

Zoning Board of Appeals

Regular Meeting Agenda

Monday, July 20, 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** – June 20, 2015
5. **Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**
6. **New Business – Public Hearings**
 - a. Coastal Landscaping, Inc. of South Haven requests a variance to construct accessory structures and landscaping on a parcel without a principal structure as is required in zoning ordinance section 1708-6. The subject properties are located at 53, 55 and 57 Northshore Drive and at 97 and 99 Esplanade. Parcel numbers are:

80-53-803-001-10
80-53-803-001-20
80-53-803-001-30
80-53-803-001-40
 - b. A request from Alicia and Kevin McMahan of 226 Prospect Street to add a roof to a nonconforming front porch. The porch is 10 feet 4 inches from the front lot line where 25 feet is required. The parcel number for this property is 80-53-767-005-10. This is a variance from zoning ordinance section 1913.
7. **Commissioner Comments**
9. **Adjourn**

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.

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 Clerk. Individuals with disabilities requiring services should contact the City Clerk by writing or calling South Haven City Hall at (269) 637-0750.

Zoning Board of Appeals

Regular Meeting Minutes

Monday, June 22, 2015
7:00 p.m., 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, Stegeman, Wheeler, Lewis
Absent: None

3. Approval of Agenda

Motion by Bugge second by Wheeler to approve the June 22, 2015 regular meeting agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – May 18, 2015

Motion by Bugge second by Miller to approve the May 18, 2015 regular meeting minutes as corrected.

All in favor. Motion carried.

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

None at this time.

6. New Business – Public Hearings

- a. Haraldur and Grace Borgfjord, 9802 Sunnywood Drive, Kalamazoo, are seeking two variances for a proposed residence at 302 Michigan which will have 46.5% lot coverage where 40% lot coverage is the maximum allowed. The residence will also have a rear yard setback of 16 feet 3 inches for a portion of the building where the minimum allowed is 25 feet.

Anderson noted that the Borgfjords made some adjustments to the previously submitted variance requests; the neighbors were re-noticed and the request was published.

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

All in favor. Motion carried.

Grace Borgfjord distributed handouts to the board which she stated are numbered to follow her presentation.

Borgfjord stated that the board got four letters including one today.

Borgfjord spoke to the first letter from Mr. Nulty, noting several points made by Nulty, including that Nulty states he built the home, he did not say it is not his home but is a rental. Stated Nulty's letter says all ordinances were complied with, but stated that the driveway to the unit is less than fifteen feet (15') and referenced pictures #1 & #2, stating that this truck encroaches on the sidewalk and neighbors have said that anyone that rents that unit hang over the sidewalk. Borgfjord noted that Mr. Nulty said the Borgfjord requests are not in order.

Boyd interjected and asked whether the applicant plans to give a dissertation on every point in each letter received. Borgfjord said she just wanted to present her side.

Borgfjord referenced a meeting on previous other business; this board contemplating complaints about a free standing "for rent" signs. Borgfjord stated that it is interesting that Mr. Paull said the difference was between real estate signs and temporary seasonal rentals. Borgfjord stated that Paull said when he worked on the ordinance he tried to differentiate between short-term rental and regular rental signs.

Chair Lewis questioned how the rental sign issue pertains to this matter to which Borgfjord responded that she just wants to explain her position.

Wheeler asked if Borgfjord's point is that the letter writer has no standing to oppose her and Borgfjord said yes.

Borgfjord explained about the ADA (Americans with Disabilities Act) requirements and how the Borgfjords could build the house to the correct coverage and come back next year if they have the need for it and add ramps as required. Borgfjord also explained that they thought about putting a detached garage in the southeast corner but decided that putting a two-car garage so close to the property lines would be not as nice for the neighbors. "We thought this would be nicer for the neighbors."

Borgfjord explained that their current house is ADA, she was able to care for her mother during her final days and that she has an older brother who has cerebral palsy who does quite well usually but after his surgery, during his recovery, he stayed with the Borgfjords who cared for him. Borgfjord stated, "We value being able to build a house like this to be able to do this."

Miller noted that the plan shows one level at seventeen hundred twenty (1720) square feet and asked if the Borgfjord's reason for not having a second floor was because the person with disability would not be able to use the second floor. Borgfjord responded, "Yes, that is

the reason.” Discussion ensued regarding building a house with a smaller footprint and a second floor which could be accessed via elevator.

Paull asked, “Given the fact that you desire to have a completely barrier-free home, why do you have a lot that is too small for such a home? There are many sites in the city that are larger that would accommodate such a home. Why did you buy a lot that is too small?” Borgfjord said she and her husband wanted to be close to town with the ability to walk to town, noting, “We wanted a place closer to town and there is not much for sale that close; it’s always been my dream to live in a walkable neighborhood.” Paull replied that he could walk to town and he lives on the north side.

Pat Gaston, 97 Superior Street. Stated she is opposed to the variances; that she understands what the applicants want but Gaston lives in the city and built here, noting, “I don’t know, I could be wrong, but I don’t know of any variance that has been granted on an empty lot building in this town. If you have an empty lot, you know the zoning code and build to that specification. I know these are responsible intelligent people and when they purchased the lot they knew the zoning code. We built a home in the past ten (10) years; we were told that we were too big and too high, we lived by the zoning code.” Gaston stated that in the past, some people have ignored the zoning code, built over the lot requirements and had to slice off a part of their home because they over-built on the lot. Gaston believes that if you allow this variance, you are allowing them what they want but taking away from the neighbors. “The neighbors expect you to go by the site ordinances. I understand what they want, but we have a code, we should abide by the code. This is not some weird house built forty (40) years ago and they want to build a little thing here.”

Lewis noted that the city did have one empty lot which the ZBA had to grant a variance on; otherwise the house would have been one foot (1’) wide. Anderson explained that it was a fifty foot (50’) lot with twenty-five foot (25’) setbacks.

Brian Pennings, Pennings & Sons, 5829 West KL Avenue, Kalamazoo, MI 49009: Stated that as the builder he has a vested interest in seeing this go through. Noted that the applicants’ main desire is to be a resident in the City of South Haven; they realize they are getting toward retirement age and planning for future eventualities. Pennings noted that building a house that is ADA compliant does require building a house that is larger. “Could we build a smaller house? Yes, we could, but not with the addition of the ADA compliance.” Pennings noted that the ramps have been granted in the past. “We are trying to make the house livable without the need to add ramps. Want to put in a driveway that can be parked on without hanging over the sidewalk. We have taken less space in the rear to offset that.”

Lewis pointed out that city code only requires that enough space be provided to park two (2) vehicles and added, “Last time you requested 50% lot coverage, that was reduced in this request but added nine feet (9’) of setback variance.”

Pennings explained that the previous house was designed based on an incorrect idea of the rear and side setbacks. “We widened the house and were able to take less lot coverage, but that encroaches into the rear set back.”

Bugge noted the applicants “did not have a back yard on the first one.”

Bugge pointed out that handicap accessible ramps are not variances. Anderson explained, "That is correct; they are approved administratively, due to requirements we have to follow. They have to be certain sizes; cannot come straight out from the door to the sidewalk; have certain curves; cannot be enclosed and is the one structure allowed in the front yard."

Penning asked, "If we were to design a new home with the ramp encroaching on the front yard that would be acceptable?" Anderson said as long as there is no other reasonable place to put it a ramp may go in the front yard and can be approved administratively.

Lewis asked if anyone else wants to speak.

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

All in favor. Motion carried.

Lewis stated that he is disappointed that the applicants did not try to comply more, noting that Gaston is right, when you start with an empty lot, you build to the criteria.

Wheeler noted that he is having a hard time jumping the "self-created" hurdle. Lewis agreed, giving examples to support his agreement.

Paull: "It's fairly clear that both requests being made are self-created based on what they want and/or need and even given the fact that this is a larger than normal lot for that block, it still doesn't conform. We have requests for non-conformance heaped on each other. If you want a house of this size, there are plenty of lots available, even in my neighborhood, to be able to build a house this size and enjoy it. And you can walk to town; you do may have to cross the bridge." Paull stated that these requests appear to be 'This is what I want, so grant it.'

Bugge agreed and noted there is nothing exceptional about the lot; there is no barrier to building a single-family house; it is self-created; you could build a smaller house; compliance with set-backs would not prevent use of the property and it is not the minimum request possible. "They could build a second floor with an elevator."

Stegeman likes that the applicants are trying to think ahead and not have to have ramps on the outside. If that's what you like in that neighborhood, that's fine, but he would vote to approve their deal.

Wheeler would like the idea of building a ramp in advance – would be more comfortable if the house itself without the ramp were compliant, and building the ramp would make the house non-compliant. Boyd concurred with Wheeler on that point.

Bugge agreed that the first floor could be compliant done on a smaller scale with a ramp out of compliance.

Miller is in agreement of approving this request along with Stegeman; he does not see where it would affect anyone else in the community; does not see it as being such that a year from anyone would notice the rear yard setback. Miller understands 'you have to stay in the code' but at the same time that is why we have a ZBA, which was implemented at the same time as these stipulations were made. "No one can anticipate all the variances. That's

why we have a ZBA. I think it would affect the neighborhood positively and would not affect the neighbors negatively. What we are here for is to maybe show a sense of reason and common sense.”

Wheeler has a quick question about the letter from the property owner at 306 Michigan. “Were they for/against or with condition?” Bugge said they wanted to shift the side setback and produced the letter for Wheeler to read.

Motion by Bugge, based on criteria that we have to judge zoning variance requests by in the Zoning Ordinance, that these requests be denied as the request does not meet #3, #4, #6, #7 or #8. Second by Paull.

A roll call vote was taken with a yes vote denying the variance:

Yeas: Bugge, Paull, Wheeler, Boyd, Lewis
Nays: Miller, Stegeman

Variance denied.

7. Election of Officers 2015-16

Bugge nominated officers “as they are now” with Lewis as Chair and Paull as Vice Chair. Second by Boyd.

All in favor. Motion carried.

Both Lewis and Paull thanked the board.

8. Commissioner Comments

Anderson: Thanked the board for the date change for the next meeting, which will be held on Monday, July 20, 2015 at 7:00 p.m.

There were no other comments.

9. Adjourn

Motion by Paull, second by Bugge to adjourn at 7:37 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



**Agenda Item #6a
Michael Salem Variance Request
53, 55 and 57 Northshore Drive
and 97 and 99 Esplanade.**

City of South Haven

Background Information: Coastal Landscaping, Inc. of South Haven requests a variance to construct accessory structures, including a pool and fence, shed and pergola roofed outdoor kitchen on a parcel without a principal structure as is required in zoning ordinance section 1708-6. The subject parcels are all owned by Michael Salem who also owns the property and house on the other side of Walk A. Walk A is a public access right-of-way separating the property with the principal structure from the properties proposed for the accessory structures. The properties have individual addresses and property numbers. The assessor has stated that properties separated by a public right-of-way may not share a parcel number. If the variance is approved, the four (4) properties proposed for the accessory structures would need to be combined into one parcel but would still be separate from the property with the house.

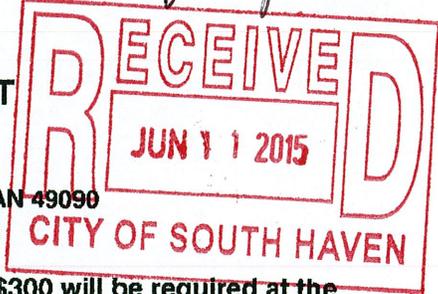
Recommendation: Staff recommends that the ZBA members review the application, staff findings of fact and the physical property before making a determination on the variance. The members must find that the request complies with all standards of zoning ordinance section 2205 to approve a variance.

Support Material:

Application
Staff Findings of Fact

July 20, '15

**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: Coastal Landscaping, Inc. Date: 06/11/2015

Address: PO Box 182, South Haven, MI 49090 Phone: 269-637-4601

Address of Property in Question: 53, 57, and (Parcel 80-53-803-001-10) of North Shore Drive, 97 and 99 Esplanade Plaza Present Zoning of Property: R-1C

Name of Property Owner(s): Michael R. Salem, Trustee

Dimensions and area of property See Attached Exhibit A.

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

Landscape Plan Attached as Exhibit B.

Setback measurements of all structures on the property (also shown on diagram)
~~See Proposed Land Division and~~ Landscape Plan Attached as Exhibit B.

Accessory bldg/structures on parcel with no primary structure

Present Zoning of Neighboring Properties to the :
North R-1A, R-1C, and R-2 South R-1A and R-1B East B-3 West R-1C

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): Section 1708, Paragraph 6

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 Exhibit C.

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

See Attached Exhibit C.

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 Exhibit C.

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 Exhibit C.

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 Exhibit C.

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 Exhibit C.

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 Exhibit C.

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 Exhibit C.

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

See Attached Exhibit C.

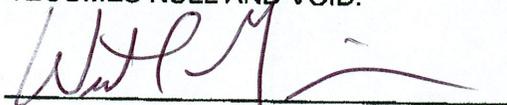
I hereby give permission for the members of the Zoning Board of Appeals and City Staff to access and inspect the property in question for the purpose of gathering information to make an informed decision on this variance request.

Michael R. Salem, Trustee

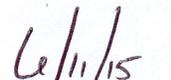
Property Owner

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.



Applicant Signature



Date

EXHIBIT A

1) North Shore Drive, South Haven, MI 49090 / Parcel No. 80-53-803-001-10

Legal Description:

C349A 3-1-17 739-548 886-397 1104-944 1213-899 1321-334 1487-364 1523-179 1553-37 1558-969 BEG AT NELY COR OF BLOCK 3, TH S 21 DEG 16'52"W ON ELY L OF SAID BLOCK 3 33.0 FT, TH N 68 DEG 29'41"W 69.0 FT, TH N 21 DEG 16'52"E 33.0 FT TO NLY L OF SAID BLOCK 3, TH S 68 DEG 29'41"E ON SAME 69.0 FT TO BEG. BLOCK 3 MONROE PARK *** SPLIT ON 14 AUGUST 2007 FROM 80-53-803-001-00 FOR 2008.

2) 53 North Shore Drive, South Haven, MI 49090 / Parcel No. 80-53-803-001-20

Legal Description:

C349B 3-1-17 739-548 886-397 1104-944 1213-899 1321-334 1487-364 1542-559 1558-970 COM AT NELY COR OF BLOCK 3, TH S 21 DEG 16'52"W ON ELY L OF SAID BLOCK 3 33.0 FT TO BEG, TH CON S 21 DEG 16'52"W ON SAID ELY L 33.0 FT, TH N 68 DEG 28'41"W 69.0 FT, TH N 21 DEG 16'52"E 33.0 FT, TH S 68 DEG 28'41"E 69.0 FT TO BEG. BLOCK 3 MONROE PARK *** SPLIT ON 14 AUGUST 2007 FROM 80-53-803-001-00 FOR 2008.

3) 99 Esplanade, South Haven, MI 49090 / Parcel No. 80-53-803-001-30

Legal Description:

C349C 3-1-17 D73-869 870-406-407 1104-944 1213-899 1321-334 1487-363/4 1534-502 1558-971 COM AT NELY COR OF BLOCK 3, TH S 21 DEG 16'52"W ON ELY L OF SAID BLOCK 3 66.0 FT TO BEG, TH CON S 21 DEG 16'52"W ON SAID ELY L 35.92 FT, TH 55.08 FT ALG A CURVE TO THE RIGHT WITH A RADIUS OF 33.0 FT AND A CHORD THAT BEARS S 80 DEG 58'21"W 48.90 FT, TH 28.14 FT ALG A CURVE TO THE RIGHT WITH A RADIUS OF 492.08 FT AND A CHORD THAT BEARS N 50 DEG 51'29"W 28.14 FT, TH N 21 DEG 16'52"E 52.24 FT, TH S 68 DEG 29'41"E 69.0 FT TO BEG. BLOCK 3 MONROE PARK *** SPLIT ON 14 AUGUST 2007 FROM 80-53-803-003-10 FOR 2008.

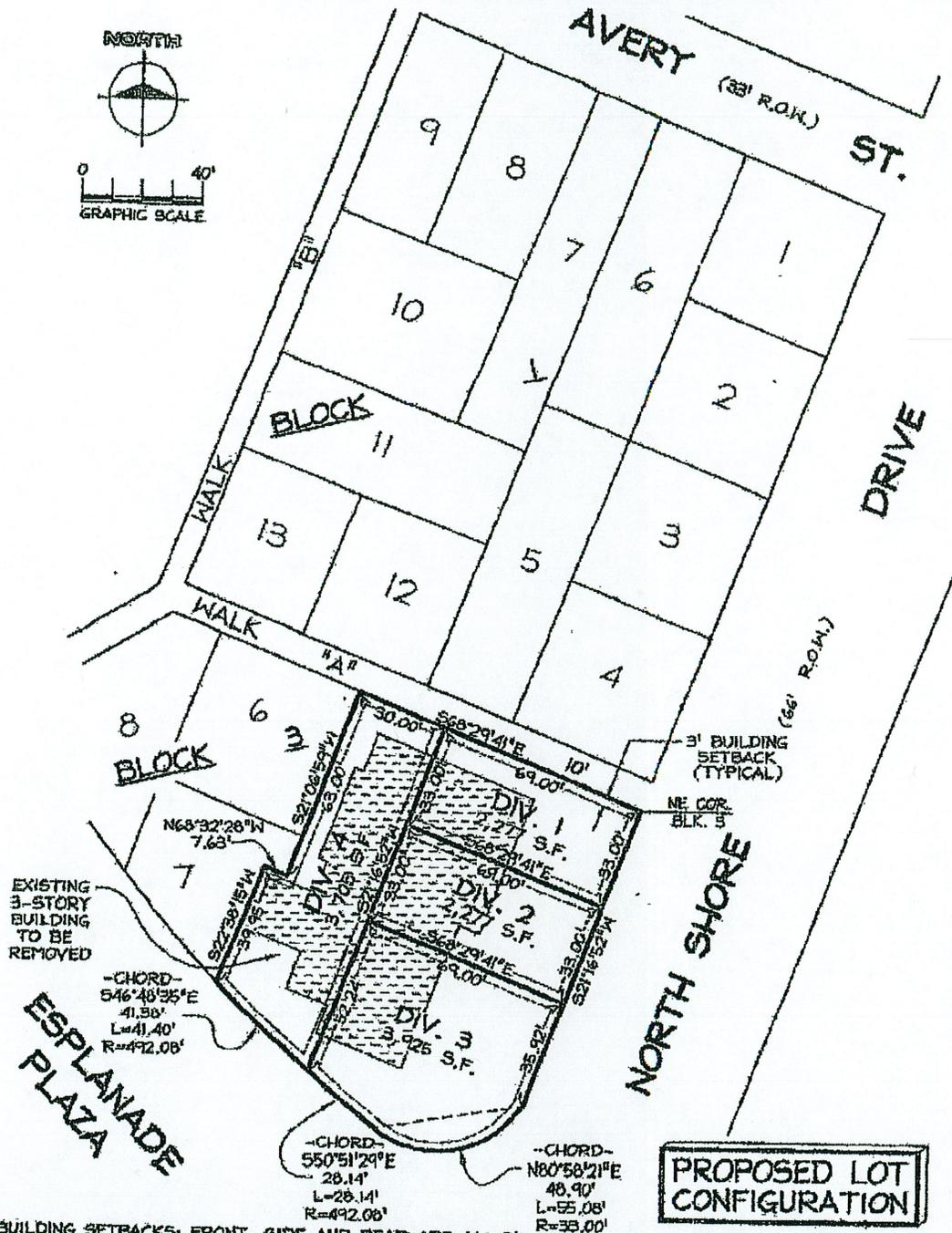
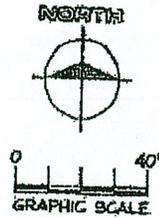
4) 97 Esplanade, South Haven, MI 49090 / Parcel No. 80-53-803-001-40

Legal Description:

C349D 3-1-17 739-548 886-397 1104-944 1213-899 1321-334 1487-364 1523-179 1557-207 1558-972 COM AT NELY COR OF BLOCK 3, TH N 68 DEG 29'41"W ON NLY L

PROPOSED LAND DIVISION

SEE SHEET 3-SOUTH FOR DESCRIPTIONS



BUILDING SETBACKS: FRONT, SIDE AND REAR ARE ALL 3'.

MITCHELL & MORSE LAND SURVEYING A-DIVISION OF MITCHELL SURVEYS, INC.		404 BROADWAY SOUTH HAVEN, MICHIGAN 48090 OFFICE: (269) 637-1107 FAX: (269) 637-1907	
CLIENT MICHAEL BIEDERMANN			
DATE 8-15-2007		JOB No. 07-730 SOUTH SHEET 2 OF 3	
DWG. BY T. YURKINAS		DWS. CK. _____ DESC. BY _____ DESC. CK. _____	
BEING IN THE SW 1/4 SECTION 3 , T 1 S , R 17 W SOUTH HAVEN-CITY TWP. VAN BUREN CO., MICHIGAN			
SCALE 1"=40'		BOOK _____ FILE _____ PAGE _____ FILE _____ REVISION _____	
		EDWARD C. MORSE PROFESSIONAL SURVEYOR	
		KEITH F. KLUTING PROFESSIONAL SURVEYOR	
		GEORGE J. MITCHELL PROFESSIONAL SURVEYOR	

EXHIBIT C

Background Information:

Michael R. Salem, Trustee (the "Applicant") owns a home located at 57 North Shore Drive (the "Home") as well as four (4) lots (as described in Exhibit A and reflected on Exhibit B), which are adjacent to the Home ("Lots 1- 4"). Although Lots 1- 4 are adjacent to the Home, a walkway ("Walk A," as reflected on the Proposed Land Division, attached to the Variance Request as Exhibit B) runs between the Home and Lots 1- 4. Those Lots 1- 4 are the subject of the Applicant's request for a variance. Specifically, the Applicant requests a variance for the purpose of installing an in-ground swimming pool, maintenance shed, and pergola with patio area and grill (the "Proposed Improvements"). The Applicant will also execute a professional landscape plan, which will cover Lots 1- 4. See Landscape Plan, attached to the Variance Request as Exhibit B. Please note that the proposed location of the swimming pool will be in the area labeled "Splash Pad With Waterfall" on the Landscape Plan.

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

Lots 1-4 and the Home are in an area of single-family homes on lots similar to those of the Applicant's. The Proposed Improvements are consistent with the character of the surrounding area and will have little or no impact on same. In fact, there are a number of other homes—both on waterfront lots and other residential lots—near the Applicant's properties and otherwise along North Shore Drive—that have swimming pools and other ancillary-use improvements and structures, and there is no reason to expect that the Proposed Improvements will be poorly maintained. The Proposed Improvements will not be detrimental to the adjacent property and the surrounding neighborhood, property values, or involve uses, activities, processes, materials, or equipment which will be detrimental to the health, safety, or welfare of persons or property in the neighborhood.

The Applicant also plans to execute a professional landscape plan in conjunction with the Proposed Improvements to create a quiet green-space and oasis, through which he will incorporate native plant species and other natural elements—including the relocation of some trees and plants already located on the Lots 1- 4. See Landscape Plan, attached to the Variance Request as Exhibit B. As provided on page 151 of the City of South Haven's Municipal Master Plan, "[i]n describing the character of South Haven, many descriptive words and phrases come to mind, among them: quiet, friendly, clean, small town, bountiful natural assets, and good location." Applicant's landscape plan will serve to beautify Lots 1- 4 and the surrounding area consistent with and in furtherance of the character of the neighborhood and the description provided in the Municipal Master Plan.

Moreover, the swimming pool proposed by the Applicant will be constructed in complete conformance with Section 1725 of the South Haven Zoning Ordinance. By way of example,

the Applicant plans to comply with all setback requirements and construct a fence of at least forty-eight inches above the finished grade level.

Indeed, not permitting this variance will be detrimental as it will force Applicant to leave the subject property bare, inviting non-owner trespassers or forcing Applicant to sell the subject properties to be developed, resulting in increased housing density.

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

Section 1708, ¶6, of the South Haven Zoning Ordinances provides that:

[a]ccessory buildings and structures shall not be erected on a lot or parcel in a residentially zoned district prior to the establishment of a principal structure. Where two or more abutting lots are held under one ownership in a residentially zoned district, the owner may erect an accessory building on a lot separate from that one which the principal building is located, provided both lots are combined as one with a single tax description.

The variance requested by the Applicant is consistent with Section 1708 because the primary purpose of Section 1708 is to prevent land owners from placing accessory structures on a lot when he or she has no intention of ever building a dwelling thereon—or said another way, to avoid blight and other unsightly uses of property in the neighborhood such that the character of the neighborhood is diminished.

The Applicant does not seek to construct a storage facility, off-street parking, or other undesirable accessory structure. He seeks to install what will essentially resemble a park-like setting for all passers-by to enjoy. The Walk A serves other houses in the surrounding neighborhood, and the Proposed Improvements will create a beautiful green-space setting that neighbors will be able to enjoy as they travel the portion of the Walk A that runs between the Home and the Lots 1- 4. The practical difficulty in this circumstance is that, while the properties are adjacent, they are separated by a walkway, so they cannot be combined into a single parcel or PIN.

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).

As referenced above, Section 1708, ¶6 provides that “[w]here two or more abutting lots are held under one ownership in a residentially zoned district, the owner may erect an accessory building on a lot separate from that one which the principal building is located,” but such accessory building is only allowed where “both lots are combined as one with a single tax

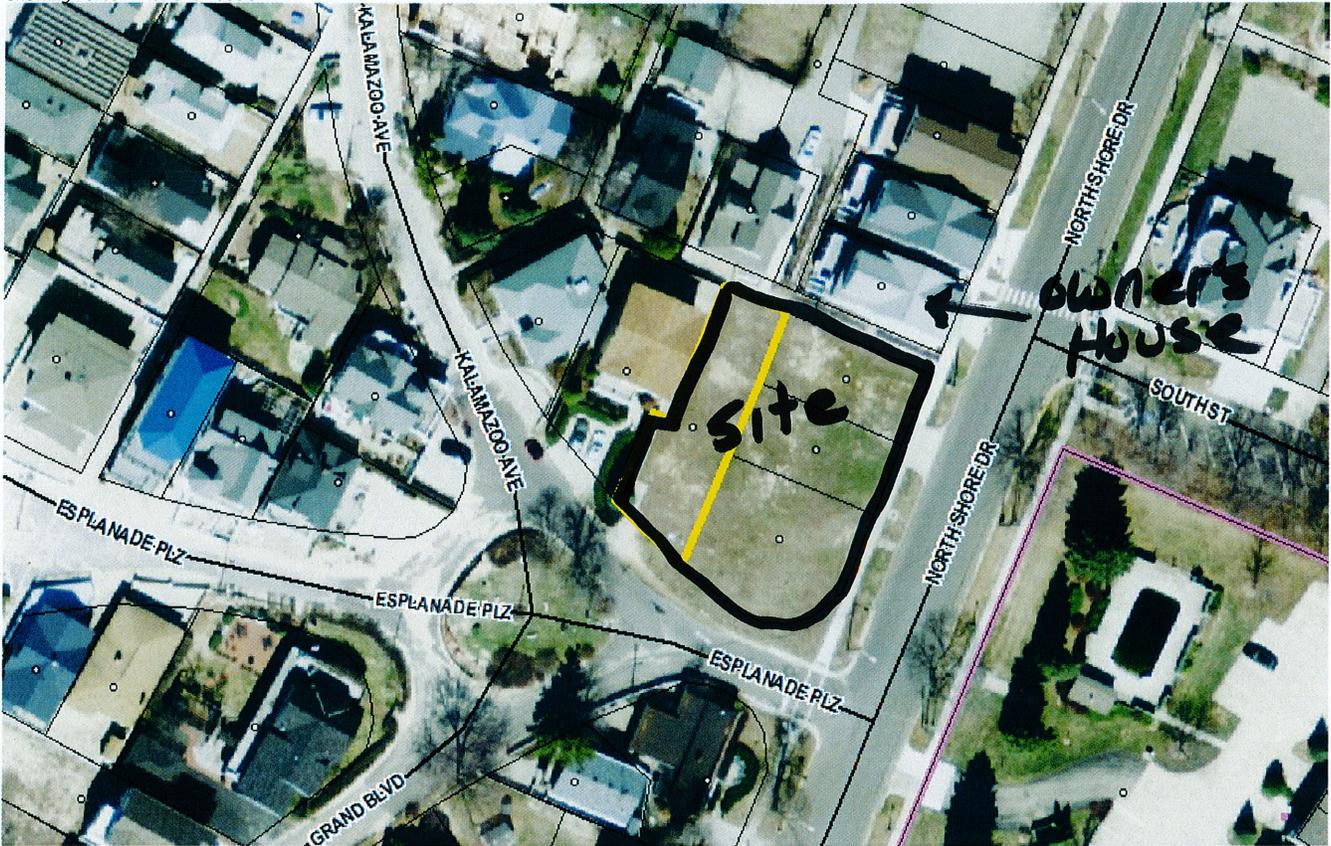
See Background Information and Responses to Nos. 1-4 above.

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

All of the properties that the variance relates to (the Home and Lots 1 – 4) are under the control of Michael R. Salem, Trustee. See also Attached Exhibit A.

2011 ORTHO AERIAL MAPS

Showing Parcel Lines and Labels



2011 Digital Orthophotographs

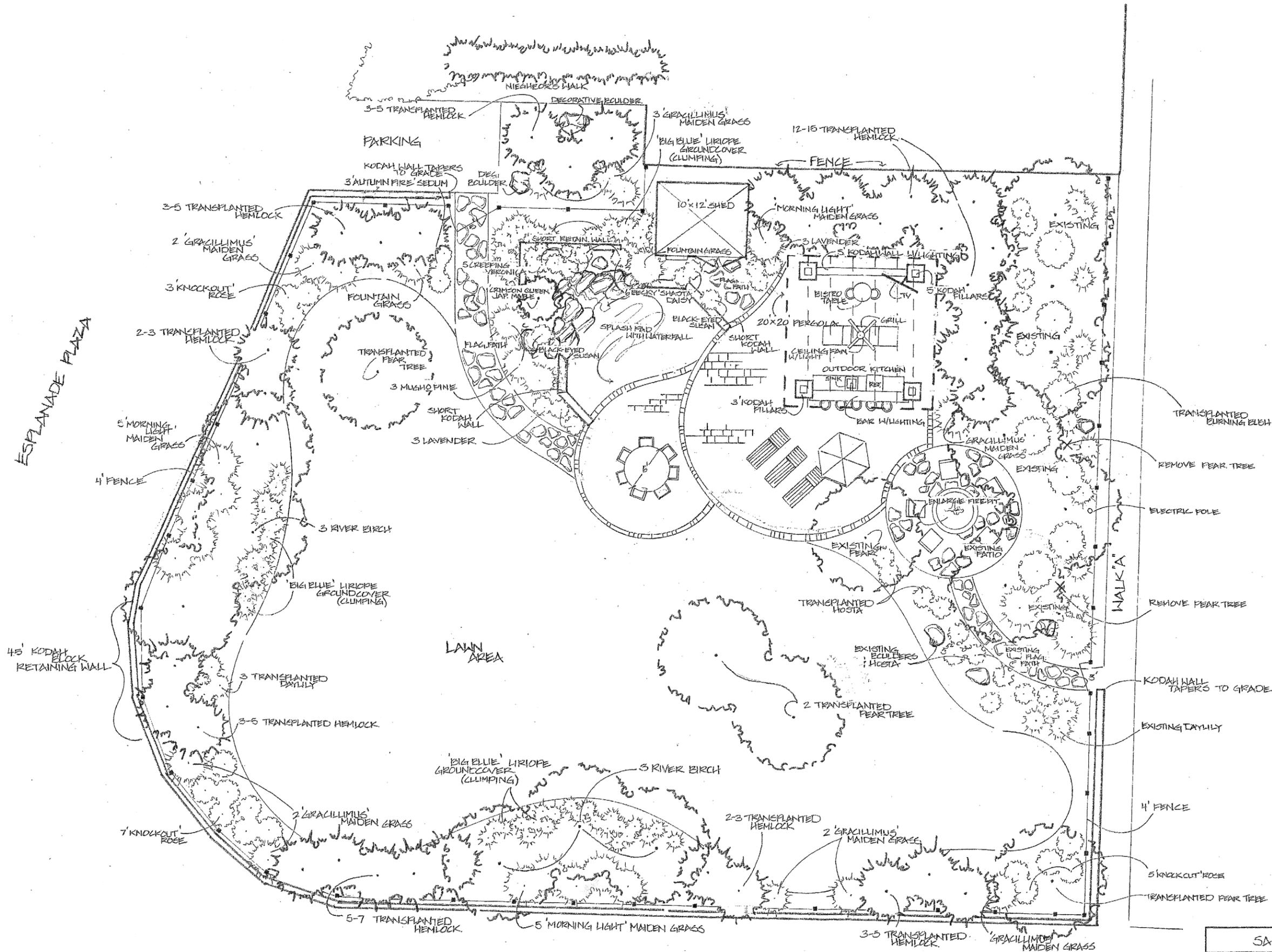
The original photographs displayed here were taken in the spring of 2011. The 'best resolution' of these images is 0.5 feet per pixel.

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.


 70 US Feet

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

Copyright © 2015 Land Information Access Association



SALEM PROJECT		
SCALE: 1"=6'	APPROVED BY:	DRAWN BY: YL
DATE: 4-9-15		REVISED:
		DRAWING NUMBER:

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: July 20, 2015
ADDRESS: 53, 55, 57 Northshore Drive and 97 and 99 Esplanade
ZONING DISTRICT: R1-C Single Family Residential
LOT DIMENSIONS: 101.9' on Northshore; 99' on Walkway A; 102.9' on west side and 96' on Esplanade
LOT AREA: 12,184 square feet combined
LOT COVERAGE: NA

PROPOSED SETBACK: All accessory structures are required to be at least 3 feet from side and rear lot lines. Swimming pools are required to be 10 feet from all lot lines.

VARIANCE REQUEST: Coastal Landscaping, Inc. of South Haven requests a variance to construct accessory structures, including a pool and fence, shed and pergola roofed outdoor kitchen on a parcel without a principal structure as is required in zoning ordinance section 1708-6. The subject parcels are owned by Michael Salem who also owns the property and house on the other side of Walk A. Walk A is a public access right-of-way separating the property with the principal structure from the properties proposed for the accessory structures. The properties have individual addresses and property numbers. The assessor has stated that properties separated by a public right-of-way may not share a parcel number. If the variance is approved, the five (5) properties proposed for the accessory structures would need to be combined into one parcel but remain separate from the property with the house.

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 pools and landscaping are consistent with the intent of the district.

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

The ordinance does not allow accessory structures on lots without a principal structure on the site. The landscaping would be acceptable but not the structures. This request is counter to the definition and regulations for accessory structures.

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 other than the fact that the owner's properties are separated by a public right-of-way. This is not a situation that has recently occurred. The walkways were established in this neighborhood decades ago. The ZBA will need to determine if this situation justifies 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.

The applicant would like to have a pool and other outdoor structures but their lot with the house is too small to accommodate these structures. Most lots in this neighborhood are too small for an inground pool. Inground pools are not a *right* but would be permitted to others in the area if the properties were large enough. 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-C zone do not have enough property for an inground pool, this is not a common enough request 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 accessory structures on an undeveloped lot. The walkway separating his properties has been in place for many years and the owner realized this situation when the property was purchased. What he did not realize was that accessory structures would not be allowed on separate property.

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 landscape the property but not build any structures. The ZBA will need to determine whether the applicant's desire for a pool and other outdoor structures outweighs the regulations and whether strict compliance would place 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. Most properties in this R1-C zone are very small and accessory structures are thus limited.**

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 226 Prospect Street Front Setback Variance

City of South Haven

Background Information: Alicia and Kevin McMahan of 226 Prospect Street are asking for a variance in order to build a roof over an existing 5 foot by 6 foot porch. The current porch is setback 10' 4" from the right of way. This is nonconforming as an uncovered porch may be no closer than 19 feet to the right-of-way in the R1-B zone. A covered porch needs to be 25 feet from the right-of-way. The applicants are not asking to increase the porch size, only to construct a roof over it.

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
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: Alicia & Kevin McMahon

Date: 6/16/15

Address: 226 Prospect St

Phone: 317-652-5488

Address of Property in Question: 226 Prospect St

Present Zoning of Property: residential R1-B

Name of Property Owner(s): Alicia and Kevin McMahon

Dimensions and area of property 146' x 218' 31,828^{sq}ft

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

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

Sides and rear in compliance

front is 15'5" to wall of house; porch is 10'4" from Row

Present Zoning of Neighboring Properties to the :

North R-B South R1-B East R1-B West B-2 Comm

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): 1901-1a

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.

We plan to build a small roof to cover the existing porch area access to the main door at the front of the home.

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

We are going to enhance the property w/ this slight variation and won't come any further to the sidewalk than the existing porch.

Rev. 10/13

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 extraordinary circumstances

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 homes on the street have a small roof ~~access~~ over the front door access and some have screened porches.

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 the house is so close to the street, we are requesting the variance as it is not common in the city.

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.

This problem was created by the original property owner in 1956 - this will enhance the appearance of 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.

This variance does not extend the length of the ~~request~~ (dimensions) existing porch access.

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

This request lies within the original dimension of the home on the property

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

only applies to property @ 226 Prospect St.

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.

Alicia and Kevin McMahon

6/16/15

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.

Alicia & Kevin McMahon

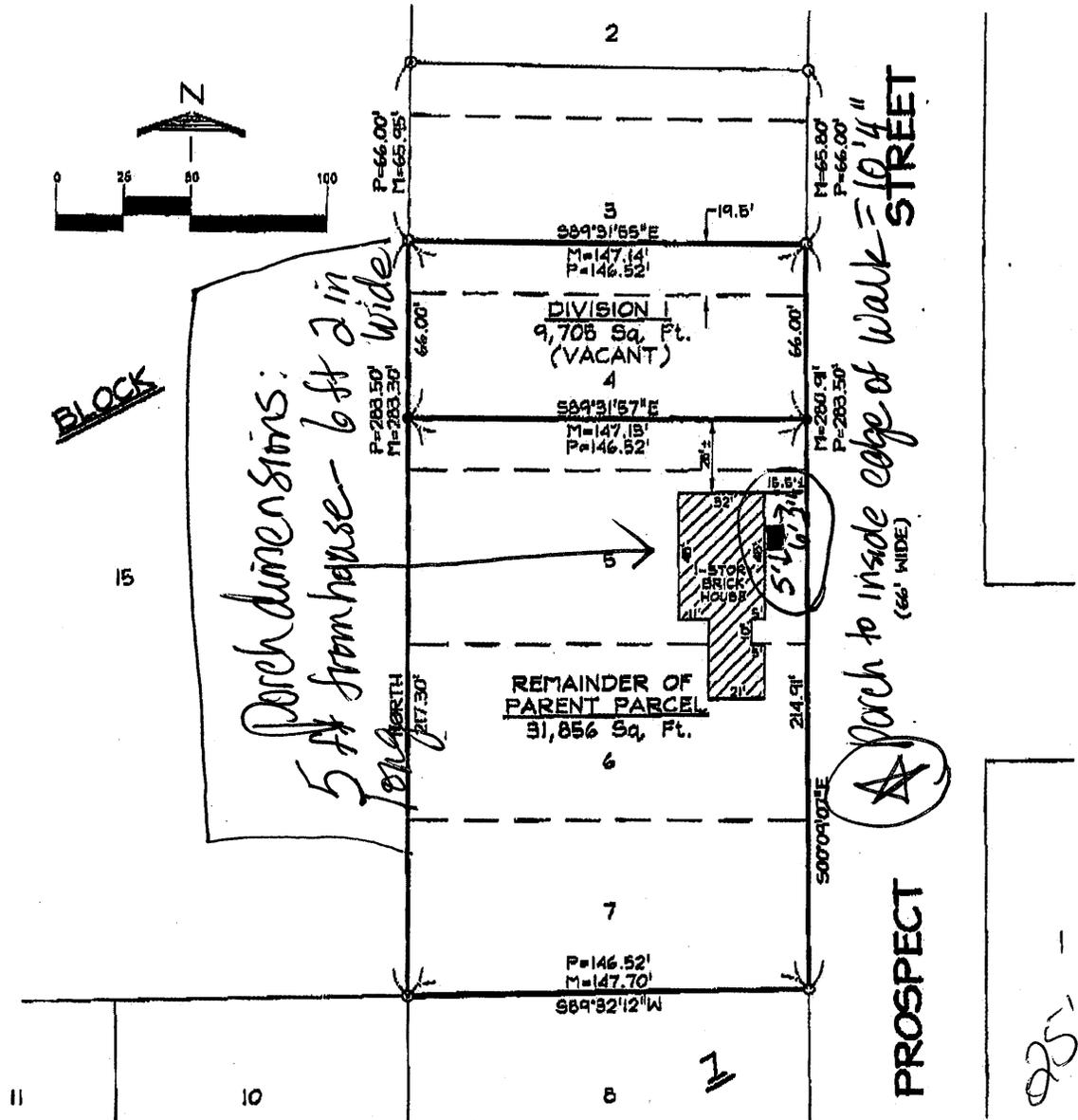
6/16/15

Applicant Signature

Date

MICHIGAN PLAT OF SURVEY

(SEE SHEET 2 FOR DESCRIPTIONS)



SURVEY NOTES:
 1.) THE RATIO OF CLOSURE OF UNADJUSTED FIELD OBSERVATIONS IS NOT GREATER THAN 1 PART IN 5,000
 2.) BEARINGS ARE REFERENCED TO THE RECORDED PLAT OF "HALE, CONGER & COMPANY'S ADDITION TO THE VILLAGE (NOW CITY) OF SOUTH HAVEN."
 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR THE CLIENT ONLY. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE LAND SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR

MITCHELL & MORSE LAND SURVEYING
 404 BROADWAY SOUTH HAVEN, MICHIGAN 49080
 OFFICE: (268) 637-1107 FAX: (268) 637-1807
 A DIVISION OF MITCHELL SURVEYS, INC.

THE ABOVE SURVEY COMPLIES WITH PUBLIC ACT 132 OF 1970 ACT 286 OF MICHIGAN PUBLIC ACTS OF 1967 AS AMENDED BY PUBLIC ACT 591 OF 1987 SHOULD BE CHECKED TO SEE THAT ANY PROPERTY CONVEYANCE DOES NOT VIOLATE THAT ACT.

CLIENT: SCOTT AIKEN & SUSAN LORENZ

DATE: 9-29-2005 Job No. 05-928 SHEET 1 OF 2

DWG. BY: J.KACZMAREK DWG. CK: _____ DESC. BY: _____ DESC. CK: _____

BEING IN THE SE 1/4 SECTION 9, T 16 S, R 17 W

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

SCALE: 1" = 50' BOOK 353 PAGE 55 REVISION _____

LEGEND

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

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: July 20, 2015
ADDRESS: 226 Prospect
ZONING DISTRICT: R1-B Single Family Residential
LOT DIMENSIONS: 146' x 218'
LOT AREA: 31,828 square feet
LOT COVERAGE: 10%

PROPOSED SETBACK: No change to structure footprint

VARIANCE REQUEST: The applicant is asking for a variance in order to build a roof over an existing porch. The current porch is setback 10' 4" from the right of way. This is nonconforming as an uncovered porch may be no closer than 19 feet to the right-of-way. A covered porch needs to be 25 feet from the right-of-way.

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 involves only the covering of the existing porch. It is unlikely that the request would be detrimental to the 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 larger than allowed in the R1-A zone. Since the porch already exists without impairing the ordinance, covering the porch should not be an impairment.

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. According to the assessor's records, the house was built in 1955, without variances, before the current owners purchased the property.

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.

A covered porch on an existing house is not unusual and is a right enjoyed by many residents. The only unusual condition is the fact that the house and porch were constructed closer to the lot line than now would be permitted. 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.

This is not a significantly common request and does not signal the need for a zoning 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 cover an existing porch. The argument made by the applicant is that they would like to improve the look of the house and more closely resemble other homes in the neighborhood.

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 live in the home on the property. The ZBA will need to determine whether the applicant's desire for a covered porch 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.