

Woodhams: Stated he has heard the concerns and they are understandable; parking is a premium in the downtown area. This property is downtown, in the DDA but zoned B-2. Our parking percentages are roughly sixty percent (60%) of what the zoning ordinance requires. The ordinance states the calculation for determining the number of parking spaces is one or the other, not both, and we are properly calculating our parking.

Woodham provided a little research for the gentlemen the attorney represents. His building is a shopping center which generally requires about eighty percent (80%) usable floor area. They need one hundred sixty-eight (168) spaces which puts them at forty-three (43%) of their parking requirement. We exceed their existing use, we could nickel and dime, and we would be down to forty-seven percent (47%) if we

were proposing a shopping center. Clearly the synagogue has parking challenges; the synagogue was built over sixty (60) years ago; they are welcome for their members to use our parking lot on Saturday mornings, on Friday nights if there are spaces available, or even the handicap spaces. "The church members are more than welcome to use those."

Woodhams stated, regarding the motorcycle issue, "That's an enforcement issue, in my opinion, at the city level. There is a Friday night bike night across the street. That is not our demographic but it is bike night. They are parking on the side walk, in no parking zones and on the curb line. Your police officers could solve that problem fairly simply."

The last item Woodhams wanted to address is that he understands from the existing owner, Mr. Keckler, they have done quite a bit of towing of the vehicles of patrons of the property owner to the north; they have been being towed for a number of years. As a quick note, their upper level is about 13,900 square feet allowing eighty percent (80%) usable floor space, would need three (3) times as many spaces. It's a busy strip mall with limited parking. "Thank you for your time and I am glad to answer questions."

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

All in favor. Motion carried.

Lewis suggested splitting this up into two (2) motions to make it simpler. Anderson reminded that it takes four (4) votes to approve a variance.

Bugge thinks that there are some legitimate concerns here; unfortunately incompatibility of the use is not what we are concerned with. Both uses are permitted in this area; houses of worship and bars. That is just the way it is. Parking certainly is a real concern in this area; it's a problem throughout, the question is whether this will just exacerbate an issue that exists. There are some uses that would not require the amount of parking, the degree of variance that these particular uses. Such as a showroom type of situation, or not as much usable square feet which would cut down the amount of parking needed. With the bridge going up, it is going to be interesting. Noted that she is expressing her concerns; she is really torn. Thinks people would enjoy those uses; they are good uses for the downtown. "The parking is really a concern."

Lewis said he does not see something like a showroom going in there. A restaurant/tap room he can see as a successful business. "This parking is a pre-existing condition."

Wittkop said there is only one other restaurant that has enough parking and that is Lakeside Entertainment. Wittkop wondered when this ordinance was passed, requiring so many spaces for seventy-five (75) square feet, whether it took into

consideration existing conditions. Wittkop asked when the parking requirement changed. Anderson said she would have to dig into the historic files; the ordinance history goes back a long ways and regulations do change.

Wittkop wonders if we are overbilling on parking; the Meijer's reduced their parking area when they came in. "Is our ordinance in agreement with reality?" Bugge said she thinks it depends on the use and that Wittkop is comparing apples to oranges. Wittkop said he is talking about parking to parking; some want more than truly needed and others do not want as much.

Lewis said if everyone rode their bike it would be the same deal. Bugge noted that Mr. Fidelman pointed out that people go, walk, from one bar to another, that is another side of it; there are several issues.

Paull said one of the more practical aspects of parking exists on Friday nights when both establishments will be at their busiest and most participatory, both activity and people. Allowing one of them to have somewhere less than two-thirds (2/3) of their necessary parking does not make sense. "To me, there is a very distinct incompatibility between the two neighbors." Paull stated he is very torn; he likes the idea; this is a very useful kind of adaption of an existing property and building. But in this case, since it is next door to a synagogue brings a number of complications. It's a state regulatory issue of establishing of drinking establishment next door to a synagogue. Bugge said that is out of our hands. The biggest incompatibility is that both locations share the busiest times so the parking variance does not make sense to me.

Wheeler asked if both uses are permitted to be there, how much does one party's concern trump the other's? Bugge agreed, noting, "Regardless of the use of the property on the corner, the new owner of this property is coming in for a variance on this property. Is it appropriate for the use that is being proposed? Lewis asked, "Regardless of what's around it?" Bugge responded, "Yes, they are both permitted uses."

Lewis noted he is torn with this because he does not see, short of razing the building and starting from scratch with a very small building, what can be done with this property. Wittkop says he is torn that they are providing more parking than anyone else in the area, which he feels is a humungous amount for a bar.

Motion by Wittkop to grant a variance for parking to sixty-six (66) reduced from the required number, as it seems to be appropriate for the use of the facility; it is a pre-existing condition that has gone on longer than most of us remember.

Lewis suggested adding that other uses would have required more spaces than one hundred fourteen (114) as required now. Wheeler wants to add, "Such a variance will provide a sustainable property right as enjoyed by other property owners in the vicinity." Wheeler seconded the motion as amended.

Anderson suggested they add the standards from Section 2205 and note that the variance meets those standards. Paull doesn't think it is detrimental.

A Roll Call vote was taken.

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

Motion failed.

Motion by Bugge, second by Wittkop, to grant the variance for landscaping, which meets all standards except number seven (#7).

A Roll Call vote was taken.

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

Motion carried.

Applicant withdrew his application from the Planning Commission meeting scheduled for April 2, 2015.

7. Member Comments

There were none.

8. Adjourn

Motion by Bugge, second by Wheeler to adjourn at 8:15 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a Side Yard Variance

City of South Haven

Background Information: In June of 2014, Sue Whitener submitted a site plan for a new residence to be constructed at 721 Northshore Drive. The site plan showed no balcony or decks. As the work progressed, staff noticed deck foundations and second floor sliders had been added. The builder was told to obtain a new survey showing all existing and proposed parts of the house. The builder admitted that, while the construction drawings had included the second floor balcony, the zoning site plan did not. The staff follows the site plan submitted for zoning review as it is the plan showing setbacks and lot coverage.

Subsequently, the proposed decks were modified to comply with zoning requirements but the applicant would still like the second floor balcony on the north side of the house. The variance requests notes that the lot is only 50 feet wide while the zoning district requirement is 66 feet. The owner designed the house to be only 28 feet wide to meet that requirement. The side setbacks for the house are in compliance with zoning but the balcony is proposed to extend 4 feet into the side yard where only one (1) foot is allowed. The proposed deck will not extend into the public right-of-way of Newcome Street.

Recommendation: Staff recommends that the ZBA members review the application, staff findings of fact and the physical 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.

Support Material:

Application
Original site plan
Revised site plan
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

pd 3-6-2015 JJA

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

Name: Susan Whitener

Date: 3-6-15

Address: 47 Gunther Ct., Saline Mi 48170

Phone: 734.429.1310
734.395.9350

Address of Property in Question: 721 North Shore Dr.

Present Zoning of Property: R1B

Name of Property Owner(s): Susan Whitener suewhitener@hotmail.com

Dimensions and area of property _____

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

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

Present Zoning of Neighboring Properties to the :

North R1B South R1B East R1B West R1B

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): _____

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.

It is a beach neighborhood, and there are other residences with balconys on the second floor. Will not be detrimental to adjacent property or neighborhood.

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

Will be built to resemble homes in the area, following neighborhood architecture.

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).

Very ^{Long and} narrow lot for the zoning district,
Lot is only 50' wide, whereas 66' is minimum width in this zone. House was built with additional 2' of side setback. With the variance they will be losing ^{only} 2' of setback.

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.

We are requesting same variance as ["] 95 N. Shore Dr. (granted 6-4-2013) ["]
Variance is necessary for the enjoyment & use of the lot as possessed by other properties

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.

The situation is related only to this particular property

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 condition is not the result of the property owners.
We have already built a very ^{narrow} house (28') to comply with the setbacks. The balcony will leave a 4' 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.

Other houses have ~~to~~ decks that are similar,
for us ~~not~~ ^{not} to have one would be 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.

The variance request is the minimum amount necessary (4' balcony) It still leaves another 4' to northern property line.

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

The variance will relate only to this property.

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.

Susa Whitene
Property Owner

3-6-15
Date

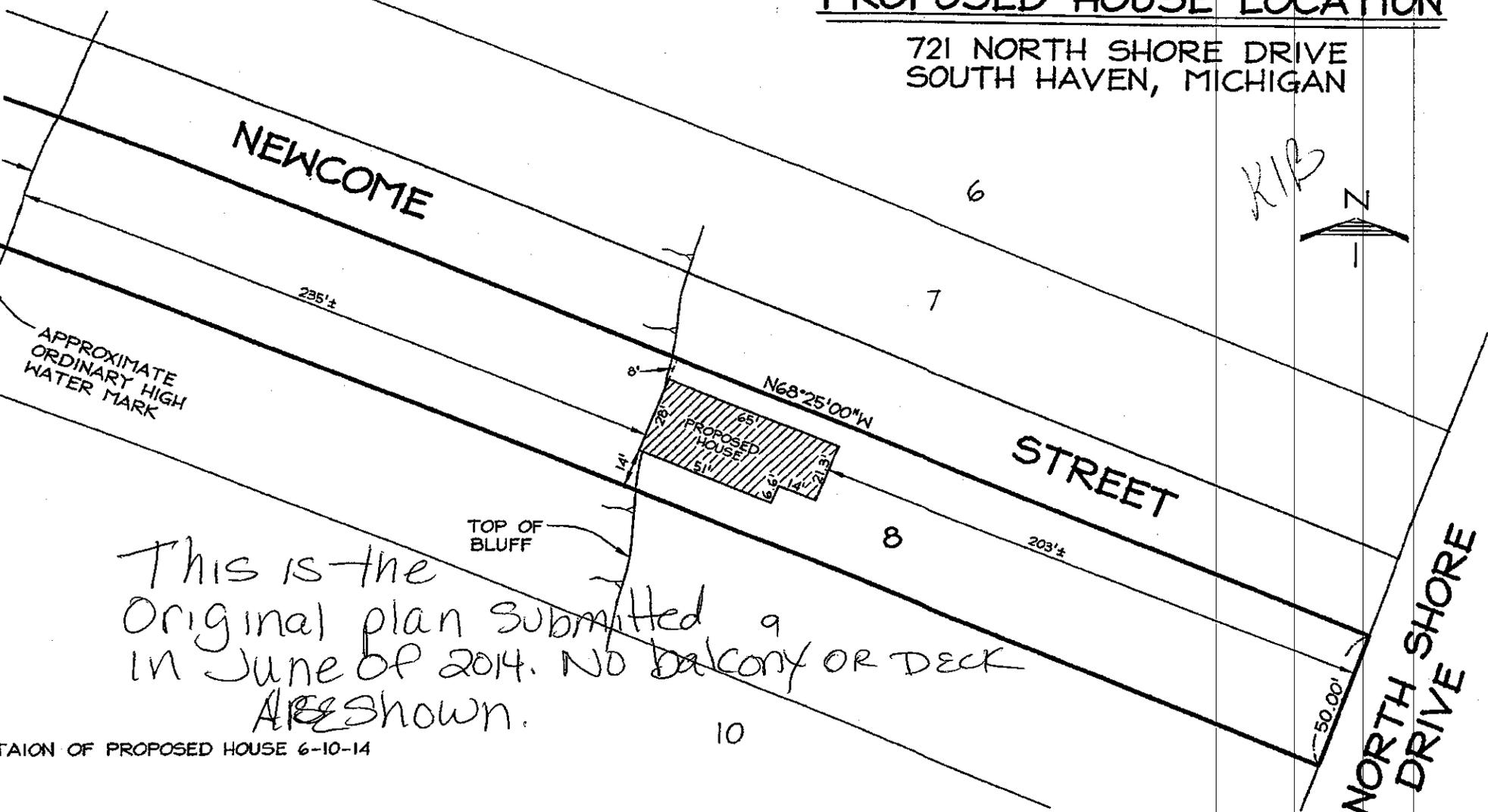
THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED 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.

Susa Whitene
Applicant Signature

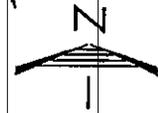
3-6-15
Date

PROPOSED HOUSE LOCATION

721 NORTH SHORE DRIVE
SOUTH HAVEN, MICHIGAN



KIP



APPROXIMATE
ORDINARY HIGH
WATER MARK

TOP OF
BLUFF

This is the original plan submitted in June of 2014. NO balcony or deck are shown.

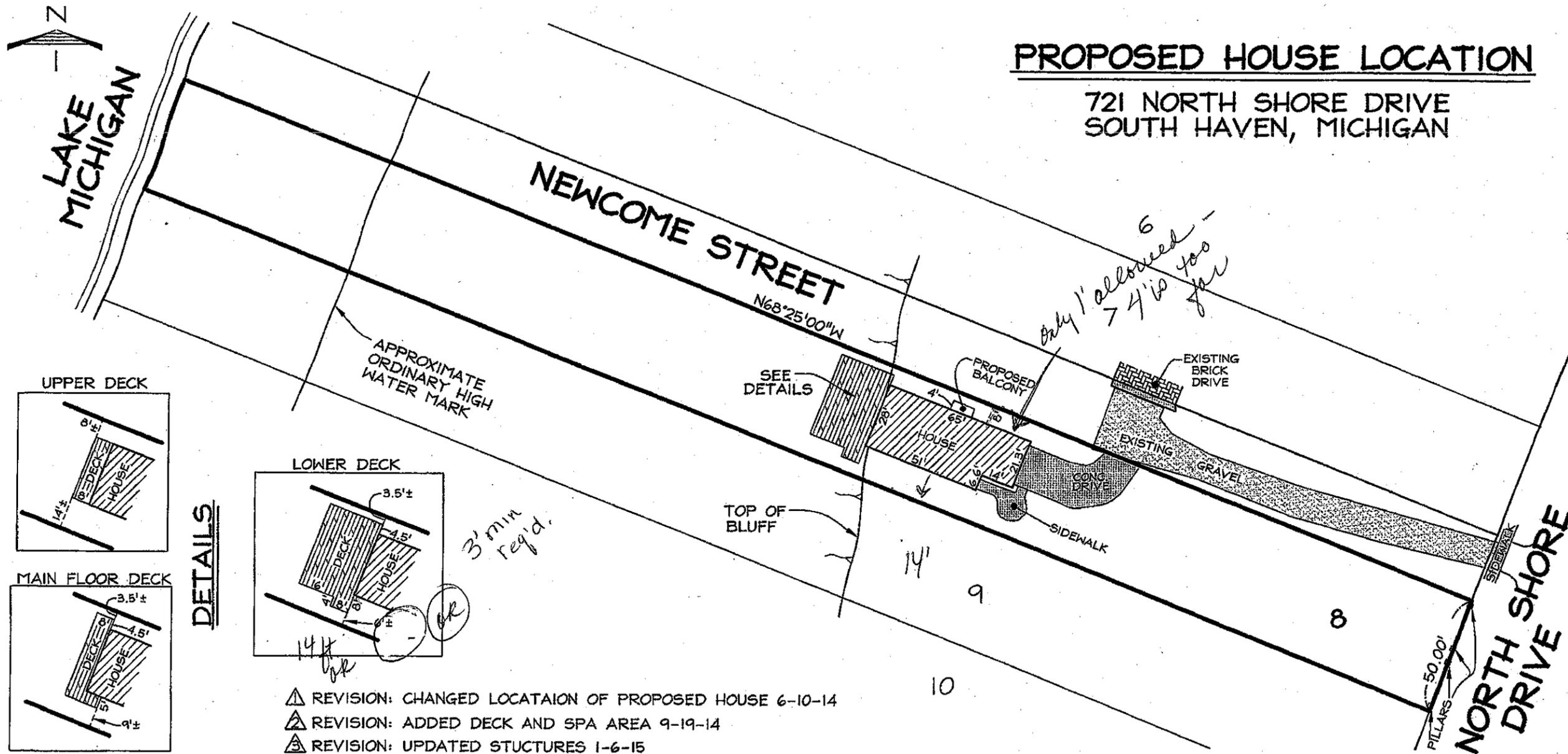
LOCATION OF PROPOSED HOUSE 6-10-14

1"=50'
BY _____
REV. 6-10-14

MITCHELL & MORSE LAND SURVEYING
A DIVISION OF MITCHELL SURVEYS, INC.

234 VETERANS BLVD.
SOUTH HAVEN, MICHIGAN 49090
OFFICE: (269) 637-1107
FAX: (269) 637-1907

CLIENT TRUE NORTH HOMES
DATE 6-4-14 JOB No. 14-531 SHEET 1 OF 1
BEING IN THE N. 1/2 SEC. 3 T. 1 S. R. 17 W.
SOUTH HAVEN (CITY) TWP. VAN BUREN Co., MICHIGAN



DWN. BY J. MITCHELL SCALE 1"=50'

CK. BY _____ DESC. BY _____ CK. BY _____

BOOK _____ FILE _____ PAGE _____ FILE _____ REV. △ 6-10-14
△ 9-19-14
△ 1-6-15

MITCHELL & MORSE LAND SURVEYING
 A DIVISION OF MITCHELL SURVEYS, INC.

234 VETERANS BLVD.
 SOUTH HAVEN, MICHIGAN 49090
 OFFICE: (269) 637-1107
 FAX: (269) 637-1907

CLIENT TRUE NORTH HOMES

DATE 6-4-14 JOB No. 14-531 SHEET 1 OF 1

BEING IN THE N. 1/2 SEC. 3 T. 1 S. R. 17 W.

SOUTH HAVEN (CITY) TWP. VAN BUREN Co., MICHIGAN

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: April 27, 2015
ADDRESS: 721 Northshore Drive
ZONING DISTRICT: R1-B Single Family Residential
LOT DIMENSIONS: 50' wide; 438'+ deep
LOT AREA: 30,492 square feet (0.7 acres)
LOT COVERAGE: 6%

PROPOSED SETBACK: 203 feet from front; 8' and 14' sides; rear setback 295'.

VARIANCE REQUEST: The applicant is asking for a variance in order to construct a balcony on the north side of the house. She would like the balcony to extend four (4) feet into the required side yard where the ordinance only allows a one (1) foot encroachment. The balcony, if approved, would be four (4) feet from the property line.

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 property is in a residential zone and the request is consistent with the intent of the district and would not be detrimental to the surrounding neighborhood.

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

The R1-B zone is intended for single family homes on lots slightly larger than allowed in the R1-A zone. The intent of the ordinance will not be impaired by the granting of the variance.

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).

The subject lot is considerably narrower than the ordinance allows for lots in the R1-B zone. The subject lot is 50 feet where 66 feet is the minimum required. The neighboring property to the north is on a similar sized lot and the residence on that property encroaches almost to the edge of Newcome Street. The narrowness of the lot creates the exceptional condition.

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.

Many houses in this neighborhood have balconies in order to take advantage of the lake views. The applicant would like the balcony off of the master bedroom on the side of the house. There does not appear to be a financial motive for the request.

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.

Since most properties in the R1-B zone comply with the lot width requirement, this is not a common enough situation to prompt an ordinance amendment.

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 self-created in that the applicant is choosing to have a side balcony that encroaches 3 feet too far into the required side yard.

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 still be able to have a one (1) foot balcony. The ZBA will need to determine whether the applicant's desire for a larger balcony outweighs the regulations and places an unnecessary burden on the owner.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **Staff believes the variance requested is as minimal as necessary to allow for a usable balcony.**

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 #6a Front and Rear Yard Variances

City of South Haven

Background Information: Joe Wiltgen, representing JWILCO, is requesting a rear yard variance for a proposed shopping center at 330 Blue Star Highway. The rear yard proposed will be 17 feet where 25 feet is required in zoning ordinance section 2405. The applicant will also need a front yard green belt variance per zoning section 2406.1.c. The parking lot is proposed to extend to the front lot line allowing no space for the required greenbelt. This property is located in the B-2 general Business Zone and in Area C of the M-43/ BL I-196 Overlay Zone.

The purpose of the overlay zone is “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 through the City”. As stated above, it is the intention of the city to, over time, to ameliorate certain conditions along the main thoroughfares leading into the city. The overlay zone calls for consistency in signs, more landscaping, improved exterior finishes and less parking. Setback requirements were often increased to allow more room for landscaping in the parking areas.

While it is the intent of the Overlay Zoning District to phase out nonconformities in the designated areas, the planning commission realized during the drafting of the provisions of Area C (which includes the properties along the west side of Blue Star) that some of the existing lots may need variances to redevelop given the shallowness of the lots. This is one of those lots.

Recommendation: Staff recommends that the ZBA members review the application and staff finding of fact and visit the site of the request. If the ZBA members find the request meets the standards of zoning ordinance section 2205, the variance should be granted.

Support Material:

- Application
- Existing car wash plan
- Proposed site plan
- Exterior elevations
- Aerial of the property
- 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: Joe Wilton

Date: 4-1-15

Address: 519 Virginia Ave South Haven MI 49090

Phone: 269-208-4687

Address of Property in Question: 330 Blue State Hwy

Present Zoning of Property: _____

Name of Property Owner(s): Joe Wilton

Dimensions and area of property 150 x 136.6"

Dimensions of all buildings on the property (also shown on a diagram) to be demolished

Setback measurements of all structures on the property (also shown on diagram)
proposed - front 85; Sides - 20' ea; Rear 17'

Present Zoning of Neighboring Properties to the :

North B-2 South B-2 East B-4 West R1-B

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): 2405; 2406.1-c

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.

Joseph Wilby 4-1-15
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.

Joseph Wilby 4-1-15
Applicant Signature Date

J. Wilco Inc.

519 Virginia Ave.

South Haven MI 49090

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

Will not affect surrounding neighbors or their properties.

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

No, as J. Wilco Inc. is looking to fit this plan in as closely as possible to the existing ordinance.

3. Exceptional or extraordinary...

The special circumstance in this case is the shallow depth of lot. Lot is 136.6ft so going by current overlay zone, the buildable space would be too small for any commercial use, which this lot is zoned commercial.

4. Such variance...

Any commercial user would have to ask for a variance in order to use this property commercially.

5. The condition or situation...

The condition is: this property is within the Bluestar Hwy overlay zone. Again, back to the narrow depth of lot with overlay zone restrictions, any developer would need some variance. J. Wilco Inc. is adding green space and sidewalks along with correct landscaping as per plan. See attached.

6. The condition of this specific piece of property...

The condition is not self-created, it is the depth of the lot and the overlay zone concern.

7. The strict compliance...

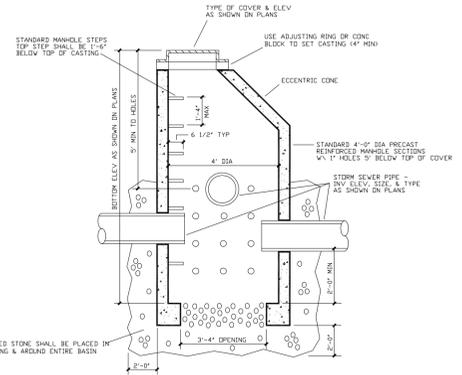
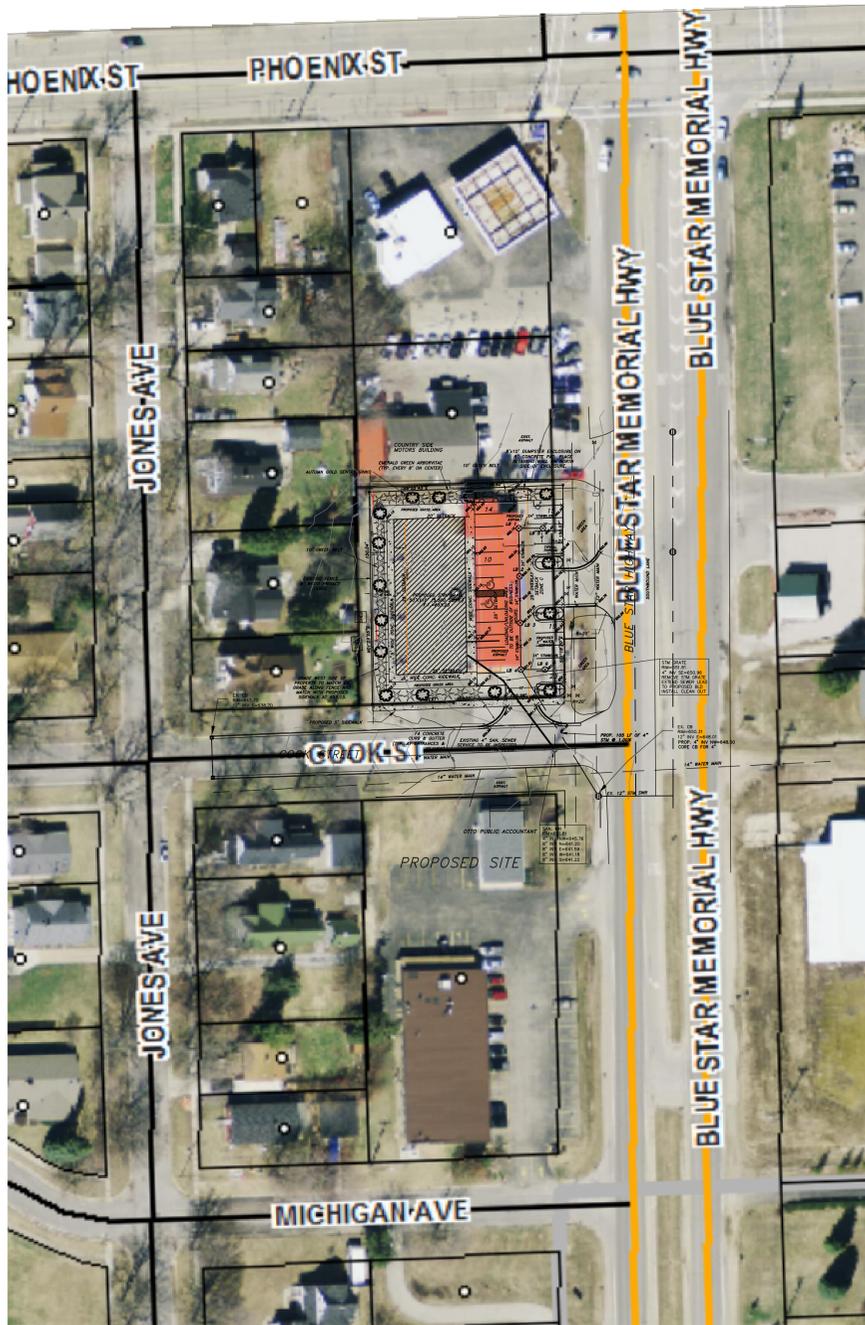
Any development of this site will require a variance, due to depth of lot and overlay zone concern.

8. The variance requested is the minimum amount necessary...

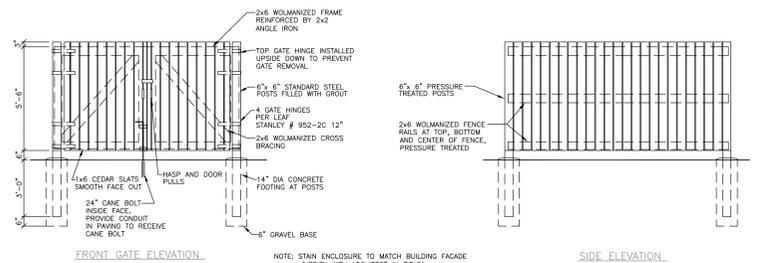
See plan attached. Any commercial business will require a variance to build on this property.

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

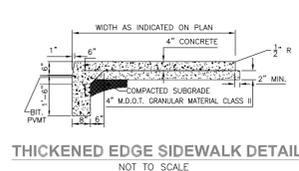
Yes, only to the located at 330 Blue Star Hwy.



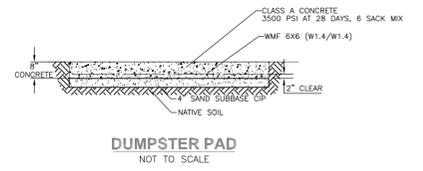
LEACHING BASIN DETAIL



WOOD DUMPSTER ELEVATIONS
NOT TO SCALE

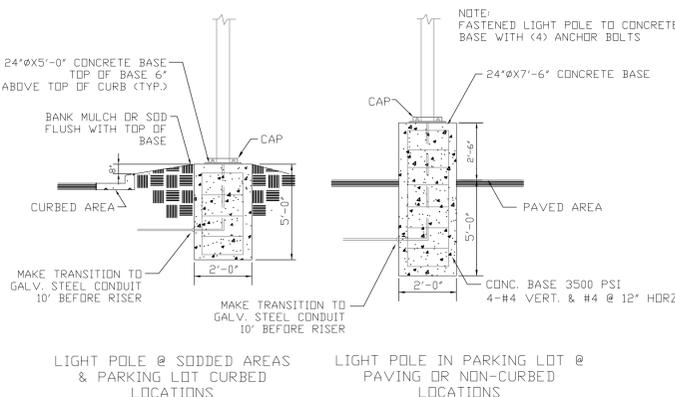
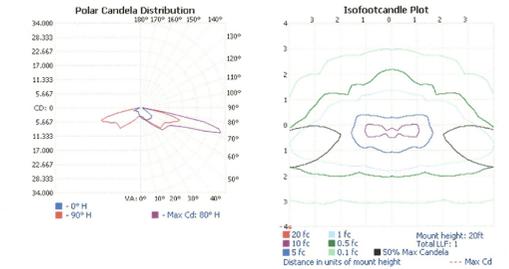


THICKENED EDGE SIDEWALK DETAIL
NOT TO SCALE

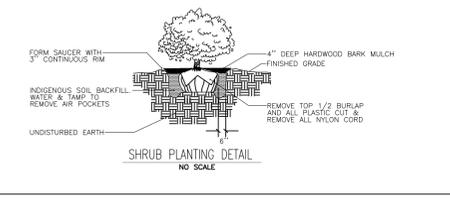
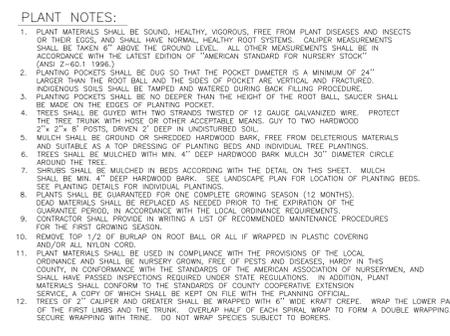
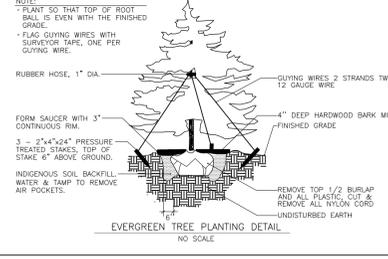
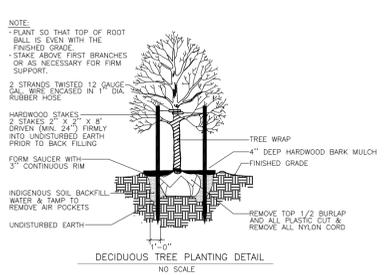


DUMPSTER PAD
NOT TO SCALE

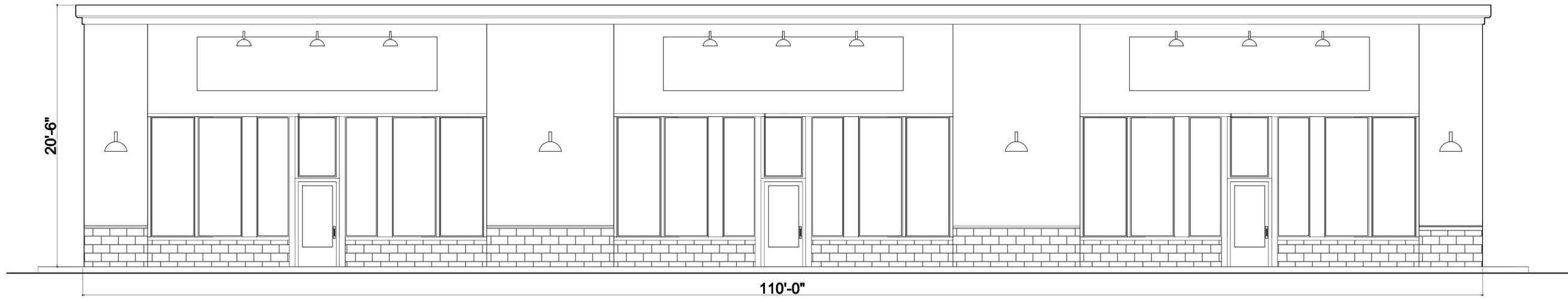
LITHONIA LIGHTING	AcuityBrands
KDC2 400S R2 DLP - OUTDOOR PHOTOMETRIC REPORT	
TEST #: LTL131508	
CATALOG #: KDC2 400S R2 DLP	
LUMINAIRE: KDC2 SERIES 400W HPS TYPE 2 DIST MED. SEMI CUTOFF	
LAMP: ONE 400-WATT HIGH PRESSURE SODIUM	
LAMP OUTPUT: 1 LAMP(S), RATED LUMENS/LAMP: 30000	
INPUT WATTAGE: 465	
LUMINOUS OPENING: RECTANGLE W/LUMINOUS SIDES (L: 12", W: 12", H: 3.90")	
TER VALUE: 57 (BF = 1)	
TER CATEGORY: ROADWAY - TYPE II	
MAX CD: 33.488.0 AT HORIZONTAL: 80°, VERTICAL: 73°	
CUTOFF CLASS: SEMICUTOFF	
ROADWAY CLASS: MEDIUM, TYPE II	
EFFICIENCY: 62.8%	
SEE REPORT NOTES **	



LIGHT POLE DETAILS

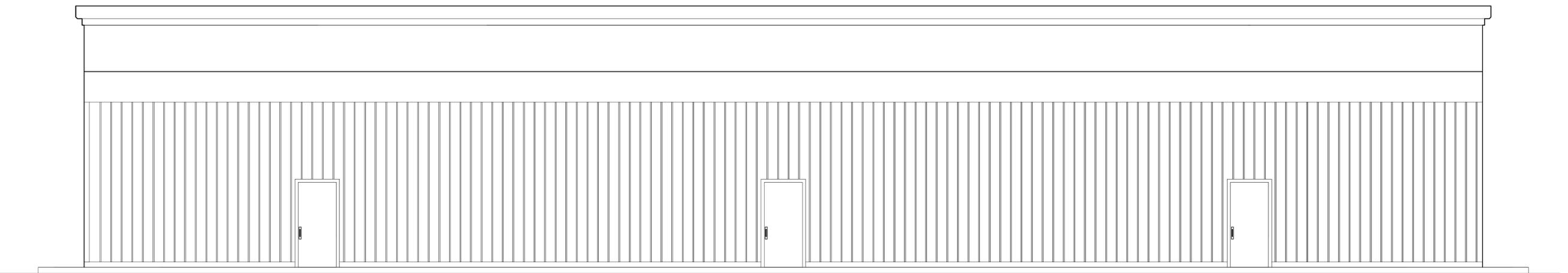


MCE	JOE WILTGEN	
	BLUE STAR STRIP MALL SITE PLAN DETAILS & DRIVE LOCATIONS	
MIDWEST CIVIL ENGINEERS, INC. CIVIL ENGINEERING • LAND SURVEYING • ARCHITECTURE 13560 76TH STREET SOUTH HAVEN, MI 49090 PH: 269-637-9205 FX: 269-637-9206	SHEET 2 OF 2	PROJECT NO. 15-016
SCALE: 1" = 60'	DRAWN: 02/2015 RP	REVISIONS: 04/06/15 CHANGES PER CITY OF SOUTH HAVEN STAFF



PRELIMINARY FRONT ELEVATION (EAST)

1/4"=1'-0"



PRELIMINARY BACK ELEVATION (WEST)

1/4"=1'-0"

General Notes

Joe Wiltgen
330 Blue Star Highway - South Haven, MI

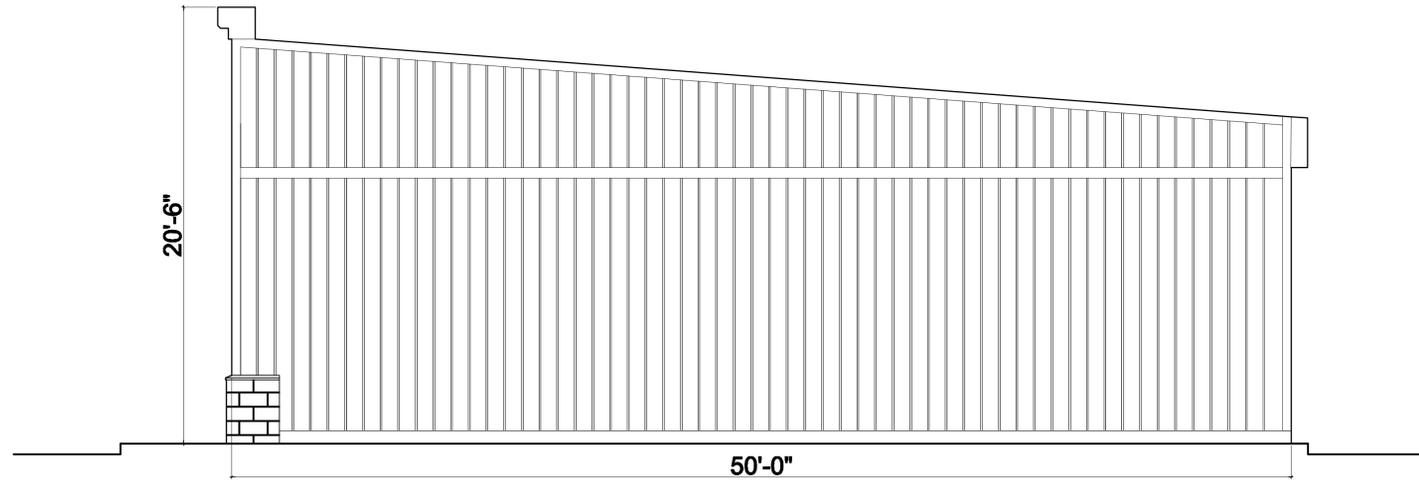
No.	Revised/ Issue	Date

MIDWEST CIVIL
MCE
ENGINEERS, INC.
Civil Engineering and Surveying Architects
1940 North Cedarhurst, N. 49000-2947/2920

Front & Back
Elevations



04.010.2015
1/4"=1'-0"



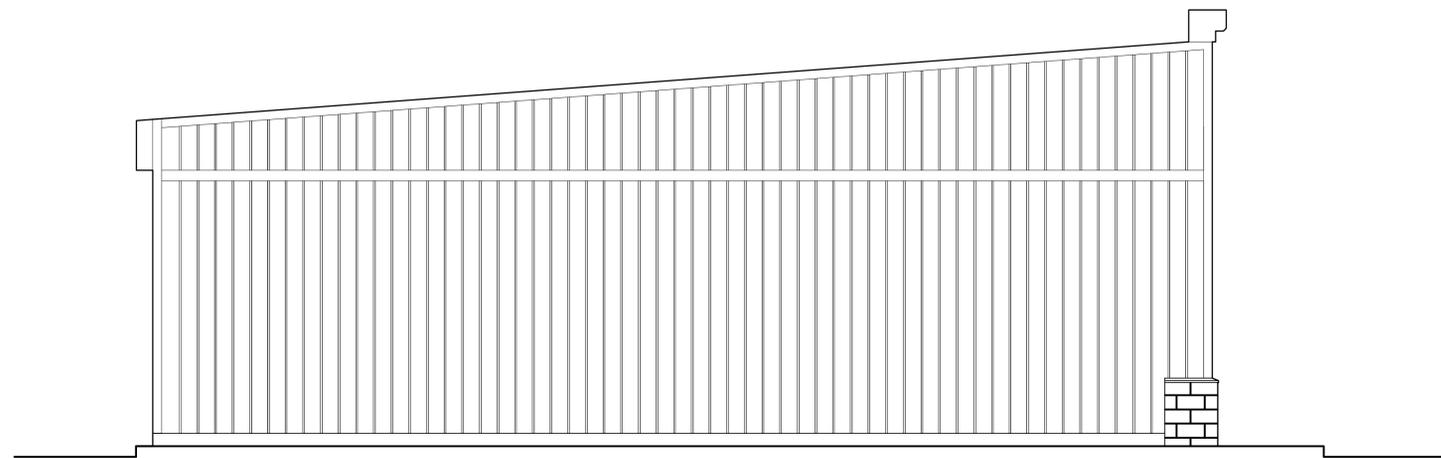
PRELIMINARY SIDE ELEVATION (NORTH)

1/4"=1'-0"

- One story structure
- 110' wide x 50' deep
- 20'-6" in height
- Percentage of glazing on facade is approx. 31%

(facade: 20.5' H x 110' W = 2,255 s. f.
 glazing: approx. 710 s. f.
 $710/2255 = .314$)

- Siding:
 - front: stone veneer base
 Dryvit stucco system or similar
 weather-resistant panels
 - sides
 & back: corrugated metal



PRELIMINARY SIDE ELEVATION (SOUTH)

1/4"=1'-0"

General Notes

Joe Wiltgen
 330 Blue Star Highway - South Haven, MI

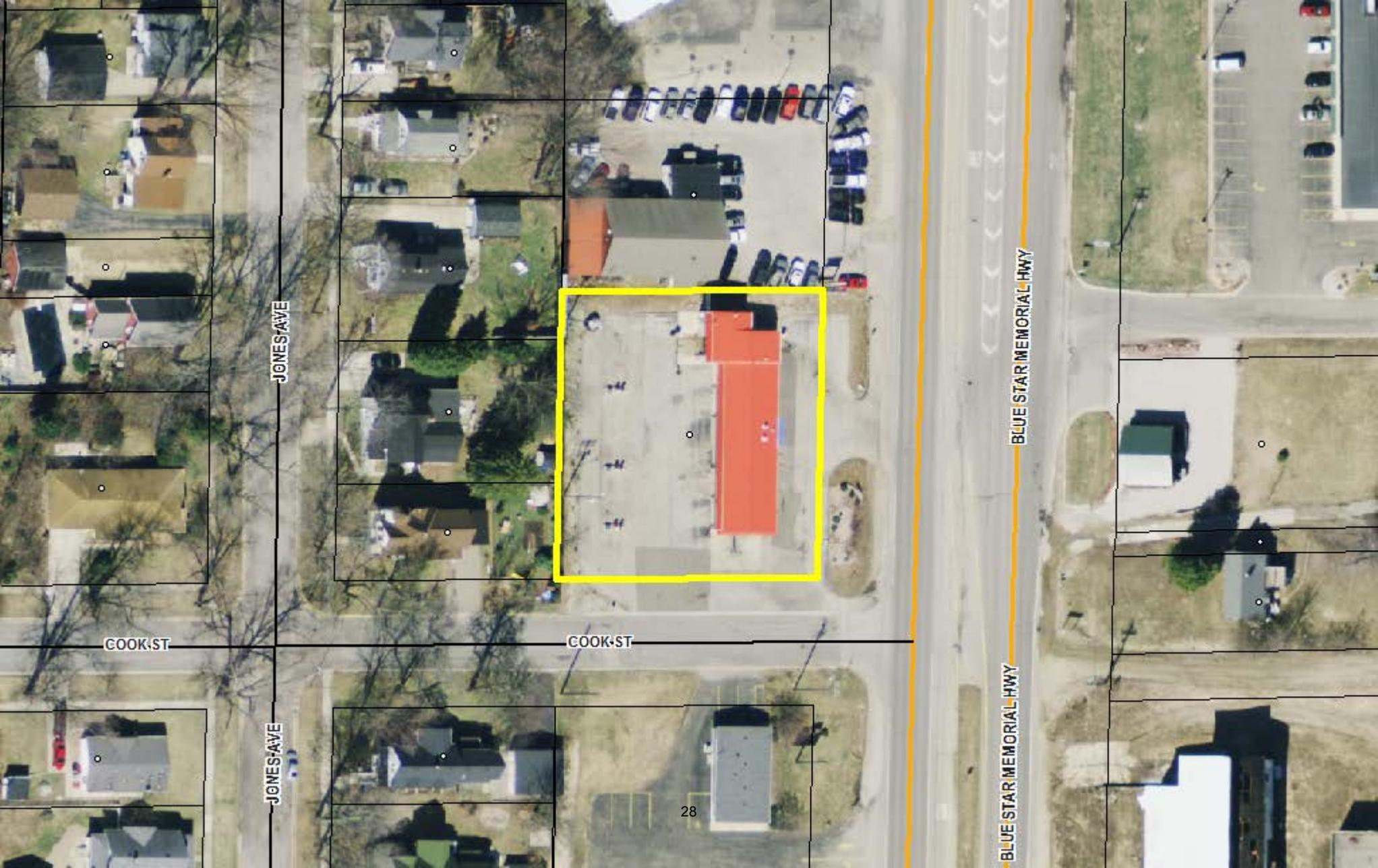
No.	Description	Date

MIDWEST CIVIL ENGINEERS, INC.
CIVIL ENGINEERING AND SURVEYING ARCHITECTURE
 15500 CENTER ROAD, SOUTH HAVEN, MI 49088-2800

Side Elevations & Notes

2

Date: 04.01.2015
 Scale: 1/4"=1'-0"



JONES AVE

COOK ST

JONES AVE

COOK ST

28

BLUE STAR MEMORIAL HWY

BLUE STAR MEMORIAL HWY

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: April 27, 2015
ADDRESS: 330 Blue Star Highway
ZONING DISTRICT: B-2 general Commercial w/Overlay Zoning
LOT DIMENSIONS: 150' on Blue Star and 132' along Cook Street
LOT AREA: 19,800 sq. ft.
LOT COVERAGE: N/A in the B-2 zone

PROPOSED SETBACK: Front (Phoenix) – 85 feet; Sides – 20 feet each; Rear - 17 feet.

VARIANCE REQUEST: Joe Wiltgen, representing JWILCO, is requesting a rear yard variance for a proposed shopping center at 330 Blue Star Highway. The rear yard proposed will be 17 feet where 25 feet is required in zoning ordinance section 2405. The applicant will also need a front yard green belt variance per zoning section 2406.1.c.

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 a commercially zoned and planned area. The proposed development will include landscaping and will move all activities (such as parking) away from the right-of-way and onto private property. The residential properties to the rear of the site will be protected from lights and noise by way of a 6 foot fence and trees. The development will not be detrimental to the surrounding neighborhood.

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

This property is in the B-2 General Business Zone but is also included in the Corridor Overlay Zone. The purpose of the overlay zone is “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 through the City”. As stated above, it is the intention of the city to, over time, to ameliorate certain conditions along the main thoroughfares leading into the city. The overlay zone calls for consistency in signs, more landscaping, improved exterior finishes and less parking. Setback requirements were often increased to allow more room for landscaping in the parking areas.

While it is the intent of the Overlay Zoning District to phase out nonconformities in the designated areas, the planning commission realized during the drafting of the provisions of Area C (which includes the properties along the west side of Blue Star) that some of the existing lots may need variances to redevelop given the shallowness of the lots. (The attached aerial photo shows how one neighboring business uses the right-of-way for parking.) This is one of those shallow lots.

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).

The applicant finds exceptional or extraordinary conditions in the shallowness of the lot. Staff agrees that the lot is shallow for a commercial property given the amount of parking, landscaping and building size typically required. A smaller building could be constructed but that could also limit the desirability of the property to potential tenants.

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 states in his application that any commercial use developed on the site will require a variance due to the restrictions of the overlay zone. While the possibility of financial return may not be the determining factor in considering a variance, it is very possible that a smaller building could be more difficult to lease and would hamper the return on any capital investment.

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.

When the overlay zoning was adopted for this area, the planning commission considered having a separate regulation area for this neighborhood given the shallowness of the lots. It was concluded that that would be too cumbersome and it was left as part of the Area C with the idea that each new development would be considered individually.

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 self-created only because the applicant is choosing to redevelop the property he already owns.

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 still be able to build a small commercial building on the property but the economic viability of doing so makes the project look less desirable.

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 has reduced the size of the building originally planned in order to comply with the overlay requirements. It could be supposed that the amount of variance asked is the minimum necessary to realistically develop the property into a commercial use.

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 #7 Sign Ordinance Interpretation Request

City of South Haven

Legal Basis:

The Michigan Zoning Enabling Act 110 of 2006, Section 125.3603 Sec. 603. states that the zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including interpretation of text and maps. The statute also requires that the local zoning ordinance include all responsibilities which the zoning board of appeals is authorized to perform. The ZBA shall specifically hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under the act.

In accordance with state law, the City of South Haven Zoning Ordinance Section 2204 states that the ZBA, “*where it is alleged by the appellant that there is an error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Zoning Administrator or other administrative office in the carrying out or enforcement of the provisions of this Ordinance then an appeal or request for Ordinance interpretation shall be filed with the Zoning Board of Appeals... In deciding a request for Ordinance interpretation, the Board shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions of the Ordinance*”.

Background Information:

The zoning administrator received a complaint of an alleged zoning violation involving a sign advertising a property for rent in a residential zone. The complainant stated that signs for rent are required to be placed upon the wall of the structure being rented and may not be a freestanding sign (in a residential zone), as was the situation in this case. The zoning administrator disagreed because text specifically limiting rental signs could not be found in the ordinance. The decision was based on the following sections of the zoning ordinance:

SECTION 2005. GENERAL SIGN PROVISIONS

Real estate sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.

No differentiation is made between signs for rent, sale or lease.

SECTION 2008. PERMITTED TEMPORARY SIGNS

3. Real Estate and Development Signs		
<i>Number</i>	<i>1 per lot or subdivision that is the subject of the sign</i>	<i>Real estate signs shall be removed within 10 days after completion of the sale or lease of the property.</i>
		<i>A corner lot is permitted 1 sign placed on each street frontage.</i>
		<i>A subdivision sign must be removed when 75% of the lots are sold.</i>
<i>Size</i>	R-1 & R-2 Districts	6 sq. ft. maximum
	<i>RM-1 District</i>	<i>18 sq. ft. maximum</i>
	<i>Nonresidential Districts</i>	<i>32 sq. ft. maximum</i>
	<i>Development sign</i>	<i>32 sq. ft.</i>
<i>Location</i>	Freestanding	A minimum of 5 ft. from any property line, not in right-of-way.
	<i>Wall</i>	<i>On the wall facing the street.</i>
<i>Height</i>	<i>6 ft. maximum</i>	

The above section regulating temporary signs clearly states provisions for real estate signs (e.g., rental signs) in residential zones. There is no restriction noted regarding the placement of for rent signs.

SECTION 2004 – PROHIBITED SIGNS

13. *Freestanding signs in residential districts unless otherwise allowed herein.*

Staff believes the provisions in Sections 2005 and 2008 allow the freestanding real estate sign (including rental signs) in the residential zones.

Recommendation:

Staff recommends that the ZBA members review the ordinance sections referenced in this report and any other pertinent ordinance references they may find to reach an agreement of the correct interpretation of the sign regulations. The determination of the ZBA will be final.