

Zoning Board of Appeals

Regular Meeting Agenda

Monday, May 23, 2016
7:00 p.m., City Council Chambers

REVISED 5-19-2016



City of South Haven

1. Call to Order
2. Roll Call
- 2a. Election of Officers
3. Approval of Agenda
4. Approval of Minutes – March 28, 2016
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – Public Hearing
 - a) Susan Worthley of 231 Huron Street (80-53-021-002-00) is asking for three (3) variances in order to make alterations to her Huron Street property. The variances requested are:
 - Expansion of a legal non-conforming structure
 - Lot coverage increase to 51% where 40% is maximum
 - Front steps to within 1.5 feet of lot line where six (6) feet is the minimum
 - Rear setback 24 feet where 25 feet in the minimum
7. Commissioner Comments
8. Adjourn

RESPECTFULLY SUBMITTED,

Linda Anderson
Zoning Administrator

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

Zoning Board of Appeals

Regular Meeting Minutes

Monday, March 28, 2016, 2015
7:00 p.m., City Council Chambers



City of South Haven

1. Call to Order by Lewis

2. Roll Call

Present: Scott Boyd, Mary Lynn Bugge, Dave Paull, Tom Stegeman, Mark Wheeler,
Alternate Member Bob McAlear
Absent: Dave Miller

3. Approval of Agenda

Motion by Bugge, second by McAlear to approve the March 28, 2016 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – January 25, 2016 and February 8, 2016 (Special Meeting)

Motion by Bugge, second by Paull to approve the January 25, 2016 Regular Meeting minutes with the following correction.

- Page 2, sixth paragraph, line 9; after the word forty-four change the word “feet” to “inches.”

All in favor. Motion carried.

Motion by Wheeler second by Stegeman to approve the Feb 8, 2016 Special Meeting minutes as written.

All in favor. Motion carried.

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

None at this time.

6. New Business – Public Hearing

Mike Kane, Quality Construction of South Haven is requesting a variance to construct an eight (8) foot fence in a residential side yard. The maximum height allowed by Zoning Ordinance Section 1724, Fences and Landscaping Structures, is six (6) feet.

Anderson noted the subject property is located is located at 1000 Monroe Boulevard. The variance is from Section 1724 of the Zoning Ordinance which limits fences in side and rear yards to 6 feet high. A variance of 2 feet to allow a fence 8 feet high is requested to provide privacy from the proposed swimming pool next door.

Lewis stated that during the public hearing we will be talking about the fence only, not the rental ordinance or any other structures on the properties.

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

All in favor. Motion carried.

Mike Kane, Quality Construction, representing the owners, John and Susan Woodhull. Stated he has been asked to construct a fence. "They currently have a 4' fence you can see through. They are concerned with privacy due to construction next door." Stated he has pictures from 3 different points in their yard including the main bathroom and an office area "Mrs. Woodhull spends a ton of time in. Describing a photograph he provided, Kane noted that the bushes are about 6 feet tall and the gentleman in the green hoody is down in a trench where the pool is going to be. The 6' fence would cut off the view of him, but if he were standing on the ground, a 6' fence wouldn't do it".

Kane also brought photos of what he would like to build and noted that the fence itself is six feet high with a 2-foot lattice section above that would take care of the privacy issue.

Lewis asked if the picture was of a 6' or 8' fence to which Kane responded that he does not know. The picture provided is just an example of the style he wants to build to take care of both view reduction from their house. If the fence were to be constructed, the only ones viewing it would be Woodhull's neighbor to the south and their neighbor to the west. Kane stated, "If you were to drive by you wouldn't really see if unless you were to crane your neck." Kane noted that the previously installed four foot high fence would be re-installed up to three feet from the sidewalk.

Wheeler said, "As I hear it, your rationale is partly because their house sits higher, about two feet higher than grade.

Boyd commented, "You said three to four years ago the Woodhull's installed see through fence. Today they have the same view." Kane responded that the shadow box style he is proposing helps alleviate noise and view.

Lewis asked, "Are you are trying to protect the view to the house or from the house?" Kane said the customer told him they wanted to block their view looking down from their house to the proposed pool area.

Bugge asked how this house differs from other houses, which are probably also above grade to which Kane responded, "Maybe the angle of the house and the proximity of the pool." Bugge asked, "You said the house is 10 feet from the property line?" Kane responded, "That would be the closest point." Bugge asked whether the furthest corner from the house to the lot line is 40 feet, the pool house is 12' wide and 12' high, then the pool is after that point and she commented, "There is a substantial distance from their house to the pool with the pool house between. It is not unusual to have a pool 30 feet from the house."

Lewis asked what makes this property so special that is unique to everyone else in the town. Kane said he would leave that up to each individual property owner to propose alterations and what their back yard looked like whether a possible fence would amend what they see as a problem.

McAlear said he got a variance for an eight foot fence; that he had a similar situation to what you are talking about, "My house sat a little higher. I and the neighbor got together and got the variance".

Kane said he has emails from neighbors who were supposed to report if they had an aversion to this fence. Anderson noted the Zoning Board has received all emails.

Jim Sheppers, 52 Lake Court. Noted he lives 3 houses north of the Woodhull house. "It's very important in the city that we're in that we afford the opportunity to people to do what they need to do to maintain their privacy."

Steve Runkle, 16 Pine Street. Lives directly west of the Woodhull's. Thinks the eight foot fence will be perfect. Stated that the other fence was installed two years ago and with the changes going into the neighboring house he is in support of an eight foot fence.

Lewis asked if there were any other comments and called for a motion to close the public hearing.

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

All in favor. Motion carried.

Boyd stated he wants clarity about whether the potential builder, when referring to the wrought iron open fence versus the shadow box closed fence, was referring to the ability to see through rather than close it off, not the height.

McAlear said there is a precedent because he has such a fence and it works well for him and his neighbor. Paull asked why McAlear and his neighbor asked to have it installed. McAlear said his house has a sun room and the neighbor has a hot tub. "The fence solved the privacy issues for us both."

Lewis stated he has a problem with this and asked, "What is the difference between a yard and a pool in the yard? Children can be out playing and making noise in an open yard." He stated his concern about setting a bad precedent.

Wheeler stated that he has a definite appreciation for privacy issues. "It's hard to draw the line when others come in asking for an eight foot fence. Do we really want to get into that? Telling a homeowner they have a minor privacy issue but another homeowner has a larger privacy issue?"

Boyd asked for clarification on the fence requirements, which Anderson explained that in the front yard a 4 foot fence is permitted, while in the side and rear yards a 6 foot fence is permitted by the Zoning Ordinance. Boyd commented, "They just installed the 4' fence 2 years ago."

McAlear noted that having experience, he can state that the only people it affects are the people on both sides of the fence.

Bugge pointed out that there was a letter from the owner on the other side of the proposed fence in opposition. "It's not who is in this house now and who lives in that house now; we aren't looking at the persons, but at the property. The city has chosen to make the standard 6 feet. This doesn't vary from place to place, if the city wanted to establish a higher fence standard they could. This is the standard the city has chosen to do, unless it is something exceptional. This is not an unusual situation; this will be 8 feet tall on both sides. One person may like it but the other has an objection."

Lewis pointed out that the inability to install an 8 foot tall fence does not stop landscaping that is 8' tall. Boyd said, "You can put arbor vitae on one section of the fence." Lewis noted this is true. Boyd noted that Bugge has helped us on other projects by suggesting landscaping.

Paull stated, "I want a dome. Any approval of something like this that you make, in essence it's a precedent. And anytime someone just doesn't like a pool being put in their neighbor's yard it sets a precedent. He added, "when I first read this; the first thing I thought of is a spite fence. It's not 'let's get along and let's learn to get along'. I live in a rental neighborhood and get along with most of my neighbors most of the time. I need to be able to get along and work with my neighbors and an 8 foot fence doesn't encourage that. And if you go through the standards we have established in the ordinance, as a board to determine whether or not a variance is acceptable, there is nothing that fits. It's a bad idea."

Wheeler noted that if the standard is a 6 foot fence then the property needs to be non-standard for us to deviate from the standard 6 foot fence.

Motion by Paull, second by Wheeler to deny the request for an 8 foot fence at 1000 Monroe Boulevard.

A Roll call vote was called.

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

Motion carried.

The request was denied.

7. Commissioner Comments

Bugge asked if we established a calendar for this year. Anderson answered yes.

Lewis asked for an update on the auto detailing shop landscaping and Anderson said she has sent a letter to the property owner. If not done by end of April we will take the necessary steps to revoke the permit. Lewis stated that is generous and Anderson pointed out that the property owner was required to install annuals, and she is hesitant to require setting out annuals any earlier.

Lewis noted that Woodhams must have found a way to make it work. Anderson said corporate told them to move the wall back.

Bugge stated that she said corporations know there are standards and if you tell them they have to do something, they usually will.

8. Adjourn

Motion by Bugge, second by Boyd to adjourn at 7:30 p.m.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a 231 Huron Dimensional Variances

City of South Haven

Background Information: Susan Worthley of 231 Huron Street (80-53-021-002-00) is asking for three (3) variances in order to make alterations to her Huron Street property. The existing structure and the lot are both legally non-conforming. The lot is 3000 square feet in area where 5000 square feet is the zone minimum. The structures on the property total 47.45% lot coverage where 40% is the maximum permitted.

The variances requested are:

- a. Lot coverage increase to 51% where 40% is maximum
- b. Front steps to within 1.5 feet of lot line where six (6) feet is the minimum
- c. Rear setback 24 feet where 25 feet in the minimum

An aerial photo of the property showing the required setbacks for the R1-A zone is included in this agenda packet.

Recommendation: Staff recommends that the ZBA members review all attached and visit the property before making a determination on the variance. The members must find that the request complies with all standards of zoning ordinance section 2205 to approve a variance. Each of the three variance requests should be acted on individually.

Support Material:

Application and narrative
Aerial showing required setback lines for 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: _____ Date: 4.19.16

Address: 231 Huron Street Phone: 630.272.1684

Address of Property in Question: same Present Zoning of Property: R1-A

Name of Property Owner(s): Susan T. Worthley

Dimensions and area of property 30' x 100' non conforming lot

Dimensions of all buildings on the property (also shown on a diagram) east side 36.9', north side 19.0', west side 38.9' south side 22.5'. 12'x24'x12'x24' garage.

Setback measurements of all structures on the property (also shown on diagram)
west side of house 4.2'. west side of garage 2.1'. north side of garage 1.6' and 1.0'.

Present Zoning of Neighboring Properties to the :
North R1-A South R1-A East CBD West R1-A

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): ?Lot coverage; exp. Non-conform; front setback

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 PAGES.

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

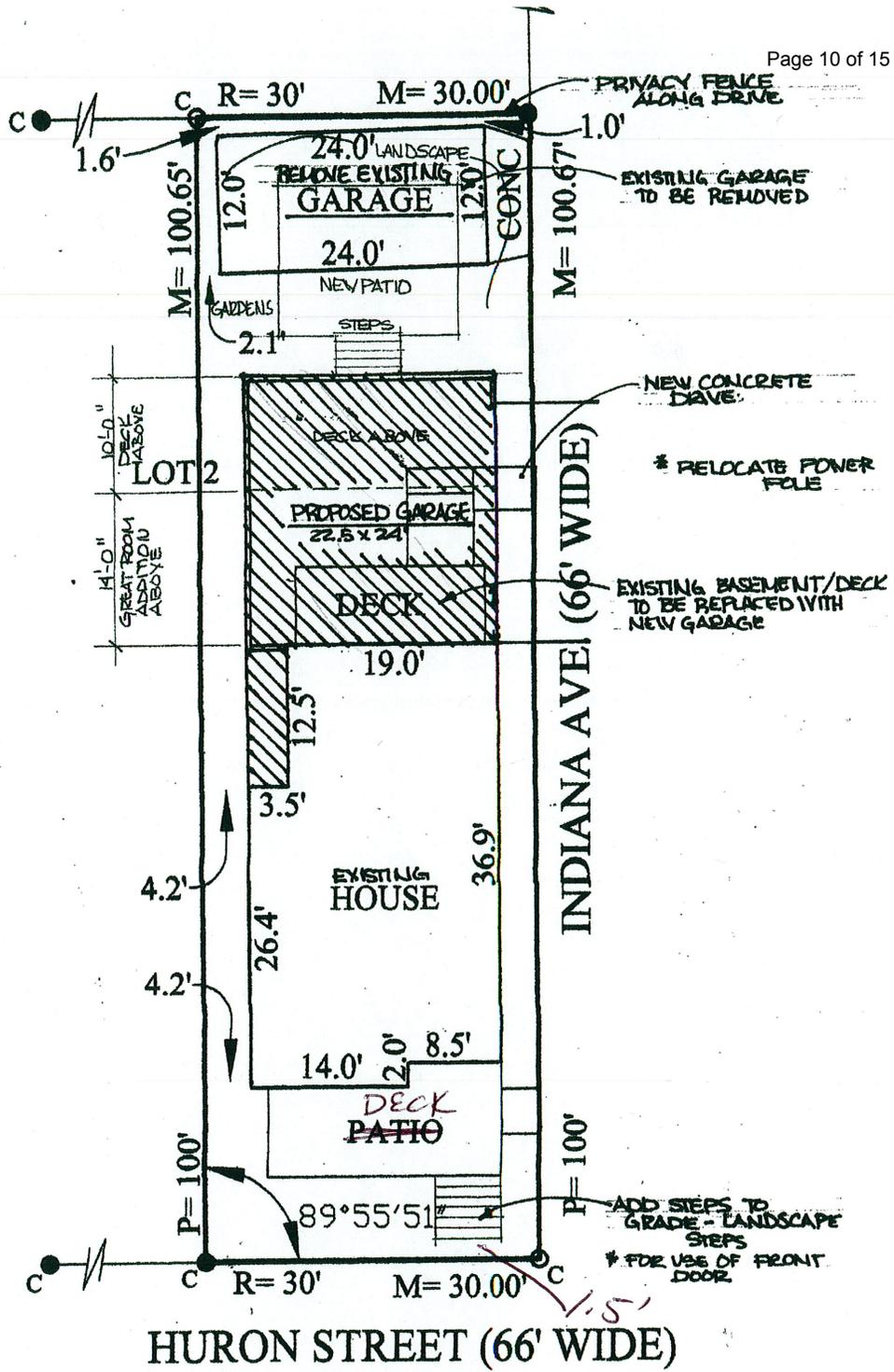
3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical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

4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

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

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

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



WORTHLEY SITE PLAN • 1" = 10'-0"

SETBACK	EXISTING	PROPOSED
HURON ST.	7.5' TO PORCH	ADD LANDSCAPE STEPS TO USE ENTRY
INDIANA ST.	3'+	TO MATCH EXISTING
SIDE	4.2'	4.2' TO MATCH
REAR HOUSE	40' ±	24'-0"
REAR EX. GARAGE	1'	TO BE REMOVED

LOT COVERAGE:
 LOT SQ. FT.: 3000 SF * NON CONFORMING LOT
 EXISTING SF COV: 1423.5 SF
 EXISTING LOT COV: 47.45% IF ON CONFORMING LOT 28.47%
 PROPOSED STRUCT: 1539.5 SF
 PROPOSED LOT COV: 51% IF ON CONFORMING LOT: 31%
 * CONFORMING LOT SIZE: 5000 SF.

* HEIGHT OF STRUCTURE TO BE EXISTING.

Standards Summary:

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

Comment: In our opinion, the improvements we are requesting via the variance, will not be detrimental to other properties, but add to the enhancements of other properties in our immediate neighborhood, also approved by the building department.

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

Comment: In our opinion, the variance is requesting what should be considered aesthetic upgrades to our future home and thus the entire neighborhood.

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 if unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved or to the intended use of the property.

Comment: Exceptional circumstances do apply to the property, since the house stands on a non conforming lot. In order for us to make this property our full time residence, we need to improvements that are common to other residences in South Haven. One significant need is a functional two car garage that we can use year around, particularly in the winter months, since street parking is not allowed from November 15 to Feb 15.

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.

Comment: Our goal of making improvements is to make the house more practical and functional for us to reside in full time, and not for financial gain. Similar improvements in our neighborhood have been made to numerous properties since 2004 when we purchased this house. Since 2004, there have been many other property improvements on both Indiana and Huron streets, that have created a neighborhood of character.

2015 ORTHO AERIAL MAPS

Showing Parcel Lines and Labels



2015 Digital Orthophotographs

The original photographs displayed here were taken in the spring of 2015. 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.


 60 US Feet

-  2015 Digital Orthophotograph
-  Municipal Name
Municipal Border
-  Railroads
-  Public Roads
-  Property Lines
-  Subdivision Lines
-  Condominiums Lines

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231 Huron St R-1A Setback Requirements



100 ft

30 ft

25 ft

60 ft

15 ft

7.5 ft

7.5 ft

15 ft

INDIANA AVE

HURON ST

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: May 23, 2016
ADDRESS: 231 Huron Street
ZONING DISTRICT: R1-A Single Family Residential
LOT DIMENSIONS: 30'x100'
LOT AREA: 3,000 square feet
LOT COVERAGE: 47.45%
REQUIRED FRONT SETBACK: 15 feet

VARIANCE REQUEST: The applicant is asking for relief in order to expand a non-conforming structure in the following ways:

- 1) Increase lot coverage to 51%. The maximum lot coverage allowed is 40% and the property already has a 47.45% coverage;
- 2) Construct front steps to within 1.5 feet of the lot line where 6 feet is the minimum, (house is setback approximately 8 feet currently where 15 feet is required), and
- 3) Constructing new steps in the rear setback of 24 feet where 25 feet is the minimum.

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

STAFF FINDINGS OF FACT

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

This property is in a residential zone and involves the expansion of a residential use. The proposal would not move the house closer to the side lot lines and a garage in the rear yard will be removed creating more open space than currently exists.

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

Single family homes are permitted in the R1-A zone and this request does not impair that intent. The applicant states that the variances are necessary because the lot is so undersized for the zone.

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 R1-A zone is intended for single family homes on lots with a minimum size of 5000 square feet and 50 feet of width. This lot has 3000 square feet with a width of 30. Staff believes this creates practical difficulty in meeting the setback requirements and lot coverage.

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.

This applicant obviously could use and enjoy the property as a residence because such a situation currently exists. Most other lots in the neighborhood are in compliance with required lot size and thus may have homes larger than the one on the subject property. The ZBA will need to determine if the desire for a larger home is grounds for a variance. 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 make additions to the home which increases the existing nonconformity. The only argument for the addition made by the applicant is a desire to improve the property and thus the neighborhood. The ZBA needs to determine if this justifies additional variance for the house.

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 enjoy 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 find an inherent problem with the property in that the size and frontage are considerably smaller than the district minimum.**

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.**