

Zoning Board of Appeals

Regular Meeting Agenda

Monday, May 18, 2015
7:00 p.m., City Hall Basement



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – April 27, 2014
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – Public Hearings
 - a. Haraldur and Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo, are seeking a variance to build a residence at 302 Michigan which will have 50% lot coverage where 40% lot coverage is the maximum allowed. The site plans indicate that the setbacks comply with the zone requirements for R1-A. The applicants state that they would like to build a home which is large enough to accommodate future barrier-free needs.
 - b. Ben Brush of South Haven is requesting a driveway variance from zoning ordinance section 1716, 1-c to allow construction of an industrial driveway which will be closer than 200 feet to an existing driveway on the property. The address for the property is 1400 Kalamazoo Street and the property owner of record is Bernard Pero.
7. Commissioner comments
9. 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, April 27, 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, Miller, Paull, Lewis
Absent: Wheeler, Wittkop

3. Approval of Agenda

Motion by Paull, second by Bugge to approve the April 27, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – March 30, 2015

Motion by Bugge, second by Boyd to approve the March 30, 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 –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 North Shore Drive. The parcel number is 80-53-840-008-00.*

Anderson explained this is a request for a second story balcony in a fifty foot (50') wide lot in a neighborhood with sixty-six foot (66') lot width minimums. The applicants made their house narrow but when they decided to do a balcony they wanted to extend three (3') further into the north side yard than allowed by the ordinance. Anderson noted that while there were

some issues that had to be dealt with during construction, there are currently no outstanding issues. Anderson also noted that she received one letter in regards to this variance which she already provided to the board.

Bugge asked Anderson for confirmation that plans submitted to Anderson for site plan review were inconsistent with the original site plan. Anderson responded, "Yes, the decks and the balcony were not on the original site plan." Anderson stated that those amenities were on the construction plans, but not on the site plans.

Boyd asked about another variance granted in June 2013. Anderson said that was in a different zone and on a lot that would have to have variances to do anything. Bugge asked if the other variance has any resemblance to this request. Anderson said that was a very unusual situation and not really like this one.

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

All in favor. Motion carried.

Rich Bloem, Contractor/Applicant's Representative: Asked if the board had any questions.

Paull asked Anderson for clarification of lot width to which Anderson responded, "The zone requires sixty-six foot (66') wide lots but this lot is only fifty feet (50') wide." Anderson also pointed out that the south setback is larger than required.

Bugge asked why the balcony was not on the site plans. Bloem said the balcony was on the architectural drawings and the site plan only showed the foundation footprint. After explaining that the site plan should indicate any porches, decks and balconies Bugge noted, "You took a chance on submitting that site plan without the balcony." Bloem explained the requirements for what to include on a site plan can vary from township to township. Bugge suggested that Bloem be more careful about that in the future.

Boyd asked if there are any other bedrooms with balconies to which Bloem responded, "No, this is the only balcony off a bedroom."

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

All in favor. Motion carried.

Miller asked about the letter Anderson referenced, whether it was in favor or opposed. Boyd pointed out that a paper copy of the letter has been provided and that Anderson had stated there were no outstanding issues.

Motion by Boyd that this variance be approved seeing that it is a fifty foot (50') wide lot in a zone that usually has sixty foot (60') wide lots and that the applicants were trying to be good citizens by complying with the ordinance as much as possible.

Second by Miller.

Bugge said she has some issues with this request, noting that a balcony is not a property right; that the need for a variance is a self-created hardship and the setback is not unnecessarily burdensome, so she has concerns about granting this.

Miller pointed out that given one foot (1') is permissible and four feet (4') is impermissible without a variance and that a one foot (1') balcony serves no useful purpose and is probably almost as expensive as a four foot (4') balcony, he has no problem with "giving the folks a balcony so they can sit and look at the lake."

A roll call vote was taken:

Yeas: Miller, Paull, Boyd, Lewis

Nays: Bugge

Motion carried.

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.

Anderson said this property is the one that currently has the car wash; the applicant has been trying to develop a plan that will work on this property, which is not very deep. The original plan that was submitted required front, rear and side setback variances. The building was very large for the property. The applicant went back and redrew it so the side setbacks are no longer required. Anderson noted that the overlay makes for more strict landscaping requirements and the Planning Commission sub-committee knew this would be a difficult area when they were working on the overlay zone. Anderson stated that the applicant is adding planting all the way around the property and a fence replacing what is there. The required greenbelt along the street will not be possible due to the county right-of-way being deeper than had been realized. Anderson noted that next door to the applicant's property, the car lot cars are actually parked in the county right-of-way. The applicant has added some green plantings in the front, but if he had to meet the greenbelt requirement, he would not be able to provide the required parking.

Paull asked if the city has a requirement for a greenbelt that is unworkable. Anderson noted there are a few lots this stretch of street and at the time we worked on this we thought about doing this as different overlay or a separate zone; we didn't realize at the time how much parking is occurring in the county right-of-way in these properties. Anderson stated that several of the businesses along there would be in the same situation. Paull asked how many there were. Anderson said about three, including the laundromat and the car dealership. Lewis said maybe it's a problem for any of those businesses in that immediate area.

Boyd asked for clarification, "In the process of Mr. Wiltgen doing this plan, he has already shrunk the plan?" Anderson said yes, he did forego the side setbacks by redesigning the plan so it fits well.

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

All in favor. Motion carried.

Joe Wiltgen, 519 Virginia Avenue: Stated he would answer any questions.

Paul said. "We have a letter concerning litter and trash; how are you going to deal with that?" Wiltgen said, "There won't be that problem anymore; the new plan has a dumpster up front and an enclosure."

Bugge pointed out that the fence is dilapidated to which Anderson responded that there will be a green belt and a six foot (6') high fence. Bugge asked if there is something in the ordinance that states they have to keep the fence in good repair to which Anderson stated that Code Enforcement can make someone remove, replace or repair the fence and can also issue citations.

Paul asked about the green space requirements. Wiltgen responded that he has more than anyone, referring to the green on the county right-of-way in front of his lot, and will be adding more plus the driveway will be shrunken down. Wiltgen said the Cook Street side will have added greenery and also the rear lot line.

Bugge asked about the five foot (5') wide sidewalk in the back and what type of business Wiltgen is anticipating occupying the building. Wiltgen said he expects retail businesses or offices, noting that different uses have different needs. Bugge asked about access doors in the rear to which Wiltgen said, "Per code we have to have them," and noted that deliveries will be in the front during the morning business hours.

Bugge asked how much square footage Wiltgen took off the original plan. Wiltgen said he went from four (4) units in the building to three (3) units. Bugge asked why he was concerned with making smaller retail spaces. Wiltgen responded that you have to build to accommodate different types of businesses and there is a point where the units could just be too small, noting, "If you can't make any money by renting it you might as well not put it up."

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

All in favor. Motion carried.

Miller noted that there was anticipation of businesses occupying that property and that the ordinance was crafted to accommodate businesses. Miller also stated that the letter in opposition is very sincere but the litter problems have been inherent with the nature of the current business, something that is in the past. Miller suggests that it appears this is an excellent use of the land as anticipated by the overlay zone as drafted.

Lewis stated that he does not have any real issues with this request whatsoever. Lewis also sees the right-of-way from Blue Star as a problem and understands why it was a surprise to Anderson, noting that the green space at the front does meet the intent of the ordinance, even though it is not on the applicant's property. Lewis also pointed out that the neighbors to the west will not have cars running by their backyard and the trash will not be loose items

being moved from car and trunk to the trash can but bagged in the businesses and placed in the dumpster.

Motion by Boyd to approve the variance as requested because of the lot being very shallow for what would normally be used for a business; the right-of-way from Blue Star is prohibitively wide to not meet the letter of the law; the applicant is adding green space; and any commercial user would have to ask for this variance. Second by Miller.

A roll call vote was taken:

Yeas: Miller, Paull, Boyd, Bugge, Lewis

Nays: None

Motion carried.

Bugge noted the upkeep on this property has been very poor; landscape was not being maintained. These things need to be taken care of because the whole intent of this overlay zone was to make things look nicer. Boyd commented that since the applicant was planning to bring in the wrecking ball that he did not think he would have done a lot of maintenance.

7. Other Business

a) An interpretation of a section of the sign ordinance has been requested.

Anderson explained that one of the responsibilities of the Zoning Board of Appeals is interpretation; what text means; what the use of a zone is, etc. This interpretation is final and has the effect of law. The Planning Commission will then, at their next look at the ordinance, clarify the ZBA decision in the ordinance.

Anderson noted that she received a complaint about an alleged zoning violation involving a free-standing "For Rent" sign. Anderson looked at the Zoning Ordinance; under general sign provisions the ordinance defines a real estate sign as "a sign for sale, rent or lease". The complainant said she knew this but rental signs were a different story. Anderson pointed out that real estate signs were permitted under Permitted Signs in that residential zone, so she could not understand what the issue was here. Anderson told the complainant that she had to take this to the board of appeals since she, as Zoning Administrator, cannot change or add to the ordinance. Anderson said she later spoke with board member Dave Paull, knowing that he had a history with the city, who said he thought the rental ordinance may have been where that sign provision came in. Anderson noted staff did some research on the rental ordinance which has since been repealed. This led to a finding that residences with up to that residences with up to six (6) units were required to have a sign on the wall. The ordinance was not clear what sign that might be.

Paull said, "One of the issues we need to be fairly clear about is distinguishing between temporary real estate signs, properties for sale or for rent and those signs which advertise short-term temporary seasonal rentals." He thinks this is where the complainant is coming from. "The sign in question was for a temporary, seasonal, short-term rental. I've been driving around my neighborhood and noticing there were a few others; for short-term, temporary, seasonal rentals. These are not temporary signs for the long-term rental of a

house. Paull said back when we worked on the rental ordinance we tried to differentiate between these two types of rentals so the signs wouldn't be up all season long. We wanted the short-term rental signs to be regulated more, in size and in location, so as not to be intrusive in a residential neighborhood. A short-term rental is a business stuck in the middle of a residential area. I believed then and I believe now, that is not appropriate in a residential neighborhood."

Boyd asked, "Historically the rental ordinance doesn't exist?" Paull responded that the rental ordinance was passed by City Council and shortly thereafter it was repealed. Boyd asked if there are sign size restrictions to which Anderson responded, "Yes, the freestanding sign cannot be larger than six (6) square feet, must be five feet (5') from the property line and a maximum of six feet (6') in height. Boyd said, "So it is the "Vacation Rental by Owner" (VRBO) sign we are trying to regulate."

Paull proposed that the board tell the Planning Commission to create new ordinances regarding the control of those particular signs. Boyd stated that he likes that idea.

Bugge pointed out that the board is being asked to interpret the ordinance as written now, and until the Planning Commission adopts new text, we have to interpret the existing ordinance.

Anderson clarified, "You have to make an interpretation tonight and may also recommend something to the Planning Commission. "Are rental signs allowed to be free-standing or is there evidence in the ordinance that they have to be up against the wall?"

Miller asked if signage for short term rentals usually says weekly or monthly, how do you determine how much wording can fit on what size sign?

Bugge said we have definitions already in the ordinance, the first one is real estate sign: located on the property that is for sale, rent or lease. Then what was brought up was a temporary sign, any sign that is not constructed or intended for long term use and not permanently affixed to a structure. The way the ordinance stands right now, there is no distinction between signs advertising properties for sale, lease or rent. She mentioned the phrase, "unless allowed elsewhere in this ordinance".

Motion by Bugge, second by Paull that real estate signs, as defined, may be freestanding on residential properties, and to suggest that the Planning Commission look at a third category for signs which advertise short-term temporary seasonal rentals.

Lewis noted this was quite a problem when we did the sign ordinance; at the time we did not have a rental ordinance, and Sec. 2008 permitted temporary signs. Paull noted that these weekly rental signs tend to be more permanent than temporary. Boyd said it was a slippery slope then and still is and will remain, noting, "Perhaps encourage the Planning Commission that restrictions on size and how many, things like that, remembering that tourism is our industry and part of tourism is short term rental by owner." Paull commented that the house next door to him, which is typical, has a sign which leans up against the front wall all year long, and stated that he has not seen one person driving by looking for signs like that and picking up their cell phone or searching for the nearest phone booth. Paull noted that pulling people off the streets is not the type of tourism we want to encourage.

Boyd said in another community he has seen signs where the temporary sign can be removed from a more permanent sign. Bugge said these temporary signs are never in need of removal for short-term rentals.

Miller asked about the definition referred to in the motion which Bugge then read: "Real estate sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease." Miller said, "Let's interpret for allowing the signs for now and assign this to the Planning Commission."

All in favor. Motion carries.

8. Member Comments

Anderson: The May meeting is moved up a week, due to Memorial Day, to May 18th. We will be in the basement, due to conflicting with the City Council meeting on that date. We have two applications and possibly expect another tomorrow.

There were no other comments.

8. Adjourn

Motion by Paull, second by Boyd to adjourn at 7:55 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a Lot Coverage Variance

City of South Haven

Background Information: Haraldur and Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo, are seeking a variance to build a residence at 302 Michigan which will have 50% lot coverage where 40% lot coverage is the maximum allowed. The site plans indicate that the setbacks comply with the zone requirements for R1-A. The applicants state that they would like to build a home which is large enough to accommodate future barrier-free needs.

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
Proposed 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

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

Name: Grace & Haraldur Borgfjord Date: 04/21/15

Address: 9802 Sunnywood Drive, Kalamazoo Phone: 2699980617

Address of Property in Question: 302 Michigan Avenue Present Zoning of Property: R1A

Name of Property Owner(s): Grace Ann Borgfjord Living Trust

Dimensions and area of property 100.11' X 61.06'

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 R1A South R1A East R1A West R1A

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.

NO

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

NO

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).

No

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.

See Supplement Page

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.

See Supplement Page

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.

See supplement Page

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

See Supplement Page

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

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.

Gene Bergford
Property Owner

4.21.2015
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.

Harold + Gene Bergford
Applicant Signature

4.21.2015
Date

Zoning Variance Request

City of South Haven

Applicant: Grace & Haraldur Borgfjord

Response to application questions:

#4

The parcel in question has a great history in the community, as it was a place of worship for many years, and our home design will not only preserve the property but enhance the surrounding neighborhood. The footprint of this home is far less area coverage than some parcels in close proximity and the design has been created for applicants who are using this home as a year round residence. The variance request has not to do with financial gain, but in planning the next phase of our life. The design allows for barrier-free access to the entire home, wider door openings, an overall open floor plan, wider halls, a bathroom, and a garage, which will accommodate a wheelchair. We are planning for our needs during the design, and construction, then coming back and requesting a variance for our needs as we age.

#6

Once the church was removed the large parcel was divided into lot sizes similar to the surrounding parcels sometime in the 1990's. Many homes built in this area over time have far exceeded the 40% lot coverage as required by the City of South Haven. We are simply requesting a home built by today's standard most homeowners would require or expect amenities be built into the design for a year-round permanent residence.

#7

This parcel has met all setback, frontage, height, bulk, and density requirements. The current 40% area compliance would not allow us to build the design presented. This prevents us from the use of any overhangs on the design or a two-car garage, which is essential for the year-round weather conditions in South Haven.

#8

The variance is 10% over the current area requirement of the ordinance. A design of this nature will possess a home similar to many homes in the area/neighborhood, which again will maintain the integrity and value of South Haven real estate.

MICHIGAN

AVE. (66' R.O.W.)

AVE.

INDIANA

(66' R.O.W.)

CITY CONCRETE SIDEWALK 61.06'

LOT 9

5'-0"

15'-0"

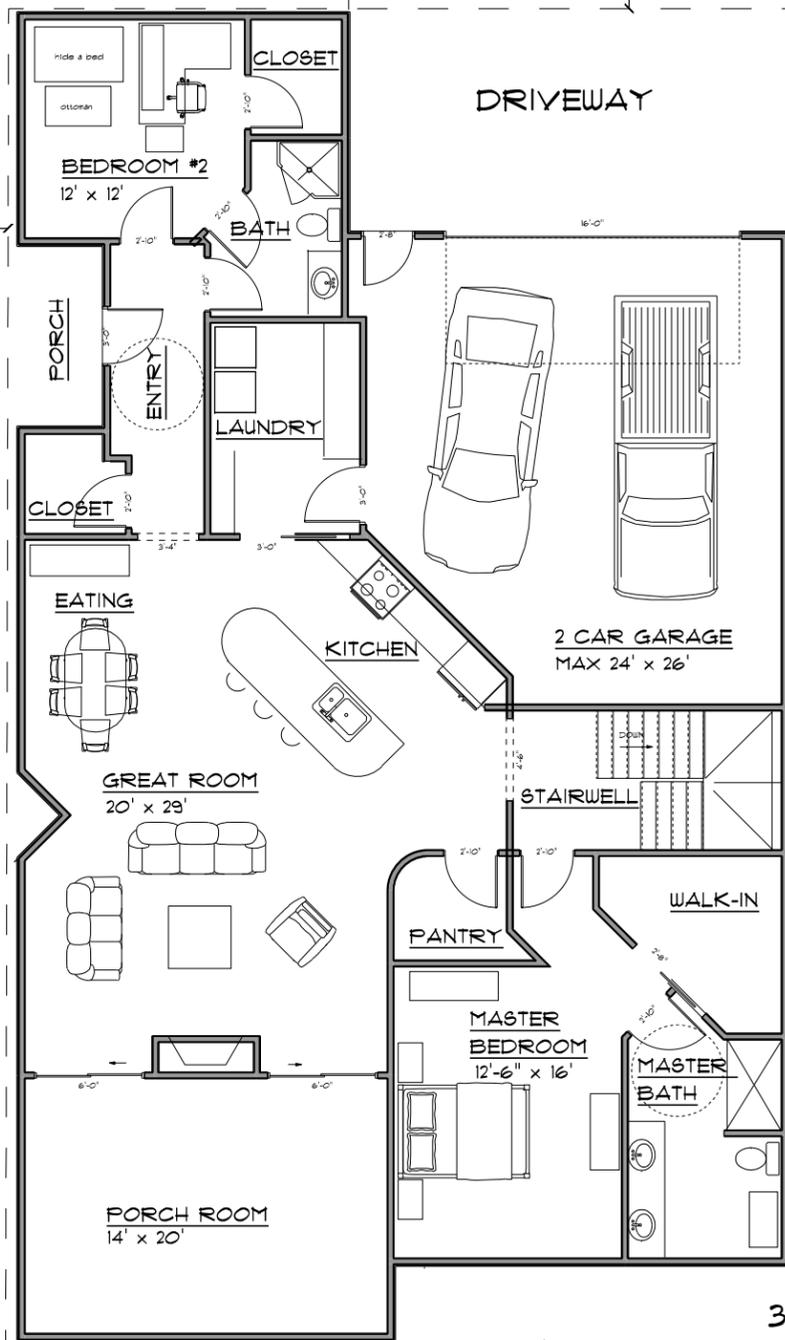
FRONT YARD SETBACK

10'-6"

5'-0"

15'-0"

FRONT YARD SETBACK



WOOD FENCE IS ONLINE +/-

100.11'

8

CITY CONCRETE SIDEWALK P=100.00'

CITY CONCRETE SIDEWALK

EXISTING TREE

LOT AREA: 6,106 SQ FT
 40% ALLOWABLE AREA = 2,442 SQ FT
 REQUESTING 50% = 3,053 SQ FT
 PROPOSED CONDITIONED
 LIVING SPACE= 1,111 SQ FT

PATIO

12'-0" SIDEYARD SETBACK

SIDEYARD SETBACK

61.06'

0'

15'

30'

SCALE

10

11

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: May 18, 2015
ADDRESS: 302 Michigan
ZONING DISTRICT: R1-A Single Family Residential
LOT DIMENSIONS: 61' wide; 100' deep
LOT AREA: 6106 square feet
LOT COVERAGE: vacant

PROPOSED SETBACK: 15 feet on both street fronts; 3' and 12' sides;

VARIANCE REQUEST: The applicant is asking for a variance in order to construct a residence which would have 50% lot coverage where 40% is the ordinance maximum.

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 meet the required setbacks.

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

The R1-A zone is intended for single family homes on lots smaller than allowed in the R1-B zone. This lot is 1106 square feet over the minimum size allowed in the R1-A district.

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 finds no exceptional or extraordinary conditions with the property which would justify the variance.

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.

Most other houses in this neighborhood appear to be in compliance with the lot coverage requirements and this lot is larger than most. The two (2) homes directly south of this lot, however, do have between 45 and 50 percent lot coverage. There is no reason that the applicants could not build a residence in compliance with the lot coverage requirements. 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-A zone comply with the lot coverage 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 construct a home which would exceed the maximum lot coverage requirements. The argument made by the applicants is that they need the house to be large to accommodate future barrier free needs.

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 construct a home on the property. The ZBA will need to determine whether the applicant's desire for a larger home 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 does not find any inherent problem with the property that would warrant the granting of the variance.**

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 Driveway Variance

City of South Haven

Background Information: Ben Brush of South Haven is requesting a variance from zoning ordinance section 1716, 1-c to allow construction of an industrial driveway which will be closer than 200 feet to an existing driveway on the property. The address for the property is 1400 Kalamazoo Street and the property owner of record is Bernard Pero. The applicant is proposing to use the existing building as a large engine repair facility. He intends to have trucks drive around the side of the building to access through the existing rear doors and then allow the trucks to exit by driving out the proposed large front doors. The option of having the large trucks maneuver around the rear of the building for egress is not allowed as that area is floodplain. If the variance is not granted, the property will not be able to serve the use intended

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
Aerial
Street view
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

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

Name: Ben Brusl

Date: 4-27-15

Address: 06760 CR 689 So. Haven

Phone: 269-637-2501

Address of Property in Question: 1400 KALAMAZOO Street

Present Zoning of Property: I-1 ^{Light} Industrial

Name of Property Owner(s): Bernard Pero

Dimensions and area of property Lot size 300' x 767.5'± 5.24 Acres

Dimensions of all buildings on the property (also shown on a diagram) See site plan

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

See site plan

Present Zoning of Neighboring Properties to the :

North ^{Light} I-1 Industrial South ^{Light} I-1 Industrial East ^{General Industrial} I-1 & I-2 West I-1

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): 1716 Access STANDARDS Paragraph 1C.

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.

See ATTACHED

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).

SEE ATTACHED

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.

SEE ATTACHED

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.

SEE ATTACHED

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.

SEE ATTACHED

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.

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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.

Barney L. Piro
Property Owner

4-27-15
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.

[Signature]
Applicant Signature

4-27-15
Date

ZONING VARIANCE REQUEST
CITY OF SOUTH HAVEN – BEN BRUSH APPLICATION
ANSWERS TO QUESTIONS 1-9 OF APPLICATION

Mr. Brush operates an auto repair shop that specializes in servicing semi trucks and trailers as well as any other types of vehicles. Mr. Brush is looking to relocate his business to the City of South Haven at the site located at 1400 Kalamazoo Street. Mr. Brush is applying for a variance that will allow him to add an additional driveway to the site in question as shown on the site map attached. This driveway will allow Mr. Brush to pull semi trucks and larger vehicles in from the west side of the existing building, service the vehicles and exit them out the east side of the existing building onto Kalamazoo Street. Without this exiting drive, Mr. Brush would have problems with semi trucks and trailers getting blocked in the service building or have to deal with backing a semi truck and trailer over 200 feet in and out of the building. This is a problem at his current auto repair shop location. Currently, there are two access drives to the site, one drive each on the north side and south side of the site. The north drive will be used by employees and customers, the south drive will be used for the office space on the south side of the building.

The following are the answers/responses to the questions on the variance application:

- 1) An additional driveway will not be detrimental to the adjacent properties and the surrounding neighborhood. All of the surrounding properties are zoned light industrial or general industrial. The proposed additional driveway is not directly across from any major access drive of an adjacent property. The proposed driveway will not yield a high traffic flow, it will be for repaired vehicles leaving the service shop only.
- 2) The proposed variance will not impair the intent and purpose of this ordinance as it will allow for “in and out” drives for the service building which is needed to allow for Mr. Brush to utilize the existing building and site as it currently exists. Mr. Brush is only asking for a driveway to exit vehicles from his place of business after the vehicles have been serviced, to optimize the current building layout.
- 3) The existing building is approximately 212 feet in length, and Mr. Brush is planning on pulling in semi trucks and trailers and other vehicles to the proposed site, using the existing north drive to access the back of the building, at which point he will create a turn area for the vehicles to enter the building from the west side. The vehicles will be entered into the shop, repaired, and exited out the east side of the building through three proposed overhead doors on the east side of building, utilizing the proposed exiting driveway. The proposed driveway will allow Mr. Brush to utilize the existing parcel and building as desired to create the best possible layout for his business.
- 4) Other properties in the industrial district have access to their corresponding buildings on the site as needed to operate their business efficiently. Mr. Brush is only looking to add an additional drive to exit vehicles from the long existing building on the subject property.

- 5) The current site, with the existing 212 feet long building is a unique design and layout to the area. Mr. Brush's business of working on semi trucks and trailers will work good at this site with the existing structures provided he can get and exit drive out the east side of the building.
- 6) Mr. Brush is trying to relocate his business to the City of South Haven. The structures on the site are existing, Mr. Brush is just trying to make the current site with existing structures work to allow for his business to operate as desired.
- 7) Mr. Brush is only looking for an additional exiting driveway from the existing structure on the subject property. He is not looking for any variances regarding area, setbacks, frontage, height, bulk, or density.
- 8) Mr. Brush is only looking to have an exiting driveway from the east side of the existing structure where the servicing of the vehicles will be performed. He will propose three bay overhead doors for vehicles to exit the building, thus he is only asking for a driveway to be extended off the eastern most portion of the easting building to Kalamazoo Street.
- 9) The variance is being requested specifically for the subject property that Mr. Brush is looking to purchase at 1400 Kalamazoo Street, and is site specific as shown on the attached site plan.

2011 ORTHO AERIAL MAPS

Showing Parcel Lines and Labels



2011 Digital Orthophotographs

The original photographs displayed here were taken in the spring of 2011. The 'best resolution' of these images is 0.5 feet per pixel.

Digital ortho photography consists of images processed by computer to remove the distortions caused by tilt of the aircraft and topographic relief in the landscape. These images are properly scaled and located in the state plane coordinate system (NAD83) thus giving them similar characteristics of a map.

-  100 US Feet
-  2011 Digital Orthophotograph
-  Municipal Name
-  Municipal Border
-  Railroads
-  Public Roads
-  Property Lines
-  Subdivision Lines
-  Condominiums Lines

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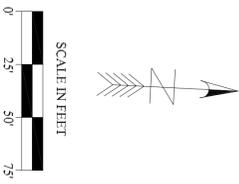
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EMCO
ELECTRICAL MECHANICAL CONTRACTORS
1400
KALAMAZOO ST
MUSKEGON, MI 49444

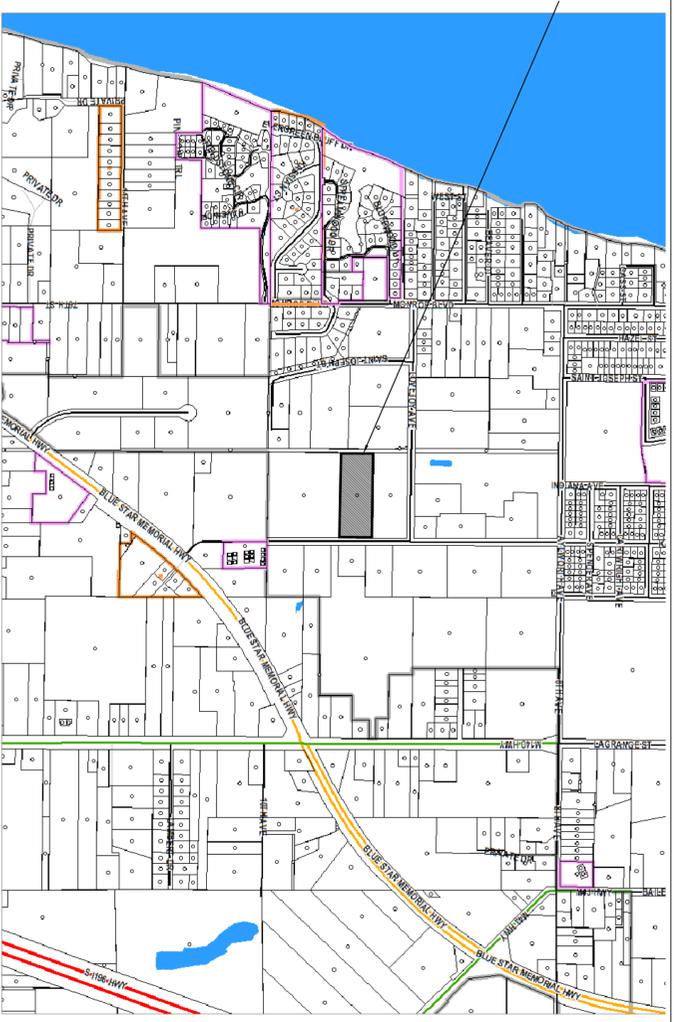
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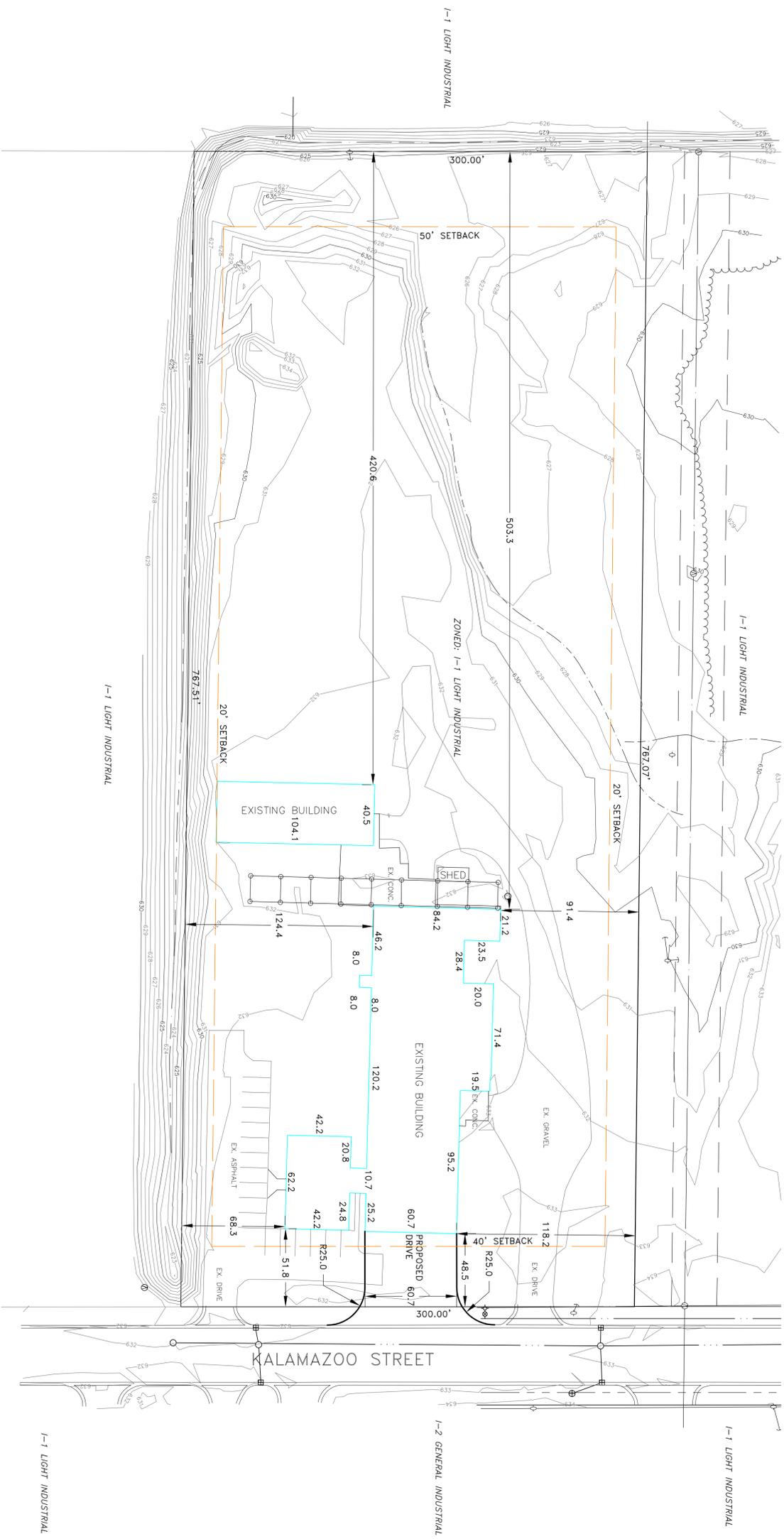
SITE LOCATION



PROPERTY DESCRIPTION:
 TAX I.D. 80-53-220-009-00
 LOT 9 IRVING T OLSON INDUSTRIAL SUBDIVISION
 LOCATED IN THE CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN
 AREA=5.28 ACRES
 ZONED: I-1 LIGHT INDUSTRIAL



SITE LOCATION MAP



I-1 LIGHT INDUSTRIAL

MCE

MIDWEST CIVIL ENGINEERS, INC.
 CIVIL ENGINEERING • LAND SURVEYING • ARCHITECTURE
 SOUTH HAVEN, MI 49080
 PH: 268-637-9205
 FX: 268-637-9206

BEN BRUSH

PRELIMINARY SITE PLAN

DATE	1" = 40'	04/2015	RP
REVISIONS			

SHEET	1	OF	1	PROJECT NO.	15-061
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STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: May 18, 2015
ADDRESS: 1400 Kalamazoo
ZONING DISTRICT: I-1 Light Industrial
LOT DIMENSIONS: 300' along Kalamazoo; 768' deep
LOT AREA: 5.28 acres
LOT COVERAGE: N/A in the I-1 zone

PROPOSED SETBACK: Front– 48 feet; Sides – 91/124 feet; Rear – 503 feet.

VARIANCE REQUEST: Ben Brush of South Haven is requesting a variance from zoning ordinance section 1716, 1-c to allow construction of an industrial driveway which will be closer than 200 feet to an existing driveway on the property. The address for the property is 1400 Kalamazoo Street and the parcel number for the property is 80-53-220-009-00. The property owner of record is Bernard Pero.

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 industrially zoned and planned area. The additional door will not be detrimental to the surrounding neighborhood or to traffic flow in the area.

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

Section 1100 of the zoning ordinance lists the following specific purposes of the I-1 zone:

- a) **To provide sufficient space, in appropriate locations, to meet the needs of the municipality's expected future economy for many types of manufacturing and related uses.**
- b) **To protect abutting residential districts by separating them from manufacturing activities and by prohibiting the use of such industrial areas for new residential development.**
- c) **To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor and other nuisances.**
- d) **To protect the most desirable use of land in accordance with a well-considered plan.**
- e) **To protect the character and established pattern of adjacent development and, in each area, to conserve the value of land and buildings and other structures.**

f) To protect the municipality's tax revenue.

The variance request does not impair the intent or purpose of the 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).

In this case, the exceptional condition applies to the proposed use of the property. The applicant is proposing to use the existing building as a large engine repair facility. He intends to have trucks drive around the side of the building to access through the existing rear doors and then allow the trucks to exit by driving out the proposed large front doors. The option of having the large trucks maneuver around the rear of the building for egress is not allowed as that area is floodplain. If the variance is not granted, the property will not be able to serve the use intended.

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 is asking for the variance in order to use the property for a permitted use. This building has recently been used for boat storage but an industrial use is much more suited to the property. There appears to be no financial motive except for the owner to increase his business.

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 is an unusual request in that it applies more to the intended business than to the property. There should be no ordinance amendment drafted to support this request.

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 reuse the property and building to increase his business.

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 will likely not be able to use the property as he intends.

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 the minimum necessary.

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

The variance request only involves the property which will be owned by the applicant.