

Zoning Board of Appeals

Regular Meeting Agenda (Amended)

Monday, November 17, 2014
7:00 p.m., City Hall Basement



Please note the change in location and date of this meeting.

City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – September 22, 2014
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – PUBLIC HEARINGS
 - a. Don and Jean Hoyt of 922 Hazel Street are requesting a rear yard variance to enclose their rear porch resulting in a house setback of 15 feet where 25 feet is required.
 - b. William Fries, Jr. of Portage, MI is requesting a front yard variance to allow construction of a new house on an existing foundation in the R1-A zone. The applicant is also asking for lot coverage that exceeds the limit by 3.5%.
 - c. O’Sullivan Builders, on behalf of owners Bryan and Carol Williams, are requesting side yard and rear yard variances for their property at 415 Walnut. The north side variance would allow a setback of 7’ 3 1/8” where 8 feet is required. The rear yard variance would allow a setback of 22’ 3 3/4” where 25 feet is required. The parcel number for the property is 80-53-897-019-00.
 - d. Kenneth Hogan of 44 Grand Boulevard is requesting a variance to construct an accessory building that will be 21 feet in height at the peak where 16 feet is the maximum allowed. The parcel number for the property is 80-53-819-007-10.

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.

7. Other Business – Approve 2015 Meeting Calendar

8. Member Comments

8. Adjourn

RESPECTFULLY SUBMITTED,

Linda Anderson
Zoning Administrator

Zoning Board of Appeals

Regular Meeting Minutes

Monday, September 22, 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: Boyd, Miller, Paull, Wheeler, Lewis
Absent: Wittkop

3. Approval of Agenda

Motion by Bugge, second by Wheeler to approve the September 22, 2014 ZBA Regular Meeting Agenda, with the withdrawal of the Monroe Boulevard request.

All in favor. Motion carried.

4. Approval of Minutes – July 28, 2014

Motion by Bugge, second by Paull to approve the July 28, 2014 Regular Meeting Minutes as corrected and clarified.

All in favor. Motion carried.

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

None at this time.

6. New Business – PUBLIC HEARINGS

a. Administrative appeal to Zoning Administrator decision to deny a requested land division at 38 North Shore Drive.

Anderson noted that the Zoning Board and Planning Commission are aware that the city has been working with the applicant regarding this property for quite some time. Anderson explained that in addition to the request before the ZBA, the applicant also has a request for rezoning from B-3 to R1-A before the planning commission. The matter before the ZBA and tonight's appeal is in regard to the requested land division. This is an administrative appeal

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to the Zoning Administrators' decision to deny a requested land division of the subject property, according to Anderson.

Anderson continued to explain that the applicant asked to split a lot in the B-3 zone, however this request came in after an amendment had been adopted by City Council in March 2014 to allow, 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." Anderson noted that it was the intent of the Planning Commission to not allow lots that could support a waterfront business to be split to accommodate single family development. The Planning Commission wanted to protect the business properties in the B-3 zone and their intent was to allow existing lots that were too small for such businesses to be used for single family homes.

When the request came in, it was Anderson's determination that, if split, there would be no use for the resulting lots because they would be non-conforming lots and without an allowable use under the Zoning Ordinance. The applicant appealed, according to Anderson, and in the packet is documentation of the denial and the reasons for that and the applicant's response related to the zoning ordinance and the state Land Division Act. Also in the packet were copies of the city attorney's confidential opinion related to the concerns about the land division act.

Bugge asked if there was any use that the property could have aside from a single family house to which Anderson responded, "No, and the applicant and I worked for quite some time to come up with another use in the B-3 zone. But we could not find a use that fit there, even looking at something very small like an ATM, or a walkup business such as a Dairy Queen. There is not room for parking for staff much less customers. Even when the lot across the street was the parking lot for the former business on this property, there was not enough required parking for the business use there. The applicant agreed that it was not conceivable to have a business use there; the only use was a single family home. And that was the reason the Planning Commission initiated the idea of allowing a single family home to be built on certain properties in that zone.

Bugge commented that the zoning board is just looking at an appeal of the denial and nothing else, to which Anderson responded, "Yes, that is all we are looking at tonight. We are strictly looking at my decision to deny it and the filed appeal. This is a responsibility given to the ZBA through the state statute, the zoning ordinance and your bylaws."

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

All in favor. Motion carried.

Matthew VanDyke, Miller Canfield, 277 South Rose Street, Suite 5000, Kalamazoo, Michigan. Representing Tom Brussee, the applicant. VanDyke began by assuming that the board had a chance to read the appeal, which he stated comes down to a property owner's right to split property where the Land Division Act (LDA) is satisfied. VanDyke referenced a subsection of real property law which provides a finite list including depth to width ratio, width and area of the subject property. VanDyke stated that this section precludes a municipality from imposing conditions not in the Land Division Act, commenting that this is not a standard the city has the authority to deny. VanDyke stated that the Zoning

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Administrator's reasons are not included in the LDA, thus the decision is not supported and were described by VanDyke as arbitrary and capricious. VanDyke noted that the city has made a legal determination that public safety, health and welfare do not require a minimum lot size in the B-3 zone. VanDyke stated that the LDA is clear that a complete application will be approved if the criteria in Sections 108 and 109 are met. VanDyke pointed out that there are no published opinions by the Supreme Court to reference. VanDyke's conclusion is that Section 901(17) of the Zoning Ordinance is erroneous because the term existing lot is not defined. Further, VanDyke stated that the existing lot requirement should only apply after application for site plan approval. VanDyke described this as consistent with other sections of the Zoning Ordinance, concluding that whether a lot can be put to other uses is not a standard authorized by the LDA.

Bugge asked about other sections of the LDA that pertain to other divisions, referencing platted lots. VanDyke said, "Regarding platting, we are not asking for a platted subdivision under Sections 108 and 109 of the LDA, which is what we are talking about." Bugge questioned if VanDyke was saying that once platted, that does not apply, to which Vandyke responded, "No." Bugge stated, "Then we have a disagreement."

Lewis asked what the applicant will do if the Zoning Board denies the appeal and VanDyke said they will file an appeal to the circuit court.

With that, VanDyke stated he will be happy to answer further questions if they come up.

Kirk McCreary, 50 North Shore Drive, #5, South Haven. Stated that he has a question as a point of information: "If at some point the split is allowed, what guarantee is there as to setbacks that would be required on this property?"

Lewis responded that all setbacks would apply to each new parcel, if the property in question were split.

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

All in favor. Motion carried.

Paull stated that this appeal is based on work the Planning Commission has been doing relative to property in the B-3 area and noted the fact that there is currently a potential remedy that will be decided by the Planning Commission, noting, "It's complicated and weird." Paull explained that the Planning Commission made a decision to allow single family homes to be built in this zoning district based on a certain number of criteria, one being single family homes would be allowed on properties that could not be used for the other allowed uses in the B-3 zone. Paull noted that when the B-3 district was first established it was created with a broad brushstroke; every property along the waterfront was zoned B-3 Waterfront Business. A number of pieces of property were clearly too small for Waterfront Business, such as marinas and similar uses, which require pretty large land areas. Paull went on, "So one of the ways the Planning Commission figured they could resolve the issue of this property sitting fallow was to allow single family homes to be built on it. The idea was carefully written; questioned by city council and rewritten so that these properties would not be split up. If we weren't careful, properties that were in the B-3 and already had marinas or other businesses on them could be split up and made available for single family homes. We

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didn't want to discourage waterfront businesses from continuing. So we were careful that we didn't leave verbiage that allowed properties to be split up for that purpose. That is what we are being asked to do here; a request that a too small B-3 property be split again and two homes be built on it. One possible option is pending with the Planning Commission, a request to rezone the property. Currently the property is surrounded by property that is more appropriate for residential zoning. Maybe this property should never have been zoned B-3; maybe rezoning is the solution. We don't need to allow this property to be split; it's asking to go against the common practice of the B-3 zoning it is in, creating a conundrum; leave it B-3 and there are other solutions the property owner could use to make use of his property." Paull stated that he believes the board should uphold the Zoning Administrator's decision.

Lewis worries about setting a precedent; opening the door for someone to split up a marina property and allow it to be developed into a number of single family homes.

Boyd wanted to know what the time frame is for the solution Paull mentioned to which Paull responded "The next Planning Commission meeting," which Anderson clarified is the first Thursday in October.

Boyd stated that he hears Paull saying the cart is before the horse; that if the Planning Commission were to allow the property to be rezoned, this request would not matter; that if the applicant wanted to split the subject property after it was rezoned it would be perfectly allowable.

Lewis reminded the board that they have only this specific issue before them that needs to be decided.

Bugge asked what the zoning is of the condominium property to the north of the subject property to which Anderson responded that the surrounding properties are all B-3 except the historic Monroe Park, which is composed of very small lots with very small setbacks.

Bugge asked, "As we look at this, the language adopted in March 2014 states that a one family detached dwelling is allowed when no other use is allowable under the B-3 zone. However, if we overturn your decision, would the applicant be going before the Planning Commission under the new regulations?"

Anderson pointed out that the ordinance, which was revised again in July, states that no single family homes shall be permitted on lots that were split after January 1, 2014. Whether the ZBA in an approval of the split would be giving tacit approval for the development of two single family homes would be something Anderson would want to get a legal opinion on from the city attorney before she commented.

Bugge noted that this creates a 'Catch 22'.

Miller asked if this request could be tabled to which Lewis responded that it could but in Lewis' opinion it does not need to be tabled; Anderson's denial was correct according to current zoning law.

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Bugge said her concern is the fact that the lot could only be used for a single family house, whether divided or not. The way the ordinance is constructed Bugge would tend to be comfortable with Anderson's decision as it stands.

Lewis asked if a single family home could be put there right now to which Anderson responded that it could with a special use permit, which requires the applicant to show there is no other permitted use that could go on the property. Anderson noted that is what she would recommend if it came before the Planning Commission because, as is, the land is not usable for any of the other permitted uses.

Boyd asked what steps the applicant would have to go through, if not through this appeal, to put two houses on this property, noting, "If something is going to happen down the road anyway, let's take away the clutter, and make something happen." Boyd commented that he does not want to mess things up for other properties down the road, and asked,

"What is a reasonable course of action the applicant could take to make two parcels out of this one to be used for single family residential?"

"If the board overturns the staff decision, the applicant would likely be able to build two houses," per Anderson. "The other option is to rezone the property to R1-A; if rezoned it would be allowable for the applicant to split the lot. It would be in the R1-A zone and treated like any other split where the lot was large enough to be split. That is the option before the Planning Commission right now and that decision has to be made at their next meeting." Anderson pointed out that that request also has to go to City Council since it is a zoning amendment.

Boyd asked what other steps would be required to which Anderson responded that if rezoned and enacted, the applicant could apply for the lot split."

Boyd asked for clarification that the broad stroke approach to zoning is what put us in this situation to which Anderson pointed out, "Just be clear, that B-3 zoning happened a long time ago, and that is why when the Planning Commission subcommittee started looking at the vacant properties, mapped them and had the GIS technician measure the lots. It appeared to the planning commission that it made more sense to allow single family homes rather than having each owner coming in for a use variance."

"How many properties were there that fall into that criterion?" Lewis asked and Anderson responded about thirteen (13).

Bugge asked how many of those properties are large enough that a division is possible, according to the B-3 criteria and Anderson responded that there were a couple but any lots that are unusable for anything but single family homes would not qualify to be split. Anderson said if someone came in now with a land split they would be denied because the ordinance now reads that they cannot split lots after January 1, 2014.

Paull reminded that this needs a motion. Discussion ensued regarding what would happen if the board overturns the Zoning Administrator's decision and Boyd said the applicant would be off and running. Bugge said there would still be other processes. Anderson said there still would be the step of the special use approvals.

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Miller asked about tabling and said he is thinking, in fairness to the applicant; if the board were to table the issue until the next meeting, the Planning Commission meeting could take place. "Not that they are necessarily related but that is what we are talking about as a point of conversation," Miller said, noting that he is trying to make it okay for the applicant and for the community. Miller said he is not making a motion, just asking for consideration. Boyd remarked that that is why he asked the question he did.

Anderson clarified, "We are not looking at special uses or variances or rezoning requests. Your assignment is to look at the law; look at the ordinance, look at what our attorney presented and what their attorney presented. You are to base your decision on the law; it is tricky and complicated and that is what you are assigned to do here. Failure to follow those rules could set the city up for legal action."

Wheeler feels the board needs to uphold the Zoning Administrator's decision and Lewis stated he would have said the same thing.

Motion by Bugge to uphold the ruling of the Zoning Administrator based on the criteria stated in her denial and on the advice we received from our attorney. Second by Wheeler.

A roll call vote was taken.

Ayes: Bugge, Miller, Paull, Wheeler, Lewis

Nays: Boyd

Motion carried.

b. Rear yard variance request for property at 26 Grand Boulevard

Anderson noted that this is a request from Matthew & Cynthia Carstens to build a new house and deck on this property. Anderson explained, "Forty feet (40') back from the channel is owned by the Coast Guard; if you look at the aerials you'll see that certain other property owners have gotten license agreements with the Coast Guard for use of the property and our applicant is one of those. The previous house had a deck that went out to the property line over the Coast Guard property. What we are looking at is the point where the deck and house go up to the lot line." Anderson pointed out that the applicants are asking for a variance to have a zero rear yard setback instead of the required three (3) feet.

Bugge pointed out that in looking at the drawings, there is only one portion extending over the three feet (3') and asked, "The deck coming off of the house has to comply with the setback, so essentially we are just looking at the three feet (3') between the property line and the easement the Coast Guard has granted them?" Anderson responded, "Yes." Bugge asked, for her own information, whether the Coast Guard can go around and issue these license agreement without any consideration of what we require?" Anderson stated that yes, they can; they own the property but the city still controls whether a variance will be granted to conveniently use the easement. Bugge asked how much further this deck is extending out from the old one. Anderson deferred to the applicant.

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Lewis pointed out that the Zoning Board is not discussing the deck over the Coast Guard property and asked, "Can we give them an easement such that they don't have to comply with the 3' setback requirement?" Anderson clarified that if the board denies their variance, the applicants would have to put their deck and house back three feet (3') and there would not be a connector for their new house and deck onto the existing Coast Guard easement.

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

All in favor. Motion carried.

Matthew Carstens, 12137 3½ Mile Road, Battle Creek. Stated they are asking for a zero (0') setback, explaining that the existing structure that is already there actually encroaches onto the Coast Guard property. "There was a question about whether we are gaining anything in deck space," Carstens stated, "The answer is no; we are pulling the old structure off and back, so the neighbors to the west won't be affected and neighbors to the east are not going to be affected because the house is actually moving back. The structure of the new home will be back from the eastward neighbor, so they will have a little better view."

Bugge noted that it appears that the applicants' house came forward, but the deck did not. Carstens pointed out the drawing that says "with existing home"; there is deck that goes across the three foot (3') setback and a significant portion of the structure as well. Carstens said if you took the deck completely off, it would just leave the upper and lower level. Carstens noted that the deck will be somewhat larger, lengthwise, but does not come out any further. The deck from the river side, from the south side, according to Carstens, comes out to the exact spot.

Bugge asked what the other easement on the property is used for and Carstens responded that that is a fourteen foot (14') utilities easement. Bugge commented that Carstens cannot build over that and Carstens agreed.

Marla Bruemmer, Designer of the property. Clarified that the deck agreement with the Coast Guard specifies that we cannot go larger; the shape of the deck changed but the square footage is the same as the old one. Looking at the house setback of the property to the west, that structure is significantly closer so, according to Bruemmer, the only loser of any view is the Carstens, according to Bruemmer.

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

All in favor. Motion carried.

Discussion followed based on the fact that there will be no additional encroachment beyond the original house and that the situation is a pre-existing condition.

Motion by Miller to approve the request as presented because the problem is not self-created; the property easement creates special circumstances for which a variance is warranted; the variance is only on the property of the applicant; the proposed house will be more compliant than the existing structure and granting the variance is not detrimental to the neighbors. Second by Boyd.

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A roll call vote was taken.

Ayes: Miller, Paull, Wheeler, Boyd, Bugge, Lewis
Nays: None

Motion carried.

7. Other Business

No other business. Anderson noted there is still a week before the deadline for the October meeting.

8. Member Comments

There were none.

8. Adjourn

Motion by Miller, second by Wheeler to adjourn at 7:59 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a Rear Yard Setback Variance

City of South Haven

Background Information: The applicant is seeking to enclose an existing patio and turn it into a usable addition to the house. The applicant explains in the materials submitted that the extra room is needed to make barrier-free access easier for her elderly and disabled husband and also to provide space for his caregiver. The ramp to the home will connect to this addition.

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 given the hardship of the couple's age and health.

Support Material:

Completed application w/neighbor letters of support
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: Joan & Donald R Hoyt Date: 10/27/14
Address: 922 Hazel St South Haven Phone: 269-637-6592
Address of Property in Question: 922 Hazel St South Haven Present Zoning of Property: RIA
Name of Property Owner(s): Joan A Corey-Hoyt & Donald R Hoyt
Dimensions and area of property 10761² ft (60x113)
Dimensions of all buildings on the property (also shown on a diagram) House 60x30
Proposed 3 Seasons room is 18.6x12
Setback measurements of all structures on the property (also shown on diagram) rear 27 (House); sides 12.5 / 7.5; front 27'

Present Zoning of Neighboring Properties to the :

North RIA South RIA East RIA West RIA

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): 402-3 rear yard setback

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

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood. Fenced in backyard would block no one's view.

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

NO

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

Basically 3&4 are me pleading for the ability to put up a 3 season covering on our existing deck which will give us plus our caregivers a place to rest, confer, be alone and to help each other in the care of us as we age.

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.

Don (92) is spending more & more time at home and having an enclosed porch would allow him to be wheeled into a Sunlite room during warm weather. This would give him a feeling of not being confined to the house. It would be a safer environment for him being enclosed. Our front porch is small & not enclosed. It would subtitle a caregiver to set away from the main living area. Easier exit when handicap ramp is necessary ^{step}

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.

No

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.

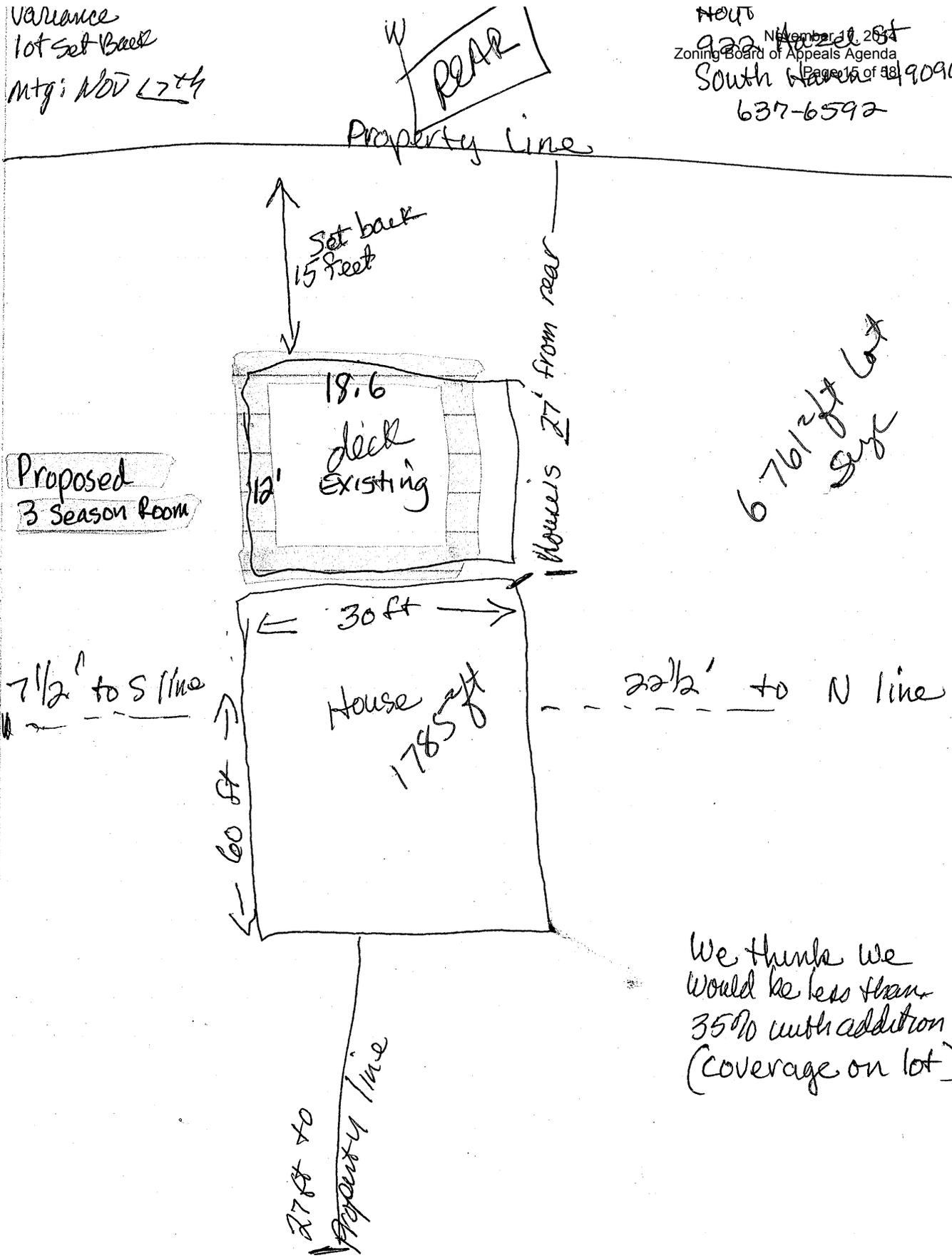
Right now I put the wheel chair at the bottom of the steps on the side door and help Don get to the ground level. It has been told to me that a handicap ramp would be best off the back deck with more room to extend the ramp to the drive & the car. Bldg on the deck would not allow street & show to accumulate on deck prior to me wheeling him from the inside to the ramp.

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.

With the onset of old age and illness for Don Hoyt, soon it will be necessary to get in house extra-care help, and our living space is small. We need the extra room for "our helpers" to have a place to turn too as well as ourselves being able to be in this area 3 seasons of the year.

Need Variance
on lot set back
mtg: NOV 17th

North
922 North 28th
Zoning Board of Appeals Agenda
South Haven, MI 49090
637-6592



Lot is either
115 or 120'
we have a 60' lot?

We think we
would be less than
35% with addition
(coverage on lot)

E

10-26-14

I James Weyhe from
914 Hazel St have no problem
with the Hoyt's putting on
a 3 season porch.

James Weyhe

I, Brad Murdock of 952 Hazel Street I
agree to a 3 season porch on the Hay's
residence at 922 Hazel St.

Brad Murdock

Jack Down 921 Monroe Blvd
I HAVE NO PROBLEM WITH THE
BUILDING OF THE THREE SEASONS PORCH ON
THEIR BACK PORCH.

I have no objection to Don
& Joan Hoyt putting a 3 season
porch on the back of their home at
922 Hazel St.

— Jim Gleason
913 Monroe Blvd.

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: November 17, 2014
ADDRESS: 922 Hazel Street
ZONING DISTRICT: R-1A Residential
LOT DIMENSIONS: 60x113
LOT AREA: 6761 square feet
LOT COVERAGE: 26% current; 30% proposed; 40% maximum allowed
REQUIRED REAR SETBACK: The required setback for a dwelling wall is 25 feet. Open patios may extend up to 6 feet into the setback area allowing a setback of 19 feet.

VARIANCE REQUEST: The applicant is seeking to enclose an existing patio and turn it into a usable addition to the house. The applicant explains in the materials submitted that the extra room is needed to make barrier-free access easier for her elderly and disabled husband and also to provide space for his caregiver. The ramp to the home will connect to this addition.

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 requested variance will move the rear wall of the house closer to the lot line than is generally found in the neighborhood. That said, it does not appear that the variance will be detrimental to the neighborhood. The applicant has solicited letters (enclosed) from neighbors stating that they have no problem with the variance being granted.

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

It is the intent of the R1A zoning district to preserve the character of the single-family neighborhoods. The proposed addition will not impair the intent of the residential purpose.

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 exceptional or extraordinary conditions as far as lot size or configuration within this neighborhood. There may be considered an unnecessary hardship in limiting the applicant the opportunity to make her house more convenient for her and her husband's declining health but this is a decision for the ZBA members.

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

The applicant states in her application that her desire is to make their present home as convenient as possible in order that she and her husband may continue to live there regardless of age or infirmity. There does not appear to be any financial motive involved.

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 does not appear to be a recurrent type of variance request in this zoning district as a whole. Staff does not recommend amending the zoning ordinance to permit a decrease in rear setback for this particular neighborhood only. It is more prudent to consider these requests as they arise.

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 not self-created except in the sense that the applicant would like to be able to conveniently remain in their home as long as possible.

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

Without the requested variance, the applicant would still be allowed to live in the house. The burden would be that they would not have the extra space for a caregiver and without a convenient access to the planned barrier-free entrance.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **It appears the amount of variance asked is the minimum for the applicant to construct the desired addition.**

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

The variance request only involves the property owned by the applicant.



Agenda Item #6b Front Yard Setback and Lot Coverage Variance

City of South Haven

Background Information: William Fries, Jr. of Portage, MI is requesting a front yard variance to allow construction of a new house on an existing foundation in the R1-A zone. The property is located at 310 Eagle Street. The existing two-family house is planned for demolition to allow the construction of a single family home. The proposed deck on the new house will be three (3) feet from the front property line where nine (9) feet is required and the house setback is proposed for nine (9) feet where fifteen (15) feet is required. The applicant is also asking for lot coverage that exceeds the limit by 3.5%.

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
Street view 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: William (Bill) Fries Jr.

Date: 10-3-14

Address: P.O. Box 500, Portage MI 49081

Phone: 269-806-7000

Address of Property in Question: 310 Eagle Street

Present Zoning of Property: RIA

Name of Property Owner(s): William F. Fries Jr.

Dimensions and area of property As per city data 50'x100'

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

see attachments

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

Deck 3' from sidewalk (currently 3') home structure/foundation on current foundation (see attachments) footprint with setback 14' instead of 15'

Present Zoning of Neighboring Properties to the :

North RIA South RIA East RIA West RIA

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from? Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): _____

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

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

A variance will not be detrimental, would bring improvement to adjacent properties and the surrounding area

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

Such a variance will not impair the intent or purpose - it follows the outline of why variances and ordinances are established &

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

The extraordinary circumstances apply to 310 Eagle Street
Note in pictures that they do not apply to 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.

I wish to preserve the lot as it has existed for years; its enjoyment as a single family home with a front deck

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.

Unique to 310 - corner lot with unique conditions - unusual front sloping lot compared to adjoining properties - much which has existed because of the Housing Commission's cement block wa

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" was not and is not self-created - it exist because of the uniqueness of the lot and cement block wall to the west and the cement driveway at 314

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.

True -

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

The uniqueness of the property - sloped front with the most westerly line against the existing block wall makes an inequality unique circumstance

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

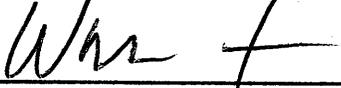
yes

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

Property Owner

Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.



Applicant Signature

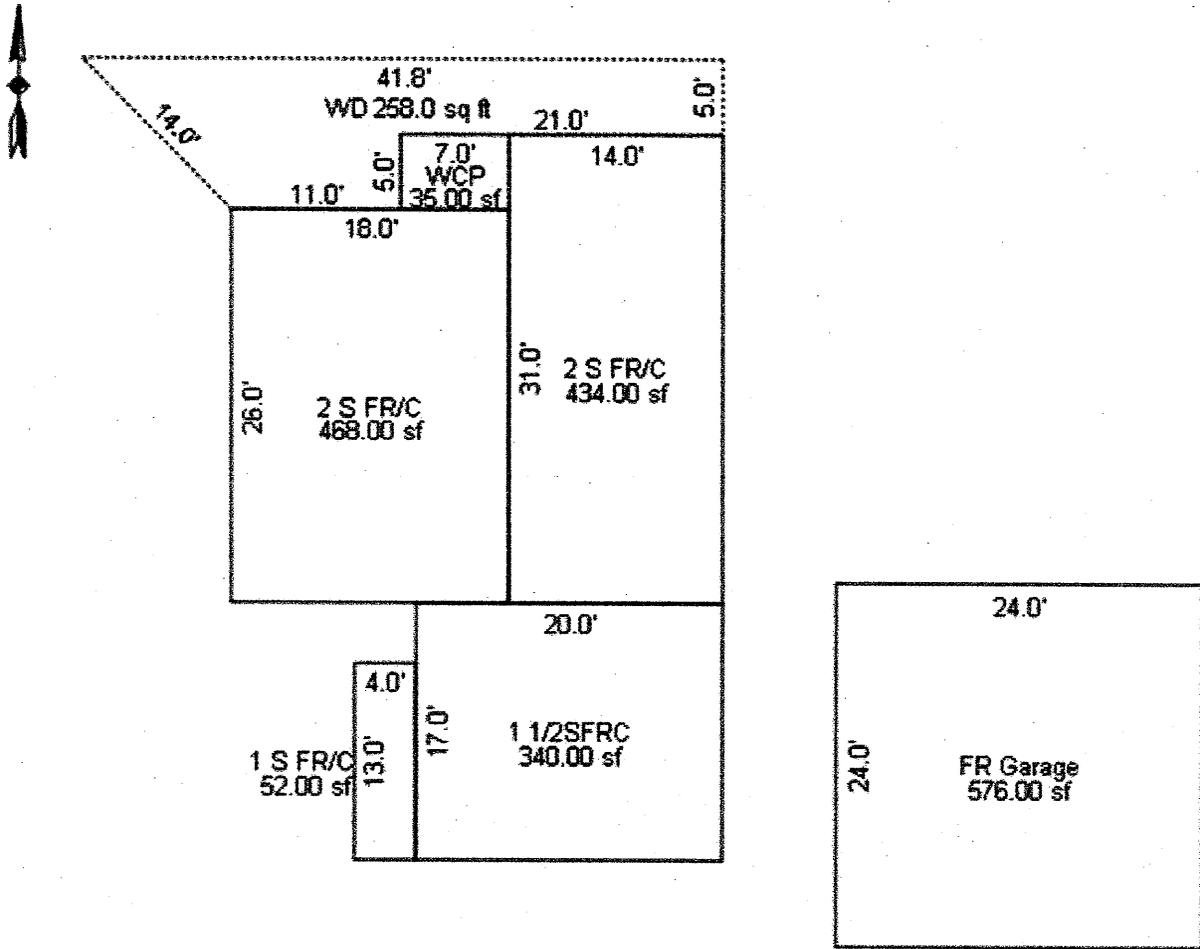
10-3-14

Date

Image/Sketch for Parcel: 80-53-019-007-00

City of South Haven
[Back to Non-Printer Friendly Version] [Send To Printer]

Caption: No caption found



Sketch by Apex Medina™

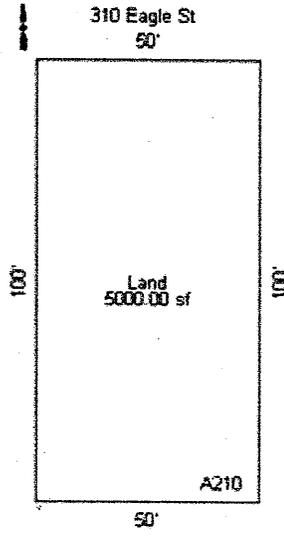
Miscellaneous
Receivables

Delinquent Personal
Property

 Back to Main

 collapse the menu

Click this button to collapse
the above menu to the top
of the screen.



Sketch by Apex Medina™

****Disclaimer:** BS&A Software provides this Web Site as a way for municipalities to display information online and is not responsible for the content or accuracy of the data for reference only and WITHOUT WARRANTY of any kind, expressed or inferred. Please contact your local municipality if you believe there are errors in the data. [Privacy Policy](#)

310 Eagle Street

I plan to bring 310 Eagle Street back to a "single" family home by demolishing the existing structure and rebuilding largely on the same foundation/footprint – which will be my personal home – thus improving the neighboring properties and the neighborhood

I'm seeking a variance for 310 Eagle – I believe it follows the intent, purpose and guidelines of being a "unique" property

The current structure is a multifamily home – it is also nonconforming with the current code. It is nonconforming because of the unique conditions that exist – I will make it less nonconforming if you will grant a variance for my new home.

The unique conditions that exist are very unusual for the street – it is a corner lot, it is a sloping lot and sits between the neighboring cement drive (Roger & Marilyn Ward @ 314 Eagle) and the cement block wall of the South Haven Housing Commission. The rear of the lot is also created by the block wall and the Housing Commissions 34' garage - which is also nonconforming (note lot line and setback)

Granting a variance is necessary for the preservation, the integrity, and the good of my neighboring properties at 314 Eagle and the Housing Commission – both who fully approve and support my variance request – (the Ward's and Charles Fullar the executive director)

The new home structure at 310 will sit back approximately another five (5) feet to the south...with the deck projecting eleven (11) feet towards Eagle Street....(the current deck projects twelve (12) feet toward Eagle and another five feet of house structure at one point ...the new structure will be increasing the viewable area from 314 Eagle

I would ask that you review the "Zoning Variance Request" form from the building department that I have submitted - under article XXII, section 2205 – "unless certain conditions exist"

#1 - It is not detrimental to adjacent properties – it improves them by improving the neighborhood overall

#2 – It will not impair the intent and purpose – it fits the exact purpose of the definition of a variance and the purpose of the exception. It also brings the use into compliance as a single family instead of a duplex

#3 – The exceptional and extraordinary circumstances and conditions that are present at 310 do not apply to other neighboring properties... 310 has unique physical conditions – with a sloping and raised yard

#4 – As already stated this variance will preserve and allow for the continued enjoyment of the property

#5/6 – The condition and situation is specific to the lot of 310 and its intended use and not typically found in the city

#7 – The compliance of setbacks for 310 would unreasonably render an unnecessary burdensome situation for me. The new structure will also be less obtrusive for neighbors

#8 – The variance I'm requesting is the minimum amount necessary to overcome the inherent particulars of 310 Eagle

Thank you for giving me the opportunity

Sincerely,

William F Fries Jr

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.




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

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HOUSEPLANS

Questions about this plan? Visit Houseplans today or call 1-800-913-

You can view this plan at houseplans.com/p/81-13614

Plan #81-13614



1830 sq ft 3 beds 3.5 baths 24' wide 56' deep

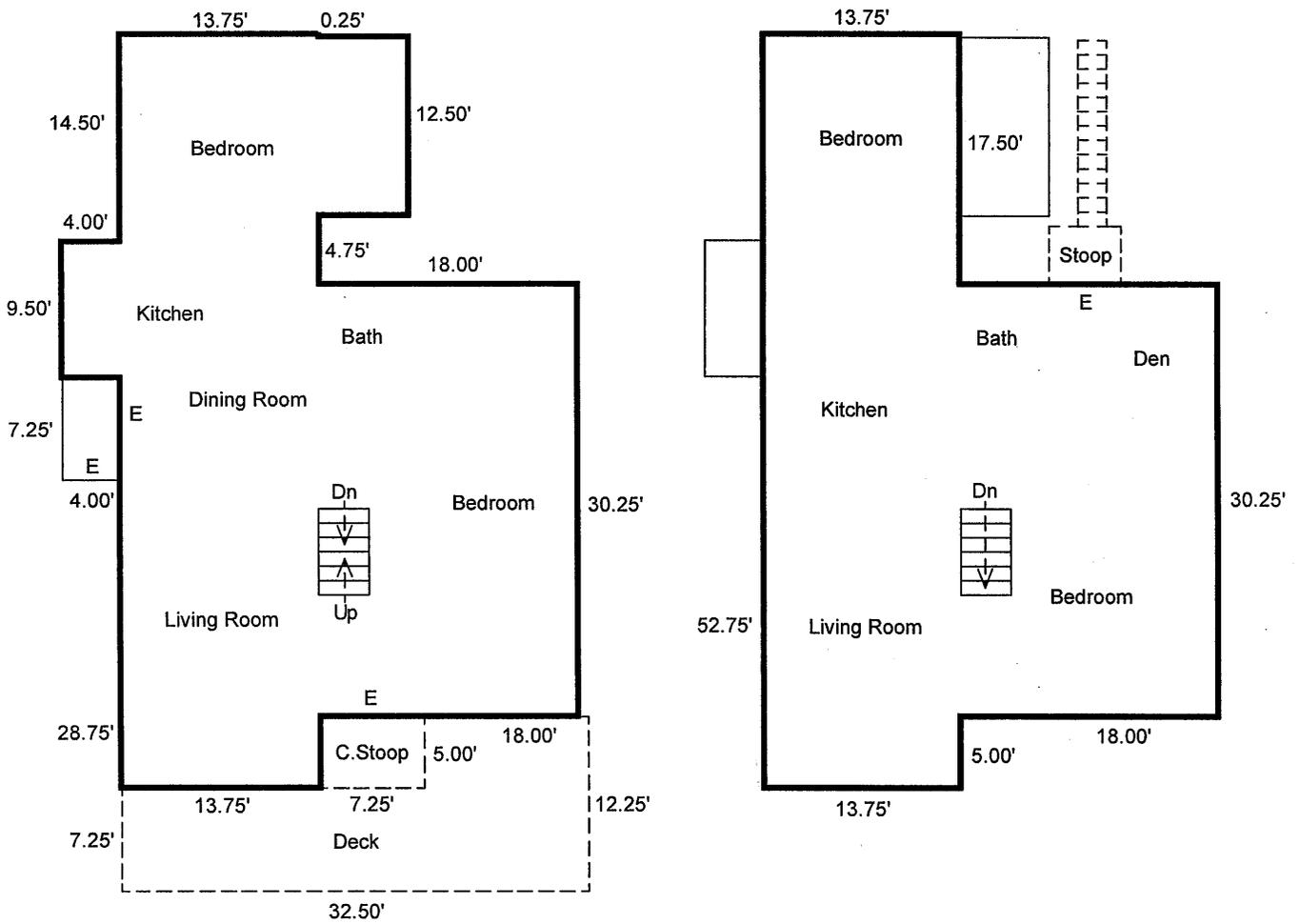
House Features

- | | |
|----------------------------|--------------------------|
| Walk In Closet | 2 Master Suites |
| Main Floor Master Bed Bath | Upstairs Master Bdrm |
| Peninsula Eating Bar | Master Sitting Area |
| Family Room Keeping Room | Storage Area |
| Covered Front Porch | Suited For Narrow Lot |
| Suited For Corner Lot | Suited For View Lot |
| Master Sitting Area | Family Room Keeping Room |
| Storage Area | |

Styles Classifications

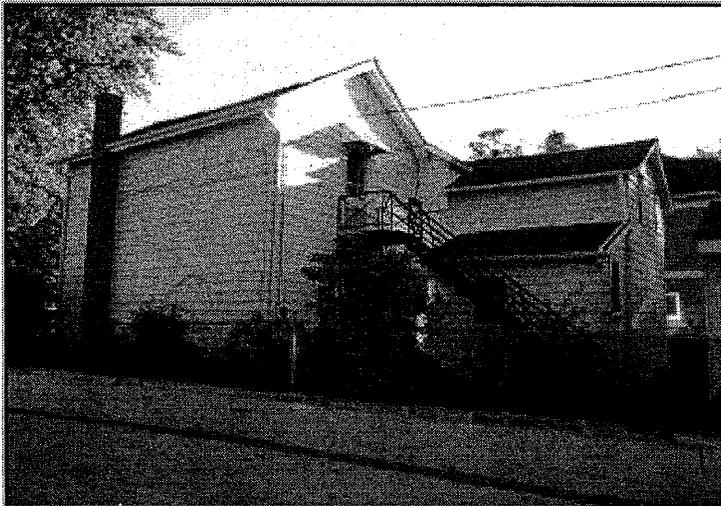
- | | |
|-----------|---------|
| Farmhouse | Country |
| Southern | |

<http://www.houseplans.com/plan/print/29780>

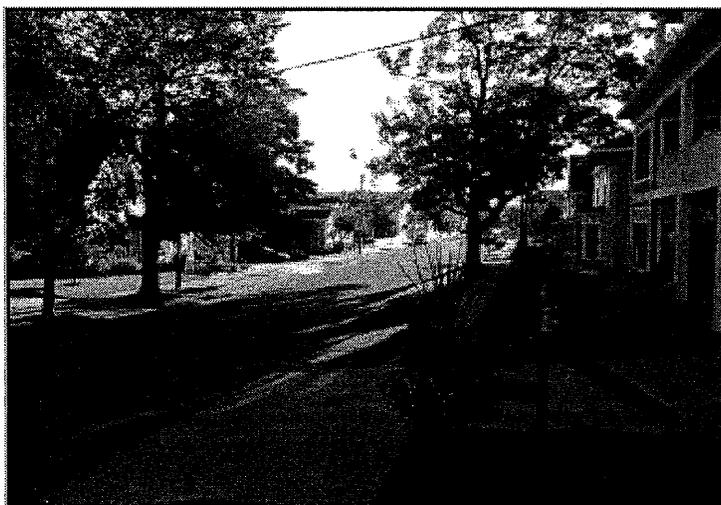




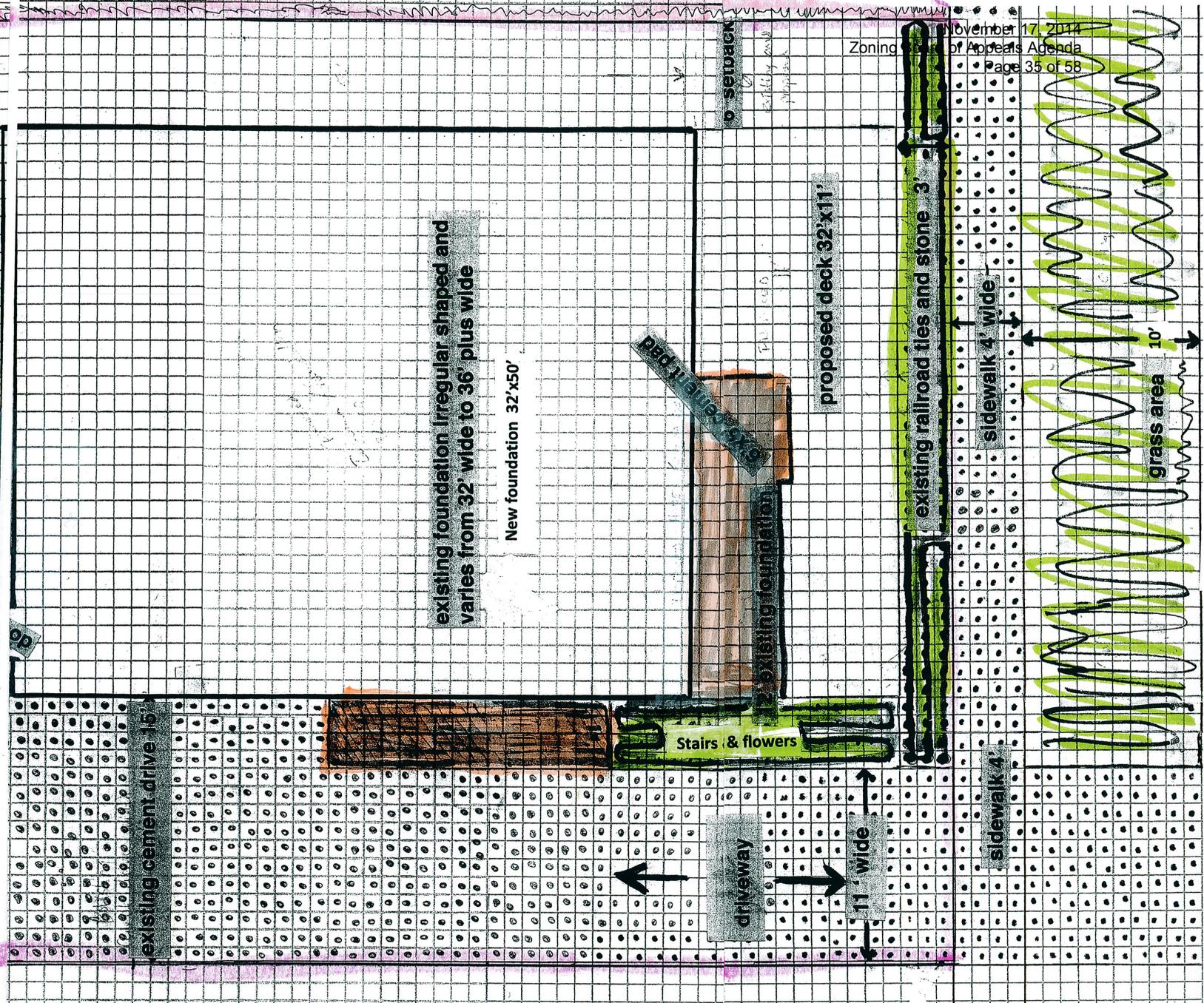
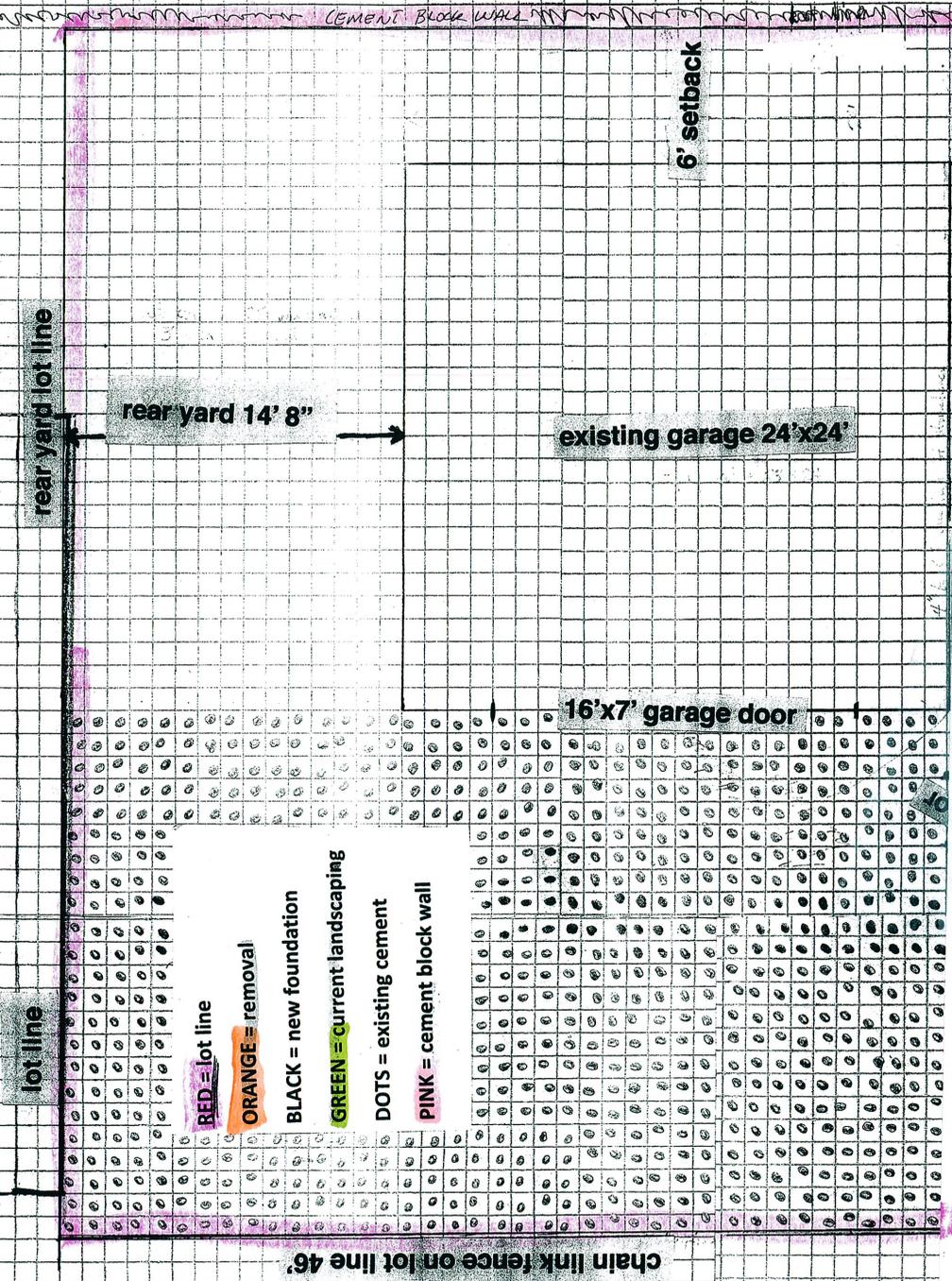
Front View



Rear View



Street Scene





Google earth

© 2014 Google
© 2014 Google

42°24'09.01" N 86°16'37.94" W elev 618 ft eye alt 619 ft

[Report a problem](#)

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: October 27, 2014

ADDRESS: 310 Eagle Street

ZONING DISTRICT: R-1A Residential

LOT DIMENSIONS: 50x100

LOT AREA: 5000 square feet

LOT COVERAGE: 38% current; 43.5% proposed; 40% maximum allowed

REQUIRED FRONT SETBACK: The required setback for a dwelling wall is 15 feet. Open stairs, porches and patios may extend up to 6 feet into the setback area allowing a setback of 9 feet. This proposed house will have a setback of 9 feet to the dwelling wall and an open deck extending to within 3 feet of the right-of-way.

VARIANCE REQUEST: The applicant plans to demolish the existing 2-family home and rebuild a single family home on part of the existing foundation. The house will actually be moved further back from the front lot line in one area. This will result in the house being 9 feet from the lot line instead of the required 15 feet and the deck 3 feet back instead of 6 feet. This is generally consistent with the existing development. The applicant also requests lot coverage of 43.5% or 3.5% over what is allowed.

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

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

This neighborhood has several residences that were constructed close to the front lot lines, including some structures that are built to the lot line. The request is not of an unusual nature for this neighborhood. The applicant would like to bring the lot coverage to 43.5%. This is over the maximum of 40%.

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

It is the intent of the R1A zoning district to preserve the character of the single-family neighborhoods. The owner is actually lessening the nonconformity by demolishing a two-family home to build a single family home. The proposed construction will improve the appearance of the property and will not impair the intent of the residential purpose.

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 exceptional or extraordinary conditions as far as lot size or configuration within this neighborhood. Most residences in this area were constructed close to the front lot line regardless of the depth of the lot. There may be considered unnecessary hardship in requiring the applicant to construct a new foundation but this is a decision for the ZBA members.

4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. **The applicant states in his application that his desire is to preserve the lot as a single family residence for his enjoyment. A single family home could be built which would be smaller and set further back but this would require demolition of the detached garage and the need to construct a new foundation. The ZBA needs to decide if this places an unnecessary burden on the owner.**

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 does not appear to be a recurrent type of variance request in this zoning district as a whole. On this block of Eagle Street, however, the request is not uncommon due to the short front setback that exists. Staff does not recommend amending the zoning ordinance to permit a decrease in front setback for this particular neighborhood only. It is more prudent to consider these requests as they arise.

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 not self-created except in the sense that the applicant would like to make use of the existing foundation.

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

Without the requested variance, the applicant would not be permitted to use the existing foundation for a large part of the house. He would still be able to construct a single family home.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **Given the slope of the front yard and the location of the existing garage, it appears the amount of variance asked is the minimum for the applicant to construct the desired residence.**

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 Side and Rear Yard Setback Variances

City of South Haven

Background Information: O'Sullivan Builders, on behalf of owners Bryan and Carol Williams, are requesting side yard and rear yard variances for their property at 415 Walnut. The north side variance would allow a setback of 7' 3 1/8" where 8 feet is required. The rear yard variance would allow a setback of 22' 3 3/4" where 25 feet is required. The parcel number for the property is 80-53-897-019-00.

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 that the applicant has put forth a compelling case for the variance.

Support Material:

Completed application
Staff Findings of Fact

ZONING VARIANCE REQUEST
CITY OF SOUTH HAVEN
BUILDING DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760

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

Name: O SULLIVAN BUILDERS Date: 10/27/2014

Address: 619 Green Street, South Haven Mi Phone: 269-214-1256

Address of Property in Question: 415 Walnut St Present Zoning of Property: R-1B

Name of Property Owner(s): Bryan and Carol Williams

Dimensions and area of property N:94.11', S84.34', W:90.0' E:71.82' & 21', 7689 SF

Dimensions of all buildings on the property (also shown on a diagram) _____
24.5' x 48' with 14' x 3'-8" indent on SE Corner - Main Structure, 8'x10.5' - Shed

Setback measurements of all structures on the property (also shown on diagram)
Main Structure: NW Corner = 23'10" & 33'-8.5, NE Corner = 22' & 29'-3", SW Corner = 37'-4" & 18'-4", SE Corner = 19'-11" & 27'-1.25"

Shed = -4' from Western Property Line

Present Zoning of Neighboring Properties to the :
North R-1B South R-1B East R-1B West R-1B

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from?
Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): Section 403 1-3

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

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

See ATTACHED

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

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

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

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

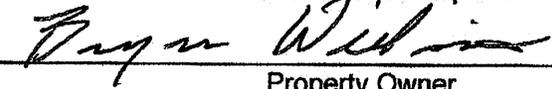
6. **The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.**

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

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

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

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



Property Owner

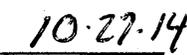


Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.



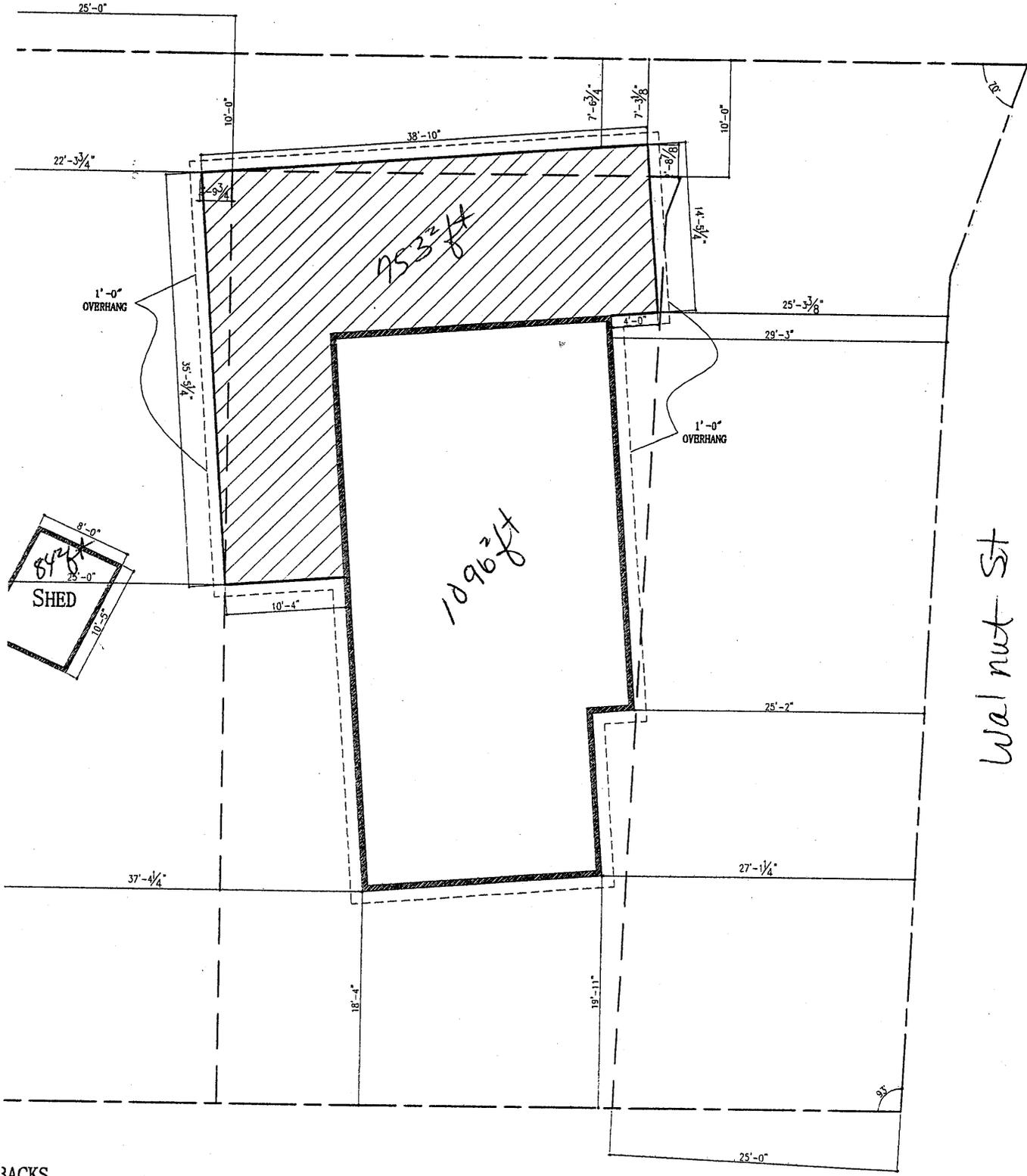
Applicant Signature



Date

1. To the north of the subject property is a 25' right of Way for an undeveloped Private Road (Maple St). If this road is ever developed by the Association it will likely be only 10 ft wide like the two main roads in the association (Beech and Oak), therefore the "visual setback" to the actual road would be greater than the "technical setback" to the right of way. The setbacks from the northern corners of the proposed structure to the right of way are NW - 10'0" and NE - 7'3" The property to the west is currently undeveloped and the setbacks from the western corners of the proposed structure to the western property line is SW - 25'-0" and NW - 22'4". The existing 8'x10.5' shed that has been on the property since the 1950's has approximately a 4' setback to the western property line.
2. No obvious impairment on intent and purpose of the ordinance
3. This property was originally part of a co-op association formed over 100 years ago that was subdivided and platted about 30 years ago. The cottage was built in the late 40's and is rotated on an angle to the property lines which limits full utilization of the property without the requested variance. The requested variance on the north and west side would not be required if not for the rotation of the structure on the property.
4. This variance is being requested such that we can add two additional bedrooms, baths and bonus room to enjoy having our three adult kids, their spouses and our grandkids up to visit South Haven together as an extended family.
5. This situation of a structure that is rotated on the property alongside an undeveloped private road is unique and would not be easy to develop a general regulation for.
6. The situation on the property was created long before the ownership of the property by the current homeowner.
7. Strict Compliance with the setback would limit the dimensions of the proposed addition such that the added bedrooms and baths would be smaller than needed for their intended purpose and/or one bath would have to be eliminated from the plan.
8. This is the minimum variance required to overcome the inherent inequality of the property and orientation of the structure. The variance requested offsets the limitation imposed by the rotation of the structure on the property.
9. Variance request is specific to the property at 415 Walnut which is owned and controlled by Bryan and Carol Williams

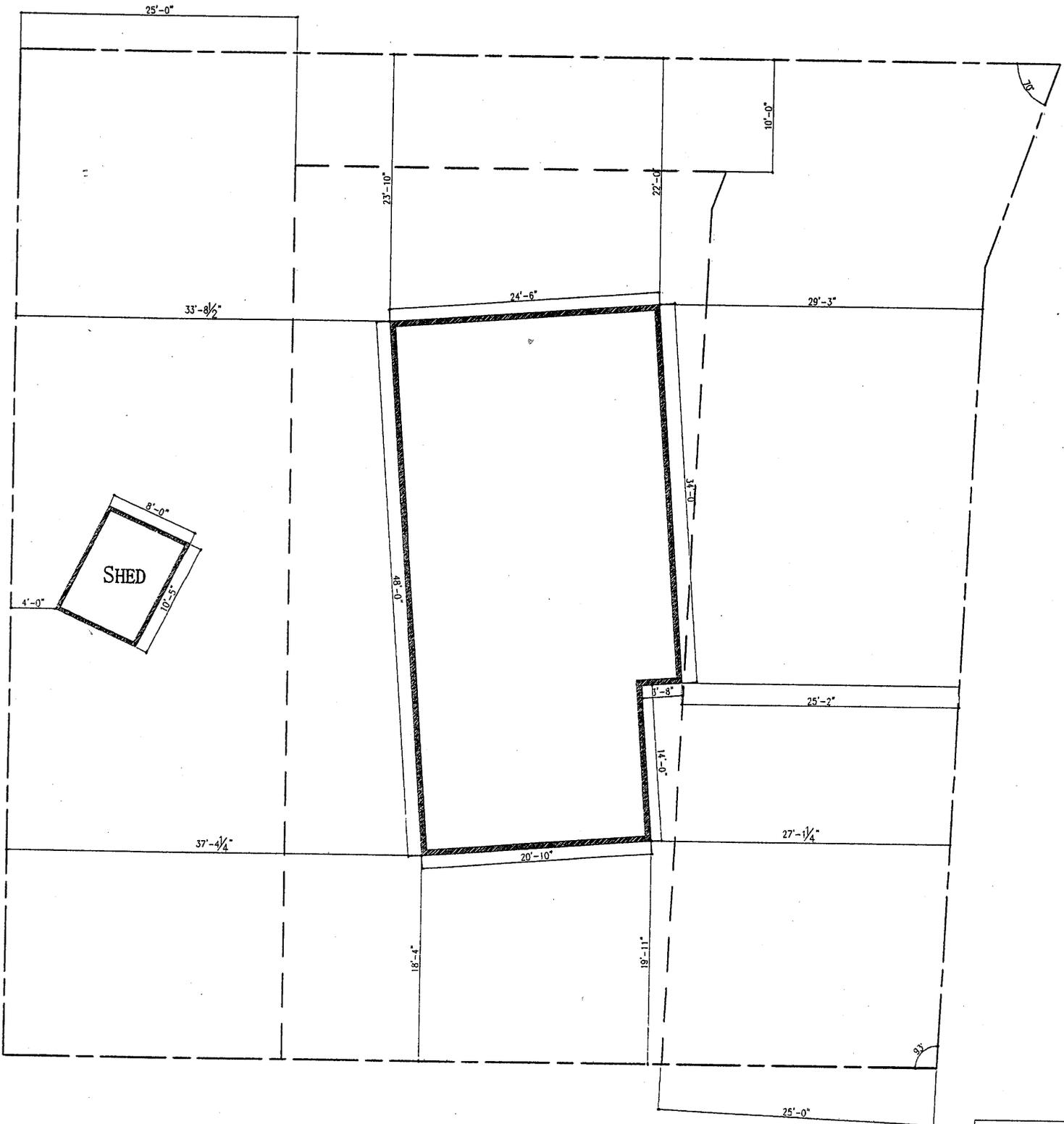
PRIVATE STREET (unimproved)



BACKS
PROPERTY LINES
12'

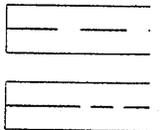
PROPOSED

20% lot coverage



EXISTING

16% Lot Coverage



1" =

MICHIGAN PLAT OF SURVEY

Surveyor's Certificate:

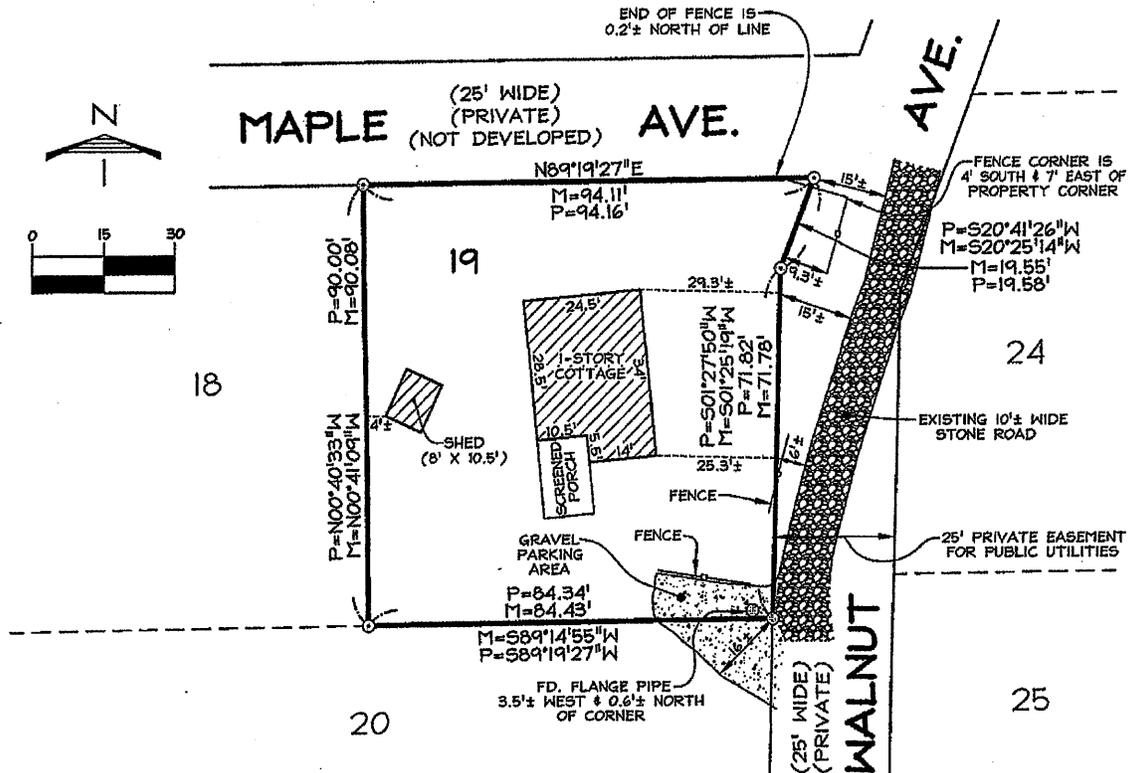
On the basis of my knowledge and belief, I, Edward C. Morse, Professional Surveyor, certify that I have completed a boundary survey and examination of the parcel of land described below, made on the ground to the normal standard of care of professional land surveyors practicing in Michigan. This survey was performed in accordance with a description furnished by others and should be compared to the abstract of title or title insurance policy for accuracy, easements, or exceptions. This survey was prepared for **Bryan Williams** and does not extend to any unnamed person without expressed re-certification by the surveyor naming said person.

10-24-11
Date

Edward C. Morse
Edward C. Morse
Mitchell & Morse Land Surveying
Professional Surveyor 47966

Furnished Description: Situated in the City of South Haven, Van Buren County, Michigan.

Lot 19, Assessor's Plat of Terrace Park, according to the plat thereof as recorded in Liber 8 of Plats on Pages 57 and 58, Van Buren County Records.



SURVEY NOTES:

- 1.) THE RATIO OF CLOSURE OF UNADJUSTED FIELD OBSERVATIONS IS NOT GREATER THAN 1 PART IN 5,000.
- 2.) BEARINGS ARE REFERENCED TO PREVIOUS SURVEYS IN THE AREA.
- 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR THE CLIENT ONLY. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE LAND SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USERS SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR.

MITCHELL & MORSE LAND SURVEYING
234 VETERANS BLVD. SOUTH HAVEN, MICHIGAN 49090
OFFICE: (269) 637-1107 FAX: (269) 637-1907
A DIVISION OF MITCHELL SURVEYS, INC.

THE ABOVE SURVEY COMPLIES WITH PUBLIC ACT 132 OF 1970, ACT 288 OF MICHIGAN PUBLIC ACTS OF 1967 AS AMENDED BY PUBLIC ACT 891 OF 1997 SHOULD BE CHECKED TO SEE THAT ANY PROPERTY CONVEYANCE DOES NOT VIOLATE THAT ACT.

CLIENT **BRYAN WILLIAMS**

DATE 10-24-11 JOB No. 11-1013 SHEET 1 OF 1

DWG. BY J. MITCHELL DWG. CK BM DESC. BY _____ DESC. CK _____

BEING IN THE NE 1/4 SECTION 3, T 1 S., R 17 W.

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

SCALE 1"=30' BOOK FILE PAGE FILE REVISION _____

LEGEND

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



415 Walnut Ave



Walnut Ave



STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: October 27, 2014
ADDRESS: 415 Walnut Avenue
ZONING DISTRICT: R-1B Residential
LOT DIMENSIONS: 80x85 +/-
LOT AREA: 6850 square feet
LOT COVERAGE: 16% current; 26% proposed; 40% maximum allowed
REQUIRED SETBACK:
Front: 25'
Side: 8'/20' (total)
Rear: 25'

PROPOSED SETBACK:

Front: Currently 20'; no change proposed
Side: 8' (minimum)/20' (total): 18'4" (south) and 7' 6 3/4" (north side)
Rear: 22' 3 3/4"

VARIANCE REQUEST: The applicant plans to build an addition on the existing house which will not comply with the required setbacks for the rear (west side) and side (north).

DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.
This is a wooded area with few houses in a very old plat. The streets in the plat are private and the city has no intention of taking over the streets or in improving them. The variances will not be detrimental to the neighborhood.
2. Such variance will not impair the intent and purpose of this Ordinance.
It is the intent of the R1A zoning district to preserve the character of the single-family neighborhoods. The proposed construction will improve the appearance of the property and will not impair the intent of the residential purpose.
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 exceptional or extraordinary conditions as far as lot size or configuration within this neighborhood. The applicant states in his narrative that there is a problem with the orientation of the house on the property which causes the encroachment.
4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district

and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The applicant states in his application that his need for the variance is based on wanting extra rooms for visitors. The ZBA needs to decide if lack of space places an unnecessary burden on the owner.

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 does not appear to be a recurrent type of variance request in this zoning district as a whole. Staff does not recommend amending the zoning ordinance to permit a decrease in front setback for this particular neighborhood only. It is more prudent to consider these requests as they arise.

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 not self-created except in the sense that the applicant would like to have more space.

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

Without the requested variance, the applicant would still be able to enjoy the single family home. The ZBA will need to determine whether the perceived small size of the house places an unnecessary burden on the owner.

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. **The ZBA will need to determine if the addition of bedrooms and another bathroom are more than needed to create more space and justify the variance.**

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

The variance request only involves the property owned by the applicant.



City of South Haven

Agenda Item #6d Accessory Building Height Variance

Background Information:

Kenneth Hogan requests a variance from Article XVII, Section 1708.4 to construct an accessory building (garage) which will exceed the required height limit by five (5) feet. The maximum height from grade to peak allowed in the zoning ordinance is sixteen (16) feet. The applicant is asking to exceed that by having a twenty-one (21) foot peak.

The applicant states that he needs additional storage space. The extra height in the garage will provide the storage space needed.

The house on the property is actually a duplex that straddles the property line. The Hogan's own only the structures on their own property.

Recommendation:

Review application and determine if applicant has presented adequate evidence to support the request in accordance with zoning ordinance section 2205.

Support Material:

Completed application with applicant attachments
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: KENNETH HOGAN

Date: 10/28/14

Address: 44 GRAND BLVD

Phone: 637-7265

Address of Property in Question: 44 GRAND BLVD

Present Zoning of Property: RESIDENTIAL

Name of Property Owner(s): KENNETH + LYNDIA HOGAN

Dimensions and area of property see Attached

Dimensions of all buildings on the property (also shown on a diagram) 18' X 20' proposed

Setback measurements of all structures on the property (also shown on diagram)
6' 8" on back 8' 10" on side

Present Zoning of Neighboring Properties to the :

North Res 1-C South Res 1-C East Res 1-C West Res 1-C

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): Need variance for extra height from 16' to 21' at

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:

at least peak to match House Look

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

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

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

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

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

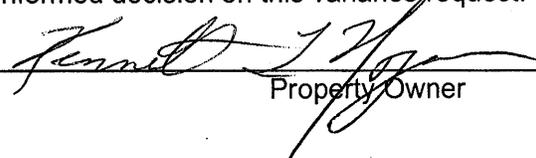
6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

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

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

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

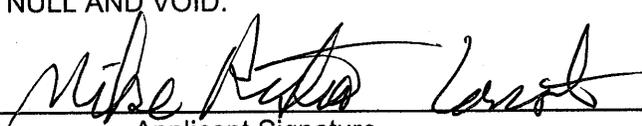
I hereby give permission for the members of the Zoning Board of Appeals and City Staff to access and inspect the property in question for the purpose of gathering information to make an informed decision on this variance request.



Property Owner

10/28/14
Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.

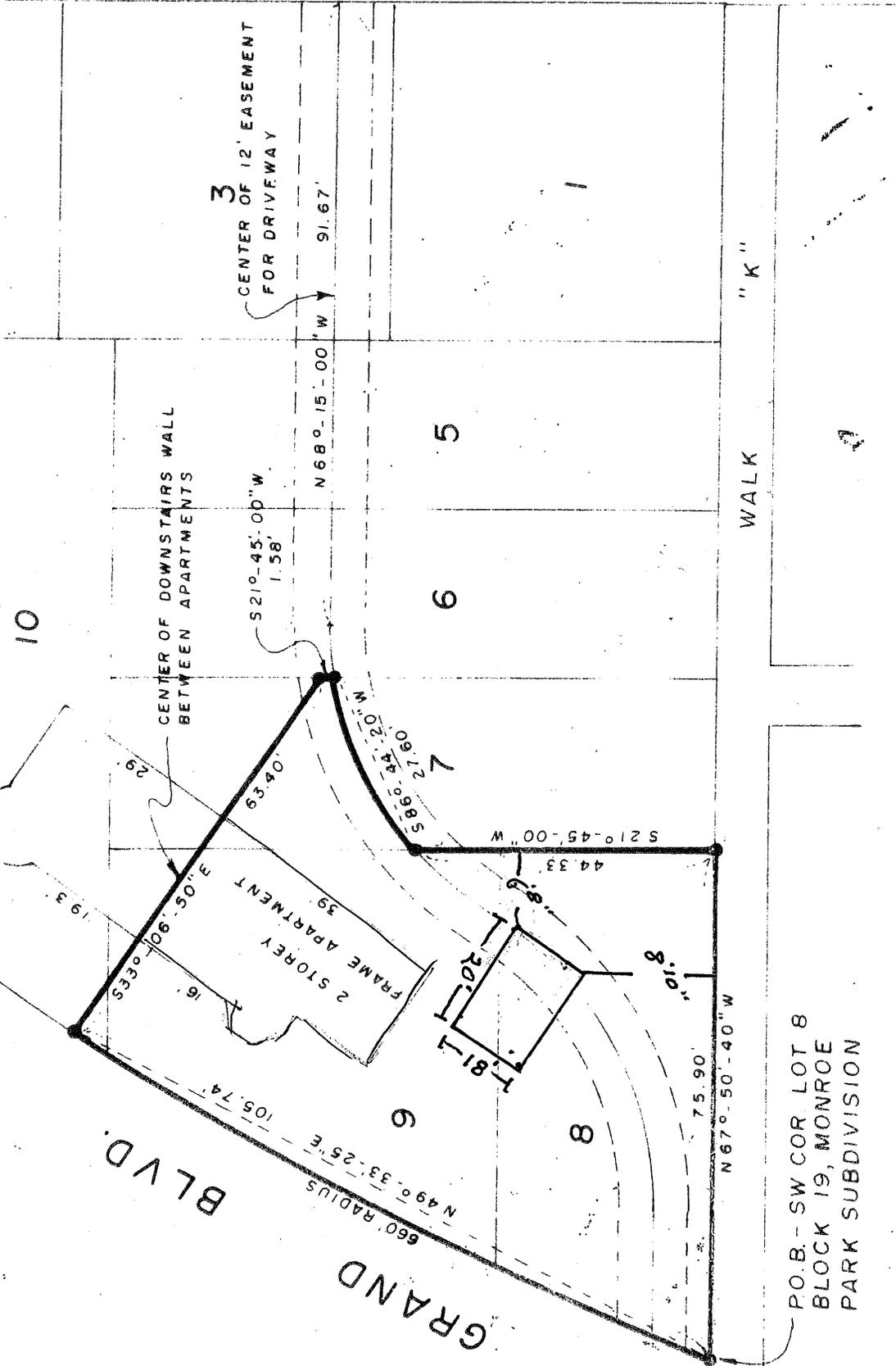


Applicant Signature

10-28-14
Date

Need the storage above garage

NORTH SHORE DRIVE



P.O.B. - SW COR LOT 8
 BLOCK 19, MONROE
 PARK SUBDIVISION

THIS SURVEY COMPLIES WITH THE REQUIREMENTS OF SECTION 3, PUBLIC ACT 132, 1970.
 THE RATIO OF CLOSURE OF THIS SURVEY COMPLIES WITH ACT 288 OF 1987
 ACT 288 OF MICHIGAN PUBLIC ACTS OF 1987 SHOULD BE CHECKED TO SEE THAT
 ANY PROPERTY CONVEYANCES DOES NOT VIOLATE THIS ACT.

CLIENT CLAUDE MANN REALTY
 DATE 10/27/82 JOB NO. 82-1009 SHT. 1 OF 1
 DWN. BY B.M. BK. NO. 15 PAGE 28

BEING IN THE SW 1/4, SEC. 3
 T 1 S, R 17 W
 SOUTH HAVEN TWP.

R.R. 2, BOX 170
 SOUTH HAVEN, MICH. 49090
 3/4 Mi. East of Glenn on 114th

MITCHELL
 SURVEYS, INC.

PHONE (616) 227-3266



Google earth

STAFF FINDINGS OF FACT

CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

DATE: November 17, 2014

ADDRESS: 44 Grand Boulevard

ZONING DISTRICT: R1-C Single Family Residential (Monroe Park)

LOT DIMENSIONS: Irregular with 660' along Grand Boulevard

LOT AREA: Approx. 3485 sq ft (.08 ac.)

LOT COVERAGE: No maximum in the R1-C district

REQUIRED SETBACKS: Front – 3 feet; Side and Rear – 3 feet (Accessory Building)

EXISTING SETBACKS: NA for accessory structure

PROPOSED SETBACKS: 6'8"feet (rear) and 8'10" (side)

VARIANCE REQUEST: Kenneth Hogan of 44 Grand Boulevard is requesting a variance to construct an accessory building that will be 21 feet in height at the peak where 16 feet is the maximum allowed. The parcel number for the property is 80-53-819-007-10.

The applicant states in his application that he needs additional storage space. The extra height in the garage will provide the storage space needed.

The residence on the property is a duplex that straddles the property line. The Hogan's own only the residence on their 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 applicant states in the application that the garage exterior finish will be compatible with the existing residence. Staff is concerned about the impact of a second tall structure on a property in an area which is primarily very small lots. (The applicant did not provide responses to the standards found in section 2205 nor did he provide a detailed narrative explaining the need for the variance.)

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

It is the intent of the R1-C zoning district to preserve the character of the single family neighborhoods. The proposed structure is a residential accessory building and is compatible with the residential character.

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

The exceptional condition in this case is the lack of storage space. It is unknown if other residences in the immediate area have the same situation. The proposed storage space in the garage will allow the property owner storage space without necessitating a second accessory building for that purpose.

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.

If the variance is denied to the applicant, the residence will still be habitable. The applicant also has the option of constructing a smaller building for storage.

Staff does not believe financial gain is the motivation for the request.

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

This does not appear to be a recurrent type of variance request in the city. Staff does not recommend amending the zoning ordinance to permit an increased accessory building height in the R1-C zoning district. It is more prudent to consider these requests as they arise.

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 applicant purchased this property with the house in place. The lack of storage space could conceivably be a practical concern for the owner of the property but no evidence has been submitted to support that claim. The problem is self-created in that it is the owner's need for the extra storage space.

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 likely mean the applicant would need to construct a second accessory building for storage. This is a fairly large lot in a zoning district which has a minimum lot size of 2178 square feet and no maximum lot coverage limit.

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

The applicant has the option of building a smaller storage space in addition to a garage is a garage is also needed. The extra height is not the only option.

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

It will only apply to the Hogan property.

Zoning Board of Appeals



Calendar for 2015

At the first meeting in each calendar year, the ZBA is required to set a meeting schedule for the upcoming year. (Generally, the Zoning Board of Appeals meets on the fourth Monday of the month.) The following is the proposed schedule for 2015.

January	26
February	23
March	23
April	27
May	18*
June	22
July	27
August	24
September	28
October	26
November	16*
December	21*

*Dates changed to reflect Memorial Day, Thanksgiving and Christmas holidays.

Recommendation

Please review the dates provided and make any corrections deemed necessary. This calendar needs to be adopted by the ZBA prior to posting.