

# Zoning Board of Appeals

## Regular Meeting Agenda

Monday, April 23, 2012  
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – February 27, 2012
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

### NEW BUSINESS

**Zachary Bossenbroek**, representing Thayer Properties LLC, is requesting variances for two (2) properties located at 42 Lakeshore Drive. The properties are individually identified as 42 Lakeshore Drive North and 42 Lakeshore Drive South.

- 6a. **42 Lakeshore Drive North** – A request to either 1.) receive a variance for a front yard setback to permit a second story balcony that would encroach into the required front yard or, 2.) receive a front yard setback variance to construct a deck with a three (3) to four (4) foot elevation within the required front yard. The second option would also require a variance to allow no off street parking spaces.
- 6b. **42 Lakeshore Drive South** – A request to either 1.) receive a variance for a front yard setback to permit a second story balcony that would encroach into the required front yard or, 2.) receive a front yard setback variance to construct a deck with a three (3) to four (4) foot elevation within the required front yard. The second option would also require a variance to allow no off street parking spaces.

### 8. Change of Meeting Date – May Meeting

### 9. Adjourn

RESPECTFULLY SUBMITTED,

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.

Linda Anderson  
Planner / Zoning Administrator

## Zoning Board of Appeals

### Regular Meeting Minutes

Monday, February 27, 2012  
7:00 p.m., Council Chambers



City of South Haven

**1. Call to Order by Ingersoll at 7:12 p.m.**

**2. Roll Call**

Present: Manley, Paull, Wheeler, Wittkop, Ingersoll  
Absent: Henry, Apotheker

**3. Approval of Agenda**

Motion by Manley, second by Wittkop to approve the agenda as written. All in favor. Motion carried.

**4. Approval of Minutes – December 19, 2011**

Motion by Wittkop, second by Manley to approve the December 19, 2011 Regular Meeting Minutes. All in favor. Motion carried.

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

None at this time.

**NEW BUSINESS**

6. #5 Oak Court – Helen Keen-Thoesen is requesting dimensional variances for front and rear setback requirements for an existing residence at the above address. The proposed encroachments into the front and rear yards involve additional roof overhang (soffit) of twelve (12) inches in the second floor rear (south) and extending the first floor 30 inch soffit completely across the front of the house (north). The parcel number for the subject property is 80-53-701-006-00.

Helen Keen-Thoesen, 5 Oak Court. Keen-Thoesen stated that they wanted to extend the roof and were told that there was an issue bringing the roof out even with the porch that is next to it. The variance request would allow the overhang on the second story to be extended 12” and allow the overhang to match all the way around. She

would like to have a variance to extend the first floor 30 inch soffit completely across the front of the house.

Ingersoll asked for clarification that the 30" is on the upper floor and consists of an additional 12" to what exists to which Keen-Thoesen responded yes.

Motion by Manley, second by Wittkop to close the public hearing.

Motion by Manley, second by Wittkop to approve the variance based on the following findings of fact:

1. The variance will not encroach on neighboring properties;
2. All properties and houses on Oak Court are nonconforming to the RM-1 zone;
3. The difficulty was not created by the owner but by the limited lot size;
4. The request is very similar to other variances granted on Oak Court, and
5. No negative comments have been received from neighbors indicating the variance would not be in character with the neighborhood.

A roll call vote was taken:

Yeas: Manley, Paull, Wheeler, Wittkop, Ingersoll.

Nays: None

Motion carried.

## **6. Adjourn**

Motion by Paull, second by Wheeler to adjourn at 7:20 p.m. All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary



City of South Haven

## Agenda Item #6, a and b Bossenbroek Dimensional Variances

### Background Information:

**Zachary Bossenbroek**, representing Thayer Properties LLC, is requesting variances for two (2) properties located at 42 Lakeshore Drive. The original 42 Lakeshore Drive was split into the two (2) parcels several months ago. Since the properties are both vacant, address numbers have not been issued yet. For simplification, we will identify the properties as 42 Lakeshore Drive North and 42 Lakeshore Drive South.

The variances requested are the same for both properties. Specifically, the applicant is asking to either 1.) Receive a variance for a front yard setback to permit a second story balcony that would encroach into the required front yard (with off-street parking provided under the balcony) or, 2.) Receive a front yard setback variance to construct a deck with a three (3) to four (4) foot elevation within the required front yard. The second option would also require a variance to allow no off street parking spaces. Either option, if approved, will result in a zero front lot line.

You will notice a reference to a “disputed zone” in this application and review. That term refers to an area of the property beyond the front property line and into the right-of-way. The application site plan shows encroachment into that area. The ZBA cannot act on any encroachment beyond the property line. That is a matter for the applicant and the city council to resolve. The ZBA only has the authority to act on the variance requests as they apply to the applicant’s property (ref. Section 2205 §9).

### Recommendation:

The ZBA members will need to review the attached materials, visit the site and listen to any neighbor comments offered at the meeting to determine whether this application meets the standards listed in Section 2205 of the zoning ordinance.

### Support Material:

Completed application and support materials  
Staff Findings of Fact for both properties (north and south)  
Aerial Photos of both properties

RESPECTFULLY SUBMITTED,  
Linda Anderson  
Planner / Zoning Administrator

**BOSSENBROEK LAW, PLLC**

ATTORNEY AT LAW  
2855 44<sup>th</sup> Street SW, Suite 120  
Grandville, Michigan 49418  
616.249.8444

ZACHARY J. BOSSENBROEK  
Direct Fax: 616.825.6217  
Email: zjb@bossenbroeklaw.com

March 26, 2012

*VIA E-MAIL*

City of South Haven  
Ms. Linda Anderson, Zoning Administrator  
539 Phoenix Street  
South Haven, MI 49090

**Re: 42 Lakeshore Dr.; PPNs 80-53-807-006-10, 80-53-807-006-01**

Dear Linda:

Please find enclosed the Zoning Variance Requests for the above-referenced lots. As you know, the property owner currently has a quiet title action pending against the City with respect to the strip of property falling between these lots, as platted, and the former concrete wall along the right-of-way (the "Disputed Area"). In an attempt to amicably resolve that outstanding action, we have presented City Council with a settlement proposal that involves a right-of-way license agreement for deck and stair improvements within the Disputed Area. Prior to pursuing such a settlement with the landowner, City Council directed us to first obtain the necessary variance(s) from the Zoning Board of Appeals. Consequently, we are submitting the enclosed Zoning Variance Requests.

We are submitting two Zoning Variance Requests – one for each of the above-referenced parcels. Each Request contains two alternative requests: (1) first, simply a variation from the front yard setback for a second story deck to be located within such front yard setback and into the Disputed Area (subject approval by City Council of a license agreement); *or, alternatively,* (2) a front yard setback variance for a deck at a 3' to 4' elevation to be located within the front yard setback and into the Disputed Area (subject to approval by City Council of a license agreement) *and* an additional variance for no off-street parking spaces. The type of structure envisioned for the first alternative is depicted in the attached rendering. The second alternative involves a deck at a lower elevation with no garage, both of which are typical features of Monroe Park cottages along Lakeshore Drive. While we believe the first alternative is preferable due to the fact that only one variance is required, we are open to either alternative.

We believe that the requested variances are needed to provide the landowner with the same substantial property rights possessed by neighboring properties along Lakeshore Drive.

Please note that by submitting these variance requests the property owner is not waiving its claim to the Disputed Area. The property owner is simply requesting these variances in an attempt to amicably settle the pending litigation pertaining to the Disputed Area.

I am enclosing \$600 for the fees applicable to the Zoning Variance Requests. Please let me know if you need any additional information to process these requests. If not, I understand that the Zoning Board of Appeals will consider these requests at its upcoming April 23<sup>rd</sup> hearing.

Sincerely yours,



Zachary J. Bossenbroek

Enclosures



**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: Zachary J. Bossenbroek Date: 3-26-12  
Address: 2855 44th St SW #120, Grandville MI Phone: 616-249-8444  
North part of 49418  
Address of Property in Question: 42 Lakeshore Dr. Present Zoning of Property: R-1C  
Name of Property Owner(s): Thayer Properties Limited Liability Company

Present Zoning of Neighboring Properties to the :

North R-1C South R-1C East R-1C West NA

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 (front yard setback) OR 404 and 1800(12)(a)1 *offstreet parking*

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

“ ”



## ATTACHMENT TO ZONING VARIANCE REQUEST

Date: March 26, 2012  
Applicant: Zachary J. Bossenbroek  
Property Owner: Thayer Properties Limited Liability Company  
Address of Property: 42 Lakeshore Drive – Northern Lot; PPN: 80-53-807-006-10

### **Requested Zoning Variance:**

The purpose of this zoning variance request is to permit the use of the 33 foot wide parcel for a single family dwelling with lakeside decking in line with other property owners along Lakeshore Drive. To permit this use of the property, we are requesting: **(a)** grant of a variance to Section 404(1) (3-foot front yard setback) to permit a deck/steps to be built in such setback area at second-story elevation, or, **alternatively, (b)** a grant of a variance to Section 404(1) (3-foot front yard setback) to permit a deck/steps to be built in such setback area at an elevation of 3' to 4'and grant of a variance to Section 1800(12)(a)1) (off-street parking) to allow for no off-street parking. *See survey drawings, attached as **Exhibit A**.*

We acknowledge that the foregoing variances requests do not address the use of the Disputed Area (defined in the accompanying letter) for decking and/or steps. We understand that this issue will need to be addressed separately with City Council by way of a license agreement, settlement of the pending quiet title action or adjudication of the quiet title action. As such, we expect that if the Zoning Board of Appeal grants a variance, it may be subject to the City entering into a license agreement with the property owner.

### **Explanations:**

Please consider the following explanations in making your determination with respect to our variance request(s). For your convenience, I have copied the relevant considerations under Section 2205 of the Zoning Ordinance below.

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

**The variance will permit the property to have a lakeside deck in line with other structures along Lakeshore Drive. The City has historically granted similar variances to property owners in Monroe Park. Indeed, most of the neighboring properties have decks, porches or other structures that extend into the platted right-of-way area. We are seeking to use the property in a manner consistent with other properties in the neighborhood.**

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

**Section 2205 contemplates the grant of variances by the Zoning Board of Appeals in circumstances like this. As such, the intent of Ordinance would not be impaired by the grant of the requested variance(s).**

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 circumstance is the fact that the surrounding properties have decks/porches/structures that extend into the platted right-of-way, and without the variance views from the subject lot's proposed lakeside decking would be substantially impaired. Furthermore, the subject property is narrow so parking is constrained if the decking were to be built at or near ground level. A second story deck would allow for ground level parking. (See attached rendering).**

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 variance is necessary for the enjoyment of a substantial property right (lakeside decking and views) similarly possessed by other properties in Monroe Park and along Lakeshore Drive.**

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

**See response to #3, above.**

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 condition is not self-created. Rather, it stems from the fact that, in many cases, over 40 or 50 years ago the neighboring property owners built walls, porches and decks extending into the platted right-of-way. Indeed, the subject property had such a wall until it was demolished last year in connection with the demolition of the house on the property. So, had the neighboring property owners not built improvements in the platted right-of-way and front yard setback area, there would be no need for the variance.**

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 with the above-cited Zoning Ordinance provisions would be unreasonable in this case given the fact that other similarly situated lots have decks, porches and other structures extending into the front yard setback and platted right-of-way and or are granted similar variances to allow for such use. In addition, many of the Monroe Park lots do not have off-street parking or have been granted variances to allow for no off-street parking.**

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

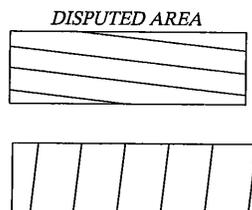
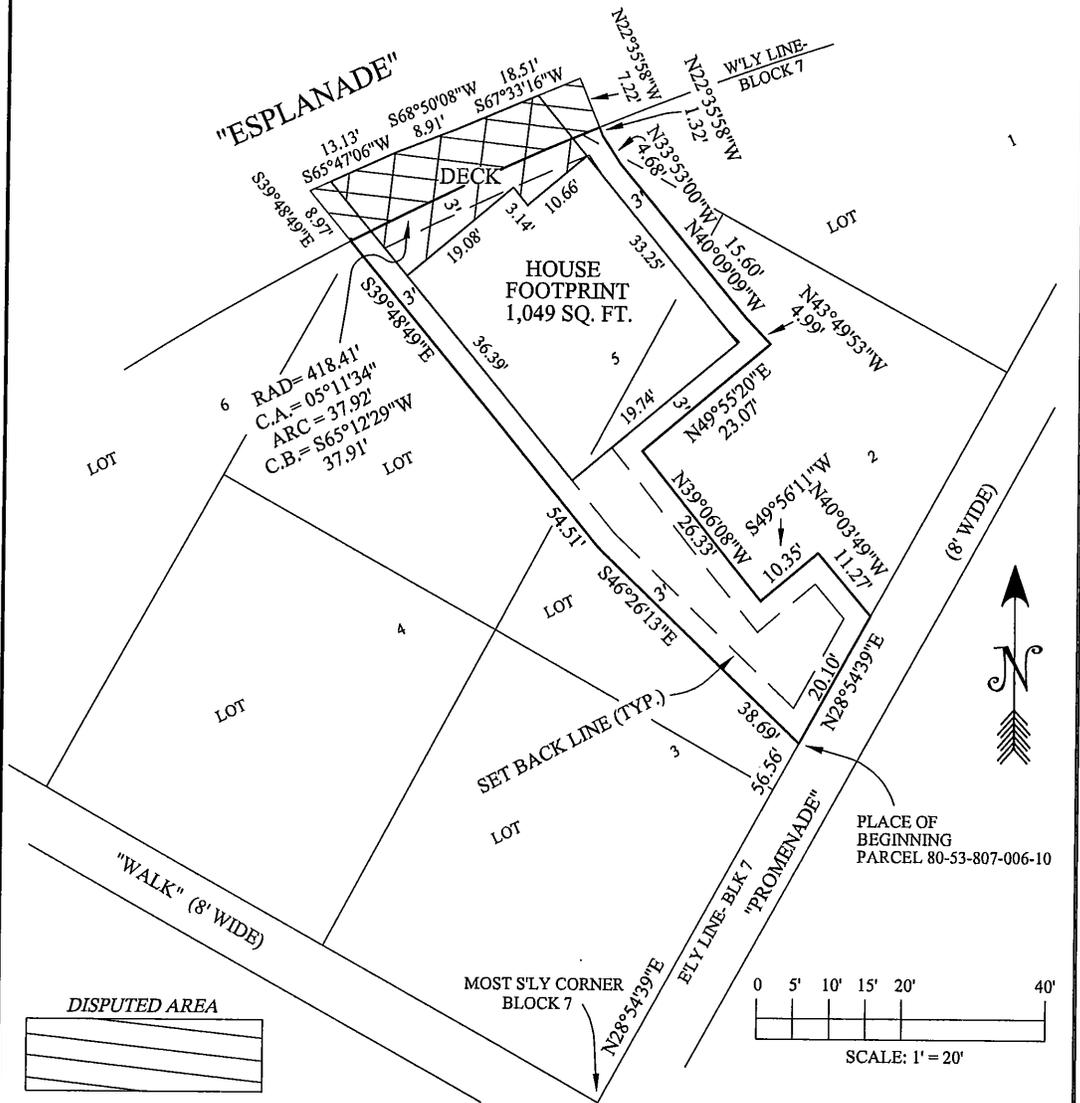
**We believe that the requested variance is the minimum amount necessary to overcome the inequality.**

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

**The variance will relate only to the subject property.**

# SURVEYOR'S CERTIFICATE

PART OF 42 LAKESHORE DRIVE



DECK/STAIRS AT 3-4 FEET ELEVATION  
 OR AT SECOND STORY ELEVATION

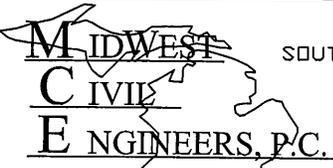
AREA EXCLUDING DISPUTED AREA = 2178 SQ. FT.  
 AREA INCLUDING DISPUTED AREA = 2482 SQ. FT.

WIDTH ALONG FRONT SET BACK LINE MEASURES 31.21'

NOTES:  
 1.) THIS SURVEY WAS PERFORMED WITH AN ERROR OF CLOSURE NO GREATER THAN 1 IN 5000.  
 2.) ACT 289 OF MICHIGAN PUBLIC ACTS OF 1967, AS AMENDED, SHOULD BE CHECKED TO SEE THAT ANY PROPERTY CONVEYANCE DOES NOT VIOLATE THIS ACT.  
 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR WHO IT IS CERTIFIED TO ONLY. ANY USE OF IT BY OTHER THAN WHO IT IS CERTIFIED TO WILL BE AT THE USERS RISK AND WITHOUT LIABILITY TO THE LAND SURVEYOR.

DANIEL B. ZWAR  
 LICENCED PROFESSIONAL SURVEYOR NO. 28435

CERTIFIED TO:  
 THAYER PROPERTIES, LLC  
 PARCEL 80-53-807-006-10  
 DRAWN BY: DBZ  
 DATE: MARCH 24, 2012  
 SCALE: 1" = 20'  
 SEC. 3 T.1S. R.17W.



13560 76TH STREET  
 SOUTH HAVEN, MICHIGAN 49090  
 (P) 269-637-9205  
 (F) 269-637-9206  
 SHEET 1 OF 2  
 PROJ. NO. 12-049

# SURVEYOR'S CERTIFICATE

DESCRIPTION PARCEL 80-53-807-006-10 EXCLUDING DISPUTED AREA:  
 PART OF LOTS 1, 2, 5, AND 6, BLOCK 7, MONROE PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, BEING A PART OF THE SOUTHWEST FRACTION OF SECTION 3, TOWN 1 SOUTH, RANGE 17 WEST, (NORTH OF RIVER), ACCORDING TO THE GOVERNMENT SURVEY THEREOF, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID BLOCK 7; THENCE NORTH 28°54'39" EAST ALONG THE EASTERLY LINE OF SAID BLOCK, 56.56 FEET TO THE PLACE OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUING NORTH 28°54'39" EAST ALONG SAID EASTERLY LINE, 20.10 FEET; THENCE NORTH 40°03'49" WEST, 11.27 FEET; THENCE SOUTH 49°56'11" WEST, 10.35 FEET; THENCE NORTH 39°06'08" WEST, 26.33 FEET; THENCE NORTH 49°55'20" EAST, 23.07 FEET; THENCE NORTH 43°49'53" WEST, 4.99 FEET; THENCE NORTH 40°09'09" WEST, 15.60 FEET; THENCE NORTH 39°48'49" WEST, 11.67 FEET; THENCE NORTH 33°53'00" WEST, 4.68 FEET; THENCE NORTH 22°35'58" WEST, 1.32 TO THE WESTERLY LINE OF SAID BLOCK 7; THENCE ON SAID WESTERLY LINE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 418.41 FEET, A LENGTH OF 37.92 FEET AND A CHORD BEARING SOUTH 65°12'29" WEST, 37.91 FEET; THENCE SOUTH 39°48'49" EAST, 54.51 FEET; THENCE SOUTH 46°26'13" EAST, 38.69 FEET TO THE PLACE OF BEGINNING.  
 CONTAINING 2,178 SQUARE FEET, MORE OR LESS.

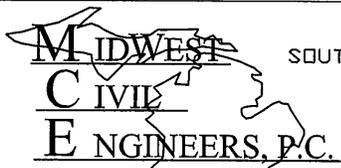
DESCRIPTION PARCEL 80-53-807-006-10 INCLUDING DISPUTED AREA:  
 PART OF LOTS 1, 2, 5, AND 6, BLOCK 7, AND PART OF "ESPLANADE", MONROE PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, BEING A PART OF THE SOUTHWEST FRACTION OF SECTION 3, TOWN 1 SOUTH, RANGE 17 WEST, (NORTH OF RIVER), ACCORDING TO THE GOVERNMENT SURVEY THEREOF, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID BLOCK 7; THENCE NORTH 28°54'39" EAST ALONG THE EASTERLY LINE OF SAID BLOCK, 56.56 FEET TO THE PLACE OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUING NORTH 28°54'39" EAST ALONG SAID EASTERLY LINE, 20.10 FEET; THENCE NORTH 40°03'49" WEST, 11.27 FEET; THENCE SOUTH 49°56'11" WEST, 10.35 FEET; THENCE NORTH 39°06'08" WEST, 26.33 FEET; THENCE NORTH 49°55'20" EAST, 23.07 FEET; THENCE NORTH 43°49'53" WEST, 4.99 FEET; THENCE NORTH 40°09'09" WEST, 15.60 FEET; THENCE NORTH 39°48'49" WEST, 11.67 FEET; THENCE NORTH 33°53'00" WEST, 4.68 FEET; THENCE NORTH 22°35'58" WEST, 1.32 FEET TO THE WESTERLY LINE OF SAID BLOCK 7; THENCE CONTINUING NORTH 22°35'58" WEST, 7.22 FEET; THENCE SOUTH 67°33'16" WEST, 15.17 FEET; THENCE CONTINUING SOUTH 67°33'16" WEST ALONG THE FACE OF A CONCRETE WALL (NOW REMOVED), 3.34 FEET; THENCE SOUTH 68°50'08" WEST ALONG THE FACE OF SAID WALL, 8.91 FEET; THENCE 65°47'06" WEST ALONG THE FACE OF SAID WALL, 13.13 FEET; THENCE SOUTH 39°48'49" EAST, 8.97 FEET TO SAID WESTERLY LINE; THENCE CONTINUING SOUTH 39°48'49" EAST, 54.51 FEET; THENCE SOUTH 46°26'13" EAST, 38.69 FEET TO THE PLACE OF BEGINNING.  
 CONTAINING 2,482 SQUARE FEET, MORE OR LESS.

## DESCRIPTIONS

DANIEL B. ZWAR  
 LICENCED PROFESSIONAL SURVEYOR NO. 28435

NOTES:  
 1.) THIS SURVEY WAS PERFORMED WITH AN ERROR OF CLOSURE NO GREATER THAN 1 IN 5000.  
 2.) ACT 288 OF MICHIGAN PUBLIC ACTS OF 1967, AS AMENDED, SHOULD BE CHECKED TO SEE THAT ANY PROPERTY CONVEYANCE DOES NOT VIOLATE THIS ACT.  
 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR WHO IT IS CERTIFIED TO ONLY. ANY USE OF IT BY OTHER THAN WHO IT IS CERTIFIED TO WILL BE AT THE USERS RISK AND WITHOUT LIABILITY TO THE LAND SURVEYOR.

CERTIFIED TO:
THAYER PROPERTIES, LLC PARCEL 80-53-807-006-10
DRAWN BY: DBZ
DATE: MARCH 24, 2012
SCALE: 1" = 20'
SEC. 3 T.1S. R.17W.



13560 76TH STREET SOUTH HAVEN, MICHIGAN 49090 (P) 269-637-9205 (F) 269-637-9206	SHEET 2 OF 2 PROJ. NO. 12-049
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NORTH

**2011 ORTHO AERIAL MAPS**  
Showing Parcel Lines and Labels

[Print This Page](#) | [Close](#)



**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

## STAFF FINDINGS OF FACT

### CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

**DATE:** April 9, 2012  
**ADDRESS:** 42 Lakeshore Dr (north)  
**ZONING DISTRICT:** R-1C Residential  
**LOT DIMENSIONS:** 20.10' feet at Promenade; 37.92 feet at Esplanade; average depth is 96 feet.  
**LOT AREA:** 2178 square feet (excluding disputed area)  
**LOT COVERAGE:** NA  
**REQUIRED SETBACKS:** Front - 3 feet; Rear – 3 feet; Side – 3 feet  
**EXISTING SETBACKS:** NA  
**PROPOSED SETBACKS:** (shown for building envelope only) Front – 0'; Rear – 30+'; Sides – 3'  
**VARIANCE REQUEST:** Mr. Bossenbroek is asking to construct a home that would have a zero front lot line through either an upper level balcony OR a main floor deck. The main floor deck option would also require a variance from the two (2) off-street parking space requirement. The board of appeals could grant a zero lot line variance, if you so choose, but cannot grant a variance that exceeds into the public right-of-way as shown on the site plan. Only the city council may approve that through a licensing agreement with the applicant.

#### 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.

**Building a balcony could have a visual impact for some neighboring properties. The amount of that impact will vary for each neighbor and it is likely that the ZBA will hear from those neighbors. A lower level deck would be more compatible with the neighboring properties but would not permit space for the required off-street parking.**

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

**The ordinance provides for the variance process when relief is needed due to lot size or configuration. Minimum lot sizes in this R-1C zone are the smallest permitted in the city (2178 sq. ft.). This lot (2178 sq. ft., not including the area in dispute with the city) is typical in size but was split from a larger lot at the request of the applicant. Since the ZBA can only grant variances on private property, the applicant is asking for a zero lot line front setback. The ordinance provides for this type of request.**

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 lot size and shape is not atypical for the neighborhood. While there are some larger lots, many are of similar size as the subject lot. Staff does not find exceptional or extraordinary conditions as far as lot size or configuration.**

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.

**There are other homes in the area extending to the front lot line. Some actually appear to cross the lot line and extend into the right-of-way, although this is not an option for the ZBA at this time. Although this variance may not be necessary for the applicant to use or enjoy the property, the request would not result in an unusual scenario for the area.**

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.

**The R-1C zoning district is only found in this part of the city. It was established to accommodate the small lots and narrow rights-of way in this older neighborhood by allowing very small lot sizes and setback requirements. No further general regulations are required.**

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

**This lot is the result of a lot split initiated by the applicant. The lot, as split, meets the minimum requirements for the R-1C zoning district. Without having split the lot, off-street parking probably would not have been an issue with the requested variance.**

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.

**The property, as it exists, may be developed as a single-family residence.**

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 is actually asking for a variance to extend a deck or balcony into the public right-of-way. Since that would be beyond the authority of the ZBA, you may only consider the request for a zero front lot line. It may be possible for the applicant to move the proposed structure back on the lot to accommodate the deck or balcony, but that possibility is not stated in the application.**

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

**This variance only applies to 42 Lakeshore Drive (north). Any property which extends beyond the lot lines of that property (ie., "disputed area") is excluded from any ZBA action.**

**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: Zachary J. Bossenbroek Date: 3-26-12  
Address: 2855 44th St SW #120, Grandville MI 49418 Phone: 616-249-8444  
Address of Property in Question: South Part of 42 Lakeshore Dr. Present Zoning of Property: R-1C  
Name of Property Owner(s): Thayer Properties Limited Liability Company

Present Zoning of Neighboring Properties to the :

North R-1C South R-1C East R-1C West NA

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 (front yard setback) OR 404 and 1800(12)(a)1 *offstreet parking*

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.

“ ”

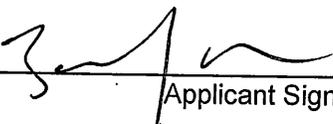
9. That the variance will relate only to property under the control of the applicant

“ ”

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      *Authorized Agent*      3-26-12  
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      3-26-12  
Date

## ATTACHMENT TO ZONING VARIANCE REQUEST

Date: March 26, 2012  
Applicant: Zachary J. Bossenbroek  
Property Owner: Thayer Properties Limited Liability Company  
Address of Property: 42 Lakeshore Drive – Southern Lot; PPN: 80-53-807-006-01

### **Requested Zoning Variance:**

The purpose of this zoning variance request is to permit the use of the 33 foot wide parcel for a single family dwelling with lakeside decking in line with other property owners along Lakeshore Drive. To permit this use of the property, we are requesting: **(a)** grant of a variance to Section 404(1) (3-foot front yard setback) to permit a deck/steps to be built in such setback area at second-story elevation, or, **alternatively, (b)** a grant of a variance to Section 404(1) (3-foot front yard setback) to permit a deck/steps to be built in such setback area at an elevation of 3' to 4' and grant of a variance to Section 1800(12)(a)1 (off-street parking) to allow for no off-street parking. *See survey drawings, attached as **Exhibit A**.*

We acknowledge that the foregoing variances requests do not address the use of the Disputed Area (defined in the accompanying letter) for decking and/or steps. We understand that this issue will need to be addressed separately with City Council by way of a license agreement, settlement of the pending quiet title action or adjudication of the quiet title action. As such, we expect that if the Zoning Board of Appeal grants a variance, it may be subject to the City entering into a license agreement with the property owner.

### **Explanations:**

Please consider the following explanations in making your determination with respect to our variance request(s). For your convenience, I have copied the relevant considerations under Section 2205 of the Zoning Ordinance below.

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

**The variance will permit the property to have a lakeside deck in line with other structures along Lakeshore Drive. The City has historically granted similar variances to property owners in Monroe Park. Indeed, most of the neighboring properties have decks, porches or other structures that extend into the platted right-of-way area. We are seeking to use the property in a manner consistent with other properties in the neighborhood.**

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

**Section 2205 contemplates the grant of variances by the Zoning Board of Appeals in circumstances like this. As such, the intent of Ordinance would not be impaired by the grant of the requested variance(s).**

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 circumstance is the fact that the surrounding properties have decks/porches/structures that extend into the platted right-of-way, and without the variance views from the subject lot's proposed lakeside decking would be substantially impaired. Furthermore, the subject property is narrow so parking is constrained if the decking were to be built at or near ground level. A second story deck would allow for ground level parking. (See attached rendering).**

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 variance is necessary for the enjoyment of a substantial property right (lakeside decking and views) similarly possessed by other properties in Monroe Park and along Lakeshore Drive.**

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

**See response to #3, above.**

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 condition is not self-created. Rather, it stems from the fact that, in many cases, over 40 or 50 years ago the neighboring property owners built walls, porches and decks extending into the platted right-of-way. Indeed, the subject property had such a wall until it was demolished last year in connection with the demolition of the house on the property. So, had the neighboring property owners not built improvements in the platted right-of-way and front yard setback area, there would be no need for the variance.**

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 with the above-cited Zoning Ordinance provisions would be unreasonable in this case given the fact that other similarly situated lots have decks, porches and other structures extending into the front yard setback and platted right-of-way and or are granted similar variances to allow for such use. In addition, many of the Monroe Park lots do not have off-street parking or have been granted variances to allow for no off-street parking.**

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

**We believe that the requested variance is the minimum amount necessary to overcome the inequality.**

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

**The variance will relate only to the subject property.**



# SURVEYOR'S CERTIFICATE

**DESCRIPTION PARCEL 80-53-807-006-01 EXCLUDING DISPUTED AREA:**  
 PART OF LOTS 2, 3, 4, 5, AND 6, BLOCK 7, MONROE PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, BEING A PART OF THE SOUTHWEST FRACTION OF SECTION 3, TOWN 1 SOUTH, RANGE 17 WEST, (NORTH OF RIVER), ACCORDING TO THE GOVERNMENT SURVEY THEREOF, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID BLOCK 7; THENCE NORTH 28°54'39" EAST ALONG THE EASTERLY LINE OF SAID BLOCK, 45.33 FEET TO THE PLACE OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUING NORTH 28°54'39" EAST ALONG SAID EASTERLY LINE, 11.23 FEET; THENCE NORTH 46°26'13" WEST, 38.69 FEET; THENCE NORTH 39°48'49" WEST, 54.51 FEET TO THE WESTERLY LINE OF SAID BLOCK 7; THENCE ON SAID WESTERLY LINE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 418.41 FEET, A LENGTH OF 35.88 FEET AND A CHORD BEARING SOUTH 60°09'18" WEST, 35.87 FEET; THENCE SOUTH 44°15'52" EAST, 33.92 FEET TO A POINT THAT IS 4.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOTS 3 AND 4; THENCE SOUTH 60°50'57" EAST PARALLEL WITH SAID NORTHERLY LINE, 74.36 FEET TO THE PLACE OF BEGINNING. CONTAINING 2,475 SQUARE FEET OF LAND, MORE OR LESS.

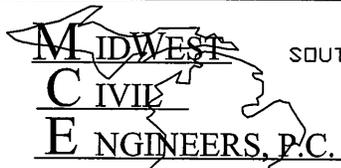
**DESCRIPTION PARCEL 80-53-807-006-01 INCLUDING DISPUTED AREA:**  
 PART OF LOTS 2, 3, 4, 5, AND 6, BLOCK 7, AND PART OF "ESPLANADE", MONROE PARK SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, BEING A PART OF THE SOUTHWEST FRACTION OF SECTION 3, TOWN 1 SOUTH, RANGE 17 WEST, (NORTH OF RIVER), ACCORDING TO THE GOVERNMENT SURVEY THEREOF, CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID BLOCK 7; THENCE NORTH 28°54'39" EAST ALONG THE EASTERLY LINE OF SAID BLOCK, 45.33 FEET TO THE PLACE OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUING NORTH 28°54'39" EAST ALONG SAID EASTERLY LINE, 11.23 FEET; THENCE NORTH 46°26'13" WEST, 38.69 FEET; THENCE NORTH 39°48'49" WEST, 54.51 FEET TO THE WESTERLY LINE OF SAID BLOCK 7; THENCE CONTINUING NORTH 39°48'49" WEST, 8.97 FEET; THENCE SOUTH 65°47'06" WEST ALONG THE FACE OF A CONCRETE WALL (NOW REMOVED), 0.91 FEET; THENCE SOUTH 62°51'47" WEST ALONG THE FACE OF SAID WALL, 9.98 FEET; THENCE SOUTH 62°10'38" WEST ALONG THE FACE OF SAID WALL, 22.76 FEET; THENCE SOUTH 09°39'23" EAST ALONG THE FACE OF SAID WALL, 5.65 FEET; THENCE SOUTH 44°15'52" EAST ALONG THE FACE OF SAID WALL, 5.06 FEET TO SAID WESTERLY LINE; THENCE CONTINUING SOUTH 44°15'52" EAST, 33.92 FEET TO A POINT THAT IS 4.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOTS 3 AND 4; THENCE SOUTH 60°50'57" EAST PARALLEL WITH SAID NORTHERLY LINE, 74.36 FEET TO THE PLACE OF BEGINNING. CONTAINING 2,807 SQUARE FEET OF LAND, MORE OR LESS.

## DESCRIPTIONS

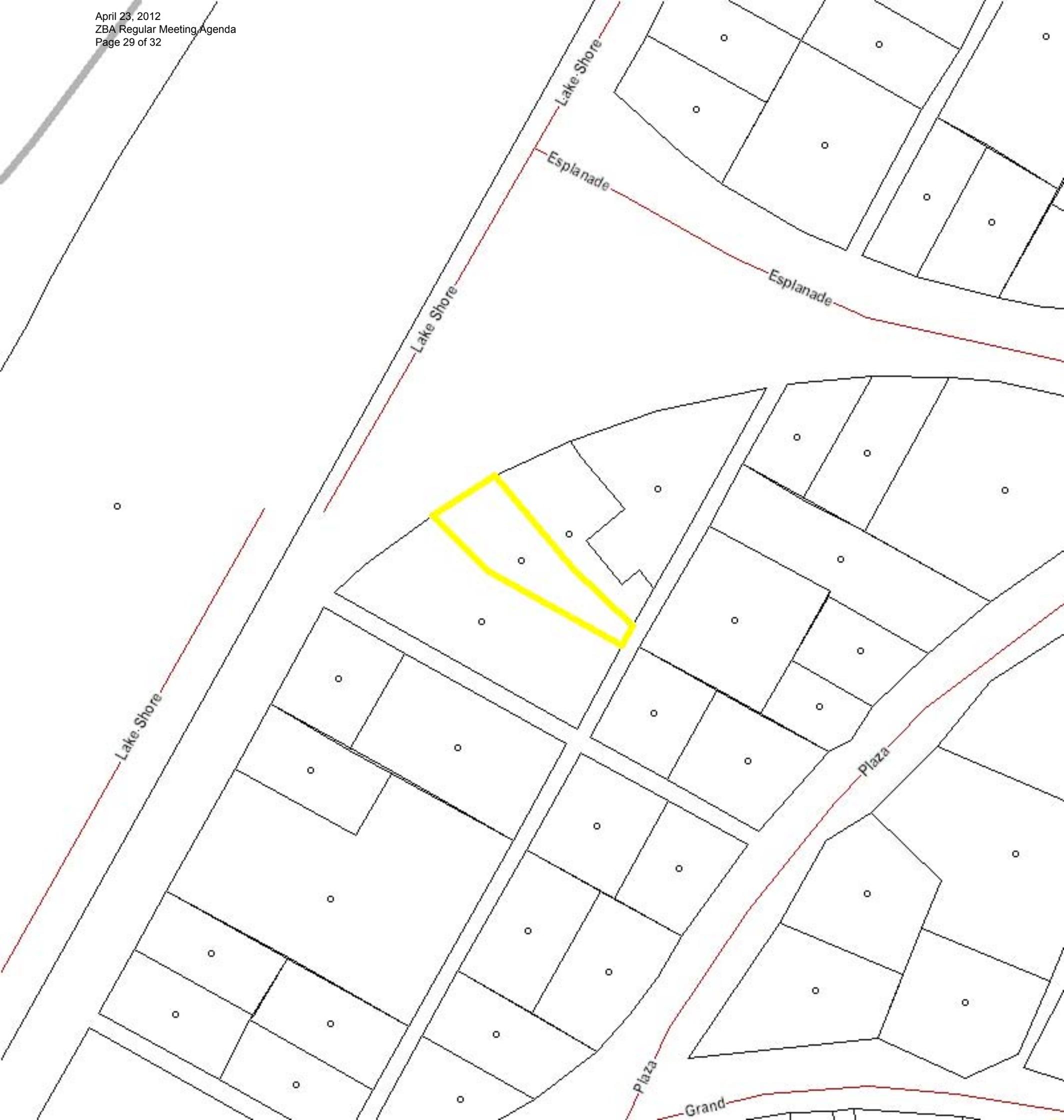
DANIEL B. ZWAR  
 LICENCED PROFESSIONAL SURVEYOR NO. 28435

- NOTES:**  
 1.) THIS SURVEY WAS PERFORMED WITH AN ERROR OF CLOSURE NO GREATER THAN 1 IN 5000.  
 2.) ACT 288 OF MICHIGAN PUBLIC ACTS OF 1967, AS AMENDED, SHOULD BE CHECKED TO SEE THAT ANY PROPERTY CONVEYANCE DOES NOT VIOLATE THIS ACT.  
 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR WHO IT IS CERTIFIED TO ONLY. ANY USE OF IT BY OTHER THAN WHO IT IS CERTIFIED TO WILL BE AT THE USERS RISK AND WITHOUT LIABILITY TO THE LAND SURVEYOR.

CERTIFIED TO:
THAYER PROPERTIES, LLC PARCEL 80-53-807-006-01
DRAWN BY: DBZ
DATE: MARCH 24, 2012
SCALE: 1" = 20'
SEC. 3 T.1S. R.17W.



13560 76TH STREET SOUTH HAVEN, MICHIGAN 49090 (P) 269-637-9205 (F) 269-637-9206	SHEET 2 OF 2 PROJ. NO. 12-049
--	----------------------------------



South

**2011 ORTHO AERIAL MAPS**  
Showing Parcel Lines and Labels

[Print This Page](#) | [Close](#)



**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:** April 9, 2012  
**ADDRESS:** 42 Lakeshore Dr (south)  
**ZONING DISTRICT:** R-1C Residential  
**LOT DIMENSIONS:** 11.23 feet at Promenade; 26.74 feet at Esplanade; average depth is 97 feet.  
**LOT AREA:** 2475 square feet (excluding disputed area)  
**LOT COVERAGE:** NA  
**REQUIRED SETBACKS:** Front - 3 feet; Rear – 3 feet; Side – 3 feet  
**EXISTING SETBACKS:** NA  
**PROPOSED SETBACKS:** (Proposed for building envelope only) Front – 0'; Rear – 20+'; Sides – 3'  
**VARIANCE REQUEST:** Mr. Bossenbroek is asking to construct a home that would have a zero front lot line through either an upper level balcony OR a main floor deck. The main floor deck option would also require a variance from the two (2) off-street parking space requirement. The board of appeals could grant a zero lot line variance, if you so choose, but cannot grant a variance that exceeds into the public right-of-way as shown on the site plan. Only the city council may approve that through a licensing agreement with the applicant.

#### 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.

**Building a balcony could have a visual impact for some neighboring properties. The amount of that impact will vary for each neighbor and it is likely that the ZBA will hear from those neighbors. A lower level deck would be more compatible with the neighboring properties but would not permit space for the required off-street parking.**

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

**The ordinance provides for the variance process when relief is needed due to lot size or configuration. Minimum lot sizes in this R-1C zone are the smallest permitted in the city (2178 sq. ft.). This lot (2475 sq. ft., not including the area in dispute with the city) is typical in size but was split from a larger lot at the request of the applicant. Since the ZBA can only grant variances on private property, the applicant is asking for a zero lot line front setback. The ordinance provides for this type of request.**

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 lot size and shape is not atypical for the neighborhood. While there are some larger lots, many are of similar size as the subject lot. Staff does not find exceptional or extraordinary conditions as far as lot size or configuration.**

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.

**There are other homes in the area extending to the front lot line. Some actually appear to cross the lot line and extend into the right-of-way, although this is not an option for the ZBA at this time. Although this variance may not be necessary for the applicant to use or enjoy the property, the request would not result in an unusual scenario for the area.**

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.

**The R-1C zoning district is only found in this part of the city. It was established to accommodate the small lots and narrow rights-of way in this older neighborhood by allowing very small lot sizes and setback requirements. No further general regulations are required.**

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

**This lot is the result of a lot split initiated by the applicant. The lot, as split, meets the minimum requirements for the R-1C zoning district. Without having split the lot, off-street parking probably would not have been an issue with the requested variance.**

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.

**The property, as it exists, may be developed as a single-family residence.**

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 is actually asking for a variance to extend a deck or balcony into the public right-of-way. Since that would be beyond the authority of the ZBA, you may only consider the request for a zero front lot line. It may be possible for the applicant to move the proposed structure back on the lot to accommodate the deck or balcony, but that possibility is not stated in the application.**

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

**This variance only applies to 42 Lakeshore Drive (north). Any property which extends beyond the lot lines of that property (ie., "disputed area") is excluded from any ZBA action.**