

Zoning Board of Appeals

Regular Meeting Agenda

Monday, September 22, 2014
7:00 p.m., Council Chambers



NOTE: The variance request for 906 Monroe Blvd. has been withdrawn.

City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – July 28, 2014
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – PUBLIC HEARINGS
 - a. Administrative appeal to Zoning Administrator decision to deny a requested land division at 38 Northshore Drive.
 - b. Rear yard variance request for property at 26 Grand Boulevard
7. Other Business
8. Member 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, July 28, 2014
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: Bugge, Miller, Paull, Wheeler, Lewis
Absent: Boyd, Wittkop

3. Election of Officers 2014-2015

Motion by Bugge to nominate the officers (Chair: Lewis and Vice-Chair Paull) now serving.
Second by Miller.

Motion by Miller to close nominations.

All in favor. Motion carried.

By unanimous consent, officers Lewis for Chair and Paull for Vice-Chair were approved.

4. Approval of Agenda

Motion by Bugge, second by Paull to approve the July 28, 2014 regular meeting agenda as presented.

All in favor. Motion carried.

5. Approval of Minutes – March 24, 2014

Motion by Bugge, second by Wheeler to approve the March 24, 2014 regular meeting minutes as corrected:

- Page 2, top of page. Replace the word “neighbor’s” with “neighboring.”

All in favor. Motion carried.

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

None at this time.

7. New Business – PUBLIC HEARING

Goodwill Industries, Inc., is asking for three (3) variances for their proposed store located at 340 73 ½ Street. The variances would reduce the proposed side yard setback from the required 30 feet to 24 feet (south) and 20 feet (north). The applicant is also asking for a landscaping variance to reduce the front landscaping requirement from 25 feet to 10 feet. The parcel number for the subject property is 80-53-620-052-00. This application seeks variances from zoning ordinance sections 2405, 1-a, and 2406 1-a.

Bugge explained her previous working relationship with the applicant and disclaimed any current professional relationship or financial interest.

Anderson explained that the applicant was unaware of the overlay zoning and designed the project according to the underlying B-4 zone. Anderson does not have a problem with the requested variances, noting that this property does not front on Phoenix Street and explaining that the overlay zone was intended for the main corridors. The sub-committee included the entire Meijer property and those on this south side because they felt that at some time this property will all be developed. Anderson felt that was a strong mitigating circumstance and the lot is fairly narrow with an unusual configuration for what they want to do.

Anderson also noted that this application has been to Planning Commission one time. Planning Commission tabled their decision; their next meeting is a week from Thursday. “By then the applicant should have addressed all the necessary corrections and updates requested by staff and the decision of the Zoning Board of Appeals (ZBA).” Anderson assumes the board has read the findings of staff and applicant.

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

All in favor. Motion carried.

Terry Schley, President of Schley Architects, 4200 South 9th Street, P.O. Box 9640, Kalamazoo, MI 49009 Introduced Kris Nelson, also with Schley Architects and John Dillworth, CEO of Goodwill Industries. Noted they are here to answer questions, particularly regarding anything that brought them to this point. Interprets that the overlay would appear generally intended for a different kind of outcome than where this particular site is located.

Lewis called for questions. Bugge noted on the application that on the south side the setback on the plan is thirty-two feet eight inches (32’8”) and asked where that is measured to commenting, “It is only twenty-four feet (24’).”

Chris Nelson, Schley Architects, explained that the dimension you see is the width of the driveway. The measurement is from the property line to the drop-off structure. Bugge noted that a variance is not required on that side to which Nelson agreed.

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Bugge asked about the “garage.” Nelson explained that it is a covered drop-off with garage doors on each end so people can drop off donations without actually coming inside the building. Bugge asked for the size of that area and why it is that wide. Nelson said it is designed for two (2) vehicles. Bugge stated that the garage could be only one car wide and allow the overall building to be narrower. Schley explained, “The reality is we are trying to receive donations and it is frequently the case that someone pulls up and there is quite a bit of activity; the area around the vehicles is needed to get people out of both sides of the car; get things out of the back seat of the car; get things out through the trunk and from attached additional vehicles.”

Dillworth: The dimensions for donation drive-through are based on the way Goodwill stores in Minneapolis/St. Paul takes donations. “With the garage doors closed in the winter people could come and donate merchandise without having to feel the full brunt of the wind off of Lake Michigan. This is the way this is done with all Goodwill stores in Minneapolis/St. Paul.”

Bugge requested the gross floor area of the store noting that zoning is only concerned with the usable floor area. Nelson responded that the usable floor area is around 5400 square feet.

Bugge noted that the overlay zone only requires one (1) parking space for each 200 square feet of usable floor area so your required spaces would be twenty-seven and you are providing fifty (50) spaces. Lewis asked what the requirement would be for the B-4 zoning district and it was determined that it would be thirty-six (36). In response to a query by Bugge asking if/why the applicants are asking to increase the required parking spaces, Schley responded that at certain times, such as Super Saturdays, the extra parking space is needed. “The client recognizes that rather than having inadequate parking it would be better to have more parking, based on their knowledge of other facilities throughout the region.”

Bugge asked about the lot having deeded access to the lot to the west and whether it also has a parking easement? Schley responded, “No, not to our knowledge.”

Bugge noted that on the drawing it indicates, in relationship to the request for landscaping reduction, ten feet (10’) to that one parking space there. One of your drawings shows a thirty foot (30’) building setback, but there is not a line for twenty-five feet (25’); “Can you estimate about where a twenty-five (25’) line would be on the newer drawing?” Discussion ensued regarding how many parking spaces would be eliminated if the front yard variance was not approved. Nelson noted that the landscaping required would take out about four (4) to five (5) spaces.

Motion by Paull, second by Miller to close the public hearing.
All in favor. Motion carried.

Lewis called for discussion from the board.

Bugge commented that this is a first property coming in under this ordinance and explained that she was on the committee that drafted this ordinance. “We looked very carefully at the properties, determining that currently it certainly does not speak well of the city when you come into the city; the whole intent was to upgrade the image of the city, provide consistency and add landscaping. That was to bring in a unified appearance and improve

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the whole area.” Personally, Bugge feels this property was intended to be included with this overlay”. Bugge noted that was her feeling and asked if Lewis will be going through the criteria.

Lewis enumerated the standards that must be met:

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

Personally, Lewis said he does not believe such variance to be detrimental. Paull noted that the variances are fairly minimal and it seems to him that it is not going to impact the surrounding retail businesses negatively.

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

Bugge expressed her belief that the requested variance is against the intent of the overlay district; although right now it may not be detrimental to adjacent properties, in the future it will be under a lesser standard than adjacent properties. “Someone always has to be the first one to come in under a new ordinance,” according to Bugge.

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).

Bugge does not think this property has any exceptional circumstances. It is a good property for a use that designs its building to fit the property. The only thing exceptional might be the curvature on the front of the lot.

Lewis said it is unique in his view because it fronts on 73 ½ Street and not Phoenix. Paull noted the intent was to beautify along the front of properties of the entrance corridors; this property is on the back which makes it not as vital to the beautification. Paull noted this property comes close with the design, but it is not perfect. Lewis added that if everything was perfect we would not be here.

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.

Bugge said it (the property) is usable for the intended use, maybe not for this width of building.

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

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make reasonably practicable the formulation of a general regulation for such conditions or situation.

Lewis said, “Obviously not.”

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.

Lewis commented, “I always have problems with this one.” Bugge noted that if you want to go by the landscaping, perhaps you could say it is not self-created. “More parking spaces than required by the ordinance are a self-created situation and the width of the building and the garage are causing the problem. There are a lot of options.”

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

Bugge doesn’t think so.

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

Bugge said a different size building or a different number of parking spaces could mitigate the problem.

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

All agreed this was the case.

Wheeler asked, “Can we consider the two issues separately?” to which Lewis responded yes.

Paull would like to ask the applicant and owner if they would like to speak to this: “If we (the board) would deny the landscaping variance, how many parking spaces would you have?” Discussion ensued between Lewis, Bugge and the applicants as they looked at the plan. The applicants determined that they could meet the landscaping setback and still have forty-four (44) spaces.

Bugge commented, “If they wanted to look at the width of the drive-through . . . “ when Paull interjected that he will fight that one, asking, “Can you imagine having to unload a piece of furniture in a twelve foot (12’) wide space?” Wheeler noted that people could get injured; cars could get scratched and dinged, and so on.

Dillworth: “You have to have space on all sides of a vehicle to unload things. In the winter in South Haven we expect this to be an issue. The specifications used are exactly what they do in Minneapolis/St. Paul.” Dillworth noted that they do not anticipate cars side by side in the garage space, only one car at a time.

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Miller stated he doesn't feel qualified to determine what is burdensome and what is not for the people of Goodwill to function; he would depend on them to know what they need and it would be in their best interest to do it correctly. Miller is hesitant to question the size of the off-loading area, based on their experience. Lewis noted that it is the board's job to listen to all the facts and make our best judgment, commenting, "That is why we gather information."

Miller pointed out that it is unfortunate the applicants did not have the overlay information when they were putting the plan together. "That is not their fault, and on that basis, to not offer any kind of a variance. . . "As Miller looks at it, the requests before the board are, for future generations, not going to be about the nuances of landscaping and parking places. Miller would like future generations to think the officials at the time permitted it and it is in the best interest of the community as opposed to defining down to the last inch what is in the applicants' best interest.

Lewis wondered if this property were not in the overlay, to which Paull responded, "We wouldn't be here." Lewis hates to second guess the Planning Commission pointing out that the overlay's intent was to beautify Phoenix Street. Bugge clarified that it was the whole area. Paull noted that we have one piece of this, being essentially removed from that consideration, and looked at uniquely. "It nearly fits; it has a couple of glitches, not major, not going to stick out like sore thumbs, won't make development around it any harder or easier, for that matter. It will still be the only property in there with landscaping"

Motion by Paull that the north side yard variance of ten feet (10') be approved because it won't mess up the value of the property or mess up the neighbors. Second by Miller.

Lewis called for discussion. Hearing none a roll call vote was taken:

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

Motion by Bugge deny the landscaping variance because the reduction of parking spaces will still give them excess spaces beyond the requirement. With no support the motion dies.

Motion by Paull, second by Miller to grant the landscaping variance.

Bugge asked if she can amend that motion. Lewis reminded her that the variance carries on the property, not on the development. Paull agreed to hear the proposed amendment. Bugge asked that a condition be placed on the approval that landscaping shall not be reduced beyond what is shown on the site plan. After some discussion, Paull agreed to the amendment.

Lewis called the vote on amendment.

All in favor. Motion carried.

A roll call vote was taken on the variance for front landscaping.

Yeas: Miller, Paull, Wheeler, Bugge, Lewis

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Nays: None

Motion carried.

8. Other Business

Lewis asked if we have any business floating out there. Anderson said there have been some calls and inquiries; people seem to be waiting until after summer. No applications or requests have been received.

9. Member Comments

There were none.

8. Adjourn

Motion by Bugge, second by Miller to adjourn at 8:52 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a Brussee Land Division Appeal

City of South Haven

Background Information: In March of 2014 the City Council adopted an amendment to the B-3 Waterfront Business Zone which allowed, by special use permit, single family homes to be constructed on “existing lots when it is documented that the development of any other permitted use is not possible due to lot size or configuration”. This amendment was intended as a means to make use of small, existing lots which were otherwise unusable due to size or shape for any of the allowed business or planned residential developments. It was not the intention of the planning commission or city council to allow lots splits to create new single family lots.

A request for a lot split in the B-3 zone (38 Northshore Drive) was received by the zoning administrator in July of 2014 (application attached). The application was denied based on zoning ordinance section 1704 (1)(f)(7).

Section 1704(1)(f) of the Zoning Ordinance provides nine criteria for the approval of lot divisions, which are in addition to the requirements in the Michigan Land Division Act. Section 1704(1)(f)(7) provides that “no lot shall be divided unless the property lines, size, shape, orientation, and existing zoning of the resulting lots shall be such as to promote the efficient and appropriate development and use of the land as contemplated for each resulting lot and as permitted in this Ordinance for the applicable zoning district.”

The requested lot division would result in two smaller lots that could not be feasibly developed for any of the permissible uses in the B-3 district. The development of single-family homes on the resulting lots would be prohibited because Section 901(17) provides that special use permits are only available for single-family homes on “existing lots” (*i.e.* those lots existing as of the date of the amendatory ordinance permitting single-family homes as a special use in the B-3 district). The two resulting lots would be too small for any use other than the development of single-family homes, which is not permitted.

Note: *The second issue of the appeal concerns the State Land Division Act. The City Attorney will be addressing this in a confidential memo which will be sent to you in a separate email.*

Recommendation: Staff recommends that the decision of the zoning administrator be upheld as the resulting two (2) lots would not be in compliance with zoning ordinance requirements for development.

Support Material:

Land Division application
Appeal to Zoning Administrator’s decision

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

MATTHEW B. VAN DYK
TEL (269) 383-5844
FAX (269) 382-0244
E-MAIL vandyk@millercanfield.com

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POLAND: Gdynia

Warsaw • Wrocław

July 14, 2014

Via Federal Express & Electronic Mail

City of South Haven
Brousseau Appraisal Services, Inc.
67280 Ponderosa Drive
Edwardsburg, Michigan 49112
Email: dbrousseau@beanstalk.net
dougbrousseau@gmail.com

RE: Land Division Application for the following:
Address: 38 North Shore Drive, South Haven, MI
Parcel ID #: 80-53-823-002-10

To Whom It May Concern

Our firm represents the applicant with respect to the captioned Land Division Application. Enclosed herewith please find the following:

- Land Division Application (w/ expedited handling request).
- "Split Survey" attached to Land Division Application as Schedule 3.A.
- Parent Tract, Remaining Parent Tract, and Newly Created Parcel legal descriptions attached to Land Division Application as Schedule 3.B.
- Copy of latest paid tax bill receipt.
- Form Quitclaim Deed
- Check for \$200.00 (\$100 Application Fee and \$50 Per Parcel Split/Division Fee)

If you have any questions or I can be of any assistance in helping to process this request, please do not hesitate to contact me. Thank you.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

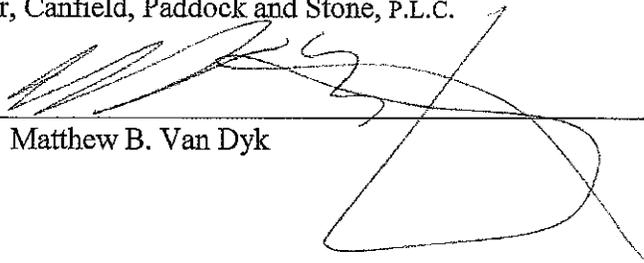
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July 14, 2014

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By:


Matthew B. Van Dyk

MBV

DISCLOSURE UNDER TREASURY CIRCULAR 230: The United States Federal tax advice contained in this document and its attachments, if any, may not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, nor is such advice intended or written to be used, and may not be used, by a taxpayer for the purpose of avoiding Federal tax penalties. Advice that complies with Treasury Circular 230's "covered opinion" requirements (and thus, may be relied on to avoid tax penalties) may be obtained by contacting the author of this document.

22634936.1\153234-00001

City of South Haven
Brousseau Appraisal Services, Inc.
67280 Ponderosa Drive
Edwardsburg, Michigan 49112
269-699-7619
Fax 269-699-7436
dbrousseau@beanstalk.net

LAND DIVISION APPLICATION

ALL QUESTIONS MUST BE ANSWERED AND ALL ATTACHMENTS INCLUDED FOR PROCESSING OF THIS APPLICATION.

This form is designed to comply with applicable land division ordinances and PA 591 of 1996 and PA 87 of 1997.

In order to process and approve a land division, the following requirements must be met:

1. Furnish proof that taxes are paid to the extent due. (Attach copy of latest paid tax bill receipt).
2. Each "resulting" parcel that is a "development" site must be "Accessible" (existing or proposed driveway or easement to public road).
3. Each "resulting" parcel that is less than 10 acres cannot have a depth to width ratio of more than 4 (depth cannot exceed 4 times width).

OFFICE USE ONLY. PLEASE DO NOT MARK IN BOXES BELOW.

This application is for the purpose of processing the following:

- Quit claim deed from seller to seller for marketing purposes (future sale). Division final.
- Warranty deed from seller to buyer immediate sale. Division final.
- No deed presented – Temporary Approval of lot splits for marketing purposes. Division pending.
(Building permits will not be issued without tax parcel number and address)

**Approval valid for one (1) year after approval date for marketing purposes only.
Void after one (1) year if documents transferring property not supplied to City Assessor.**

\$ 100.00 APPLICATION FEE – This fee applies to all requests for splits and/or divisions and lot line adjustments.

\$ 50.00 Per Parcel - SPLIT/DIVISION FEE – The fee is \$50.00 for each parcel created including remainder. (The remaining parent counts as one division during first split). A fee of \$50.00 for each parcel is charged for courtesy splits. There is no fee for combinations but a request to combine must be completed. All other splits exempt under PA 591 and lot line adjustments are still required to complete the application but are not required to pay the split/division fee and the number of exempt divisions taken do not

count against the number of State entitled divisions. Fee is non-refundable for void or denied applications.

In the box listed below, print where you want this form sent when completed.

Name: South Haven Landquest LLC, Attn: Tom Brussee

Address: 7858 Ravine Road

City, State, Zip: Kalamazoo, MI 49009

IMPORTANT: The tax bill for the original parcel will not be divided until the following year. The parties to the transaction should be in agreement on how to divide the current tax bill including both July and December billings.

1. Location of original parent parcel to be split:
Street Address (if available): 38 North Shore Drive, South Haven, MI
Parcel ID# of parent parcel to be split: 80-53-823-002-10
Does owner own any parcels of property contiguous to the parent tract being split? YES or **(NO)** circle one. If yes, list parcel ID#'s of contiguous properties:

Total acreage of parent tract and all contiguous property: 0.35 ac. +/-
Number of Divisions requested under PA 591 (remaining parent tract counts as a division during first split under PA 591):

2

State law now defines the parent parcel as all contiguous parcels under the same ownership as of March 31, 1997. The acreage used to develop the amount of divisions a property owner is entitled to is based on the total acreage of the entire parent tract. The remaining parent tract always counts as a new parcel for application fee purposes, but only counts against your number of state entitled divisions the first time a split occurs under PA 591.

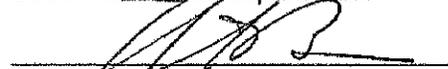
2. Property Owner Information:
Name: South Haven Landquest LLC Phone: (269)- 217 - 3045

Address: Attn: Tom Brussee, 7858 Ravine Road, Kalamazoo, MI 49009

3. Required Attachments: (All attachments MUST be included for application to be processed). Letter each attachment as shown here. Label each legal description to correspond with survey.
 - A. A survey or map/drawing of parent parcel drawn to a scale of 1"=20', 1"=50', 1" = 100', 1"=200', 1" = 400', or 1" = 1000'. The scale used shall best represent the property and improvements. If a map/drawing is submitted the forty-five (45) day time limit is waived. The Zoning Administrator may refuse any map/drawing. The survey or map/drawing will include the following:

1. Parent parcel boundaries as of March 31, 1997.
 2. All previous divisions made after March 31, 1997.
 3. The labeled proposed divisions.
 4. Dimensions of the proposed divisions.
 5. Scaled location of any improvements (Buildings, wells, septic systems, etc.).
 6. Existing and proposed road right of ways.
- B. A legal description for the entire parent tract, the newly created remaining parent tract, and all other newly created parcels. All the descriptions for the newly created parcels will be labeled to correspond with the survey or map/drawing.
4. **AFFIDAVIT** - I agree the statements made above are true, and if found not to be true, this application and any approval will be void. Further I agree to comply with the conditions and regulations provided with this parent parcel division. Further I agree to give permission for officials of the municipality, county and the State of Michigan to enter the property where this parcel division is requested for purposes of inspection to verify that the information on the application is correct at a time mutually agreed with the applicant. I understand this is only a parcel division which conveys only certain rights under the applicable local land division ordinance, the local zoning ordinance, and the State Land Division Act and does not include any representation or conveyance of rights in any other statute, building code, zoning ordinance, deed restriction or other property rights. City land division approval in no way guarantees the issuance of a building permit. I realize that the owner splitting the original property can assign future divisions remaining to specific parcels. If no location of these "leftover" splits is designated that are automatically assigned to the remaining parent parcel created [see section 109 (2) of the statute. Make sure your deeds include both statements as required in section 109 (3) and 109 (4) of the statute]. I also realize that taxes must be paid in full on the parent parcel for the deeds to be recorded and the split to be processed at the county level and that I must supply recorded or unrecorded documents to the City to finalize the division.
5. **Expedited handling requested.** The application process takes about 45 days, depending on the date the completed Land Division Act Application is submitted. The new tax parcel numbers are typically issued and mailed to the applicant with 30 days after South Haven City Council approval. If a situation exists that requires special handling, such as immediate need for a building permit or closing scheduled sooner than normal handling time allows. Check box above and the documents, once approved, will be hand processed.

South Haven Landquest LLC



Property Owner's Signature

By: Tom Brussee, Member

Approved by South Haven City Council 08-29-2006

July 14, 2014

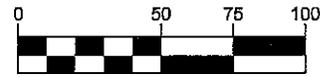
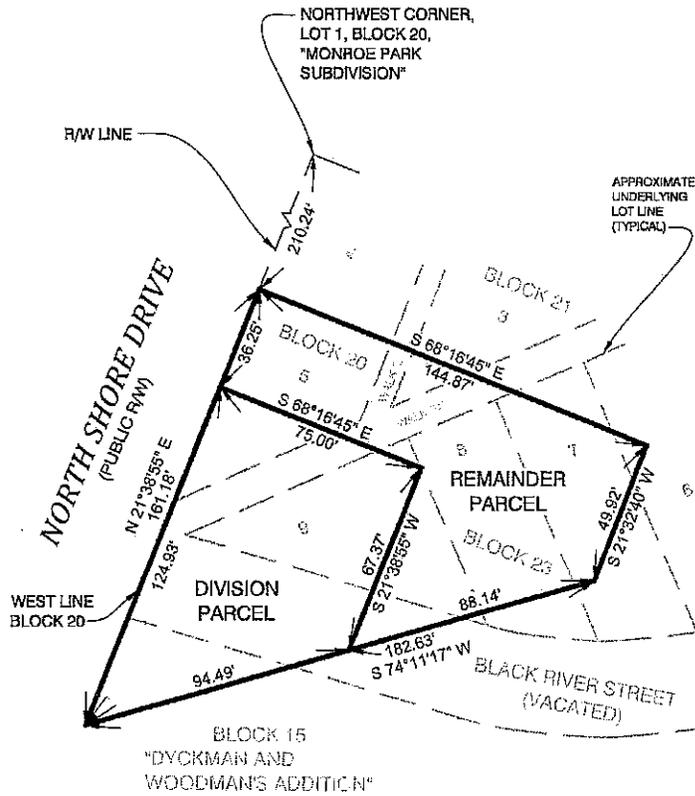
Date

SCHEDULE 3.A

Act 288 of 1967 and act 591 of 1996 of the Michigan Public Acts should be checked to see that any property conveyance does not violate these acts.

SHEET 1 OF 2

SKETCH OF DESCRIPTIONS IN SECTION 3, TOWNSHIP 1 SOUTH, RANGE 11 WEST, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN.



1 inch = 50 ft.

PARENT PARCEL INFORMATION:

ADDRESS: 38 NORTH SHORE DRIVE

PARCEL NUMBER: 80-53-823-002-10

ZONING DISTRICT: B-3

THE PARENT PARCEL EXISTED ON MARCH 31, 1997 AND NO SUBSEQUENT DIVISIONS HAVE OCCURRED.

THERE ARE CURRENTLY NO STRUCTURES ON THE PARENT PARCEL.

THIS SKETCH OF DESCRIPTIONS IS BASED ON A BOUNDARY SURVEY BY MITCHELL & MORSE LAND SURVEYING, DATED 10/11/2007

THIS IS NOT A BOUNDARY SURVEY



WIGHTMAN & ASSOCIATES, INC.
 ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE

264 Western Avenue
 Allegan, MI 49010
 Phone: (269) 673-8465

2303 Pipestone Road
 Dutton Harbor, MI 49022
 Phone: (269) 927-0100

9835 Portage Road
 Portage, MI 49002
 Phone: (269) 327-3332

www.wightman-asso.com

CLIENT: SOUTH HAVEN LANDQUEST LLC
 JOB No: 140530
 DATE: JULY 12, 2014
 SCALE: 1" = 50'
 DRAWN BY: GDH
 CHECKED BY:

Gary D. Hahn
 GARY D. HAHN
 PS-38116

CITY OF SOUTH HAVEN VAN BUREN COUNTY

SECTION 3, T 1 S, R 17 W

A-140530

Act 288 of 1967 and act 591 of 1996 of the Michigan Public Acts should be checked to see that any property conveyance does not violate these acts.

SHEET 2 OF 2

LEGAL DESCRIPTION OF PARENT PARCEL (PER WARRANTY DEED RECORDED IN LIBER 0885, PAGE 785):

A PARCEL OF LAND BEING PART OF BLOCKS 20, 21 AND 23, MONROE PARK SUBDIVISION, AND PART OF BLOCK 15 OF DYCKMAN AND WOODMAN'S ADDITION TO THE VILLAGE (NOW CITY) OF SOUTH HAVEN, SECTIONS 3 AND 10, TOWN 1 SOUTH, RANGE 17 WEST, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF LOT 1 IN BLOCK 20 OF MONROE PARK SUBDIVISION; THENCE SOUTH 21° 38' 55" WEST, ALONG THE WEST LINE OF BLOCK 20, A DISTANCE OF 210.24 FEET TO THE TRUE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 21° 38' 55" WEST, ALONG SAID WEST LINE OF BLOCK 20, A DISTANCE OF 161.25 FEET; THENCE NORTH 74° 08' 28" EAST, 182.75 FEET; THENCE NORTH 21° 38' 55" EAST, 50.03 FEET; THENCE NORTH 68° 21' 05" WEST, 145.00 FEET TO THE PLACE OF BEGINNING.

LEGAL DESCRIPTION OF REMAINDER PARCEL:

THAT PART OF BLOCKS 20, 21 AND 23, "MONROE PARK SUBDIVISION", BEING A SUBDIVISION IN SECTIONS 3 AND 10, TOWNSHIP 1 SOUTH, RANGE 17 WEST, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, AND THAT PART OF BLOCK 15, "DYCKMAN AND WOODMAN'S ADDITION TO THE VILLAGE (NOW CITY) OF SOUTH HAVEN", BEING A SUBDIVISION IN SAID SECTION 3, DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 20, SAID "MONROE PARK SUBDIVISION"; THENCE SOUTH 21° 38' 55" WEST ON THE WEST LINE OF SAID BLOCK 20 A DISTANCE OF 210.24 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE SOUTH 68° 18' 45" EAST 144.87 FEET; THENCE SOUTH 21° 32' 40" WEST 49.92 FEET; THENCE SOUTH 74° 11' 17" WEST 88.14 FEET; THENCE NORTH 21° 38' 55" EAST 67.37 FEET; THENCE NORTH 68° 18' 45" WEST 75.00 FEET TO THE WEST LINE OF SAID BLOCK 20; THENCE NORTH 21° 38' 55" EAST ON SAID WEST BLOCK LINE 36.25 FEET TO THE POINT OF BEGINNING. CONTAINING 8,088 SQUARE FEET OR 0.18 OF AN ACRE MORE OR LESS.

THE ABOVE LEGAL DESCRIPTION IS BASED ON A SURVEY BY MITCHELL & MORSE LAND SURVEYING, DATED 10/11/2007.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

ASSUMED THE BEARINGS OF SAID SURVEY BY MITCHELL & MORSE LAND SURVEYING.

LEGAL DESCRIPTION OF DIVISION PARCEL:

THAT PART OF BLOCKS 20, 21 AND 23, "MONROE PARK SUBDIVISION", BEING A SUBDIVISION IN SECTIONS 3 AND 10, TOWNSHIP 1 SOUTH, RANGE 17 WEST, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, AND THAT PART OF BLOCK 15, "DYCKMAN AND WOODMAN'S ADDITION TO THE VILLAGE (NOW CITY) OF SOUTH HAVEN", BEING A SUBDIVISION IN SAID SECTION 3, DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 20, SAID "MONROE PARK SUBDIVISION"; THENCE SOUTH 21° 38' 55" WEST ON THE WEST LINE OF SAID BLOCK 20 A DISTANCE OF 246.49 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE SOUTH 68° 18' 45" EAST 75.00 FEET; THENCE SOUTH 21° 38' 55" WEST PARALLEL WITH THE WEST LINE OF SAID BLOCK 20 A DISTANCE OF 67.37 FEET; THENCE SOUTH 74° 11' 17" WEST 94.49 FEET TO THE WEST LINE OF SAID BLOCK 20; THENCE NORTH 21° 38' 55" EAST ON SAID WEST BLOCK LINE 124.93 FEET TO THE POINT OF BEGINNING. CONTAINING 7,211 SQUARE FEET OR 0.17 OF AN ACRE MORE OR LESS.

THE ABOVE LEGAL DESCRIPTION IS BASED ON A SURVEY BY MITCHELL & MORSE LAND SURVEYING, DATED 10/11/2007.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

ASSUMED THE BEARINGS OF SAID SURVEY BY MITCHELL & MORSE LAND SURVEYING.



THIS SKETCH OF DESCRIPTIONS IS BASED ON A BOUNDARY SURVEY BY MITCHELL & MORSE LAND SURVEYING, DATED 10/11/2007

THIS IS NOT A BOUNDARY SURVEY

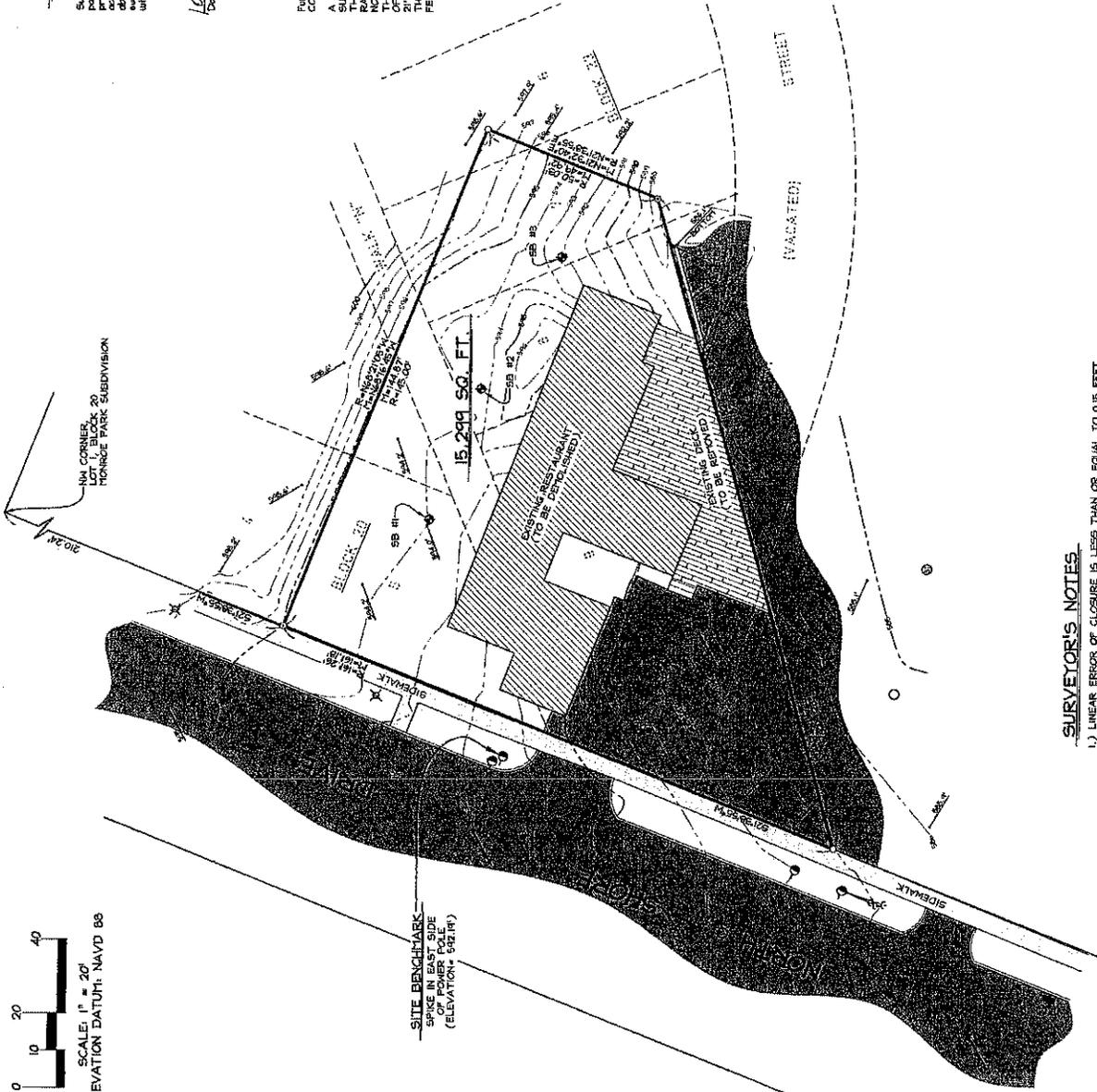
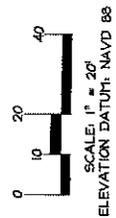
WIGHTMAN & ASSOCIATES, INC.
ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE
264 Western Avenue Allegan, MI 49010 Phone: (269) 673-8465
2303 Pigeonville Road Benton Harbor, MI 49022 Phone: (269) 927-0100
9835 Portage Road Portage, MI 49602 Phone: (269) 327-5332
www.wightman-assoc.com

CLIENT: SOUTH HAVEN LANDQUEST LLC
JOB No: 140530
DATE: JULY 12, 2014
SCALE:
DRAWN BY: GDH
CHECKED BY:

Gary D. Hahn
GARY D. HAHN PS-38116

CITY OF SOUTH HAVEN VAN BUREN COUNTY SECTION 3, T 1 S, R 17 W A-140530

MICHIGAN PLAT OF SURVEY



SURVEYOR'S CERTIFICATE

On the basis of my knowledge and belief, I, Edward C. Thorne, Professional Surveyor, certify that I have examined a boundary survey of the parcel of land described below, made on the ground to the normal standard of care of a boundary survey in Michigan. The survey was performed in accordance with a description of the land in the instrument in the abstract of title or title insurance policy for economy, easements, or exceptions. This survey was prepared for SBLANDQUEST and does not extend to any unnamed person unless expressly designated by the surveyor naming said person.



Edward C. Thorne
 Edward C. Thorne
 Mitchell & Thorne Land Surveying
 Professional Surveyor #47962

10-11-07
 Date

Furnished Description: SITUATED IN THE CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN

A PARCEL OF LAND BEING PART OF BLOCK 20, 21, AND 23, MONROE PARK SUBDIVISION AND PART OF BLOCK 15 OF DICCHAN AND MOODY'S ADDITION TO THE CITY OF SOUTH HAVEN, SECTIONS 5 AND 10, TOWNSHIP 1 SOUTH, RANGE 12 EAST, COUNTY OF VAN BUREN, MICHIGAN, BEING THE NORTHWEST CORNER OF LOT 1 IN BLOCK 20 OF MONROE PARK SUBDIVISION, THENCE SOUTH 27°59'57" WEST ALONG THE WEST LINE OF BLOCK 20, A DISTANCE OF 213.83 FEET; THENCE SOUTH 27°59'57" WEST ALONG THE WEST LINE OF BLOCK 20, A DISTANCE OF 152.75 FEET; THENCE NORTH 21°58'50" EAST, 152.75 FEET; THENCE NORTH 69°21'05" WEST, 146.00 FEET; THENCE NORTH 69°21'05" WEST, 146.00 FEET TO THE PLACE OF BEGINNING.

LEGEND

- UTILITY POLE
- X- GUY ANCHOR
- X- LIGHT POLE
- R- SPOT ELEVATION
- ASPHALT
- CONCRETE
- CURB INLET
- STORM MANHOLE
- SANITARY MANHOLE
- UNKNOWN MANHOLE
- R- FLATTED
- M- MEASURED
- ◇- SOIL BORING

PREPARED FOR:
SBLANDQUEST

PREPARED BY:
MITCHELL & THORNE LAND SURVEYING
 A DIVISION OF MITCHELL SURVEYS, INC.
404 BROADWAY
SOUTH HAVEN, MICHIGAN 49090
 PHONE (264) 497-1107 FAX (264) 497-1907
 PROJECT NO. 07-900 DATE 10-11-2007
 BOOK 382 PAGE 3 REVISION
 DRAWN BY J.KACZHAREK SHEET 1 OF 1

SURVEYOR'S NOTES

- 1.) LINEAR ERROR OF CLOSURE IS LESS THAN OR EQUAL TO 0.15 FEET.
- 2.) BEARINGS ARE REFERENCED TO ASSUMED SOUTH 27°59'57" WEST ON THE EAST LINE OF NORTH SHORE DRIVE.
- 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR THE CLIENT ONLY. ANY REUSE WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR WILL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR.
- 4.) THIS SURVEY COMPLIES WITH ACT 105 OF 1970, EXCEPT FOR PAPER SIZE.

SCHEDULE 3.B

22634959.1\153234-00001

JOB: 140530

CLIENT: SOUTH HAVEN LANDQUEST, LLC

ADDRESS: 38 NORTH SHORE DRIVE

PARCEL NO.: 80-53-823-002-10

LEGAL DESCRIPTION OF PARENT PARCEL (PER WARRANTY DEED RECORDED IN LIBER 0885, PAGE 785):

A PARCEL OF LAND BEING PART OF BLOCKS 20, 21 AND 23, MONROE PARK SUBDIVISION, AND PART OF BLOCK 15 OF DYCKMAN AND WOODMAN'S ADDITION TO THE VILLAGE (NOW CITY) OF SOUTH HAVEN, SECTIONS 3 AND 10, TOWN 1 SOUTH, RANGE 17 WEST, MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF LOT 1 IN BLOCK 20 OF MONROE PARK SUBDIVISION; THENCE SOUTH 21° 38' 55" WEST, ALONG THE WEST LINE OF BLOCK 20, A DISTANCE OF 210.24 FEET TO THE TRUE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 21° 38' 55" WEST, ALONG SAID WEST LINE OF BLOCK 20, A DISTANCE OF 161.26 FEET; THENCE NORTH 74° 09' 28" EAST, 182.75 FEET; THENCE NORTH 21° 38' 55" EAST, 50.03 FEET; THENCE NORTH 68° 21' 05" WEST, 145.00 FEET TO THE PLACE OF BEGINNING.

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THE ABOVE LEGAL DESCRIPTION IS BASED ON A SURVEY BY MITCHELL & MORSE LAND SURVEYING, DATED 10/11/2007.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

ASSUMED THE BEARINGS OF SAID SURVEY BY MITCHELL & MORSE LAND SURVEYING.

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ASSUMED THE BEARINGS OF SAID SURVEY BY MITCHELL & MORSE LAND SURVEYING.

CITY OF SOUTH HAVEN VAN BUREN 2014 Summer Bill #:

MESSAGE TO TAXPAYER
KEEP THE TOP PORTION FOR YOUR RECORDS

IF THERE IS A CODE BELOW IN THE MORT CODE AREA IT MEANS A COPY OF YOUR BILL WAS SENT TO YOUR MORTGAGE COMPANY
ACH FORMS AVAILABLE AT: WWW.SOUTH-HAVEN.COM > DEPARTMENTS > FINANCE > PROPERTY TAXES > TAXES AUTO PAY AUTHORIZATION FORM 2014

PAYMENT INFORMATION

This tax is due by: 09/19/2014
Pay by mail to:
CITY OF SOUTH HAVEN
539 PHOENIX ST
SOUTH HAVEN MI 49090-1499
WWW.SOUTH-HAVEN.COM

PROPERTY INFORMATION

Property Assessed To:
SOUTH HAVEN LANDQUEST LLC
7858 RAVINE RD
KALAMAZOO, MI 49009
District 80010
School: 80010
Prop #: 80-53-823-002-10
Prop Addr: 38 NORTH SHORE DR
Legal Description:
C4328 3-1-17 885-783.786 1496-331 + COM AT NW COR OF BLK 20, TH S 21 DEG 38' 55" N ALG N L OF SD BLK 210.24' TO BEG OF DES. TH CONT S 21 DEG 38' 55" W 161.26' TH N 74 DEG 09' 23" E 182.75' TH N 21 DEG 38' 55" E 50.03' TH N 68 DEG 21' 05" N 145' TO BEG. MONROE PARK

TAX DETAIL

Taxable Value: 381,300 IMPROVED COM
State Equalized Value: 381,300 Class: 201
PRE/MBT #: 0.0000 DDA # 2
Mort Code:

Taxes are based upon Taxable Value.
1 mill equals \$1.00 per \$1000 of Taxable Value.
Amounts with no millage are either Special Assessments or other charges added to this bill.

DESCRIPTION	MILLAGE	AMOUNT
CHARTER TAX	10.28600	3,922.05
GARAGE TAX	1.20000	457.56
DRUG ENFORCEMENT	0.67980	259.20
SO HAVEN LIBRARY	0.59000	224.96
STATE ED TAX	6.00000	2,287.60
SCHOOL OPERATING	18.00000	6,863.40
SCHOOL DEBT	4.80000	1,830.24
COMM. COLLEGE	1.78540	680.77
CITY ROAD	1.58130	602.94
COUNTY OPERATING	4.47190	1,705.13

BALANCE OF DESCRIPTION ON FILE

PAID
MM 1 & 2011
CITY OF SOUTH HAVEN

OPERATING FISCAL YEARS

The taxes on bill will be used for governmental operations for the following fiscal year(s):

County: 01/01 - 12/31
Twn/Cty: 07/01 - 06/30
School: 01/01 - 12/31
State: 10/01 - 9/30

Does NOT affect when the tax is due or its amount

Total Tax 49,394.40
Administration Fee 188.34
TOTAL AMOUNT DUE 19,022.39

Please detach along perforation. Keep the top portion.

QUITCLAIM DEED

Date of this Document: _____, 2014

Grantor:

Name South Haven Landquest, LLC, a Michigan limited liability company

Street Address 7858 Ravine Road, Kalamazoo, MI 49009

Grantee:

Name South Haven Landquest, LLC, a Michigan limited liability company

Street Address 7858 Ravine Road, Kalamazoo, MI 49009

THIS QUITCLAIM DEED, executed this _____ day of _____, 2014, by first party, Grantor, South Haven Landquest, LLC, a Michigan limited liability company, whose address is 7858 Ravine Road, Kalamazoo, MI 49009, to the second party, Grantee, South Haven Landquest, LLC, a Michigan limited liability company, whose address is 7858 Ravine Road, Kalamazoo, MI 49009.

WITNESSETH, that the said first party, for good consideration and for the sum of one dollars (\$1.00) and other good and valuable consideration paid by the said second party, the receipt whereof is hereby acknowledged, does hereby quit claim unto the said second party forever, all of Grantor's right, title, interest and claim to the premises legally described on the attached Exhibit "A".

Subject to easements, restrictions, reservations, limitations and rights-of-way of record, any liens for real estate taxes not yet due and payable.

The Grantor grants to the Grantee the right to make ALL available divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended. The Grantor intends to transfer to the Grantee the right to make all available divisions, bonus divisions and redivisions of the Property as the Grantor may have under the Land Division Act, Act No. 288 of the Public Acts of 1967, as amended.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

This transfer is exempt from taxation pursuant to MCLA 207.505(a) and MCLA 207.526(a), the consideration being less than \$100.

[Signatures and Notarial Acknowledgment on Following Page]

IN WITNESS WHEREOF, The said Grantor has hereunto set its hand on the day and year first above written.

GRANTOR:
SOUTH HAVEN LANDQUEST, LLC
a Michigan limited liability company

By: Tom Brussee
Its: Member

State of Michigan)
County of)

The foregoing instrument was acknowledged before me this ____ day of _____ 2014 by Tom Brussee, the member of South Haven Landquest, LLC, a Michigan limited liability company, known to me to be the person who executed the foregoing instrument, and acknowledged the same to be of his free act and deed, as in said instrument described on behalf of the limited liability company.

_____, Notary Public
_____, County, Michigan
Acting in _____ County
My commission expires: _____

Drafted by and after recording return to:
Matthew B. Van Dyk, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
277 South Rose Street, Suite 5000
Kalamazoo, Michigan 49007
(269) 381-7030

**DRAFTER HAS NOT EXAMINED AND MAKES NO REPRESENTATIONS
RESPECTING TITLE TO THE PROPERTY OR THE LAND DIVISION ACT**

Exhibit "A"

THAT PART OF BLOCKS 20, 21 AND 23, "MONROE PARK SUBDIVISION", BEING A SUBDIVISION IN SECTIONS 3 AND 10, TOWNSHIP 1 SOUTH, RANGE 17 WEST, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, AND THAT PART OF BLOCK 15, "DYCKMAN AND WOODMAN'S ADDITION TO THE VILLAGE (NOW CITY) OF SOUTH HAVEN", BEING A SUBDIVISION IN SAID SECTION 3, DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 20, SAID "MONROE PARK SUBDIVISION"; THENCE SOUTH 21° 38' 55" WEST ON THE WEST LINE OF SAID BLOCK 20 A DISTANCE OF 246.49 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED: THENCE SOUTH 68° 16' 45" EAST 75.00 FEET; THENCE SOUTH 21° 38' 55" WEST PARALLEL WITH THE WEST LINE OF SAID BLOCK 20 A DISTANCE OF 67.37 FEET; THENCE SOUTH 74° 11' 17" WEST 94.49 FEET TO THE WEST LINE OF SAID BLOCK 20; THENCE NORTH 21° 38' 55" EAST ON SAID WEST BLOCK LINE 124.93 FEET TO THE POINT OF BEGINNING. CONTAINING 7,211 SQUARE FEET OR 0.17 OF AN ACRE MORE OR LESS.

22634803.1\153234-00001

**CITY OF SOUTH HAVEN - LAND DIVISION APPLICATION
APPROVAL SHEET FOR LAND DIVISION REQUEST**

Date Received: 7/14/2014

Applicant name: South Haven Landquest LLC

Street Address: 7858 Ravine Rd City/State: Kalamazoo, MI Zip Code: 49009

Parent Property Tax ID # 80-53-823-002-10 # _____ # _____

1. ZONING ADMINISTRATOR: Date Received: 7/14/14 Date Action Taken: 7/28/14

_____ Approved X Disapproved

COMMENTS:

Section 17014(1)(f) of the Zoning Ordinance provides nine criteria for the approval of lot divisions, which are in addition to the requirements in the Michigan Land Division Act. Section 1704(1)(f)(7) provides that "no lot shall be divided unless the property lines, size, shape, orientation, and existing zoning of the resulting lots shall be such as to promote the efficient and appropriate development and use of the land as contemplated for each resulting lot and as permitted in this Ordinance for the applicable zoning district." The requested lot division would result in two smaller lots that could not be feasibly developed for any of the permissible uses in the B-3 district. The development of single-family homes on the resulting lots would be prohibited because Section 901(17) provides that special use permits are only available for single-family homes on "existing lots" (i.e. those lots existing as of the date of the amendatory ordinance permitting single-family homes as a special use in the B-3 district). The two resulting lots would be too small for any use other than the development of single-family homes.

Signature: Linda Anderson

2. ASSESSOR: Date Received: _____ Date Action Taken: _____

_____ Approved _____ Disapproved

COMMENTS:

Approval valid for one (1) year after approval date for marketing purposes only. Void after one (1) year if documents transferring property not supplied to the City Assessor.

Signature: _____

adopted to carry out the provisions of this act.

(d) The rules of the state transportation department relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.

(e) The rules of the department of consumer and industry services for the approval of plats, including forms, certificates of approval, and other required certificates, captioning of plats, and numbering of lots.

(f) The rules of the department of environmental quality for the determination and establishment of floodplain areas of rivers, streams, creeks, or lakes, as provided in this act, as published in the state administrative code.

(g) The rules of the department of environmental quality relating to suitability of groundwater for on-site water supply for subdivisions not served by public water or to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may authorize a city, county, or district health department to carry out the provisions of this act and rules promulgated under this act relating to suitability of groundwater for subdivisions not served by public water or relating to suitability of soils for subdivisions not served by public sewers. The department of environmental quality may require percolation tests and boring tests to determine suitability of soils. When such tests are required, they shall be conducted under the supervision of a registered engineer, registered land surveyor, or registered sanitarian in accordance with uniform procedures established by the department of environmental quality.

History: 1967, Act 288, Eff. Jan. 1, 1968;—Am. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 1997, Act 87, Imd. Eff. July 28, 1997.

Popular name: Plat Act

Popular name: Subdivision Control

Administrative rules: R 560.101 et seq. and R 560.401 et seq. of the Michigan Administrative Code.

560.106 Approving authorities; limitation on powers of approval or rejection.

Sec. 106. No approving authority or agency having the power to approve or reject plats shall condition approval upon compliance with, or base a rejection upon, any requirement other than those included in section 105.

History: 1967, Act 288, Eff. Jan. 1, 1968.

Popular name: Plat Act

Popular name: Subdivision Control

560.107 Preliminary plat; submission, discretion.

Sec. 107. (1) Nothing contained in this act shall prohibit a proprietor from submitting a prepreliminary plat to a governing body for the proprietors information and review.

(2) Nothing contained in this act shall allow a municipality, county, or state agency to require an approval of a preliminary plat or plan other than those provided for in sections 112 to 120.

History: Add. 1969, Act 308, Imd. Eff. Aug. 14, 1969.

Popular name: Plat Act

Popular name: Subdivision Control

560.108 Parent parcel or parent tract; number of parcels resulting from division; limitations; requirements.

Sec. 108. (1) A division is not subject to the platting requirements of this act.

(2) Subject to subsection (3), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:

(a) For the first 10 acres or fraction thereof in the parent parcel or parent tract, 4 parcels.

(b) For each whole 10 acres in excess of the first 10 acres in the parent parcel or parent tract, 1 additional parcel, for up to a maximum of 11 additional parcels.

(c) For each whole 40 acres in excess of the first 120 acres in the parent parcel or parent tract, 1 additional parcel.

(3) For a parent parcel or parent tract of not less than 20 acres, the division may result in a total of 2 parcels in addition to those permitted by subsection (2) if 1 or both of the following apply:

(a) Because of the establishment of 1 or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under subsection (2) or this subsection are created or required.

(b) One of the resulting parcels under subsection (2) and this subsection comprises not less than 60% of the area of the parent parcel or parent tract.

(4) A parcel of 40 acres or more created by the division of a parent parcel or parent tract shall not be

counted toward the number of parcels permitted under subsections (2) and (3) and is not subject to section 109, if the parcel is accessible.

(5) A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements of this act if all of the following requirements are met:

(a) Not less than 10 years have elapsed since the parcel or tract was recorded.

(b) The partitioning or splitting results in not more than the following number of parcels, whichever is less:

(i) Two parcels for the first 10 acres or fraction thereof in the parcel or tract plus 1 additional parcel for each whole 10 acres in excess of the first 10 acres in the parcel or tract.

(ii) Seven parcels or 10 parcels if one of the resulting parcels under this subsection comprises not less than 60% of the area of the parcel or tract being partitioned or split.

(c) The partitioning or splitting satisfies the requirements of section 109.

(6) A parcel or tract created under the provisions of subsection (5) may not be further partitioned or split without being subject to the platting requirements of this act, except in accordance with the provisions of subsection (5).

History: Add. 1996, Act 591, Eff. Mar. 31, 1997.

Popular name: Plat Act

Popular name: Subdivision Control

560.109 Approval or disapproval of proposed division; requirements; exemption from platting requirements; notice of transfer; form; sale of unplatted land; statement contained in deed; ordinance; approval not determination of compliance.

Sec. 109. (1) A municipality shall approve or disapprove a proposed division within 45 days after the filing of a complete application for the proposed division with the assessor or other municipally designated official. However, a municipality with a population of 2,500 or less may enter into an agreement with a county to transfer to the county authority to approve or disapprove a division. An application is complete if it contains information necessary to ascertain whether the requirements of section 108 and this section are met. The assessor or other municipally designated official, or the county official, having authority to approve or disapprove a proposed division, shall provide the person who filed the application written notice whether the application is approved or disapproved and, if disapproved, all the reasons for disapproval. A complete application for a proposed division shall be approved if, in addition to the requirements of section 108, all of the following requirements are met:

(a) Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of this section and section 108. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.

(b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but are not required to include and need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

(c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).

(d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).

(e) Each resulting parcel is accessible.

(f) The division meets all of the requirements of section 108.

(g) Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.

(h) The division does not isolate a cemetery so that it does not meet the requirements of either section 102(j)(i) or (ii).

(2) The right to make divisions exempt from the platting requirements of this act under section 108 and this

section can be transferred, but only from a parent parcel or parent tract to a parcel created from that parent parcel or parent tract. A proprietor transferring the right to make a division pursuant to this subsection shall within 45 days give written notice of the transfer to the assessor of the city or township where the property is located on a form prescribed by the state tax commission. The form shall include substantially the following questions in the mandatory information portion of the form:

(a) "Did the parent parcel or parent tract have any unallocated divisions under the land division act, 1967 PA 288, MCL 560.101 to 560.293? If so, how many?"

(b) "Were any unallocated divisions transferred to the newly created parcel? If so, how many?"

(3) A person shall not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the platting requirements of this act under this section and section 108 is proposed to be conveyed. The statement shall be in substantially the following form: "The grantor grants to the grantee the right to make [insert number] division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967." In the absence of a statement conforming to the requirements of this subsection, the right to make divisions under section 108(2), (3), and (4) stays with the remainder of the parent tract or parent parcel retained by the grantor.

(4) All deeds for parcels of unplatted land within the state of Michigan after the effective date of this act shall contain the following statement: "This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act."

(5) The governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards authorized in subsection (1)(b), (c), and (d). The ordinance may establish a fee for reviews under this section and section 108. The fee shall not exceed the reasonable costs of providing the services for which the fee is charged.

(6) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

History: Add. 1996, Act 591, Eff. Mar. 31, 1997;—Am. 1997, Act 87, Imd. Eff. July 28, 1997;—Am. 2012, Act 525, Imd. Eff. Dec. 28, 2012.

Popular name: Plat Act

Popular name: Subdivision Control

560.109a Parcel less than 1 acre.

Sec. 109a. (1) If a parcel resulting from a division is less than 1 acre in size, a building permit shall not be issued for the parcel unless the parcel has all of the following:

(a) Public water or city, county, or district health department approval for the suitability of an on-site water supply under the same standards as set forth for lots under rules described in section 105(g).

(b) Public sewer or city, county, or district health department approval for on-site sewage disposal under the health department standards as set forth for lots under rules described in section 105(g).

(2) The municipality or county approving a proposed division resulting in a parcel less than 1 acre in size and its officers and employees are not liable if a building permit is not issued for the parcel for the reasons set forth in this section. A notice of approval of a proposed division resulting in a parcel of less than 1 acre in size shall include a statement to this effect.

(3) A city, county, or district health department may adopt by regulation a fee for services provided under this section. The fees shall not exceed the reasonable costs of providing the services for which the fees are charged.

History: Add. 1997, Act 87, Imd. Eff. July 28, 1997.

Popular name: Plat Act

Popular name: Subdivision Control

560.109b Parcels of 20 or more acres.

Sec. 109b. (1) An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of 20 acres or more in size is not subject to approval under this act if the parcel or tract is not accessible and 1 of the following applies:

(a) The parcel or tract was in existence on March 31, 1997.

(b) The parcel or tract resulted from an exempt split or other partitioning or splitting under this section.

(2) The proprietor shall provide the purchaser of a parcel resulting from an exempt split or other partitioning or splitting under subsection (1) with the following written statement before closing:

"This parcel is not accessible as defined in the land division act, 1967 PA 288, MCL 560.101 to 560.293."

History: Add. 1997, Act 87, Imd. Eff. July 28, 1997.



MATTHEW B. VAN DYK
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E-MAIL vandyk@millercanfield.com

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www.millercanfield.com

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August 19, 2014

Via Hand-Delivery and Electronic Mail

Zoning Board of Appeals
City of South Haven
539 Phoenix Street
South Haven, MI 49090
Email: landerson@south-haven.com

RE: Appeal of Zoning Administrator Denial of Land Division Application
Applicant: South Haven Landquest LLC
Property Address: 7858 Ravine Road, Kalamazoo, MI 49009
Parent Parcel Tax ID: 80-53-823-002-10
Application Date: July 14, 2014
Denial Date: July 28, 2014

To Whom It May Concern:

This correspondence shall serve as the captioned Applicant's appeal (the "Appeal") from an action of the Zoning Administrator taken on July 28, 2014, pursuant to Section 2209.1 of the City of South Haven Zoning Ordinance (the "Zoning Ordinance"). Per Section 200(13) of the Zoning Ordinance, filing of this Appeal is timely as the Zoning Administrator rendered her decision on July 28, and that day is excluded for purposes of computing the 21-day period in which an appeal may be filed under Section 2208 of the Zoning Ordinance.

Please note that although Section 2209.1 of the Zoning Ordinance indicates that this Appeal is to be "filed on a form established for that purpose with such person or body", the Applicant was unable to locate such a form on the City's website. Additionally, when Applicant requested the form from the Zoning Administrator, the Zoning Administrator provided the form for a Variance Request which is specifically tailored to use variance requests and contains a number of criteria which are inapplicable to this Appeal. As such, I am submitting 8 copies of this letter together with the enclosures. Pursuant to MCL 125.3604, this information is sufficient to perfect the appeal.

Enclosed herewith please find the following:

- Complete copy of the Applicant's Land Division Application (the "Application").
- Complete copy of the Zoning Administrator's Denial of the Applicant's Land Division Application (the "Denial").

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

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August 19, 2014

- Copy of Section 108 and Section 109 of the Michigan Land Division Act, Public Act 288 of 1967 (the "LDA").
- Check in the amount of \$300.00 for the filing fee for this appeal.

As indicated in the Denial, the Denial is predicated on Section 1704(1)(f)(7) of the Zoning Ordinance which provides, in relevant part, as follows:

"No lot shall be divided unless the property lines, size, shape, orientation, and existing zoning of the resulting lots shall be such as to promote the efficient and appropriate development and use of the land as contemplated for each resulting lot and as permitted in this Ordinance for the applicable zoning district."

The Zoning Administrator denied the application on the basis that the requested division would create lots which "could not be feasibly developed for any of the permitted uses in the B-3 district;" and further concluded that the resulting lots would not be deemed "existing lots" under Section 901(17), and therefore, would not be usable for residential purposes under Section 901(17).

The Zoning Administrator's denial, conclusions, and premises on which the same were based are in error for a variety of reasons, including, without limitation, the following:

- The LDA limits the factors that can be considered in deciding whether to approve a land division application. Full zoning review and, specifically in this instance, use analysis, is not required and, in fact, is not permitted under the LDA. As such, the Zoning Administrator's determination that the Applicant would not be permitted to use the child parcels in the B-3 District (and therefore, the division request should be denied), was an improper analysis in violation of the LDA and effectively denies the Applicant of a property right that the Applicant is guaranteed by state law. Section 109 of the LDA (MCL 560.109(1)) provides, in relevant part, that, "[a] complete application for a proposed division ***shall be approved*** if, in addition to the requirements of Section 108, all of the following requirements are met...." The requirements of Section 108 and Section 109 are focused on the character of the division itself, dimensional requirements, availability of utilities and the like; I have enclosed a copy of Section 108 and Section 109 of the LDA for your reference and review. There is no requirement in the applicable provisions of the LDA relating to the subsequent use of the property under the then-current zoning district. Moreover, Section 109(5) of the LDA (MCL 560.109(5)) only grants the municipality the right to adopt ordinances setting forth the approval standards of the LDA; it does not give the municipality the right to adopt additional requirements for such a division. In fact, Section 109(6) of the LDA (MCL 560.109(6)) expressly provides that "[a]pproval of a division is *not* a determination that the resulting parcels comply with other ordinances or regulations." Again, the LDA provides that a proposed division ***shall be approved*** if the LDA criteria are met. In this case, the LDA criteria were met and the Denial was based on a consideration which the LDA specifically

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

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August 19, 2014

prohibits. Such a denial violates the LDA and operates to deprive the Applicant of a property right to which it is entitled by state law. As such, it must be reversed.

- Even if Section 1704(1)(f)(7) provides a legal basis for denying the Application, which the Applicant contends it does not (see above), the Zoning Administrator mis-applied Section 1704(1)(f)(7). This section is focused on the *effect of the division itself*. The question it poses is whether the division itself would create lots which do not “promote the efficient and appropriate development and use of the land...” In this case, *the division itself* does not create such a problem as the parent parcel itself was faced with the exact same set of challenges that the resultant parcels face – namely, unusable under B-3 except, arguably, for residential under 901(17). That is, this is not a case where the parent parcel could have been used for one or more uses in the B-3 District and the child parcels cannot. Rather, the use of the child parcels is no more limited in the B-3 District than the use of the parent parcel already is.¹ Since *the division itself* does not *create* a usability problem, Section 1704(1)(f)(7) is an insufficient and inapplicable basis for the Denial.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: _____

Matthew B. Van Dyk

MBV

DISCLOSURE UNDER TREASURY CIRCULAR 230: The United States Federal tax advice contained in this document and its attachments, if any, may not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, nor is such advice intended or written to be used, and may not be used, by a taxpayer for the purpose of avoiding Federal tax penalties. Advice that complies with Treasury Circular 230's “covered opinion” requirements (and thus, may be relied on to avoid tax penalties) may be obtained by contacting the author of this document.

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¹ Note: The Zoning Administrator implicitly argues in the Denial that the parent parcel would qualify as an “existing lot” under Section 901(17), and thus, be usable for residential purposes, whereas the child parcels would not qualify as an “existing lot” under Section 901(17). The Zoning Administrator's conclusion in this regard is predicated on the Zoning Administrator's conclusion that the phrase “existing lots” refers to “lots existing as of the date of the amendatory ordinance permitting single-family homes as a special use in the B-3 District.” Putting aside the questionable legality of Section 901(17), generally, Section 901(17) is completely devoid of any contextual clues which would even remotely suggest that that is what “existing lots” means. A plain reading of Section 901(17) makes clear that, in context, the phrase “existing lots” means lots existing at the time of the property owner applies for special use approval under Section 901(17). In this case, that application has not yet been made and will not be made until after the land division is approved, at which point, the child parcels will both be “existing lots”.



Agenda Item #6b Rear Yard Setback Variance

City of South Haven

Background Information: Matthew and Cynthia Carstens are requesting a variance to build a new house and deck which will extend to the rear property line in the R1-C zone. The proposed deck further extends onto the 40 foot stretch of property along the channel which is owned by the U.S. Coast Guard. The applicant has a license agreement with the Coast Guard for the proposed encroachment.

This property also has a 14 foot easement which bisects the property at what could be the building envelope.

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. Staff does not find a problem with the approval of this request.

Support Material:

Completed application
Aerial photo of 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: Matthew & Cynthia Carstens

Date: 09/02/14

Address: 12137 3 1/2 Mile Rd, Battle Creek, MI 49015

Phone: 269-832-0783

Address of Property in Question: 26 Grand Blvd, South Haven

Present Zoning of Property: R1C

Name of Property Owner(s): Cynthia S Carstens

Dimensions and area of property 70' x 152' , 10,640 sq. ft.

Dimensions of all buildings on the property (also shown on a diagram) _____
House 62'4" x 42'4" , Garage 42' x 26'

Setback measurements of all structures on the property (also shown on diagram)
Garage North 3', South 107', East 31', West 13'

House North 110', South 0', East 3'10", West 3'10"

Present Zoning of Neighboring Properties to the :

North R1C South R1C East R1C West R1C

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): 404

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.

Correct

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

Correct

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).

Correct. Property easement makes the building area very narrow north to south.

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.

Correct

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.

Correct

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.

Correct

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.

Correct

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

Correct

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

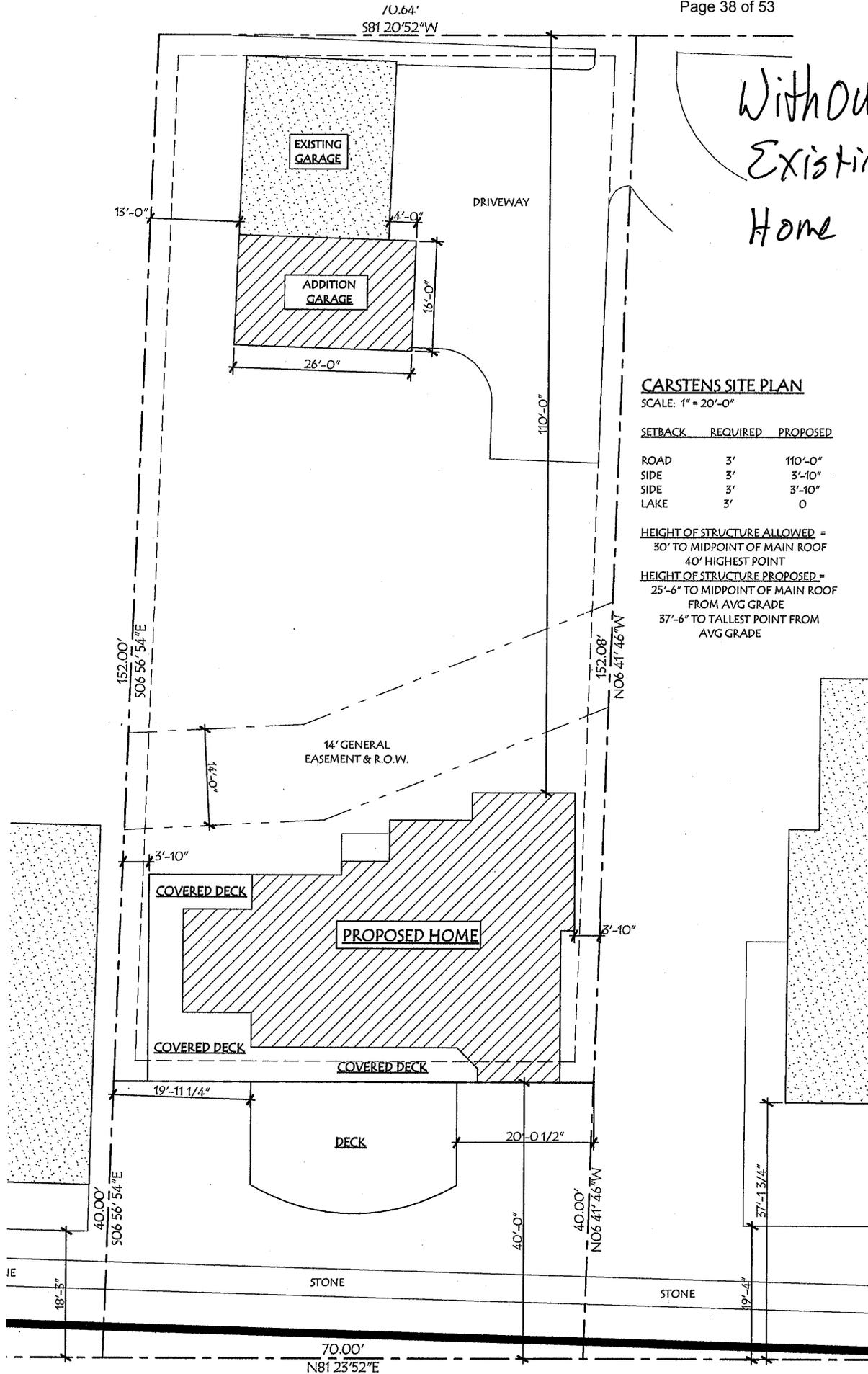
Correct

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.

John S. Carter 9/2/14
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.

[Signature] *John S. Carter* 9/2/14
Applicant Signature Date



Without
 Existing
 Home

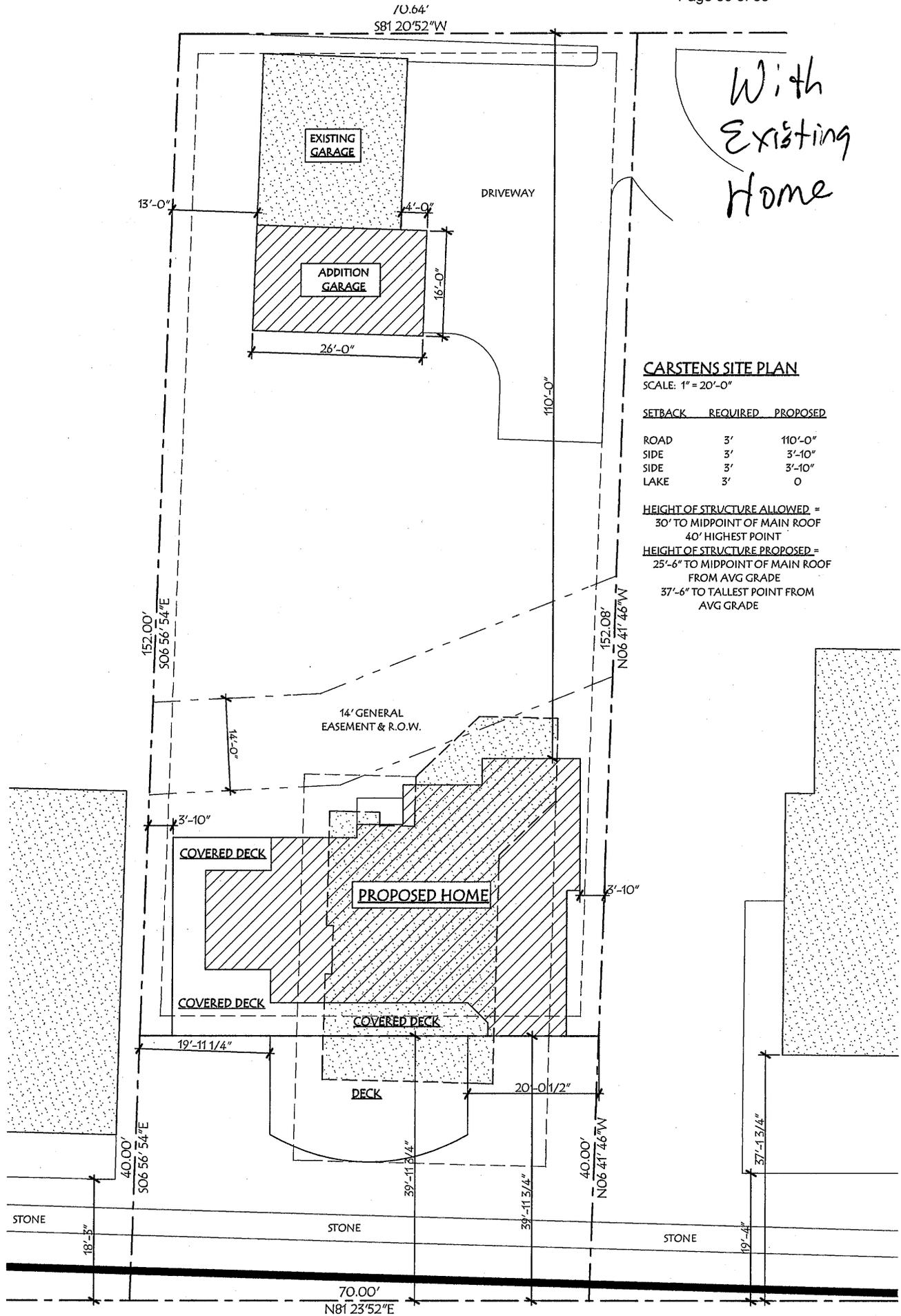
CARSTENS SITE PLAN

SCALE: 1" = 20'-0"

SETBACK	REQUIRED	PROPOSED
ROAD	3'	110'-0"
SIDE	3'	3'-10"
SIDE	3'	3'-10"
LAKE	3'	0

HEIGHT OF STRUCTURE ALLOWED =
 30' TO MIDPOINT OF MAIN ROOF
 40' HIGHEST POINT

HEIGHT OF STRUCTURE PROPOSED =
 25'-6" TO MIDPOINT OF MAIN ROOF
 FROM AVG GRADE
 37'-6" TO TALLEST POINT FROM
 AVG GRADE



With Existing Home

CARSTENS SITE PLAN

SCALE: 1" = 20'-0"

SETBACK	REQUIRED	PROPOSED
ROAD	3'	110'-0"
SIDE	3'	3'-10"
SIDE	3'	3'-10"
LAKE	3'	0

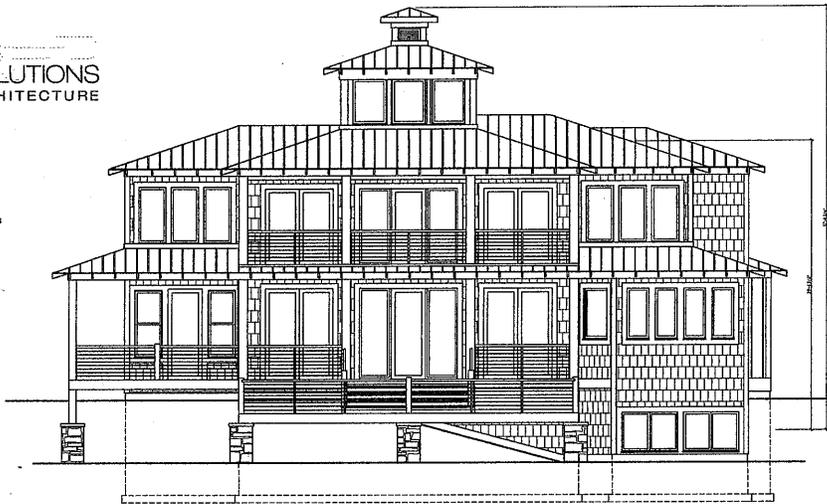
HEIGHT OF STRUCTURE ALLOWED = 30' TO MIDPOINT OF MAIN ROOF 40' HIGHEST POINT

HEIGHT OF STRUCTURE PROPOSED = 25'-6" TO MIDPOINT OF MAIN ROOF FROM AVG GRADE
 37'-6" TO TALLEST POINT FROM AVG GRADE

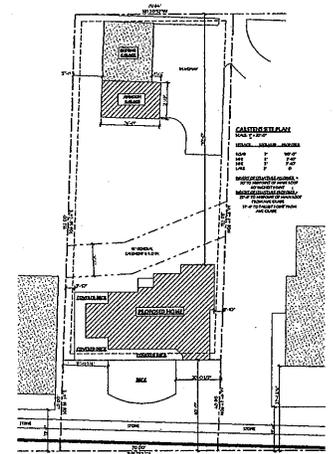


DESIGN EVOLUTIONS
 FINE HOME ARCHITECTURE

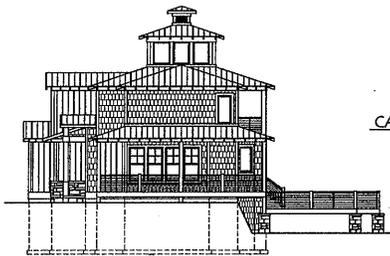
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FRONT ELEVATION
 1/8" = 1'-0"



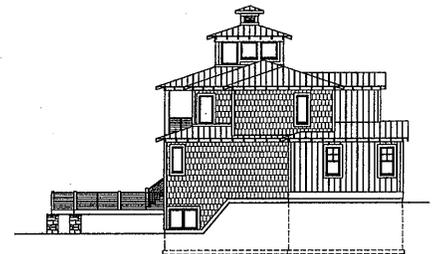
CARSTENS SITE PLAN
 1" = 20'-0"



LEFT ELEVATION
 1/8" = 1'-0"



REAR ELEVATION
 1/8" = 1'-0"



RIGHT ELEVATION
 1/8" = 1'-0"

APPROVED _____
 DATE _____

THE CARSTENS RESIDENCE	
ADDRESS:	
DESIGNER:	MARLA M. BRUEMMER
DATE:	AUGUST 28, 2014
REVISED:	

1

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.

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

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STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: September 22, 2014

ADDRESS: 26 Grand Boulevard

ZONING DISTRICT: R-1C

LOT DIMENSIONS: Front – 70 feet; Sides – 152 feet;

LOT AREA: .24 acres (10,640 sq. feet)

LOT COVERAGE: 30% +/-

REQUIRED SETBACKS: Front – 3'; Rear – 3'; Side – 3'

EXISTING SETBACKS: Buildings to be demolished

PROPOSED SETBACKS: Front – 3'; Rear – None; Side – 3'

VARIANCE REQUEST: Mathew and Cynthia Carstens are requesting a variance to build a new house and deck which will extend to the rear property line in the R1-C zone. The proposed deck extends into the property along the channel which is owned by the U.S. Coast Guard. The applicant has a license agreement with the Coast Guard for that encroachment. The variance is only asked to allow the applicant to construct to the rear line (water side) of his property.

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.

The existing house on the property, which will be demolished, extends over the property line and onto the Coast Guard property. The house immediately to the east also extends over the property line and onto the Coast Guard property. This variance would not be a detriment to the neighborhood and other homes extend to or over the rear property line.

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

The R-1C zone is intended to provide areas for single family home on very small lots. The request does not impair the intent of the ordinance for single family homes.

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

This property is larger than many properties in the R1-C zone but does have a 14 foot easement bisecting the property at what could otherwise be a building area. This easement significantly reduces the available envelop to construct a new home with a deck. It is the applicant's desire to extend the home and deck closer to the water. To do this the applicant needs to extend the home and deck onto the Coast Guard property which extends the length of the rear of the parcel. Another unusual circumstance could be that the applicant does not own to the water line but forty (40) feet back behind the Coast Guard property. The proposed house and deck will not be closer to the water's edge than neighboring properties.

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 ZBA will need to determine if building to the property line, in this case, is a substantial property right that needs to be preserved with 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.

This is an uncommon request. Staff does not recommend amending the zoning ordinance to accommodate this situation.

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

The problem is self-created as it is the desire of the owner to extend the home and deck to the property line. It is not self-created in the fact that there is an easement bisecting the property within the common building envelope.

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

Strict compliance would not prevent a home from being constructed but would require a reconfiguration of the site and limit the home and deck to 43 feet from the water's edge. Whether that is unnecessarily burdensome is a decision for the ZBA.

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

Staff has no problem with the variance given that the same situation is seen on a neighboring property, there is an easement on which the applicant may not build and the fact that the Coast Guard has already issued a license agreement for the portion of the project that extends onto their property.

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 #6c Front Yard Accessory Building Variance

City of South Haven

Background Information: Adam Schaap of Schaap Builders, Inc. is requesting a variance to construct a detached accessory building in the front yard of a proposed house at 906 Monroe Boulevard. Zoning ordinance section 1708-1 prohibits detached accessory buildings in front yards. The preliminary site plan also shows an attached garage.

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. Staff does not find just cause for a variance in this situation.

Support Material:

Completed application
Aerial photo of 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: **Adam Schaap**

Date: **9/2/14**

Address: **12969 Greenly St. Holland, MI 49424**

Phone: **616-399-9925**

Address of
Property in Question: **906 Monroe Blvd.**

Present Zoning
of Property: **R-1B**

Name of Property Owner(s): **_South Pier Cottage LLC**

Dimensions and area of property **50.13 ft of frontage**

Dimensions of all buildings on the property (also shown on a diagram) **40'X88' house
23'X21' detached garage**

Setback measurements of all structures on the property (also shown on diagram) **12' north yard
and 8' south yard**

Present Zoning of Neighboring Properties to the :

North **R-1B** South **R-1B** East **R-1B** West

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):**1708-1**

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

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

It will not

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

It will not

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

This layout that is proposed flows well with the other nearby structures underconstruction.

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 property and design compares to those properties directly north at 872 monroe blvd

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.

yes

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.

yes

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.

yes

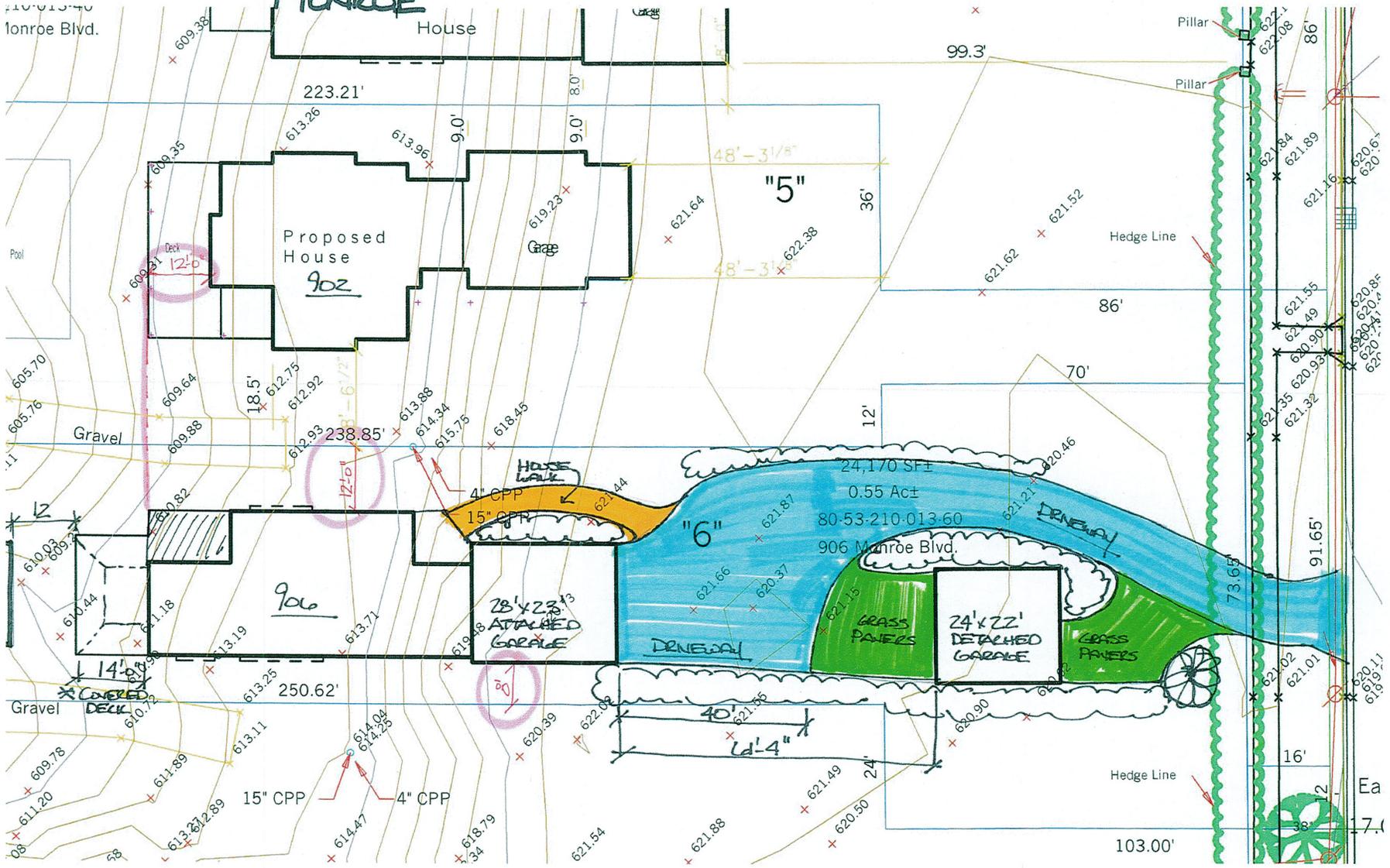
8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

yes

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

yes

906-MARTEN MONROE





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GRAND RAPIDS MI 49506
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Jonathan Lorenz
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es2@comcast.net

PROJECT No. & Name:
14.1.06 PIER VIEW SOUTH (Lot #6)
906 Monroe South Haven, MI 49090

SHEET TITLE:

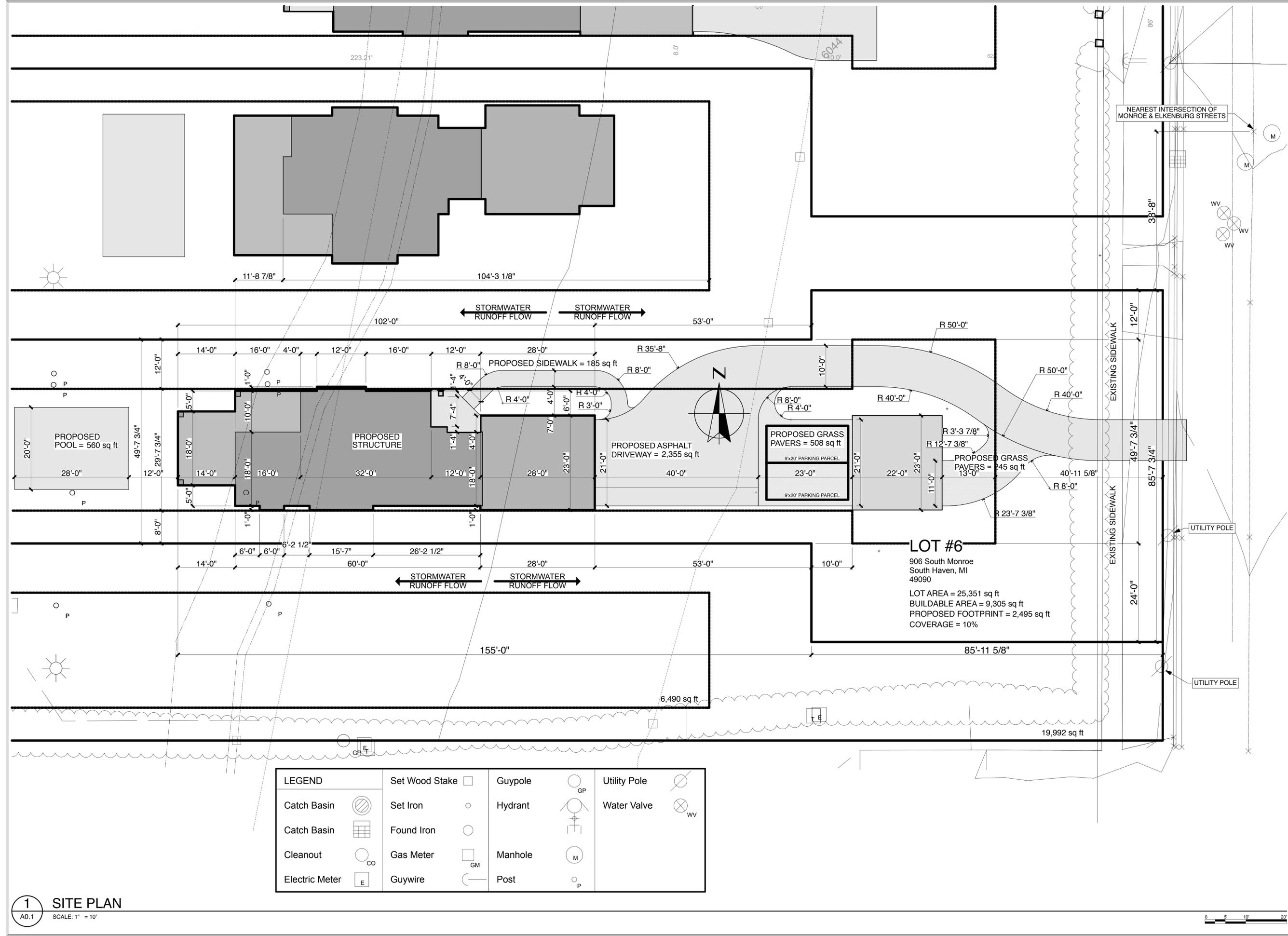
SITE PLAN

© Lorenz & Co. LLC

DATE:
8/15/14

ISSUE DESCRIPTION:
DESIGN
DEVELOPMENT

SHEET NO.:
A0.1



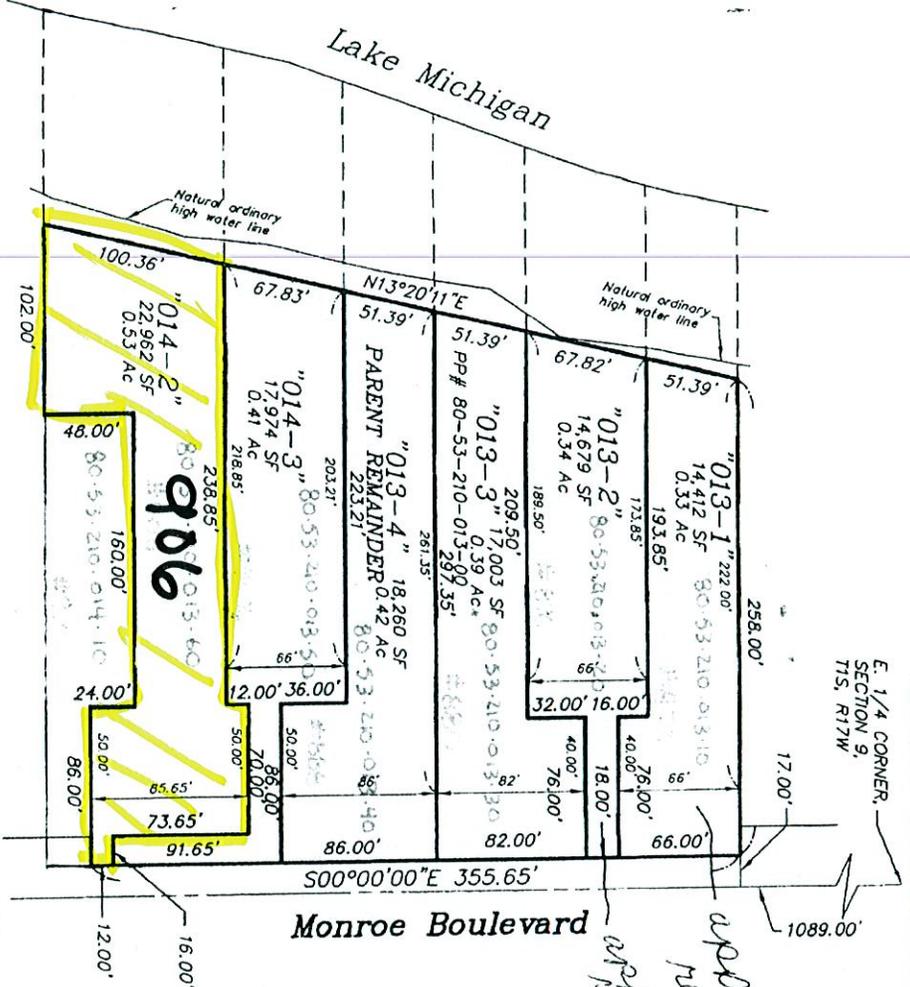
LEGEND		Set Wood Stake	Guywire	Guypole	Utility Pole
Catch Basin		Set Iron	Found Iron	Hydrant	Water Valve
Catch Basin		Gas Meter	Gas Meter	Manhole	
Cleanout		Guywire	Guywire	Manhole	
Electric Meter				Post	
				Post	

1 SITE PLAN
A0.1 SCALE: 1" = 10'



aka Linnville property

Monroe?



This sketch was made from the legal description shown above. The description should be compared with the Abstract of Title or Title Policy for accuracy, easements and exceptions.

- = Concrete
- D = Description dimension
- M = Measured dimension
- P = Platted Dimension
- = Set Iron Stake
- = Found Iron Stake
- x— = Fence Line

Scale 1" = 80'

Parcel Name	Average Depth	Width	Ratio
"013-1"	227.93	66	1 : 3.45
"013-2"	181.68	66	1 : 2.75
"013-3"	255.43	82	1 : 3.11
"013-4"	267.28	86	1 : 3.11
"014-3"	211.03	66	1 : 3.20
"014-2"	300.43	85.65	1 : 3.51

PREPARED FOR: Pier View South, LLC
 c/o Bossenbroek Law, PLLC
 2855 44th Street, SW Suite 120
 Grandville, MI 49418

RE: 900 Monroe Blvd

PARTIAL DESCRIPTION: Part of Section 9, Town 1 South, Range 17 West, City of South Haven, Van Buren County, State of Michigan.
 (See sheet 2 of 3 and 3 of 3 for complete descriptions.)

ANN ARBOR
 3025 Miller Road
 Ann Arbor, MI 48106
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 800.222.1868
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By: *Scott A. Hendiges*

Scott A. Hendiges Licensed Professional Surveyor No. 47953

REV: _____ date: _____
 project no.: 1220089RAT10 date: 10/29/12 VB

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: September 22, 2014

ADDRESS: 906 Monroe Blvd.

ZONING DISTRICT: R-1B

LOT DIMENSIONS: Front - 12 feet at flag lot widening to 85.65' after 16 feet; Sides – 330 feet; Rear – 100.36'

LOT AREA: .53 acres (22,962 sq. feet)

LOT COVERAGE: NA

REQUIRED SETBACKS: Front – 25'; Rear – 25'; Side – 3/15'

EXISTING SETBACKS: Vacant

PROPOSED SETBACKS: Front – 35'; Rear – NA; Side – Approx. 30'/35'

VARIANCE REQUEST: Adam Schaap of Schaap Builders, Inc. is requesting a variance to construct a detached accessory building in the front yard of a proposed house at 906 Monroe Boulevard. Zoning ordinance section 1708-1 prohibits detached accessory buildings in front yards.

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.

The proposed house will be more than 100 feet from the street right-of-way. The proposed garage is within the allowable setback for a principle structure. The garage will not be in line with other structures constructed on adjacent lots. Staff finds the variance is not common in the neighborhood but is also not necessarily detrimental.

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

The R-1B zone is intended to provide areas for single family homes. Accessory buildings are permitted in the zone provided they are not placed in the front yard. The request does not impair the intent of the ordinance for single family homes but could set a precedent for front yard detached garages.

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

Staff does not find any exceptional or extraordinary circumstances which could be applied to this property. The parcel is of ample size and the proposed accessory could be moved back and attached to the house through a breezeway or portico.

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 has shown on the site plan an attached garage of 644 square feet. A second garage is not a necessary or protected property right. Most homes in the city do not have a second garage. It is possible for the applicant to increase the size of the attached garage and eliminate the need for the second garage or to attach the garage with a portico or breezeway.

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 uncommon request. Staff does not recommend amending the zoning ordinance to accommodate this situation.

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

The problem is self-created as it is the desire of the owner to have a second garage and to place that garage in the front yard. Staff believes there are alternative options for storage of vehicles or other personal items.

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

Strict compliance would not prevent a home and garage from being constructed but would require a reconfiguration of the site. Whether that is unnecessarily burdensome is a decision for the ZBA.

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

Staff does not believe the variance is necessary as there is no inequity inherent in the property itself.

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.