

STATEMENT OF PRACTICAL DIFFICULTY

In order for a variance to be granted, a practical difficulty, as determined by the Board, must be present. On a separate sheet, please clearly identify and explain the practical difficulty justifying the variance request. The practical difficulty must be clearly related to as many of the 5 standards below as possible:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements 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 dimensional requirements 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 dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- 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 the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

RESOLUTION TEMPLATE

Moved by:

Seconded by:

That the variance request for [applicant name, address or location], for [request]

Be granted for the following reasons:

The applicant has demonstrated that:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements 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 dimensional requirements 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 dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- 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 the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City

Yeas:

Nays:

MOTION CARRIED / FAILED

Moved by:
Seconded by:

That the variance request for [applicant name, address or location], for [request]

Be denied for the following reason(s):

The applicant has not demonstrated that:

- f) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements 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.
- g) The characteristics which make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
- h) The characteristics which make compliance with the dimensional requirements shall not be of a personal nature.
- i) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- j) 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 the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City

Yeas:
Nays:

MOTION CARRIED / FAILED

Moved by:
Seconded by:

RESOLVED, that the variance request for [applicant name, address or location], for [request]

Be postponed for the following reason(s):

Yeas:
Nays:

MOTION CARRIED / FAILED

G:\ZONING BOARD OF APPEALS\Resolution Template Zoning Board of Appeals.doc

ZONING BOARD OF APPEALS – OPENING STATEMENT

Zoning Board of Appeals is a group of seven of your neighbors appointed by City Council to decide on requests for variances and other matters that are brought before them. A variance is a relaxation of the literal provisions of the Zoning Ordinance. Petitioners must indicate a hardship or practical difficulty with the land that would warrant the granting of the variance.

PROCEDURE

The Board will hear the items in the order that they appear on the agenda. When an item is called, the Chairman will verify that the petitioner is present. Then the City Administration will summarize the facts of the case. The petitioner will then be given an opportunity to address the Board to explain the justification for the action requested.

After the petitioner makes their presentation, and answers any questions that the Board may have, the Chairman will open the Public Hearing. At the conclusion of public comments, the Chairman will close the Public Hearing. Once the Public Hearing is closed, no other public comment will be taken unless in response to a specific question by a member of the Board. The Board will then make a motion to approve, deny, or postpone the request. In order for the request to pass a minimum of four votes are needed. If the request is not granted, the applicant has the right to appeal the Board's decision to Oakland County Circuit Court.



500 West Big Beaver
Troy, MI 48084
troymi.gov

248.524.3364
planning@troymi.gov

ZONING BOARD OF APPEALS MEETING AGENDA

Glenn Clark, Chairman, Michael Bossenbroek, Vice Chairman
Thomas Desmond, David Eisenbacher, Aaron Green Jim McCauley,
Sadek Rahman, Orestis Kaltsounis Alternate, Mahendra Kenkre Alternate

May 18, 2021

7:30 P.M.

REMOTE

The Zoning Board of Appeals will accept public comments in writing before the public hearing. Written comments can be directed to the attention of the Planning Department, City of Troy, 500 W. Big Beaver Road, Troy, Michigan 48084, or by e-mail to ZBAPublicComments@troymi.gov and must be received no later than 3:00 p.m. one day prior to the date of the meeting.

1. ROLL CALL

RESOLUTION TO ALLOW PARTICIPATION IN PUBLIC MEETINGS BY ELECTRONIC MEANS

2. PROCEDURE

3. APPROVAL OF MINUTES – April 20, 2021

4. APPROVAL OF AGENDA

5. HEARING OF CASES

- A. VARIANCE REQUEST, 116 EVALINE, JOZEF OLSZEWSKI: A variance to allow an accessory building (garage/shed) to be setback 5 feet from the rear property line where the Zoning Ordinance requires the building to be 6 feet from the rear property line. The building has already been constructed.

ZONING ORDINANCE SECTION: 7.03 B 2 e

- B. VARIANCE REQUEST, 500 W LONG LAKE, DENNIS BOSTICK: A variance to allow the creation of two new parcels of land, each of which will have zero frontage along the constructed portion of the right of way. The Zoning Ordinance requires each parcel to have 110 feet of frontage along a constructed portion of the right of way.

ZONING ORDINANCE SECTION: 4.06 C, R-1B Zoning

6. COMMUNICATIONS

7. MISCELLANEOUS BUSINESS – ZBA presentation by Assistant City Attorney Allan Motzny

8. PUBLIC COMMENT

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at 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.

9. ADJOURNMENT

COMMENTS can be sent to the Zoning Board of Appeals via:

EMAIL ZBAPublicComments@troymi.gov.

VOICEMAIL: 248.524.3580. no later than 3:00 p.m. on the date of the meeting.

WATCH MEETING: https://troymi.gov/community/government/citycouncil/council_meeting_webcast.php .

JOIN ZOOM MEETING: <https://zoom.us/j/99756245375?pwd=b29keVlaMVh5VExjcm0rMnFnWXPWZz09>

Meeting ID: 997 5624 5375

Passcode: 813506

Phone: 1 312 626 6799

Enter your email address and first and last names. Failure to do so may delay when you are recognized by the Chair to comment.

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PROPOSED RESOLUTION TO CONDUCT ELECTRONIC MEETING

RESOLVED, that the Troy Zoning Board of Appeals hereby allows its members and members of the public to participate in public meetings by electronic means as allowed by Public Act 228 of 2020, and in accordance with Troy City Council Resolution 2021-04-048 declaring a local state of emergency and determining that an in-person meeting could detrimentally increase exposure of board members and the general public to COVID-19. The allowance to participate in public meetings shall continue until the Troy City Council lifts the local state of emergency or through December 31, 2021, whichever is earlier.

Members participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present. However, members must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision.

RESOLVED, that the Troy Zoning Board of Appeals hereby establishes public participation rules for any eligible virtual meetings to provide for methods by which members of the public can be heard by others during meetings. As detailed in each meeting agenda, public comments can be submitted for the Zoning Board of Appeals meeting via email, voicemail, or participating in the virtual meeting broadcast

On April 20, 2021 at 7:30 p.m., via a remote meeting, Chair Clark called the Zoning Board of Appeals meeting to order.

1. ROLL CALL

Present:

Michael Bossenbroek
David Eisenbacher
Aaron Green
James McCauley
Sadek Rahman
Glenn Clark
Thomas Desmond

Also Present:

Mahendra Kenkre, Board Alternate for item 5A in place of Mr. Desmond
Paul Evans, Zoning and Compliance Specialist
Allan Motzny, Assistant City Attorney
Jackie Ferencz, Planning Administrative Assistant

2. PROCEDURE- read by Vice Chair Bossenbroek

3. APPROVAL OF MINUTES – March 16, 2021

Moved by McCauley
Seconded by Eisenbacher

RESOLVED, to approve the March 16, 2021 meeting minutes.

Yes: All

MOTION PASSED

4. APPROVAL OF AGENDA – Item C withdrawn by applicant.

5. HEARING OF CASES:

A. VARIANCE REQUEST, 347 LOWRY, JASON TALOS: A variance to enlarge an existing single family home. The property is in the BB Zoning District. The home is nonconforming because single family homes are not permitted in the BB Zoning District. The Zoning Ordinance prohibits enlarging structures devoted to nonconforming uses. The home was constructed prior to the establishment of the BB Zoning District.

ZONING ORDINANCE SECTION: 14.03 A & F, Table 5.03-A-1

Moved by Eisenbacher
Second by Green

RESOLVED, to postpone item to end of Hearing of Cases.

Yes: All

MOTION PASSED

- B. VARIANCE REQUEST, 1949 HAMMAN- NORMAN FELTON: A variance to allow a proposed home addition (roof over existing patio) to be 23.6 feet from the rear property line where the Zoning Ordinance requires the proposed addition to be no less than 40 feet from the rear property line.

ZONING ORDINANCE SECTION: 4.06 C, R-1C Zoning

Moved by Green
Second by McCauley

RESOLVED, to deny the request.

Yes: Clark, Green, McCauley, Bossenbroek
No: Rahman, Desmond, Eisenbacher

MOTION PASSED

- C. VARIANCE REQUEST, 4950 PARK MANOR- JOSEPH MANIACI FOR MONDRIAN PROPERTIES: A variance to allow a proposed new house to be 12.53 feet from the front property line where the development approval requires the proposed house to be no less than 25.43 feet from the front property line.

ZONING ORDINANCE SECTION: 10.04 E, 2, b, i

WITHDRAWN BY APPLICANT

- D. VARIANCE REQUEST, 1649 FLEETWOOD- TIMOTHY PAWLIK: A variance to allow a home addition to be set back 34 feet from the rear property line where the Zoning Ordinance requires a 75 foot setback.

ZONING ORDINANCE SECTION: 4.06 D, R-1C Zoning

Moved by Green
Second Desmond

RESOLVED, to grant the request.

YES: All

MOTION PASSED

Stand at Ease called by Chair Clark 8:40-8:45pm

- E. VARIANCE REQUEST, VACANT CANAHAM PARCEL (88-20-09-231-024)- ROY RATHKA JR. FOR RATHKA BUILDING & CONSTRUCTION INC.: A variance to allow a proposed duplex to be set back 10 feet from the front property line where the Zoning Ordinance requires the it to be set back no less than 25 feet from the front property line.

ZONING ORDINANCE SECTION: 4.07, R-T Zoning

Moved by Green
Second by McCauley

RESOLVED to deny the request.

Yes: Green, Bossenbroek, McCauley, Clark
No: Desmond, Eisenbacher, Rahman

MOTION PASSED

- F. VARIANCE REQUEST 1209 PROVINCIAL- SABEEN KAHN: A variance to allow a proposed home addition to be 37.5 feet from the rear property line where the Zoning Ordinance requires the proposed addition to be no less than 45 feet from the rear property line.

ZONING ORDINANCE SECTION: 4.06 C, R-1B Zoning

Moved by Eisenbacher
Second by Rahman

RESOLVED, to grant the request.

Yes: Desmond, Eisenbacher, Rahman
No: McCauley, Green, Clark, Bossenbroek

MOTION FAILED, no additional motions furthered.

- A. VARIANCE REQUEST 347 LOWRY, JASON TALOS: A variance to enlarge an existing single-family home. The property is in the BB Zoning District. The home is nonconforming because single family homes are not permitted in the BB Zoning District. The Zoning Ordinance prohibits enlarging structures devoted to nonconforming uses. The home was constructed prior to the establishment of the BB Zoning District.

ZONING ORDINANCE SECTION: 14.03 A & F, Table 5.03-A-1

Moved by Eisenbacher
Second by Bossenbroek

RESOLVED to postpone to next meeting

Yes: Eisenbacher, Bossenbroek, Kenkre
No: Clark, Green, McCauley, Rahman

MOTION FAILS

Moved by Clark to approve the request.

MOTION FAILS for lack of a second.

Moved by Green
Second by Rahman

RESOLVED, to deny the request

Yes: Kenkre, Bossenbroek, McCauley, Rahman, Green
No: Eisenbacher, Clark

MOTION PASSED

6. COMMUNICATIONS – none
7. MISCELLANEOUS BUSINESS – Mr. Motzny will present training at next ZBA meeting.
8. PUBLIC COMMENT – none
9. ADJOURNMENT –The Zoning Board of Appeals meeting ADJOURNED at 10:15pm

Respectfully submitted,

Glenn Clark, Chairman

Paul Evans, Zoning and Compliance Specialist

A. VARIANCE REQUEST, 116 EVALINE, JOZEF OLSZEWSKI: A variance to allow an accessory building (garage/shed) to be setback 5 feet from the rear property line where the Zoning Ordinance requires the building to be 6 feet from the rear property line. The building has already been constructed.



Re: Zoning Board of Appeals Public Hearing
Date of mailing: April 30, 2021

CITY OF TROY
PUBLIC HEARING NOTICE

The City of Troy Zoning Board of Appeals will hold a public hearing on Tuesday, May 18, 2021 at 7:30 p.m. The public hearing will be held remotely using the Zoom remote meeting platform. The following item will be considered:

A variance request to allow an accessory building (garage/shed) to be setback 5 feet from the rear property line where the Zoning Ordinance requires the building to be 6 feet from the rear property line. The building has already been constructed

LOCATION: 116 Evaline

ZONING ORDINANCE SECTION: 7.03 B 2 e

APPLICANT/PROPERTY OWNER: Jozef Olszewski

The application on file can be viewed online at the Boards and Committees page of the City website at <https://troymi.gov/>.

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To call in to the meeting, dial 1 312 626 6799 Meeting ID: 997 5624 5375 Passcode:813506

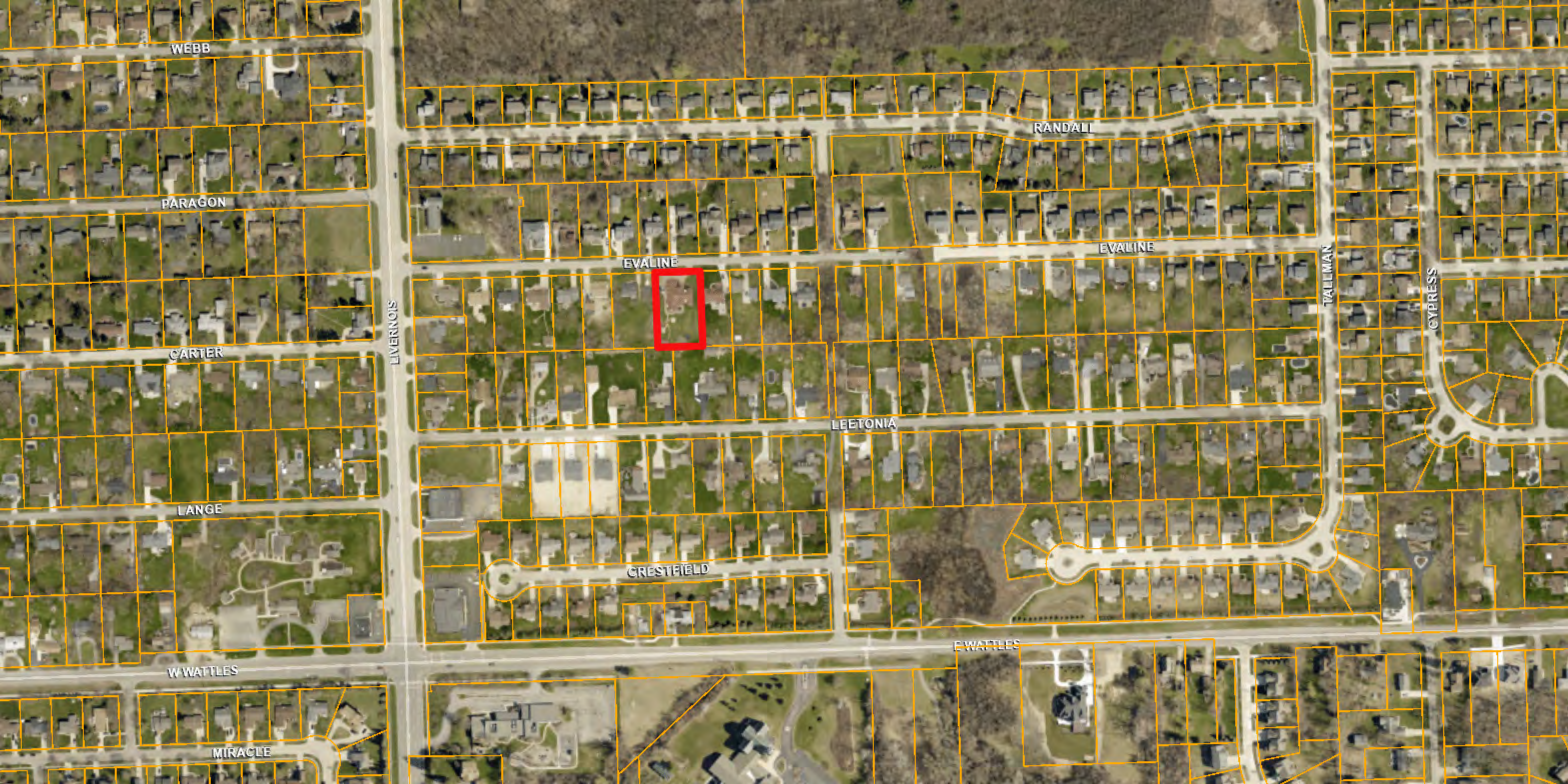
Notices and information for public hearings will also be posted on the City website at <http://troymi.gov/Government/PublicHearings>.

M. Aileen Dickson, MMC, MiPMCII
City Clerk

City of Troy
Planning Department
500 W. Big Beaver
Troy, MI 48084

«Name1»
«Name2»
«Address»
«Address2»

[ZBA 116 Evaline]



WEBB

PARAGON

CARTER

LANGE

W WATTLES

MIRACLE

LIVERNOIS

EVALINE



RANDALL

EVALINE

LEETONIA

CRESTFIELD

E WATTLES

TALLMAN

CYPRESS





37 53 69 85 101 117 133 149 165 181 197 213 229 243

RANDALL

36 54 70 86 102 120 136 152 168 186 202 218 232

296 312 336 348 360 376

4230 53 65 81 93 107 117 129 143 155 167

179 193 291 303 305 317 327

EVALINE

EVALINE

20 32 44 56 68 78 94 116 138 150 168 174

180 220 304 316 328

4174

(R-1C)

4126 45 85 95 105 137 141 151 165

179 191 207 249 287 339 351

4104 55 65

LEETONIA

(NN) Node H 58 68 78 88 100 118 140 144 148 152

170 188 204 298 336 354

28 4079

(R-1B) 4257

4241

PARAGON

(R-1B) 4177

4155

CARTER

23 4141

4121

(R-1B)

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28 4079

EVALINE

78

94

116

138

150

168





Zoning Board of Appeals Application

MICHIGAN
RECEIVED

APR 15 2021

PLANNING

planning@troymi.gov | Fee \$150.00

RECEIVED

APR 15 2021

PLANNING

THE ZONING BOARD OF APPEALS MEETS THE **THIRD TUESDAY OF EACH MONTH AT 7:30 P.M. AT CITY HALL**. PLEASE FILE A COMPLETE DIGITAL APPLICATION AND FEE AT LEAST **36 DAYS BEFORE** THE MEETING DATE. PRE APPLICATION MEETING WITH PLANNING DEPARTMENT REQUIRED BEFORE FILING APPLICATION.

1. ADDRESS OF THE SUBJECT PROPERTY: 116 Evaline (Shed)

2. PROPERTY TAX IDENTIFICATION NUMBER(S): _____

3. ZONING ORDINANCE SECTIONS RELATED TO THE REQUEST: _____

4. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: NO

5. APPLICANT:

NAME IWONA , JOZEF OLSZEWSKI

COMPANY _____

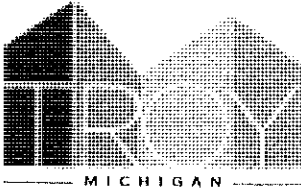
ADDRESS 116 EVALINE

CITY TROY STATE MI ZIP 48085

PHONE (313)903-2093

E-MAIL IWONA2004@yahoo.com

AFFILIATION TO THE PROPERTY OWNER: OWNER



Zoning Board of Appeals Application

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APR 15 2021

PLANNING

6. PROPERTY OWNER:

NAME IWONA & JOZEF OLSZEWSKI

COMPANY _____

ADDRESS 116 EVALINE

CITY TROY STATE MI ZIP 48085

TELEPHONE (313) 903-2093

E-MAIL IWONA2004@yahoo.com

The undersigned hereby declares 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, IWONA, JOZEF (APPLICANT) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO ENTER THE PROPERTY TO ASCERTAIN PRESENT CONDITIONS.

APPLICANT SIGNATURE Josef Olszewski DATE 4-14-21

PRINT NAME: JOZEF Olszewski

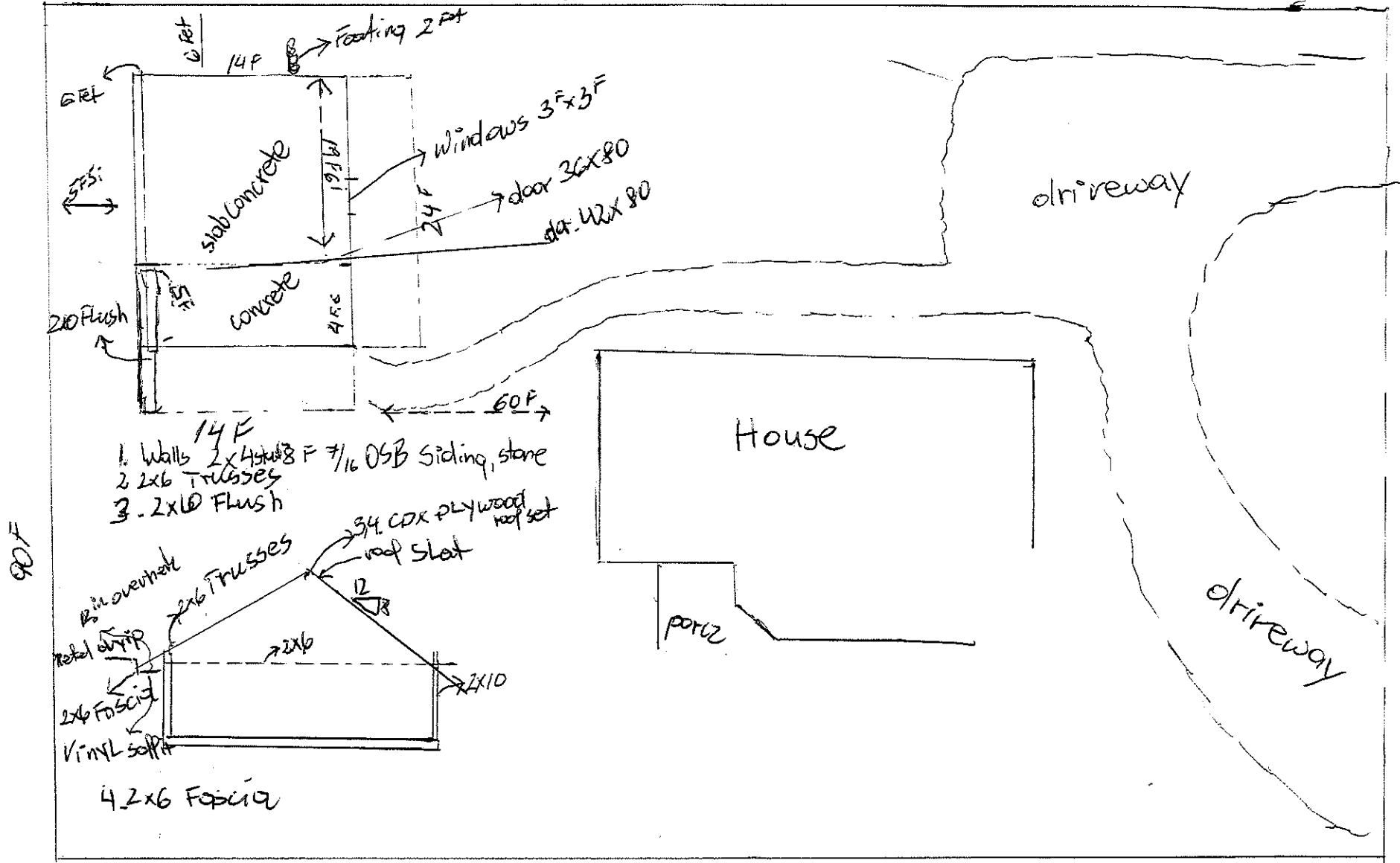
PROPERTY OWNER SIGNATURE Josef Olszewski DATE 4-14-21

PRINT NAME: JOZEF Olszewski

Failure of the applicant or their authorized representative to appear before the Board as scheduled shall be cause for denial or dismissal of the case with no refund of fees. The applicant will be notified of the time and date of the hearing by mail. If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

Approved variances are good for a one year period.

225 E



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 APR 15 2021
 PLANNING

116 EVALINE (SHED)

RECEIVED
APR 15 2021
PLANNING

1. One side came out 5'6" because I had putted the wall right at 6'feet and I should off install the wall ~~at~~ behind 6'feet not on 6'feet line.
 2. structure is larger because I need it more room for storage.
 3. I had install the man door so it is easy for me to park in my lawnmower.
- (footing inspection was approved and electrical inspection) approved as well



500 West Big Beaver
Troy, MI 48084
troymi.gov

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APR 15 2021
PLANNING

Planning Department
248 524-3364

03/25/2021

OLSZEWSKI, JOZEF & IWONA
116 Evaline
Troy, MI 48085

Subject: 116 EVALINE

On 03/25/2021 I observed the subject site and noted the installation of **the accessory structure** was done without obtaining proper permits. While a permit was pulled in 2013 a final inspection was not passed. As a result, an inspection was performed on 3/23/2021 and the following issues were discovered;

1. *The structure is too close to property line (the walls are 5'6" from fence and the overhang is 5' from fence).*
2. *The structure is larger than shown on plans (it is 14' x 25' the plans show 11' x 17'. The actual walls are OK but a lean-to roof was added to east side of structure).*
3. *The east side of structure has a man door and an opening for overhead door where the plans show only an overhead door.*

This condition does not comply with the Property Maintenance Code nor Michigan Building, Mechanical, Electrical, or Plumbing codes. To correct the condition, **please bring the building into compliance. If you plan on seeking a variance from the Building Code Board of Appeals for the set-back violations and/or you plan on seeking an "as built" permit for the structure size discrepancy, please make your application prior to 04/15/2021. If you intend on demolishing the structure please do so only after obtaining the proper permits prior to the date listed above.**

VARIANCE REQUEST, 500 W LONG LAKE, DENNIS BOSTICK: A variance to allow the creation of two new parcels of land, each of which will have zero frontage along the constructed portion of the right of way. The Zoning Ordinance requires each parcel to have 110 feet of frontage along a constructed portion of the right of way.



Re: Zoning Board of Appeals Public Hearing
Date of mailing: April 30, 2021

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LOCATION: 500 W. Long Lake

ZONING ORDINANCE SECTION: 4.06 C, R-1B Zoning

APPLICANT; Dennis K. Bostick

PROPERTY OWNER: James Whitehead for Automotive Media, LLC

The application on file can be viewed online at the Boards and Committees page of the City website at <https://troymi.gov/>.

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M. Aileen Dickson, MMC, MiPMCII
 City Clerk

City of Troy
 Planning Department
 500 W. Big Beaver
 Troy, MI 48084

«Name1»
 «Name2»
 «Address»
 «Address2»

[ZBA 500 W Long Lake]



TOWER

TOWER

W LONG LAKE

75

DANIELS

WRIGHT

STALWART

FABIUS

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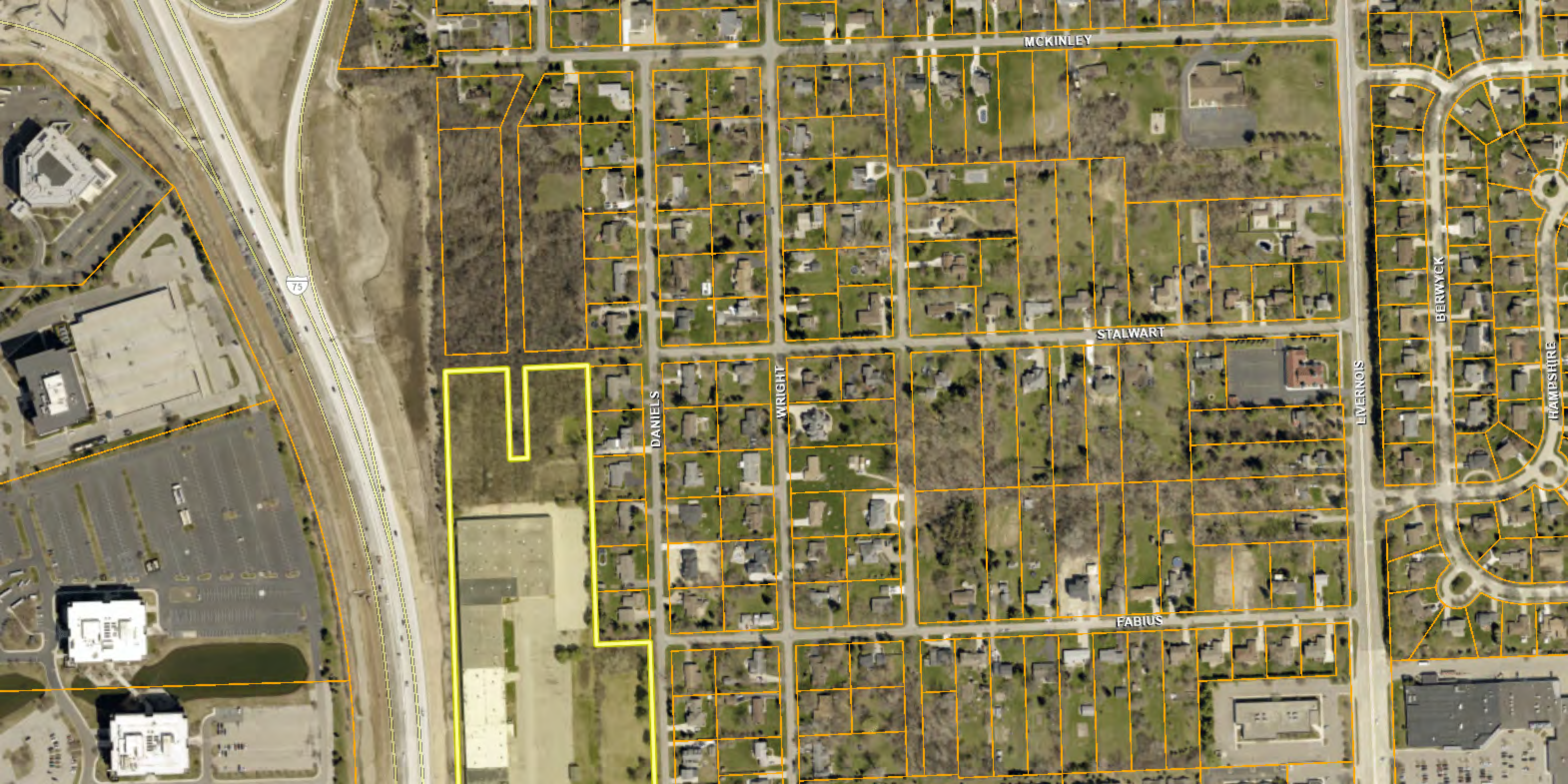
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MCKINLEY

75

STALWART

DANIELS

WRIGHT

FABIUS

LIVERNOIS

BERWYCK

HAMPSHIRE



CITY OF TROY | PLANNING DEPT. | 500 WEST BIG BEAVER | TROY, MI 48084 | 248-524-3364

Zoning Board of Appeals Application

planning@troymi.gov | Fee \$150.00

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1. ADDRESS OF THE SUBJECT PROPERTY: 500 W. Long Lake Road, Troy, MI 48098

2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-09-451-018

3. ZONING ORDINANCE SECTIONS RELATED TO THE REQUEST: Section 30.10.00 including frontage on a public street

4. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: No

5. APPLICANT:

NAME Dennis K. Bostick

COMPANY 500 West Long Lake Road, LLC

ADDRESS 803 West Big Beaver Rd., Suite 100

CITY Troy STATE MI ZIP 48084

PHONE 586-939-5813

E-MAIL dbostick@troysports.com

AFFILIATION TO THE PROPERTY OWNER: Representative with interest



CITY OF TROY | PLANNING DEPT. | 500 WEST BIG BEAVER | TROY, MI 48084 | 248-524-3364

Zoning Board of Appeals Application

6. PROPERTY OWNER:

NAME James Whitehead

COMPANY Automotive Media, LLC

ADDRESS 500 W. Long Lake Rd.

CITY Troy STATE MI ZIP 48098

TELEPHONE 248-761-9001

E-MAIL jim@imbranded.com

The undersigned hereby declares 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, Dennis K. Bostick (APPLICANT) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO ENTER THE PROPERTY TO ASCERTAIN PRESENT CONDITIONS.

DocuSigned by: DATE 4/8/2021
APPLICANT SIGNATURE 95D161BDEC7C49B...

PRINT NAME: Dennis K. Bostick

DocuSigned by: DATE 4/8/2021
PROPERTY OWNER SIGNATURE 0D9D0423D84F43C...

PRINT NAME: James Whitehead

Failure of the applicant or their authorized representative to appear before the Board as scheduled shall be cause for denial or dismissal of the case with no refund of fees. The applicant will be notified of the time and date of the hearing by mail. If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

Approved variances are good for a one year period.

April 8, 2021

City of Troy
Zoning Board of Appeals

**RE: Statement of Practical Difficulty
500 West Long Lake Road, Parcel Number 20-09-451-018**

Dear Board Members,

Regarding the above referenced property, I appeal to you for relief of Section 30.10.00 including frontage on a public street of the City of Troy Zoning Ordinance.

On December 29, 2020, the existing building and a portion of the parcel was sold to Automotive Media, LLC. There is a section of the parcel which was not supposed to be included in the sale. On March 26, 2021, an application for Description Change to facilitate a lot split was submitted to the City of Troy Assessing Department. This application was denied on March 29, 2021 noting the following noted:

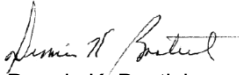
Does not front on public roadway, sewer required, engineered road.

As a result of the initial lot split denial and the need of Automotive Media to find a new home in Troy, we conveyed the subject land to Automotive Media and retained an option to purchase it once the lot split is completed. The deadline to repurchase the subject land expires at the end of this year.

The subject land will be developed in the future by a qualified developer. Insisting that the road and underground utilities be installed as a condition of the lot split is an economic hardship and a practical one too. We do not know how or in what form the future development of the subject land will take. It makes far more planning and economic sense to require the installation and construction of the road and underground utilities when the development plans are known.

The global spread of COVID-19 has generated unprecedented delays, disruptions, and uncertainty on construction projects. With the availability of the vaccine and a positive growth outlook for 2021, we are hoping to find a development partner soon. If you should approve the variance, we will proceed with the lot split immediately and turn our focus to developing the remaining land while adhering to established guidelines and existing requirements set forth by the City of Troy.

Sincerely,



Dennis K. Bostick
500 West Long Lake Road, LLC
(586) 939-5813
dbostick@troysports.com



Zoning Board of Appeals Application

STATEMENT OF PRACTICAL DIFFICULTY

In order for a variance to be granted, a practical difficulty, as determined by the Board, must be present. On a separate sheet, please clearly identify and explain the practical difficulty justifying the variance request. The practical difficulty must be clearly related to as many of the 5 standards below as possible:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements 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 dimensional requirements 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 dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- 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 the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.



Zoning Board of Appeals Application

ZONING BOARD OF APPEALS APPLICATION CHECKLIST

Please provide the following in digital format. You may e-mail them to planning@troymi.gov or submit them on media such as a CD or jump drive:

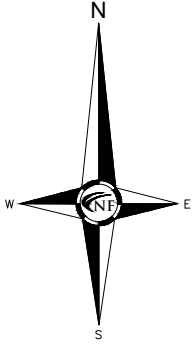
- ✓ Completed application
- ✓ Statement of practical difficulty see page 3
- ✓ Plot plan or survey showing property lines, existing and proposed buildings, their dimensions and locations (height, length, width, as applicable)
- ✓ Setbacks from property lines
- ✓ Elevation drawings
- ✓ Photos as necessary to accurately describe the request, including existing and proposed property conditions
- ✓ Any other information that explains the request
- ✓ Incomplete applications cannot be accepted

Certificate of Survey

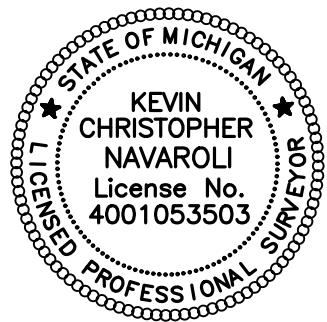
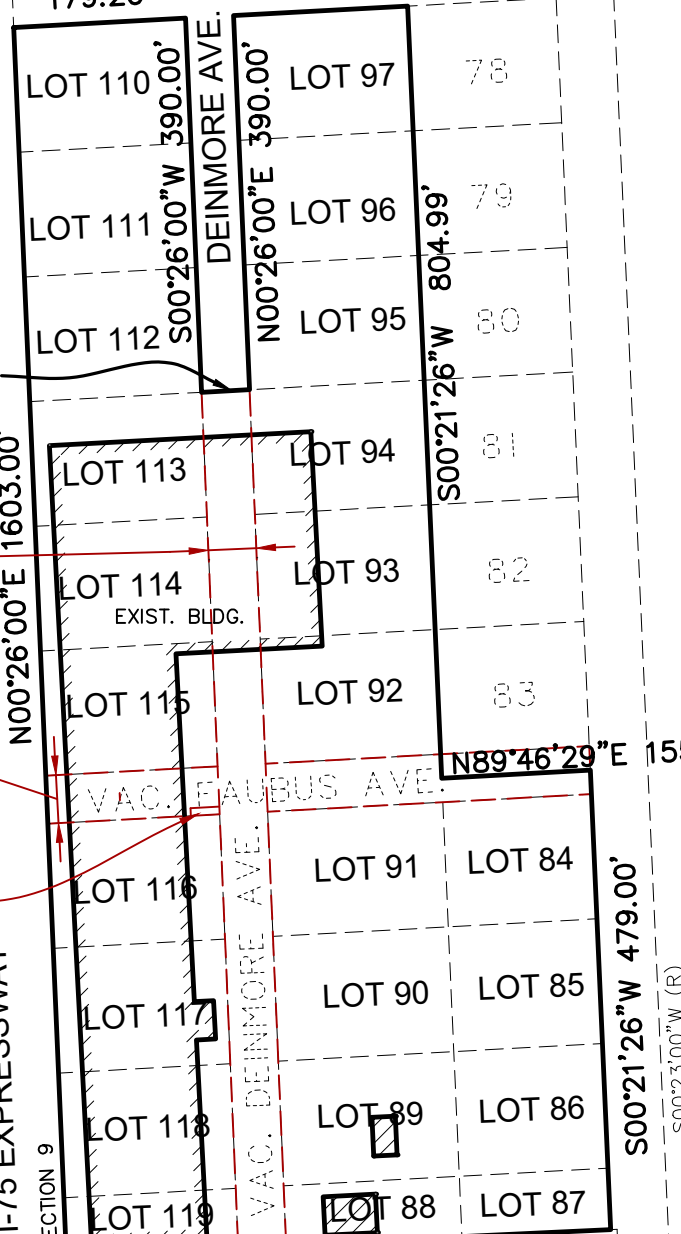
PARENT PARCEL

500 Long Lake Road, Troy, MI

P.I.N.: 20-09-451-018



N89°50'00"E (R) 179.20'
 N89°46'29"E 181.64'
 N89°50'00"E 181.50' (R)
 N89°46'29"E 181.64'
 STALWART AVE.
 (50' R.O.W.)



VACATED DEINMORE AVE. EASEMENT RETAINED (L.7037, P.664)

VACATED FABIVS STREET (L.4863, P.167)

12' MICHIGAN BELL EASEMENT (L.4863, P.167)

8'x30' D.E. EASEMENT (L.4863, P.167)

N. 27' OF S. 60' CONVEYED TO CITY (L.7037, P.664)
 STATUTORY 33' R.O.W.; UNKNOWN IF THIS AREA HAS BEEN DEEDED OR CONVEYED FOR ROAD PURPOSES

SOUTH 1/4 CORNER SECTION 9 T.2N., R.11E.

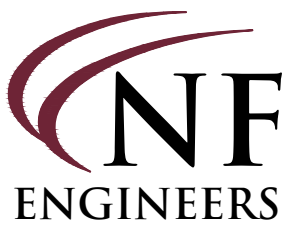
CERTIFICATE OF SURVEY

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY HEREIN DESCRIBED AND THAT I HAVE PLACED MARKER IRONS AT THE CORNERS OF THE PARCEL OR AS INDICATED IN THE ABOVE SKETCH AND THAT WE HAVE COMPLIED WITH THE SURVEY REQUIREMENTS OF PUBLIC ACT 132 OF 1970, AS AMENDED. THE ERROR OF CLOSURE IS NOT GREATER THAN 1:5,000.

Kevin Navaroli

KEVIN NAVAROLI, PLS DATE: 10-16-2020
 NO.: 4001053503

SCALE DATE DRAWN JOB NO. SHEET
 1" = 200' 10/16/2020 K.N. 3659-04 1 of 8



NOWAK & FRAUS ENGINEERS
 46777 WOODWARD AVE.
 PONTIAC, MI 48342-5032
 TEL. (248) 332-7931
 FAX. (248) 332-8257

Certificate of Survey

PARENT PARCEL

500 Long Lake Road, Troy, MI

P.I.N.: 20-09-451-018

PARENT PARCEL

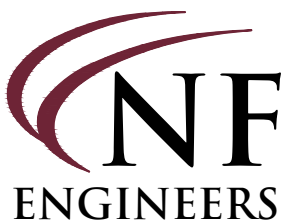
LAND SITUATED IN THE STATE OF MICHIGAN, COUNTY OF OAKLAND, CITY OF TROY, DESCRIBED AS:

LOTS 84 THROUGH 97, BOTH INCLUSIVE, LOTS 110 THROUGH 121, BOTH INCLUSIVE, ALL OF VACATED FAUBUS (ALSO KNOWN AS FABIUS AND FIRST STREET) ADJACENT TO LOTS 91 AND 92 AND LOTS 115 AND 116, AND 1/2 VACATED FAUBUS (ALSO KNOWN AS FABIUS AND FIRST STREET) ADJACENT TO LOT 84, ALL OF VACATED DEINMORE STREET ADJACENT TO LOTS 88 THROUGH 94, INCLUSIVE, AND LOTS 113 THROUGH 119, INCLUSIVE, BEAVER HILLS, AS RECORDED IN LIBER 26, PAGE 18 OF PLATS, OAKLAND COUNTY RECORDS.

ALSO,

PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, OAKLAND COUNTY, MICHIGAN DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 (SOUTH 1/4 CORNER) OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST, 383.30 FEET (RECORDED AS NORTH) ALONG THE NORTH-SOUTH 1/4 LINE OF SAID SECTION 9 TO THE SOUTHWEST CORNER OF LOT 119 OF PLAT OF BEAVER HILLS, AS RECORDED IN LIBER 26, PAGE 18 OF PLATS, OAKLAND COUNTY RECORDS; THENCE SOUTH 89 DEGREES 36 MINUTES 00 SECONDS EAST 114.60 FEET (RECORDED AS EAST) ALONG THE SOUTH LINE OF SAID LOT 119 TO THE NORTHWEST CORNER OF LOT 120 OF SAID PLAT OF BEAVER HILLS SUBDIVISION; THENCE SOUTH 00 DEGREES 26 MINUTES 00 SECONDS WEST 382.40 FEET (RECORDED AS SOUTH) ALONG THE WEST LINE OF LOTS 120 AND 121 OF SAID PLAT TO THE SOUTH LINE OF SAID SECTION 9; THENCE SOUTH 89 DEGREES 57 MINUTES 00 SECONDS WEST, 114.60 FEET (RECORDED AS WEST) ALONG THE SOUTH LINE OF SAID SECTION 9 TO THE POINT OF BEGINNING. EXCEPT THAT PART USED, DEEDED OR TAKEN FOR ROAD PURPOSES.

PIN: 20-09-451-018



NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257

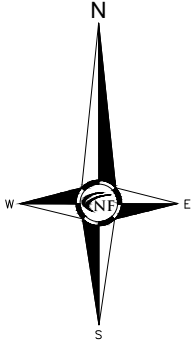
SCALE	DATE	DRAWN	JOB NO.	SHEET
1" = 200'	10/16/2020	K.N.	3659-04	2 of 8

Certificate of Survey

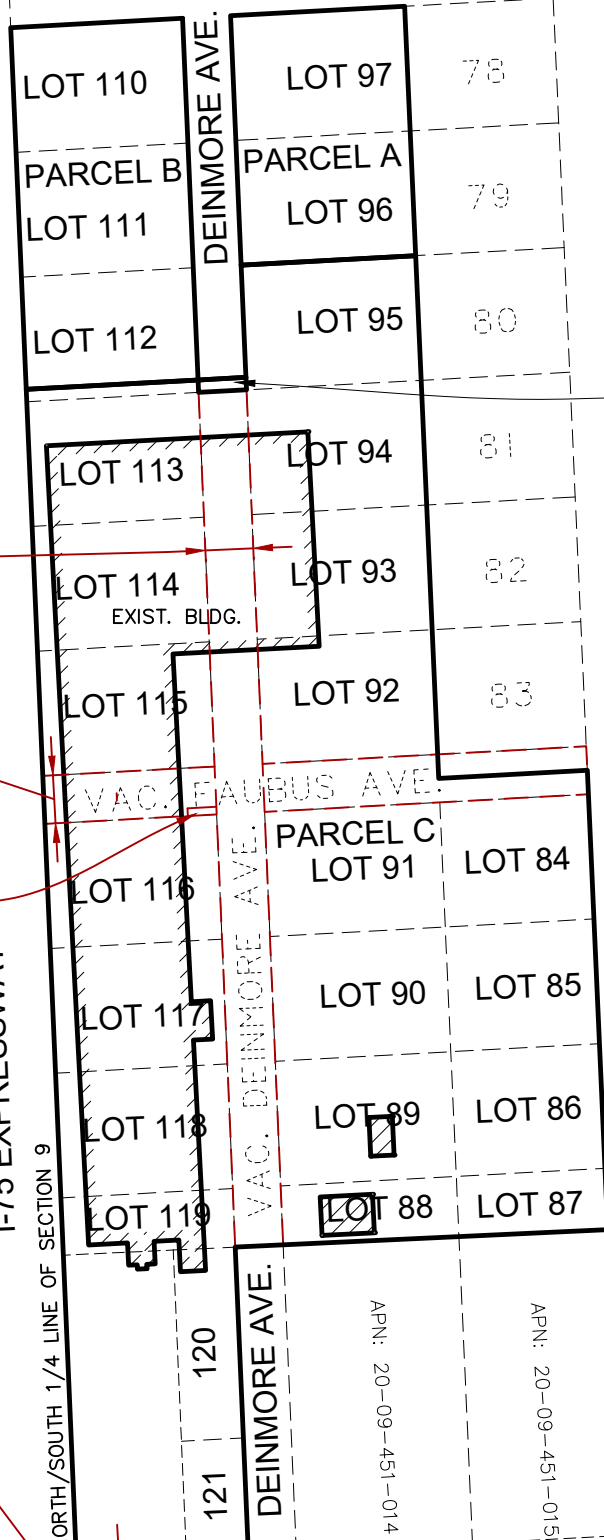
PROPOSED PARCELS

500 Long Lake Road, Troy, MI

P.I.N.: 20-09-451-018



STALWART AVE.
(50' R.O.W.)



PROPOSED VACATED
DEINMORE AVE.

VACATED DEINMORE AVE.
EASEMENT RETAINED
(L.7037, P.664)

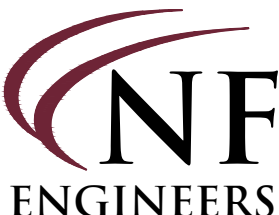
VACATED FABIUS STREET
(L.4863, P.167)

12' MICHIGAN BELL EASEMENT
(L.4863, P.167)

8'X30' D.E. EASEMENT
(L.4863, P.167)

N. 27' OF S. 60'
CONVEYED TO CITY
(L.7037, P.664)

STATUTORY 33' R.O.W.; UNKNOWN IF
THIS AREA HAS BEEN DEEDED OR
CONVEYED FOR ROAD PURPOSES

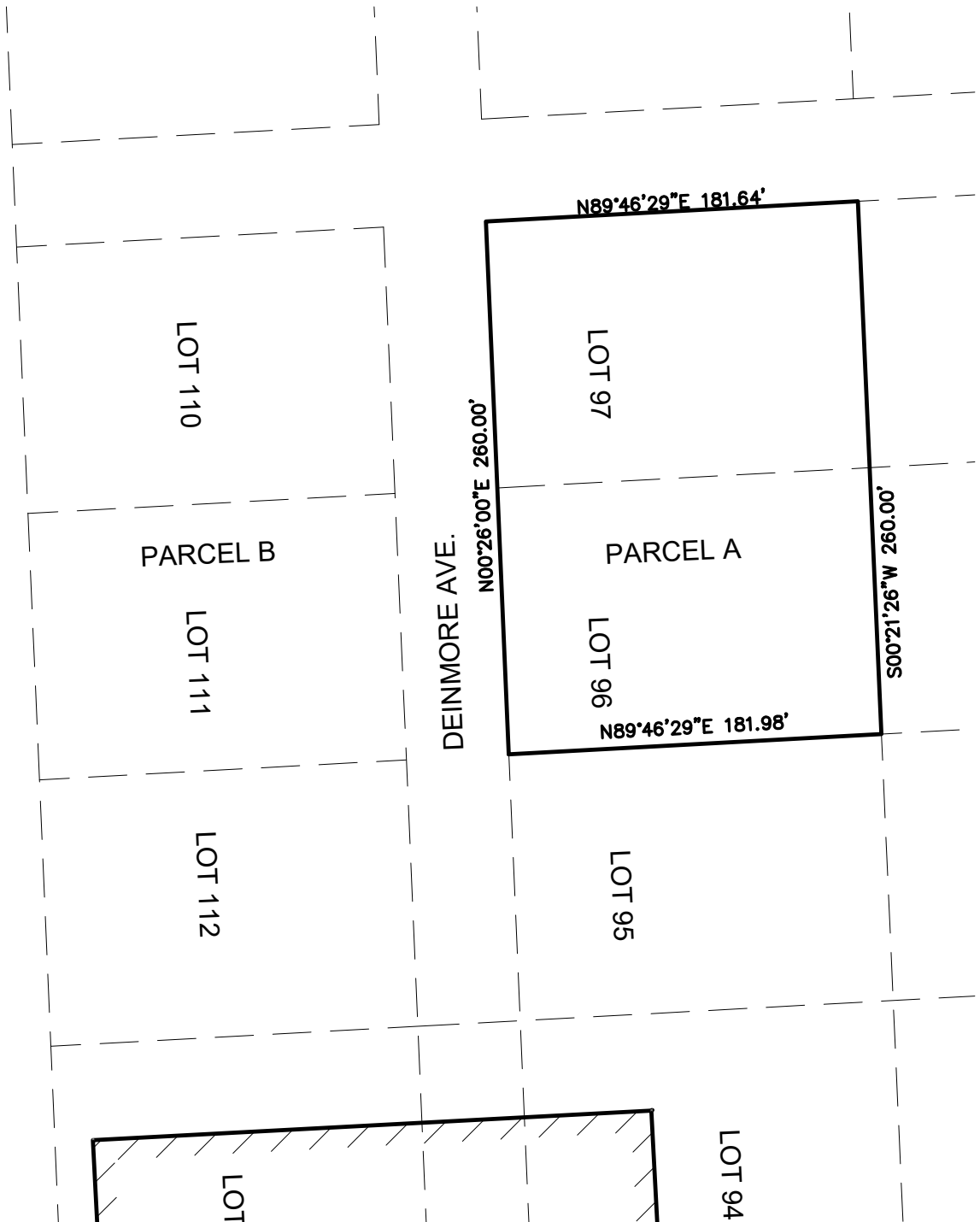
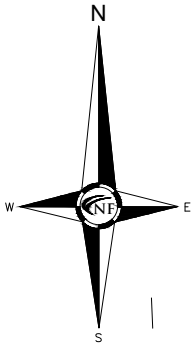


NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257

SCALE: 1" = 200'
DATE: 10/16/2020
DRAWN: K.N.
JOB NO.: 3659-04
SHEET: 3 of 8

Certificate of Survey

PROPOSED PARCEL A



PROPOSED PARCEL A:

LOTS 96 AND 97 OF "BEAVER HILLS" A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 26 OF PLATS, ON PAGE 18, OAKLAND COUNTY RECORDS.

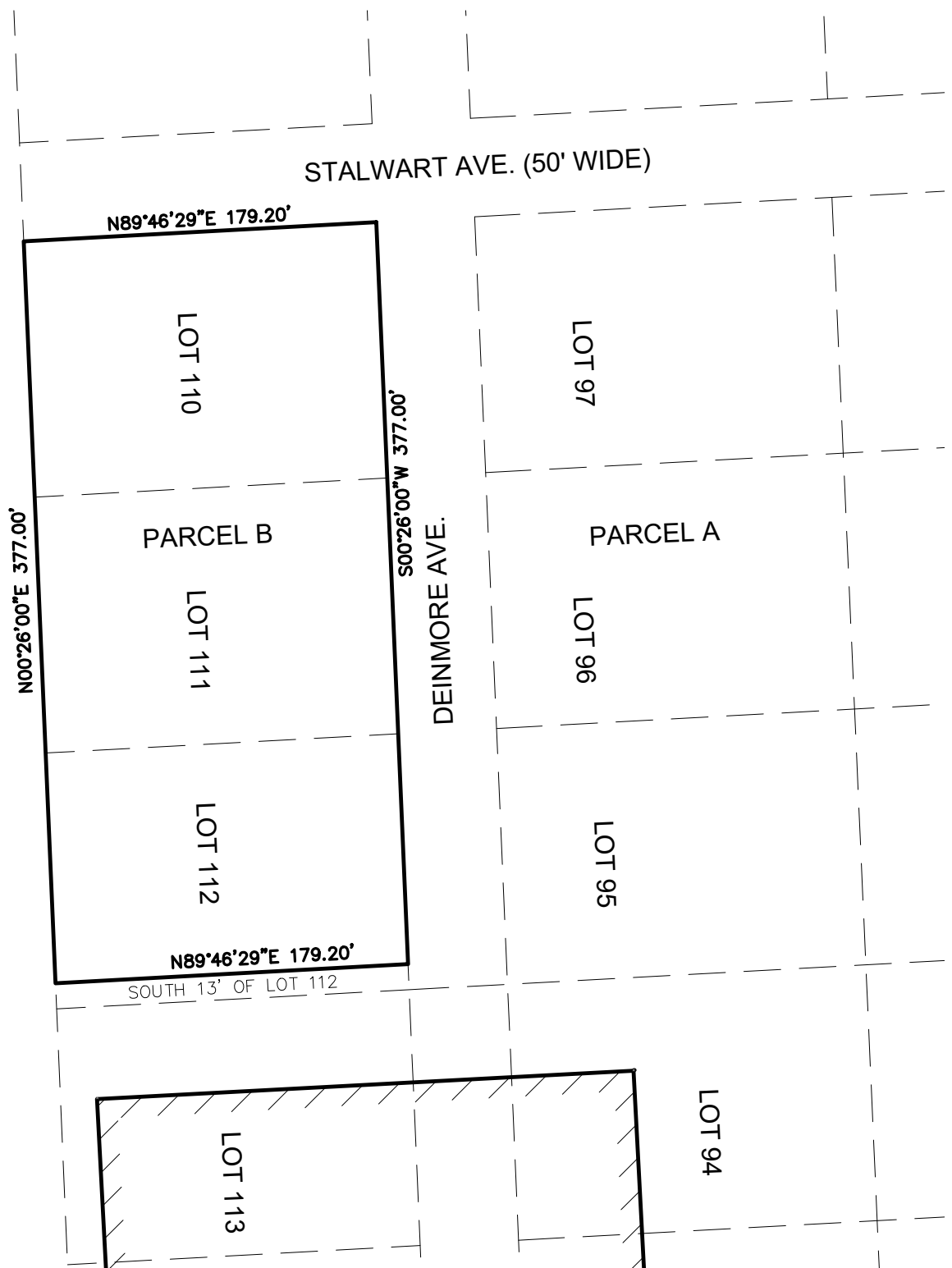
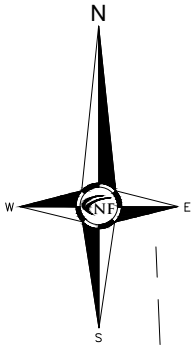


NOWAK & FRAUS ENGINEERS
 46777 WOODWARD AVE.
 PONTIAC, MI 48342-5032
 TEL. (248) 332-7931
 FAX. (248) 332-8257

SCALE	DATE	DRAWN	JOB NO.	SHEET
1" = 80'	10/16/2020	K.N.	3659-04	4 of 8

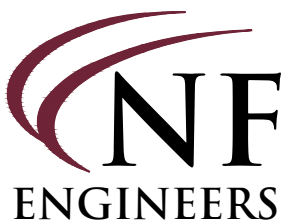
Certificate of Survey

PROPOSED PARCEL B



PROPOSED PARCEL B:

ALL OF LOTS 110 AND 111 AND LOT 112 EXCEPT THE SOUTH 13 FEET OF "BEAVER HILLS" A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 26 OF PLATS, ON PAGE 18, OAKLAND COUNTY RECORDS.

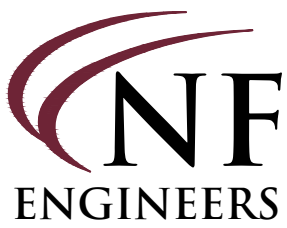
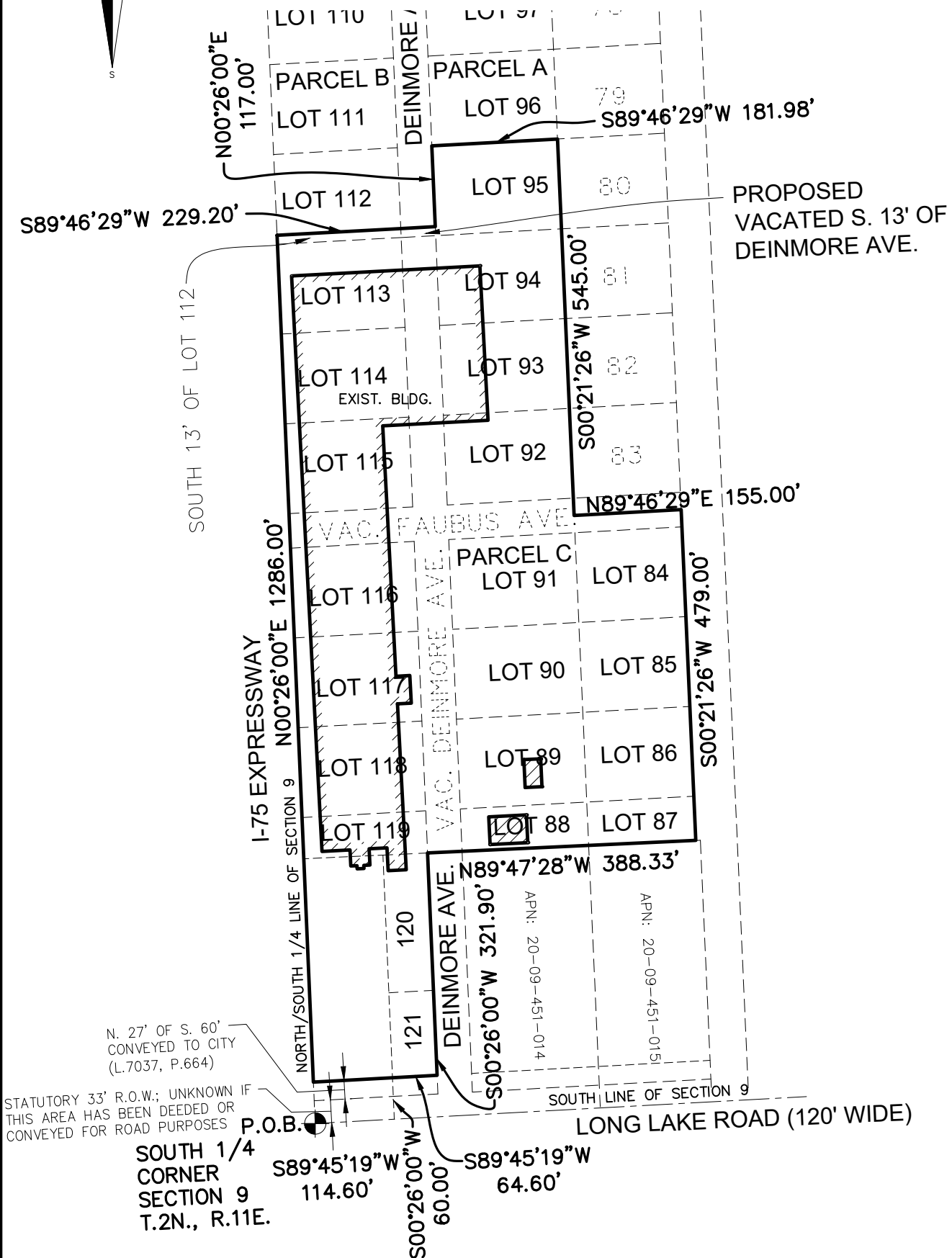
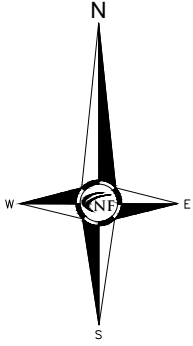


NF ENGINEERS
 NOWAK & FRAUS ENGINEERS
 46777 WOODWARD AVE.
 PONTIAC, MI 48342-5032
 TEL. (248) 332-7931
 FAX. (248) 332-8257

SCALE	DATE	DRAWN	JOB NO.	SHEET
1" = 80'	10/16/2020	K.N.	3659-04	5 of 8

Certificate of Survey

PROPOSED PARCEL C



NOWAK & FRAUS ENGINEERS
 46777 WOODWARD AVE.
 PONTIAC, MI 48342-5032
 TEL. (248) 332-7931
 FAX. (248) 332-8257

PREPARED FOR:
 DENNIS BOSTICK

SCALE: 1" = 200'
 DATE: 10/16/2020

DRAWN: K.N.

JOB NO.: 3659-04
 SHEET: 6 of 8

Certificate of Survey
PROPOSED PARCEL C
500 Long Lake Road, Troy, MI

PROPOSED PARCEL C

ALL OF LOTS 84 THROUGH 95, BOTH INCLUSIVE, ALL OF LOTS 113 THROUGH 121, BOTH INCLUSIVE, THE SOUTH 13 FEET OF LOT 112, ALL OF VACATED FAUBUS (ALSO KNOWN AS FABIUS AND FIRST STREET) AS RECORDED IN LIBER 4863, PAGE 167, OAKLAND COUNTY RECORDS, ADJACENT TO LOTS 91 AND 92 AND LOTS 115 AND 116, AND 1/2 VACATED FAUBUS (ALSO KNOWN AS FABIUS AND FIRST STREET) AS RECORDED IN LIBER 4863, PAGE 167, OAKLAND COUNTY RECORDS, ADJACENT TO LOT 84, ALL OF VACATED DEINMORE STREET AS RECORDED IN LIBER 7037, PAGE 664, OAKLAND COUNTY RECORDS, ADJACENT TO LOTS 88 THROUGH 94, INCLUSIVE, AND LOTS 113 THROUGH 119, INCLUSIVE, AND ALL OF DEINMORE AVENUE (50 FEET WIDE) ADJACENT TO THE SOUTH 13 FEET LOT 112 AND ADJACENT TO THE SOUTH 13 FEET OF LOT 95 OF "BEAVER HILLS" A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 26 OF PLATS, ON PAGE 18, OAKLAND COUNTY RECORDS AND PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 9; THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST, 1286.00 FEET; THENCE NORTH 89 DEGREES 46 MINUTES 29 SECONDS EAST, 229.20 FEET TO A POINT ON THE WEST LINE OF SAID LOT 95; THENCE NORTH 00 DEGREES 26 MINUTES 00 SECONDS EAST, 117.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 95; THENCE NORTH 89 DEGREES 46 MINUTES 29 SECONDS EAST, 181.98 FEET TO THE NORTHEAST CORNER OF SAID LOT 95; THENCE SOUTH 00 DEGREES 21 MINUTES 26 SECONDS WEST, 545.00 FEET TO THE CENTERLINE OF SAID VACATED FAUBUS AVENUE; THENCE ALONG SAID CENTERLINE NORTH 89 DEGREES 46 MINUTES 29 SECONDS EAST, 155.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 26 SECONDS WEST ALONG THE WEST LINE OF DANIELS DRIVE (60 FEET WIDE), 479.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 87; THENCE NORTH 89 DEGREES 47 MINUTES 28 SECONDS WEST, 388.33 FEET TO THE SOUTHEAST CORNER OF SAID LOT 119; THENCE SOUTH 00 DEGREES 26 MINUTES 00 SECONDS WEST, 321.90 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF LONG LAKE ROAD (120 FEET WIDE); THENCE SOUTH 89 DEGREES 45 MINUTES 19 SECONDS WEST, 64.60 FEET; THENCE SOUTH 00 DEGREES 26 MINUTES 00 SECONDS EAST, 60.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 9; THENCE SOUTH 89 DEGREES 45 MINUTES 19 SECONDS WEST ALONG SAID SECTION LINE, 114.60 FEET TO THE POINT OF BEGINNING. EXCEPTION THAT PART USED, DEEDED OR TAKEN FOR ROAD PURPOSES.



NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257

PREPARED FOR:
DENNIS BOSTICK

SCALE
1" = 200'

DATE
10/16/2020

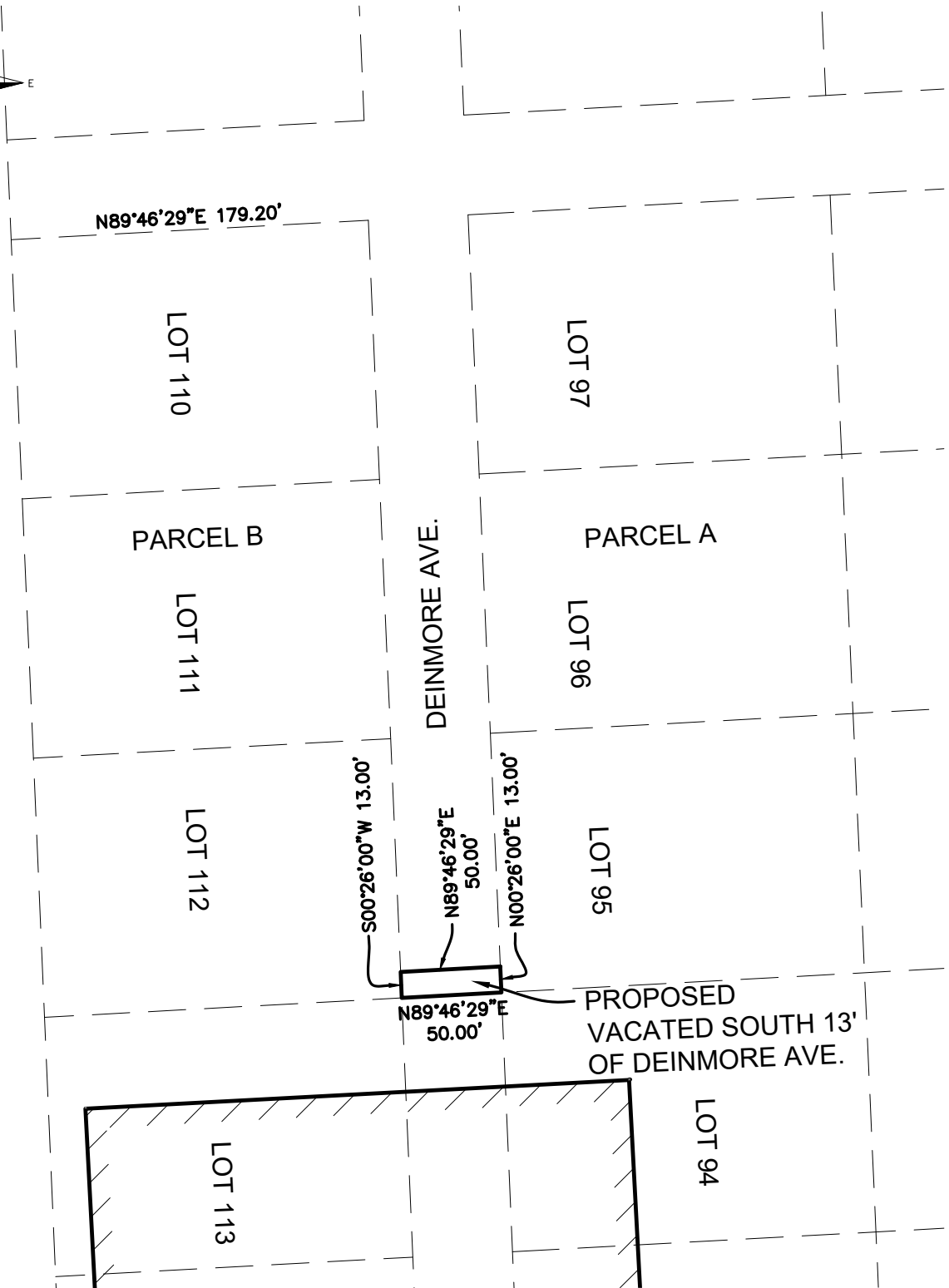
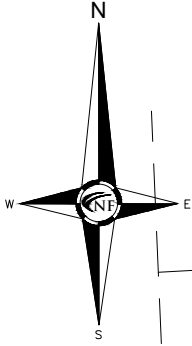
DRAWN
K.N.

JOB NO.
3659-04

SHEET
7 of 8

Certificate of Survey

PROPOSED VACATED PART OF DEINMORE AVE.



PROPOSED VACATED PART OF DEINMORE AVENUE

ALL OF DEINMORE AVENUE (50 FEET WIDE) ADJACENT TO THE SOUTH 13 FEET OF LOT 112 AND ADJACENT TO THE SOUTH 13 FEET OF LOT 95, OF "BEAVER HILLS" A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 9, TOWN 2 NORTH, RANGE 11 EAST, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 26 OF PLATS, ON PAGE 18, OAKLAND COUNTY RECORDS.

LAND AREA: SQUARE FEET OR ACRES



NOWAK & FRAUS ENGINEERS
 46777 WOODWARD AVE.
 PONTIAC, MI 48342-5032
 TEL. (248) 332-7931
 FAX. (248) 332-8257

SCALE	DATE	DRAWN	JOB NO.	SHEET
1" = 80'	10/16/2020	K.N.	3659-04	8 of 8



Extend road, water main and sanitary sewer to west side of the property

Fire Hydrant	Post Indicator	Drain (Pipe/Culvert)
Out of Service	Service Valve	Drain Structure
Online	Vault	Drain Outfall
Water Valve	Water Main	Drain Manhole
Pressure	Transmission	Drain Inlet
Air Release	Proposed, Out	Pipelines
Isolation Valve	Distribution Mai	Road Centerline Tex
Gate Valve	Sewer Manhole	
Butterfly Valve	Sewer Gravity Main	
Tapping Sleeve	Benefited - No	

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.

Map Scale: 1in = 245 ft

Created: 1/7/2021



**CITY of TROY
ASSESSING DEPARTMENT
APPLICATION FOR DESCRIPTION CHANGE**

Owner's name: 500 West Long Lake Road, LLC
 Signature: *Deanna K. Bostick*
 Address: 803 West Big Beaver Rd, Suite 100
 City State Zip: Troy, MI 48084
 Phone (home): 248-509-7977
 Phone (work): 586-939-5500
 (each owner must be listed & sign form, use additional sheets if needed)

Date: 3/19/2021
 Parcel Number(s): 20-09-451-018

This request is for a :

SPLIT: COMBINATION: CORRECTION:

- Survey and Description(s) of existing parcel(s) attached
- Survey and Description(s) of each new parcel and remainder parcel(s) attached
- Survey detailing correction(s) supplied
- Recorded copy of Transfer document supplied, if necessary.
- Property Taxes current (Assessing Department to verify)
- Special Assessments current (Assessing Department to verify)
- Name, Address, Mailing Address (if different) of each parcel supplied
- Review and Approval by Planning Department (if necessary), submitted by Assessing Department

APPROVAL by Assessing Department:

The above referenced description change has been reviewed and approved for processing by the Assessing Department.

Signature

Title

Date

DENIAL by Assessing Department

The above referenced description change has been denied by the the Assessing Department for the following reason(s):

- Does not meet area requirements for zoning
- Does not meet setback requirements
- Does not meet width requirements
- Does not meet depth requirements (24' res.)
- Does not meet parking requirements
- Does not meet landscape requirements
- Does not front on a public roadway *+ sewer to engineer road construct*
- Accessory building only, on land
- Allowable site coverage exceeded

Simbulu A. Hour
Signature

Deputy Assessor
Title

3/29/21
Date

* After completing form, Print and Sign.
Remember to add additional pages for all owners involved.

City of Troy
Assessing Department
500 W Big Beaver
Troy, MI 48084-5285
(248) 524-3311

**CITY of TROY
ASSESSING DEPARTMENT
APPLICATION FOR DESCRIPTION CHANGE**

Owner's name: Long Lake Capital, LLC
Signature: *SA Anderson*
Address: 803 West Big Beaver Rd, Suite 100
City State Zip Troy, MI 48084
Phone (home) 248-509-7977
Phone (work) 586-939-5500

Date: 3/19/2021
Parcel Number(s)
20-09-451-018

(each owner must be listed & sign form, use additional sheets if needed)

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- Does not meet setback requirements
- Does not meet width requirements
- Does not meet depth requirements (24' res.)
- Does not meet parking requirements
- Does not meet landscape requirements
- Does not front on a public roadway *Sewer & Engineer Req Road Constr*
- Accessory building only, on land
- Allowable site coverage exceeded

Kimberly A. Ober
 Signature
Deputy Assessor
 Title

 Date
3/29/21

* After completing form, Print and Sign.
 Remember to add additional pages for all owners involved.

Troy Zoning Board of Appeals Legal Update

TROY CITY ATTORNEY'S OFFICE, MAY 2021

Establishment- Chapter 39, 15.01

- ▶ The Troy Zoning Board of Appeals (ZBA) was established in accordance with the Michigan Zoning Enabling Act (MZEA) to assure the objectives of the zoning ordinance shall be preserved and public health, safety and welfare secured, and substantial justice done and that a means be provided for competent interpretation of the Zoning Ordinance, and that reasonable relief be provided in the application of the Ordinance.

ZBA Decisions

- ▶ Dimensional (nonuse) variances require 4 affirmative votes.
- ▶ Interpretation of Zoning Ordinance requires 4 affirmative votes.
- ▶ Interpretation of Zoning Map requires 4 affirmative votes.
- ▶ Appeals of administrative decisions require 4 affirmative votes
- ▶ Use variances require 5 affirmative votes.
- ▶ Planning Commission ZBA member shall not participate or vote at ZBA if **voted** at Planning Commission.

Variations in general

- ▶ A variance excuses someone from complying with the law.
- ▶ Variations should be sparingly granted- after consistent application of the standards. Otherwise, it undermines the Zoning Ordinance and the City's ability to enforce it.
- ▶ Requires public hearing and findings of fact and application of standards.
- ▶ Runs with the land- can't be limited to current property owner.
- ▶ If denied, can't be submitted for at least one year unless changed conditions.
- ▶ Most requests for variations are for dimensional (non-use) variations.

Dimensional Variances

- ▶ Authorized when literal enforcement of the Zoning Ordinance would involve “practical difficulties.”
- ▶ Variances should be granted with conditions and safeguards ZBA determines are in harmony with the spirit... and so that public safety and welfare be secured and substantial justice done.
- ▶ Variance should be minimum amount necessary- and not granted where a different solution is possible.

Dimensional Variances

- ▶ ZBA must determine applicant substantially satisfies ALL of the following:
 - ▶ Exceptional characteristics of the property make development more difficult than the great majority of properties in the same zoning district; and
 - ▶ Related to the physical premises; and
 - ▶ Not of a personal nature; and
 - ▶ Need for variance not created by owner or previous owner
 - ▶ Variance will not be harmful or alter the essential character of the area; increase congestion; diminish property value in area; impair public health, safety and welfare

Dimensional Variance – Exceptional Circumstances

- ▶ Exceptional Circumstances that justify a variance may include an irregularly shaped parcel, a parcel that is unusually small or narrow, a parcel that is affected by environmental features such as large trees that cannot be removed, or topographical features such as wetlands.
- ▶ If there is nothing exceptional or unusual about the parcel when compared to other parcels in the same zoning district, a dimensional variance should not be granted.
- ▶ A change in the zoning ordinance itself does not justify variance unless all standards are met.

Dimensional Variance – Related to the Premises

- ▶ The need for the variance must be based on a characteristic of the subject property and not based on some characteristic of a neighboring property. For example, if a neighboring property has an unusual characteristic, that characteristic would not support the request for a variance for the subject property unless the subject property also shared the same characteristic and that characteristic met the exceptional characteristic standard.

Dimensional Variance – Not of a Personal Nature

- ▶ A variance should not be granted if the reason for the variance is a personal reason that is not related to the land itself. Personal reasons that do not justify a variance include financial reasons, such as not being able to afford to move to another home, or being able to make more money if the variance is granted, or reasons specific to a person who currently resides in a home such as requesting a variance because of a disability or illness.

Dimensional Variance – Not Created by Owner

- ▶ If the need for a variance is based on something the owner or a previous owner did, it should not be granted. For example, if the need for a variance was the result of a land division requested by the owner, the variance should not be granted.
- ▶ Self Created Hardship – a variance should not be granted if the need for the variance was self created. E.g. If a person builds a non-conforming structure that violates a setback provision and then makes a variance request. The fact that it would be costly to remove is not a basis for granting a variance.
 - ▶ In such circumstance, a variance may still be granted if other standards are met - treat the situation as if the violation did not exist.

Dimensional Variances – Not Harmful to Character of Area

- ▶ If the Board finds there is evidence the variance impairs light or air to adjacent properties, unreasonably increases congestion in public streets, increases the danger of fire, or endangers the public safety, or unreasonably diminishes or impairs established property value within the surrounding area, or in any way impairs the public health, safety, comfort, morals or welfare of the inhabitants of the City, the variance should be denied.

Decision on Variance Requires Substantial Evidence On the Record

- ▶ If granting variance, use the template and for each of the standards, make a statement supporting why it was met.
- ▶ The statement in support should be based on information or material provided by the applicant, City staff, or members of the public.
- ▶ If denying a variance, there must be a finding that at least one (preferably more) standard was not met.
- ▶ A variance should not be granted just because nobody from the public objected.
- ▶ A variance should not be denied just because several members of the public objected.

Proposed Variance Must be Minimum Necessary

- ▶ The ZBA may grant a lesser variance than requested by the applicant, without the need to postpone and publish a new notice of hearing. A greater variance than requested cannot be approved, unless the Board postpones and a new public hearing notice is published.
- ▶ If the ZBA finds, based on evidence included as part of the record, that a different solution not requiring a variance is possible, the variance should be denied. For example, an applicant wishes to construct an accessory building in a particular location and seeks a setback variance. If the same accessory building can be placed on the property in a different location without violating the setback provisions, the variance should not be granted.

Variance Conditions

- ▶ The ZBA may impose conditions with an affirmative decision to grant a variance.
- ▶ The conditions may include those necessary to promote the public health, safety and welfare, ensure compatibility with surrounding land uses, and protect and preserve natural features.
- ▶ Conditions must be reasonable.
- ▶ Conditions must be related to the use of the land and not the person who uses the property.

Use Variances

- ▶ Requires proof of unnecessary hardship and:
 - ▶ Applicant cannot reasonably use property for uses allowed under the zoning district (ZBA can demand professional documentation to substantiate); and
 - ▶ Condition or situation of Property is unique and not commonly present in the general vicinity; and
 - ▶ Land conditions make it impossible to earn a reasonable return without adjustment (not highest return); and
 - ▶ Not detrimental to adjacent land; and
 - ▶ Sufficient capacity (roads, utilities); and
 - ▶ Need for variance not self created by **applicant**.

Site Visits –Variance Request

- ▶ If possible, ZBA members should view the property that is the subject of a variance request.
- ▶ Do not have any discussion with applicant or any other person while visiting the site.
- ▶ The site should be visited independently - not with any other ZBA members.
- ▶ ZBA members should wear Identification badge from City.

Administrative Appeals

- ▶ Arise when a property owner or property interest alleges an error of law in any order, requirement, decision or determination made by an administrative official or body under Chapter 39.
- ▶ Burden is on the appellant to file a written appeal, identifying the order or decision sought to be overturned, and the grounds for the appeal.
- ▶ ZBA can require appellant to provide additional information to clarify.
- ▶ Must be filed within 30 days.
- ▶ Generally stays proceedings- unless imminent peril to life/property.
- ▶ Can reverse, modify, or affirm if ZBA finds one or more of the following:
 - ▶ Decision was arbitrary and capricious; and/or
 - ▶ Decision was based on an erroneous finding of material fact; and/or
 - ▶ Decision was an abuse of discretion; and/or
 - ▶ Decision was based on an erroneous interpretation of the Ordinance or law.

Interpretation of Zoning Ordinance or Zoning Map

- ▶ Must consider the intent and purpose of Troy's Zoning Ordinance.
- ▶ Must consider the Master Plan.
- ▶ Can only change district boundaries when ambiguity.
- ▶ Must be consistent with Section 4.03 - Interpretation of District Boundaries.
 - ▶ Centerlines- roads and natural features
 - ▶ Platted lot lines
 - ▶ City boundaries

Deliberation and Resolutions

- ▶ Avoid discussions, debates, or negotiations with applicant during the meeting.
- ▶ Avoid redesigning the project or trying to convince applicant of alternatives.
- ▶ If presented with new information or material at the meeting, it is acceptable to postpone to another meeting to have time to review new information.
- ▶ Use templates when making resolution and provide summary why each standard is met or not met.
- ▶ Not necessary to read verbatim agenda item description – may state “as printed in the agenda.”
- ▶ Be clear and concise as possible.
- ▶ Its acceptable to ask person making the resolution to provide clarification.
- ▶ It is acceptable to state reasons why you will approve or deny request.

Troy Board and Committee Appointee Code of Ethics

- ▶ Respect the confidentiality of privileged information;
- ▶ Recognize that an individual board or committee member has no authority to speak or act for the Troy City Council, the City of Troy, or their respective Committee;
- ▶ Work with other appointees to further the board or committee goals;
- ▶ Encourage the free expression of opinion by all committee members;
- ▶ Communicate to City Council and staff as to issues of concern or requiring study or action;

Troy Board and Committee Appointee Code of Ethics

- ▶ Render all decisions based on the available facts and independent judgment;
- ▶ Make every effort to attend all meetings;
- ▶ Become informed concerning the issues to be considered at each meeting;
- ▶ Avoid conflicts of interest or the appearance thereof;
- ▶ Refrain from using position for personal benefit, or for the benefit of family members or business associates;
- ▶ Avoid use of derogatory language;
- ▶ Treat all people fairly and with dignity and respect.
- ▶ Abstain from harassing or discriminatory behavior.

Conflicts of Interest

- Article 4, Section 10- Michigan Constitution- “ No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.”

Conflicts of Interest

- MCL 15.342: “ ... a public officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates or other regulation or supervision relating to a business entity which the public officer or entity has a financial or personal interest.”

Conflicts of Interest

- Officials should avoid participating in any matter where he or she has a conflict of interest.
- Conflict of interest is generally described as having a financial interest- but it may be a personal interest too. This could include those officials who have real property in close proximity to the applicant- where the property value could be impacted.
- Minor relationship with applicant is not a conflict unless it impacts ability to be fair and impartial.
- When in doubt- disclosure is critical. After such disclosure, the decision can be left to the Board.
- If the Board votes that there is a conflict, the individual ZBA member should NOT be in the room when the matter is discussed, and should not participate in the discussions or deliberations.

Open Meetings Act and Freedom of Information Act

- Michigan adopted the current versions of the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA) after Watergate (effective March 31, 1977). The core purpose of OMA and FOIA is best served through information about the workings of government or information concerning whether a public body is performing its core function.
- OMA and FOIA are applicable to the ZBA, since it is a “public body,” empowered by State Statute and City Charter and City Ordinance to exercise governmental authority.

Open Meetings Act

- **“All meetings of a public body shall be open to the public and shall be held in a place available to the public.” MCL 15.263**
- This includes virtual meetings.
- The following may constitute a meeting under OMA:
 - E-mail chain of discussion using “reply to all” feature
 - Social gathering or educational session w/ quorum and discussion or deliberation
 - Site visit w/quorum and discussion or deliberation
 - Sub-committee meeting w/quorum and discussion or deliberation
 - Round robin telephonic or e-mail discussion

Open Meetings Act

- Open to the public means that all persons are entitled to record, televise, videotape, or broadcast a public meeting.
- Meetings shall be in open facilities and preferably easy for the public to access.
- Recent amendments to OMA allow public meetings by electronic means under certain circumstances such as risk of exposure to Covid 19.
- If there is an unexpected crowd, the public body must try to accommodate if possible.
- All persons shall be permitted to attend- and address the public body on any item.
 - Can't restrict to residents only- but can ask for address to be supplied
 - Can't limit subject matter without good justification and written rules
 - Can have time limits imposed uniformly- do not restrict based on subject matter or opinion

Open Meetings Act

- Reasonable rules can be enacted to minimize the possibility of disruption- but should be written and uniformly applied.
 - Public comment can be limited to a specific time on the agenda- and should be prohibited during deliberations.
 - Time limits- per speaker or per item or per meeting- must be reasonable and not based on the subject matter.
- In the event that a speaker becomes unruly, the chair should provide a warning if possible before taking any adverse action.
- Recess requests may assist with an orderly meeting.
- Purpose of public meeting- discuss public business- not deal with individual personalities. However, comments pertaining to job performance cannot be prohibited.

Open Meetings Act

- ▶ Closed sessions may be permitted under the Open Meetings Act. Most common exception- to consider material exempt from discussion or disclosure by a state or federal statute (including FOIA). This requires a 2/3 vote of the public body.
- ▶ The Michigan Attorney General, Oakland County Prosecutor; or any citizen can challenge the validity of a decision made by a public body that is allegedly in violation of the OMA.
- ▶ Fines and costs can be imposed against the entity, and fines, costs, and possible jail time can be imposed against the public official for intentional OMA violations.
- ▶ Lawsuits can be initiated to invalidate a specific decision (must be filed within 60 days/30 days if contract), or enjoin a practice filed within 180 days.
- ▶ Can re-enact a decision in compliance with OMA, but negative impacts from allegations- so err on the side of openness and transparency.

Freedom of Information Act

- ▶ Requires disclosure and access to public records.
- ▶ Public records are writings prepared by, owned, used, in the possession of, or retained by a public body in the performance of an official function- from the time it is created.
- ▶ Writing is broadly defined to include all types of recordings, letters, words, pictures, sounds, papers, maps, photographic film, prints, punch card, discs... or other means of recording or retaining meaningful content.
- ▶ Includes letters, e-mails, text messages in course of performance of duties - even if on private devices (BYOD).
- ▶ Public body has 5 business days to respond to a FOIA request unless expressly asking for a 10 day extension due to unusual circumstances.
- ▶ The public body has the burden of justifying an exemption

Freedom of Information Act

- ▶ Possible exceptions to FOIA:
 - ▶ records of a personal nature that if released would be an unwarranted invasion of privacy
 - ▶ Records that detail security or safety measures
 - ▶ Public bids until time of opening
 - ▶ Records exempt under other statutes (attorney client privileged documents)
- ▶ Enforcement of FOIA- Attorney General, County Prosecutor, or any person- must file lawsuit within 180 days
- ▶ If successful, FOIA Plaintiff can recover costs and attorney fees plus compensatory damages, and punitive damages if the public body's refusal was arbitrary or capricious.

Freedom of Information – Communications Received by ZBA Members

- ▶ If a ZBA member receives a letter or email from applicant or any member of the public, do not respond other than to indicate the communication has been forwarded to City Administration.
- ▶ If the communication has relevance, City Administration may provide copy to all ZBA members in an agenda packet.
- ▶ ZBA members should not engage in any communications with applicant or other members of the public concerning a matter that is pending before the ZBA outside the meeting.
- ▶ Any written communications with applicants or members of the public may be subject to disclosure under FOIA.

Appeals from ZBA Decisions

- ▶ Appeal as of right to circuit court by any person aggrieved by a decision of the ZBA.
- ▶ The appeal must be filed within 21 days of the date the board certifies the minutes of the meeting at which the decision on the variance was made.
- ▶ The circuit court reviews the zoning board of appeals record and decision to ensure that the decision:
 - ▶ a) complies with the constitution and laws of Michigan;
 - ▶ b) is based on proper procedure;
 - ▶ c) is supported by competent, material and substantial evidence on the record; and
 - ▶ d) represents the reasonable exercise of discretion granted by law to the board of appeals.
- ▶ The circuit court may affirm, reverse, or modify the decision of the board of appeals.

Questions

