



THE REGULAR SESSION OF THE ANN ARBOR ZONING BOARD OF APPEALS WILL BE HELD AT 100 N. 5<sup>th</sup> AVENUE, 2<sup>nd</sup> FLOOR, COUNCIL CHAMBERS - WEDNESDAY, DECEMBER 15, 2010 AT 6:00 P.M.

AGENDA

MEETING CALLED TO ORDER

ROLL CALL

A. APPROVAL OF AGENDA

B. APPROVAL OF MINUTES

B-1 Draft Minutes of the 2010-08-25 Regular Session (*No Session for September*)

B-2 Draft Minutes of the 2010-10-28 Regular Session

C. APPEALS & ACTION

C-1 ZBA10-012 – 1511 Wells Avenue

Brian Howard is requesting **Permission to Alter a Non-Conforming Structure** in order to permit the expansion of an existing Single-Family residential structure.

C-2 ZBA10-013 – 536 S. Forest Avenue

Richard Henes is requesting **Permission to Alter a Non-Conforming Structure** in order to permit the addition of residential dwelling units to an existing multiple-family residential structure.

C-3 ZBA10-014 – 2428 Placid Way

Michael Harrigan is requesting one Variance from **Chapter 55 (Zoning) Section 5:27 (R1B, Single-Family)**, of **13 feet 6 inches** for expansion of an existing residential structure into the rear setback (*40 feet is required by Code*).

D. OLD BUSINESS

D-1 Final Review and Approval of the Rules of the ZBA  
(*Amended at the July 2010 Regular Session*)

E. NEW BUSINESS

F. REPORTS & COMMUNICATIONS

G. AUDIENCE PARTICIPATION – GENERAL

ADJOURNMENT

\*Note: The complete record of this meeting is available in video format at <http://a2govtv.pegcentral.com/index.php> or is available for a nominal fee by contacting CTN at (734) 794-6150.



**DRAFT MINUTES OF THE REGULAR MEETING OF  
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR  
August 25, 2010**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, August 25, 2010 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, A2, MI. The meeting was called to order at 6:00 p.m. by Acting Chairperson Kathryn Loomis.

**ROLL CALL**

Members Present: (6) K. Loomis, C. Briere, S. Briere, D. Tope & W. Carman  
A. Milshteyn, E. Briggs & W. Carman (arr. @ 6:05 pm.)

Members Absent: (2) C. Kuhnke & D. Gregorka

Staff Present: (1) M. Kowalski

**Introduction & Welcome of new board members Erica Briggs and Alex Milshteyn**

**A – APPROVAL OF AGENDA**

**A-1** - The Agenda was approved as presented.

**On a VOICE VOTE – MOTION TO APPROVE – PASSED – UNANIMOUSLY**

**B - APPROVAL OF MINUTES** - Not Available at time of publication.

**C - APPEALS & ACTION**

**C-1 ZBA10-007 – 502 Soule Boulevard**

**Description and Discussion**

Serge van der Voo and Kirsten Elling are requesting one variance from **Chapter 55** (Zoning) **Section 5:57** (Averaging an Existing Front Setback Line): a reduction of 2 feet for expansion of an existing residential structure into the front setback; 28 feet is the averaged front setback required (R1D requires 25 foot front setback without averaging).

The petitioner is proposing to construct a 28-square foot covered front porch addition to the existing single-family house. The house was built in 1925 and is currently setback 30 feet from the front property line. It has an existing 2 foot 10 inch by 4 foot 11 inch (approximately 14 square feet) front stoop which is not covered. The petitioner wishes to replace the existing stoop with a 4 foot by 7 foot (28 square foot) covered, but unenclosed porch. The new porch will extend seven feet across the front of the house to match the points where the original front steps were connected to the house; these original steps were removed prior to 1960. Once constructed the proposed porch will be 26 feet from the front property line. Although the required front setback is 25 feet for the R1D zoning district, the averaged front setback at this location results in a required front setback of 28 feet. Once the front porch is covered it will not be permitted to be located within the front setback. The total porch area within the setback will be 14 square feet. The roof of the porch will be supported by columns.

**Questions to Staff by the Board**

54

55 D. Tope (To M. Kowalski) – Is there anything in the drawings showing how this was averaged?  
 56 (No, they've supplied the information). What is the neighboring setback? (I don't have that  
 57 information on hand).

58

59 W. Carman – The front setback averaging is determined by Soule (because this is a corner lot  
 60 and has two front setbacks). (Yes.) (W. Carman - Questioned the 'stoop' definition which  
 61 would change the dimensions of what is allowable.) I'm troubled by the idea that this is 14 sq.  
 62 feet of incursion.

63

#### 64 **Presentation by the Petitioner**

65

66 Serge van der Voo and Kirsten Elling were present to speak on behalf of the appeal.

67

68 **Questions to the Petitioner by the Board** – None.

69

70 **Public Comment** - None. The chair mentioned that there was a lengthy petition of signatures  
 71 from neighbors which support the request.

72

#### 73 **Discussion by the Board**

74

#### 75 **MOTION**

76

77 Moved W. Carman, Seconded by S. Briere, **"In the case of ZBA10-007, 502 Soule  
 78 Boulevard, the Zoning Board of Appeals grants a Variance of 2 feet from the required  
 79 averaged front setback of 28 feet along Soule Boulevard, to allow construction of a  
 80 4 foot x 7 foot unenclosed roofed front porch, per submitted plan, based on the  
 81 following finding of facts:**

82

83 **1. The hardship or practical difficulty is to be able to tie into the existing structure  
 84 and build a porch that provides for safe and ingress and egress into and out of  
 85 the house;**

86

87 **2. The variance requested is minimal, having only about 8 square feet not in  
 88 compliance. If it is approved, it will be consistent with many houses in the  
 89 neighborhood;**

90

91 **3. The house was built in the 1920's and the Zoning standards were established  
 92 much later; and**

93

94 **4. The variance will be the minimum possible to build this porch."**

95

96 **On a Voice Vote – MOTION TO APPROVE – PASSED – UNANIMOUS**  
 97 ***Variance Granted***

98

#### 99 **C-2 ZBA10-008 – 913 Woodlawn Avenue**

100

#### 101 **Description and Discussion**

102

103 Paul Horvath is requesting permission to alter a non-conforming structure as described in  
 104 Chapter 55, Zoning, Section 5:87, Structure Nonconformance.

105 The subject parcel is located at 913 Woodlawn Ave, west of Packard. The parcel is zoned R2A  
 106 (Two-Family Residential District). The house is two stories and 650 square feet, which does

107 not meet the minimum dwelling unit requirement of 900 square feet of floor area. The house  
 108 was built in approximately 1920.

109  
 110 The petitioner is proposing to add a 12 foot by 22 foot 8 inch (250 square feet) two story  
 111 addition on the rear of the house. The parcel is non-conforming for lot area and the house is  
 112 non-conforming for the west side yard setback. The addition will follow the existing building  
 113 lines of the house and will not extend any closer to the side property lines than the existing  
 114 structure. The footprint of the existing house will be expanded 12 feet toward the rear of the  
 115 site, but will remain out of the required rear setback. The existing house is 650 square feet and  
 116 the addition will add 250 square feet of living space to the house; after construction the house  
 117 will be 900 square feet total, which would meet the minimum dwelling size.

118

### 119 **Questions to Staff by the Board**

120

121 General questions regarding existing habitable space on the second floor and the current  
 122 encroachment on this non-conforming home.

123

### 124 **Presentation by the Petitioner**

125

126 Mr. Jason Horvath was present to speak on the appeal. He stated that that area in the second  
 127 floor is used basically for gaming and family activities since the house is only 650 sq. ft.

128

### 129 **Questions to the Petitioner by the Board**

130

131 Discussion between the board members and the petitioner regarding the concerns of the next  
 132 door neighbor which included possible property line encroachment, shared sewer lines and  
 133 possible flooding issues.

134

### 135 **Public Comment –**

136

- 137 1. **Rob Gillespie** – Co-owner of the home next door (which is a rental unit). Stated his  
 138 objections to the project. States that he wasn't notified (*Staff Note: All ZBA*  
 139 *Applications are required to have mailings done no later than 15 days prior to every*  
 140 *hearing, so the speaker was notified by the city by mail as well as notice in the*  
 141 *Washtenaw Legal News.*)

142

143 The chair mentioned that there was one letter of concern from the neighbor who spoke at  
 144 public comment. (Addressed above in questions to the petitioner).

145

### 146 **Discussion by the Board**

147

148 E. Briggs – Has concerns with the lack of communication with the neighbors.

149

150 K. Loomis – This is a difficult situation where the homes have very little space between them  
 151 which makes maintenance and remodeling very difficult without encroaching upon your  
 152 neighbors space. I'm not convinced that allowing this alteration will have a detrimental effect  
 153 on the neighborhood with parking issues. The petitioner needs to work with his neighbor  
 154 without trespassing on his neighbor's property, but what effect once constructed? I don't see a  
 155 detrimental effect.

156

157 C. Briere – Does not think this is detrimental at all since the plan is not to go closer to the  
 158 sides, but back farther in the lot.

159



160 W. Carman – If this addition were jogged over just a bit, this would have much less impact on  
 161 the neighbor and vegetation. If this were R1D, it would still have a 3 ft. side setback.  
 162 (Additional dialogue between the petitioner and the Board).

163

### 164 **MOTION**

165

166 Moved W. Carman, Seconded by C. Briere, “**In the case of ZBA10-008, 913 Woodlawn**  
 167 **Avenue, the Board grants Permission Alter a Non-Conforming Structure to construct a**  
 168 **12 ft. x 22 ft. 8 inch two-story addition with basement per the submitted plans and the**  
 169 **following findings of fact:**

170

171 **1. The alteration complies as nearly as practicable given the fact that the lot is**  
 172 **only 30 feet wide and the house is only 650 square feet; and**

173

174 **2. The alteration will not have a detrimental effect on the neighborhood, as the**  
 175 **addition will make the house similar to others in density and scale.”**

176

177 **On a Roll Call Vote – MOTION TO APPROVE – PASSED – UNANIMOUS**

178 ***Yea (5), C. Briere, S. Briere, K. Loomis, A. Milshteyn and E. Briggs***

179 ***Nay (2) W. Carman & D. Tope***

180

181 ***Permission to Alter a Non-Conforming Structure – Granted***

182

183 **C-3 ZBA10-009 – 1109 Paul Street**

184

### 185 **Description and Discussion**

186

187 Penelope Frenette is requesting Permission to Alter a Non-Conforming Structure and one  
 188 variance from Chapter 55(Zoning) Section 5:57 (Averaging an Existing Front Setback Line): a  
 189 reduction of 10 feet 6 inches for expansion of an existing residential structure into the front  
 190 setback; 25 feet is the front setback required (Averaged front setback is 25 feet).

191

192 The petitioner is proposing to construct a 60 square foot covered front porch addition to the  
 193 existing single-family house. The house was built in 1947 and is currently setback 19 feet 6  
 194 inches from the front property line and has an existing 20 square foot front stoop, which is not  
 195 covered and extends 5 feet into the front setback. The petitioner wishes to replace the existing  
 196 stoop with a 5 foot by 12 foot (60 square foot) covered, but unenclosed porch. The new porch  
 197 will extend twelve feet across the front of the house to match the existing front façade of the  
 198 house. Once constructed the proposed porch will be 14 feet 6 inches from the front property  
 199 line. Although depth of the porch will not change, because it is increasing in length, the  
 200 dimension to the front property line is less than the existing porch due to the curve of the front  
 201 property line. Once the front porch is covered it will not be permitted to be located within the  
 202 front setback. The roof of the porch will be supported by columns. Based on the City  
 203 Assessor’s database photographs, the front porch was covered by an awning in 1999; it is  
 204 unknown when the awning was removed. The existing house is non-conforming due to its  
 205 location within the front setback.

206

207 **Questions to Staff by the Board – None.**

208

209

210 **Presentation by the Petitioner**

211  
212 Penelope Frenette and her Builder, Tom Slider were present to speak on behalf of the appeal.

213  
214 **Questions to the Petitioner by the Board**

215  
216 A. Milshteyn – Any plans to enclose the porch? (No.)

217  
218 **Public Comment** – The chair stated that the Board had received two letters of support from  
219 the neighbors at 1105 Miller and 1201 Paul Street.

- 220  
221 1. **Joyce Reece – 1105 Paul Street, A2, MI** – States she is in total support and stated  
222 that she had done a similar addition to her home only five years earlier.  
223  
224 2. **Mark and Cindy Elzinger – 1122 Paul Street, A2, MI** – Stated that he measured  
225 her current porch to the sidewalk and it doesn't encroach any more than it does right  
226 now. They support the project and feel it will be a good improvement.  
227  
228 3. **Margaret Allen – 1124 Paul Street, A2, MI** – Stated that she has rented there for  
229 two years and plans to be there for at least two more and fully supports the proposal.  
230  
231

232 **MOTION #1**

233  
234 Moved by D. Tope, Seconded by S. Briere, **“In the case of ZBA10-009, 1109 Paul Street, the  
235 Board grants a Variance from Chapter 55 (Zoning) Section 5:57 (Averaging an Existing  
236 Front Setback Line), a reduction of 10 feet 6 inches from the required front setback of 25  
237 feet in order to permit building an addition 25 feet from the front property line, per  
238 submitted plans and based on the following finding of facts:**

- 239  
240 1. **The alleged hardships are peculiar to the property and result from conditions that  
241 generally do not exist throughout the city;**  
242  
243 2. **The alleged difficulty or hardships (or both) which will result from a failure to  
244 grant the variance include substantially more than a mere inconvenience or an  
245 ability to obtain a higher financial return or both;**  
246  
247 3. **The variance (if granted) will not significantly affect surrounding properties;**  
248  
249 4. **The circumstances of the variance are not self-imposed; and**  
250  
251 5. **The variance is the minimum necessary to achieve reasonable use of the  
252 structure.”**  
253

254 **On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***  
255 ***Variance Granted***

256 **MOTION #2**

257

258 Moved by D. Tope, Seconded by A. Milshteyn, “**In the case of ZBA10-009, 1109 Paul Street,**  
 259 **the Board grants Permission To Alter A Non-Conforming Structure based on the**  
 260 **established standards for approval and the following findings of fact:**

261

- 262 1. **The alteration complies as nearly as practicable with the requirements of the**  
 263 **Zoning Chapter; and**
- 264 2. **The alteration will not have a detrimental effect on neighboring properties, per the**  
 265 **submitted plans.”**

266

267 **On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***

268 ***Permission To Alter A Non-Conforming Structure - Granted***

269

270 **C-4 ZBA10-010 –913 East Huron Street**

271

272 K. Loomis (Chair) – Stated that the Board received a confidential communication regarding this  
 273 appeal from the City Attorney’s office. She asked if the members of the Board had had a  
 274 chance to read that document. Abigail Elias from the City Attorney’s office is present if the  
 275 Board has any questions regarding that communication.

276

277 No one on the Board indicated that they needed additional information from the City Attorney’s  
 278 Office.

279

280 **Description and Discussion**

281

282 Faramarz Farahanchi is requesting one Variance from **Chapter 59 (Off-Street Parking),**  
 283 **Section 5:167 (Required Parking),** of 2 parking spaces and Permission to Alter a Non-  
 284 conforming Structure in order to permit the conversion of the existing single-family residential  
 285 structure into a duplex.

286

287 The house is located at 913 East Huron Street and is zoned R4C (Multiple-Family). The  
 288 subject lot is extremely small and the total area measures only 3,038 square feet; the minimum  
 289 lot area required for a R4C zoned lot is 8,500 square feet. The house is also non-conforming  
 290 for both side and rear setbacks. There is one non-conforming parking space located in the  
 291 front open space; historical photos indicate this space has been established since at least  
 292 1964.

293

294 The house was last inspected as a rental unit in October of 1993 and has been monitored as  
 295 vacant ever since. The house was inspected in August 2009 by a City housing inspector, and  
 296 she has confirmed the house was vacant at that time. The inspection also revealed that the  
 297 house had been configured for one 4-bedroom apartment on the first floor and a 10-bedroom  
 298 rooming house on the second and third floors. The house has been issued certificates of  
 299 occupancy prior to 1993 that have verified the historical multiple-family use. The total number  
 300 of units and bedrooms combined with the small lot size make the structure and multiple-family  
 301 uses non-conforming to the R4C area requirements and the Off-Street Parking Ordinance  
 302 requirements.

303

304 In September 2009, the previous owner filed for an Administrative Appeal of the Zoning  
 305 Administrator’s decision that the previous multiple-family use had been discontinued and  
 306 therefore could not be reestablished. The Zoning Board of Appeals upheld the Zoning  
 307 Administrator’s decision and ruled that the house could only be used for a single-family  
 308 structure.

309 The parcel currently has one legal non-conforming parking space in the front open space  
310 accessed directly from Huron Street. In order to use the property as a two-family dwelling, a  
311 total of three parking spaces is required, therefore a variance of two parking spaces is being  
312 requested. Given the historical occupation of the property by students and the location on a  
313 bus route and across the street from Central Campus, it is likely many of the residents will  
314 seek this location because they do not have cars available for transportation and desire a  
315 location where alternative means of transportation are easily accessible. There is no on-street  
316 parking permitted on Huron, and the neighborhoods along Thayer (west) and Ann (north) have  
317 a residential parking permit program which would limit availability of any parking in the area.  
318

319 **Current proposal:**

320  
321 The current owner proposes to use the house as a two-family dwelling and is requesting  
322 Permission to Alter a Non-Conforming structure in order to permit the addition of one unit  
323 within the existing house. Due to the fact that the Zoning Board of Appeals ruled it can only be  
324 used as a single-family house, Permission to Alter a Non-Conforming Structure must be  
325 granted in order to convert the previous rooming house on the second and third floor to an  
326 apartment to be occupied in addition to the previous apartment on the first floor. The floor area  
327 of the house will not be expanded; the existing 10-bedroom rooming house will be converted to  
328 one apartment unit with a maximum of six residents; and the existing apartment on the first  
329 floor will be designated for a maximum of four residents.  
330

331 The petitioner is also requesting a variance from the parking requirements (Chapter 59, section  
332 5:167) of City Code. The parcel currently has one legal non-conforming parking space in the  
333 front and the requested configuration of two units would require a total of three parking spaces;  
334 therefore a variance of two spaces is needed in order to meet City Code.  
335

336 **Questions to Staff by the Board**

337  
338 Questions regarding how to access the property. Access is granted through the neighbor's  
339 drive and available parking. This parcel is not subject to the parking permit restrictions due to  
340 the fact that this property has no frontage in the district. The only available parking would be  
341 off-street. (One current space).  
342

343 **Presentation by the Petitioner**

344  
345 Faramarz Farahanchi and his attorney were present to speak on behalf of the appeal. It was  
346 made clear that this is not the request of this owner to seek what the previous owner sought to  
347 make this a boarding house. This is put forth as a duplex only and the premises with  
348 constraints on tenants to comply with those rules.  
349

350 **Questions to the Petitioner by the Board**

351  
352 The petitioner also agreed to comply with the request of the Board to provide bicycle parking  
353 (possibly covered bicycle parking), but the petitioner pointed out that that structure would have  
354 to be approved by the Historic District Commission and may impede this request if the HDC  
355 denied the covered parking.  
356

357 **Public Comment** - One letter of support from 805 East Huron was received by the Board.  
358

359 **Discussion by the Board**

360 The Board discussed how to add the proposed bicycle parking language to the proposed  
361 motions without encroaching into the setback or needing HDC approval.

362 **MOTION #1**

363

364 Moved by S. Briere, Seconded by A. Milshteyn, “**In the case of ZBA10-010, 913 E. Huron**  
 365 **Street, the Board grants Permission to Alter a Non-conforming Structure, in accordance**  
 366 **with the established Standards for approval and the following findings of fact**

367

368 1. **The alteration complies as nearly as practicable with the requirements of the**  
 369 **Zoning Chapter and does not alter the footprint of the structure; and**

370

371 2. **The alteration will not have a detrimental effect on neighboring properties, *per the***  
 372 ***submitted plans.*”**

373

374 ***W. Carman – Friendly amendment to insert verbiage regarding reducing the number of***  
 375 ***bedrooms in this dwelling down from 14 to 10; One unit with no more than four***  
 376 ***occupants and one unit with no more than six occupants. The plan does not alter the***  
 377 ***footprint of the structure.***

378

379 ***The third kitchen in this home shall also be removed and allows the conversion of the***  
 380 ***property to a duplex. Remove verbiage stating ‘per attached plans’ as submitted plans***  
 381 ***are not accurate.***

382

383 ***S. Briere – (Amends her original motion to add variance language):***

384

385 ***Friendly amendments accepted by S. Briere and A. Milshteyn***

386

387

388 **MOTION #1 (As Amended)**

389

390 Moved by S. Briere, Seconded by A. Milshteyn, with a friendly amendment by W. Carman, “**In**  
 391 **the case of ZBA10-010, 913 E. Huron Street, the Board grants Permission to Alter a Non-**  
 392 **conforming Structure, in accordance with the established Standards for approval and**  
 393 **the following findings of fact**

394

395 1. **The alteration complies as nearly as practicable with the requirements of the**  
 396 **Zoning Chapter as it does not alter the footprint of the structure;**

397

398 2. **The alteration will not have a detrimental effect on neighboring properties;**

399

400 3. **This alteration allows for the conversion of the property to a duplex and limits the**  
 401 **number of people in the ground floor unit to four and in the second and third**  
 402 **story unit to six people; and**

403

404 4. **The third kitchen that currently exists is to be removed as a condition of this**  
 405 **approval.**

406

407 **On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***

408 ***Permission To Alter A Non-Conforming Structure - Granted***

409 **MOTION #2**

410

411 Moved by D. Tope, Seconded by W. Carman, “**In the case of ZBA10-010, 913 E. Huron**  
 412 **Street, the Board grants one Variance from Chapter 59 (Off-Street Parking), Section**  
 413 **5:167 (Required Parking) to allow the maintenance of the current (1) existing (currently**  
 414 **existing and grandfathered) parking space in the front open space and not provide for**  
 415 **any additional parking spaces. In lieu of that, apply for obtaining necessary permits**  
 416 **and permissions to provide (and install, pending necessary approvals) at least six**  
 417 **bicycle storage spaces outside in the rear of the home that is accessible to tenants,**  
 418 **This will permit the conversion of and satisfy the requirements of this existing single-**  
 419 **family residential structure into a duplex.”**

420

421 **On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***  
 422 ***Permission To Alter A Non-Conforming Structure - Granted***

423

424

425 **D. OLD BUSINESS –**

426

427 D-1 Awaiting rules that were amended by the ZBA in July of this year. Still don’t have those  
 428 back from review from the Attorney’s office.

429

430 D-2 Committee that was going to research our older decisions – W. Carman states she will  
 431 be getting the information to the Board as soon as possible.

432

433

434 **E. NEW BUSINESS -None.**

435

436 **F. REPORTS & COMMUNICATIONS – None.**

437

438 **AUDIENCE PARTICIPATION – GENERAL – None.**

439

440 **ADJOURNMENT**

441

442 Moved by D. Tope, Seconded by A. Milshteyn, “**that the meeting be adjourned.**”

443

444 **On a Voice Vote – MOTION TO ADJOURN - *PASSED - UNANIMOUS***

445

446 Adjournment – 8:00 p.m. (***Submitted by: Brenda Acquaviva, Administrative Support***  
 447 ***Specialist V – Zoning Board of Appeals***)

448

449

450

451

452 \_\_\_\_\_  
 Kathryn Loomis, Acting Chairperson

453

454

455 *\*Note: The complete record of this meeting is available in video format at*  
 456 *<http://a2govtv.pegcentral.com/index.php> or is available for a nominal fee by contacting CTN at*  
 457 *(734) 794-6150.*

458

\_\_\_\_\_ Dated ZBA Minutes



**DRAFT MINUTES OF THE REGULAR MEETING OF  
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR  
October 27, 2010**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, October 27, 2010 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, A2, MI. The meeting was called to order at 6:00 p.m. by Chairperson Carol Kuhnke.

**ROLL CALL**

Members Present: (9) D. Gregorka, S. Briere, C. Briere, E. Brigg8\, C. Kuhnke, D. Gregorka, J. Boggs, W. Carman and A. Milshteyn (arr. @ 6:13 p.m.)

Members Absent: (0)

Staff Present: (1) M. Kowalski

Introductions – The Board welcomed its newest member, Mr. Jason Boggs

**A – APPROVAL OF AGENDA**

A-1 - The Agenda was approved as presented.

**B - APPROVAL OF MINUTES -**

B-1 Draft Minutes of the July 28, 2010 Regular Session – Moved by D. Gregorka, Seconded by S, Brier, “To accept the July 28, 2010 minutes as presented.”

**On a Voice Vote – MOTION TO APPROVE – *PASSED - Unanimous***

**C - APPEALS & ACTION**

**C-1 ZBA10-011 – 1201 South Revena**

**Description and Discussion**

Alice Michael is requesting Permission to Alter a Non-Conforming Structure and one variance from **Chapter 55 (Zoning) Section 5:29** (R1D, Single Family): a reduction of 8 feet 4 inches for expansion of an existing residential structure into the front setback; 16 feet 2 inches is the front setback required (Chapter 55, Section 5:58 allows a minimum 25 feet for building width on corner lots).

The house was built in 1927 and is 1,650 square feet. The house is non-conforming for the Washington Street front setback. The house is conforming for the South Revena front setback, as well as the side and rear setbacks. The parcel is a corner lot, and the minimum front setback for the R1D district is 25 feet, but application of this setback along Washington would result in less than a 25 foot wide building envelope. Chapter 55, Section 5:58 states that “Any corner lot shall have a minimum required open space on the side street equal to the required front open space of the zoning district in which it is located; provided, however, that this does not reduce the width suitable for a building on any lot of record to less than 25 feet.”

51 Applying this section of code and providing for a 25 foot wide building area and the required  
 52 side yard setback of 3 feet, the required Washington Street front setback is 16 feet 2 inches.  
 53

54 The petitioner is proposing to convert the existing one-car attached garage to living space, add  
 55 a second floor above the garage and construct a small “bay” addition to the rear of the house.  
 56 The existing garage is very small, measuring 11feet by 15 feet, which includes a 2 foot wide  
 57 stairway to the house. The proposed additions do not encroach farther into the front setback  
 58 than the existing structure. However, a variance is required because the second floor addition  
 59 is considered a new encroachment in the front open space.  
 60

61 To replace the required off-street parking space, the petitioner will be removing the existing  
 62 drive and curb cut leading to the garage and adding a new drive and parking area along the  
 63 eastern side of the property, accessed from Washington Street.  
 64

### 65 **Questions to Staff by the Board**

66  
 67 W. Carman – Discussed with staff and the Board what variance is needed due to added space  
 68 versus habitable space which is closer to the property line.  
 69

70 D. Gregorka – We want to be certain that it’s technically correct so that we know what we’re  
 71 voting on.  
 72

73 M. Kowalski – In the past, habitable space/floor area in the setback required a variance if it’s  
 74 going closer to the property line, but it’s not increasing the encroachment. The house is  
 75 located on a slight angle, so this little corner of the building would need a variance, but we can  
 76 do this any way that the Board feels is appropriate.  
 77

78 *General discussion by the Board regarding the need for a variance.*  
 79

### 80 **Presentation by the Petitioner**

81  
 82 Alice Michael and Dave Olsen, owners of the property, were present to speak on behalf of the  
 83 appeal. They summarized their proposal and stated that they feel that their plan is sensitive to  
 84 the neighbors and the surrounding area.  
 85

### 86 **Questions to the Petitioner by the Board**

87  
 88 **Public Comment** - None. The chair mentioned that there were thirteen letters from neighbors  
 89 in support of the petition.  
 90

### 91 **Discussion by the Board**

92  
 93 D. Gregorka – Stated that he feels that this plan would meet all of the standards for a variance  
 94 and permission to alter a non-conforming structure.  
 95

### 96 **MOTION #1**

97  
 98 Moved by D. Gregorka, Seconded by K. Loomis “**In the case of ZBA10-011, 201 South**  
 99 **Revena Boulevard, the Board grants a variance from Chapter 11, Section 5:55 of 8 feet,**  
 100 **4 inches of the required setback of 25 feet, based on submitted plans and the following**  
 101 **findings of fact :**  
 102



- 103       1. This particular lot is very narrow and is an unusual condition within the city;  
 104  
 105       2. The hardships and practical difficulties in this situation do include more than just  
 106       a mere inconvenience or ability to obtain a higher financial return;  
 107  
 108       3. This project has strong neighborhood support as is evidenced by sixteen letters  
 109       of support;  
 110  
 111       4. The house will still occupy the same footprint as it currently occupies;  
 112  
 113       5. The circumstances are not self-imposed; and  
 114  
 115       6. The variance request is the minimum necessary to achieve reasonable use of the  
 116       structure.  
 117

118 **On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***  
 119 ***Variance Granted***

120  
 121  
 122 **MOTION #2**

123  
 124 Moved by D. Gregorka, Seconded by S. Briere, “That in the case of ZBA10-011,  
 125 **201 South Revena Boulevard, the Board grants Permission to Alter a Non-Conforming**  
 126 **Structure with the following findings of fact, based on the submitted plans:**  
 127

- 128       1. This alteration complies as nearly as practicable with the requirements of the  
 129       Zoning Chapter;  
 130  
 131       2. This structure was built well before the current requirements and given that the  
 132       new structure is being built within the footprint that it meets that standard; and  
 133  
 134       3. It will not have a detrimental effect on the neighboring properties as evidenced by  
 135       the neighborhood support.”  
 136

137 **On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***  
 138 ***Permission to Alter a Non-Conforming Structure - Approved.***

139  
 140 **D. OLD BUSINESS** – Rules discussion. Still awaiting the ‘approved’ version of the  
 141 changes to the ZBA rules. These were submitted in July of 2010.

142  
 143 **E. NEW BUSINESS** – None.

144  
 145 **F. REPORTS & COMMUNICATIONS** – None.

146  
 147 **AUDIENCE PARTICIPATION – GENERAL** – None.

148  
 149 **ADJOURNMENT**

150  
 151 Moved by C. Briere, Seconded by A. Milshteyn “that the meeting be adjourned.”

152  
 153 **On a Voice Vote – MOTION TO ADJOURN - *PASSED - UNANIMOUS***  
 154

155 Adjournment – 6:20 p.m. (**Submitted by: Brenda Acquaviva, Administrative Support**  
156 **Specialist V – Zoning Board of Appeals**)

157

158

159

160

161 \_\_\_\_\_  
Carol Kuhnke, Chairperson

\_\_\_\_\_ Dated ZBA Minutes

162

163 \*Note: The complete record of this meeting is available in video format at  
164 <http://a2govtv.pegcentral.com/index.php> or is available for a nominal fee by contacting CTN at  
165 (734) 794-6150.



## CITY OF ANN ARBOR, MICHIGAN

Community Services Area  
Planning & Development Services Unit  
100 North Fifth Ave, P.O. Box 8647, Ann Arbor, Michigan 48107  
Phone: (734) 794-6267  
Fax: (734) 994-2798  
[www.a2gov.org](http://www.a2gov.org)

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### Zoning Board of Appeals December 15, 2010 Regular Meeting

#### STAFF REPORT

**Subject:** ZBA10-012, 1511 Wells Avenue

**Summary:** Brian Howard is requesting permission to alter a non-conforming structure as described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance.

#### **Description and Discussion:**

The subject parcel is located at 1511 Wells, in between Lincoln Avenue and Martin Place and across from Burns Park. There is a public alley that borders the parcel on the east side. The parcel is zoned R2A (Two-Family Residential District). The house is two stories and is 1,659 square feet. The house was built in approximately 1915.

The petitioner is proposing to remove a small non-conforming two-story addition on the rear of the house that is 2 feet from the east side(alley) property line and construct a new two-story addition 3.33 feet from the east side property line and 12 feet from the west property line. The addition measures approximately 20 wide by 23 feet long. The first floor of the addition will vary in setback from 5.33 feet for approximately 14 feet and then moving to 3.33 feet for the remaining 9 feet along the side yard alley. The second story will remain a consistent 3.33 feet from the side yard property line for the entire length of the addition and will cantilever over the 14 foot long section of the first floor that is 5.33 feet from the property line.

The parcel is non-conforming for lot area (8,500 s.f. required, 4,355 s.f. existing) and the house is non-conforming for the east side yard setback (5 feet required, 0 provided). The addition will match the existing architectural form of the house, however it will be setback an additional 1.3 feet from the majority of the existing house and over 3 feet farther than the section of the house that is setback 0 feet. No part of the addition will extend any closer to the side property lines than the existing structure. The footprint of the existing house will be expanded 23 feet toward the rear of the site, but will remain out of the required rear setback.

#### **Standards for Approval**

The Zoning Board of Appeals has all the power granted by State law and by Section 5:98,

from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

**(a). *The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.***

The parcel is extremely narrow, 33 feet; the R2A zoning district requires 60 feet for the minimum lot width. The home was constructed before current zoning standards were in effect. Application of the required setbacks leaves 23 feet for a buildable width of the parcel. The proposal will remove a non-conforming building addition that was built 2 feet from the property line. The proposed addition will be set back at least 3 feet from the side property line and be consistent with the existing architecture of the house. The expansion will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance.

**(b). *The alteration will not have a detrimental effect on neighboring property***

Staff does not feel that the requested variance would negatively affect any surrounding property. The subject house is located in an area of houses with similar density and scale. The house will be enlarged, however the addition will be 50 feet from the rear property line and buffered from adjacent parcels by a shared driveway on one side and an alley on the other side. The proposed addition will not be any closer to the side or front property lines than the existing house and it will remain out of the required rear setback. The new addition will not be visible from the street and surrounding structures are on approximately the same size parcels.

Respectfully submitted,



**Matthew J. Kowalski, AICP  
City Planner**

**APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE**  
**ZONING BOARD OF APPEALS**

**Section 1: Applicant Information**

Name of Applicant: HF:architecture BRIAN E. HOWARD.  
 Address of Applicant: 25600 WOODWARD AVE, SUITE 209, ROYAL OAK 48067  
 Daytime Phone: (248) 336 8175  
 Fax: (248) 336 8139  
 Email: brianh@hfararchitecture.com  
 Applicant's Relationship to Property: ARCHITECT.

**Section 2: Property Information**

Address of Property: 1511 WELLS AVE.  
 Zoning Classification: R2A  
 Tax ID# (if known): 09-33-103-022  
 \*Name of Property Owner: MARTIN MORRAN & ANNE PITCHER

*\*If different than applicant, a letter of authorization from the property owner must be provided.*

**Section 3: Request Information**

Variance

Chapter(s) and Section(s) from which a variance is requested:

Required dimension:      PROPOSED dimension:

_____	_____	_____
_____	_____	_____

*Example: Chapter 55, Section 5:26*

*Example: 40' front setback*

*Example: 32'*

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

\_\_\_\_\_

\_\_\_\_\_

**Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)**

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

**1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?**

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---

**2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)** \_\_\_\_\_

---

---

---

**3. What effect will granting the variance have on the neighboring properties?** \_\_\_\_\_

---

---

---

**4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?**

---

---

---

**5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?**

---

---

---

### Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property SINGLE FAMILY RESIDENTIAL

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

- (1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:
  - a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
  - b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1,R2, R3, or R4 district.
  - c. The structure is considered non-conforming due to the following reasons

(continued . . . . .)

Existing Condition

Code Requirement

Lot area \_\_\_\_\_  
 Lot width 33'-0"  
 Floor area ratio \_\_\_\_\_  
 Open space ratio \_\_\_\_\_  
 Setbacks 4" & 3'-4" (SIDE SETBACK @ NEW ADDITION) 5'-0" (SIDE)  
 Parking (EXISTING SIDE SETBACK)  
 Landscaping \_\_\_\_\_  
 Other @ BAY)

Describe the proposed alterations and state why you are requesting this approval:

NEW 2-STORY ADDITION TO EXISTING NON-CONFORMING STRUCTURE. THE EXISTING STRUCTURE SHALL REMAIN WITH REMOVAL OF SMALL PORTION OF EXISTING AT REAR YARD.

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

THE EXISTING PROPERTY WIDTH IS 33'-0" & PUBLIC ALLEY LOCATED ALONG EAST PROPERTY LINE. SHAWND DRIVEWAY & GARAGE WITH NEIGHBOR TO THE WEST REQUIRES THE PROPOSED ADDITION BE PLACED CLOSER THAN 5'-0" FROM THE EAST PROPERTY LINE. (CONTINUED)

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit

A NEW 2-STORY ADDITION LOCATED AT THE REAR YARD AREA OF THE PROPERTY.

**Section 6: Required Materials**

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on 8 1/2" by 11" sheets. (Continued.....)



THE PROPOSED ADDITION WILL BE PLACED  $3\frac{1}{4}$ " FROM THE EAST PROPERTY LINE &  $1\frac{1}{4}$ " BACK FROM THE EXISTING STRUCTURE EXTERIOR WALL.

THE PROPOSED ADDITION WILL NOT HAVE A DETRIMENTAL EFFECT ON NEIGHBORING PROPERTY BECAUSE THE ADDITION OCCURS IN THE REAR YARD & IS SET BACK FROM THE FACE OF EXISTING EXTERIOR WALL. THE ADDITION HAS VARIATION IN THE NEW WALL PLANE ALONG THE EAST & WEST PROPERTY LINES.



- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

**Section 7: Acknowledgement**

**SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

Phone Number 248 336 8175 Signature B. J. L.  
 Email Address brianh@hfarchitecture.com Print Name BRIAN G HOWARD

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

Signature B. J. L.

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

Signature B. J. L.

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that staff does not remind the petitioner of the meeting date and times.

Signature B. J. L.

On this 18th day of OCTOBER, 2010, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

Notary Commission Expiration Date 7-7-2011 Notary Public Signature Judy C. Brown  
 Print Name JUDY C. BROWN

**Staff Use Only**

Date Submitted: \_\_\_\_\_ Fee Paid: \_\_\_\_\_  
 File No.: \_\_\_\_\_ Date of Public Hearing \_\_\_\_\_  
 Pre-filing Staff Reviewer & Date \_\_\_\_\_ ZBA Action: \_\_\_\_\_  
 Pre-Filing Review: \_\_\_\_\_  
 Staff Reviewer & Date: \_\_\_\_\_

Martin Murray and Anne Pitcher  
1511 Wells St.  
Ann Arbor, MI 48104

Zoning Board of Appeals  
Ann Arbor, MI

18 October 2010

To Whom it May Concern,

We the owners of 1511 Wells St., Ann Arbor, MI 48104 allow Brian Howard of HF Architecture to submit on our behalf to the Zoning Board of Appeals our application for modification.

Yours sincerely,

*Martin Murray & Anne Pitcher*

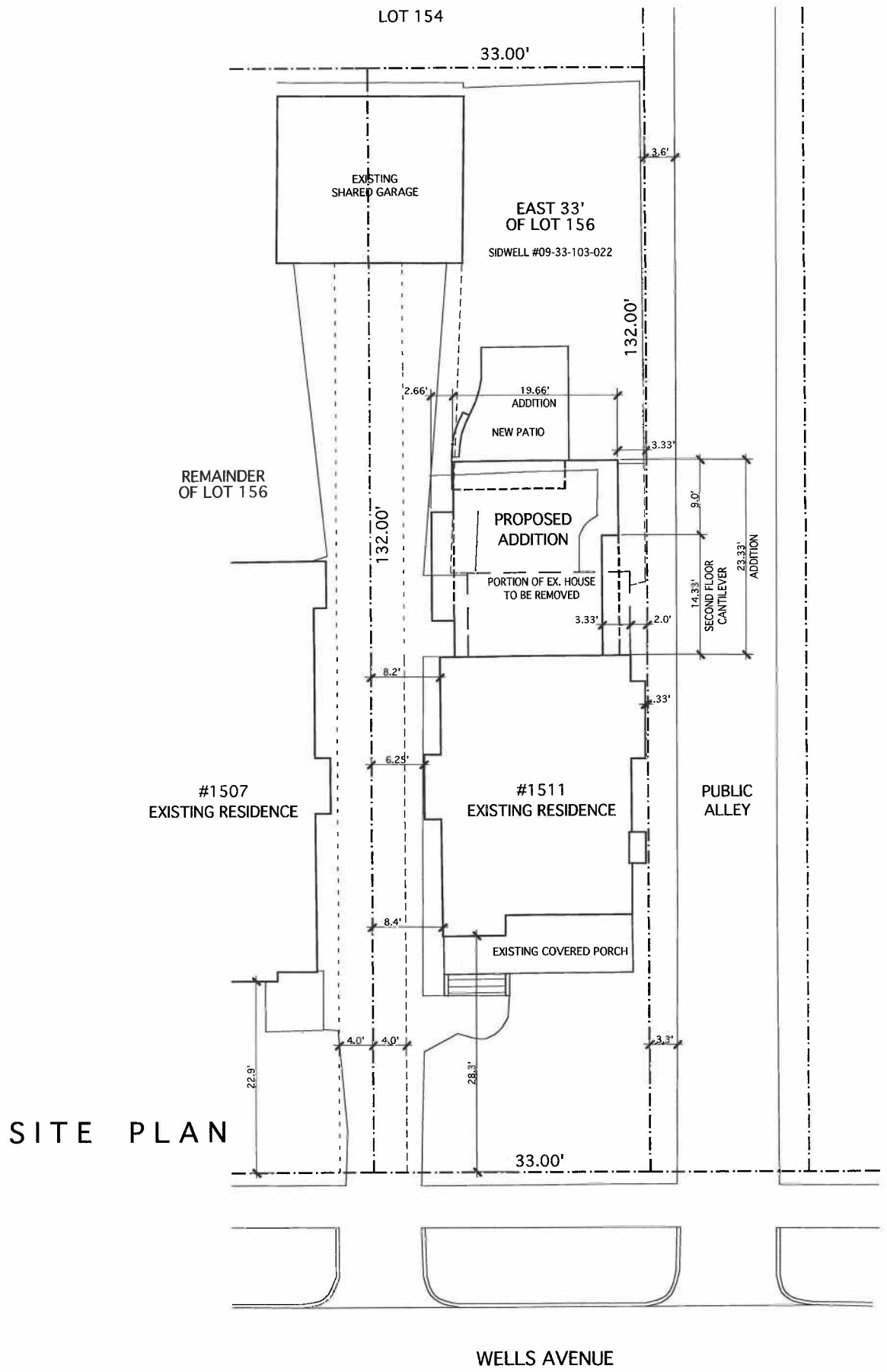
Martin Murray and Anne Pitcher











**SITE PLAN**

**WELLS AVENUE**



# BOUNDARY SURVEY

CERTIFIED TO: MARTIN MURRAY

## PROPERTY DESCRIPTION: (AS FURNISHED BY CLIENT)

SIDWELL #09-09-33-103-022  
 LAND IN THE CITY OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN, DESCRIBED AS:  
 THE EAST 33 FEET OF THE SOUTH 132 FEET OF LOT 56, "OLYMPIA B. HALL'S SECOND  
 SUBDIVISION", CITY OF ANN ARBOR, MICHIGAN, ACCORDING TO THE PLAT THEREOF AS  
 RECORDED IN LIBER 1 OF PLATS, PAGE 46, WASHTENAW COUNTY RECORDS, TOGETHER WITH  
 A RIGHT OF WAY OVER THE EAST 4 FEET OF THE SOUTH 132 FEET OF THE LAND  
 ADJOINING SAID ABOVE LAND ON THE WEST AND RESERVING A RIGHT OF WAY OVER THE  
 WEST 4 FEET OF THE SOUTH 132 FEET OF THE LAND HEREBY CONVEYED, SAID DRIVEWAY  
 TO BE FOR THE JOINT USE OF THE OWNERS OF THE ABOVE LAND AND THE OWNERS OF  
 THE LAND ADJOINING ON THE WEST, MORE COMMONLY KNOWN AS 1507 WELLS STREET.

## PARCEL AREA

TOTAL = 4355.87 SQUARE FEET = 0.010 ACRES

## BASIS OF BEARING

DUE WEST (ASSUMED), ALONG THE NORTH RIGHT OF WAY LINE OF WELLS STREET  
 AS MONUMENTED IN FIELD. THERE ARE NO BEARINGS LISTED ON "OLYMPIA B.  
 HALL'S SECOND SUBDIVISION", BEARINGS ARE ASSUMED BASED ON THE NORTH  
 ARROW AS PLATTED.

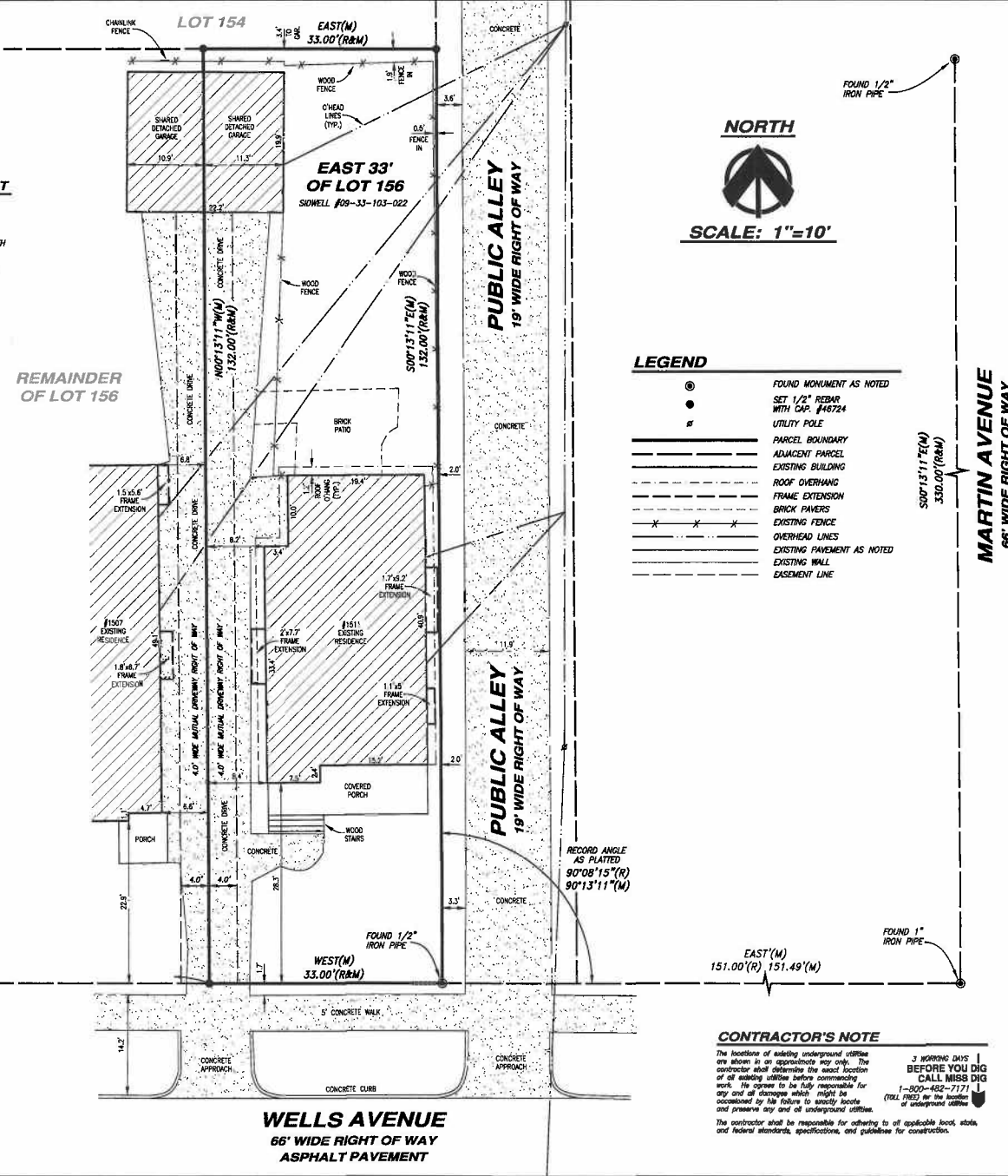
## SURVEYOR'S NOTES

1. A CURRENT TITLE POLICY HAS NOT BEEN FURNISHED AT TIME OF  
 SURVEY, THEREFORE EASEMENTS AND/OR ENCUMBRANCES AFFECTING  
 SUBJECT PARCEL MAY NOT BE SHOWN.

## SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY HEREIN DESCRIBED AND  
 THE DRAWING HEREON DELINEATED IS A CORRECT REPRESENTATION OF THE SAME.

SHANE P. AZBELL, P.S.  
 PROFESSIONAL SURVEYOR  
 MICHIGAN LICENSE NO. 46724



## LEGEND

- FOUND MONUMENT AS NOTED
- SET 1/2" REBAR WITH CAP #46724
- U UTILITY POLE
- ▬ PARCEL BOUNDARY
- ▬ ADJACENT PARCEL
- ▬ EXISTING BUILDING
- ▬ ROOF OVERHANG
- ▬ FRAME EXTENSION
- ▬ BRICK PAVERS
- ▬ EXISTING FENCE
- ▬ OVERHEAD LINES
- ▬ EXISTING PAVEMENT AS NOTED
- ▬ EXISTING WALL
- ▬ EASEMENT LINE

NORTH

SCALE: 1"=10'

## CONTRACTOR'S NOTE

The locations of existing underground utilities are shown in an approximate way only. The contractor shall determine the exact location of all existing utilities before commencing work. He comes to be fully responsible for any and all damage which might be occasioned by his failure to exactly locate and preserve any and all underground utilities.

3 WORKING DAYS BEFORE YOU DIG CALL MISS DIG 1-800-662-7171 (TOLL FREE) or the location of underground utilities.

The contractor shall be responsible for adhering to all applicable local, state, and federal standards, specifications, and guidelines for construction.

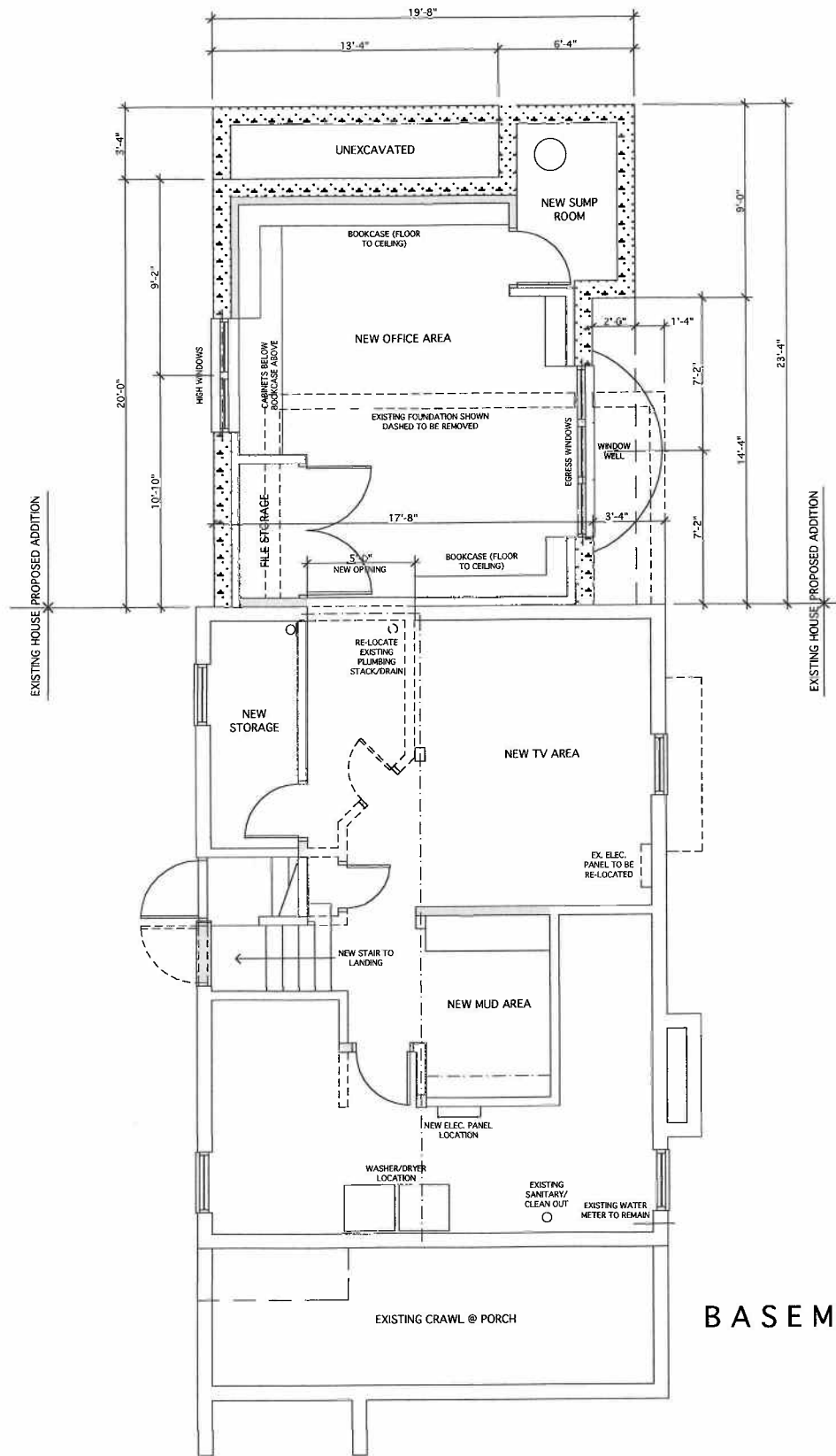
**AZTEC**  
 LAND SURVEYORS INC.  
 P.O. BOX 353  
 HOLLY, MI 48442  
 PHONE: 586-306-1253  
 FAX: 480-287-8799

PROJECT:  
**BOUNDARY SURVEY**  
 PART OF THE N.E. 1/4 OF SECTION 33,  
 CITY OF ANN ARBOR, WASHTENAW CO., MI

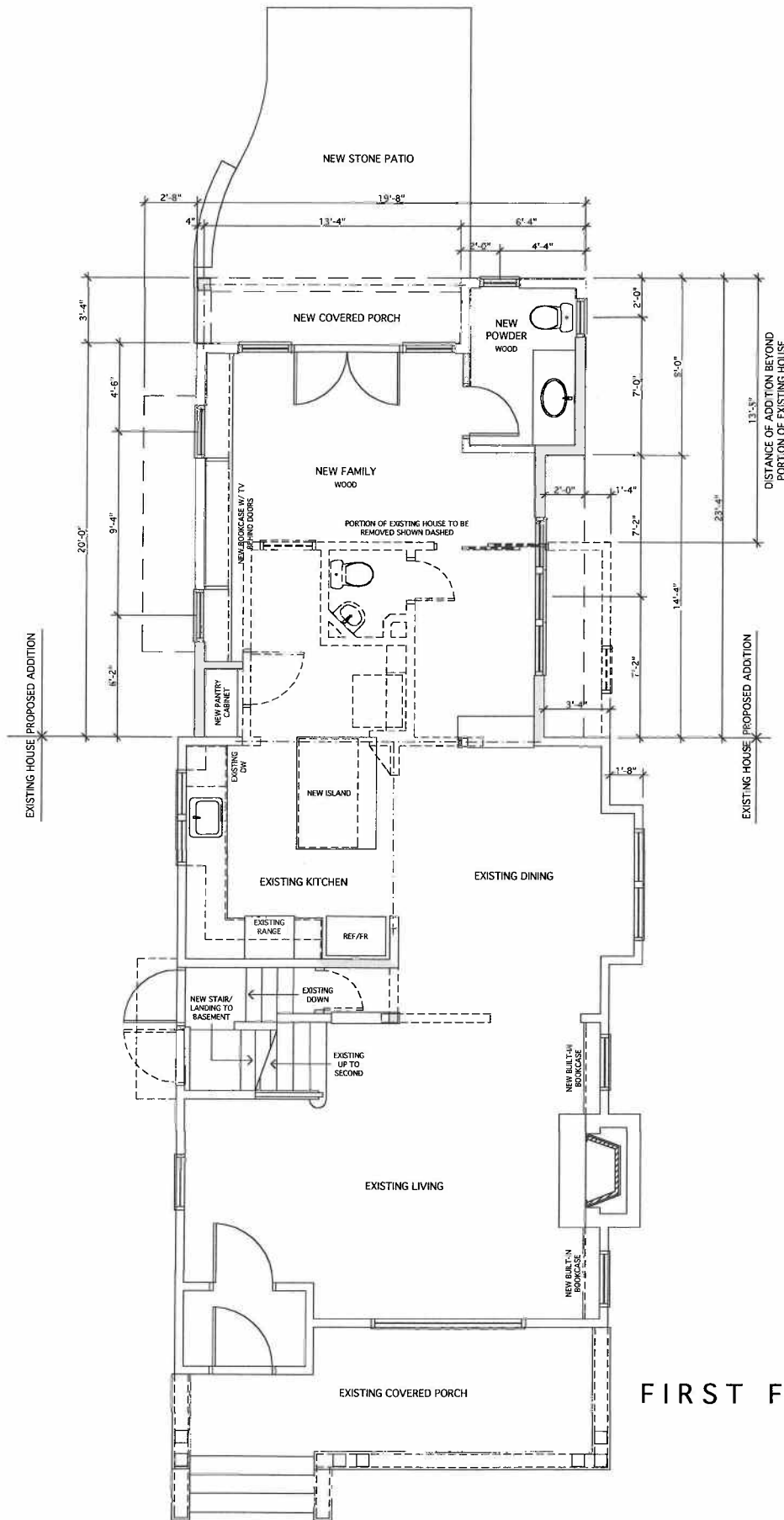
CLIENT:  
 MARTIN MURRAY  
 1511 WELLS STREET  
 ANN ARBOR  
 MI 48104  
 734-662-3947

JOB NO: 10-084  
 DATE: 6/2/10  
 DRAWN BY: SA  
 CHECKED BY: SA

SEAL

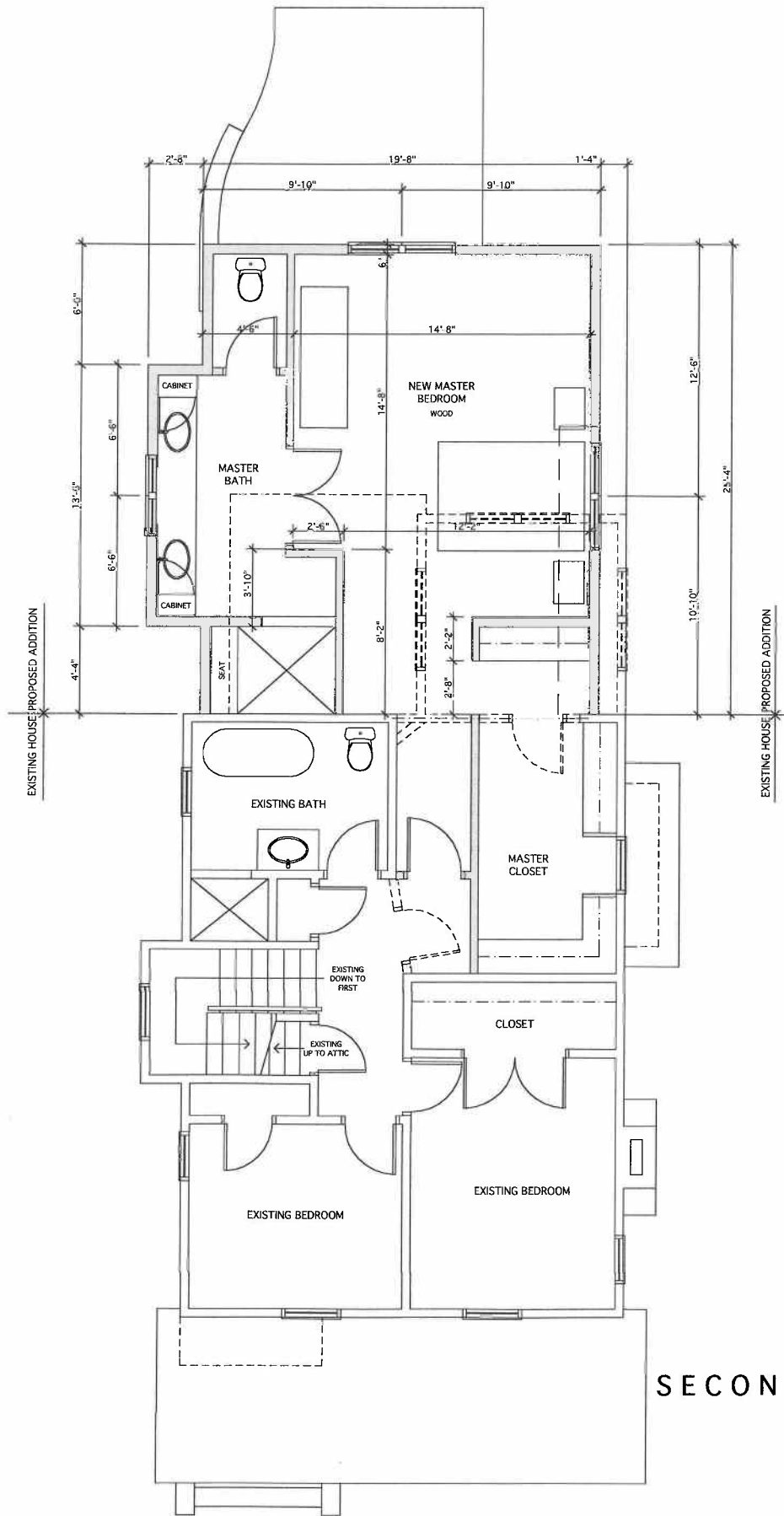


BASEMENT PLAN



FIRST FLOOR PLAN





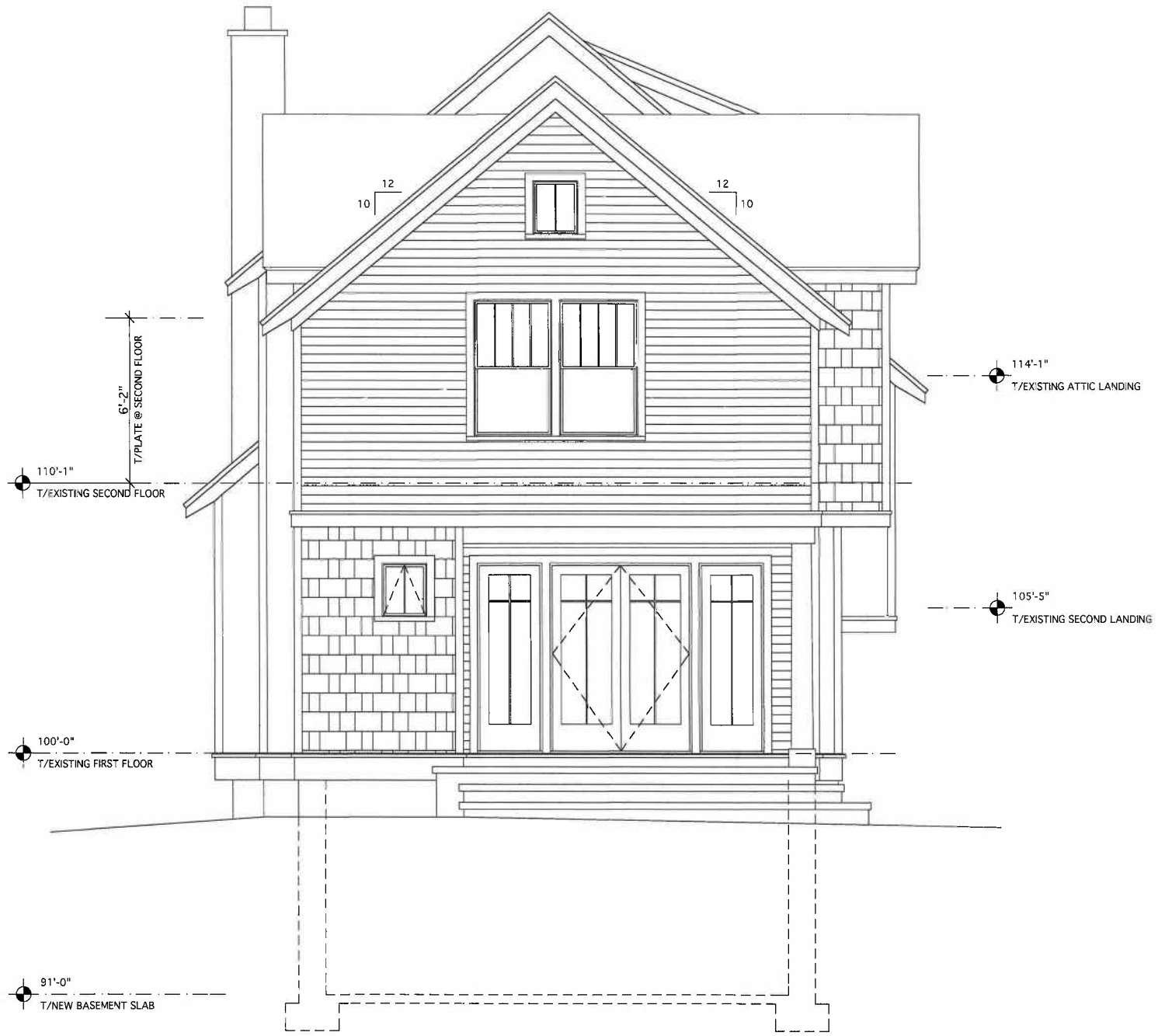
SECOND FLOOR PLAN



SOUTH (WELLS AVE.) ELEVATION



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION



## CITY OF ANN ARBOR, MICHIGAN

Community Services Area  
Planning & Development Services Unit  
100 North Fifth Ave, P.O. Box 8647, Ann Arbor, Michigan 48107  
Phone: (734) 994-2674  
Fax: (734) 994-2798  
[www.a2gov.org](http://www.a2gov.org)

---

### Zoning Board of Appeals December 15, 2010 Regular Meeting

#### STAFF REPORT

**Subject:** ZBA10-010 – 536 South Forest

**Summary:** Richard Henes is requesting Permission to Alter a Non-conforming Structure in order to permit the addition of 12 residential dwelling units within an existing non-conforming multiple-family structure.

#### **Description and Discussion:**

##### Background:

The structure known as 'University Towers' is located at South Forest and South University and is zoned D1 (Downtown Core) and South Forest Overlay. The building was built in 1965 and is 18 stories (199 feet) tall. It currently contains 240 residential apartments and 13,900 square feet of office use. The total floor area of the building is 218,257 square feet, which is a Floor Area Ratio (FAR) of 885%. There is no onsite parking required for the 400% FAR allowed by right; however 111 spaces are required for the remaining floor area. The landlord does lease 25 parking spaces in the Forest Avenue parking structure that are available for tenant use. The building is non-conforming for height (150 Max, 199 feet existing) and Floor Area Ratio (700% Max [with residential premiums], 885% existing).

##### History:

The property was rezoned from C2A (Campus Business) to D1 (Downtown Core) in 2009. The building was built before the 700% Maximum FAR was established, and there was no height limit in effect at the time. The FAR limits were reduced in the late 1960's and the height limit was established with the new D1 zoning initiated by the City in 2009.

Current proposal:

The owner of the property wishes to convert the existing second floor office space (13,900 sf) to 12 residential dwelling units. The units will be provided in a mixture of 8 three-bedroom units, 3 two-bedroom units and 1 one-bedroom unit for total of 31 additional bedrooms. The new units will be constructed along the exterior wall with the remaining interior space converted to common area to be available to all residents of the building. The footprint of the building will not be expanded and there will be no new floor area added, only the conversion of existing space from office to residential use. The parking requirement would remain the same for the proposed change in use.

**Standards for Approval- Permission to Alter a Non-Conforming Structure**

Chapter 55 (Zoning), Section 5:87. Structure nonconformance

(1) A nonconforming structure may be maintained or restored, but no alteration shall be made to a nonconforming structure unless 1 of the following conditions is met:

(a) The alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.

(b) The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3 or R4 district.

(2) For purposes of this section, alteration shall mean any change in a building which results in additional floor area being fit for occupancy, ***a greater number of dwelling or rooming units*** or an increase in the exterior dimensions of the building.

(emphasis added by staff)

The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

***(a). The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.***

The petitioner is seeking permission in order to add 12 residential dwelling units to the existing multiple-family building. There will be no addition of floor area and no external modifications in order to construct the additional units. The area proposed for residential use is currently used as an office and occupied by

approximately 50 employees. Both office and residential uses are permitted under the D1 zoning designation. Increasing residential units downtown is a goal of the City's Master Plan, which has been incorporated into the D1 zoning through residential floor area premiums.

**(b). *The alteration will not have a detrimental effect on neighboring property***

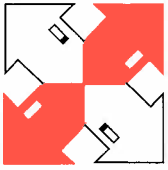
As mentioned previously, the structure is zoned D1 (Downtown Core), is located in close proximity to the University campus, and is surrounded by commercial and mixed use buildings. There will no expansion of the building footprint and no additional floor area will be added to the building. The second floor was previously occupied by approximately 50 employees. After internal renovations and subsequent conversion to residential use, there will be approximately 31 new residents of the building. While additional parking for the new residential is not provided, the previous office use also did not have any parking provided. Based on the parcel location and surrounding land uses, this proposal will not have a detrimental effect on any neighboring properties.

Respectfully submitted,



**Matt Kowalski, AICP**  
**City Planner**





**Suburban Campus Properties, Inc.**

September 22, 2010

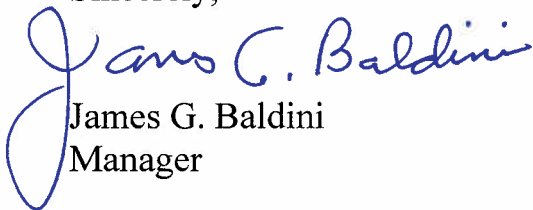
City of Ann Arbor  
Zoning Board of Appeals  
100 N. Fifth Ave.  
Second Floor  
Ann Arbor, MI 48104

Dear Zoning Board of Appeals:

This letter serves as permission and authorization for Richard Henes from Cornerstone Design, Inc. to represent University Towers, LLC in all matters concerning our application for variance at University Towers.

Should you have any questions concerning this letter please do not hesitate to contact me at 781-246-5600 ext 202.

Sincerely,

  
James G. Baldini  
Manager

607 North Avenue, #14A • Wakefield, MA 01880  
(781) 246-5600 • Fax (781) 246-4337

**APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE**  
**ZONING BOARD OF APPEALS**

**Section 1: Applicant Information**

Name of Applicant: Richard Henes, Cornerstone Design Inc  
Address of Applicant: 310 Depot St., Ann Arbor, MI 48104  
Daytime Phone: 734-663-7580  
Fax: 734-663-1180  
Email: rhenes@cdiarchitects.com  
Applicant's Relationship to Property: Architect

**Section 2: Property Information**

Address of Property: 536 S. Forest  
Zoning Classification: D-1  
Tax ID# (if known): 09-90-28-313-040  
\*Name of Property Owner: James Baldini, Suburban Campus Properties

*\*If different than applicant, a letter of authorization from the property owner must be provided.*

**Section 3: Request Information**

Variance

Chapter(s) and Section(s) from which a variance is requested:

Required dimension:      PROPOSED dimension:

<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

*Example: Chapter 55, Section 5:26*

*Example: 40' front setback*

*Example: 32'*

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

\_\_\_\_\_  
\_\_\_\_\_

**Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)**

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

**1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?**

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**2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)**

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**3. What effect will granting the variance have on the neighboring properties?**

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---

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**4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?**

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**5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?**

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**Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE**

Current use of the property Residential / Office / Retail-Assembly

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

- (1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:
  - a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
  - b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1,R2, R3, or R4 district.
  - c. The structure is considered non-conforming due to the following reasons

(continued . . . . . )

**Existing Condition**

**Code Requirement**

Lot area \_\_\_\_\_  
Lot width \_\_\_\_\_  
Floor area ratio 885% 400%  
Open space ratio \_\_\_\_\_  
Setbacks \_\_\_\_\_  
Parking 25 Cars / 17 Bicycles 111 Cars / 81 Bicycles  
Landscaping \_\_\_\_\_  
Other Max. Height: 199 feet 150 feet

Describe the proposed alterations and state why you are requesting this approval:

See Exhibit A, attached

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

See Exhibit A, attached

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit \_\_\_\_\_

Alterations to the second floor; conversion of office use to

residential.

**Section 6: Required Materials**

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on **8 1/2" by 11" sheets.** (Continued.....)

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

**Section 7: Acknowledgement**

**SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734.663.7580  
 Phone Number  
 rhenes@cdiarchitects.com  
 Email Address

  
 Signature  
 Richard Henes  
 Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

  
 Signature

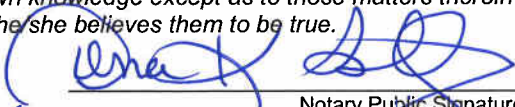
Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

  
 Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**

  
 Signature

On this 4<sup>th</sup> day of November, 2010 before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

  
 Notary Public Signature  
 Dena K. Isteby  
 Print Name

10-6-12  
 Notary Commission Expiration Date

**Staff Use Only**

Date Submitted: \_\_\_\_\_ Fee Paid: \_\_\_\_\_  
 File No.: \_\_\_\_\_ Date of Public Hearing \_\_\_\_\_  
 Pre-filing Staff Reviewer & Date \_\_\_\_\_ ZBA Action: \_\_\_\_\_  
 Pre-Filing Review: \_\_\_\_\_  
 Staff Reviewer & Date: \_\_\_\_\_

## Zoning Board of Appeals

### Section 5 Information

#### **Describe the proposed alterations and state why you are requesting this approval:**

Recognizing the interest of the city council and the planning commission in providing residential units downtown and also recognizing that the entire second floor (currently leased office area) will become available at the beginning of 2011, the owner proposes to convert the entire 13,900 SF of second floor offices into apartments (30 beds) and tenant community spaces; such as collaborative work spaces, lounges, a video-teleconferencing area, a vending area, and etc.

The building is non-conforming because its total area of 200,614 square feet (885% FAR) exceeds the maximum permitted floor area of 90,605 square feet (400% FAR), the building's height exceeds the 150 feet limit (actual 199 feet), and the available 25 car parking spaces and the 17 bike parking spaces are fewer than the 111 and 44 required, respectively.

The formula for determining the number of car parking spaces in D1 zoning is the same for office use and residential use.

#### **The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:**

The second floor is currently occupied by 50 +/- office workers in approximately 13,900 square feet of space. The proposed apartment conversion will replace the office workers with 30 apartment residents (students); expanding University Tower's current residential occupancy from 480 to 510, but decreasing the total number of building occupants by 20. The impact of the exodus of 5-day-per-week, eight-hour-per-day office workers on the neighboring commercial properties should be offset by the incoming full-time apartment residents who will be fed, clothed, and entertained by local businesses.

Due to the proposed shift in the type of second floor occupant (from office to student residential), we anticipate a decreased demand in off-street car parking making area car parking more available. The shift in occupant type will also bring about an increased demand in bicycle parking, which will be addressed by providing additional bicycle parking along S. Forest as part of the conversion project.

The second floor of the building exterior may have new windows to coincide with the new bedroom layout. No other changes to the exterior are being proposed.

## Zoning Board of Appeals

Building information for 536 S. Forest

Built in 1965, the University Towers sits on the northwest corner of the S. Forest and S. University intersection. The lot is approximately 0.52 acres. The 199' high building is 18 stories with a full basement. The first two floors are occupied by retail and office uses. The total floor area is 218,257 square feet of which 201,838 is above grade including the mechanical penthouse; 200,614 square feet without the penthouse. There are currently 240 apartments with a total leasable floor area of 139,252 square feet. Total current office and retail leasable area is 19,930 square feet. Total combined leasable space is 159,182 square feet.

The landlord currently has 25 car parking spaces in the Forest Street parking structure available for tenants. There are 15 bicycle spaces outside the S. Forest entry.

The facility has fitness center, outdoor swimming pool, wireless internet study lounge, big screen TV lounge, 24-hour lobby attendant, reliable and quick maintenance calls, and weekly continental breakfasts throughout the year.

This property was recently rezoned from C1A to D1.



EXHIBIT C





EXHIBIT D

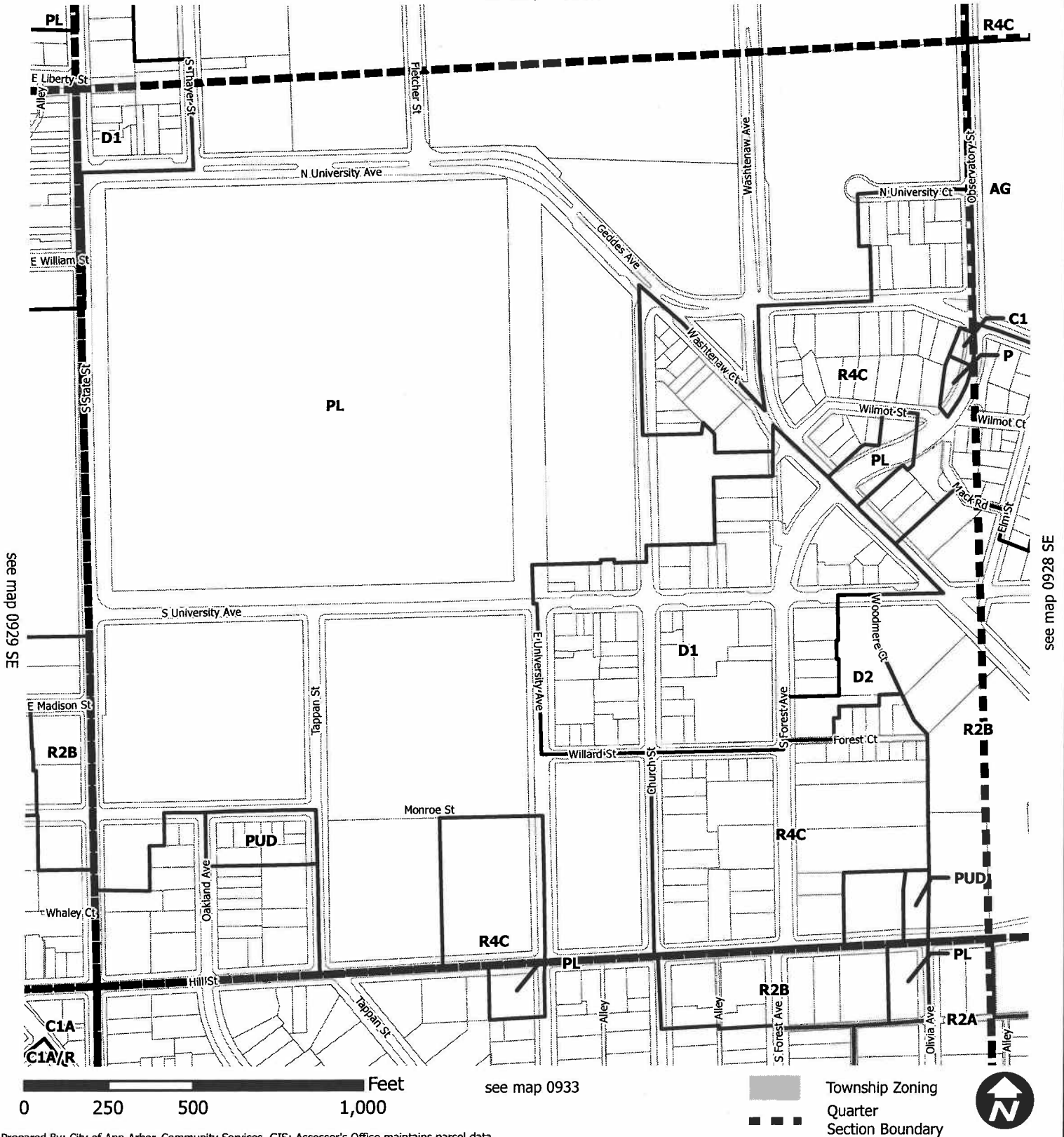




# Ann Arbor City Zoning Map

EXHIBIT E

see map 0928 NW



Prepared By: City of Ann Arbor, Community Services, GIS; Assessor's Office maintains parcel data.

**City of Ann Arbor Map Disclaimer**

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This map complies with National Map Accuracy Standards for mapping at 1 Inch = 100 Feet. The City of Ann Arbor and its mapping contractors assume no legal representation for the content and/or inappropriate use of information represented on this map.

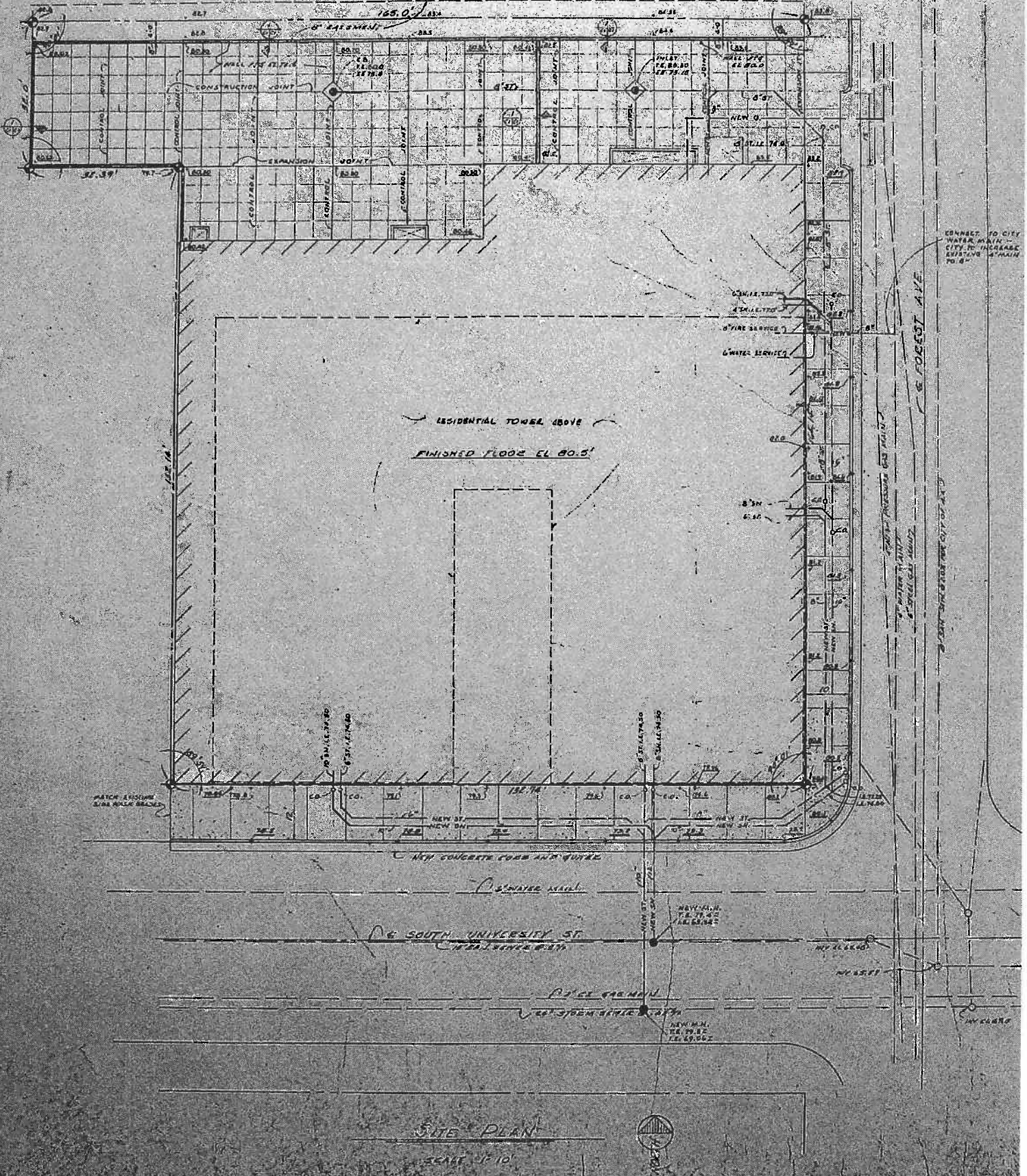


## SECTION 0928 SW

Map Printed: June 22, 2010



EXHIBIT F



CONNECT TO CITY WATER MAIN - CITY TO INCREASE SERVICE AT MAIN TO 8"

S FOREST AVE

REMOVE EXISTING GAS MAIN TO 8\"

REMOVE EXISTING WATER MAIN TO 8\"

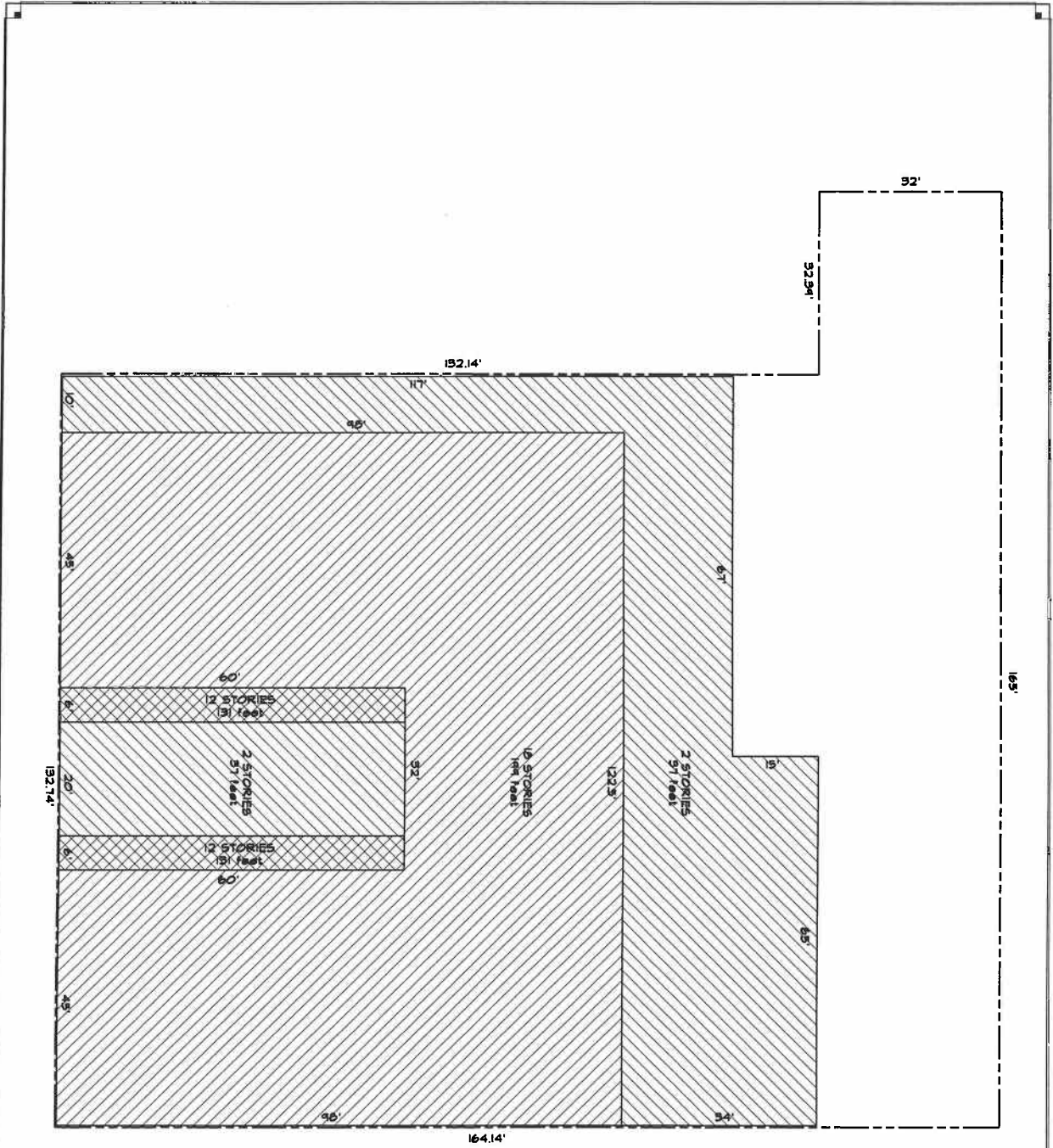
REMOVE EXISTING 12\"

SITE PLAN

SCALE 1/4\"







**SITE PLAN**  
SCALE 1"=10'

Dimensioned  
Site  
Plan

SHEET NO. **ZB-4**

Date: 10/22/10  
 Drawn: RLH  
 Project No.: 201022  
 Scale: AS SHOWN  
 All drawings are the property of Cornerstone Design, Inc. and shall remain the confidential property of Cornerstone Design, Inc.

526 S. Forest  
 Amnador, WI 48104  
 920.222.2222  
 www.cornerstone-design.com

526 S. Forest  
 Amnador, WI 48104  
 Project: University Tower  
 Second Floor Remodeling

Cornerstone  
 Design  
 Inc.

300 Grand  
 Ave., Suite 200  
 Amnador, WI 48104  
 920.222.2222  
 www.cornerstone-design.com

Cornerstone  
 Design  
 Inc.

Cornerstone  
 Design  
 Inc.





**General Property Information**

[Back to Non-Printer Friendly Version] [Send To Printer]

Parcel: 09-09-28-313-040 Data Current As Of: 0:24 AM 10/30/2010

**Property Address [collapse]**

536 S FOREST AV  
Ann Arbor, MI 48104

**Owner Information [collapse]**

UNIVERSITY TOWERS L.L.C. Unit: 09  
607 NORTH AV  
Wakefield, MA 01880

**Taxpayer Information [collapse]**

FIRST AMERICAN COMMERCIAL REAL ESTA  
ATTN: WACHOVIA BANK, NATIONAL ASSOC  
P.O. BOX 167928  
Irving, TX 75016-7928

**General Information for Tax Year 2010 [collapse]**

<b>Property Class:</b>	201	<b>Assessed Value:</b>	\$16,332,800
<b>School District:</b>	81010 - Ann Arbor	<b>Taxable Value:</b>	\$5,399,811
<b>State Equalized Value:</b>	\$16,332,800	<b>Map #</b>	N/A
<b>User Number Indx:</b>		<b>Date of Last Name Chg:</b>	01/04/2007

**Notes:** N/A

**Date Filed:**

<b>Principal Residence Exemption</b>	<b>May 1st</b>	<b>Final</b>
<b>2011</b>	0.0000 %	-
<b>2010</b>	0.0000 %	0.0000 %

Previous Year Info	MBOR Assessed	Final S.E.V.	Final Taxable
2009	\$16,714,000	\$16,714,000	\$5,416,060
2008	\$16,361,200	\$16,361,200	\$5,187,797

**Land Information [collapse]**

	<b>Frontage</b>	<b>Depth</b>
<b>Lot 1:</b>	132.00 Ft.	132.00 Ft.
<b>Lot 2:</b>	32.00 Ft.	165.00 Ft.
<b>Lot 3:</b>	0.00 Ft.	0.00 Ft.
<b>Total Frontage:</b>	164.00 Ft.	<b>Average Depth:</b> 138.44 Ft.

<b>Acreage:</b>	0.52		
<b>Zoning Code:</b>	C2A		
<b>Land Value:</b>	\$2,202,000	<b>Mortgage Code:</b>	N/A
<b>Land Improvements:</b>	N/A	<b>Lot Dimensions/Comments:</b>	
<b>Renaissance Zone:</b>	NO		
<b>Renaissance Zone Expiration Date:</b>			
<b>ECF Neighborhood Code:</b>	0205		

**Legal Information for 09-09-28-313-040** [collapse]

LOTS 34 AND 35 AND S 32 FT OF E 165 FT OF LOT 61 RANSOM S SMITHS ADDITION

**Sales Information**

5 sale record(s) found.						
Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms Of Sale	Liber/Page
02/15/2006	\$1.00	U	UNIVERSITY TOWERS L.L.C.	UNIVERSITY TOWERS L.L.C.	Warranty Deed	4538/956
03/25/1998	\$1.00	U	MB-UNIVERSITY TOWERS LIMITED	UNIVERSITY TOWERS L.L.C.	Deed W/O Warranty	3626:0126
06/28/1988	\$1.00	U	UNIVERSITY TOWERS ASSOC	SAN CARLOS EQUITIES INC	Warranty Deed	2239:0192
06/01/1988	\$9,000,000.00	Q	SAN CARLOS EQUITIES INC	MB-UNIV TOWERS LTD PARTNRSP	Warranty Deed	2239:0194
12/01/1986	\$5,650,000.00	Q			Warranty Deed	8612:0001

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**Detailed Tax Information**

[\[Back to Non-Printer Friendly Version\]](#) [\[Send To Printer\]](#)

Parcel: 09-09-28-313-040 Data Current As Of: 11:34 PM 10/29/2010

**Property Address** [collapse]

536 S FOREST AV  
Ann Arbor, MI 48104

**Owner Information** [collapse]

UNIVERSITY TOWERS L.L.C.  
607 NORTH AV  
Wakefield, MA 01880

Unit: 09

**Taxpayer Information** [collapse]

FIRST AMERICAN COMMERCIAL REAL ESTA  
ATTN: WACHOVIA BANK, NATIONAL ASSOC  
P.O. BOX 167928  
Irving, TX 75016-7928

**Legal Information for 09-09-28-313-040** [collapse]

LOTS 34 AND 35 AND S 32 FT OF E 165 FT OF LOT 61 RANSOM S SMITHS ADDITION

Enter Future Interest Date:

11/1/2010



Re-Calculate

Use the +/- button to expand and collapse the Tax Detail Information.

Year / Season	Total Amt	Total Paid	Last Paid	Total Due
+ 2010, Summer	\$257,076.66	\$257,076.66	07/20/2010	\$0.00
+ 2009, Winter	\$63,927.15	\$63,927.15	12/18/2009	\$0.00
+ 2009, Summer	\$257,376.55	\$257,376.55	07/16/2009	\$0.00
+ 2008, Winter	\$61,656.26	\$61,656.26	12/30/2008	\$0.00
+ 2008, Summer	\$249,022.27	\$249,022.27	07/22/2008	\$0.00
+ 2007, Winter	\$60,150.23	\$60,150.23	01/03/2008	\$0.00
+ 2007, Summer	\$243,492.19	\$243,492.19	07/27/2007	\$0.00
+ 2006, Winter	\$65,377.79	\$65,377.79	12/29/2006	\$0.00
+ 2006, Summer	\$226,323.10	\$226,323.10	07/19/2006	\$0.00
+ 2005, Winter	\$69,733.01	\$69,733.01	12/16/2005	\$0.00
+ 2005, Summer	\$212,979.23	\$212,979.23	07/20/2005	\$0.00
+ 2004, Winter	\$80,941.35	\$80,941.35	12/07/2004	\$0.00
+ 2004, Summer	\$197,757.88	\$197,757.88	07/14/2004	\$0.00
+ 2003, Winter	\$73,798.59	\$73,798.59	12/10/2003	\$0.00
+ 2003, Summer	\$187,848.38	\$187,848.38	07/30/2003	\$0.00
+ 2002, Winter	\$86,553.51	\$86,553.51	12/12/2002	\$0.00
+ 2002, Summer	\$176,162.98	\$176,162.98	07/23/2002	\$0.00
+ 2001, Winter	\$80,871.81	\$80,871.81	12/19/2001	\$0.00

11/1/2010

City of Ann Arbor

<input type="checkbox"/> 2001, Summer	\$168,548.66	\$168,548.66	07/31/2001	\$0.00
<input type="checkbox"/> 2000, Winter	\$77,700.75	\$77,700.75	12/22/2000	\$0.00
<input type="checkbox"/> 2000, Summer	\$163,534.66	\$163,534.66	07/18/2000	\$0.00
<input type="checkbox"/> 1999, Winter	\$75,471.32	\$75,471.32	01/05/2000	\$0.00
<input type="checkbox"/> 1999, Summer	\$157,403.13	\$157,403.13	07/23/1999	\$0.00

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[Privacy Policy](#)



## CITY OF ANN ARBOR, MICHIGAN

Community Services Area  
Planning & Development Services Unit  
100 North Fifth Ave, P.O. Box 8647, Ann Arbor, Michigan 48107  
Phone: (734) 794-6267  
Fax: (734) 994-2798  
[www.a2gov.org](http://www.a2gov.org)

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### Zoning Board of Appeals December 15, 2010 Regular Meeting

#### STAFF REPORT

**Subject: ZBA10-014, 2428 Placid Way**

**Summary:** Michael J. Harrigan is requesting one variance from Chapter 55 Section 5:27 (R1B, Single-Family) of 13 feet 6 inches from the rear setback of 40 feet to permit construction of an addition 26 feet 4 inches from the rear property line.

#### **Description and Discussion:**

The subject parcel is located at 2428 Placid Way. The parcel is zoned R1B (Single-Family Residential District) and is 10,176 square feet (10,000 square feet is required). The house was built in 1974 and is 1,859 square feet.

The request is discussed in detail below:

The petitioner is proposing to remove a 362 square foot concrete patio and construct a 320 square foot covered and screened porch attached to the rear of the house. The porch addition measures 16 feet by 20 feet and will be constructed 18 feet from the north side property line and 26 feet 4 inches from the rear property line. The addition will encroach 13 feet 6 inches into the rear setback. The screened porch would be attached to the family room and will be designed to match the architectural form and roof lines of the existing house. There is also an existing door wall that provides access to the rear yard and existing patio.

#### **Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

- (a). ***That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City.***

The subject parcel is conforming of lot size (10,176 sf) and is located on the end of a Cul-de-sac which results in an unusually shaped parcel. There is a significant slope in the southwestern side of the site.

- (b). ***That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***

The variance is being requested for construction of a covered and screened porch addition to the rear of the existing house aligning with an existing rear door wall. Due to the location of the original house 2 feet from the rear setback, any enclosed addition to the house would require a variance. A new porch could be constructed in this location without the need for a variance, but it could not be covered. An uncovered concrete patio currently exists and will be removed for the proposed addition.

- (c). ***That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.***

The existing house will be enlarged, but the structure will not get any closer to the side or front property lines. The new addition structure will be over 26 feet from the rear line which abuts community open space and will be over 18 feet from the closest side property line. The proposed addition will not be visible from the front of the parcel and there are similar enclosed porches in the neighborhood. A letter of support signed by nine neighbors and a letter of approval from the neighborhood association have been submitted.

- (d). ***That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.***

A patio currently exists in the location of the proposed addition, a new porch could be constructed in this location, but it could not be covered. Any addition to the rear of the house would require a variance.

- (e). ***A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure***

The proposed addition will encroach 13 feet 6 inches into the rear open space and will be over 18 feet from the adjacent side property line. The enclosed porch will add approximately 280 square feet of building area in the required rear open space.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. J. Kowalski', written in a cursive style.

**Matthew J. Kowalski, AICP  
City Planner**

# APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE ZONING BOARD OF APPEALS

<b>Section 1: Applicant Information</b>		
Name of Applicant:	Michael J. and Mary S. Harrigan	
Address of Applicant:	2428 Placid Way, Ann Arbor 48105-1273	
Daytime Phone:	734-994-9212	
Fax:	None	
Email:	mharriga@comcast.net	
Applicant's Relationship to Property:	Owners and Occupants	
<b>Section 2: Property Information</b>		
Address of Property:	2428 Placid Way, Ann Arbor 48105-1273	
Zoning Classification:	R1B	
Tax ID# (if known):	09-09-15-204-041	
*Name of Property Owner:	Michael J. and Mary S. Harrigan	
<i>*If different than applicant, a letter of authorization from the property owner must be provided.</i>		
<b>Section 3: Request Information</b>		
Variance		
Chapter(s) and Section(s) from which a variance is requested:	Required dimension:	PROPOSED dimension:
Chapter 55 Section 5:27 R1B <i>Example: Chapter 55, Section 5:26</i>	40' Rear Setback <i>Example: 40' front setback</i>	26.3' <i>Example: 32'</i>
Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)		
<p>Remove existing 362 sq ft concrete patio and build 320 sq ft (16'D x 20'W) screened in porch attached to the rear of the house adjacent to family room and existing rear exit doorway. Porch roof line to be gable design conforming to existing roofline of that portion of the house. Porch to be constructed on top of new concrete slab over a new foundation wall structure conforming to building code requirements. Porch structure to be suitable wood, finished with white paint matching existing house trim. (See Attached detailed sketches).</p> <p>Porch to be designed and constructed by licensed local experienced contractor. Porch design to be similar in size and quality of construction as existing approved porches such as those at 2410 and 2420 Placid way (See Photos). The example porch at 2420 Placid required similar zoning variance approval.</p> <p>Current bldg setback of 42.3' does not permit any meaningful addition to the rear of the house let alone the proposed 16' porch addition.</p>		

**Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)**

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued)

**1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?**

- A. Zoning rear setback requirements only permit a 2.3' deep addition to any portion of the existing house rear. Proposed 16' size is useful and practical.
- B. The only existing exit to the outside from the house, other than the front door, is off the family room where the proposed porch addition is planned. Adding another door to the house would destroy the usefulness of any room where such a door might be added. (See attached floor plan and photos)
- C. The planned location provides the only opportunity to seamlessly match an existing portion of house roofline with the roofline of the proposed addition. This will provide the best architectural appearance for the addition for the surrounding community (See attached elevation drawings). This same approach was taken at 2420 Placid (see attached photos).
- D. The property has a severe slope to the southwest of the house (approximately 9.5' at the southwest corner of the property). The proposed site for the screened-in porch addition is the most level portion of the rear property (drops approx. 12 - 14 inches from rear door). Building a porch over a slab at the southwest portion of the house would require an approximately 6 foot tall foundation wall which would create an eyesore for property owners facing that location (See attached photo).

Other homes in the subdivision suffered similar hardships and required similar variance to build comparable screened in porches specifically at 2420 Placid (see attached photos).

**2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)**

The hardships are real (See answer 1 above). Furthermore, this porch is intended as an outdoor refuge from heat, insects and sun in the summer. The intended location is the only cool, shaded spot at the rear. The south side is in direct sunlight all day. A porch in that location would be too hot. (See attached photos)

There is no way to provide a practical, cool covered porch for this house without a variance at the proposed location.

**3. What effect will granting the variance have on the neighboring properties?**

None.

- A. Similar screened in porches and sunrooms have been installed at many locations throughout the subdivision. They are placed at the same location as proposed at the back of each house. Notable examples at 2410 and 2420 Placid are shown in attachments
- B. The rear lot line abuts to Common Property of the Traver Lake Community Maintenance Association (TLCMA) that creates meandering parkland behind all the homes. The commons is approximately 55 feet wide at the point where our property is closest to our neighbor to the rear. This commons provides an additional space between our house and theirs.
- C. I have obtained affirmative signatures from all nearby neighbors supporting this proposal (attached).
- D. I have obtained the required architectural approval from TLCMA (Homeowners Association) for building this porch (copy attached)

**4. What physical characteristics of your property in terms of size, shape, location or topography prevents you from using it in a way that is consistent with the ordinance?**

- A. The property has a severe slope to the southwest of the house (approximately 9.5' at the southwest corner of the property). The proposed site for the screened-in porch addition is the most level portion of the rear property (drops approx. 12 - 14 inches from rear door). Building a porch over a slab at the southwest portion of the house would require an approximately 6 foot tall foundation wall which would create an eyesore for property owners facing that location. (See attached photo)
- B. The only existing exit to the outside from the house, other than the front door, is off the family room where the proposed porch addition is planned. Adding another door to the house would destroy the usefulness of any room where such a door might be added. (See attached floor plan and photos)

**5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?**

See attached survey. The house footprint has been located to meet zoning requirements with very little room to spare. Any addition at the rear location will require a zoning variance. The proposed location provides the least impact on surrounding lots and common property and is typical of what many other homeowners in the subdivision have built.



**Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE (Does Not Apply)**

Current use of the property: *Primary (only) residence for the owners*

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

1. A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:
  - a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
  - b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3, or R4 district.
  - c. The structure is considered non-conforming due to the following reasons

(continued.....)

	<b>Existing Condition</b>	<b>Code Requirement</b>
Lot area	See survey	10000
Lot width	60' at street 131.2 at rear line	70' min
Floor area ratio		
Open space ratio		
Setbacks	29.5 front, 42.3 rear, 28.5' left side, 18.7' rt side	30' front 40' rear 5 min side
Parking	2 car garage + 2 in driveway	
Landscaping	Fully landscaped	
Other		

Describe the proposed alterations and state why you are requesting this approval:

*Does Not Apply*

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

*Does Not Apply*

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit

*Does Not Apply*

## Section 6: Required Materials

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on **8 ½” by 11” sheets**.

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

**Section 7: Acknowledgement**

**SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734-994-9212  
Phone Number

*Michael J. Harrigan Sr. Mary S. Harrigan*  
Signature

mharrigan@comcast.net  
Email Address

Michael J. Harrigan Sr / Mary S. Harrigan  
Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

*Michael J. Harrigan Sr. Mary S. Harrigan*  
Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

*Michael J. Harrigan Sr. Mary S. Harrigan*  
Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**

*Michael J. Harrigan Sr. Mary S. Harrigan*  
Signature

On this 12 day of NOV, 2010, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

9/25/2013

Notary Commission Expiration Date

*Cory Walden*  
Notary Public Signature  
CORY WALDEN  
Notary Public, Washtenaw County, MI  
My Commission Expires 09/25/2018  
Print Name

**Staff Use Only**

Date Submitted: \_\_\_\_\_ Fee Paid: \_\_\_\_\_  
File No.: \_\_\_\_\_ Date of Public Hearing: \_\_\_\_\_  
Pre-filing Staff Reviewer & Date: \_\_\_\_\_ ZBA Action: \_\_\_\_\_  
Pre-Filing Review: \_\_\_\_\_  
Staff Reviewer & Date: \_\_\_\_\_

# MORTGAGE CERTIFICATE

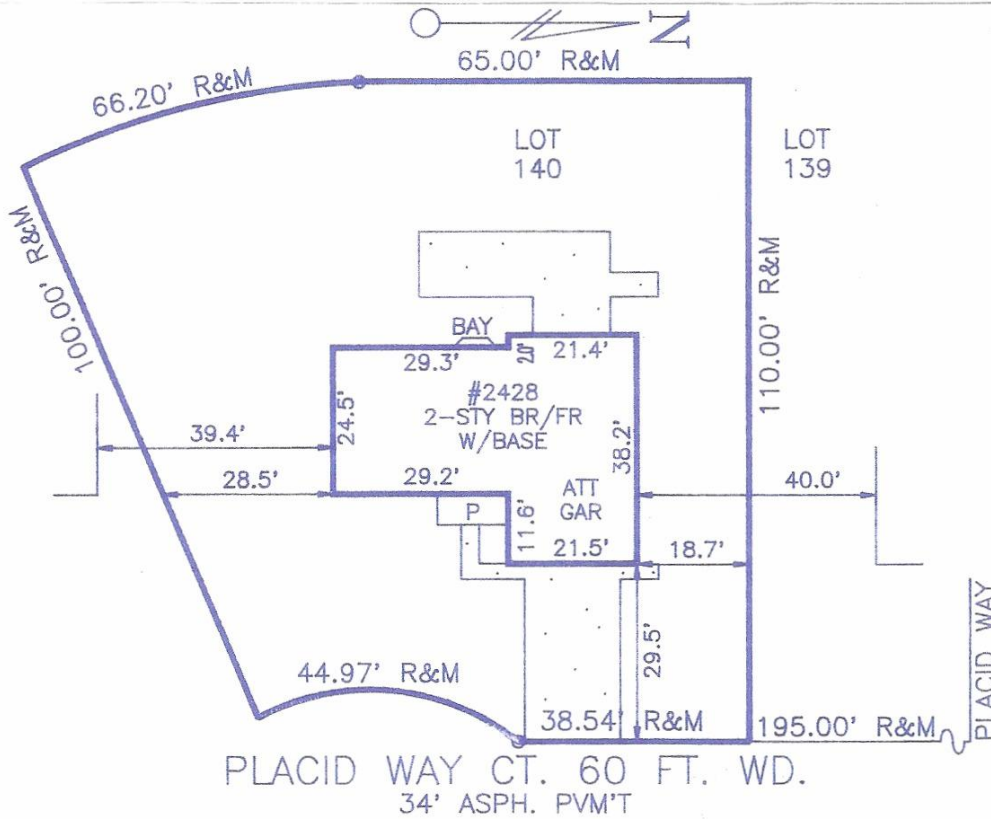
Scale: 1" = 30'

Date Jan. 7, 1992

Final

**Description:**

Lot 140,  
Traver Lakes Subdivision No. 1 a part of the N. 1/2 of Section 15, T.  
2 S., R. 6 E., City of Ann Arbor, Washtenaw County, Michigan. Rec'd  
L. 20. P. 38-39 Plats. W.C.R.



**CERTIFICATE**

We hereby certify to Dearborn Federal Credit Union  
Dearborn, Michigan

for the purpose of a mortgage made or to be made by the said Companies  
to Michael J. Harrigan Sr. and Mary S. Harrigan

that we have inspected the property herein described: that there are located entirely thereon as shown, buildings and improvements, and that said building and improvements are within the property lines and that there are no existing encroachments upon the land and property described whatsoever, except as shown. This mortgage inspection is not to be used to establish property lines, easement line, public right-of-way lines, building lines, conformity or non conformity to State, County or Local ordinances and/or codes, etc.

**CERTIFIED TO ALL TITLE COMPANIES:**

- |                    |               |              |         |
|--------------------|---------------|--------------|---------|
| Commonwealth Land  | Wayne Oakland | Great Lakes  | Lawyers |
| Trans America      | Stewart       | Wayne County | Detroit |
| Pioneer National   | St. Paul      | Tri County   | Chicago |
| Philip F. Greco    | Master        | Interstate   | Paragon |
| Philip R. Seaver   | Shield        | America      | Lincoln |
| Certified Abstract | Covenant      | Heritage     | Omega   |
| First Fidelity     | Old Colonial  | Guardian     | First   |
| Minnesota Title    |               |              |         |

CIVIL ENGINEER & LAND SURVEYORS

**SCHRADER-PORTER & ASSOCIATES, INC.**

27475 Schoolcraft Rd. - Livonia, Michigan 48150

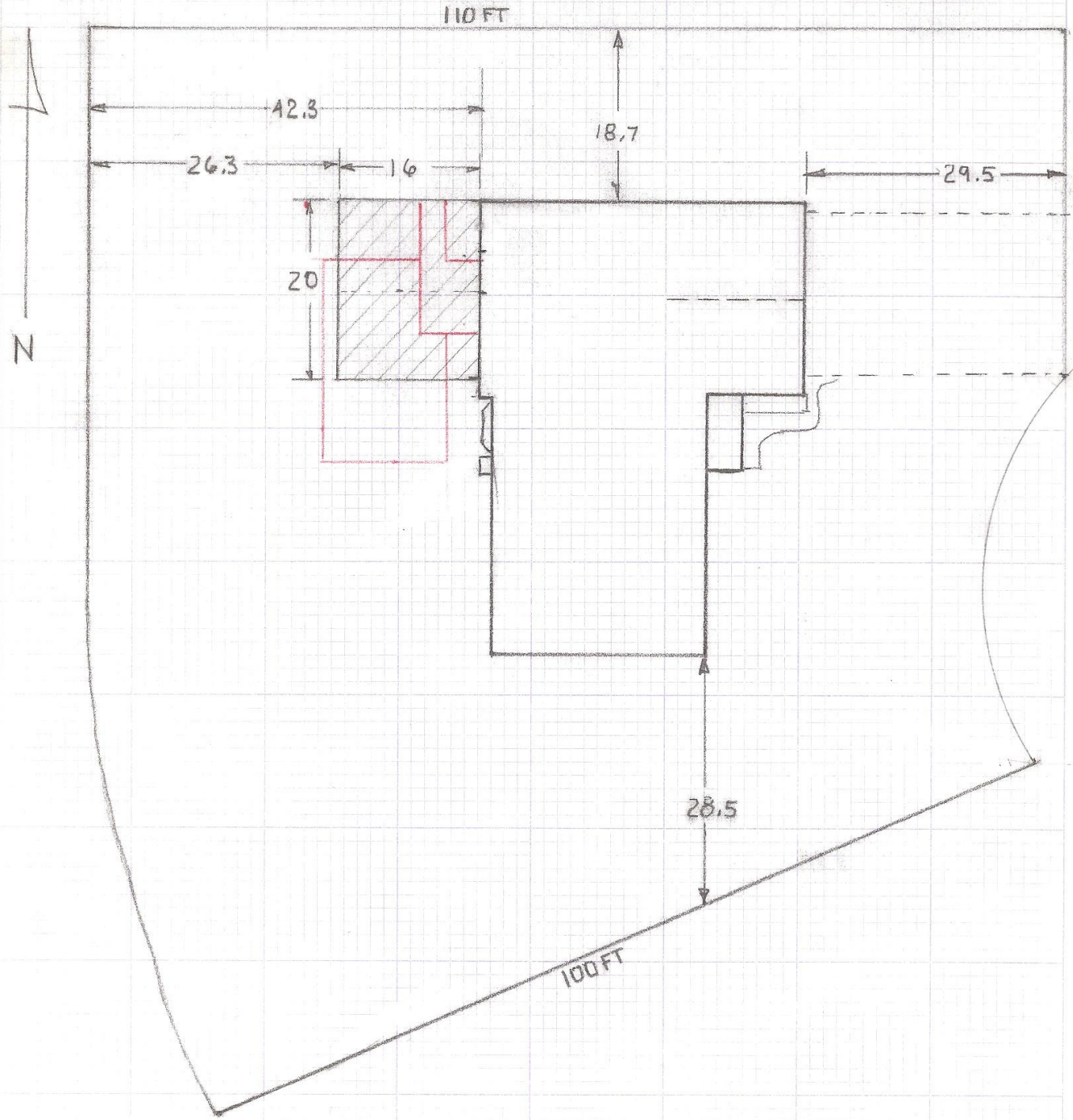
261-4111 - Fax: 261-3245

By [Signature]



# 2428 PLACID WAY PROPOSE PORCH ADDITION

- ADDITION SHOWN CROSSHATCHED
- EXISTING CONCRETE PATIO (TO BE REMOVED) SHOWN IN RED

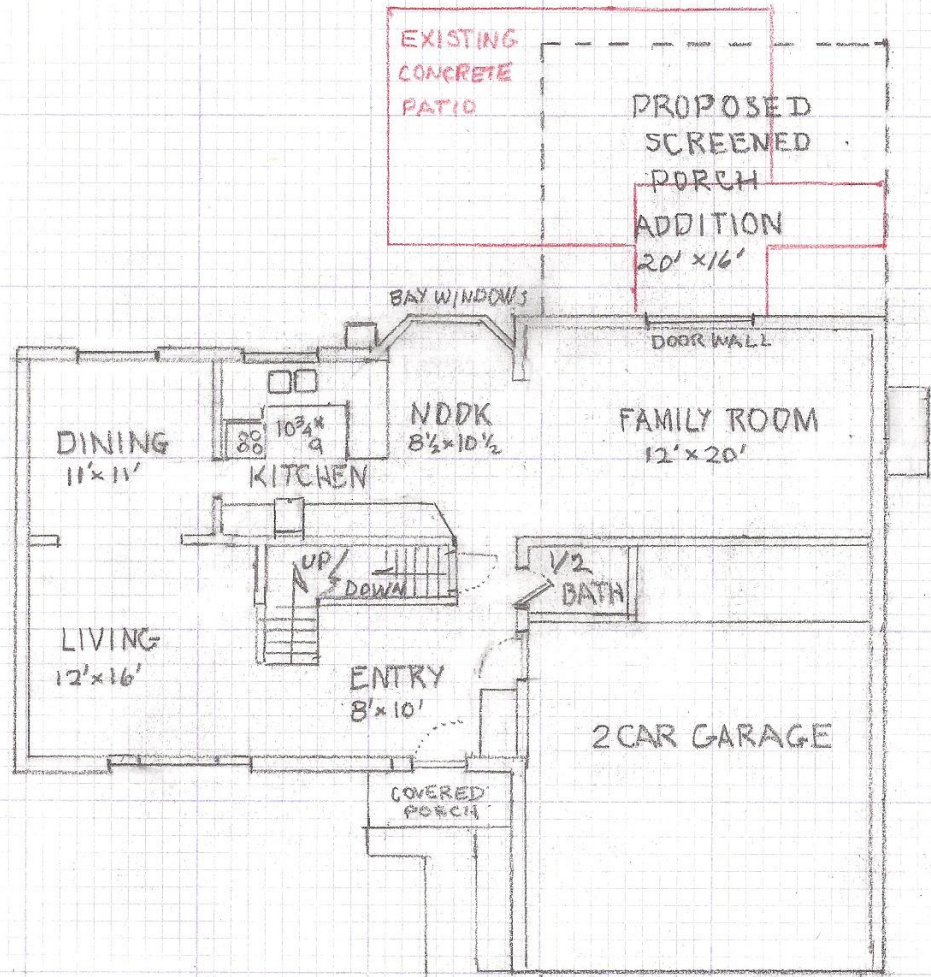
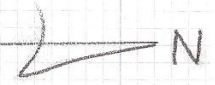


2428 PLACID WAY 10 5641  
10 5641 10 5641

APPL & DESIGN  
10 5641 10 5641

# 2428 PLACID WAY 1<sup>ST</sup> FLOOR PLAN

SHOWING PROPOSED SCREENED PORCH ADDITION





**REAR VIEWS OF 2428 PLACID WAY SHOWING LOCATION FOR SCREENED PORCH ADDITION**



Note: Existing rear door and gable roofline to be matched and continued for porch



Note: Concrete patio to be removed

**OVERALL VIEWS OF PROPERTY AT 2428 PLACID WAY**





Front View of 2428 Placid Way; Down North Property Line



Approximate Rear  
Property Line

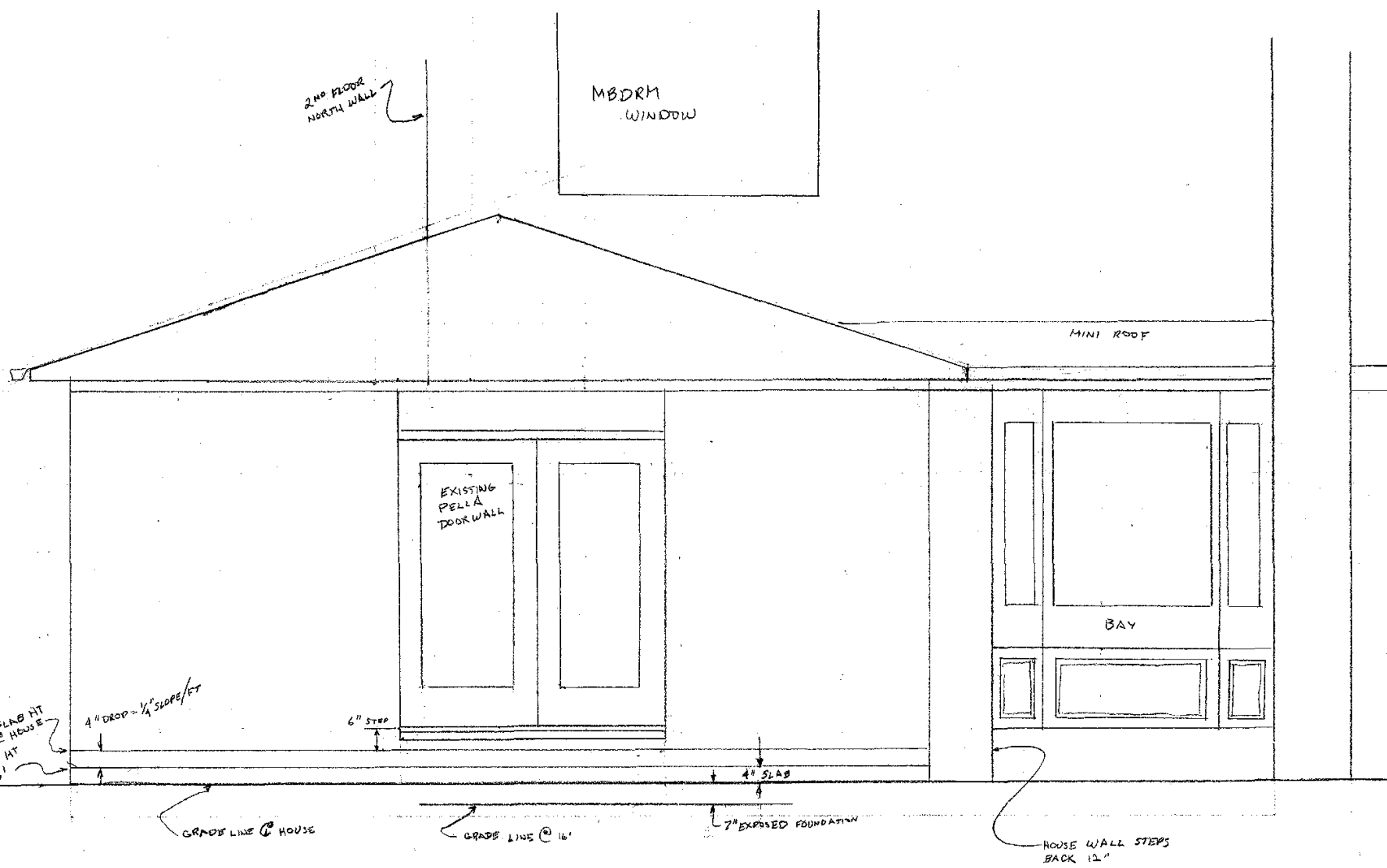
Rear View of 2428 Placid Way from Commons Showing Proposed Porch Location.

## **SLOPING TOPOGRAPHY HARDSHIP AT 2428 PLACID WAY**

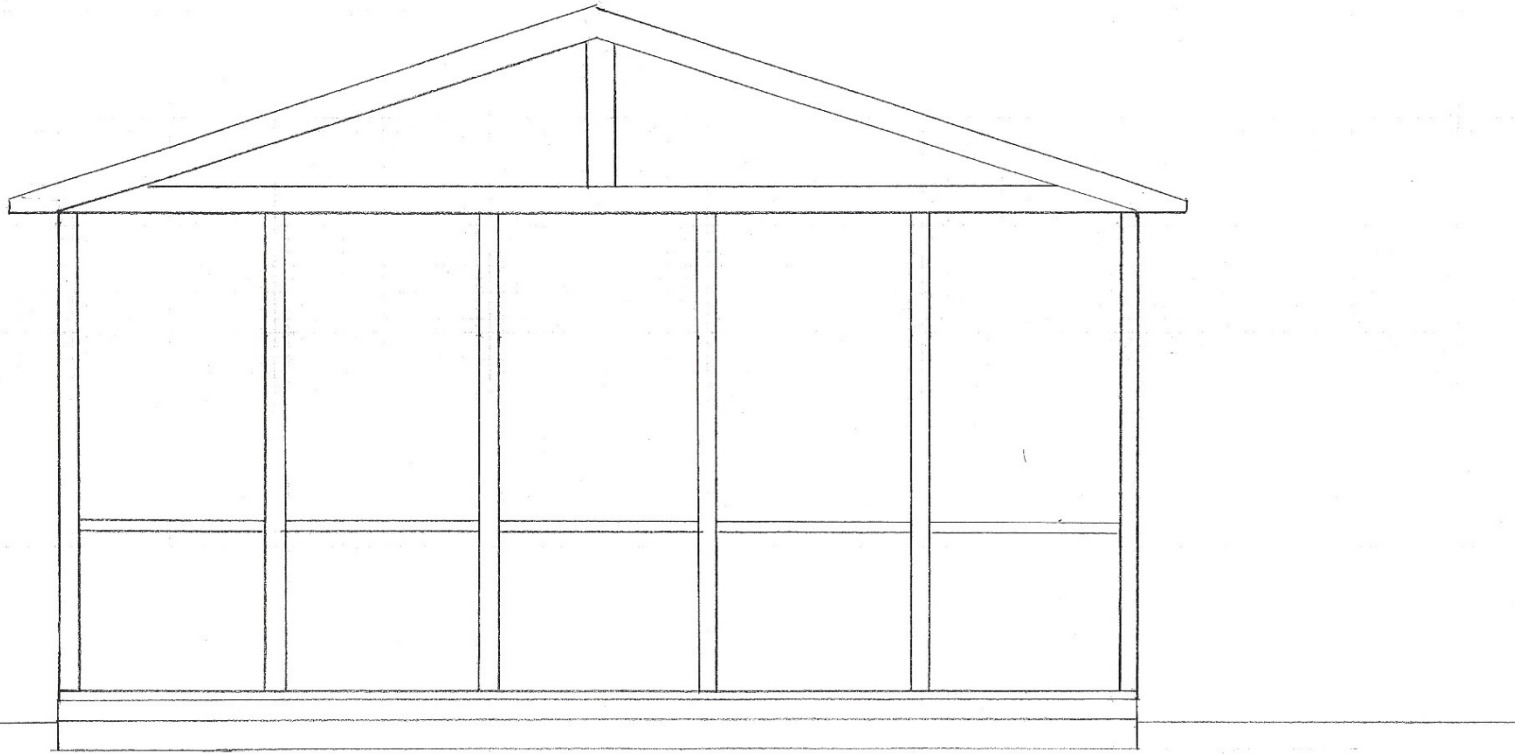




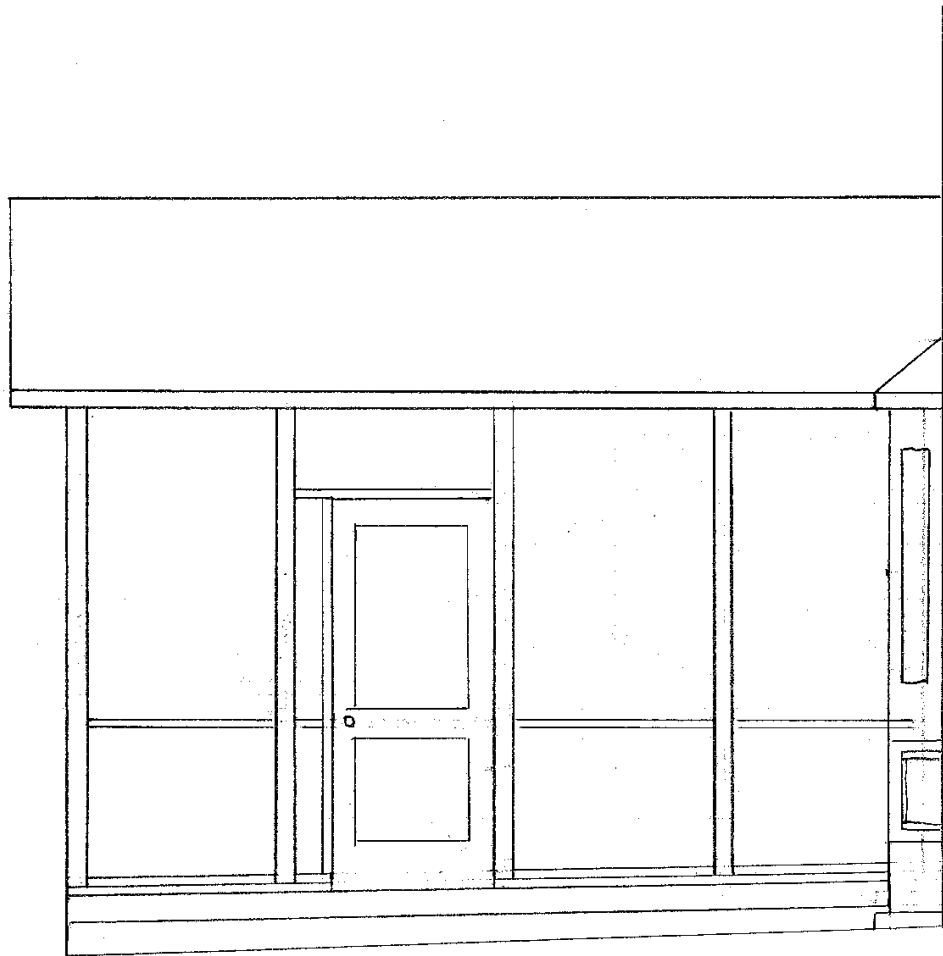
View from Southwest Corner of Property Showing Sloping Terrain on South Side of House



2428 PLACID WAY PROPOSED ADDITION SHOWING DETAILS @ HOUSE REAR

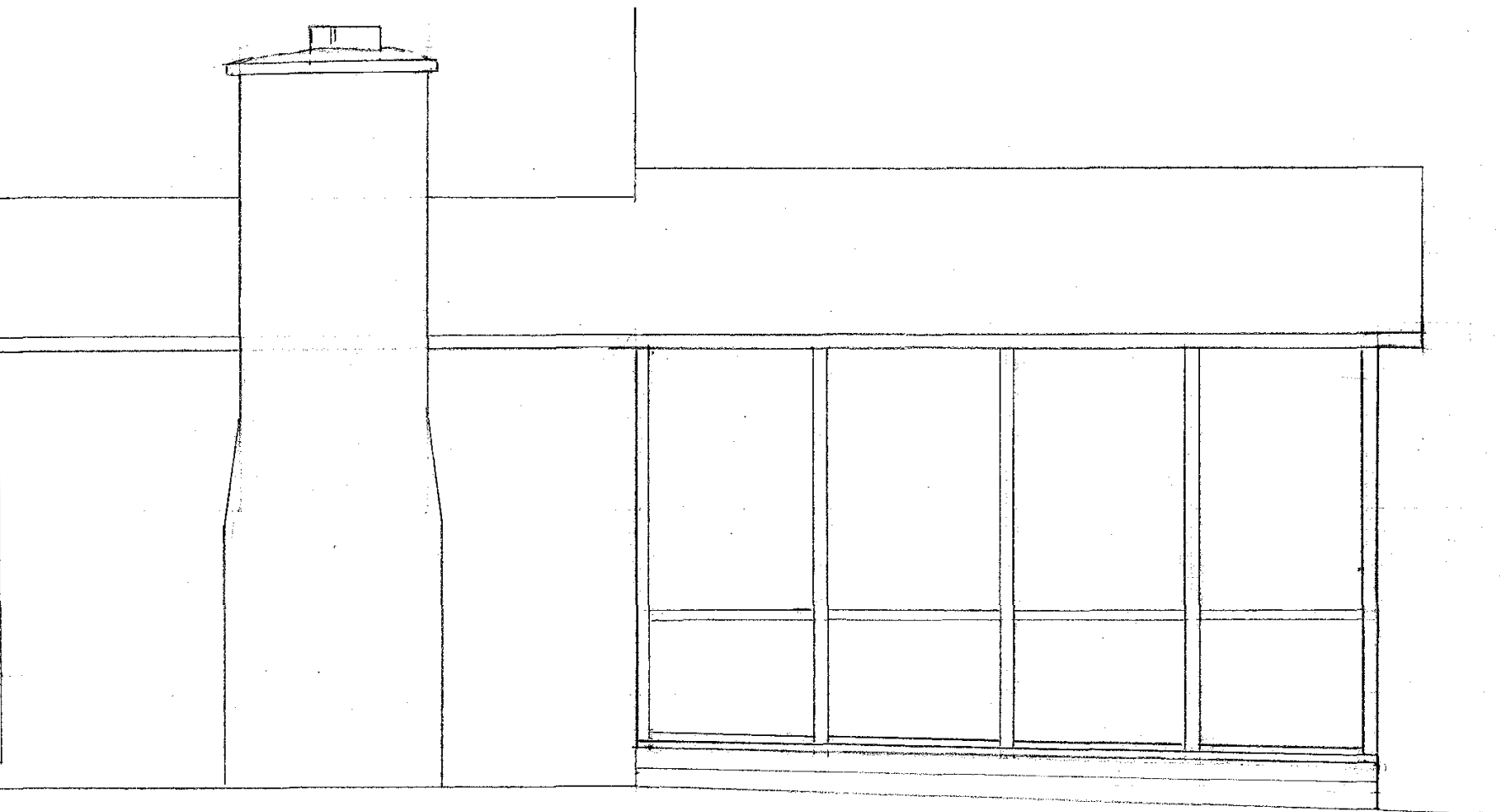


2428 PLACID WAY PROPOSED ADDITION - REAR ELEVATION



2428 PLACID WAY PROPOSED ADDITION SOUTH ELEVATION





2428 PLACID WAY PROPOSE ADDITION NORTH ELEVATION

**VIEWS OF EXISTING APPROVED SCREENED IN PORCHES IN THE NEIGHBORHOOD**



2410 Placid Way, Side View





2410 Placid Way, Rear View

**VIEWS OF EXISTING APPROVED SCREENED IN PORCHES IN THE NEIGHBORHOOD**



2420 Placid Way, Side view from Placid Way



2420 Placid Way, Rear View

Michael & Sally Harrigan  
2428 Placid Way

29 Nov. 2010

Dear Neighbor,

We are planning to add an attached screened in porch to the rear of our home at 2428 Placid Way. The specifics of this project are as follow (see attachments for illustrations):

1. Remove our existing concrete patio
2. Build a new 20 ft wide by 16 ft deep concrete pad as the base for the new porch
3. Build a wooden frame screened in porch similar to others in the neighborhood. Roofline of the porch is to be a continuation of the existing roofline at the back of our house.
4. All work is to be done by licensed and bonded local contractors who have completed other projects in this neighborhood
5. Porch design and construction will conform to all applicable building codes.
6. We have applied to the TLCMA Architectural Review Committee for approval of this proposal.

The proposed porch encroaches into the rear 40 ft setback requirement of our city zoning. Therefore, we have initiated the process of obtaining a zoning variance from 40 ft. to 26 ft from the City of Ann Arbor. Similar encroachments have been necessary for many home additions throughout the subdivision. The city will send a notification of this requested variance to all property owners within 300 ft of our lot.

We are being proactive in explaining to you what we are doing and we are asking for you to indicate your support for our zoning variation request to the City. Please sign the form below if you agree.

Thank you

I understand the project that is being planned at 2428 Placid Way and have no objection to the requested Zoning variance for rear setback.			
Name	Signature	Address	Date
Jerry Mastey	Jerry Mastey	2446 PLACID WAY	10/29/10
Stephen DeBacker	Stephen DeBacker	2434 PLACID WAY	10/30/10
Pete Cavagnaro	Pete Cavagnaro	2444 Placid Way	10/30/10
Sinia Whatmore	Sinia Whatmore	2438 Placid way	10/30/10
George Graham	George Graham	2424 Placid Way	10/30/10
David G. Hanhaja	David G. Hanhaja	2420 Placid Way	10/30/10
Neal Bond	Neal Bond	2450 Placid way	10/30/10
David Kaczmarek	David A. Kaczmarek	2840 Tuebingen Plw	10/30/10
Eileen Knesper	Eileen Knesper	2410 Placid Way	11/05/10





Location for proposed screened porch



Example of purposed screened porch



## Traver Lakes Maintenance Association Modification Request/Agreement

This agreement made between Traver Lakes Maintenance Association, a Michigan corporation of Ann Arbor, Michigan, hereinafter called the Association, and Michael and Mary Harrigan, Co-owner(s) of the Traver Lakes Maintenance Association located at 2428 Placid Way in Ann Arbor, Michigan, hereinafter referred to as Homeowner:

1. It is mutually agreed:
  - a. That Homeowner has the permission of the Association to make such modifications to the common ground or property of the Association as outlined in the attached description of such modification.
  - b. Only those modifications noted in the description will be permitted by the Association under this agreement.
2. In consideration for same, Homeowner agrees:
  - a. The expense of performing said modification will be borne entirely by the homeowner.
  - b. That complete maintenance or upkeep of said modification is the responsibility of the Homeowner in accordance with the current Rules and Regulations adopted by the Board of Directors.
  - c. If additional insurance is necessary the Homeowner will see that proper insurance is in place to cover the approved modifications. Said insurance will be at Homeowner expense.
  - d. Homeowner understands that if the modification requires digging into the ground, underground utility lines may be encountered. Homeowner agrees to call MISS DIG and herewith accepts financial responsibility for repair of any damage that may be incurred in connection with the approved modification.
3. The following applies if the Homeowner is responsible for the complete maintenance of the approved modification as determined by the current Rules and Regulations.
  - a. In the event that the Association finds maintenance or upkeep of modifications lacking, or after having been so notified in writing by the Association, required maintenance or upkeep will be performed by the Association or its designate at Homeowner expense. No such maintenance will be performed without allowing the Homeowner a specified period of time to perform the maintenance.
  - b. That, if continued neglect of maintenance or upkeep of modification occurs, Association may order the return of its common ground or property to its original state, at Homeowner expense. Under no circumstances will the Association take this action without written notification of Homeowner.
  - c. That in the event the condominium is sold by the Homeowner, the Homeowner is required to notify the Purchaser of the existence of the approved modification and the Modification Agreement, and that the Purchaser assumes responsibility for the maintenance and upkeep of the approved modification.

- d. That in the event the approved modification is damaged due to the repair, replacement or removal of a common element (telephone lines, electric lines, sewer lines, gas lines, etc.) repair or replacement of said modification will be borne by the Homeowner.

Homeowner acknowledges and undertakes to pay for all landscaping or maintenance services performed to correct any violations whatsoever under this Agreement. In the event that the Homeowner fails to promptly pay for such services upon the billing rendered by the Association, said expense shall constitute a lien on the Homeowners condominium. It is further acknowledged that in the event such assessment is levied, the Association shall have the right to record a lien on the Homeowner's condominium with the Register of Deeds for Washtenaw County, Michigan and to proceed with necessary litigation including but not limited to foreclosure of said lien.

The attached description of modifications is made part of this agreement.

Michael J. Harrison  
Homeowner

23/007/2010  
Date

Mary D. Harrison  
Homeowner

10-23-10  
Date

2428 PLACID WAY  
Address

734-994-9212  
Phone number

Description of proposed modification:

1. A screened in porch is to be constructed as a fully attached/integrated part of the rear of the house adjacent to the family room. The porch roof will continue the existing gable roof line of the house. Screened in porch will be constructed on a new concrete slab that will be built on a new approved foundation wall. Footprint size to be approximately 20 feet wide by 16 feet deep. See attached sketches for more detailed views of what is contemplated.
2. Existing 360 square foot concrete slab patio will be demolished and removed along with foundation planting at the rear of the house located where the new porch will be added. New, appropriate planting will be placed around the porch upon its completion.
3. Homeowner will engage the services of a licensed and bonded contractor to complete all demolition and rebuilding. Contractor will obtain all necessary permits.
4. Homeowner and his contractor will obtain zoning variance from the City of Ann Arbor for approximate 14.5 foot reduced clearance to the rear lot line.
5. Design, construction and variance to zoning will be similar to those already approved by TLCMA and the City of Ann Arbor for nearby residences at 2410 and 2420 Placid Way. (See attached photographs)

Diagram of modification: (attach additional pages/drawings if necessary)

(SEE ATTACHED SKETCHES)



Approved	Not Approved	Signature	Date
		_____ Committee chair	
		_____ Board Member	
✓		_____ <i>Travis Laces</i> Board President	11/5/10

**RULES OF THE  
ZONING BOARD OF APPEALS  
ANN ARBOR, MICHIGAN**

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Revised Adopted ~~May~~ July 28,

2010.23, 2007.

## I. GENERAL GOVERNING RULE

~~1. 4.~~ The provisions of all applicable state statutes, the Ann Arbor City Code, and these rules shall govern the Zoning Board of Appeals. Every Board member shall thoroughly familiarize himself with these provisions. In case of uncertainty or difficulty, the City Attorney shall be consulted for clarification and amplification.

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2. For the purposes of applying Roberts Rules of Order, these rules shall be ~~interpreted~~ treated as bylaws.

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## II. OFFICERS AND DUTIES

1. Chairperson. The Chairperson shall be a board member as designated by the City Council pursuant to Section 1: 197 of Chapter 8 of Title I of the Ann Arbor City Code, however, the Chairperson shall not be a member of City Council. The Chairperson shall decide all points of order and procedure, subject to the provisions of these rules, unless directed otherwise by a majority of the Board in session at that time.

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The Chairperson may appoint any committees found necessary to investigate any matters properly before the Board. A minimum of two (2) members of the Board shall serve on such a committee.

2. Vice Chairperson. A Vice Chairperson shall be elected to act in the absence of the Chairperson. Election of the Vice Chairperson by the Board from its members shall be by majority vote. The Vice Chairperson shall be elected at the annual organizational meeting to serve a term of one (1) year. The Vice Chairperson shall not be a member of City Council.

## III. MEETINGS AND MINUTES

1. Time of Meetings. Regular monthly meetings shall be held on the fourth (4th) Wednesday of each month or such other time as set by the Board.

2. Agenda of Meetings. Except for the scheduling of appeals and applications, agendas for all Board meetings shall be set by the Planning and Development Services Manager and the Board Chairperson. At a meeting of the Board, any member may, by majority consent of members present, request that an item be placed on the agenda at a future meeting.

3. Annual Organizational Meeting. The first meeting in April of each year shall be the annual organizational meeting. At such meeting the election of the Vice Chairperson shall be held and the Board shall review its rules and procedures.

4. Cancellation of Meetings. Whenever there is no proper business scheduled to come before the Board at a regular meeting of the Board, the Chairperson



may cancel such meeting by notice to all members not less than 3 days prior to the regular meeting time. Public notice of cancellation shall also be posted at that time.

5. Conduct of Meetings. All meetings shall be open to the public and no prior requirements established for attendance by members of the public. A meeting shall be defined as any convening of the Board at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy. All deliberations on matters before the Board shall take place in public meetings.

All persons shall be allowed to address the meeting on any issue before it. Such person shall give his name and address for the record. The Chairperson for individual and group presentations may establish reasonable time limits.

Facilities to accommodate members of the public shall be provided; however, large organized groups shall give reasonable notice to the Board if their numbers exceed the facilities normally provided. In such cases, the Board shall provide adequate facilities for all who wish to attend.

A quorum shall consist of 5 (five) members of the Board. The Chairperson, or in his or her absence the Vice Chairperson, may administer oaths.

Unless otherwise provided by statute, ordinance or rule of this body, meetings shall be conducted in accordance with Robert's Rules of Order, which are adopted herein by reference and made a part of these rules of procedure.

The order of business shall be:

Roll Call

- A. Approval of Agenda
- B. Reading and approval of minutes of preceding meeting.
- C. Hearings of Appeals and Applications. Prior to taking up these hearings, announcement shall be made of any petition withdrawn or adjourned. Requests for such withdrawal or adjournment may be made at any time prior to the particular petition being called and may be granted at the discretion of the Chairperson. Audience participation shall be allowed for any hearing where public notice has been provided prior to the meeting.

Unless the petitioner or his agent or his attorney is present for the hearing of a petition, the Chairperson shall dismiss the petition, and the petition shall not be heard again by the Board within 4-3 months from the date of dismissal.

If, within one week of the missed hearing, the petitioner provides documentation evidence to the chair Chairperson that in the Chairperson's discretion shows good cause for the failure to be present and the chair at his or her discretion confirms that emergency circumstances prevented petitioner's attendance at the hearing, the chair Chairperson shall put the dismissed ease petition on the next regularly scheduled meeting agenda as practicable to provide notice and for a hearing. The petitioner is shall be exempt from filing a rehearing request or paying an additional fee. ~~The petition is treated as though it had been tabled at the hearing the petitioner was unable to attend.~~

- D. Old Business.
- E. New Business
- F. Reports and Communications
- G. Audience Participation - General.

Adjournment.

6. Minutes. A minute book shall be kept by administrative support staff, showing the record of all important facts pertaining to each meeting, which shall include but not be limited to the following: names and addresses of all persons appearing before the Board, a record of all hearings, all exhibits presented to the Board, a copy of each motion acted upon by the Board, the vote of each member, and members absent or failing to vote. Administrative support staff shall include any other details to be included within the minute book as may be ordered by the Board or its Chairperson. Such minute book shall be filed in the Planning and Development Services Unit and shall be a public record.

Draft minutes shall be available for public inspection not more than 8 business days after the meeting to which the minutes refer. Approved minutes shall be available for public inspection not later than 5 business days after the meeting in which the minutes are approved. Copies of the minutes shall be made available on request with a charge to cover costs.

7. Staff. The Board shall be provided with staff consisting of representatives from the Planning and Development Services Unit. Other Planning and Development Services Unit staff and the City Attorney's Office personnel may be called on as needed.

A staff report prepared by a representative of the Planning and Development Services Unit shall accompany each appeal. The report shall consist of a summary of the request and pertinent facts related to the petitioner's property and surrounding property. Pertinent facts shall include information as to whether there has been a previous petition on that property, and its disposition. In matters concerning nonconforming uses and structures, a

- 5 -

history of the property shall be presented showing when the property was built and the zoning provisions under which it was built. The Attorney's office shall advise the Board as to legal questions, and submit opinions and memoranda as requested. Additional staff reports may be presented concerning matters of concern to the Board or staff.

The Board shall also be provided with administrative support staff from the Planning and Development Services Unit. Administrative support staff shall conduct all correspondence of the Board and shall generally be responsible for the clerical work of the Board.

8. Notice of Meetings. Notice of the regular meetings stating the dates, times and places shall be posted within ten (10) days after the first meeting of the calendar year, and amended as required. If there is a change in the schedule of regular meetings, public notice of the change shall be posted within three (3) days after the meeting at which the change is made, stating the new dates, times and places of the regular meetings. If the length of the agenda or complexity of issues before the Board indicate the necessity for an additional regular meeting, administrative support staff shall notify the Chairperson who may then call an additional regular meeting to be held within two (2) weeks of the regularly scheduled meeting

The petitions shall be assigned to the first or second meeting in the order received, and the notices shall be sent out accordingly. Public notice of the additional regular meeting shall be posted within three (3) days of the Chairperson's decision. The Chairperson may call additional special meetings or rescheduled regular meetings. Public notice of special meetings or rescheduled regular meetings stating the date, time and place of the meeting shall be posted at least 18 hours before the meeting. Administrative support staff shall give notice of all meetings to each member of the Board.

To the extent that the meeting notice requirements above differ from those in the Open Meetings Act, the requirements of the Open Meetings Act shall prevail.

#### IV. CONFLICTS

1. No Board member shall sit in hearing or vote in passing upon any case in which he is personally or financially interested. Disclosure of the basis for abstention may be given at the meeting. The Board member shall abstain from discussion and voting. If such abstention results in loss of quorum, the matter shall be laid over until the next regularly scheduled meeting, and testimony shall not be heard without a quorum.

#### V. APPEALS AND APPLICATIONS

1. Appeals. An appeal may be taken by any aggrieved person or by any officer, department, board, or bureau of state or local government. Such an appeal shall be filed within 60 calendar days of the date of decision of the Administrative Official charged with the responsibility of enforcing the zoning ordinance from which the appeal arises. Notice of the appeal shall be filed with the officer from whom the appeal is taken and with the Board of Appeals, specifying the grounds for the appeal.
2. Manner of Filing Appeals. The appeal shall be filed with the Planning and Development Services Unit. Any communication purporting to be an appeal or application shall be regarded as a mere notice of intention to seek relief until it is made upon the form prescribed, including required data. A fee as prescribed by ordinance shall be paid at time of filing the appeal.



3. Applications. In the case of applications for variances, and such matters as may properly come before the Board, the application shall be made upon forms provided by the Board and kept by the Planning and Development Services Unit. The procedure for applications shall be the same as that for the filing of an appeal except that applications may be filed at any time.
4. Scheduling of Appeals and Applications. Each appeal or application, filed in the proper form with the required data and fee, shall be numbered serially within each calendar year, and placed upon the agenda of the next meeting; provided, however, that filings submitted within three weeks of the scheduled meeting may be placed upon the following meeting's agenda.

## VI. HEARINGS AND NOTICES

1. Notice of Hearings. Administrative support staff shall provide notice of the hearings as required by state law and City ordinance.
2. Form of Notice. The notice shall state the location of the building or lot, the relief requested, and the time and place of the hearing. A copy of the notice and a list of persons to whom the notice was mailed shall become part of the records of the Board.
3. Conduct of Hearings. Each appeal or application shall be heard in the following manner.
  1. Calling of the case by the Chairperson.
  2. Staff reports and recommendations. Any communications to the Board concerning the case shall be read and made part of the record.
  3. Statement of Standards to be applied.
  4. Questions by Board to staff.
  5. Petitioner's presentation. Petitioner may testify on behalf of his own request and bring such witnesses as may be necessary.
  6. Questions by Board to Petitioner.
  7. Audience Participation.
  8. Petitioner Rebuttal.
  9. Closing of hearing followed by Board discussion and decision.
4. Rehearings. An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the Board if the petitioner is unable to present evidence to show that there has been a substantial change in facts, circumstances, or scope or nature of relief requested, or that the Board approval has expired.

## **VII. DECISIONS**

1. Possible Decisions. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from or, where it is claimed there are practical difficulties or unnecessary hardship, the Board may grant or deny variances.
2. Time of Decisions. The Board shall make its decisions within a reasonable time.
3. Motions. The motion proposing a decision to reverse or modify the decision appealed from or, in the case of a variance, a decision to grant the variance based on practical difficulty or unnecessary hardship, shall include reasons in support of the proposed decision to reverse or modify or to grant a variance, and what conditions, if any, the Board requires.
4. Vote. The concurring vote of five (5) of the members of the Board shall be necessary to reverse any order, requirement or determination of the Administrative Official. The same vote shall be necessary for the granting of a variance, except that two-thirds of the members of the Board (6 votes) shall be necessary to grant a variance from uses of land permitted in the ordinance.
5. Written Decision and Order. Within ten (10) business days of the hearing at which the Board's decision becomes final, there shall be a written decision and order signed by the Chairperson. The decision and order shall identify the property, the relief sought, the motion voted upon, the vote and whether the motion passed or failed.
6. Filing of Decision and Orders. Decisions and Orders of the Board shall be filed in the office of the City Clerk and shall be public records. Copies shall also be sent to all parties of the appeal, the City Assessor's Office, and to other interested agencies and departments of the City Government.

## **VIII. AMENDMENTS**

1. These rules may be amended by a majority vote of all members of the Board, provided that there be a period of at least thirty (30) days from initial presentation to final action.