



# BUILDING CODE BOARD OF APPEALS REGULAR MEETING AGENDA

500 W. Big Beaver  
Troy, MI 48084  
(248) 524-3344  
[www.troymi.gov](http://www.troymi.gov)  
[planning@troymi.gov](mailto:planning@troymi.gov)

Gary Abitheira, Chair, Teresa Brooks  
Sande Frisen, Mark F. Miller, Andrew Schuster

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August 7, 2019

3:00 PM

COUNCIL BOARD ROOM

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1. ROLL CALL
2. APPROVAL OF MINUTES – June 10, 2019
3. HEARING OF CASES
  - A. VARIANCE REQUEST, MATTHEW LOMBARDI, 1452 WACON DRIVE – This property is a double frontage lot. As such the proposed fence cannot be placed in the 25' required Burtman Dr. or the 25' required Wacon Dr. front setback. The petitioner is requesting a total of 103' linear feet of 6' high Privacy Cedar obscuring fence variance in the required Burtman Dr. setback.

## CHAPTER 83

- B. VARIANCE REQUEST, KIMBERLY NOWAK, 3901 BRISTOL – This property is a double frontage lot. As such the proposed fence cannot be placed in the 30' required Bristol Dr. or the 30' required Root Dr. front setback. The petitioner is requesting a total of 118' of 6' high Privacy Cedar obscuring fence variance in the required Root Dr. setback.

## CHAPTER 83

- C. VARIANCE REQUEST, MURRAY D. DEAGLE, 254 FLORENCE DRIVE – This property is a single frontage lot. As such, the proposed fence at the rear property line is allowed to be a maximum of 6' above the existing grade of the land. The petitioner is requesting a variance to install an 8' high privacy fence for an 80' long section at that location.

## CHAPTER 83 Section 2.(A) (Rev. 07-08-1996)

- D. APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/1654 LIVERNOIS, 1654 LIVERNOIS - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0009.

## CHAPTER 85

- E. APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/ABRO TWELVE PROPERTY, 2888 E MAPLE - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0087.

## CHAPTER 85

- F. APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/AMERICAN LEGION POST 140, 1340 W MAPLE - An appeal of the Zoning Administrator's November, 2017 suspension of Sign Permit PSG2017-0088.

## CHAPTER 85

**NOTICE:** People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at [clerk@troymi.gov](mailto:clerk@troymi.gov) or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

4. COMMUNICATIONS
5. PUBLIC COMMENT
6. MISCELLANEOUS BUSINESS
7. ADJOURNMENT

**NOTICE:** *People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at [clerk@troymi.gov](mailto:clerk@troymi.gov) or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.*



Chair Abitheira called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on July 10, 2019 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Members Present

Gary Abitheira  
Teresa Brooks  
Andrew Schuster

Absent:

Sande Frisen  
Mark F. Miller, City Manager

Support Staff Present

Salim Huerta, Building Official  
Jackie Ferencz, Planning Department Administrative Assistant  
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES

Moved by: Brooks  
Support by: Schuster

**RESOLVED**, To approve the minutes of the May 1, 2019 Regular meeting as submitted.

Yes: All present (3)  
Absent: Frisen, Miller

**MOTION CARRIED**

3. HEARING OF CASES

- A. **VARIANCE REQUEST, MATTHEW LOMBARDI, 1452 WACON DRIVE** – This property is a double frontage lot. As such the proposed fence cannot be placed in the 25-foot required Burtman Drive or the 25-foot required Wacon Drive front setback. The petitioner is requesting a total of 103 linear feet of a 6-foot-high privacy cedar obscuring fence variance in the required Burtman Drive setback.

Mr. Huerta gave a review of the variance request.

Chair Abitheira said communication has been received from the applicant requesting to postpone the item to the August 7, 2019 Regular meeting.

Moved by: Schuster  
Support by: Abitheira

**RESOLVED**, To postpone the application to the August 7, 2019 meeting.

Yes: All present (3)  
Absent: Frisen, Miller

**MOTION CARRIED**

- B. **VARIANCE REQUEST, KIMBERLY NOWAK, 3901 BRISTOL** – The property is a double frontage lot. As such the proposed fence cannot be placed in the 30-foot required Bristol Drive or the 30-foot required Root Drive front setback. The petitioner is requesting a total of 118 feet of a 6-foot-high privacy cedar obscuring fence variance in the required Root Drive setback.

Mr. Huerta gave a review of the variance request.

Chair Abitheira said a letter has been received from the applicant requesting to postpone the item to the August 7, 2019 meeting. He stated the department received several responses to the public hearing notices, which would be kept on record for the August meeting should the Board postpone the item.

Chair Abitheira advised several people in the audience present for the public hearing that they could speak at this meeting or wait until the August meeting. It was the consensus of those in attendance to wait until the August meeting.

Moved by: Schuster  
Support by: Abitheira

***RESOLVED***, To postpone the application to the August 7, 2019 meeting.

Yes: All present (3)  
Absent: Frisen, Miller

**MOTION CARRIED**

4. **COMMUNICATIONS** – None.
5. **PUBLIC COMMENT** – None.
6. **MISCELLANEOUS BUSINESS** – None.
7. **ADJOURNMENT**

The Regular meeting of the Building Code Board of Appeals adjourned at 3:04 p.m.

Respectfully submitted,

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Gary Abitheira, Chair

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Kathy L. Czarnecki, Recording Secretary

G:\Building Code Board of Appeals Minutes\2019\DRAFT\2019 07 10 Regular Meeting\_Draft.doc

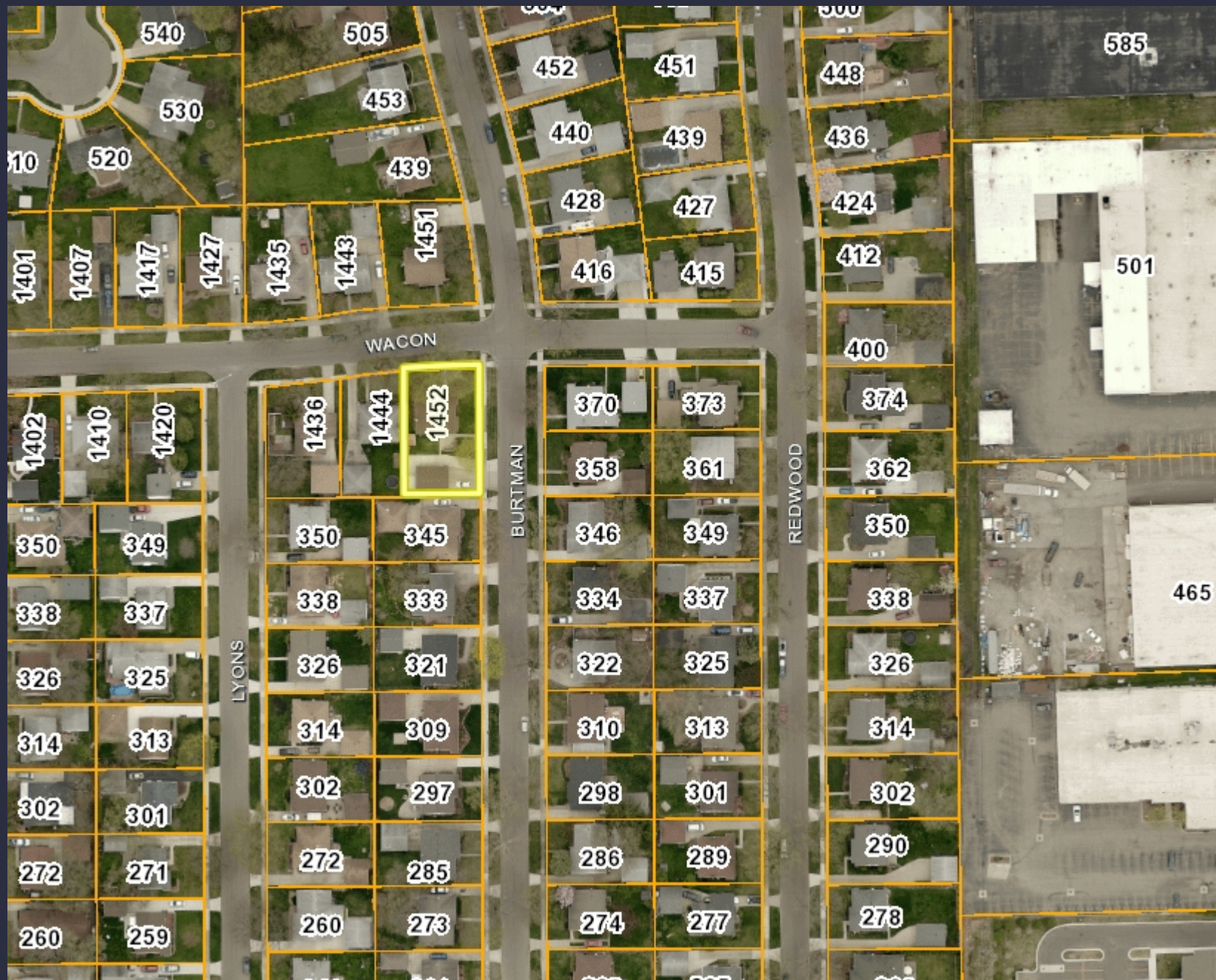
A. **VARIANCE REQUEST, MATTHEW LOMBARDI, 1452 WACON DRIVE** –This property is a double frontage lot. As such the proposed fence cannot be placed in the 25' required Burtman Dr. or the 25' required Wacon Dr. front setback. The petitioner is requesting a total of 103' linear feet of 6' high Privacy Cedar obscuring fence variance in the required Burtman Dr. setback.

**CHAPTER 83**



# GIS Online

Legend:



Notes:

Map Scale: 1=179  
Created: June 20, 2019



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.

**CITY OF TROY PLANNING DEPARTMENT  
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248-524-3364  
E-MAIL: [planning@troymi.gov](mailto:planning@troymi.gov)



**FEE \$50**

**NOTICE TO THE APPLICANT**

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 1452 Wacon Dr, Troy, MI 48083  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-35-354-003
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
Fence Code Chapter 83 Section 2(A)
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒



6. APPLICANT INFORMATION:

NAME Matthew Lombardi  
COMPANY \_\_\_\_\_  
ADDRESS 1452 Wacon Drive  
CITY Troy STATE MI ZIP 48083  
TELEPHONE 313-701-9167  
E-MAIL mslombardi5@gmail.com

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: Self

8. OWNER OF SUBJECT PROPERTY:

NAME Matthew Lombardi  
COMPANY \_\_\_\_\_  
ADDRESS 1452 Wacon Drive  
CITY Troy STATE MI ZIP 48083  
TELEPHONE 313-701-9167  
E-MAIL mslombardi5@gmail.com

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Matthew Lombardi (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT  DATE 6/5/2019  
PRINT NAME: Matthew Lombardi

SIGNATURE OF PROPERTY OWNER  DATE 6/5/2019  
PRINT NAME: Matthew Lombardi

*Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.*

*The applicant will be notified of the time and date of the hearing by electronic mail.*

Matthew Lombardi  
1452 Wacon Dr  
Troy, MI 48083  
(313) 701-9167

City of Troy Planning Department  
Building Code Board of Appeals  
500 W. Big Beaver Road  
Troy, MI 48084

June 4, 2019

To the Board of Appeals,

This letter is to support the request for the approval of a Fence Code Variance at 1452 Wacon Dr in Troy, MI. My house is on a corner lot, at the intersection of Wacon Dr and Burtman Dr. As such, the maximum fence height allowed on the East side portion of my lot is 30". The proposed fence would be a 6' privacy fence with multiple gates that would encapsulate the East side front setback with the existing backyard portion to the South of the house.

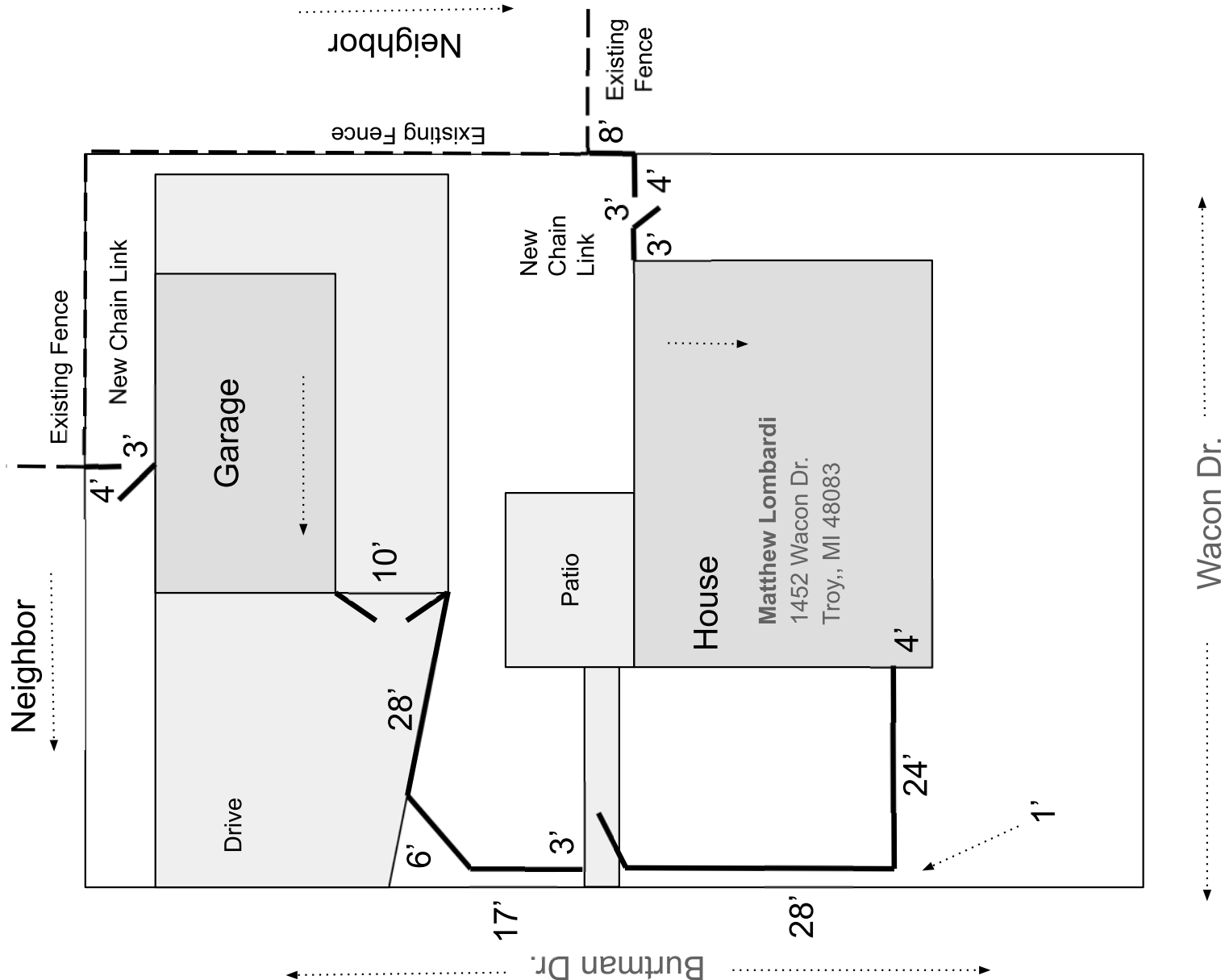
I purchased my home on Wacon in April 2017. I am a first-time homeowner and I plan on starting and raising a family here in Troy. Fencing on the East side portion of the lot together with the backyard, which is currently open, would allow for maximum usage of the property and provide security and privacy to my future family. I also have pets and a fenced in yard would provide safety to them and peace of mind for me when they are outside.

I believe a large fenced in area, as described above, would also increase the value and appeal of the property. The current state of the backyard is mostly concrete and severely limits what can be done for recreation. The fence would be no less than 30' from the southern property line, with my driveway and garage in between. Further the proposed fence line would not substantially alter the view or encroach upon my neighbors, many of whom I've described the plan to and were very supportive. I take great pride in the appearance of my property, and the proposed fence would be no exception. The fence will have ornamental aesthetics, lined with attractive landscaping on the outside portion to go along with the existing front and backyard landscaping.

My goal is to have one of the best looking properties in the area and I know that the fence and added benefits that come with it would help to ensure that goal.

Thank you for your consideration,

Matthew Lombardi



**SCOPE:**

Most 6' Tall Cedar Privacy (w/Routed top rail (2x4x8)) and (19) PostMaster Steel Post Plus (1) Core Drill

- Install 103' Fence (6' Tall)
- Install 3' Single Gate (6' Tall)
- Install 10' Double Gate (6' Tall)

Part 4' Tall Chain Link [Galvanized]

- Install 19' Fence (4' Tall)
- Install 3' Single Gate (4' Tall)
- Install 3' Single Gate (4' Tall)

**NOTES:**

Owner plans to present their fence project to ZBA for a fence variance.





photo courtesy of - Paramount Fence - [www.paramountfenceco.com](http://www.paramountfenceco.com)



photo courtesy of - Paramount Fence - [www.paramountfenceco.com](http://www.paramountfenceco.com)



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photo courtesy of - Paramount Fence - [www.paramountfenceco.com](http://www.paramountfenceco.com)



Example: Cedar privacy fence with top rail by Paramount

# PostMaster® Delivers...

Master Halco's patented PostMaster steel post for wood fencing is engineered to provide you with the strength of steel without sacrificing the natural beauty of wood. Constructed of structural steel with a heavy galvanized coating, PostMaster can withstand high winds and heavy rain and will never rot or warp. Master Halco guarantees it - every PostMaster steel post is backed by a 15-year limited warranty.\* PostMaster provides longevity and performance in a wood fence system which results in uncompromised value.



**Easily  
Concealed**





Bldg Official picture of 1452  
Wacon





Bdlg Official Picture of 1452 Wacon





Bldg official picture - 1452 Wacon







Bldg Official Picture- 1452  
Wacon



**From:** [Gene Legrand](#)  
**To:** [Planning](#)  
**Subject:** Fence Code Chapter 83 Comments  
**Date:** Tuesday, June 25, 2019 2:38:06 PM

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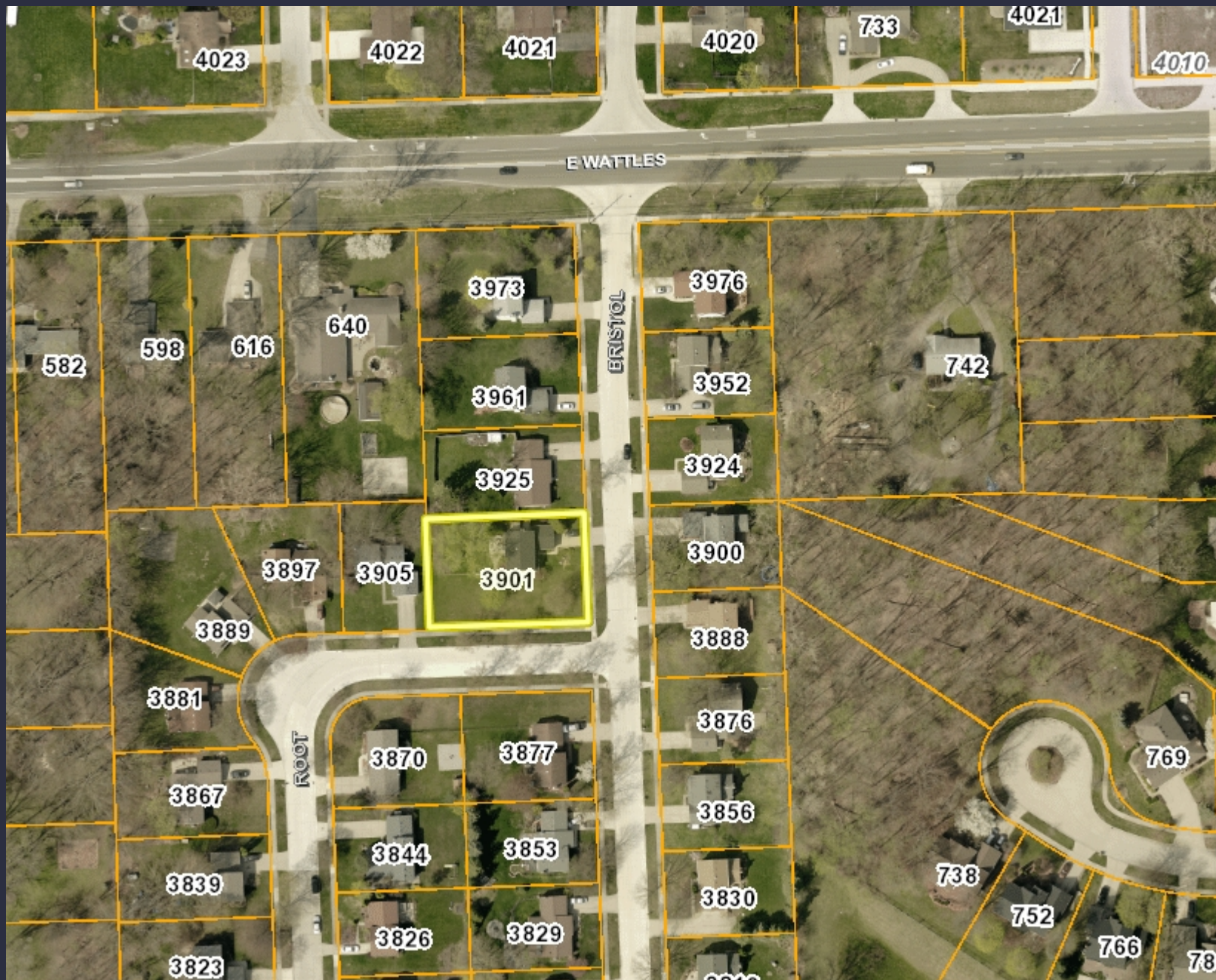
Hello, I just received a notice of public hearing on Wednesday, July 10, 2019 at 3:00pm.

Comment: We have no problem with the fence to be installed at 1452 Wacon Drive. The Lombardi's are nice neighbors and we are sure that anything they do to their property will be fine. The Lombardi's keep their yard in meticulous condition.

Gene & Barbara LeGrand - 428 Burtman Drive, Troy, MI 48083

**B. VARIANCE REQUEST, KIMBERLY NOWAK, 3901 BRISTOL** – This property is a double frontage lot. As such the proposed fence cannot be placed in the 30' required Bristol Dr. or the 30' required Root Dr. front setback. The petitioner is requesting a total of 118' of 6' high Privacy Cedar obscuring fence variance in the required Root Dr. setback.

**CHAPTER 83**



Notes:





CITY OF TROY | PLANNING DEPT.  
500 WEST BIG BEAVER | TROY, MI 48084 | 248.524.3364

## Building Code Board of Appeals Application

6. APPLICANT INFORMATION:

NAME Kimberly Nowak  
COMPANY \_\_\_\_\_  
ADDRESS 3901 Bristol Dr.  
CITY Troy STATE MI ZIP 48083  
TELEPHONE 248-835-2992  
E-MAIL kimberlylnowak@yahoo.com

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: Self

8. OWNER OF SUBJECT PROPERTY:

NAME Kim and Kevin Nowak  
COMPANY \_\_\_\_\_  
ADDRESS 3901 Bristol dr.  
CITY Troy STATE MI ZIP 48083  
TELEPHONE 248-835-2992  
E-MAIL kimberlylnowak@yahoo.com

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Kimberly Nowak (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Kimberly Nowak DATE 6/14/2019

PRINT NAME: Kimberly Nowak

SIGNATURE OF PROPERTY OWNER Kimberly Nowak DATE 6/14/2019



CITY OF TROY | PLANNING DEPT.  
500 WEST BIG BEAVER | TROY, MI 48084 | 248.524.3364

## Building Code Board of Appeals Application

### **NOTICE TO THE APPLICANT | FEE: \$50**

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1. ADDRESS OF THE SUBJECT PROPERTY: 3901 Bristol Dr, Troy MI 48083  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-22-202-021
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
Fence code
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒





CITY OF TROY | PLANNING DEPT.  
500 WEST BIG BEAVER | TROY, MI 48084 | 248.524.3364

## Building Code Board of Appeals Application

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Kimberly Nowak

PRINT NAME: \_\_\_\_\_

***Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.***

***The applicant will be notified of the time and date of the hearing by electronic mail.***

Hello,

In regard to a variance request for 3901 Bristol Dr in Troy, there is currently a 30 ft setback requirement for a privacy fence. If a fence were put 30ft back from the sidewalk, it would cut my yard in half rendering that part of the yard useless for my family. Please approve a variance that requires only a 6ft setback from the sidewalk. My original request was 3ft but have since decided that I want enough room to plant flowers on the outside of the fence lining the sidewalk.

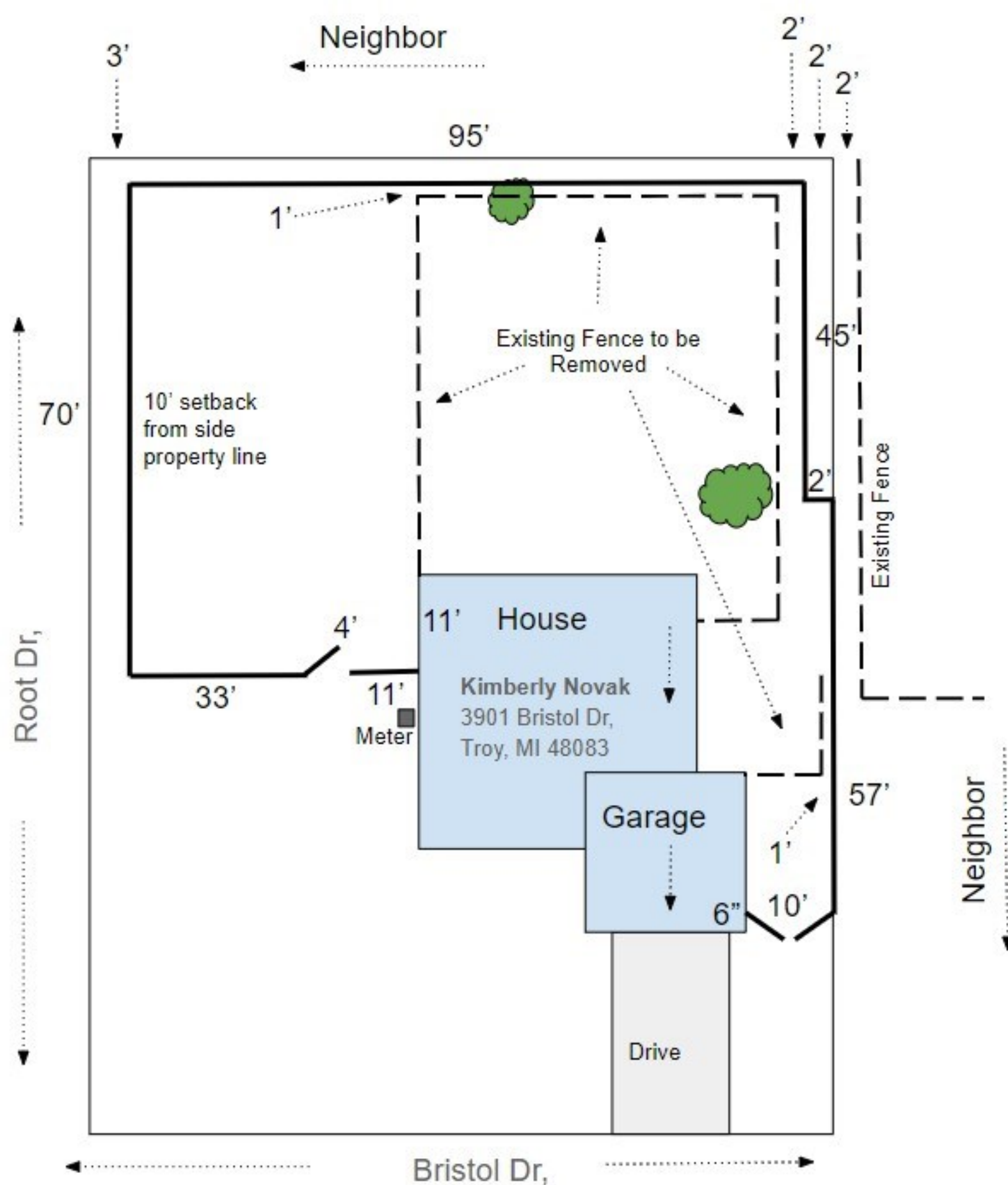
The requested 6ft variance will not block anyone's view from their driveway. The fence would only be seen by my neighbor to the west and will not block their view when pulling out.

This requested variance will not be harmful or alter the character of the area. On the contrary, it will improve the curb appeal of the property and the neighborhood. A fence would allow much needed privacy as a result of having a corner lot.

In 2011, before purchasing this property, I repeatedly emailed and called a Mr. Evans and Mr. Rice in regard to having a privacy fence on this property, extending almost to the south sidewalk. It was going to be a deciding factor on whether or not I should buy this property. I was unable to receive a response from the city of Troy but went ahead and purchased this property anyway. Now, I would like to move forward with getting this much-needed privacy fence.

Thank you so much!!!

Kim Nowak



## SCOPE:

ALL Pressure Treated Privacy

Install 313' Fence (6' Tall)

Install 4' Single Gate (6' Tall)

Install 10' Double Gate (6' Tall)

Removal of 151' of existing fence  
(Chain Link)

Removal of 47' of existing fence  
(Privacy/Picket)





Bldg Official Picture - 3901 Bristol





Bldg Official Picture- 3901 Bristol





Bldg Official Picture- 3901 Bristol



**From:** [Amigos444](#)  
**To:** [Planning](#)  
**Subject:** Please do not allow fence.  
**Date:** Monday, July 8, 2019 8:49:03 PM

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We do not have a fence for the same reason so please don't ugly our street with wooden fences. I spent \$1500 on a electric fence for my dog so we can keep the yard with out ugly fences.

Thank You.

Sergio Sarmiento & Linda Sarmiento.

248-404-8208

We the undersigned support the following;

We are writing to let you know of our objection to the variance request at 3901 Bristol Drive, Troy, MI 48083.

Our neighborhood has always enjoyed an open and friendly look and feel, due in part to the limited closed in fencing throughout the yards. This openness allows neighbors to say hello in passing which helps build a stronger neighborhood and provides unhindered landscapes promoting feelings of community. The openness also affords additional security in that we can alert each other in the event of trespassers, etc. We feel a 6' high privacy fence just 6 feet from the sidewalk would be a terrible eyesore and would totally go against the character of this neighborhood. We cannot imagine any configuration of such a fence that would be attractive. The proposed fence will be seen by a minimum of 22 neighbors, as there are no other obstructions for our view from front or backyards. It will clearly hinder the appeal of the neighborhood.

Although we can all understand the need, at times, for minimal fencing to secure our children, pets and pools, we disagree with our neighbor's belief that a 6'-8' stockade fence will improve the visual draw of the neighborhood. Stockade fencing is prevalent in a vast majority of inner-city neighborhoods which seems to insulate homeowners instead of building communities.

We are not against our neighbor enlarging their back-yard space, but feel that a 4-foot chain link, vinyl or picket fence, or shrubbery would be more visually appealing than a huge wall of wood.

The Nowak family has lived here for eight years and had known of this code before the purchase of their house. The two corner lots facing their house have both put up fences for their dogs and complied with the 4-foot-high, 30-foot setback ordinance.

We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed Laura Brawe

Date 7-8-19

Signed Jeremy Brawe

Date 7-8-19

Signed \_\_\_\_\_

Date \_\_\_\_\_

Please Email to; [planning@troymt.gov](mailto:planning@troymt.gov)  
Subject Line; Variance 3901 Bristol

\* I also have concerns about the safety of a 6 foot high fence this close to the corner of Root and Bristol. many people drive very fast through Bristol already. Further, it is a hazard for people in the neighboring houses to be able to see backing out of their driveways.  
Laura and Jeremy Brawe, 3889 Root Dr.



**From:** [gshark7@yahoo.com](mailto:gshark7@yahoo.com)  
**To:** [Planning](#)  
**Subject:** Dis-allow 3901 Bristol Fence request  
**Date:** Tuesday, July 9, 2019 3:47:33 PM

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Hi, I am against the request to allow this fence variance at 3901 Bristol. It is out of character for the neighborhood, and would also create a precedence that other people would try to copy. We bought our house on Root because of the open feel and large yards, cramming a fence against a sidewalk and blocking our view is not appreciated. We would like the fence code to be followed just like ALL the other neighbors have done. It would not be fair to allow one house to deviate from this rule.

Glenn Harkenrider  
3881 Root

**From:** [James Blough](#)  
**To:** [Planning](#)  
**Subject:** Variance 3901 Bristol  
**Date:** Tuesday, July 9, 2019 8:57:47 AM  
**Attachments:** [scan.pdf](#)

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Hello,

We're sending you a letter of objection to the above variance request. I agree with my neighbors that a fence of this type would look more like a prison rather than be aesthetic to the neighborhood. We think a maximum of 4' chain link fence would be sufficient. We hope you'll take this into consideration to deny this request.

My wife and I live at 3760 Bristol Drive.

Sincerely,

Jim and Marie Blough

**From:** [Kotov, Anna](#)  
**To:** [Planning](#)  
**Subject:** Variance 3901 Bristol  
**Date:** Tuesday, July 9, 2019 2:51:05 PM  
**Attachments:** [Variance Letter 3795 Root.pdf](#)

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Hello,

Please see the attached letter.

Regards,

Anna Kotov  
LEONI Wiring Systems, Inc.  
30500 Van Dyke Ave, Warren, MI 48093  
MCO Buyer Americas  
Phone: +1 586 782 4444 ex 42  
Mobile: +1 586 459 8903  
Fax: +1 866 315 7547  
Email: [anna.kotov@leoni.com](mailto:anna.kotov@leoni.com)  
<http://www.leoni.com>

**From:** [Arthur Lewandowski](#)  
**To:** [Planning](#)  
**Subject:** Variance 3901 Bristol  
**Date:** Tuesday, July 9, 2019 11:47:56 AM

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please find the attachment - an objection to the variance at 3901 Bristol

**From:** [Diane Paul](#)  
**To:** [Planning](#)  
**Subject:** Variance 3901 Bristol  
**Date:** Tuesday, July 9, 2019 11:50:50 AM

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Julie Monroe is currently out of the country, and asked me (she was able to text me) to include the following for her. She lives at 3853 Bristol.

To the City of Troy Planning Department,  
I would like too add my name to this letter to voice my concern over the extension of a privacy fence on 3901 Bristol Dr.  
Respectfully submitted;  
Julie M Monroe

We the undersigned support the following;

We are writing to let you know of our objection to the variance request at 3901 Bristol Drive, Troy, MI 48083.

Our neighborhood has always enjoyed an open and friendly look and feel, due in part to the limited closed in fencing throughout the yards. This openness allows neighbors to say hello in passing which helps build a stronger neighborhood and provides unhindered landscapes promoting feelings of community. The openness also affords additional security in that we can alert each other in the event of trespassers, etc. We feel a 6' high privacy fence just 6 feet from the sidewalk would be a terrible eyesore and would totally go against the character of this neighborhood. We cannot imagine any configuration of such a fence that would be attractive. The proposed fence will be seen by a minimum of 22 neighbors, as there are no other obstructions for our view from front or backyards. It will clearly hinder the appeal of the neighborhood.

Although we can all understand the need, at times, for minimal fencing to secure our children, pets and pools, we disagree with our neighbor's belief that a 6' stockade fence will improve the visual draw of the neighborhood. Stockade fencing is prevalent in a vast majority of inner-city neighborhoods which seems to insulate homeowners instead of building communities.

We are not against our neighbor enlarging their back-yard space, but feel that a 4-foot chain link, vinyl or picket fence, or shrubbery would be more visually appealing than a huge wall of wood.

The Nowak family has lived here for eight years and had known of this code before the purchase of their house. The two corner lots facing their house have both put up fences for their dogs and complied with the 4-foot-high, 30-foot setback ordinance.

We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

We the undersigned support the following;

We are writing to let you know of our objection to the variance request at 3901 Bristol Drive, Troy, MI 48083.


Our neighborhood has always enjoyed an open and friendly look and feel, due in part to the limited closed in fencing throughout the yards. This openness allows neighbors to say hello in passing which helps build a stronger neighborhood and provides unhindered landscapes promoting feelings of community. The openness also affords additional security in that we can alert each other in the event of trespassers, etc. We feel a 6' high privacy fence just 6 feet from the sidewalk would be a terrible eyesore and would totally go against the character of this neighborhood. We cannot imagine any configuration of such a fence that would be attractive. The proposed fence will be seen by a minimum of 22 neighbors, as there are no other obstructions for our view from front or backyards. It will clearly hinder the appeal of the neighborhood.

Although we can all understand the need, at times, for minimal fencing to secure our children, pets and pools, we disagree with our neighbor's belief that a 6'-8' stockade fence will improve the visual draw of the neighborhood. Stockade fencing is prevalent in a vast majority of inner-city neighborhoods which seems to insulate homeowners instead of building communities.

We are not against our neighbor enlarging their back-yard space, but feel that a 4-foot chain link, vinyl or picket fence, or shrubbery would be more visually appealing than a huge wall of wood.

The Nowak family has lived here for eight years and had known of this code before the purchase of their house. The two corner lots facing their house have both put up fences for their dogs and complied with the 4-foot-high, 30-foot setback ordinance.

We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed 

Date 6/9/19 3795 Root Dr

Signed \_\_\_\_\_

Date \_\_\_\_\_

Signed \_\_\_\_\_

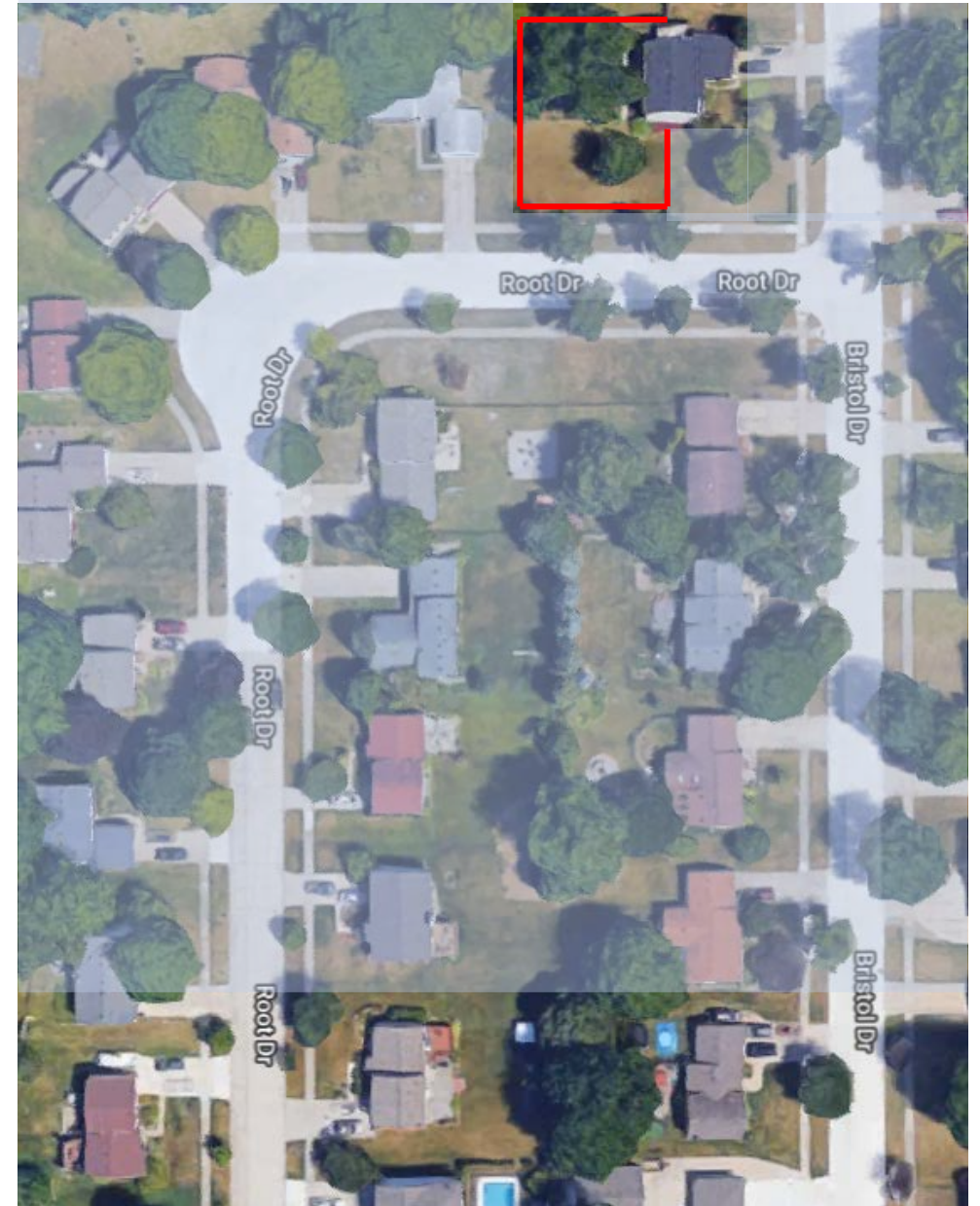
Date \_\_\_\_\_

Please Email to; [planning@troymi.gov](mailto:planning@troymi.gov)  
Subject Line; Variance 3901 Bristol



Mrs. Nowak stated that the only house that will be able to **see** the fence is her neighbor to the west and that it would not block the neighbor's view when backing out. As you can see from this photo, it will limit the view of the two neighbors west of her home while leaving their driveways. Additionally, the fence would be seen by a large number of neighbors (20+) from both their homes and yards. As stated in our letter to the Planning board, we are not against the Nowak's putting up a nice fence to enclose their yard, it is simply that we strongly believe that the fence should be the required 30 feet back from the sidewalk, as with the fences across Root from her and that a stockade style fence will be detrimental to the neighborhood aesthetics.

As Mrs. Nowak clearly stated to you in her letter, she was well aware of the city ordinances when she purchased the home eight years ago.





Mrs. Nowak states that the only house that will be able to see the fence is her neighbor to the west and it will not block their view when backing out.

*(Please see the next slides to show this is not true at all)*











As can be seen by these pictures of the two houses directly across from the Nowak house, both have the required fence at the required height and set back. This is where we do not object to the Nowak Family bringing the fence out closer to the sidewalk, although in our opinion, 3 or 6 feet from the sidewalk is too close. The bottom right house is just 6 houses down Bristol and there is no fence at all.



This picture is a rough representation of what it would look like if the Nowak's put up the fence we believe she wants based on her description they want. It does not blend at all and in an eyesore that everyone will see.



We the undersigned support the following;

We are writing to let you know of our objection to the variance request at 3901 Bristol Drive, Troy, MI 48083.

Our neighborhood has always enjoyed an open and friendly look and feel, due in part to the limited closed in fencing throughout the yards. This openness allows neighbors to say hello in passing which helps build a stronger neighborhood and provides unhindered landscapes promoting feelings of community. The openness also affords additional security in that we can alert each other in the event of trespassers, etc. We feel a 6' high privacy fence just 6 feet from the sidewalk would be a terrible eyesore and would totally go against the character of this neighborhood. We cannot imagine any configuration of such a fence that would be attractive. The proposed fence will be seen by a minimum of 22 neighbors, as there are no other obstructions for our view from front or backyards. It will clearly hinder the appeal of the neighborhood.

Although we can all understand the need, at times, for minimal fencing to secure our children, pets and pools, we disagree with our neighbor's belief that a 6'-8' stockade fence will improve the visual draw of the neighborhood. Stockade fencing is prevalent in a vast majority of inner-city neighborhoods which seems to insulate homeowners instead of building communities.

We are not against our neighbor enlarging their back-yard space, but feel that a 4-foot chain link, vinyl or picket fence, or shrubbery would be more visually appealing than a huge wall of wood.

The Nowak family has lived here for eight years and had known of this code before the purchase of their house. The two corner lots facing their house have both put up fences for their dogs and complied with the 4-foot-high, 30-foot setback ordinance.

We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed <u>Rene' C. Sherman</u>	Date <u>7-8-19</u>
Signed <u>Haye C. Lewandowski</u>	Date <u>7-8-19</u>
Signed <u>Chris J. Lewandowski</u>	Date <u>7/9/19</u>

Please Email to; [planning@troymt.gov](mailto:planning@troymt.gov)  
Subject Line; Variance 3901 Bristol



We the undersigned support the following;

We are writing to let you know of our objection to the variance request at 3901 Bristol Drive, Troy, MI 48083.

Our neighborhood has always enjoyed an open and friendly look and feel, due in part to the limited closed in fencing throughout the yards. This openness allows neighbors to say hello in passing which helps build a stronger neighborhood and provides unhindered landscapes promoting feelings of community. The openness also affords additional security in that we can alert each other in the event of trespassers, etc. We feel a 6' high privacy fence just 6 feet from the sidewalk would be a terrible eyesore and would totally go against the character of this neighborhood. We cannot imagine any configuration of such a fence that would be attractive. The proposed fence will be seen by a minimum of 22 neighbors, as there are no other obstructions for our view from front or backyards. It will clearly hinder the appeal of the neighborhood.

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The Nowak family has lived here for eight years and had known of this code before the purchase of their house. The two corner lots facing their house have both put up fences for their dogs and complied with the 4-foot-high, 30-foot setback ordinance.

We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed Michael Smith

Date 7-9-19

Signed Michael Smith

Date 7-9-19

Signed \_\_\_\_\_

Date \_\_\_\_\_

Please Email to; [planning@troymi.gov](mailto:planning@troymi.gov)  
Subject Line; Variance 3901 Bristol

**From:** [WILLOCKX Jim](#)  
**To:** [Planning](#)  
**Subject:** Variance 3901 Bristol  
**Date:** Tuesday, July 9, 2019 12:22:43 PM  
**Attachments:** [Lot Proposal.pdf](#)  
[Nowak Letter.pdf](#)  
[Signed Letter.pdf](#)

---

Hello,

My name is Jim Willockx and I live at 3839 Root Drive in Troy. I am writing to notify you of my disapproval of the Variance requested by 3901 Bristol to build a privacy fence out to the sidewalk that runs along Rood Drive east of Bristol. I have included three documents for you to emphasize my being against this variance passing. I will be at the Planning meeting tomorrow at 3:00 to express my concerns that are outlined in these three documents. Two of them are directly from the Planning Board and one is our (the Neighborhood's) assessment of the issue, which I have signed. Thank you for your time to read these and look forward to speaking with you tomorrow.

Have a nice day.

Best Regards,

**Jim Willockx**  
3839 Root Drive  
Troy, MI 48083  
248-895-4957

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer. Copyright in documents created by or on behalf of this firm remains vested in the firm. Please rely on your own virus check. No responsibility is taken by the sender for any damage arising out of any bug or virus infection.

**From:** [WILLOCKX Jim](#)  
**To:** [Planning](#)  
**Subject:** Attention Paul Evans - 3901 Fence Variance Request Rebuttal .pptx  
**Date:** Tuesday, July 9, 2019 1:36:19 PM  
**Attachments:** [3901 Fence Variance Request Rebuttal .pptx](#)

---

Paul,

Thank you for all of your help. I have attached the Power Point that I think represents the facts very clearly. I will be at the meeting tomorrow @ 3:00. If you have any advice for me that would make this run smoothly and not cause me to take up any more time of the Board than necessary, I will greatly appreciate it.

This kind of thing is never good for a neighborhood and it unsettles me to have to do this, but the neighbors come to me for a lot of things in the neighborhood and this is one of them. I guess it is what I get for being a country boy at heart.

Sincerely,

Jim Willockx  
3839 Root Drive  
248-895-4957

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer. Copyright in documents created by or on behalf of this firm remains vested in the firm. Please rely on your own virus check. No responsibility is taken by the sender for any damage arising out of any bug or virus infection.



We the undersigned support the following;

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We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed  Date 7/8/2019  
Signed 3839 Root Drive Date \_\_\_\_\_  
Signed \_\_\_\_\_ Date \_\_\_\_\_

Please Email to; [planning@troymi.gov](mailto:planning@troymi.gov)  
Subject Line; Variance 3901 Bristol

We the undersigned support the following;

We are writing to let you know of our objection to the variance request at 3901 Bristol Drive, Troy, MI 48083.

Our neighborhood has always enjoyed an open and friendly look and feel, due in part to the limited closed in fencing throughout the yards. This openness allows neighbors to say hello in passing which helps build a stronger neighborhood and provides unhindered landscapes promoting feelings of community. The openness also affords additional security in that we can alert each other in the event of trespassers, etc. We feel a 6' high privacy fence just 6 feet from the sidewalk would be a terrible eyesore and would totally go against the character of this neighborhood. We cannot imagine any configuration of such a fence that would be attractive. The proposed fence will be seen by a minimum of 22 neighbors, as there are no other obstructions for our view from front or backyards. It will clearly hinder the appeal of the neighborhood.

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We are asking the City of Troy Planning Department to please deny the variance request for the fence at 3901 Bristol.

Signed Judy Bloomer

Date 7/8/19

Signed [Signature]

Date 7-8-19

Signed \_\_\_\_\_

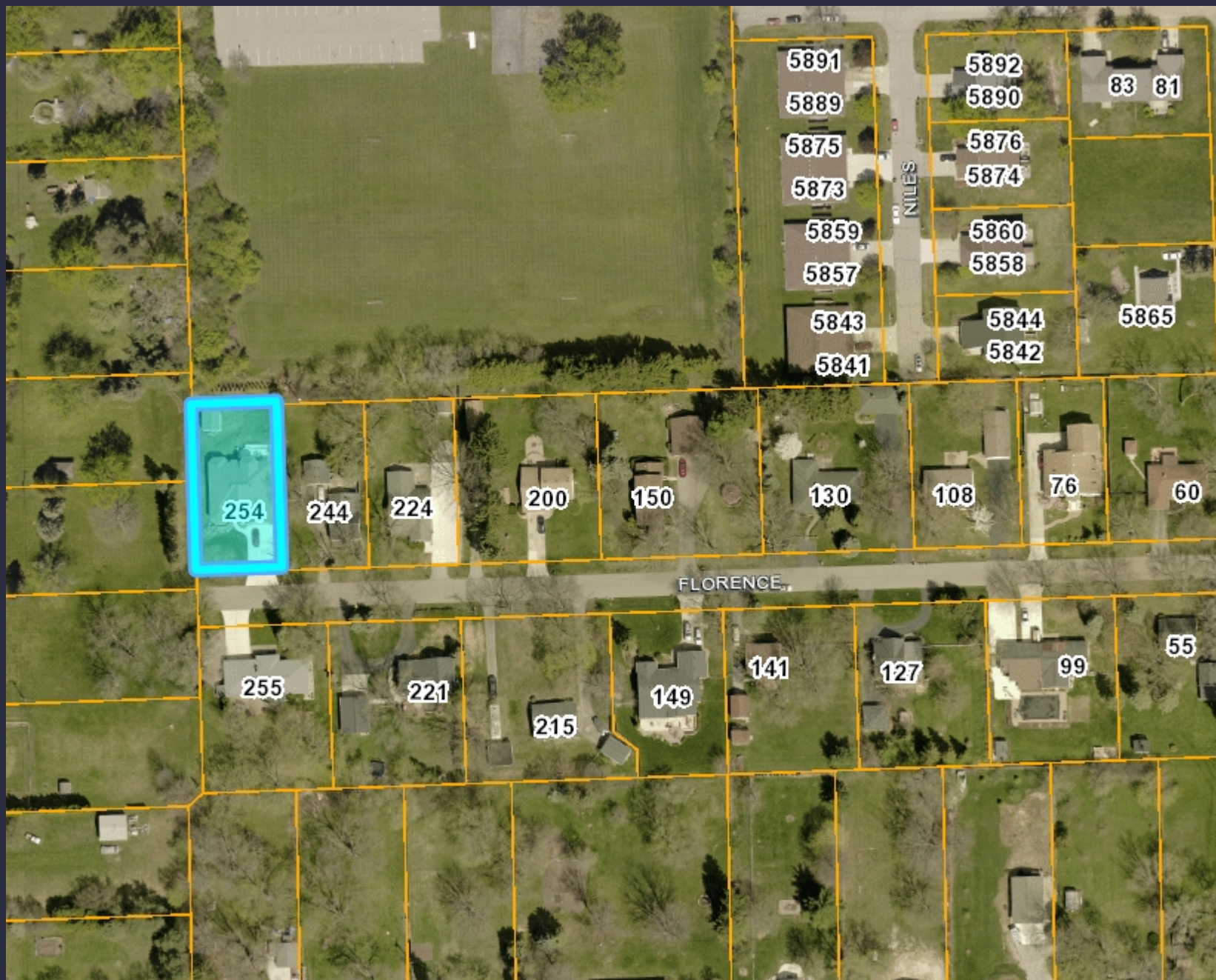
Date \_\_\_\_\_

Please Email to; [planning@troymi.gov](mailto:planning@troymi.gov)  
Subject Line; Variance 3901 Bristol

**C. VARIANCE REQUEST, MURRAY D. DEAGLE, 254 FLORENCE DRIVE** – This property is a single frontage lot. As such, the proposed fence at the rear property line is allowed to be a maximum of 6' above the existing grade of the land. The petitioner is requesting a variance to install an 8' high privacy fence for an 80' long section at that location.

**CHAPTER 83 Section 2.(A) (Rev. 07-08-1996)**





Notes:





CITY OF TROY | PLANNING DEPT.  
500 WEST BIG BEAVER | TROY, MI 48084 | 248.524.3364

## Building Code Board of Appeals Application

### NOTICE TO THE APPLICANT | FEE: \$50

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST WEDNESDAY OF EACH MONTH AT 3:00 P.M. AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 254 FLORENCE DR.  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-09-226-005
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
FENCE CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒

RECEIVED

JUL -9 2019

PLANNING





CITY OF TROY | PLANNING DEPT.  
500 WEST BIG BEAVER | TROY, MI 48064 | 248.524.3364

## Building Code Board of Appeals Application

6. APPLICANT INFORMATION:

NAME MURRAY D. DEAGLE  
COMPANY DEAGLE DEV. INC.  
ADDRESS 254 FLORENCE DR.  
CITY TROY STATE MI ZIP 48068  
TELEPHONE 248-953-4623  
E-MAIL PARAGON LAND @ HOTMAIL.COM

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: SAME

8. OWNER OF SUBJECT PROPERTY:

NAME MURRAY D. DEAGLE  
COMPANY \_\_\_\_\_  
ADDRESS 254 FLORENCE DR.  
CITY TROY STATE MI ZIP 48068  
TELEPHONE 248-953-4623  
E-MAIL PARAGON LAND @ HOTMAIL.COM

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Murray D. Deagle (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Murray D. Deagle DATE 7-9-19

PRINT NAME: MURRAY D. DEAGLE

SIGNATURE OF PROPERTY OWNER Murray D. Deagle DATE 7-9-19

CONSTRUCT 8' HIGH PVC CLAY PANELLED  
FENCE, LOCATED AT REAR OF PROPERTY.  
80' IN LENGTH, 4x4 PVC POST IN GROUND  
BELOW FROST LINE W. CONCRETE,

THIS FENCE WILL ALLOW FUTURE PRIVACY  
FROM THE NEW PRESCHOOL PARKING  
LOT. LOT IS APPROX. 10' FROM REAR  
OF MY LOT. PREVIOUSLY THERE WAS  
A NATURAL GREEN AREA PRIOR TO  
THE SCHOOL EXPANSION.

JENNIFER D. DRABER

7-9-16

254 FLORENCE DR.  
TR. 7, M. 48-98

RECEIVED

JUL -9 2019

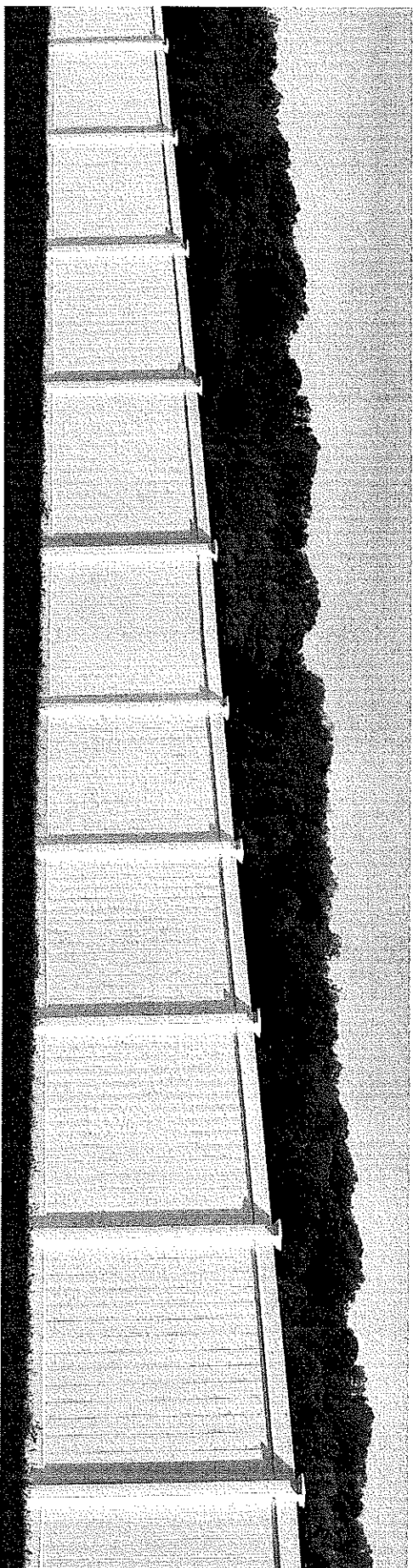
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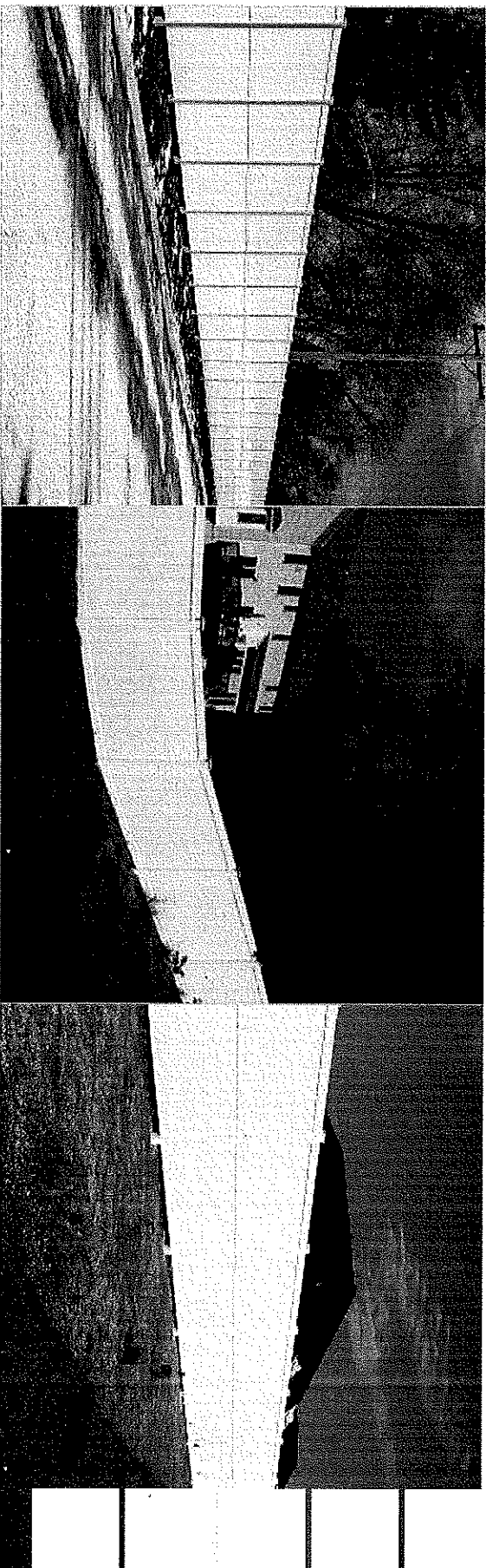
Home » Products » Privacy Fences » Rainier

## Rainier Vinyl Privacy Fence

Heavy Duty Vinyl Privacy Fence. Wind Certified to 130 MPH. Fast Shipping. Lifetime Warranty. Made in USA.

Our Rainier Vinyl Privacy Fence is our most popular privacy fence with a beautiful and contemporary style that is perfect for enhancing and defining your property. All of our vinyl privacy fence panels include aluminum in the bottom rail for industrial strength, boast the thickets rails, posts and pickets, and are ideal for creating complete privacy. With a transferable lifetime warranty built in,

our fences stand out among the rest! Compare the facts on our commercial grade vinyl privacy fence and see the difference. All of our Heavy Duty vinyl privacy fence panels are available in the following heights: 3 foot tall, 4 foot tall, 5 foot tall, 6 foot tall, 7 foot tall, 8' tall privacy fence, 9' tall, 10' tall privacy fence, 12 foot tall privacy fence and even 16 foot tall privacy fence! Fast nationwide shipping! Most orders are on the road in 2-3 business days.



Rainier vinyl privacy fence is very basic to install, as always we provide complete installation support. Unlike big box stores that push their low grade plastic fence that can blow away in the first storm, we provide expert support along with the very best vinyl fence manufactured in USA. When you have a question simply give us a call or email. You will not be dealing with a person working in the paint department nor the lawnmower aisle. We are fence experts and will provide you with expert support to ensure your fence is installed correctly the first time! Rainier Privacy Fence is available in White privacy fence panels, Tan privacy fence panels, Gray privacy fence panels, and Clay privacy fence plus color combo. Contact us 24/7 for a free quote: 507-206-4154

## Rainier Privacy Fence Pricing:

Each Section Includes (1) Post and (1) Cap. Bottom Horizontal Rail Includes Aluminum Insert for Commercial Strength. 7' tall + includes Aluminum Inserts in all 3 horizontal rails.

Price below in White. For Tan Color add 15% – For Clay Color add 20% – For Gray Color Add 20%\* For Color Combo- For Example White Posts, White Horizontal Rails, Tan Interior: Add 20%

Size	↕ Regular Price	↕ Sale Price	↕ Post Dimensions
3' Tall x 6' Wide Section	\$155	\$119	5" x 5" x 72"
3' Tall x 8' Wide Section	\$174	\$129	5" x 5" x 72"
4' Tall x 6' Wide Section	\$168	\$129	5" x 5" x 84"
4' Tall x 8' Wide Section	\$187	\$149	5" x 5" x 84"
5' Tall x 6' Wide Section	\$174	\$139	5" x 5" x 96"
5' Tall x 8' Wide Section	\$198	\$159	5" x 5" x 96"
6' Tall x 6' Wide Section	\$187	\$159	5" x 5" x 108"
6' Tall x 8' Wide Section	\$210	\$179	5" x 5" x 108"
7' Tall x 6' Wide Section	\$275	\$229	5" x 5" x 120"
7' Tall x 8' Wide Section	\$312	\$249	5" x 5" x 120"
8' Tall x 6' Wide Section	\$324	\$269	5" x 5" x 140"
8' Tall x 8' Wide Section	\$350	\$289	5" x 5" x 140"
10' Tall x 8' Wide Section	Contact us for pricing		
12' Tall x 8' Wide Section	Contact us for pricing		

Price Includes (1) Post & (1) Standard Pyramid Cap Per Section. [View Post Cap Options]

**NOTE: All Fence sections and gates can be modified (cut) on site to any width required!**

**All Pricing Above For White [Click Here For Color Options]**













Bldg Official Picture- 254 Florence



**D. APPEAL REQUEST, TROY OUTDOOR, LLC AND CROSSROADS OUTDOOR LLC/1654  
LIVERNOIS, 1654 LIVERNOIS** - An appeal of the Zoning Administrator's November, 2017  
suspension of Sign Permit PSG2017-0009.  
**CHAPTER 85**

**CITY OF TROY PLANNING DEPARTMENT  
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248-524-3364  
E-MAIL: [planning@troymi.gov](mailto:planning@troymi.gov)



**FEE \$50**

**NOTICE TO THE APPLICANT**

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 1654 Livernois Rd Troy, MI 48083  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-27-357-002
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
SIGN CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒



6. APPLICANT INFORMATION:

NAME \_\_\_\_\_  
COMPANY Troy Outdoor, LLC and Crossroads Outdoor LLC  
ADDRESS 2487 South Michigan Road, Suite  
CITY Eaton Rapids STATE MI ZIP 48827  
TELEPHONE 231-683-4229  
E-MAIL \_\_\_\_\_

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: \_\_\_\_\_

8. OWNER OF SUBJECT PROPERTY:

NAME PRITHIPAL SINGH  
COMPANY 1654 LIVERNOIS INC  
ADDRESS 1654 LIVERNOIS ROAD  
CITY TROY STATE MICHIGAN ZIP 48083  
TELEPHONE 248-974-1738  
E-MAIL P-panaych@yahoo.com

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Prithipal Singh (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Terry E. Hertz DATE 6/11/2019

PRINT NAME: TERRY E. HERTZ, Attorney For Applicant

SIGNATURE OF PROPERTY OWNER Prithipal Singh DATE 03/14/2019

PRINT NAME: PRITHIPAL SINGH

*Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.*

*The applicant will be notified of the time and date of the hearing by electronic mail.*



## SUBMITTAL CHECKLIST FOR SIGNS

### WALL SIGNS

#### REQUIRED   PROVIDED

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMPLETED APPLICATION.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING, MATERIALS, DIMENSIONS, PROJECTION FROM THE WALL AND METHOD OF ATTACHMENT TO THE WALL.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN ORDINANCE APPEALS CRITERIA, SEE PAGE 5.                                  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FRONT ELEVATION DRAWING OR PHOTO SHOWING DIMENSIONS OF BUILDING OR TENANT AREA (WHICHEVER IS APPLICABLE), AND DIMENSIONS OF ALL EXISTING AND PROPOSED WALL SIGNS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED.                        |

### GROUND SIGNS

#### REQUIRED   PROVIDED

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | COMPLETED APPLICATION.   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING RIGHT OF WAY LINE(S), PUBLIC EASEMENTS AND SIGN LOCATION. LABEL THE DISTANCE FROM RIGHT OF WAY LINE TO CLOSEST EDGE OF SIGN. See Attachment #1 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING LOCATION AND DIMENSIONS OF EXISTING GROUND SIGNS. See Attachment #2  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING DIMENSIONS AND THICKNESS OF SIGN, MATERIALS AND FOOTING DEPTH. See Attachment #3  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN CODE APPEALS CRITERIA, SEE PAGE 5.<br>See Attachment #4                               |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED.<br>See USB Drive                    |



## **SIGN CODE APPEALS CRITERIA**

Subject to the provisions below, the Board of Appeals shall grant specific variances from the requirements of this Chapter, upon a showing of each of the following:

- a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics
- b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location;
- c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.



# ATTACHMENT #1

Sign Site Plan- Site 11448 Address: 1654 Livernois Troy, MI  
Landowner: Fast Track Ventures LLC - APN: 88-20-27-357-002  
Property Zoning: M-R Build Setbacks: 30' from Troy Master Plan Street RoW  
Sign Dimensions: 10' x 20' face x 25' total height,



0 25 50 100 150 200 Feet

1 inch = 33 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl  
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 11/5/2016

Lockridge Outdoor Advertising, LLC  
Tony Lockridge - 727-415-4332  
tony@lockridgeoutdoor.com

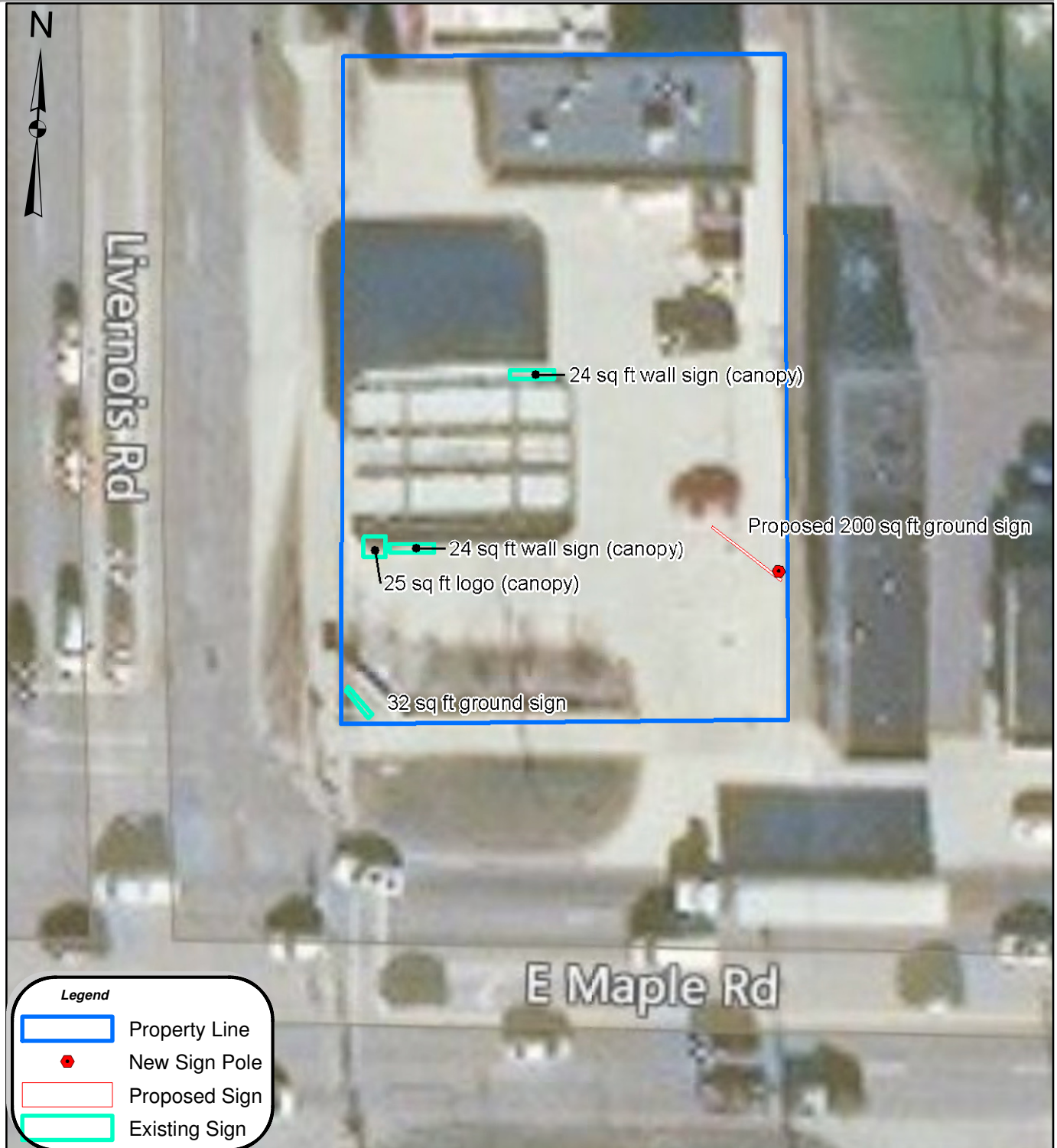
2110 Ranch Road 620 S.  
PO Box 341432  
Austin, TX 78734





## ATTACHMENT #2

Existing Sign Location Map  
Site 11448 Address: 1654 Livernois Troy, MI  
Landowner: 1654 Livernois Inc  
APN: 88-20-27-357-002



0 25 50 100 150 200 Feet  
1 inch = 33 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl  
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 3/14/2019

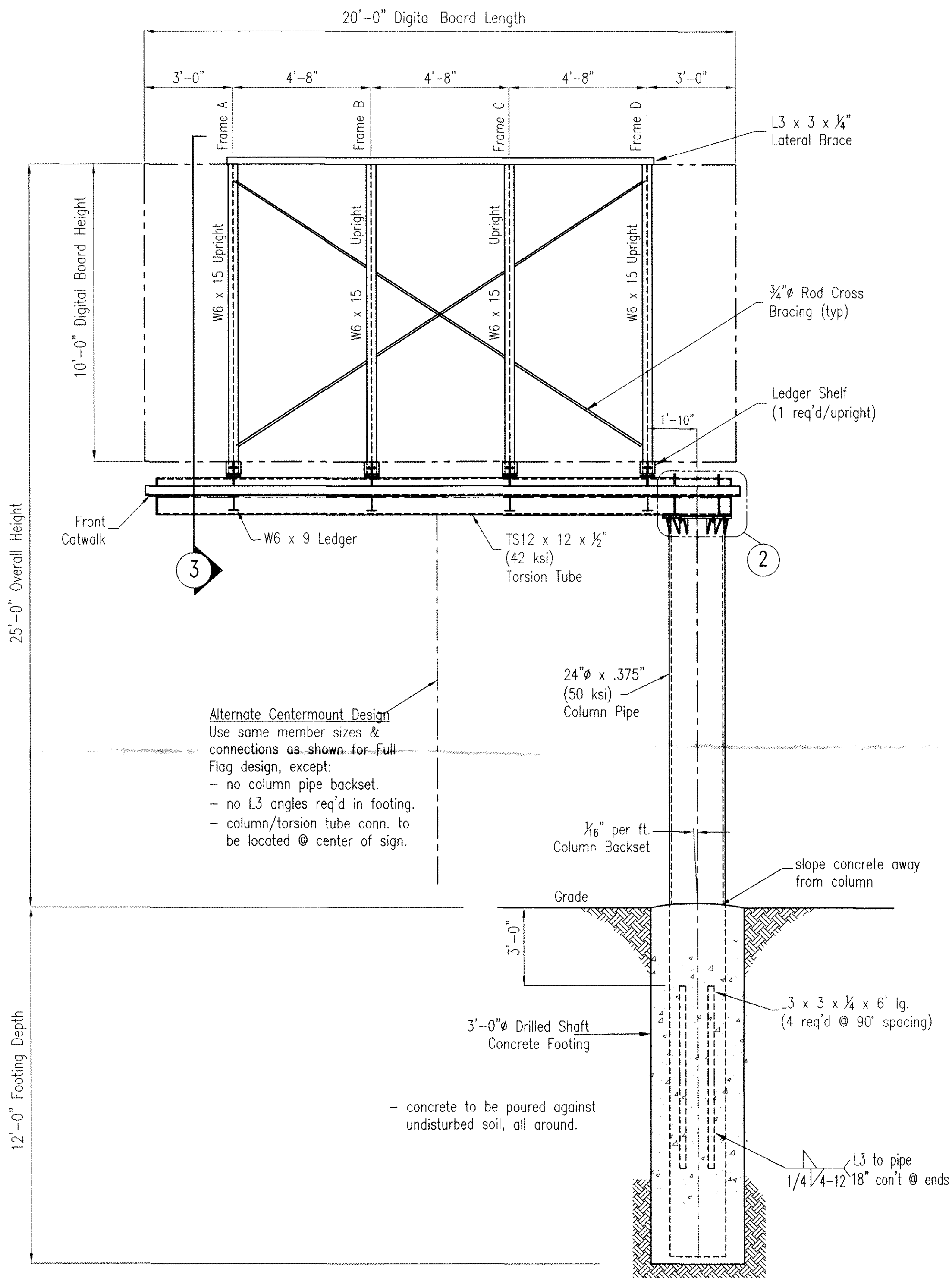
Troy Outdoor, LLC  
Brad Holstad - (O) 231.683.4224 ext. 102  
bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road  
Suite E  
Eaton Rapids, MI 48827

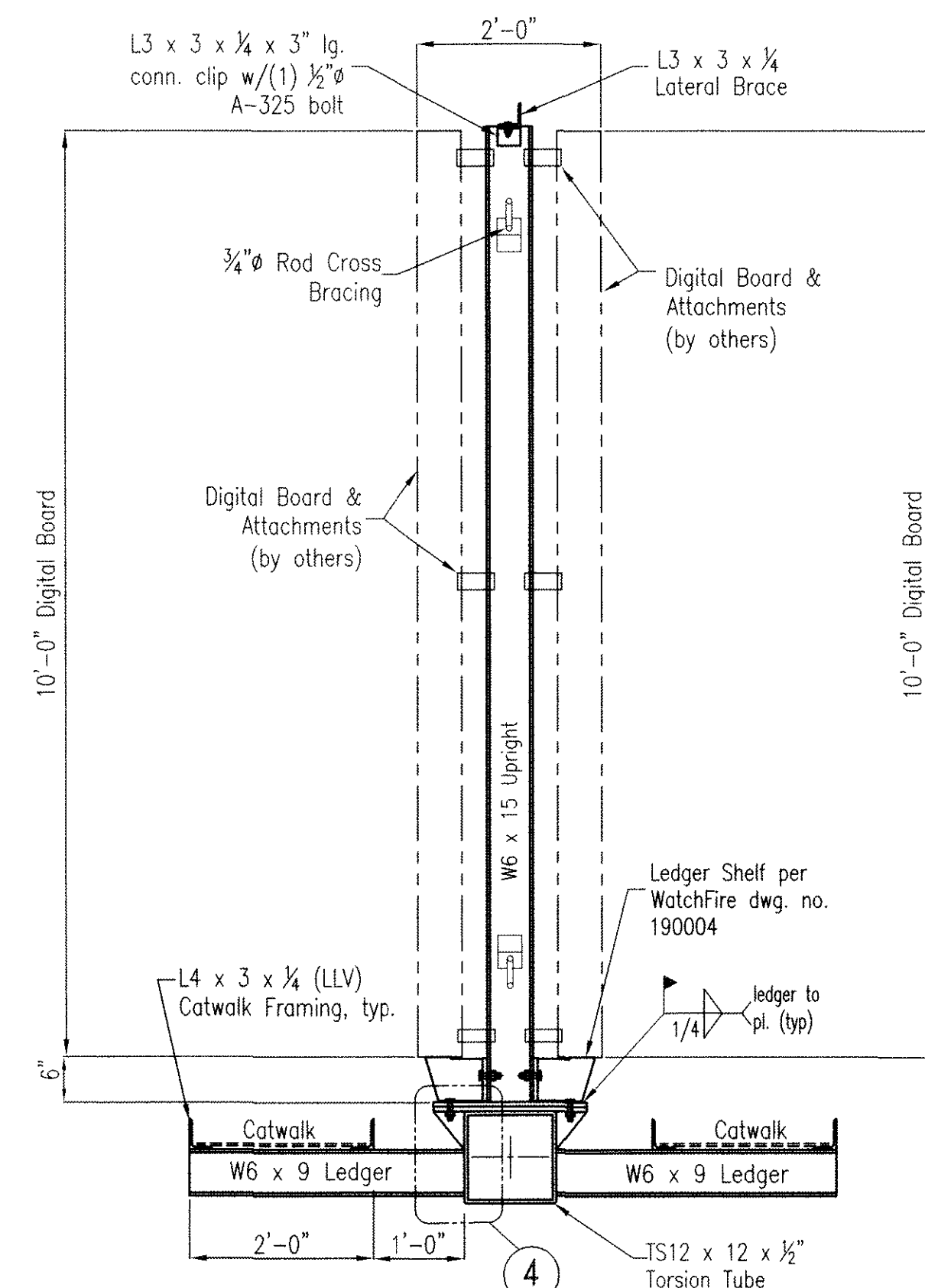




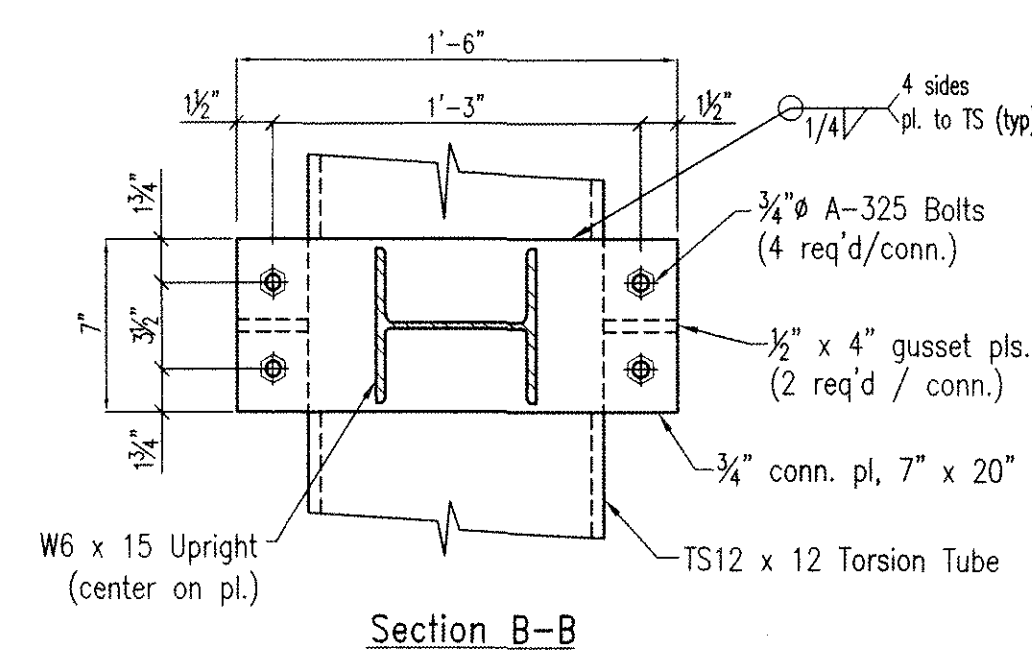
# ATTACHMENT #3



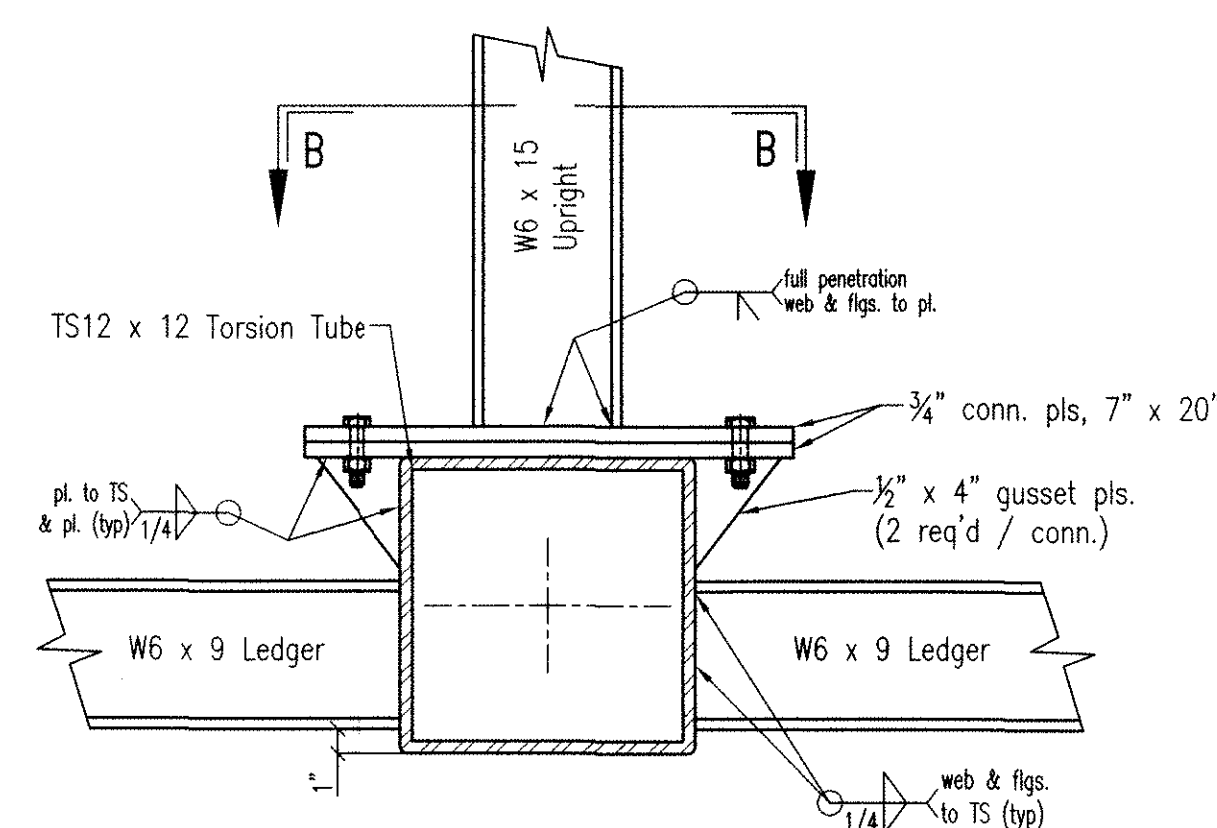
1 Front Elevation



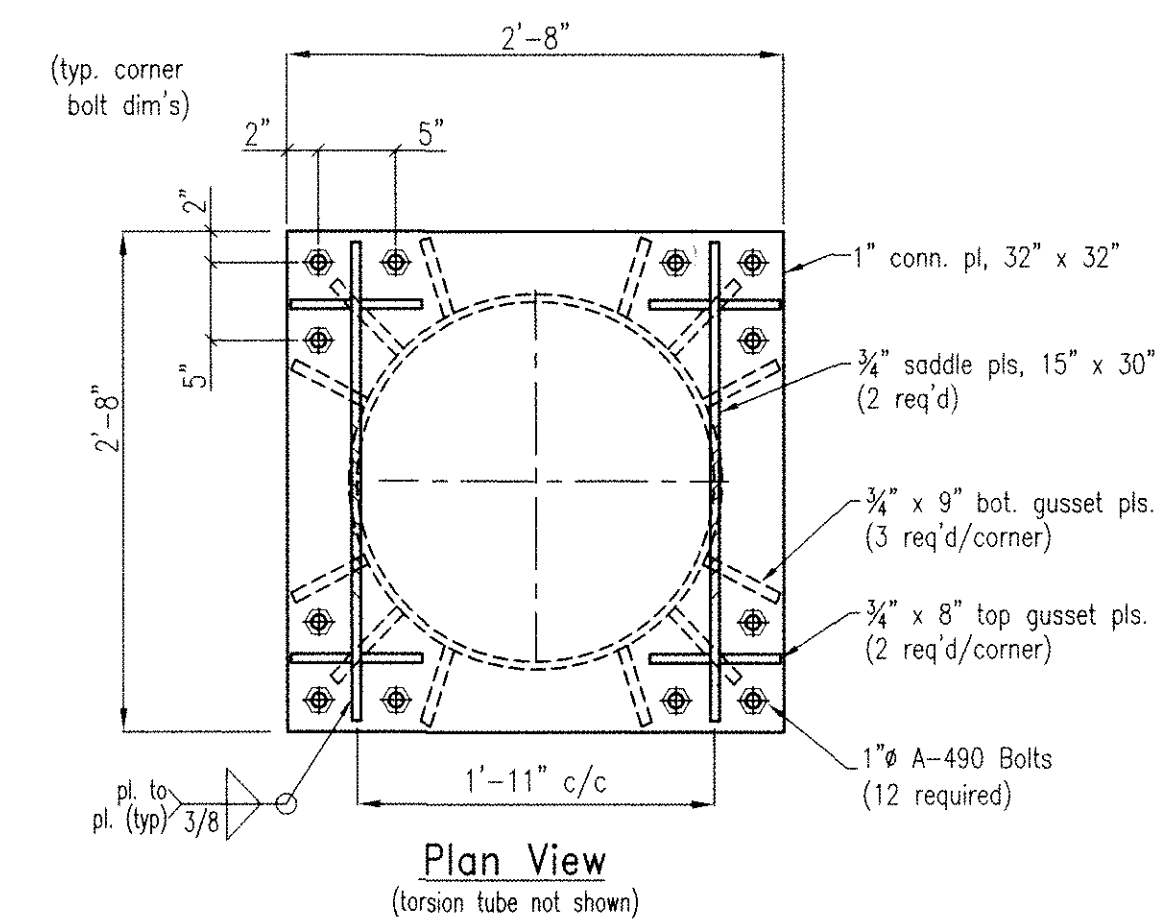
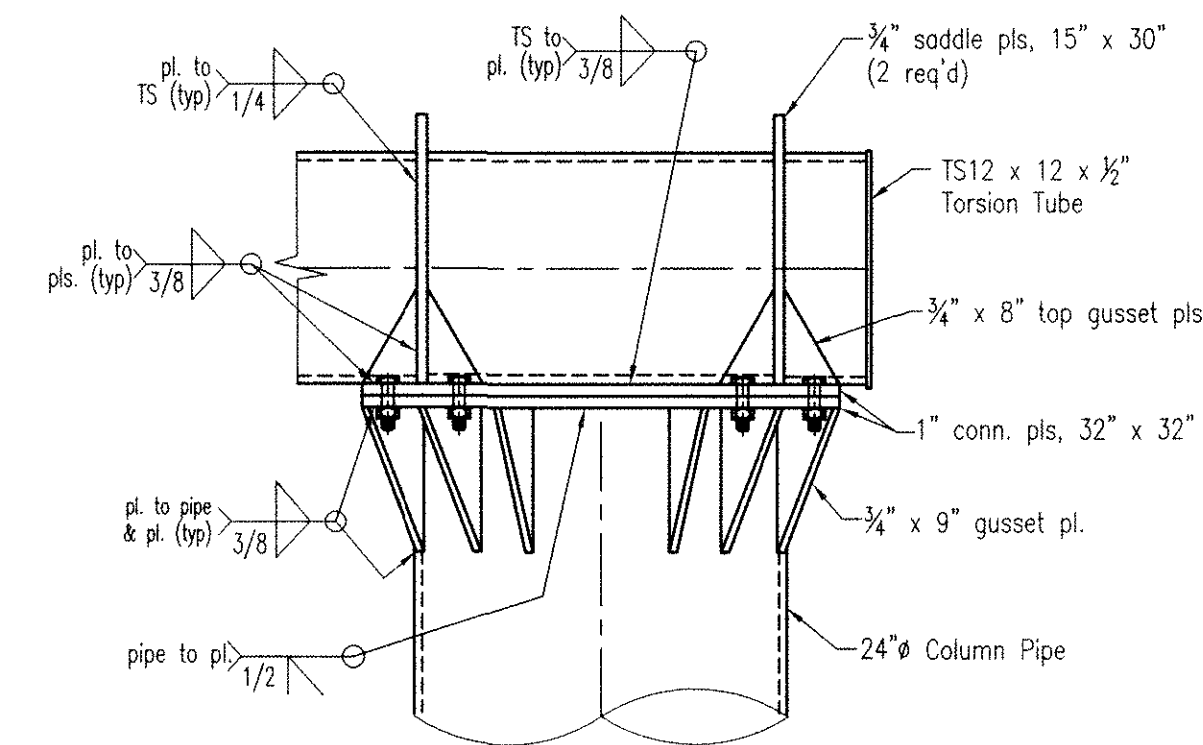
### 3 Frame Detail



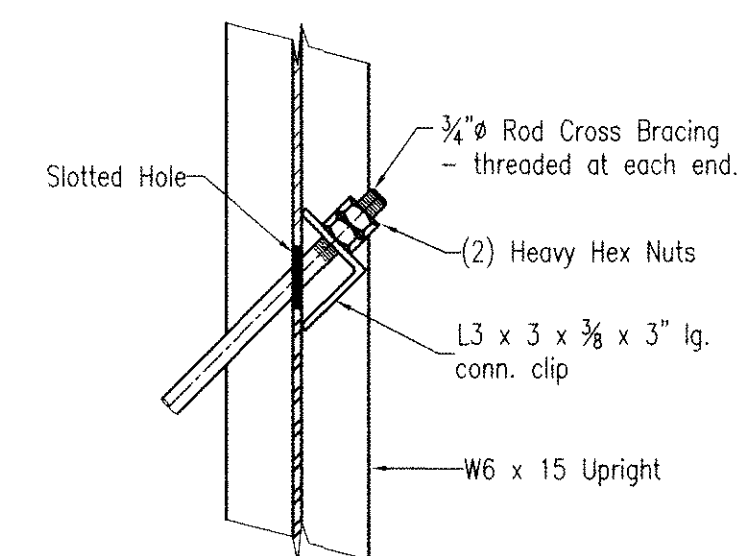
Section B-B



#### 4 Frame Connections

Plan View

## ② Column Connection



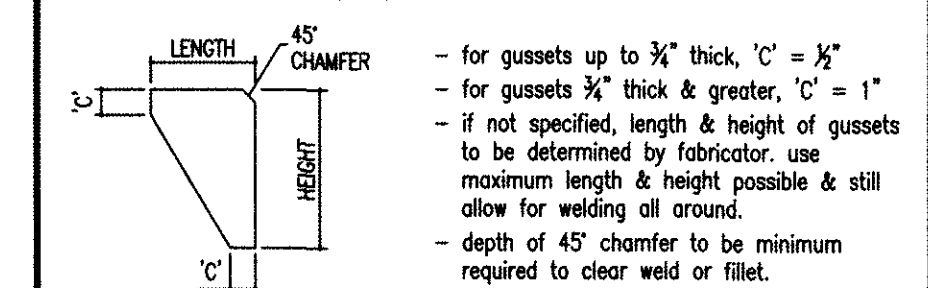
5 Cross Brace Detail  
- provide slotted holes in center  
uprights for pass-thru.

- ## NOTES
- 1) Footing design based on soil conditions of medium stiff clay, compact fine sand, or better. (allowable soil pressure = 175 psf/ ft. of depth below grade) Notify Engineer if other than these conditions exist.
  - 2) Provide  $\frac{1}{2}$ " cap plates for end of torsion tube. Cap plates to be welded, all around, to tube.
  - 3) Attached catwalks using  $\frac{1}{2}$ " J-Bolts (1 req'd/conn.)
  - 4) Catwalks grating to be 3.14 p.s.f. expanded metal grating. (weld to catwalk angles with  $\frac{1}{4}$ " fillet weld, 1" lg. @ 12" c/c)
  - 5) This structure has been designed to support (2) 2,400 lb. Digital Boards.
  - 6) Design & construction of Digital Board and attachment of board to structure, by others.

6/26/17	Modified front catwalk ledger connection.	R1
<u>DATE</u>	<u>REVISION</u>	<u>NO.</u>

### TYPICAL GUSSET DETAIL

USE THIS CRITERIA FOR ALL GUSSETS

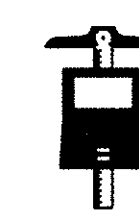


### GENERAL NOTES

- \* ALL NUTS AND BOLTS ARE TO BE ZINC PLATED. (except A-490 bolts, which are not to be plated, but primed and painted after installation)
- \* THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS IN FIELD BEFORE FABRICATION OR CONSTRUCTION, AND NOTIFY ENGINEER OF ANY DISCREPANCIES.
- \* ANY DEVIATIONS FROM THIS PRINT MUST BE APPROVED BY ENGINEER.
- \* STRUCTURAL STEEL SHALL CONFORM TO THE REQUIREMENTS OF A.S.T.M. A-36, AND WIDE FLANGES TO A.S.T.M. A992.
- (except structural tubing, which shall conform to A-500, grade B)
- \* ALL STEEL PIPE SHALL CONFORM TO THE REQUIREMENTS OF A.S.T.M. A-53, GRADE B OR A-232, GRADE 2; UNLESS OTHERWISE NOTED.
- \* ALL STRUCTURAL STEEL MEMBERS SHALL BE HOT-DIP GALVANIZED, AN ERECTED IN ACCORDANCE TO THE LATEST A.I.S.I. SPECIFICATIONS AND STANDARD PRACTICES.
- \* ALL WELDING SHALL BE IN ACCORDANCE WITH A.W.S. STANDARDS, WELDING TO BE PERFORMED BY CERTIFIED WELDERS USING E-70 ELECTRODES.
- \* CONCRETE SHALL ATTAIN A MINIMUM COMPRESSIVE STRENGTH OF  $F_c = 3000$  p.s.i. 28 DAYS, UNLESS OTHERWISE NOTED.
- \* CONTRACTOR TO ENSURE THAT ALL WORK IS PERFORMED IN ACCORDANCE WITH FEDERAL, STATE, & LOCAL CODES & ORDINANCES; AND O.S.H.A. SAFETY REGULATIONS.
- \* OWNER TO PROVIDE AN O.S.H.A. APPROVED FLEXIBLE LIFELINE SYSTEM FOR ALL WORKMANS.
- \* OWNER WITH OWNER ALL SIGN HEAD ACCESS REQUIREMENTS. (i.e. COLUMN & ACCESS LADDER(S), CROSSOVER/HAUL-AROUND CATWALKS, etc.,)
- \* VERIFY CORRECT STRINGER SPACING WITH OWNER PRIOR TO FABRICATION.
- \* H.A.G.L. = Height Above Ground Level

APPLICABLE BUILDING CODE AND WIND SPEED:

2015 I.B.C. (115 mph - Exp. C) - Risk Cat. II



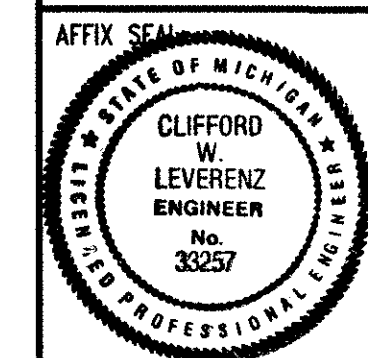
**Effective Engineering Solutions, LTD.**  
61 White Water Court  
New Lenox, IL 60451  
(815) 485-1470

PROJECT: 10' x 20' Full Flag or Centermount  
Back to Back Structure @ 25'-0" Overall Height

CLIENT: Lockridge Outdoor

THIS PRINT CONTAINS PROPRIETARY INFORMATION AND SHALL NOT BE USED, REPRODUCED, OR ITS CONTENTS DISCLOSED, IN WHOLE OR IN PART, WITHOUT WRITTEN CONSENT FROM THE ABOVE CLIENT.

THE UNDERSIGNED ENGINEER WILL NOT SUPERVISE THE FABRICATION AND ERECTION OF THIS STRUCTURE.



LOCATION:	Troy, MI
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EESL JOB NO: 72099

ENGINEERED BY: CWI

DRAWN BY: DBM

DATE DRAWN: 1/30/2017

DRAWING NO:  
1 of 1 71538-R1

*[Signature]*  
JUN 27 2017



## **ATTACHMENT #4**

### **Request for Relief from the Building Code Board of Zoning Appeals**

The Applicant is seeking a review from the Building Code Board of Zoning Appeals of the decision of the Zoning and Compliance Specialist Paul Evans to suspend the validly issued permit referenced in this application on November 17, 2017. The background of this application includes the United States District Court for the Eastern District of Michigan's opinion and order of January 22, 2019 informing the Plaintiffs that a review of the two issues submitted is necessary before the matter can be reviewed by the Court. This application seeks relief in two alternative requests.

#### **1. APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR**

The Applicants seek to appeal the action of the building department to suspend the permit at issue by letter dated November 21, 2017. The letter suspending is attached as **Attachment #4-A**. The Applicants disputed the action by letter dated December 6, 2017 to Mr. Evans. See **Attachment #4-B**. Counsel for the City disagreed with the opinion of Applicant's legal counsel and denied relief. See **Attachment #4-C**. A lawsuit was commenced in the United States District Court for the Eastern District of Michigan on June 29, 2018, which included a challenge to the action of November 17, 2017. On January 22, 2019, Judge Steeh opined as follows: *But Plaintiffs have not availed themselves of an appeal to the Board of Appeals which bears the power to hear their appeal and to grant variances from the sign ordinance. It remains possible that the Board of Appeals will determine that the sign moratorium does not apply to the Plaintiff's three permits or grant a variance based on the unfairness of suspending the permits for which Plaintiffs have reasonably relied.* The permit granted is attached as **Attachment #4-D**.

The essence of the argument that the moratorium was not applicable to the permit at issue is set forth in **Attachment #4-E**.

#### **2. REQUEST FOR VARIANCE**

If relief is not granted in favor of the Applicants on the appeal, then the Applicants request a variance. The required information is set forth in **Attachment #4-F**.





500 West Big Beaver  
Troy, MI 48084  
troymi.gov

Planning Department  
248.524.3364  
planning@troymi.gov

November 21, 2017

Mr. Tony Lockridge  
Troy Outdoor, LLC  
724 Abbot  
East Lansing, MI 48823

Dear Mr. Lockridge:

I am writing regarding Sign Permits PSG2017-0087, PSG2017-0088 and PSG2017-0009. On November 20, 2017, Troy City Council imposed a 180 day moratorium on any new signs. The City has inspected the requested locations for these new signs, and there is no evidence of any construction or any apparent work completed on any new signs. Thus the City is suspending these permits and work may not occur.

Additionally, the City is currently reviewing the City's ordinances to determine if these requested signs, and other signs that were requested at or about the same time, are compliant with the City's Sign Ordinance. City Council has directed City Administration to vigorously enforce all existing Sign Ordinance provisions. Your continued cooperation in this matter is appreciated.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Paul Evans'. The signature is written in a cursive, flowing style.

Paul Evans  
Zoning & Compliance Specialist

cc: Lori Bluhm, City Attorney  
Mitch Grusnick, Building Official & Code Inspector  
Gary Bowers, Housing & Zoning Inspector



# HONIGMAN

Honigman Miller Schwartz and Cohn LLP  
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712

Fax: (269) 337-7713

Lennon@honigman.com

December 6, 2017

**Via US Mail and E-Mail**

Mr. Paul Evans  
City of Troy - Zoning & Compliance Specialist  
500 West Big Beaver  
Troy, MI 48084

**Re: Troy Outdoor, LLC ("Troy") – City of Troy ("City")**

Dear Mr. Evans:

Our Firm represents Troy. As the City is aware, Troy currently holds three digital sign permits (collectively the "Sign Permits")<sup>1</sup> and has two pending digital sign permit applications (collectively the "Pending Applications")<sup>2</sup>.

To Troy's surprise, on November 20, 2017, the City imposed a moratorium "prohibiting the Troy City Administration from processing of permit applications". On the very next day, November 21, 2017, the City notified Troy that both the Sign Permits and the Pending Applications were "suspended" based on the moratorium. Later, on December 4, 2017, the City amended its moratorium to relieve/exempt applications for other types of sign permits from the moratorium.

We are writing to inform the City that the moratorium should not be effective against the signs covered by the Sign Permits or the Pending Applications. For the reasons discussed herein, Troy has the legal right to continue to establish the digital billboards contemplated by the Sign Permits and to continue the application process with regard to the Pending Applications.

## **Troy made Large Investments in Reliance on the Legal Right to Obtain the Sign Permits**

As the City has known for months, Troy has been actively pursuing establishment of digital billboards in several locations throughout the City. Throughout this lengthy process, Troy has complied with the letter and the spirit of the City's ordinance, policies and procedures, has been transparent and has openly communicated with the City. There is not, and has never been, any

---

<sup>1</sup> Troy had been issued the following sign permits (i) Fast Track Ventures, E/S 1658 Livernois at East Maple, PSG2017-0009; (ii) American Legion Post 140, N/S of Maple, 1000 feet from Crooks, PSG2017-0088; and (iii) Abro Twelve property, 2888 East Maple, PSG2017-0087 (collectively the "Sign Permits").

<sup>2</sup> Troy previously submitted applications for sign permits for (i) M&M Troy, 1634 John R; and (ii) MJP Estate, LLC, 2221 Livernois (collectively the "Pending Applications").



December 6, 2017

Page 2

doubt that the signs contemplated by the Sign Permits and the Pending Applications complied with the City's ordinance and had the legal right to approval.

In reliance on the City's ordinance and its representations, Troy made tremendous investments in expensive digital billboards and related improvements, procured billboard sites and commenced installation work at several locations. Now, at the eleventh hour and after in excess of a million dollars has been invested, the City has abruptly changed course, imposed a moratorium and informed Troy that the Sign Permits are "suspended" and that it cannot proceed with the Pending Applications. To make matters worse, the City has now further amended its moratorium to exclude numerous other sign types, but continues to target Troy's proposed signs with the moratorium. The damages to Troy of these improper "suspensions" mount each day that work is delayed and contribute to potential temporary (and possibly permanent) takings claims.

### **Troy Relied on the City and the Ordinance and Believed the Moratorium and Suspension Letter were Mistakes**

Troy's first reaction to the letter from the City, and the moratorium, was that there must be a mistake. Troy had been actively working with the City on the digital billboard project for months. Troy had identified and procured properties that comply with the ordinance, had actually received the Sign Permits and had invested in billboards, sites/locations, materials and services. Unfortunately, after multiple communications with the City, it was made clear to Troy that the "suspensions" of the Sign Permits and the Pending Applications were intentional.

To add insult to injury, when the City amended the moratorium, it actually exempted and relieved other sign applications from the burdens of its moratorium. As discussed further herein, the confluence of the City's knowledge, representations and actions, together with the timing of the moratorium and its targeted effect, render the moratorium improper and unfair and exacerbate Troy's damages.

### **The Moratorium Only Applies to Processing of Sign Applications - It Does Not Apply to Existing Sign Permits**

The City is advised that the "suspensions" of the Sign Permits do not comply with the clear and express terms of the moratorium. The moratorium expressly states that it only prohibits the "processing . . . of permit applications . . ." (emphasis added). In this case, Troy has actually obtained the Sign Permits. The "processing" of the "permit applications" (that resulted in the Sign Permits) is long complete. As a result, the moratorium does not apply to, and cannot be used to prevent, development and/or construction of the billboards that have received Sign Permits.

This language is included in both the original moratorium resolution and in the amendment to the moratorium. If the City Council expected otherwise, it certainly would have clarified the scope in the amendment. It appears obvious that the City administration has misread the scope of



December 6, 2017

Page 3

the moratorium or greatly exceeded its authority. Whatever the case, the signs that have received the Sign Permits cannot be "suspended" and installation work should be permitted to continue without further delay.

### **Use of a Moratorium to Prevent Processing of the Pending Applications is Improper and Unfair**

The City's position that the moratorium can be used to prevent processing of the Pending Applications is also improper and unfair. The Pending Applications comply with the ordinance and were submitted long before the moratorium was imposed. As the City well knows, using a moratorium to target one property owner or applicant over others and attempting to retroactively change their rights is improper. This motivation can be discerned from the reaction of the City to the Pending Applications (and the issuance of the Sign Permits for that matter), the City's institution of a moratorium as part of an effort to prevent (and likely change) Troy's rights after Troy made significant investments and the delivery of the "suspension" letter the day after the moratorium was imposed.

In addition, the reactive amendment to the moratorium, that exempted certain more favored types of signs, sign applications and applicants, casts further light on the City's motivation and bias and casts doubt on the viability of its moratorium as to the Pending Applications. Troy understands, and would agree, that application of the moratorium can (and should) apply to new digital billboard applications that have not been completed and/or formally submitted as of the date of the moratorium - - but the City cannot "stop the game and change the rules" with regard to the Pending Applications - - particularly after large investments have been made.

As the City considers whether the Pending Applications should be subject to the moratorium, it should be mindful that Michigan and other courts have held that a city council acts in bad faith when it rezones property or institutes moratoria to change rules midstream on a particular project which it would be otherwise be compelled to approve. In addition, Michigan courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets the standards for approval.

### **Request for Relief**

As stated the above, by its very clear and express language, the moratorium only applies to "processing . . . permit applications" and does not apply to the billboards that actually have Sign Permits. As such, those billboards are entitled to be installed without further delay.

In addition, under the current circumstances, it would be improper and unfair to "suspend" processing of the Pending Applications. The Pending Applications were developed in accordance



December 6, 2017

Page 4

with the existing ordinance, were submitted long before the moratorium was imposed and, under the current facts circumstances, it would be improper to use a moratorium to prevent consideration of the Pending Applications.

In light of all of the foregoing, we respectfully request that the City rescind its letter and allow construction to continue on the locations covered by the Sign Permits and re-commence processing of the Pending Applications. If the City disagrees or fails to respond within seven (7) days of the date of this letter, Troy may have no choice but to take legal action to protect its rights. As always, please feel free to contact me with any questions.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP



J. Patrick Lennon

cc: R. Charles McLavy



ATTACHMENT #4-C



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

City Attorney's Office  
248-524-3320

December 15, 2017

J. Patrick Lennon  
Honigman, Miller, Schwartz, and Cohn, LLP  
350 East Michigan Avenue; Suite 300  
Kalamazoo, MI 49007-3800  
Lennon@honigman.com

**Re: Troy Outdoor, LLC**

Dear Mr. Lennon:

The letter you sent to Paul Evans, City of Troy Zoning & Compliance Specialist, was forwarded to me for review. In this letter, you ask the City to reconsider its November 21, 2017 suspension of three sign permits on behalf of your client, Troy Outdoor, LLC. These signs were proposed to be located at 1654 Livernois Road; 1340 W. Maple; and 2888 E. Maple in the City of Troy. For reasons set forth below, the City is unable to grant your requested relief.

After your client's rapid and instantaneous installation of five separate 200 foot digital signs in the City, the Troy City Council imposed a 180 day moratorium on November 20, 2017 for all signs, which was slightly amended on December 4, 2017 to limit the 180 day moratorium to electronic message center digital signs, ground signs exceeding 36 square feet in size, wall signs exceeding 100 square feet in size, and ground signs exceeding 10 feet in height. The moratorium was imposed due the recent influx of large digital ground signs that have proliferated the City's business corridors. It is readily apparent that such signs will have a direct negative impact on the health, safety, and welfare of the citizens of Troy because the signs will be unduly distracting to motorists and pedestrians and thus likely to create traffic hazards and reduce the effectiveness of public safety signs needed to direct and warn the public. The purpose of the moratorium is to allow the City to consider and evaluate its sign ordinance provisions and adopt appropriate amendments. In all likelihood, the amendment will prohibit digital signs of the size and height proposed by your client in its sign permit applications, resulting in a denial of the two pending applications and a revocation of the three permits.



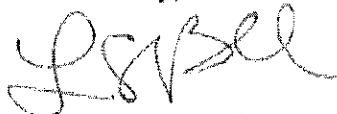
J. Patrick Lennon  
December 15, 2017  
Page -2-

In your letter, you claim the current moratorium only prohibits the "processing ... of permit applications..." and contend the moratorium is not applicable to the permits that have already been issued. However, the term processing is a broad term that encompasses all actions taken as a result of the issuance of the permit including construction, inspections, and final approval. Moreover, the Zoning & Compliance Specialist as the designee of the Zoning Administrator has authority under the sign ordinance to prohibit any sign that is unsafe and deemed a hazard to health and safety. Mr. Evans' letters of November 21, 2017 suspending your client's permits were issued pursuant to that authority.

You also claim in your letter that "courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets standards for approval." However, the law is clear that issuance of a permit itself does not confer vested rights unless actual construction has commenced. As noted in the letters of Mr. Evans, there is no evidence of any construction or any work completed on any of the three signs for which a permit was approved. Additionally, the City's decision to impose a moratorium is for the sole purpose of protecting the health, safety, and welfare of its citizens. The City has not acted in bad faith.

If you should have any questions regarding this matter, please call me at (248) 524-3320.

Sincerely,



Lori Grigg Bluhm  
City Attorney  
[bluhmlg@troymt.gov](mailto:bluhmlg@troymt.gov)

cc: Paul Evans





\*PSG2017-0009%PSG%150.00\*

**Sign Permit No: PSG2017-0009**

Building Department  
**Inspection: (248) 689-5744**  
 Phone: (248) 524-3344

500 W. Big Beaver Road  
 Troy, Michigan 48084  
 Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120  
 www.troymi.gov

1654 LIVERNOIS Location  
 88-20-27-357-002 Lot: 82+-  
 Subdivision: ADDISON HEIGHTS  
 Zoning: H-S, R-1A Use Group: M  
 Construction Type:

Owner

FAST TRACK VENTURES LLC  
 1654 LIVERNOIS  
 TROY MI 48083-1727

Issued: 02/24/2017

**FOR INSPECTIONS - CALL (248) 689-5744**  
*Inspections called in by 4:40 P.M. will be scheduled the next business day. \*\*NOTE NEW INSPECTION CUT-OFF TIME\*\**

Applicant

CROSSROADS OUTDOOR LLC  
 CROSSROADS OUTDOOR LLC  
 2487 S. MICHIGNAN ROAD STE E  
 East Lansing MI 48823  
 (727) 415 4332

**Work Description:** GROUND SIGN 10' 20' = 200 SF DIGITAL EMC. CITY MEASUREMENT INSPECTION REQUIRED BEFORE EMC IS PLACED ON POLE

**Special Stipulations:** SEE USE RESTRICTIONS ON PERMIT DOCUMENTS

Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Signs Ground Signs	Signs	200.00	150.00

**Sign**

**Total Due: \$150.00**

**PAID on: 02/24/2017**

**Check#: 2865**

Payment Validation

This permit is issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[ ] TREASURER COPY

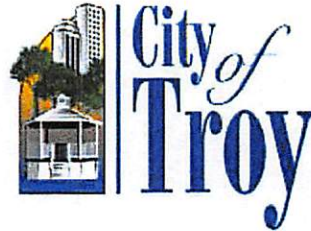
[ ] DEPARTMENT COPY

[ ] CONTRACTOR COPY



# SIGN PERMIT APPLICATION

PLANNING DEPARTMENT  
500 W BIG BEAVER  
TROY MI 48084  
248 524 3359  
[evanspm@troymi.gov](mailto:evanspm@troymi.gov)  
SIGN ORDINANCE ONLINE [Ctrl+click here](#)



## APPLY VIA E-MAIL

E-MAIL COMPLETED APPLICATION AND SUPPORTING DOCUMENTS TO  
[evanspm@troymi.gov](mailto:evanspm@troymi.gov)

### SIGN PERMIT FEE SCHEDULE

SIZE	WALL SIGN PAINTED ON WALL	WALL SIGN STRUCTURALLY ATTACHED	GROUND SIGN
UNDER 100 SQ. FT.	\$ 75.00	\$ 100.00	\$ 125.00
100 TO 199 SQ. FT.	\$100.00	\$ 125.00	\$ 150.00
200 TO 300 SQ. FT	\$ 100.00	\$150.00	\$ 175.00
SPECIAL EVENT	\$30.00		

PROPERTY ADDRESS: 1654 Livernois

#### APPLICANT INFORMATION:

NAME Tony Lockridge 727-415-4332 Contact for Permit info

COMPANY Crossroads Outdoor

ADDRESS 2487 South Michigan Road, Suite E

CITY Eaton Rapids STATE MI ZIP 48827

TELEPHONE 231-683-4229

E-MAIL tlockridge@hotmail.com

TYPE OF SIGN:

GROUND ☒

WALL ☐

SPECIAL EVENT ☐

SPECIAL EVENT SIGNS: What 7 day period will signs be up? \_\_\_\_\_



## SIGN PERMIT APPLICATION

ILLUMINATED SIGN?

YES ☒

NO ☐

ELECTRICAL CONNECTIONS BY: Electrician will pull electrical permit

DOWNLOAD AN ELECTRICAL PERMIT APPLICATION [HERE](#).

ARE OTHER SIGNS ON THE PROPERTY? YES ☒ NO ☐ IF YES, DESCRIBE TYPE AND SIZE BELOW:

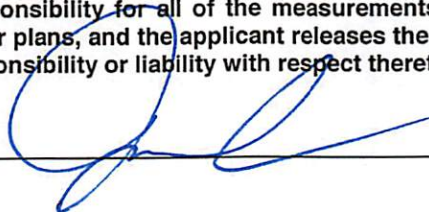
Small pylon sign with gas prices at southwest corner approx 11' overall height and face dimensions  
less than 36 sq ft

Canopy Wall signs (3) approx 33 sq. ft. each

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto

SIGNATURE OF APPLICANT



DATE

8 January 2016

PRINT NAME: Jon Lockridge



Sign Site Plan- Site 11448 Address: 1654 Livernois Troy, MI  
Landowner: Fast Track Ventures LLC - APN: 88-20-27-357-002  
Property Zoning: M-R Build Setbacks: 30' from Troy Master Plan Street RoW  
Sign Dimensions: 10' x 20' face x 25' total height,



1 inch = 33 feet

Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl

Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 11/5/2016

Lockridge Outdoor Advertising, LLC  
Tony Lockridge - 727-415-4332  
tony@lockridgeoutdoor.com

2110 Ranch Road 620 S.  
PO Box 341432  
Austin, TX 78734





January 9, 2017

**Subject:** LED Billboard Sign Brightness & Capabilities

**Brightness Levels:** The brightness level of all Watchfire digital billboards is pre-set at the factory not to exceed 7,500 NITS during daytime operation and 300 NITS during nighttime operation. These settings are compliant with standards as established by the Outdoor Advertising Association of America (OAAA). Both day-and-night maximum brightness is capped via software and cannot be brightened in the field.

A NIT is a measure of luminance and normally used to express the brightness of LEDs. LED sign brightness commonly converted from NITs to foot-candles. Foot-candle measurements are generally taken at night from a distance of 100 feet or more. Watchfire billboard displays will not illuminate more than 0.3 foot-candles above ambient light when measured at night at a specified distance.

**Automatic Dimming Capability:** All Watchfire digital billboards automatically adjust their brightness as ambient light levels change. A 100-step photocell automatically and immediately adjusts the sign's light levels during storms and at dusk. At night, the LED operates at approximately 4% of its' daytime maximum brightness. The night time percentage varies based on ambient light conditions. A billboard operator can adjust the billboard to run dimmer than the standard established by the factory, but not brighter.

~~**Hold Time:** The hold time for an advertisement is controlled by the billboard operator and can be adjusted to standards established by local regulation. Most require an ad to hold for a minimum of 6-8 seconds. Tests run by the OAAA indicate a dwell time of 3 seconds is optimum for conveying the information in an advertisement in a safe manner. Watchfire billboards have no animation, flashing, or scintillating capabilities and can only display static messages at the preset dwell times.~~

**Transition settings:** All Watchfire billboards are designed to change from one ad to the next instantaneously. This cannot be changed by the billboard operator. The boards have no transition capabilities between slides such as slide-ins or slide outs similar to PowerPoint type presentations.

I hope this information has been of assistance. If you have questions or need more information please do not hesitate to contact me.

Thank you,

Ray Digby

[ray.digby@watchfiresigns.com](mailto:ray.digby@watchfiresigns.com)

Phone: (800) 637-2645

Fax: (217) 442-1020 | [watchfiresigns.com](http://watchfiresigns.com)



#### ATTACHMENT #4-E

On November 20, 2017, the Troy City Council enacted a resolution declaring a moratorium on the issuance of sign permits under the sign ordinance. The language of the sign permit moratorium resolution contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 21st day of November 2017, the Troy City Council hereby **IMPOSES** a 180 day moratorium, prohibiting the Troy City Administration from processing any permit applications for all signs. This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions, and especially the provisions allowing for ground signs with displays in excess of 100 square feet.*

The language adopted prohibited staff for the City from *processing any permit applications for all signs*.

On December 4, 2017, the Troy City Council enacted a new resolution declaring a moratorium for the issuance of sign permits under the sign ordinance. By its terms, the December 4, 2017 moratorium stuck the entire moratorium as enacted on November 20, 2018 and replacing it with newly adopted language. The resolution of December 4, 2017 also contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 4th day of December 2017, the Troy City Council hereby **IMPOSES** a new 180 day moratorium, prohibiting the Troy City Administration from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

*This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions.*

The essence of the above language is to prohibit staff *from processing any of the following permit applications for property in the City of Troy:*



- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This revision served to narrow the subset of signs target for more intrusive regulation, which includes signs similar in nature to that approved in Applicants' approved permit.

Based upon the language of the moratoriums at issue, Ms. Lori Grigg Blum, city attorney for the City, opined in response to a letter from an attorney on behalf of the Applicants, that the moratorium at issue would be interpreted by the city in such a manner as requiring the suspension of the permit at issue in this case.

Applicants initially submit that the ordinances at issue are clear and unambiguous in their terms. One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)). When applying this standard, the language of the moratorium is not in need of interpretation and supports the Applicants request.

In this case, a review of the moratorium ordinances at issue reveals a clear fact that the ordinances did not serve to repeal any previously issued permit. No repeal language is included in the ordinance enactments. Rather the ordinances specifically prohibit processing any of the following permit applications:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height.*

Nothing in the language of the ordinances suggests that this prohibition is to be applied retroactively to already approved permits applications, such as the one granted to Applicants.

The language used in the ordinance is clear and unequivocal. Yet, in the face of the plain and specific language of the ordinance, City staff, including its attorney, have taken the position that the ordinance language of *processing any of the following permit applications* should somehow be retroactively applied to previously approved applications where the permits were in fact already issued. Such an interpretation violates the expressed language of the ordinance and extends the application to a much broader group of persons than specified, i.e. to persons holding validly issued permits instead of just applicants for sign permits.

Essentially, the City via its staff, has chosen to interpret the words *processing* and *applications* beyond their normal customary meaning. Such action violates the rules of statutory construction. Absent a specific definition within the legislative enactment words used in an enactment must be given their ordinary meaning. *Luttrell v Dep't of Corrections*, 421, Mich 93; 365 NW2d 74 (1984).

One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement*



*Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)).

Meriam-Webster online dictionary ([www.merriam-webster.com/dictionary/process](http://www.merriam-webster.com/dictionary/process)) defines the term “processing”, to the extent applicable to this case, as:

- 1 **a:** [PROGRESS](#), [ADVANCE](#) - in the *process* of time, **b:** something going on: [PROCEEDING](#)
- 3 **a:** the whole course of [proceedings](#) in a legal action, **b:** the summons, mandate, or writ used by a court to compel the appearance of the defendant in a legal action or compliance with its orders

Free Dictionary online dictionary ([www.thefreedictionary.com/processing](http://www.thefreedictionary.com/processing)) defines the term *processing* in a relevant part as *the act or process of treating or preparing something by a special method*. This same publication defines the term *process* as: *A series of actions, changes, or functions bringing about a result*. Given these definitions, the term *processing* clearly refers to the application process that leads either to a grant or denial of a permit. Once issued, the permit grants rights to proceed based upon the authority granted. The applicant’s status changes from that of applicant to that of permit holder. Once the permit is issued, there is no longer an application process in play. The moratorium language did not revoke the right to proceed on the terms of the permit, rather it specifically prohibited staff from processing applications.

Meriam-Webster online dictionary ([www.merriam-webster.com/dictionary/process](http://www.merriam-webster.com/dictionary/process)) defines the term *application*, as relevant to this proceeding, as:

- 1 an act of [applying](#): **a** (1): an act of putting something to use - *application* of new techniques (2): a use to which something is put - new *applications* for old remedies, **b:** an act of administering or laying one thing on another - *application* of paint to a house **c:** [assiduous](#) attention - succeeds by *application* to her studies
- 2 **a:** [REQUEST](#), [PETITION](#) - an *application* for financial aid, **b:** a form used in making a request - filling out an *application*

Free Dictionary online dictionary ([www.thefreedictionary.com/application](http://www.thefreedictionary.com/application)) defines the term *application* in a relevant part as:

1. the act of applying to a particular purpose or use.
3. the act of asking for something: *an application for leave*.
4. a verbal or written request, as for a job, etc: *he filed his application*.

Looking at the above language, the application is merely the formal act of requesting relief, in this case a permit to do that which was authorized under the law at the time of the submission.

It also helps in this analysis to contrast the term *application* with the term *permit*. Merriam-Webster online dictionary ([www.merriamwebster.com/dictionary/permit](http://www.merriamwebster.com/dictionary/permit)) defines the term *permit*, to the extent applicable herein as: *a written warrant or license*



*granted by one having authority*. The permit is not an application, it is a license to act. To the extent the City fails to draw the distinction between the term *application* and the term *permit* it violates the rules of statutory construction by giving a meaning to an enactment not supported by the clear language of that enactment. An application IS clearly distinctive from the concept of a permit.

It is clear that the language of the Moratorium ordinance did not make it applicable to the Permit granted to the Applicant, which is set forth as **Attachment #4-D**.



## ATTACHMENT #4-F

### Justification for BCBA Appeal Request under the Sign Code

The appeal should be granted because the application was originally submitted and granted when the City's sign code allowed the sign as it was applied for. This is a very unique circumstance. The City has subsequently made changes to its sign code but the applicant could not have known that it could not apply for, permit, and install signs under the sign code as it stood at that time. In reliance on the code, the applicant spent substantial time and money on the following: property research, travel, mileage, leasing, site plans, sign structure engineering, LED schematics, permit fees, lease payments, structure fabrication, site preparation work, structure delivery and storage, and numerous other items. Through no fault of its own, the applicant has been greatly harmed. Other properties were issued sign permits at the same time and have been able to benefit from signs materially identical to this one.

The appellant meets all criteria for the following reasons:

*a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.*

This is the only property in the vicinity, and one of the very few in the City, that had a sign application duly granted and permitted, but not yet built, before the City chose to reconsider its sign code. Several other parcels were issued permits at the same time and the signs have been installed and are operating. This is a unique status not shared by any other parcels in the area.

*b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location.*

This application was submitted at a time when it was in total conformance to the City sign code. Thus, conformance to unknown future requirements was truly impossible. This is a totally unique situation.

*c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature.*

The problem is not personal in any way. These circumstances came about because the City chose to change its sign code after the permit had been issued.

*d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant.*

This unfortunate situation did not arise through any fault of the applicant.

*e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.*

The sign is appropriate and was allowed under the code at the time of application. It will not harm any of the cited interests in this commercial area.











**E. APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/ABRO  
TWELVE PROPERTY, 2888 E MAPLE** - An appeal of the Zoning Administrator's November, 2017  
suspension of Sign Permit PSG2017-0087  
**CHAPTER 85**



**CITY OF TROY PLANNING DEPARTMENT  
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248-524-3364  
E-MAIL: [planning@troymi.gov](mailto:planning@troymi.gov)



**FEE \$50**

**NOTICE TO THE APPLICANT**

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 2888 E Maple Rd Troy, MI 48083  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-36-226-073
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
SIGN CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒

**RECEIVED**  
**JUN 14 2019**  
**PLANNING**



6. APPLICANT INFORMATION:

NAME \_\_\_\_\_  
COMPANY Troy Outdoor, LLC and Crossroads Outdoor LLC  
ADDRESS 2487 South Michigan Road, Suite E  
CITY Eaton Rapids STATE MI ZIP 48827  
TELEPHONE 231-683-4229  
E-MAIL \_\_\_\_\_

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: \_\_\_\_\_

8. OWNER OF SUBJECT PROPERTY:

NAME Sadier Abro  
COMPANY ABRO TWELVE PROPERTY-15 & DEQUINDRE  
ADDRESS 3807 Beechcrest  
CITY Rochester STATE MI ZIP 48309  
TELEPHONE 248-798-6162  
E-MAIL jonvar\_abro@yahoo.com


The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Sadier Abro (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT  DATE 6/1/2019

PRINT NAME: Terry E. Heiss, Attorney for Applicants

SIGNATURE OF PROPERTY OWNER  DATE 2-19-19

PRINT NAME: Sadier Abro

*Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.*

*The applicant will be notified of the time and date of the hearing by electronic mail.*



## SUBMITTAL CHECKLIST FOR SIGNS

### WALL SIGNS

#### REQUIRED   PROVIDED

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMPLETED APPLICATION.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING, MATERIALS, DIMENSIONS, PROJECTION FROM THE WALL AND METHOD OF ATTACHMENT TO THE WALL.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN ORDINANCE APPEALS CRITERIA, SEE PAGE 5.                                  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FRONT ELEVATION DRAWING OR PHOTO SHOWING DIMENSIONS OF BUILDING OR TENANT AREA (WHICHEVER IS APPLICABLE), AND DIMENSIONS OF ALL EXISTING AND PROPOSED WALL SIGNS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED.                        |

### GROUND SIGNS

#### REQUIRED   PROVIDED

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | COMPLETED APPLICATION.   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING RIGHT OF WAY LINE(S), PUBLIC EASEMENTS AND SIGN LOCATION. LABEL THE DISTANCE FROM RIGHT OF WAY LINE TO CLOSEST EDGE OF SIGN. See Attachment #1 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING LOCATION AND DIMENSIONS OF EXISTING GROUND SIGNS. See Attachment #2  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING DIMENSIONS AND THICKNESS OF SIGN, MATERIALS AND FOOTING DEPTH. See Attachment #3  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN CODE APPEALS CRITERIA, SEE PAGE 5. See Attachment #4                                  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. .<br>See USB Drive                  |



## **SIGN CODE APPEALS CRITERIA**

Subject to the provisions below, the Board of Appeals shall grant specific variances from the requirements of this Chapter, upon a showing of each of the following:

- a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics
- b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location;
- c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.



## ATTACHMENT #1

Sign Site Plan- Site 11510 Site Address: 2888 E Maple Rd Troy, MI  
Landowner: ABRO Twelve Property-15 & Dequindre - APN:88-20-36-226-073  
Zoning: N-N (B) Build Setbacks: 30' from Troy Master Plan Street RoW (front property line)  
Sign Dimensions: 10' x 20' face x 25' total height



### Legend

-  Property Line
-  New Sign Pole
-  Sign Structure
-  30' ROW Setback

0 40 80 160 240 320 Feet

1 inch = 49 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl  
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 4/14/2017

Troy Outdoor, LLC  
Brad Holstad - (O) 231.683.4224 ext. 102  
bradholstad@crossroadsoutdoor.com

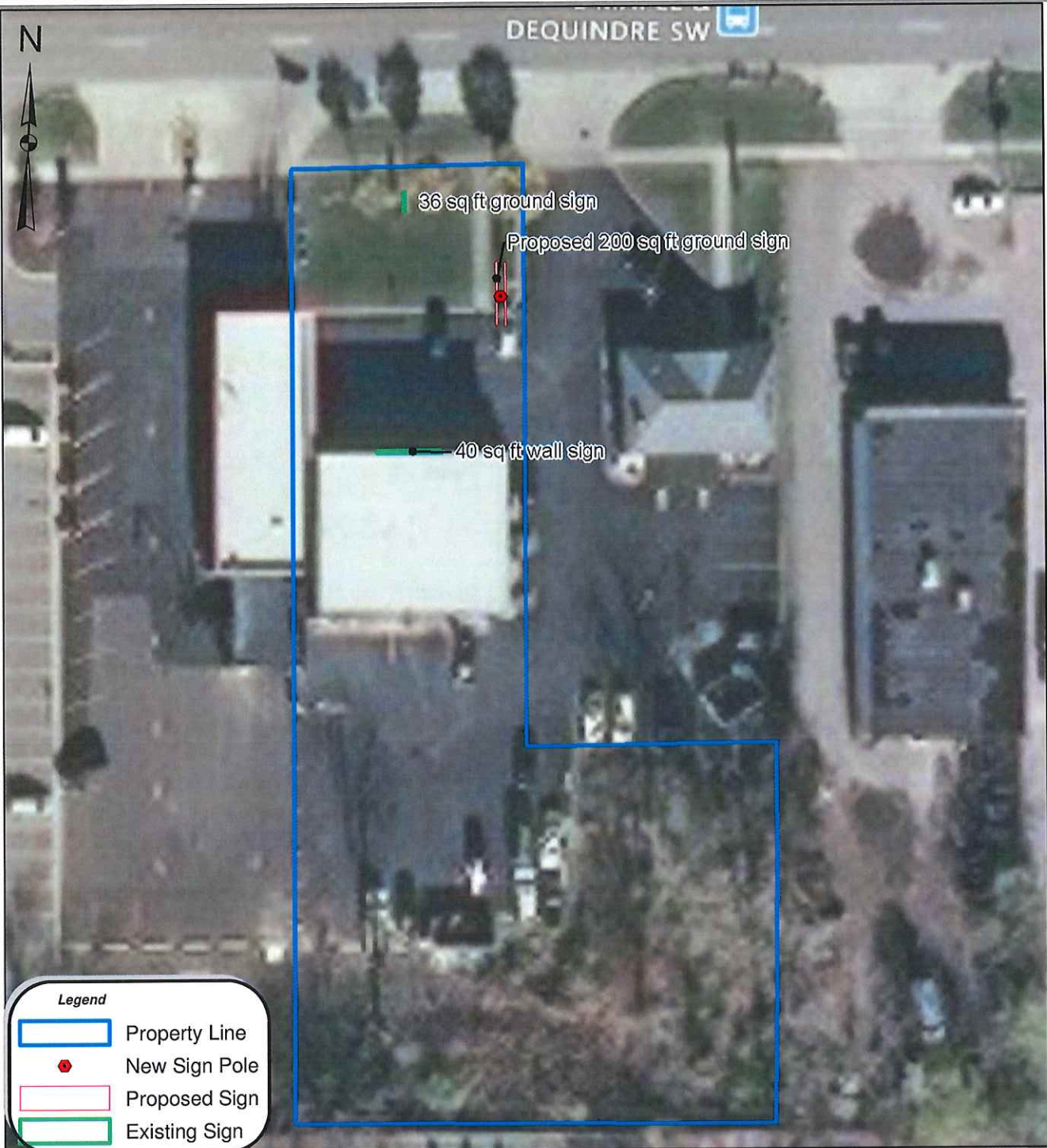
2487 S. Michigan Road  
Suite E  
Eaton Rapids, MI 48827

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## ATTACHMENT #2

Existing Sign Location Map- Site 11510 Site Address: 2888 E Maple Rd Troy, MI  
Landowner: ABRO Twelve Property-15 & Dequindre - APN:88-20-36-226-073



0 37.5 75 150 225 300 Feet

1 inch = 45 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl  
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 3/14/2019

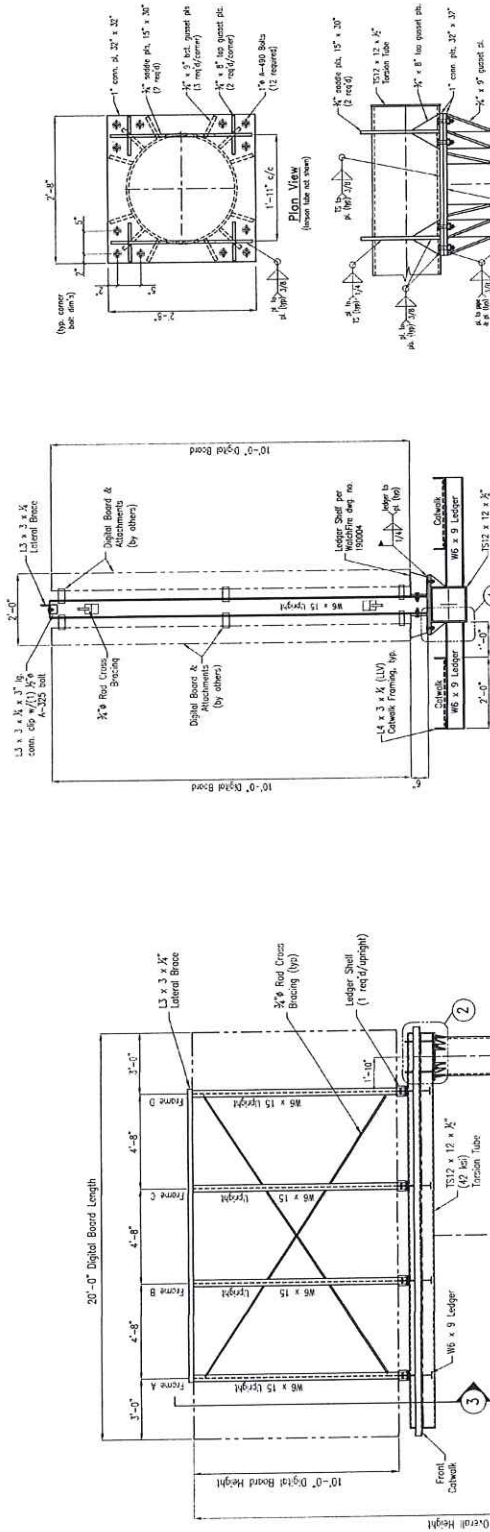
Troy Outdoor, LLC  
Brad Holstad - (O) 231.683.4224 ext. 102  
bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road  
Suite E  
Eaton Rapids, MI 48827

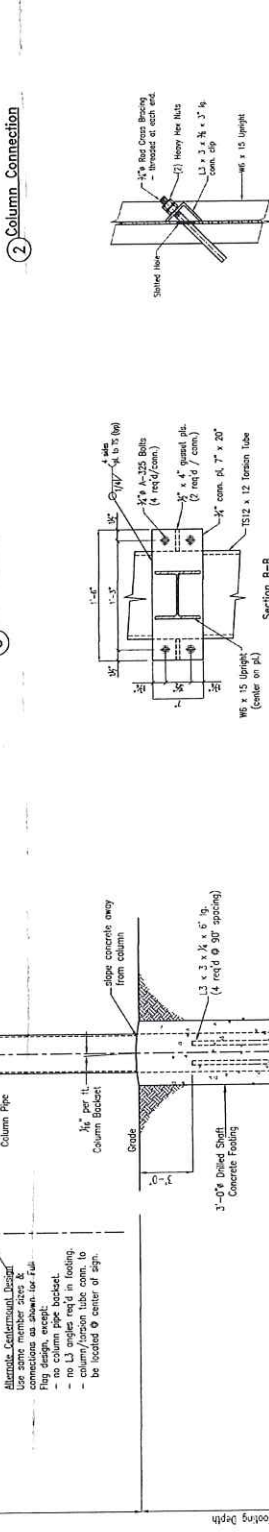
© 2016 - Lockridge Outdoor Advertising, LLC - All Rights Reserved. Unauthorized use or distribution is strictly prohibited



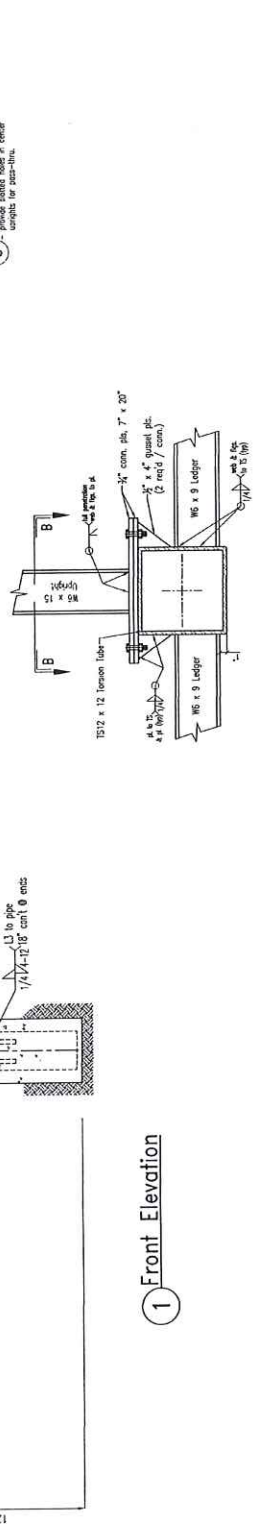
## ATTACHMENT #3



3 Frame Detail



5 Cross Brace Detail



### 4. Frame Connections

1 Front Elevation

- 5) Prepare design based on all conditions of medium stiff clay, compacted 95%, or better, (medium stiff clay pressure = 1000 lb/ft<sup>2</sup> or 150 kN/m<sup>2</sup>) Nasty Engineer if other than these conditions noted.
- 6) Provide X cap piles for all transition loads. Cap piles to be the width of girder, to match.
- 7) Attached concrete using  $f_c' = 4000$  psi (27.6 MPa) (con).
- 8) Concrete grouting to be 314 psi (2.14 MPa) (grout), (weld to attach angle with X steel with 1/2" @ 12" O.C.)
- 9) This structure has been designed to support (2) 2,400 lb. liquid loads.
- 6) Design & construction of Digital Board and attachment of board to structure, by owner.

5/26/17	Modified front network ledger connections.	NO	REVISION
---------	--	----	----------

SIZE: SEE DETAIL FOR ALL DIMENSIONS


**TYPICAL GUSSET DETAIL**

- for spans to 30' thick,  $\gamma = 3'$   
 - for spans 30' thick & greater,  $\gamma = 1'$   
 - not specified, length & height of gusset plate to be determined by fabricator, use  $\gamma = 1'$   
 - gusset plate to be welded to member with 1/2" fillet welds all around.  
 - depth of 45° chamfer to be minimum required to clear weld or flat.

GENERAL NOTES

[illegible]

\* H.A.S.L. = Height Above Ground Level

 **Effective Engineering Solutions, LTD.**  
61 White Water Court  
New Lenox, IL 60451  
(815) 465-1170

PROJECT:	50' - 00' Full Flap at Centermount
----------	------------------------------------

Back to Back Structure @ 25'-0" Overall Height

CUD#: Lockridge Outdoor

THIS PRINT CONTAINS PROPRIETARY INFORMATION AND SHALL NOT BE USED, REPRODUCED, OR ITS CONTENTS DISCLOSED, IN WHOLE OR IN PART, TO ANY OTHER PERSON WITHOUT THE WRITTEN PERMISSION OF THE COMPANY.

THE UNDERSIGNED ENGINEER WILL NOT SUPERVISE THE FABRICATION PART, WITHOUT WRITTEN CONSENT FROM THE ABOVE CLIENT.

 AFFIX SEAL	LOCATION:
--	-----------

CLIFFORD  
W.  
LEVERENZ  
President

[illegible]

DATE DRAWN: 11/2/80

DATE: 07/30/2017  
DRAWING NO: 1 of 1  
71538-

[illegible]



## **ATTACHMENT #4**

### **Request for Relief from the Building Code Board of Zoning Appeals**

The Applicant is seeking a review from the Building Code Board of Zoning Appeals of the decision of the Zoning and Compliance Specialist Paul Evans to suspend the validly issued permit referenced in this application on November 17, 2017. The background of this application includes the United States District Court for the Eastern District of Michigan's opinion and order of January 22, 2019 informing the Plaintiffs that a review of the two issues submitted is necessary before the matter can be reviewed by the Court. This application seeks relief in two alternative requests.

#### **1. APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR**

The Applicants seek to appeal the action of the building department to suspend the permit at issue by letter dated November 21, 2017. The letter suspending is attached as **Attachment #4-A**. The Applicants disputed the action by letter dated December 6, 2017 to Mr. Evans. See **Attachment #4-B**. Counsel for the City disagreed with the opinion of Applicant's legal counsel and denied relief. See **Attachment #4-C**. A lawsuit was commenced in the United States District Court for the Eastern District of Michigan on June 29, 2018, which included a challenge to the action of November 17, 2017. On January 22, 2019, Judge Steeh opined as follows: *But Plaintiffs have not availed themselves of an appeal to the Board of Appeals which bears the power to hear their appeal and to grant variances from the sign ordinance. It remains possible that the Board of Appeals will determine that the sign moratorium does not apply to the Plaintiff's three permits or grant a variance based on the unfairness of suspending the permits for which Plaintiffs have reasonably relied.* The permit granted is attached as **Attachment #4-D**.

The essence of the argument that the moratorium was not applicable to the permit at issue is set forth in **Attachment #4-E**.

#### **2. REQUEST FOR VARIANCE**

If relief is not granted in favor of the Applicants on the appeal, then the Applicants request a variance. The required information is set forth in **Attachment #4-F**.



ATTACHMENT #4-A



500 West Big Beaver  
Troy, MI 48084  
troymt.gov

Planning Department  
248.524.3364  
planning@troymt.gov

November 21, 2017

Mr. Tony Lockridge  
Troy Outdoor, LLC  
724 Abbot  
East Lansing, MI 48823

Dear Mr. Lockridge:

I am writing regarding Sign Permits PSG2017-0087, PSG2017-0088 and PSG2017-0009. On November 20, 2017, Troy City Council imposed a 180 day moratorium on any new signs. The City has inspected the requested locations for these new signs, and there is no evidence of any construction or any apparent work completed on any new signs. Thus the City is suspending these permits and work may not occur.

Additionally, the City is currently reviewing the City's ordinances to determine if these requested signs, and other signs that were requested at or about the same time, are compliant with the City's Sign Ordinance. City Council has directed City Administration to vigorously enforce all existing Sign Ordinance provisions. Your continued cooperation in this matter is appreciated.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink that reads "Paul Evans". The signature is written in a cursive, flowing style.

Paul Evans  
Zoning & Compliance Specialist

cc: Lori Bluhm, City Attorney  
Mitch Grushnick, Building Official & Code Inspector  
Gary Bowers, Housing & Zoning Inspector

G:\Signs\Troy Outdoor LLC Revocation Letter.docx



**HONIGMAN**

Honigman Miller Schwartz and Cohn LLP  
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712  
Fax: (269) 337-7713  
Lennon@honigman.com

December 6, 2017

**Via US Mail and E-Mail**

Mr. Paul Evans  
City of Troy - Zoning & Compliance Specialist  
500 West Big Beaver  
Troy, MI 48084

**Re: Troy Outdoor, LLC ("Troy") – City of Troy ("City")**

Dear Mr. Evans:

Our Firm represents Troy. As the City is aware, Troy currently holds three digital sign permits (collectively the "Sign Permits")<sup>1</sup> and has two pending digital sign permit applications (collectively the "Pending Applications")<sup>2</sup>.

To Troy's surprise, on November 20, 2017, the City imposed a moratorium "prohibiting the Troy City Administration from processing of permit applications". On the very next day, November 21, 2017, the City notified Troy that both the Sign Permits and the Pending Applications were "suspended" based on the moratorium. Later, on December 4, 2017, the City amended its moratorium to relieve/exempt applications for other types of sign permits from the moratorium.

We are writing to inform the City that the moratorium should not be effective against the signs covered by the Sign Permits or the Pending Applications. For the reasons discussed herein, Troy has the legal right to continue to establish the digital billboards contemplated by the Sign Permits and to continue the application process with regard to the Pending Applications.

**Troy made Large Investments in Reliance on the  
Legal Right to Obtain the Sign Permits**

As the City has known for months, Troy has been actively pursuing establishment of digital billboards in several locations throughout the City. Throughout this lengthy process, Troy has complied with the letter and the spirit of the City's ordinance, policies and procedures, has been transparent and has openly communicated with the City. There is not, and has never been, any

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<sup>1</sup> Troy had been issued the following sign permits (i) Fast Track Ventures, E/S 1658 Livernois at East Maple, PSG2017-0009; (ii) American Legion Post 140, N/S of Maple, 1000 feet from Crooks, PSG2017-0088; and (iii) Abro Twelve property, 2888 East Maple, PSG2017-0087 (collectively the "Sign Permits").

<sup>2</sup> Troy previously submitted applications for sign permits for (i) M&M Troy, 1634 John R; and (ii) MJP Estate, LLC, 2221 Livernois (collectively the "Pending Applications").



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doubt that the signs contemplated by the Sign Permits and the Pending Applications complied with the City's ordinance and had the legal right to approval.

In reliance on the City's ordinance and its representations, Troy made tremendous investments in expensive digital billboards and related improvements, procured billboard sites and commenced installation work at several locations. Now, at the eleventh hour and after in excess of a million dollars has been invested, the City has abruptly changed course, imposed a moratorium and informed Troy that the Sign Permits are "suspended" and that it cannot proceed with the Pending Applications. To make matters worse, the City has now further amended its moratorium to exclude numerous other sign types, but continues to target Troy's proposed signs with the moratorium. The damages to Troy of these improper "suspensions" mount each day that work is delayed and contribute to potential temporary (and possibly permanent) takings claims.

### **Troy Relied on the City and the Ordinance and Believed the Moratorium and Suspension Letter were Mistakes**

Troy's first reaction to the letter from the City, and the moratorium, was that there must be a mistake. Troy had been actively working with the City on the digital billboard project for months. Troy had identified and procured properties that comply with the ordinance, had actually received the Sign Permits and had invested in billboards, sites/locations, materials and services. Unfortunately, after multiple communications with the City, it was made clear to Troy that the "suspensions" of the Sign Permits and the Pending Applications were intentional.

To add insult to injury, when the City amended the moratorium, it actually exempted and relieved other sign applications from the burdens of its moratorium. As discussed further herein, the confluence of the City's knowledge, representations and actions, together with the timing of the moratorium and its targeted effect, render the moratorium improper and unfair and exacerbate Troy's damages.

### **The Moratorium Only Applies to Processing of Sign Applications - It Does Not Apply to Existing Sign Permits**

The City is advised that the "suspensions" of the Sign Permits do not comply with the clear and express terms of the moratorium. The moratorium expressly states that it only prohibits the "processing . . . of permit applications . . ." (emphasis added). In this case, Troy has actually obtained the Sign Permits. The "processing" of the "permit applications" (that resulted in the Sign Permits) is long complete. As a result, the moratorium does not apply to, and cannot be used to prevent, development and/or construction of the billboards that have received Sign Permits.

This language is included in both the original moratorium resolution and in the amendment to the moratorium. If the City Council expected otherwise, it certainly would have clarified the scope in the amendment. It appears obvious that the City administration has misread the scope of



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the moratorium or greatly exceeded its authority. Whatever the case, the signs that have received the Sign Permits cannot be "suspended" and installation work should be permitted to continue without further delay.

### **Use of a Moratorium to Prevent Processing of the Pending Applications is Improper and Unfair**

The City's position that the moratorium can be used to prevent processing of the Pending Applications is also improper and unfair. The Pending Applications comply with the ordinance and were submitted long before the moratorium was imposed. As the City well knows, using a moratorium to target one property owner or applicant over others and attempting to retroactively change their rights is improper. This motivation can be discerned from the reaction of the City to the Pending Applications (and the issuance of the Sign Permits for that matter), the City's institution of a moratorium as part of an effort to prevent (and likely change) Troy's rights after Troy made significant investments and the delivery of the "suspension" letter the day after the moratorium was imposed.

In addition, the reactive amendment to the moratorium, that exempted certain more favored types of signs, sign applications and applicants, casts further light on the City's motivation and bias and casts doubt on the viability of its moratorium as to the Pending Applications. Troy understands, and would agree, that application of the moratorium can (and should) apply to new digital billboard applications that have not been completed and/or formally submitted as of the date of the moratorium - - but the City cannot "stop the game and change the rules" with regard to the Pending Applications - - particularly after large investments have been made.

As the City considers whether the Pending Applications should be subject to the moratorium, it should be mindful that Michigan and other courts have held that a city council acts in bad faith when it rezones property or institutes moratoria to change rules midstream on a particular project which it would be otherwise be compelled to approve. In addition, Michigan courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets the standards for approval.

### **Request for Relief**

As stated the above, by its very clear and express language, the moratorium only applies to "processing . . . permit applications" and does not apply to the billboards that actually have Sign Permits. As such, those billboards are entitled to be installed without further delay.

In addition, under the current circumstances, it would be improper and unfair to "suspend" processing of the Pending Applications. The Pending Applications were developed in accordance



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# HONIGMAN

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with the existing ordinance, were submitted long before the moratorium was imposed and, under the current facts circumstances, it would be improper to use a moratorium to prevent consideration of the Pending Applications.

In light of all of the foregoing, we respectfully request that the City rescind its letter and allow construction to continue on the locations covered by the Sign Permits and re-commence processing of the Pending Applications. If the City disagrees or fails to respond within seven (7) days of the date of this letter, Troy may have no choice but to take legal action to protect its rights. As always, please feel free to contact me with any questions.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP



J. Patrick Lennon

cc: R. Charles McLavy





500 West Big Beaver  
Troy, MI 48084  
troyml.gov

City Attorney's Office  
248-624-3320

December 15, 2017

J. Patrick Lennon  
Honigman, Miller, Schwartz, and Cohn, LLP  
350 East Michigan Avenue; Suite 300  
Kalamazoo, MI 49007-3800  
Lennon@honigman.com

**Re: Troy Outdoor, LLC**

Dear Mr. Lennon:

The letter you sent to Paul Evans, City of Troy Zoning & Compliance Specialist, was forwarded to me for review. In this letter, you ask the City to reconsider its November 21, 2017 suspension of three sign permits on behalf of your client, Troy Outdoor, LLC. These signs were proposed to be located at 1654 Livernois Road; 1340 W. Maple; and 2888 E. Maple in the City of Troy. For reasons set forth below, the City is unable to grant your requested relief.

After your client's rapid and instantaneous installation of five separate 200 foot digital signs in the City, the Troy City Council imposed a 180 day moratorium on November 20, 2017 for all signs, which was slightly amended on December 4, 2017 to limit the 180 day moratorium to electronic message center digital signs, ground signs exceeding 36 square feet in size, wall signs exceeding 100 square feet in size, and ground signs exceeding 10 feet in height. The moratorium was imposed due the recent influx of large digital ground signs that have proliferated the City's business corridors. It is readily apparent that such signs will have a direct negative impact on the health, safety, and welfare of the citizens of Troy because the signs will be unduly distracting to motorist and pedestrians and thus likely to create traffic hazards and reduce the effectiveness of public safety signs needed to direct and warn the public. The purpose of the moratorium is to allow the City to consider and evaluate its sign ordinance provisions and adopt appropriate amendments. In all likelihood, the amendment will prohibit digital signs of the size and height proposed by your client in its sign permit applications, resulting in a denial of the two pending applications and a revocation of the three permits.

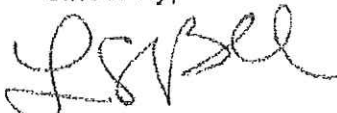


In your letter, you claim the current moratorium only prohibits the "processing ... of permit applications..." and contend the moratorium is not applicable to the permits that have already been issued. However, the term processing is a broad term that encompasses all actions taken as a result of the issuance of the permit including construction, inspections, and final approval. Moreover, the Zoning & Compliance Specialist as the designee of the Zoning Administrator has authority under the sign ordinance to prohibit any sign that is unsafe and deemed a hazard to health and safety. Mr. Evans' letters of November 21, 2017 suspending your client's permits were issued pursuant to that authority.

You also claim in your letter that "courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets standards for approval." However, the law is clear that issuance of a permit itself does not confer vested rights unless actual construction has commenced. As noted in the letters of Mr. Evans, there is no evidence of any construction or any work completed on any of the three signs for which a permit was approved. Additionally, the City's decision to impose a moratorium is for the sole purpose of protecting the health, safety, and welfare of its citizens. The City has not acted in bad faith.

If you should have any questions regarding this matter, please call me at (248) 524-3320.

Sincerely,



Lori Grigg Bluhm  
City Attorney  
[bluhmlg@troy.mi.gov](mailto:bluhmlg@troy.mi.gov)

cc: Paul Evans



## ATTACHMENT #4-D



\*PSG2017-0087%PSG%150.00\*

**Sign Permit No: PSG2017-0087**

Building Department  
 Inspection: (248) 689-5744  
 Phone: (248) 524-3344

500 W. Big Beaver Road  
 Troy, Michigan 48064  
 Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120  
 www.troymi.gov

2888 E MAPLE  
 88-20-36-226-073 Lot: 24+25-  
 Subdivision: SP PLAINVIEW FARMS  
 Zoning: B-3 Use Group: B  
 Construction Type:

Location

ABRO TWELVE PROPERTY-15 & DEQUI  
 3807 BEECHCREST  
 ROCHESTER

Owner

MI 48309

Issued: 10/05/2017

FOR INSPECTIONS - CALL (248) 689-5744  
 Inspections called in by 4:30 P.M. will be scheduled the next  
 business day. "NOTE NEW INSPECTION CUT-OFF TIME"

TROY OUTDOOR LLC  
 TROY OUTDOOR LLC  
 724 ABBOT  
 East Lansing  
 (727) 415 4332

Applicant

MI 48823

Work Description: NEW GROUND SIGN 10' X 20' = 200 SF

Special Stipulations: FINAL ELECTRICAL INSPECTION REQUIRED BEFORE FINAL SIGN INSPECTION. SEE  
 CONDITIONS ON PERMIT DOCUMENTS.

Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Signs Ground Signs	Signs	200.00	150.00

Sign

Total Due: \$150.00

PAID on: 10/05/2017

Check#: 3042

Payment Validation

This permit is issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void  
 once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[ ] TREASURER COPY

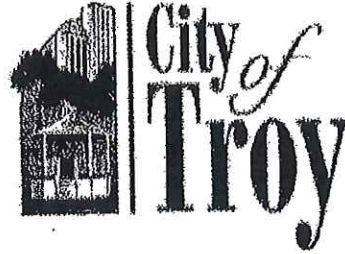
[ ] DEPARTMENT COPY

[ ] CONTRACTOR COPY



# SIGN PERMIT APPLICATION

PLANNING DEPARTMENT  
500 W BIG BEAVER  
TROY MI 48084  
248 524 3359  
[evanspm@troymi.gov](mailto:evanspm@troymi.gov)  
SIGN ORDINANCE ONLINE [Ctrl+click here](#)



## APPLY ONLINE OR BY E-MAIL

Online applications see page 4 for instructions. E-mail send completed application and supporting documents to [evanspm@troymi.gov](mailto:evanspm@troymi.gov)

### SIGN PERMIT FEE DUE WHEN PERMIT IS READY TO ISSUE

SIZE	WALL SIGN PAINTED ON WALL	WALL SIGN STRUCTURALLY ATTACHED	GROUND SIGN
UNDER 100 SQ. FT.	\$ 75.00	\$ 100.00	\$ 125.00
100 TO 199 SQ. FT.	\$100.00	\$ 125.00	\$ 150.00
200 TO 300 SQ. FT.	\$ 100.00	\$150.00	\$ 175.00
SPECIAL EVENT	WALL OR GROUND	\$30.00	

PROPERTY ADDRESS: 2888 E. Maple Road Troy, MI APN 88-20-36-226-073

#### APPLICANT INFORMATION:

NAME Tony Lockridge 727-415-4332 Contact for Permit Info

COMPANY Troy Outdoor, LLC

ADDRESS 2487 South Michigan Road, Suite E

CITY Eaton Rapids STATE MI ZIP 48827

TELEPHONE 231-683-4229

E-MAIL tlockridge@hotmail.com

TYPE OF SIGN: ☒ GROUND ☐ WALL ☐ SPECIAL EVENT

SPECIAL EVENT SIGNS: What 7 day period will signs be up? \_\_\_\_\_



# SIGN PERMIT APPLICATION

ILLUMINATED SIGN?

☒ YES ☐ NO

ELECTRICAL CONNECTIONS BY: Electrician will pull the permit

DOWNLOAD AN ELECTRICAL PERMIT APPLICATION [HERE](#).

ARE OTHER SIGNS ON THE PROPERTY? ☒ YES ☐ NO IF YES, DESCRIBE TYPE AND SIZE BELOW:

There is an on-premise sign that exceeds 36 sq ft, but will be replaced with one  
that will be 36 sq ft before construction.

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

APPLICANT SIGNATURE:

Marcella Kretzmer

DATE

5/8/17

PRINT NAME:

Marcella Kretzmer



#### ATTACHMENT #4-E

On November 20, 2017, the Troy City Council enacted a resolution declaring a moratorium on the issuance of sign permits under the sign ordinance. The language of the sign permit moratorium resolution contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 21st day of November 2017, the Troy City Council hereby **IMPOSES** a 180 day moratorium, prohibiting the Troy City Administration from processing any permit applications for all signs. This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions, and especially the provisions allowing for ground signs with displays in excess of 100 square feet.*

The language adopted prohibited staff for the City from *processing any permit applications for all signs.*

On December 4, 2017, the Troy City Council enacted a new resolution declaring a moratorium for the issuance of sign permits under the sign ordinance. By its terms, the December 4, 2017 moratorium stuck the entire moratorium as enacted on November 20, 2018 and replacing it with newly adopted language. The resolution of December 4, 2017 also contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 4th day of December 2017, the Troy City Council hereby **IMPOSES** a new 180 day moratorium, prohibiting the Troy City Administration from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

*This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions.*

The essence of the above language is to prohibit staff *from processing any of the following permit applications for property in the City of Troy:*



- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This revision served to narrow the subset of signs target for more intrusive regulation, which includes signs similar in nature to that approved in Applicants' approved permit.

Based upon the language of the moratoriums at issue, Ms. Lori Grigg Blum, city attorney for the City, opined in response to a letter from an attorney on behalf of the Applicants, that the moratorium at issue would be interpreted by the city in such a manner as requiring the suspension of the permit at issue in this case.

Applicants initially submit that the ordinances at issue are clear and unambiguous in their terms. One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)). When applying this standard, the language of the moratorium is not in need of interpretation and supports the Applicants request.

In this case, a review of the moratorium ordinances at issue reveals a clear fact that the ordinances did not serve to repeal any previously issued permit. No repeal language is included in the ordinance enactments. Rather the ordinances specifically prohibit processing any of the following permit applications:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height.*

Nothing in the language of the ordinances suggests that this prohibition is to be applied retroactively to already approved permits applications, such as the one granted to Applicants.

The language used in the ordinance is clear and unequivocal. Yet, in the face of the plain and specific language of the ordinance, City staff, including its attorney, have taken the position that the ordinance language of *processing any of the following permit applications* should somehow be retroactively applied to previously approved applications where the permits were in fact already issued. Such an interpretation violates the expressed language of the ordinance and extends the application to a much broader group of persons than specified, i.e. to persons holding validly issued permits instead of just applicants for sign permits.

Essentially, the City via its staff, has chosen to interpret the words *processing* and *applications* beyond their normal customary meaning. Such action violates the rules of statutory construction. Absent a specific definition within the legislative enactment words used in an enactment must be given their ordinary meaning. *Luttrell v Dep't of Corrections*, 421, Mich 93; 365 NW2d 74 (1984).

One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement*



*Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)).

Meriam-Webster online dictionary ([www.merriam-webster.com/dictionary/process](http://www.merriam-webster.com/dictionary/process)) defines the term “processing”, to the extent applicable to this case, as:

- 1 a: [PROGRESS](#), [ADVANCE](#) - in the *process* of time, b: something going on: [PROCEEDING](#)
- 3 a: the whole course of [proceedings](#) in a legal action, b: the summons, mandate, or writ used by a court to compel the appearance of the defendant in a legal action or compliance with its orders

Free Dictionary online dictionary ([www.thefreedictionary.com/processing](http://www.thefreedictionary.com/processing)) defines the term *processing* in a relevant part as *the act or process of treating or preparing something by a special method*. This same publication defines the term *process* as: *A series of actions, changes, or functions bringing about a result*. Given these definitions, the term *processing* clearly refers to the application process that leads either to a grant or denial of a permit. Once issued, the permit grants rights to proceed based upon the authority granted. The applicant’s status changes from that of applicant to that of permit holder. Once the permit is issued, there is no longer an application process in play. The moratorium language did not revoke the right to proceed on the terms of the permit, rather it specifically prohibited staff from processing applications.

Meriam-Webster online dictionary ([www.merriam-webster.com/dictionary/process](http://www.merriam-webster.com/dictionary/process)) defines the term *application*, as relevant to this proceeding, as:

- 1 an act of [applying](#): a (1): an act of putting something to use - *application* of new techniques (2): a use to which something is put - new *applications* for old remedies, b: an act of administering or laying one thing on another - *application* of paint to a house c: [assiduous](#) attention - succeeds by *application* to her studies
- 2 a: [REQUEST](#), [PETITION](#) - an *application* for financial aid, b: a form used in making a request - filling out an *application*

Free Dictionary online dictionary ([www.thefreedictionary.com/application](http://www.thefreedictionary.com/application)) defines the term *application* in a relevant part as:

1. the act of applying to a particular purpose or use.
3. the act of asking for something: *an application for leave*.
4. a verbal or written request, as for a job, etc: *he filed his application*.

Looking at the above language, the application is merely the formal act of requesting relief, in this case a permit to do that which was authorized under the law at the time of the submission.

It also helps in this analysis to contrast the term *application* with the term *permit*. Merriam-Webster online dictionary ([www.merriamwebster.com/dictionary/permit](http://www.merriamwebster.com/dictionary/permit)) defines the term *permit*, to the extent applicable herein as: *a written warrant or license*



## ATTACHMENT #4-F

### Justification for BCBA Appeal Request under the Sign Code

The appeal should be granted because the application was originally submitted and granted when the City's sign code allowed the sign as it was applied for. This is a very unique circumstance. The City has subsequently made changes to its sign code but the applicant could not have known that it could not apply for, permit, and install signs under the sign code as it stood at that time. In reliance on the code, the applicant spent substantial time and money on the following: property research, travel, mileage, leasing, site plans, sign structure engineering, LED schematics, permit fees, lease payments, structure fabrication, site preparation work, structure delivery and storage, and numerous other items. Through no fault of its own, the applicant has been greatly harmed. Other properties were issued sign permits at the same time and have been able to benefit from signs materially identical to this one.

The appellant meets all criteria for the following reasons:

*a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.*

This is the only property in the vicinity, and one of the very few in the City, that had a sign application duly granted and permitted, but not yet built, before the City chose to reconsider its sign code. Several other parcels were issued permits at the same time and the signs have been installed and are operating. This is a unique status not shared by any other parcels in the area.

*b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location.*

This application was submitted at a time when it was in total conformance to the City sign code. Thus, conformance to unknown future requirements was truly impossible. This is a totally unique situation.

*c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature.*

The problem is not personal in any way. These circumstances came about because the City chose to change its sign code after the permit had been issued.

*d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant.*

This unfortunate situation did not arise through any fault of the applicant.

*e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.*

The sign is appropriate and was allowed under the code at the time of application. It will not harm any of the cited interests in this commercial area.



*granted by one having authority.* The permit is not an application, it is a license to act. To the extent the City fails to draw the distinction between the term *application* and the term *permit* it violates the rules of statutory construction by giving a meaning to an enactment not supported by the clear language of that enactment. An application IS clearly distinctive from the concept of a permit.

It is clear that the language of the Moratorium ordinance did not make it applicable to the Permit granted to the Applicant, which is set forth as **Attachment #4-D**.



**F. APPEAL REQUEST, TROY OUTDOOR LLC AND CROSSROADS OUTDOOR LLC/AMERICAN  
LEGION POST 140, 1340 W MAPLE** - An appeal of the Zoning Administrator's November, 2017  
suspension of Sign Permit PSG2017-0088.  
**CHAPTER 85**



**CITY OF TROY PLANNING DEPARTMENT  
BUILDING CODE BOARD OF APPEALS APPLICATION**

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248-524-3364  
E-MAIL: [planning@troymi.gov](mailto:planning@troymi.gov)



**FEE \$50**

**NOTICE TO THE APPLICANT**

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST **WEDNESDAY OF EACH MONTH AT 3:00 P.M.** AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, **NOT LESS THAN TWENTY-SEVEN (27) DAYS** BEFORE THE MEETING DATE.

COMPLETE APPLICATIONS ARE PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 1340 W Maple Rd Troy, MI 48084  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-28-302-024
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
SIGN CODE
4. REASONS FOR APPEAL/VARIANCE: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? YES ☐ NO ☒



6. APPLICANT INFORMATION:

NAME \_\_\_\_\_  
COMPANY Troy Outdoor, LLC and Crossroads Outdoors LLC  
ADDRESS 2487 South Michigan Road, Suite E  
CITY Eaton Rapids STATE MI ZIP 48827  
TELEPHONE 231-683-4229  
E-MAIL \_\_\_\_\_

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: \_\_\_\_\_

8. OWNER OF SUBJECT PROPERTY:

NAME Larry Chase  
COMPANY AMERICAN LEGION POST 140  
ADDRESS 1340 W MAPLE  
CITY TROY STATE MI ZIP 48084  
TELEPHONE 248-362-2077  
E-MAIL \_\_\_\_\_

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, LARRY S CHASE (PROPERTY OWNER), HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT Terry E. Heiss DATE 6/11/2019

PRINT NAME: Terry E. Heiss, Attorney for Applicants

SIGNATURE OF PROPERTY OWNER Larry S Chase DATE 19 FEB 2019

PRINT NAME: LARRY S CHASE

**Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.**

**The applicant will be notified of the time and date of the hearing by electronic mail.**



## SUBMITTAL CHECKLIST FOR SIGNS

### WALL SIGNS

#### REQUIRED   PROVIDED

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMPLETED APPLICATION.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING, MATERIALS, DIMENSIONS, PROJECTION FROM THE WALL AND METHOD OF ATTACHMENT TO THE WALL.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN ORDINANCE APPEALS CRITERIA, SEE PAGE 5.                                  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FRONT ELEVATION DRAWING OR PHOTO SHOWING DIMENSIONS OF BUILDING OR TENANT AREA (WHICHEVER IS APPLICABLE), AND DIMENSIONS OF ALL EXISTING AND PROPOSED WALL SIGNS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED.                        |

### GROUND SIGNS

#### REQUIRED   PROVIDED

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | COMPLETED APPLICATION.   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING RIGHT OF WAY LINE(S), PUBLIC EASEMENTS AND SIGN LOCATION. LABEL THE DISTANCE FROM RIGHT OF WAY LINE TO CLOSEST EDGE OF SIGN. See Attachment #1 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SITE PLAN OR AERIAL MAP SHOWING LOCATION AND DIMENSIONS OF EXISTING GROUND SIGNS. See Attachment #2  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | SIGN CONSTRUCTION DETAIL SHOWING DIMENSIONS AND THICKNESS OF SIGN, MATERIALS AND FOOTING DEPTH. See Attachment #3  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. EXPLANATION MUST ADDRESS SIGN CODE APPEALS CRITERIA, SEE PAGE 5.<br>See Attachment #4                               |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | A DIGITAL VERSION OF ALL APPLICATION DOUCUMENTS IS REQUIRED. PAPER COPIES ARE NOT REQUIRED. E MAILING THEM TO THE DEPARTMENT IS PREFERRED. .<br>See USB Drive                  |



## **SIGN CODE APPEALS CRITERIA**

Subject to the provisions below, the Board of Appeals shall grant specific variances from the requirements of this Chapter, upon a showing of each of the following:

- a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics
- b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location;
- c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature; and
- d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant; and
- e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.



# ATTACHMENT #1

Sign Site Plan- Site 11414 Site Address: 1340 W Maple Rd Troy, MI  
Landowner: American Legion Post 140 - APN: 88-20-28-302-024  
Zoning: MR Build Setbacks: 30' from Troy Master Plan Street RoW (front property line)  
Sign Dimensions: 10' x 20' face x 25' total height



0 35 70 140 210 280 Feet

1 inch = 42 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl  
Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 6/20/2017

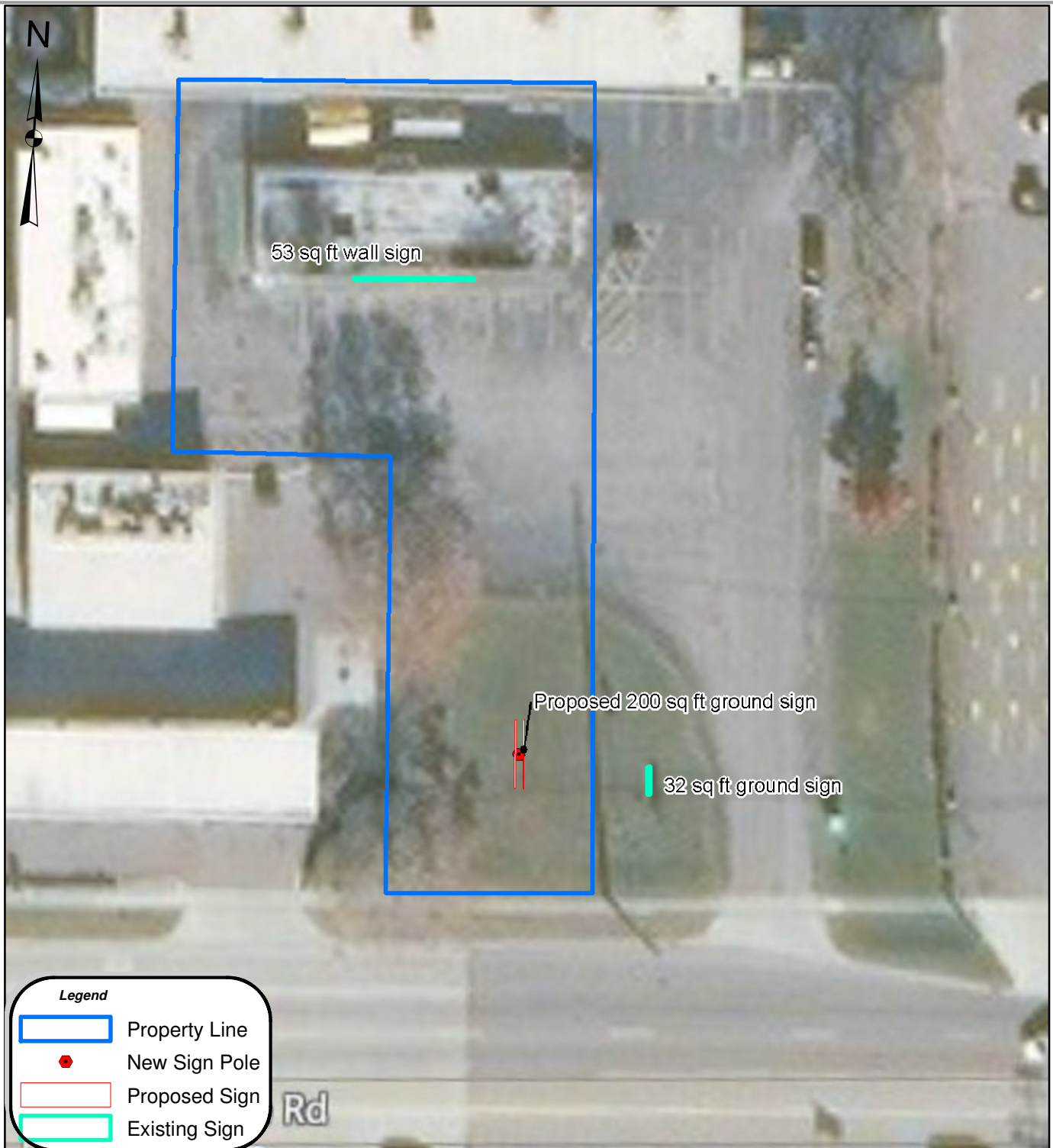
Troy Outdoor, LLC  
Brad Holstad - (O) 231.683.4224 ext. 102  
bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road  
Suite E  
Eaton Rapids, MI 48827

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Existing Sign Location Map- Site 11414 Site Address: 1340 W Maple Rd Troy, MI  
 Landowner: American Legion Post 140 - APN: 88-20-28-302-024



0 37.5 75 150 225 300 Feet

1 inch = 43 feet Map Coordinate System: NAD 1983 HARN StatePlane Michigan South FIPS 2113 Feet Intl  
 Scale reference is approximate for print on 8.5" x 11" paper

Print Date: 3/14/2019

Troy Outdoor, LLC  
 Brad Holstad - (O) 231.683.4224 ext. 102  
 bradholstad@crossroadsoutdoor.com

2487 S. Michigan Road  
 Suite E  
 Eaton Rapids, MI 48827



Technical drawing of a vertical assembly, likely a catwalk or scaffolding component. The drawing shows a central vertical structure with various bracing and support elements. Key components and dimensions include:

- Dimensions:**
  - Overall height: 10'-0" Digital Board
  - Top section height: 2'-0"
  - Bottom section height: 6"
  - Bottom width: 2'-0" and 1'-0"
- Structural Elements:**
  - L3 x 3 x 1/4 x 3" lg. conn. clip w/(1) 1/2" Ø A-325 bolt:** Located at the top of the central vertical member.
  - L3 x 3 x 1/4 Lateral Brace:** Located at the top of the central vertical member.
  - 3/4" Ø Rod Cross Bracing:** Located in the upper section of the central vertical member.
  - Digital Board & Attachments (by others):** Located on both sides of the central vertical member.
  - W6 x 15 Upright:** The central vertical member.
  - L4 x 3 x 1/4 (LLV) Catwalk Framing, typ.:** Located at the bottom of the central vertical member.
  - Ledger Shelf per WatchFire dwg. no. 190004:** Located on the right side of the central vertical member.
  - 1/4" ledger to pl. (typ):** Located on the right side of the central vertical member.
  - W6 x 9 Ledger:** Located at the bottom of the central vertical member.
  - TS12 x 12 x 1/2" Torsion Tube:** Located at the bottom of the central vertical member.

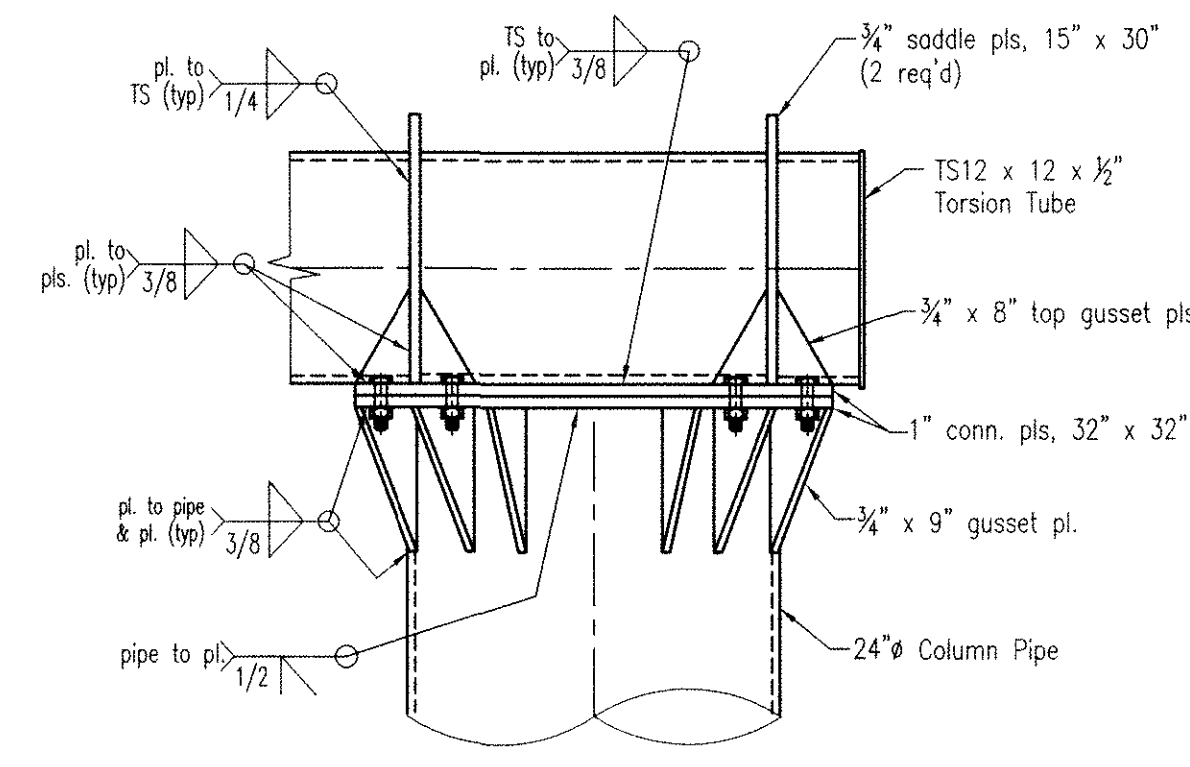


Diagram illustrating the cross bracing assembly for a window frame. The assembly includes:

- $\frac{3}{4}$ " Rod Cross Bracing - threaded at each end.
- (2) Heavy Hex Nuts.
- L3 x 3 x  $\frac{3}{8}$  x 3" lg. conn. clip.
- W6 x 15 Upright.
- Slotted Hole.

1'-6"

1'-3"

1 1/2"

1/4"

3/4"

7"

W6 x 15 Upright  
(center on pl.)

TS12 x 12 Torsion Tube

3/4"  $\phi$  A-325 Bolts  
(4 req'd / conn.)

1/2" x 4" gusset pls.  
(2 req'd / conn.)

3/4" conn. pl, 7" x 20"

4 sides  
pl. to TS (typ)

1/4"

Section B-B

TS12 x 12 Torsion Tube

W6 x 15 Upright

full penetration  
web & flgs. to pl.

3/4" conn. pls, 7" x 20"

1/2" x 4" gusset pls.  
(2 req'd / conn.)

W6 x 9 Ledger

W6 x 9 Ledger

pl. to TS  
& pl. (typ) 1/4"

web & flgs.  
to TS (typ)


1/4"


Technical drawing of a window assembly showing a cross-section. The drawing includes a central window unit with a "W6 x 15 Upright" and "W6 x 9 Ledger" components. The window is supported by a "TS12 x 12 Torsion Tube" and a "W6 x 9 Ledger". The assembly is secured with "3/4" conn. pls. 7" x 20" and "1/2" x 4" usset pls. (2 req'd / conn.)". The drawing also shows "web & flgs. to TS (typ)" and "web & flgs. to TS (typ)".



- concrete to be poured against undisturbed soil, all around.

1/4" 4-12" L3 to pipe  
18" can't @ ends

 <p>CLIFFORD W. LEVERENZ ENGINEER No. 33257</p> <p><i>Cliff W</i></p> <p>JUN 27 2017</p>	LOCATION:	Troy, MI
	EESL JOB NO:	72099
	ENGINEERED BY:	CWL
	DRAWN BY:	DBM
	DATE DRAWN:	1/30/2017
	DRAWING NO:	1 of 1 71538-R1

 <p>CLIFFORD W. LEVERENZ ENGINEER No. 33257</p> <p><i>Cliff W</i></p> <p>JUN 27 2017</p>	LOCATION:	Troy, MI
	EESL JOB NO:	72099
	ENGINEERED BY:	CWL
	DRAWN BY:	DBM
	DATE DRAWN:	1/30/2017
	DRAWING NO:	1 of 1 71538-R1



## **ATTACHMENT #4**

### **Request for Relief from the Building Code Board of Zoning Appeals**

The Applicant is seeking a review from the Building Code Board of Zoning Appeals of the decision of the Zoning and Compliance Specialist Paul Evans to suspend the validly issued permit referenced in this application on November 17, 2017. The background of this application includes the United States District Court for the Eastern District of Michigan's opinion and order of January 22, 2019 informing the Plaintiffs that a review of the two issues submitted is necessary before the matter can be reviewed by the Court. This application seeks relief in two alternative requests.

#### **1. APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR**

The Applicants seek to appeal the action of the building department to suspend the permit at issue by letter dated November 21, 2017. The letter suspending is attached as **Attachment #4-A**. The Applicants disputed the action by letter dated December 6, 2017 to Mr. Evans. See **Attachment #4-B**. Counsel for the City disagreed with the opinion of Applicant's legal counsel and denied relief. See **Attachment #4-C**. A lawsuit was commenced in the United States District Court for the Eastern District of Michigan on June 29, 2018, which included a challenge to the action of November 17, 2017. On January 22, 2019, Judge Steeh opined as follows: *But Plaintiffs have not availed themselves of an appeal to the Board of Appeals which bears the power to hear their appeal and to grant variances from the sign ordinance. It remains possible that the Board of Appeals will determine that the sign moratorium does not apply to the Plaintiff's three permits or grant a variance based on the unfairness of suspending the permits for which Plaintiffs have reasonably relied.* The permit granted is attached as **Attachment #4-D**.

The essence of the argument that the moratorium was not applicable to the permit at issue is set forth in **Attachment #4-E**.

#### **2. REQUEST FOR VARIANCE**

If relief is not granted in favor of the Applicants on the appeal, then the Applicants request a variance. The required information is set forth in **Attachment #4-F**.





500 West Big Beaver  
Troy, MI 48084  
troymi.gov

Planning Department  
248.524.3364  
planning@troymi.gov

November 21, 2017

Mr. Tony Lockridge  
Troy Outdoor, LLC  
724 Abbot  
East Lansing, MI 48823

Dear Mr. Lockridge:

I am writing regarding Sign Permits PSG2017-0087, PSG2017-0088 and PSG2017-0009. On November 20, 2017, Troy City Council imposed a 180 day moratorium on any new signs. The City has inspected the requested locations for these new signs, and there is no evidence of any construction or any apparent work completed on any new signs. Thus the City is suspending these permits and work may not occur.

Additionally, the City is currently reviewing the City's ordinances to determine if these requested signs, and other signs that were requested at or about the same time, are compliant with the City's Sign Ordinance. City Council has directed City Administration to vigorously enforce all existing Sign Ordinance provisions. Your continued cooperation in this matter is appreciated.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink that reads 'Paul Evans'. The signature is written in a cursive, flowing style.

Paul Evans  
Zoning & Compliance Specialist

cc: Lori Bluhm, City Attorney  
Mitch Grusnick, Building Official & Code Inspector  
Gary Bowers, Housing & Zoning Inspector



# HONIGMAN

Honigman Miller Schwartz and Cohn LLP  
Attorneys and Counselors

J. Patrick Lennon

(269) 337-7712

Fax: (269) 337-7713

Lennon@honigman.com

December 6, 2017

**Via US Mail and E-Mail**

Mr. Paul Evans  
City of Troy - Zoning & Compliance Specialist  
500 West Big Beaver  
Troy, MI 48084

**Re: Troy Outdoor, LLC ("Troy") – City of Troy ("City")**

Dear Mr. Evans:

Our Firm represents Troy. As the City is aware, Troy currently holds three digital sign permits (collectively the "Sign Permits")<sup>1</sup> and has two pending digital sign permit applications (collectively the "Pending Applications")<sup>2</sup>.

To Troy's surprise, on November 20, 2017, the City imposed a moratorium "prohibiting the Troy City Administration from processing of permit applications". On the very next day, November 21, 2017, the City notified Troy that both the Sign Permits and the Pending Applications were "suspended" based on the moratorium. Later, on December 4, 2017, the City amended its moratorium to relieve/exempt applications for other types of sign permits from the moratorium.

We are writing to inform the City that the moratorium should not be effective against the signs covered by the Sign Permits or the Pending Applications. For the reasons discussed herein, Troy has the legal right to continue to establish the digital billboards contemplated by the Sign Permits and to continue the application process with regard to the Pending Applications.

## **Troy made Large Investments in Reliance on the Legal Right to Obtain the Sign Permits**

As the City has known for months, Troy has been actively pursuing establishment of digital billboards in several locations throughout the City. Throughout this lengthy process, Troy has complied with the letter and the spirit of the City's ordinance, policies and procedures, has been transparent and has openly communicated with the City. There is not, and has never been, any

---

<sup>1</sup> Troy had been issued the following sign permits (i) Fast Track Ventures, E/S 1658 Livernois at East Maple, PSG2017-0009; (ii) American Legion Post 140, N/S of Maple, 1000 feet from Crooks, PSG2017-0088; and (iii) Abro Twelve property, 2888 East Maple, PSG2017-0087 (collectively the "Sign Permits").

<sup>2</sup> Troy previously submitted applications for sign permits for (i) M&M Troy, 1634 John R; and (ii) MJP Estate, LLC, 2221 Livernois (collectively the "Pending Applications").



December 6, 2017

Page 2

doubt that the signs contemplated by the Sign Permits and the Pending Applications complied with the City's ordinance and had the legal right to approval.

In reliance on the City's ordinance and its representations, Troy made tremendous investments in expensive digital billboards and related improvements, procured billboard sites and commenced installation work at several locations. Now, at the eleventh hour and after in excess of a million dollars has been invested, the City has abruptly changed course, imposed a moratorium and informed Troy that the Sign Permits are "suspended" and that it cannot proceed with the Pending Applications. To make matters worse, the City has now further amended its moratorium to exclude numerous other sign types, but continues to target Troy's proposed signs with the moratorium. The damages to Troy of these improper "suspensions" mount each day that work is delayed and contribute to potential temporary (and possibly permanent) takings claims.

### **Troy Relied on the City and the Ordinance and Believed the Moratorium and Suspension Letter were Mistakes**

Troy's first reaction to the letter from the City, and the moratorium, was that there must be a mistake. Troy had been actively working with the City on the digital billboard project for months. Troy had identified and procured properties that comply with the ordinance, had actually received the Sign Permits and had invested in billboards, sites/locations, materials and services. Unfortunately, after multiple communications with the City, it was made clear to Troy that the "suspensions" of the Sign Permits and the Pending Applications were intentional.

To add insult to injury, when the City amended the moratorium, it actually exempted and relieved other sign applications from the burdens of its moratorium. As discussed further herein, the confluence of the City's knowledge, representations and actions, together with the timing of the moratorium and its targeted effect, render the moratorium improper and unfair and exacerbate Troy's damages.

### **The Moratorium Only Applies to Processing of Sign Applications - It Does Not Apply to Existing Sign Permits**

The City is advised that the "suspensions" of the Sign Permits do not comply with the clear and express terms of the moratorium. The moratorium expressly states that it only prohibits the "processing . . . of permit applications . . ." (emphasis added). In this case, Troy has actually obtained the Sign Permits. The "processing" of the "permit applications" (that resulted in the Sign Permits) is long complete. As a result, the moratorium does not apply to, and cannot be used to prevent, development and/or construction of the billboards that have received Sign Permits.

This language is included in both the original moratorium resolution and in the amendment to the moratorium. If the City Council expected otherwise, it certainly would have clarified the scope in the amendment. It appears obvious that the City administration has misread the scope of



December 6, 2017

Page 3

the moratorium or greatly exceeded its authority. Whatever the case, the signs that have received the Sign Permits cannot be "suspended" and installation work should be permitted to continue without further delay.

### **Use of a Moratorium to Prevent Processing of the Pending Applications is Improper and Unfair**

The City's position that the moratorium can be used to prevent processing of the Pending Applications is also improper and unfair. The Pending Applications comply with the ordinance and were submitted long before the moratorium was imposed. As the City well knows, using a moratorium to target one property owner or applicant over others and attempting to retroactively change their rights is improper. This motivation can be discerned from the reaction of the City to the Pending Applications (and the issuance of the Sign Permits for that matter), the City's institution of a moratorium as part of an effort to prevent (and likely change) Troy's rights after Troy made significant investments and the delivery of the "suspension" letter the day after the moratorium was imposed.

In addition, the reactive amendment to the moratorium, that exempted certain more favored types of signs, sign applications and applicants, casts further light on the City's motivation and bias and casts doubt on the viability of its moratorium as to the Pending Applications. Troy understands, and would agree, that application of the moratorium can (and should) apply to new digital billboard applications that have not been completed and/or formally submitted as of the date of the moratorium - - but the City cannot "stop the game and change the rules" with regard to the Pending Applications - - particularly after large investments have been made.

As the City considers whether the Pending Applications should be subject to the moratorium, it should be mindful that Michigan and other courts have held that a city council acts in bad faith when it rezones property or institutes moratoria to change rules midstream on a particular project which it would be otherwise be compelled to approve. In addition, Michigan courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets the standards for approval.

### **Request for Relief**

As stated the above, by its very clear and express language, the moratorium only applies to "processing . . . permit applications" and does not apply to the billboards that actually have Sign Permits. As such, those billboards are entitled to be installed without further delay.

In addition, under the current circumstances, it would be improper and unfair to "suspend" processing of the Pending Applications. The Pending Applications were developed in accordance



December 6, 2017

Page 4

with the existing ordinance, were submitted long before the moratorium was imposed and, under the current facts circumstances, it would be improper to use a moratorium to prevent consideration of the Pending Applications.

In light of all of the foregoing, we respectfully request that the City rescind its letter and allow construction to continue on the locations covered by the Sign Permits and re-commence processing of the Pending Applications. If the City disagrees or fails to respond within seven (7) days of the date of this letter, Troy may have no choice but to take legal action to protect its rights. As always, please feel free to contact me with any questions.

Sincerely,

HONIGMAN MILLER SCHWARTZ AND COHN LLP



J. Patrick Lennon

cc: R. Charles McLavy



ATTACHMENT #4-C



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

City Attorney's Office  
248-524-3320

December 15, 2017

J. Patrick Lennon  
Honigman, Miller, Schwartz, and Cohn, LLP  
350 East Michigan Avenue; Suite 300  
Kalamazoo, MI 49007-3800  
Lennon@honigman.com

**Re: Troy Outdoor, LLC**

Dear Mr. Lennon:

The letter you sent to Paul Evans, City of Troy Zoning & Compliance Specialist, was forwarded to me for review. In this letter, you ask the City to reconsider its November 21, 2017 suspension of three sign permits on behalf of your client, Troy Outdoor, LLC. These signs were proposed to be located at 1654 Livernois Road; 1340 W. Maple; and 2888 E. Maple in the City of Troy. For reasons set forth below, the City is unable to grant your requested relief.

After your client's rapid and instantaneous installation of five separate 200 foot digital signs in the City, the Troy City Council imposed a 180 day moratorium on November 20, 2017 for all signs, which was slightly amended on December 4, 2017 to limit the 180 day moratorium to electronic message center digital signs, ground signs exceeding 36 square feet in size, wall signs exceeding 100 square feet in size, and ground signs exceeding 10 feet in height. The moratorium was imposed due the recent influx of large digital ground signs that have proliferated the City's business corridors. It is readily apparent that such signs will have a direct negative impact on the health, safety, and welfare of the citizens of Troy because the signs will be unduly distracting to motorists and pedestrians and thus likely to create traffic hazards and reduce the effectiveness of public safety signs needed to direct and warn the public. The purpose of the moratorium is to allow the City to consider and evaluate its sign ordinance provisions and adopt appropriate amendments. In all likelihood, the amendment will prohibit digital signs of the size and height proposed by your client in its sign permit applications, resulting in a denial of the two pending applications and a revocation of the three permits.





\*PSG2017-0088%PSG%150.00\*

**Sign Permit No: PSG2017-0088**

Building Department  
**Inspection: (248) 689-5744**  
 Phone: (248) 524-3344

500 W. Big Beaver Road  
 Troy, Michigan 48084  
 Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120  
 www.troymi.gov

1340 W MAPLE 88-20-28-302-024      Lot: 9- Subdivision: MAPLE GARDEN ESTATES Zoning: B-3, R-1A      Use Group: Construction Type:	Location	Owner AMERICAN LEGION POST #140 1340 W MAPLE TROY MI 48084-5354
Issued: 06/21/2017		Applicant TROY OUTDOOR LLC TROY OUTDOOR LLC 724 ABBOT East Lansing (727) 415 4332 MI 48823
<b>FOR INSPECTIONS - CALL (248) 689-5744</b> <i>Inspections called in by 4:30 P.M. will be scheduled the next business day. **NOTE NEW INSPECTION CUT-OFF TIME**</i>		

**Work Description:** GROUND SIGN 10' X 20' = 200 SF DIGITAL EMC: CITY MEASUREMENT INSPECTION REQUIRED BEFORE EMC IS PLACED ON POLE

**Special Stipulations:** SEE USE RESTRICTIONS ON PERMIT DOCUMENTS

Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Signs Ground Signs	Signs	200.00	150.00

**Sign**

**Total Due: \$150.00**

**PAID on: 06/21/2017**

**Check#: 2890**

Payment Validation

This permit is Issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[ ] TREASURER COPY

[ ] DEPARTMENT COPY

[ ] CONTRACTOR COPY



# SIGN PERMIT APPLICATION

PLANNING DEPARTMENT  
500 W BIG BEAVER  
TROY MI 48084  
248 524 3359  
[evanspm@troymi.gov](mailto:evanspm@troymi.gov)  
SIGN ORDINANCE ONLINE [Ctrl+click here](#)



## APPLY ONLINE OR BY E-MAIL

Online applications see page 4 for instructions. E-mail send completed application and supporting documents to [evanspm@troymi.gov](mailto:evanspm@troymi.gov)

### SIGN PERMIT FEE DUE WHEN PERMIT IS READY TO ISSUE

SIZE	WALL SIGN PAINTED ON WALL	WALL SIGN STRUCTURALLY ATTACHED	GROUND SIGN
UNDER 100 SQ. FT.	\$ 75.00	\$ 100.00	\$ 125.00
100 TO 199 SQ. FT.	\$100.00	\$ 125.00	\$ 150.00
200 TO 300 SQ. FT.	\$ 100.00	\$150.00	\$ 175.00
SPECIAL EVENT	WALL OR GROUND	\$30.00	

PROPERTY ADDRESS: 1340 W. Maple Road Troy, MI APN 88-20-28-302-025

#### APPLICANT INFORMATION:

NAME Tony Lockridge 727-415-4332 Contact for Permit Info

COMPANY Troy Outdoor, LLC

ADDRESS 2487 South Michigan Road, Suite E

CITY Eaton Rapids STATE MI ZIP 48827

TELEPHONE 231-683-4229

E-MAIL tlockridge@hotmail.com

TYPE OF SIGN:



GROUND



WALL



SPECIAL EVENT

SPECIAL EVENT SIGNS: What 7 day period will signs be up? \_\_\_\_\_



# SIGN PERMIT APPLICATION

ILLUMINATED SIGN?

☒ YES ☐ NO

ELECTRICAL CONNECTIONS BY: Electrician will pull the permit

DOWNLOAD AN ELECTRICAL PERMIT APPLICATION [HERE](#).

ARE OTHER SIGNS ON THE PROPERTY? ☒ YES ☐ NO IF YES, DESCRIBE TYPE AND SIZE BELOW:

There is an on-premise sign that exceeds 36 sq ft, but will be replaced with one  
that will be 36 sq ft before construction.

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

APPLICANT SIGNATURE:

Marcel Kretzner

DATE

5/8/17

PRINT NAME:

Marcel Kretzner



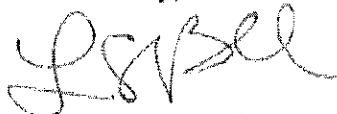
J. Patrick Lennon  
December 15, 2017  
Page -2-

In your letter, you claim the current moratorium only prohibits the "processing ... of permit applications..." and contend the moratorium is not applicable to the permits that have already been issued. However, the term processing is a broad term that encompasses all actions taken as a result of the issuance of the permit including construction, inspections, and final approval. Moreover, the Zoning & Compliance Specialist as the designee of the Zoning Administrator has authority under the sign ordinance to prohibit any sign that is unsafe and deemed a hazard to health and safety. Mr. Evans' letters of November 21, 2017 suspending your client's permits were issued pursuant to that authority.

You also claim in your letter that "courts have held that a developer can obtain vested rights even before it begins physical work when a city changes the rules midstream in a bad faith attempt to throttle a project that meets standards for approval." However, the law is clear that issuance of a permit itself does not confer vested rights unless actual construction has commenced. As noted in the letters of Mr. Evans, there is no evidence of any construction or any work completed on any of the three signs for which a permit was approved. Additionally, the City's decision to impose a moratorium is for the sole purpose of protecting the health, safety, and welfare of its citizens. The City has not acted in bad faith.

If you should have any questions regarding this matter, please call me at (248) 524-3320.

Sincerely,



Lori Grigg Bluhm  
City Attorney  
[bluhmlg@troymt.gov](mailto:bluhmlg@troymt.gov)

cc: Paul Evans



#### ATTACHMENT #4-E

On November 20, 2017, the Troy City Council enacted a resolution declaring a moratorium on the issuance of sign permits under the sign ordinance. The language of the sign permit moratorium resolution contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 21st day of November 2017, the Troy City Council hereby **IMPOSES** a 180 day moratorium, prohibiting the Troy City Administration from processing any permit applications for all signs. This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions, and especially the provisions allowing for ground signs with displays in excess of 100 square feet.*

The language adopted prohibited staff for the City from *processing any permit applications for all signs*.

On December 4, 2017, the Troy City Council enacted a new resolution declaring a moratorium for the issuance of sign permits under the sign ordinance. By its terms, the December 4, 2017 moratorium stuck the entire moratorium as enacted on November 20, 2018 and replacing it with newly adopted language. The resolution of December 4, 2017 also contains in part the following:

*NOW, THEREFORE BE IT RESOLVED, That as of the 4th day of December 2017, the Troy City Council hereby **IMPOSES** a new 180 day moratorium, prohibiting the Troy City Administration from processing any of the following permit applications for property in the City of Troy:*

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

*This moratorium will allow consideration and evaluation of Troy's sign provisions. If the complete process is completed in less than 180 days, then the Troy City Council has the option to pass a subsequent resolution terminating the moratorium prior to the expiration of 180 days, in its sole discretion.*

*BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** City Administration to initiate a process for the review of Troy's sign code provisions.*

The essence of the above language is to prohibit staff from *processing any of the following permit applications for property in the City of Troy*:



- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height*

This revision served to narrow the subset of signs target for more intrusive regulation, which includes signs similar in nature to that approved in Applicants' approved permit.

Based upon the language of the moratoriums at issue, Ms. Lori Grigg Blum, city attorney for the City, opined in response to a letter from an attorney on behalf of the Applicants, that the moratorium at issue would be interpreted by the city in such a manner as requiring the suspension of the permit at issue in this case.

Applicants initially submit that the ordinances at issue are clear and unambiguous in their terms. One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)). When applying this standard, the language of the moratorium is not in need of interpretation and supports the Applicants request.

In this case, a review of the moratorium ordinances at issue reveals a clear fact that the ordinances did not serve to repeal any previously issued permit. No repeal language is included in the ordinance enactments. Rather the ordinances specifically prohibit processing any of the following permit applications:

- *An electronic message center (digital sign)*
- *A ground sign that exceeds 36 square feet*
- *Any ground sign that exceeds 10 feet in height.*

Nothing in the language of the ordinances suggests that this prohibition is to be applied retroactively to already approved permits applications, such as the one granted to Applicants.

The language used in the ordinance is clear and unequivocal. Yet, in the face of the plain and specific language of the ordinance, City staff, including its attorney, have taken the position that the ordinance language of *processing any of the following permit applications* should somehow be retroactively applied to previously approved applications where the permits were in fact already issued. Such an interpretation violates the expressed language of the ordinance and extends the application to a much broader group of persons than specified, i.e. to persons holding validly issued permits instead of just applicants for sign permits.

Essentially, the City via its staff, has chosen to interpret the words *processing* and *applications* beyond their normal customary meaning. Such action violates the rules of statutory construction. Absent a specific definition within the legislative enactment words used in an enactment must be given their ordinary meaning. *Luttrell v Dep't of Corrections*, 421, Mich 93; 365 NW2d 74 (1984).

One must accord words used in an enactment with their common and ordinary meaning and must 'give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'" *Wayne Co v Wayne Co Retirement*



*Comm*, 267 Mich App 230, 244; 704 NW2d 117 (2005) (quoting *State Farm Fire & Cas Co v Old Republic Ins Co*, 466 Mich 142, 146; 644 NW2d 715 (2002)).

Meriam-Webster online dictionary ([www.merriam-webster.com/dictionary/process](http://www.merriam-webster.com/dictionary/process)) defines the term “processing”, to the extent applicable to this case, as:

- 1 **a:** [PROGRESS](#), [ADVANCE](#) - in the *process* of time, **b:** something going on: [PROCEEDING](#)
- 3 **a:** the whole course of [proceedings](#) in a legal action, **b:** the summons, mandate, or writ used by a court to compel the appearance of the defendant in a legal action or compliance with its orders

Free Dictionary online dictionary ([www.thefreedictionary.com/processing](http://www.thefreedictionary.com/processing)) defines the term *processing* in a relevant part as *the act or process of treating or preparing something by a special method*. This same publication defines the term *process* as: *A series of actions, changes, or functions bringing about a result*. Given these definitions, the term *processing* clearly refers to the application process that leads either to a grant or denial of a permit. Once issued, the permit grants rights to proceed based upon the authority granted. The applicant’s status changes from that of applicant to that of permit holder. Once the permit is issued, there is no longer an application process in play. The moratorium language did not revoke the right to proceed on the terms of the permit, rather it specifically prohibited staff from processing applications.

Meriam-Webster online dictionary ([www.merriam-webster.com/dictionary/process](http://www.merriam-webster.com/dictionary/process)) defines the term *application*, as relevant to this proceeding, as:

- 1 an act of [applying](#): **a** (1): an act of putting something to use - *application* of new techniques (2): a use to which something is put - new *applications* for old remedies, **b:** an act of administering or laying one thing on another - *application* of paint to a house **c:** [assiduous](#) attention - succeeds by *application* to her studies
- 2 **a:** [REQUEST](#), [PETITION](#) - an *application* for financial aid, **b:** a form used in making a request - filling out an *application*

Free Dictionary online dictionary ([www.thefreedictionary.com/application](http://www.thefreedictionary.com/application)) defines the term *application* in a relevant part as:

1. the act of applying to a particular purpose or use.
3. the act of asking for something: *an application for leave*.
4. a verbal or written request, as for a job, etc: *he filed his application*.

Looking at the above language, the application is merely the formal act of requesting relief, in this case a permit to do that which was authorized under the law at the time of the submission.

It also helps in this analysis to contrast the term *application* with the term *permit*. Merriam-Webster online dictionary ([www.merriamwebster.com/dictionary/permit](http://www.merriamwebster.com/dictionary/permit)) defines the term *permit*, to the extent applicable herein as: *a written warrant or license*



*granted by one having authority*. The permit is not an application, it is a license to act. To the extent the City fails to draw the distinction between the term *application* and the term *permit* it violates the rules of statutory construction by giving a meaning to an enactment not supported by the clear language of that enactment. An application IS clearly distinctive from the concept of a permit.

It is clear that the language of the Moratorium ordinance did not make it applicable to the Permit granted to the Applicant, which is set forth as **Attachment #4-D**.



## ATTACHMENT #4-F

### Justification for BCBA Appeal Request under the Sign Code

The appeal should be granted because the application was originally submitted and granted when the City's sign code allowed the sign as it was applied for. This is a very unique circumstance. The City has subsequently made changes to its sign code but the applicant could not have known that it could not apply for, permit, and install signs under the sign code as it stood at that time. In reliance on the code, the applicant spent substantial time and money on the following: property research, travel, mileage, leasing, site plans, sign structure engineering, LED schematics, permit fees, lease payments, structure fabrication, site preparation work, structure delivery and storage, and numerous other items. Through no fault of its own, the applicant has been greatly harmed. Other properties were issued sign permits at the same time and have been able to benefit from signs materially identical to this one.

The appellant meets all criteria for the following reasons:

*a. Exceptional characteristics of the property for which the variance is sought make compliance with the requirements of this Chapter substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation, and other similar characteristics.*

This is the only property in the vicinity, and one of the very few in the City, that had a sign application duly granted and permitted, but not yet built, before the City chose to reconsider its sign code. Several other parcels were issued permits at the same time and the signs have been installed and are operating. This is a unique status not shared by any other parcels in the area.

*b. The characteristics which make compliance with the requirements of this Chapter difficult must be related to the premises for which the variance is sought, not some other location.*

This application was submitted at a time when it was in total conformance to the City sign code. Thus, conformance to unknown future requirements was truly impossible. This is a totally unique situation.

*c. The characteristics which make compliance with the requirements of this Chapter difficult shall not be of a personal nature.*

The problem is not personal in any way. These circumstances came about because the City chose to change its sign code after the permit had been issued.

*d. The characteristics which make compliance with the requirements of this Chapter difficult must not have been created by the owner of the premises, a previous owner, or the applicant.*

This unfortunate situation did not arise through any fault of the applicant.

*e. The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase congestion in public streets, or increase the danger of fire or endanger public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.*

The sign is appropriate and was allowed under the code at the time of application. It will not harm any of the cited interests in this commercial area.



