



## 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. Dimensional or other non-use variances shall not be granted by the Zoning Board of Appeals unless it can be determined that all of the following facts and conditions exist:

- 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.

# **MOTION TEMPLATE GRANT VARIANCE**

## **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**

## **MOTION TEMPLATE DENY**

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**

## **MOTION TEMPLATE POSTPONE**

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

Michael Bossenbroek, Chair, David Eisenbacher, Vice Chair  
Thomas Desmond, Aaron Green, Mahendra Kenkre, Jayalakshmi Malalahalli  
Jim McCauley, Barbara Chambers, Alternate, Jeffrey Forster, Alternate

---

**July 19, 2022**

**7:30 P.M.**

**COUNCIL CHAMBERS**

---

1. ROLL CALL
2. PROCEDURE
3. APPROVAL OF MINUTES – June 21, 2022
4. APPROVAL OF AGENDA
5. HEARING OF CASES:
  - A. VARIANCE REQUEST, 5789 ENDICOTT, SUSAN SCHWAB - A variance to construct a home addition 25 feet two inches from the rear property line where the Zoning Ordinance requires the proposed addition to be 35 feet from the rear property line.  
  
ZONING ORDINANCE SECTION: 4.06 C, R1-C Zoning District
  - B. VARIANCE REQUEST, 81-83 HALDANE, ROY E RATHKA JR./RATHKA BUILDING & CONSTRUCTION, INC./RATHKA REALTY LLC - Applicant desires to replace a portion of the 25 foot wide Canham right-of-way with a 40 foot wide private road easement. The resulting easement will result in the existing duplex being setback 9.6 feet from Canham where the Zoning Ordinance requires it to be setback 25 feet.  
  
ZONING ORDINANCE SECTION: 4.07 C, RT Zoning District
6. COMMUNICATIONS
7. MISCELLANEOUS BUSINESS
  - a. Legal Update City Attorney Office presentation
  - b. Rules of Procedure – draft of updates
8. PUBLIC COMMENT
9. 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.

On June 21, 2022 at 7:30 p.m., Chair Bossenbroek, called the Zoning Board of Appeals meeting to order.

1. ROLL CALL

Present:

Michael Bossenbroek  
Barbara Chambers  
Jefferey Forster  
Aaron Green  
Mahendra Kenkre  
Jayalakshmi Malalahalli  
James McCauley

Also Present:

Paul Evans, Zoning and Compliance Specialist  
Allan Motzny, Assistant City Attorney

Member Eisenbacher arrived at 7:34 and replaced Alternate Forster.  
Alternate Forster remained in audience for entire meeting.

2. PROCEDURE- read by Chair Bossenbroek

3. APPROVAL OF MINUTES –

Minutes of April 19, 2022

MOTION to approve.

Moved by Green  
Seconded by Chambers

RESOLVED, to approve the April 19, 2022 meeting minutes.

Yes: All

MOTION PASSED

4. APPROVAL OF AGENDA – Add annual elections to Miscellaneous Business

5. HEARING OF CASES:

- A. VARIANCE REQUEST, 5286 CHURCHILL, IWONA & MARCIN BAZINSKI – A variance to construct a detached accessory structure (shed) 1) in the side yard where the Zoning Ordinance allows only in the rear yard, 2) a distance of 7 feet 2 inches from the main building where the Zoning Ordinance requires it to be 10 feet from the main building and 3) setback zero feet from the side property line where the Zoning Ordinance requires a 6 foot setback.

Moved by Bossenbroek  
Second by Green

RESOLVED, to deny the variance

Yes: McCauley, Bossenbroek, Chambers, Malalahalli, Kenkre, GreenKenkre  
No: Eisenbacher

MOTION PASSED

- B. VARIANCE REQUEST, 157 WILTON, RYAN & KATELYN HAUTAU- A variance to construct a home addition 35.67 feet from the rear property line where the Zoning Ordinance requires the proposed addition to be 45 feet from the rear property line.

Moved by Eisenbacher  
Second by McCauley

RESOLVED, to grand the variance

Yes: All

MOTION PASSED

- C. VARIANCE REQUEST, 2775 E. SQUARE LAKE, REGINA & DONALD FAIRMAN  
A variance to construct a home addition 20 feet from the front property line where the Zoning Ordinance requires the proposed addition to be 50 feet from the front property line.

Moved by Green  
Second by Malalahalli

RESOLVED, to grant the variance

Yes: All

MOTION PASSED

6. COMMUNICATIONS – Mr. Evans previewed the July ZBA agenda.

7. MISCELLANEOUS BUSINESS –

Board Elections:

Moved by Green  
Second by McCauley



RESOLVED, to elect Bossenbroek as Chair and Eisenbacher as Vice Chair

Yes: All

MOTION PASSED

Mr. Evans advised the Board that the "Statement of Practical Difficulty" text has been updated.

Rules of Procedure:

By consent, the Board requested draft language to automatically postpone May elections if there is no meeting in May.

Mr. McCauley requested training on making motions. Mr. Motzny will address at next meeting.

8. PUBLIC COMMENT –None
9. ADJOURNMENT –The Zoning Board of Appeals meeting ADJOURNED at 9:00 pm.

Respectfully submitted,

---

Michael Bossenbroek, Chair

---

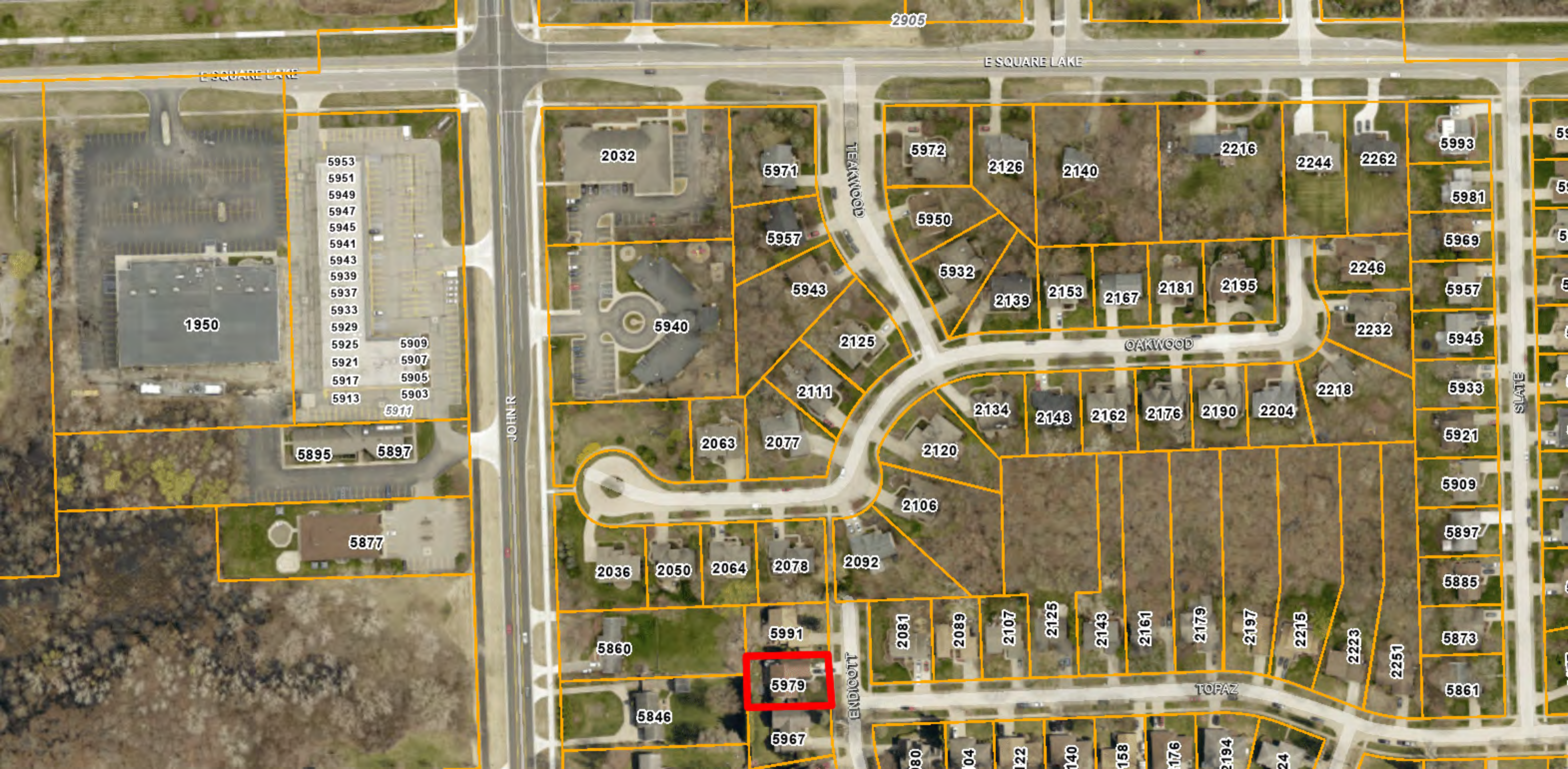
Paul Evans, Zoning and Compliance Specialist

G:\ZONING BOARD OF APPEALS\Minutes\2022\DRAFT\2022 6-21 ZBA Minutes Draft.doc

- A. VARIANCE REQUEST, 5789 ENDICOTT, SUSAN SCHWAB - A variance to construct a home addition 25 feet two inches from the rear property line where the Zoning Ordinance requires the proposed addition to be 35 feet from the rear property line.

ZONING ORDINANCE SECTION: 4.06 C, R1-C Zoning District









5877

OAKWOOD

2106

2036

2050

2064

2078

2092

5860

5991

2081

2089

2107

2125

2143

5979

TOPAZ

5846

5967

ENDICOTT

2080

2104

2122

2140

5810

5955

5839

5794

5941

073

101

1119

2137





5877

(NN) Node O

2036

2050

2064

2078

2092

2106

(R-1C)

5860

5991

2081

2089

2107

2125

2143

5979

5846

5967

TOPAZ

5810

5955

2080

2104

2122

2140

5839

5794

5941

073

101

119

2137

JOHN R

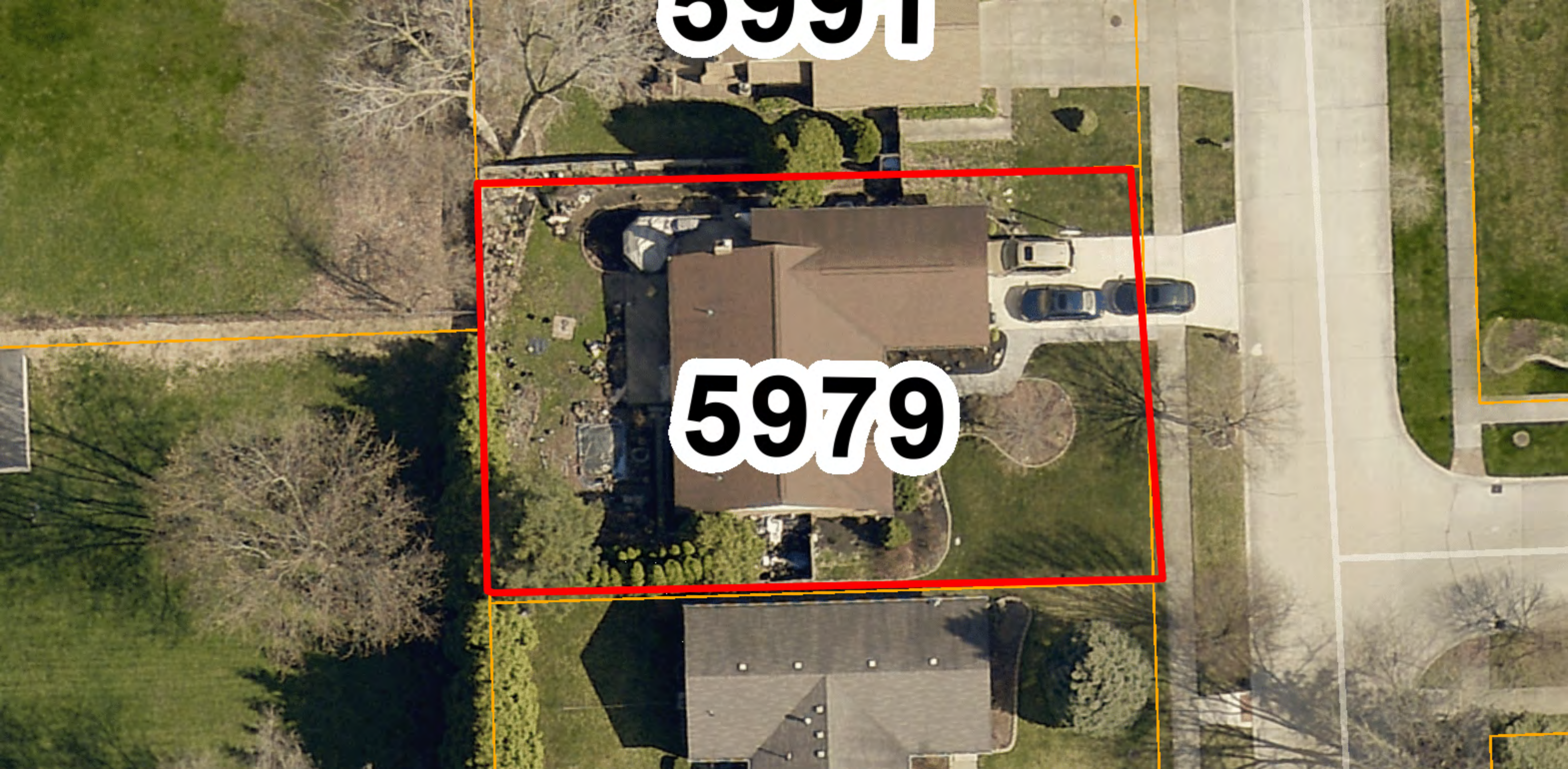
OAKWOOD

ENDICOTT



5991

5979







## Zoning Board of Appeals Application

planning@troymi.gov | Fee \$150.00

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: 5979 Endicott Dr
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-12-101-002
3. ZONING ORDINANCE SECTIONS RELATED TO THE REQUEST: Sec 4.06
4. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: NONE
5. APPLICANT:  
NAME Mark D. Mello  
COMPANY All Seasons Sunrooms Plus  
ADDRESS 55 E. Long Lake #524  
CITY TROY STATE MI ZIP 48085  
PHONE 586-493-4000  
E-MAIL MMSunRooms@yahoo.com  
AFFILIATION TO THE PROPERTY OWNER: Builder, Owner



## Zoning Board of Appeals Application

6. PROPERTY OWNER:

NAME Susan Schwab  
COMPANY —  
ADDRESS 5979 Endicott Dr  
CITY Troy STATE MI ZIP 48085  
TELEPHONE 248-425-7797  
E-MAIL mustangdiva65@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, Mark Malloy (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 Mark Malloy DATE 5/12/22  
PRINT NAME: Mark Malloy

PROPERTY OWNER SIGNATURE Susan Schwab DATE 5-16-22  
PRINT NAME: Susan Schwab

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.



I am requesting a 5 ½ ft variance in order to have a 3-season all glass sunroom constructed. It would replace a portion of an existing 10 ft wide deck in addition to adding another foot to the width. Right now I have a 25 ft 9 inch setback from the edge of my deck to the fence, which was put up a couple inches on my side of the property line.

I believe a practical difficulty exists with my property to warrant this small variance.

My property sits on the northwest border of Stoneridge 2 subdivision which backs up to homes located on John R. It was built in 1986 long after the subdivision was completed. The 2 adjoining properties in back have .62 acres, with both houses being set closer to the front leaving them with very large backyards.. The remaining houses on that side have over half acre lots. My property is one of the smallest in the immediate area with .21 acres.

The design of my house sets the house back 16' from the front of the garage. It is also 15'-16' further back from the front of my neighbor's house on the south side. (Hard to get an exact measurement due to shrubs/flowers in the way). This design is rather unique in this area as most of the homes in the sub have the attached garage even or just slightly jutting out from the front of the house.

Because of this I only have a 35' 9" backyard which doesn't allow me to have anything but a 10' wide deck or a 5' sunroom unless I obtain a variance. I couldn't even put up a retractable awning over my deck if it extends more than 5' according to the city code. No type of roof, gazebo or even a screen around it could be constructed. The other homes on Endicott, along with most of the homes in the sub, have slightly more acreage, are closer to the street so have larger backyard setbacks and thus can all do these types of improvements without needing a variance. (The house 3 doors down from me just put on a large addition on the back. And the one 2 doors down from me is getting ready to put an addition on the back of his attached garage. And nether needing a variance). Seems as though I'm at a real disadvantage because of just a little over 5 feet. Having just found all this out I feel that either this design should not have been approved for a small lot or it should have been disclosed by the builder on the listing that no improvements other than an open 10' wide deck could ever be constructed unless one was lucky enough to get a variance.

The proposed 5 ½ ft variance for an 11 ft all-glass 3-season sunroom with cathedral ceiling would not be harmful or alter the essential character of the area. There are quite a few homes with sunrooms in the sub. It will not impair an adequate supply of light or air since it's all glass with screens. Having this sunroom would not increase the danger of fire or public safety. It will actually increase property values and make the area more desirable.

It will not be visible to anyone walking by my house. It wouldn't be any more visible than my deck is to the neighbor's in back or the one on the south side as tall evergreen trees/bushes provide privacy.

It will impact the health and comfort of my neighbors and friends who will enjoy sitting out during the day, breathing in fresh air without the hot sun beating on them and enjoying the comfort of the summer nights without getting eaten alive by mosquitoes.

Since I only have a livingroom (no familyroom) and the only view I get of my yard is thru a 6' doorwall this sunroom would be huge for my physical and mental health, especially after losing my husband a year ago this month. I love the summer weather but can't be out in the sun due to having had cancer. And I seem to attract mosquitoes like crazy regardless of using various sprays and citronella candles. Their bites leave huge welts and cause immense discomfort. And there's always the chance of getting

West Nile disease when bitten. With woods across the street and an adjoining back neighbor whose low areas fill up with rain water it's a breeding ground for mosquitoes around here.

Thanks for considering my variance request.

Susan Schwab

# MORTGAGE SURVEY

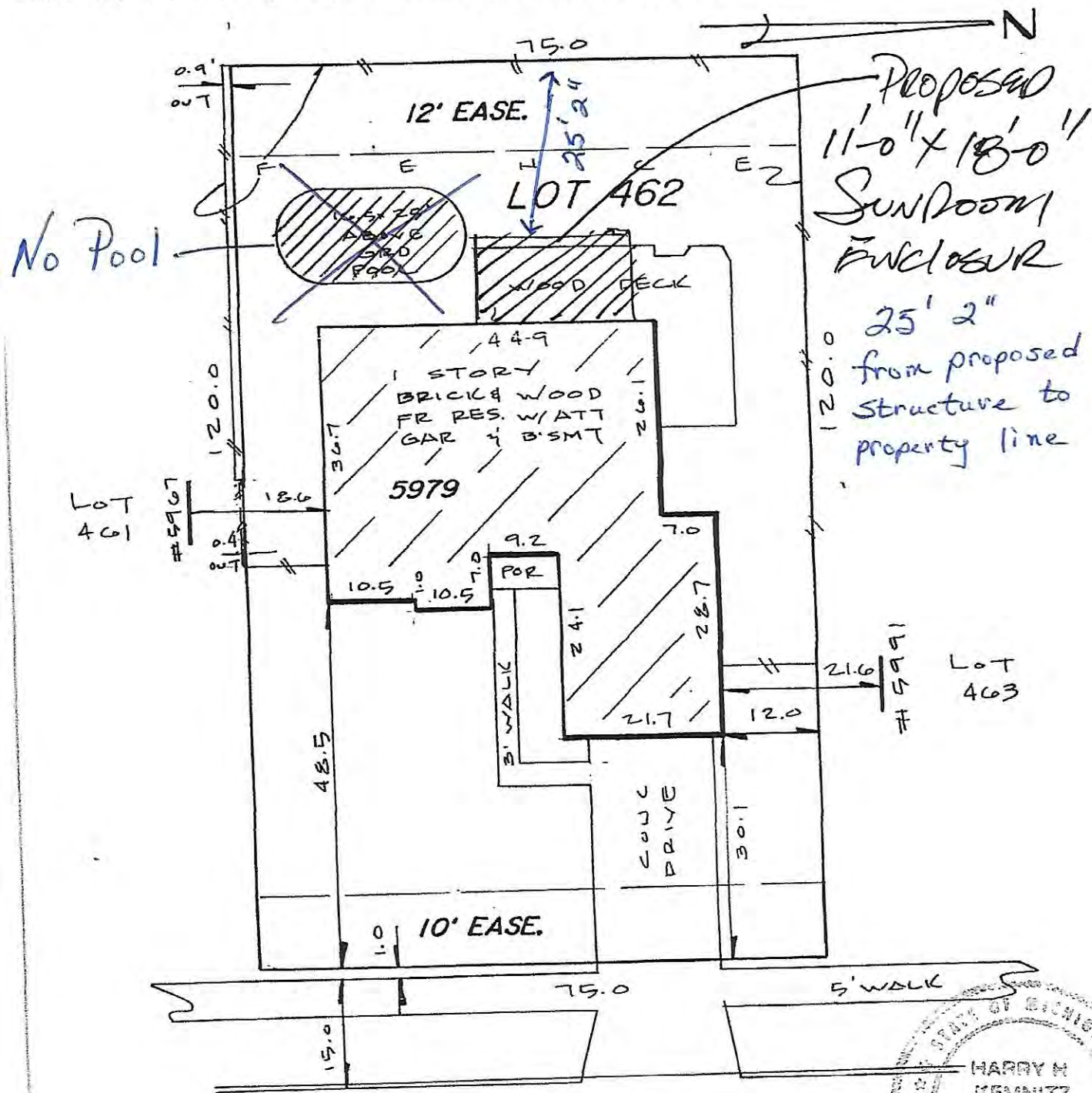
Certified to

FIRST INTERNATIONAL FINANCIAL CORPORATION

Applicant: HENRY SCHARSB & SUSAN J. SCHARSB

## Property Description:

LOT 462 of STONERIDGE SUBDIVISION NO. 2 of part of the North 1/2 of Section 12, T. 2 N., R. 11 E., City of Troy, Oakland County, Michigan as recorded in Liber 139 of Plats, Pages 10, 11, 12, 13, 14 & 15 of Oakland County Records.





# AGREEMENT

## ALL SEASONS SUNROOMS PLUS

Ph.# 877-918-8800 Fax # 586-466-4940  
abettersonroom.com

55 East Long Lake Rd.

#524 Troy, MI 48085

BUILDER LICENSE #2102190283

PROPOSAL SUBMITTED TO:	HOME PHONE	WORK PHONE	DATE
STREET	ROOM DESCRIPTION		
CITY, STATE AND ZIP CODE			
SALESPERSON			

WE HEREBY SUBMIT SPECIFICATIONS AND ESTIMATES FOR:  
(ONLY CHECK PURCHASE ITEMS)

TEARDOWN	PLEASE MARK ALL SIZES	PATIO SIZE			COLORS	PERMIT
		PROJ.	WIDTH	HGT.		
EXISTING SLAB	O.D. SLAB <input type="checkbox"/> OLD <input type="checkbox"/> NEW				ROOF: <input type="checkbox"/> WHITE <input checked="" type="checkbox"/> SHINGLED	DRYER VENT MOVE
FOOTING	THERMAL DECK				FASCIA/TRIM: <input type="checkbox"/> WHITE <input checked="" type="checkbox"/> BRONZE <input type="checkbox"/> SANDSTONE	SPIGOT MOVE
PIERS	WOOD DECK				FRAME COLOR: <input type="checkbox"/> WHITE <input checked="" type="checkbox"/> BRONZE <input type="checkbox"/> SANDSTONE	
BRICK OR BLOCK WORK	WALLS				KICK PLATE	STANDARD ELECTRICAL
SLEEPER FLOOR	ROOF				EXTERIOR	ADDITIONAL ELECTRICAL
BREAK THRU	DOOR				INTERIOR	HEAT PUMP
STEPS	DOOR				SKYLITES	
SKIRTING	ROOF STYLE				TRANSOMS: <input checked="" type="checkbox"/> TOP <input type="checkbox"/> BOTTOM	
GLASS TYPE:					SCREEN TYPE:	
<input type="checkbox"/> 2" SCREEN ROOM (106) <input type="checkbox"/> 3 5/8" 1/2" I.G. GLASS (306) <input type="checkbox"/> VALUE VIEW (2" GLASS/SCREEN) <input type="checkbox"/> 3 5/8" 3/4" I.G. THERMALLY BROKEN WALL (406) <input type="checkbox"/> 3 5/8" 1/8" SINGLE GLASS (206)					CUSTOM TRANSOMS:	
PATIO COVERS:					ESTIMATED PRICE	
<input type="checkbox"/> PERGOLA <input type="checkbox"/> ARBOR <input type="checkbox"/> PAVILION (SOLID COVER)					TOTAL PRICE	
AWNING:						
<input type="checkbox"/> RETRACTABLE <input type="checkbox"/> OTHER						

WE PROPOSE hereby to furnish material and labor – complete in accordance with above specifications for the sum of: \$

PAYMENT	DEPOSIT	AT PRINT REVIEW	AT JOB START	AT JOB ERECTION	AT COMPLETION	INITIAL
AMOUNT						

\*PAYMENT IS DUE ON COMPLETION OF WORK TO BE PERFORMED BY ALL SEASONS SUNROOMS PLUS AND IS NOT APPLICABLE TO ANY PENDING INSPECTION BY THIRD PARTIES. ALL WORK IS COMPLETELY WARRANTED.

### ACCEPTANCE OF PROPOSAL

IT IS AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT THIS AGREEMENT, FRONT AND BACK, CONSTITUTES THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES, AND THERE ARE NO VERBAL UNDERSTANDINGS FOR CHANGING OR MODIFYING ANY OF THE TERMS OF THIS AGREEMENT. BUYER(S) HEREBY ACKNOWLEDGE THAT BUYER(S) HAVE READ THE FRONT AND THE REVERSE OF THIS AGREEMENT AND HAVE RECEIVED A COMPLETED, SIGNED, AND DATED COPY OF THIS AGREEMENT ON THE DATE FIRST WRITTEN ABOVE. BUYER(S) ACKNOWLEDGE THEY WERE ORALLY INFORMED OF THEIR RIGHT TO CANCEL THIS TRANSACTION AND RECEIVED A FULLY COMPLETED NOTICE OF CANCELLATION FORM. BUYER AGREES TO MAKE PAYMENTS AS SHOWN ABOVE.

BY: [Signature] BUYER(S)  
SIGNATURE SIGNATURE  
SIGNATURE

YOU THE BUYER(S), MAY CANCEL THIS TRANSACTION AT ANYTIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ACCOMPANYING NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

THE FOLLOWING WORK SHALL BE DONE BY PARTIES OTHER THAN ALL SEASONS SUNROOMS PLUS AND IS NOT A PART OF THIS CONTRACT.

<p>It is required to provide ceiling and finish floor.</p>
--

Other Work:

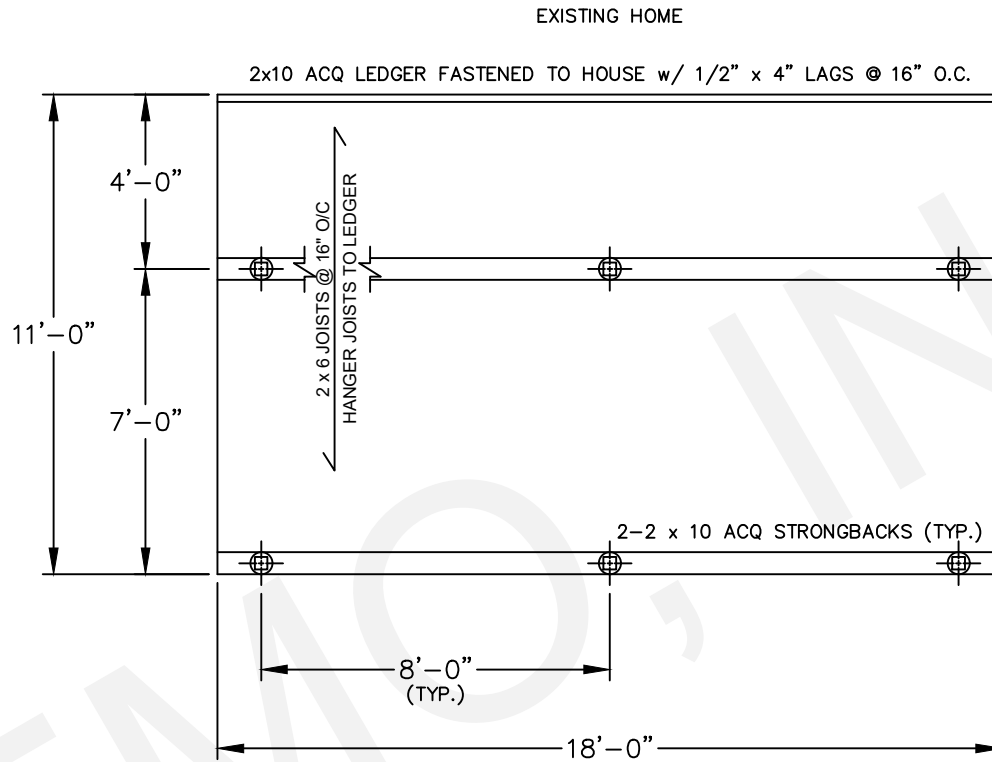
INDICATE TYPE OF FOUNDATION ON HOUSE  
☐ BASEMENT ☐ CRAWL ☐ SLAB

INDICATE TYPE OF SIDING ON HOUSE  
☐ FRAME ☐ ALUMINUM ☐ BRICK ☐ STONE  
IF STONE ☐ ROUGH ☐ SMOOTH

INDICATE TYPE OF



Today's Date: MAY 17, 2022

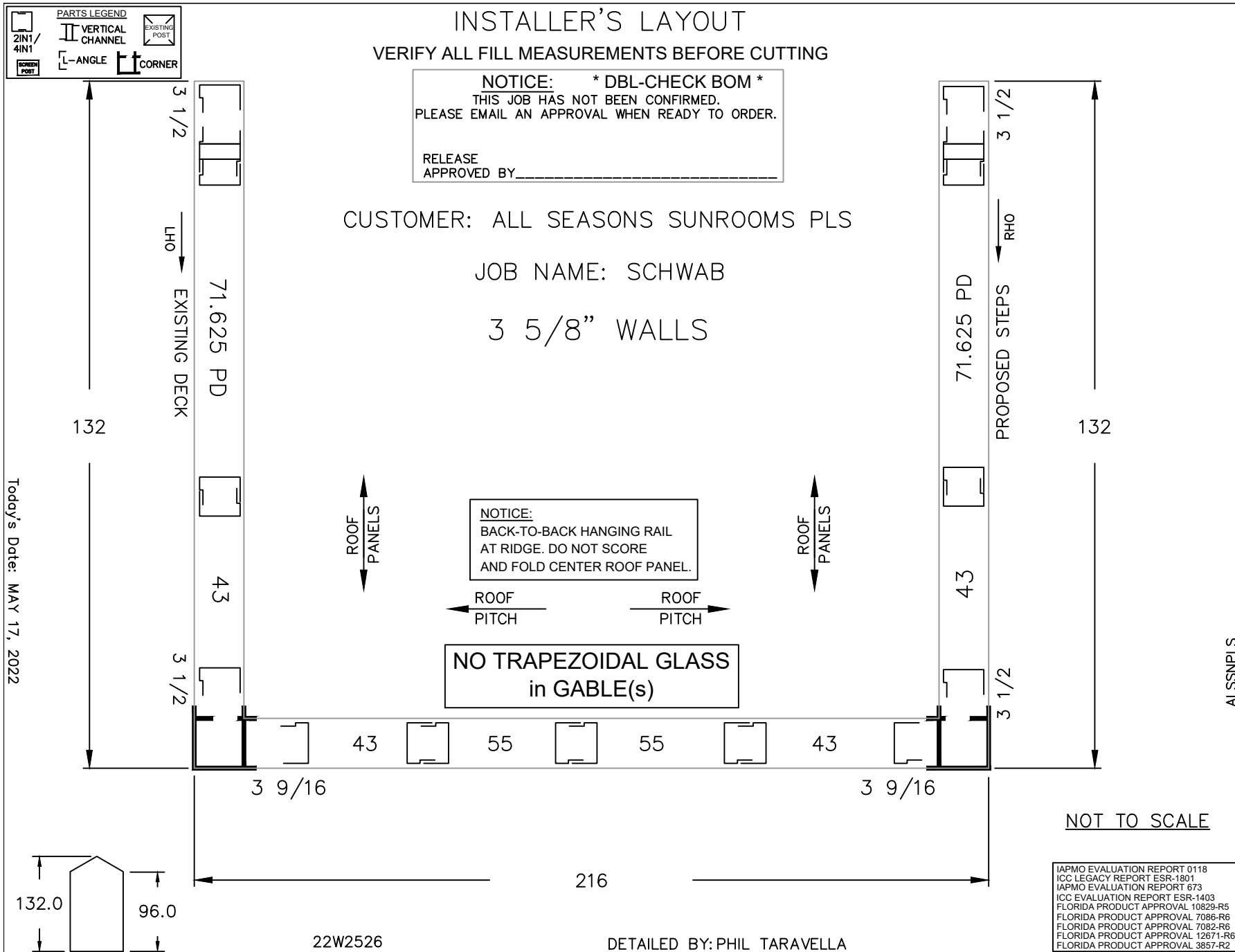


## CONVENTIONAL WOOD DECK PLAN

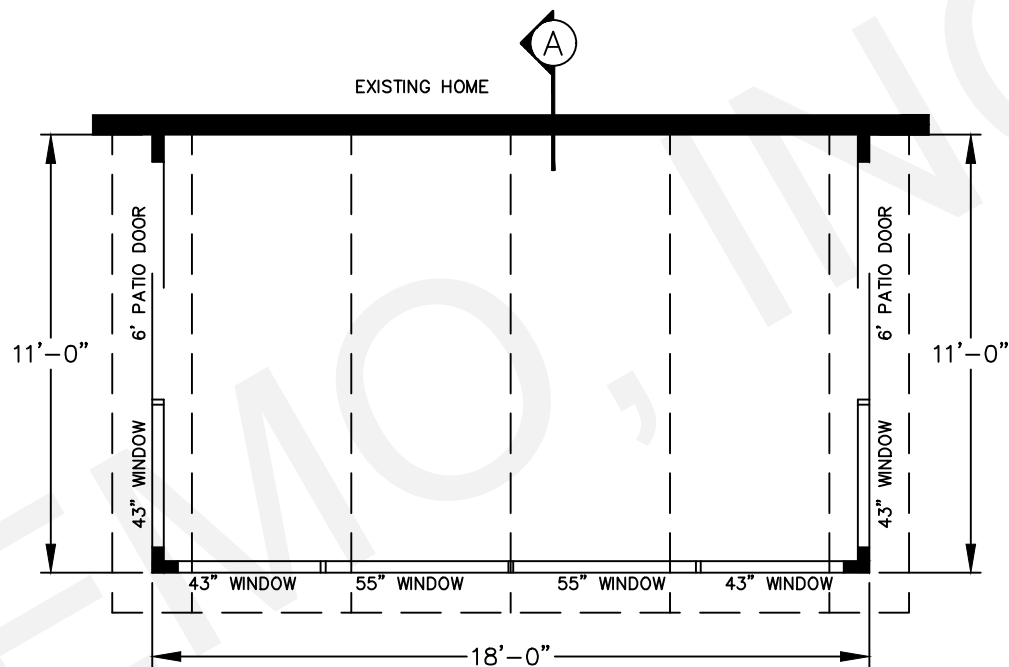
LOADS:

Dead Load: 5 lb/Sq Ft  
Live Load: 40 lb/Sq Ft

DEALER: ALSSNPLS		22W2526	PH. ( )	TEMO SUNROOMS, INC.	
SCHWAB				20400 HALL RD CLINTON TWP, MI 48038 PHONE: (800) 344-8366	
DRAWN BY: PHIL TARAVELLA		MI 00000			
		ON: 05/17/22		SCALE: NONE	



Today's Date: MAY 17, 2022



FRAME COLOR: BRONZE  
FASCIA/TRIM: BRONZE  
INTERIOR KP: BRONZE  
EXTERIOR KP: BRONZE  
SKIN TYPE: TEMKOR

## FLOOR PLAN

NOTE: ENCLOSURE NOT TO BE USED  
AS A PERMANENT LIVING AREA

NOTE:  
THE SIDE WALL ATTACHMENT  
TO HOUSE IS A NON-LOAD  
BEARING CONNECTION.  
PROPERLY CAULK BOTH SIDES  
OF ALUMINUM EXTRUSION  
AT THIS CONNECTION.

TEMO SUNROOMS, INC.

20400 HALL RD  
CLINTON TWP, MI 48038  
PHONE: (800) 344-8366

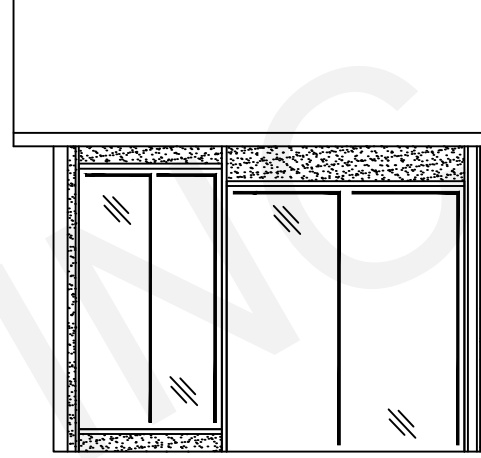
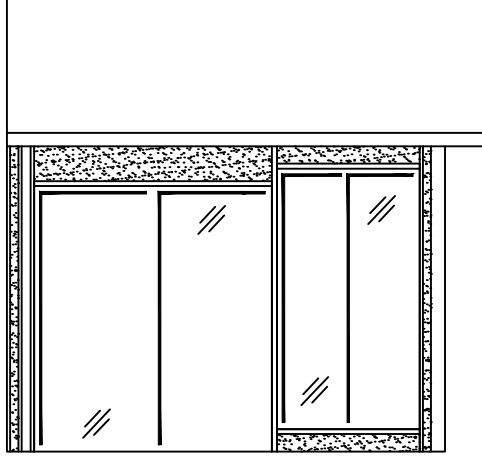
DEALER: ALSSNPLS 22W2526 PH. ( )

SCHWAB

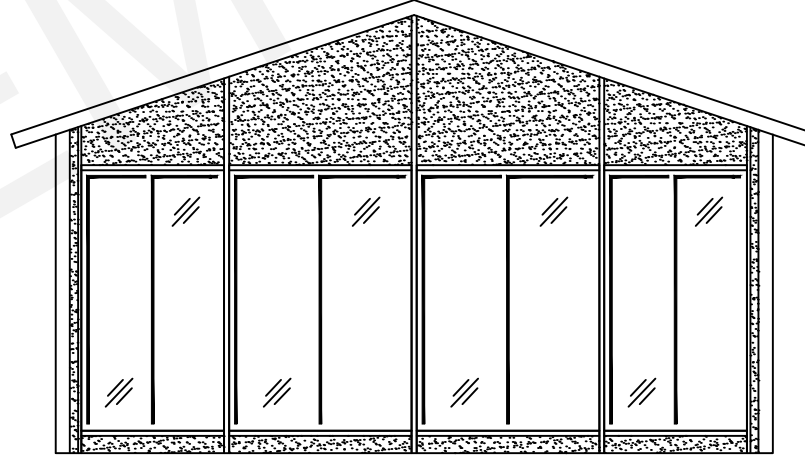
, MI 00000

DRAWN BY: PHIL TARAVELLA ON: 05/17/22 SCALE: NONE

Today's Date: MAY 17, 2022



NO TRAPEZOIDAL GLASS in GABLE(s)



## ELEVATIONS

ALL TEMO SUNROOMS ENCLOSURES  
ARE DESIGNED IN ACCORDANCE WITH  
THE 2015 MICHIGAN BUILDING CODE  
NOTE: ALL OPERATING GLAZING  
PRODUCTS SUPPLIED BY TEMO  
SUNROOMS INCLUDE TEMPERED  
HPG-2000 GLASS THAT CONFORMS  
WITH SECTION R308 OF THE IRC.

DEALER: ALSSNPIS 22W2526 | PH. ( )

SCHWAB

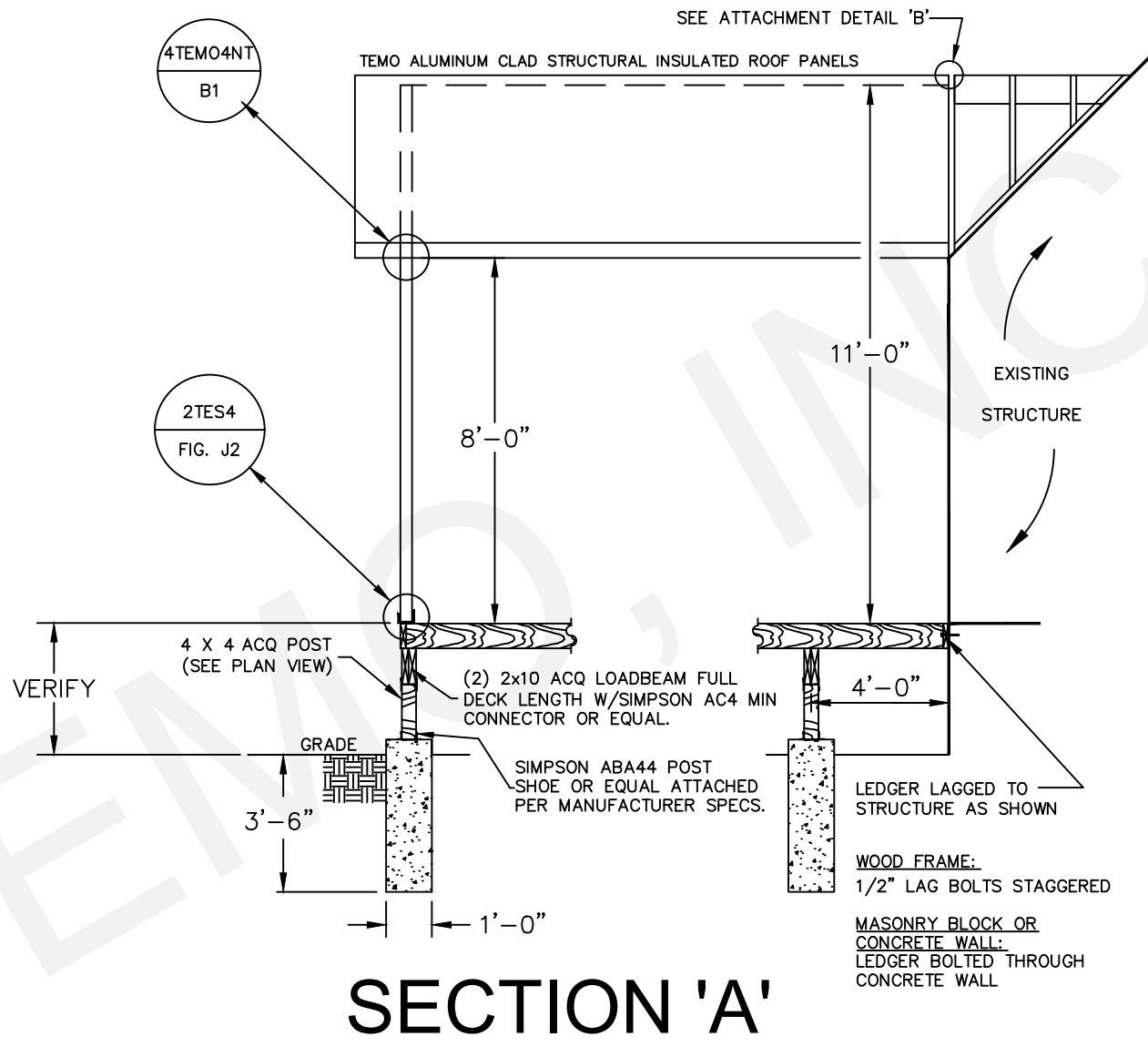
, MI 00000

DRAWN BY: PHIL TARAVELLA ON: 05/17/22 SCALE: NONE

TEMO SUNROOMS, INC.  
20400 HALL RD  
CLINTON TWP, MI 48038  
PHONE: (800) 344-8366



Today's Date: MAY 17, 2022



ROOF PANELS: 4 1/4", 0.032, 2#, ROOF LOAD: 30 P.S.F.

TEMO SUNROOMS, INC.  
20400 HALL RD  
CLINTON TWP, MI 48038  
PHONE: (800) 344-8366

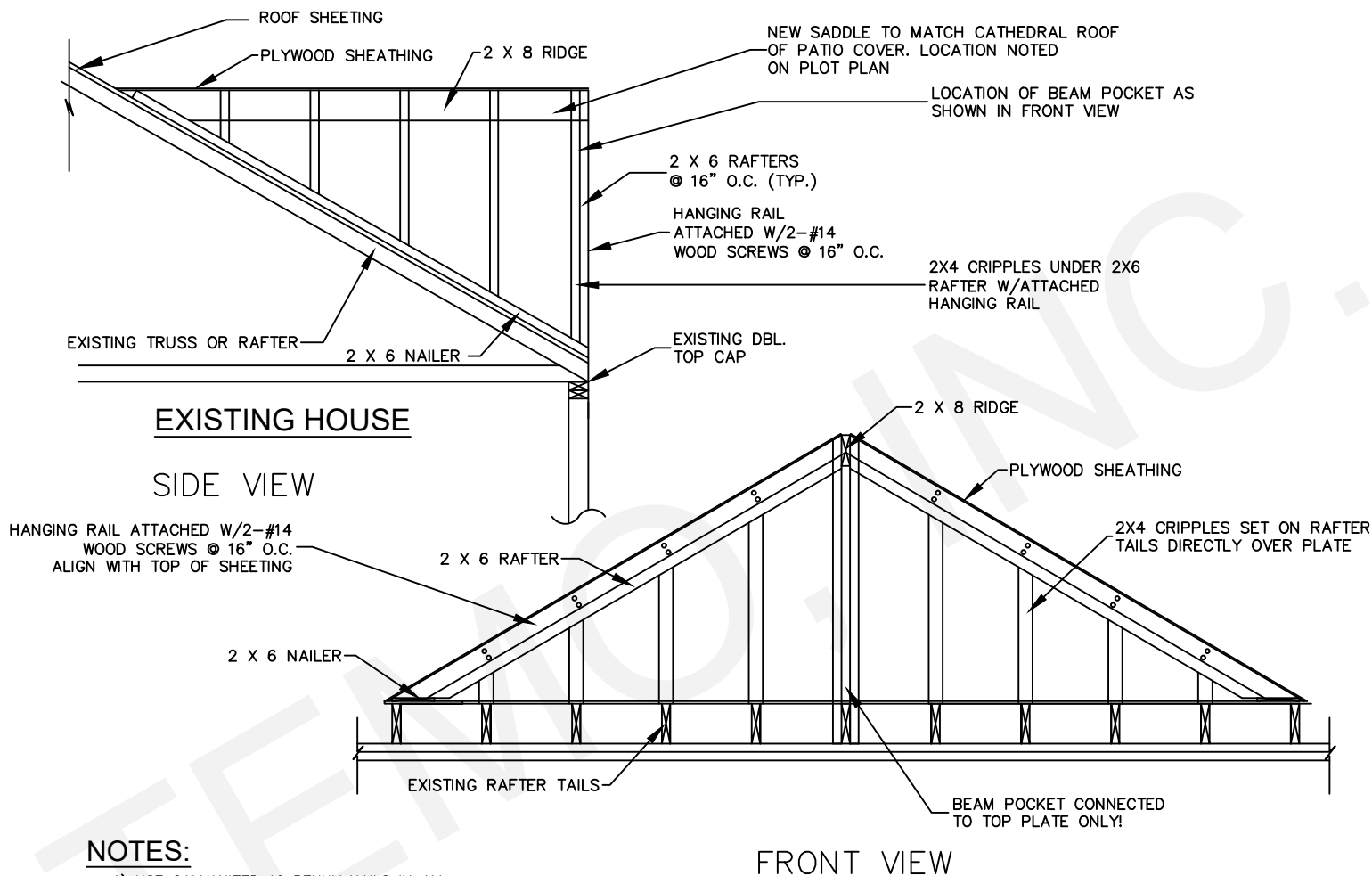
DEALER: ALSSNP/LS 22W2526 PH. ( )

SCHWAB

, MI 00000

DRAWN BY: PHIL TARAVELLA ON: 05/17/22 SCALE: NONE

Today's Date: MAY 17, 2022



#### NOTES:

- 1) USE GALVANIZED 16 PENNY NAILS IN ALL LOCATIONS
- 2) NAIL 2 x 6 NAILER INTO RAFTERS AT BASE OF SADDLE
- 3) NAIL 2 x 6 RAFTER INTO 2 x 6 NAILER
- 4) INSTALL 2 x 4 CRIPPLE FROM SADDLE RAFTER TO EXISTING ROOF SURFACE DIRECTLY OVER EACH TRUSS
- 5) COVER W/WATER & ICE PROTECTION CUT BACK VALLEY & COVER WITH WATER AND ICE PROTECTION

## DETAIL 'B'

NOT TO SCALE

## SADDLE DETAIL WITH SOFFIT REMOVED

TEMO SUNROOMS, INC.

20400 HALL RD  
CLINTON TWP, MI 48038  
PHONE: (800) 344-8366

DEALER: ALSSNPLS 22W2526 PH. ( )

SCHWAB

MI 00000

DRAWN BY: PHIL TARAVELLA ON: 05/17/22 SCALE: NONE



JOHN R



















Side of  
neighbors  
house ---  
not garage

- B. VARIANCE REQUEST, 81-83 HALDANE, ROY E RATHKA JR./RATHKA BUILDING & CONSTRUCTION, INC./RATHKA REALTY LLC - Applicant desires to replace a portion of the 25 foot wide Canham right-of-way with a 40 foot wide private road easement. The resulting easement will result in the existing duplex being setback 9.6 feet from Canham where the Zoning Ordinance requires it to be setback 25 feet.

ZONING ORDINANCE SECTION: 4.07 C, RT Zoning District









5923

5921

5905

5924

5922

5906

5904

5923

5923-A

5915

5911

5907

70-A

71

67

63

59

55

51

47

43

71-A

5922

5918

5914

5910

5906

HALDANE

NILES

5891

5889

5875

5873

5859

5857

5843

5841

5892

5890

5876

5874

5860

5858

5844

5842

83 81

5865

5877

5875

LIVERNOIS

5900

5884

5874



5923

5921

5905

5924

5922

5906

5904

5921

5923

5923-A

5915

5911

5907

70-A

(NN) Node Q

71

67

63

59

55

51

47

43

71-A

HALDANE

5920

5922

5918

5914

5910

5906

(O)

5900

5891

5889

5875

5873

5859

5857

5843

5841

NILES

5892

5890

5876

5874

5860

5858

5844

5842

83

81

(R-T)

5865

(O)

5877

5875

LIVERNOIS

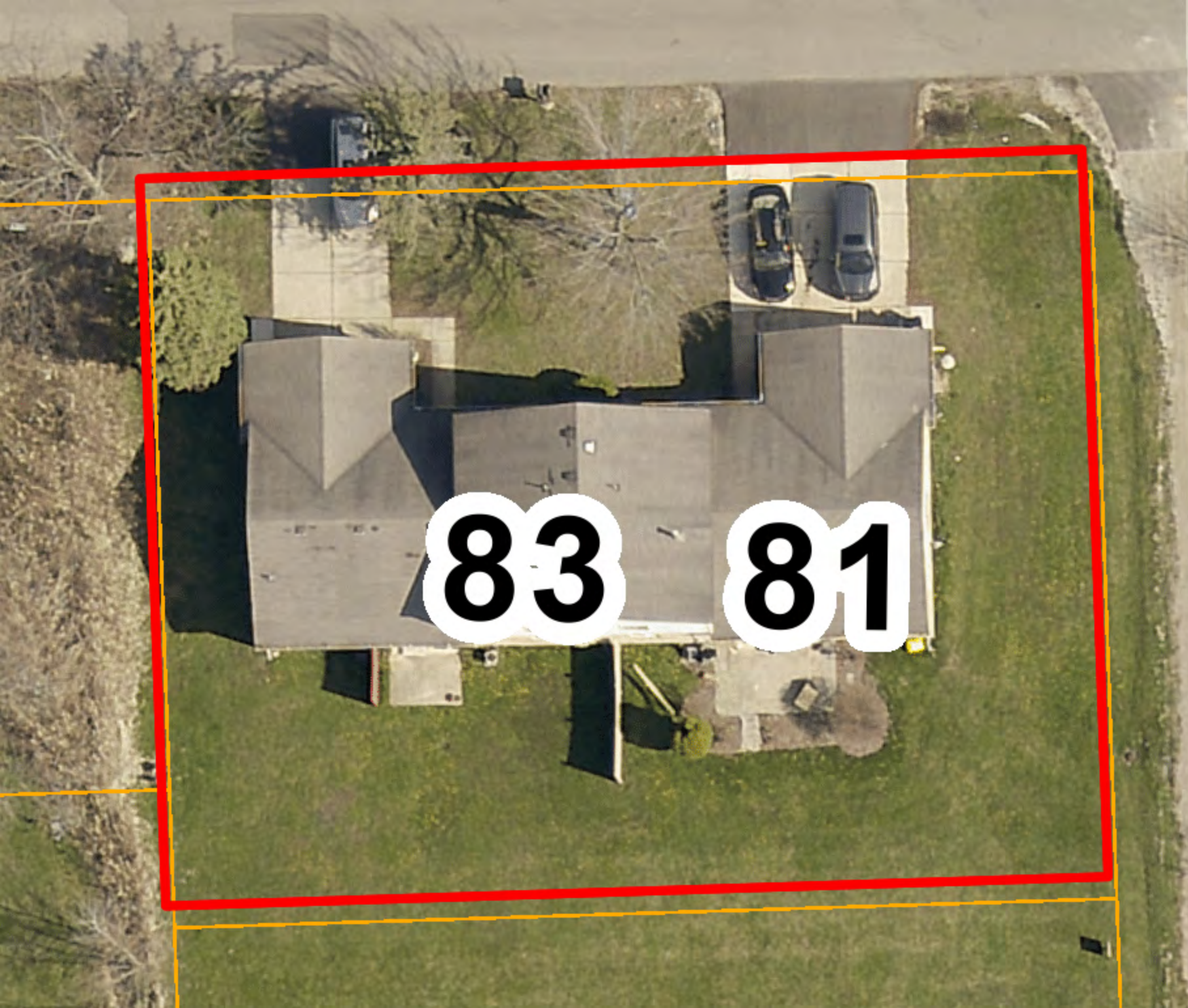
5884

(R-1B)

5874

(R-1B)









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

## Zoning Board of Appeals Application

[planning@troymi.gov](mailto:planning@troymi.gov) | Fee \$150.00

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: \_\_\_\_\_
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: \_\_\_\_\_
5. APPLICANT:  
NAME \_\_\_\_\_  
COMPANY \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE \_\_\_\_\_  
E-MAIL \_\_\_\_\_  
AFFILIATION TO THE PROPERTY OWNER: \_\_\_\_\_



## Zoning Board of Appeals Application

6. PROPERTY OWNER:

NAME \_\_\_\_\_

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_

E-MAIL \_\_\_\_\_

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, \_\_\_\_\_ (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 \_\_\_\_\_ DATE \_\_\_\_\_

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

PROPERTY OWNER SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

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

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.



## Zoning Board of Appeals Application

6. PROPERTY OWNER:

NAME Roy E. Rathka Jr.  
COMPANY Rathka Building & Construction, Inc.  
ADDRESS 11684 Majestic Court  
CITY Shelby Twp STATE MI ZIP 48315  
TELEPHONE (586) 291 - 2522  
E-MAIL roy-betty@hotmail.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, ROY E. RATHKA SR. (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 Roy E. Rathka Jr. DATE 6-13-22

PRINT NAME: ROY E. RATHKA SR.

PROPERTY OWNER SIGNATURE Roy E. Rathka Jr. DATE 6-13-22

PRINT NAME: ROY E. RATHKA SR.

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.



## 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](mailto: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

# PEA GROUP

2430 ROCHESTER COURT, SUITE 100  
TROY, MICHIGAN 48083

844.813.2949  
PEAGROUP.COM

June 13, 2022

Paul Evans  
Zoning & Compliance Specialist  
500 W. Big Beaver  
Troy, MI, 48084

**RE: Parcel #20-09-231-023 (81 & 83 Haldane Ave.)  
Statement of Practical Difficulty**

Dear Mr. Evans:

The owner of the subject property (Mr. Roy Rathka) wishes to construct a duplex building on the adjacent parcel to the south (20-09-231-024) on Canham Drive. The City Engineering Department requires improvements to Canham Dr. in order for the property to be developed. Refer to the attached letters provided to my client by the City Engineering Department (dated 9/17/12 & 6/1/20.)

As part of the requested improvements, the City has requested that the existing 25' ROW be vacated and replaced with a 40' wide private road easement agreement. In doing so, this creates a front setback infringement of 15.4 feet (9.6 feet provided vs. 25 feet required) on the subject parcel (-023) as measured from the private road easement line to the existing multi-family building at the southeast corner of Haldane Ave. and Canham Dr. Refer to the attached construction plan "Canham Drive Plan & Profile".

Granting the requested variance will allow the adjacent property (-024) on Canham Dr. to be developed under its current zoning requirements, similar to adjacent properties. As a result, Canham Dr. would be improved from a narrow gravel road to a 22' wide paved asphalt road. The non-conforming ROW width of Canham Dr. is an exceptional characteristic of the property, which makes complying with the dimensional requirements impossible without the requested variance. These characteristics are an existing condition and have not been created by the current or previous land owner.

If you should have any questions or require any additional information, please feel free to contact this office.

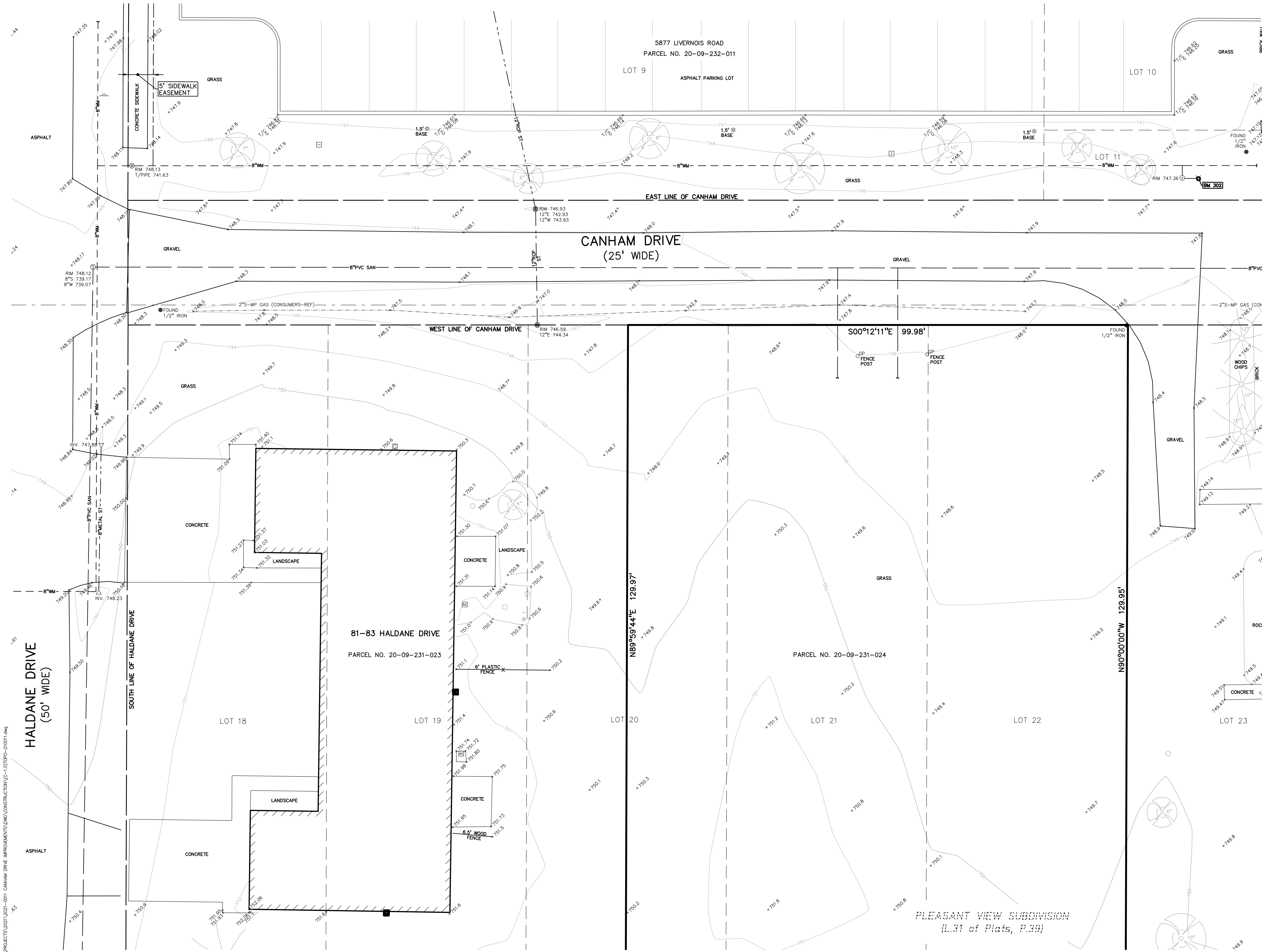
Sincerely,

**PEA Group**



Gregory Bono, PE  
Project Manager

Attachment: City Engineering Department letter



**LEGEND**

IRON FOUND	BRASS PLUG SET	SEC. CORNER FOUND
IRON SET	MONUMENT FOUND	R RECORDED
NAIL FOUND	MONUMENT SET	M MEASURED
NAIL & CAP SET		C CALCULATED

EXISTING

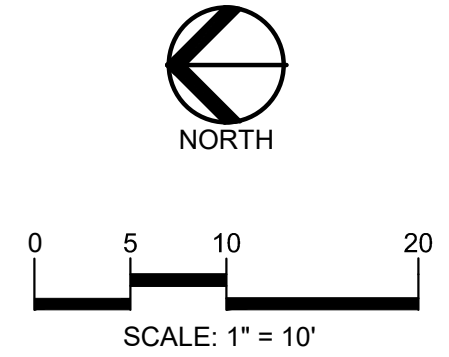
—OH—ELEC—W—O—	ELEC. PHONE OR CABLE TV O.H. LINE, POLE & GUY WIRE
—UG—CATV—	UNDERGROUND CABLE TV, CATV PEDESTAL
—UG—PHONE—	TELEPHONE U.G. CABLE, PEDESTAL & MANHOLE
—UG—ELEC—	ELECTRIC U.G. CABLE, MANHOLE, METER & HANDHOLE
—GAS—	GAS MAIN, VALVE & GAS LINE HANDBOOK
—WATER—	WATERMAIN, HYD. GATE VALVE, TAPPING SLEEVE & VALVE
—SEWER—	SANITARY SEWER, CLEANOUT & MANHOLE
—STORM—	STORM SEWER, CLEANOUT & MANHOLE
—COMB—	COMBINED SEWER & MANHOLE
—SQUARE—	SQUARE, ROUND & BEEHIVE CATCH BASIN, YARD DRAIN
—POST—	POST INDICATOR VALVE
—WATER—	WATER VALVE BOX/HYDRANT VALVE BOX, SERVICE SHUTOFF
—MTR—	MTR BOX, TRANSFORMER, IRRIGATION CONTROL VALVE
—UNID—	UNIDENTIFIED STRUCTURE
—SPOT—	SPOT ELEVATION
—CONC—	CONTOUR LINE
—FENCE—	FENCE
—GUARD—	GUARD RAIL
—STREET—	STREET LIGHT
—SIGN—	SIGN
—ASPH—	ASPHALT
—GRAVEL—	GRAVEL SHOULDER
—WETLAND—	WETLAND

**REFERENCE DRAWINGS**  
ALTANSPS LAND TITLE SURVEY, PEA JOB NO. 2005-159, DATED 05/26/2016  
BOUNDARY & TOPOGRAPHIC SURVEY, PEA JOB NO. 2017-055, DATED 03/15/2017  
CONSUMERS QUARTER SECTION MAP 02-61-09-1, DATED 08/09/19

**FLOODPLAIN NOTE:**  
BY GRAPHICAL PLOTTING, SITE IS WITHIN ZONE 'X', AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FLOOD INSURANCE RATE MAP NUMBER 26125C0532F, EFFECTIVE SEPTEMBER 29, 2006.

**LEGAL DESCRIPTION**  
(City of Troy Assessing)  
**PARCEL ID 20-09-231-024**  
Land in the City of Troy, Oakland County, Michigan, described as follows:  
**T2N, R11E, SEC 9 PLEASANT VIEW SUB S 1/2 OF LOT 20, ALSO ALL OF LOTS 21 & 22 6-29-93 FR 018**

**BENCHMARKS**  
(GPS DERIVED — NAVD88)  
**BM #300**  
DIMPLED ARROW ON A HYDRANT LOCATED AT THE SOUTHWEST CORNER OF LIVERNOIS ROAD AND HALDANE AVENUE. (NOT SHOWN ON SURVEY)  
ELEV. — 748.17  
**BM #302**  
ARROW ON A HYDRANT LOCATED ON THE EAST SIDE OF CANHAM DRIVE, AT THE END OF THE DRIVE.  
ELEV. — 750.09  
**BM #303**  
CUT 1" IN THE SOUTH SIDE OF A TRANSFORMER PAD LOCATED APPROX. 12' WEST OF WESTERLY PROPERTY LINE, BETWEEN 5874 & 5860 NILES STREET.  
ELEV. — 750.79



**811** Know what's below. Call before you dig.  
**CAUTION!!**  
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.



**CLIENT**  
**ROY RATHKA**  
11684 MAJESTIC COURT  
SHELBY TOWNSHIP, MICHIGAN 48315

**PROJECT TITLE**  
**CANHAM DRIVE IMPROVEMENTS**  
CITY OF TROY, OAKLAND COUNTY, MICHIGAN

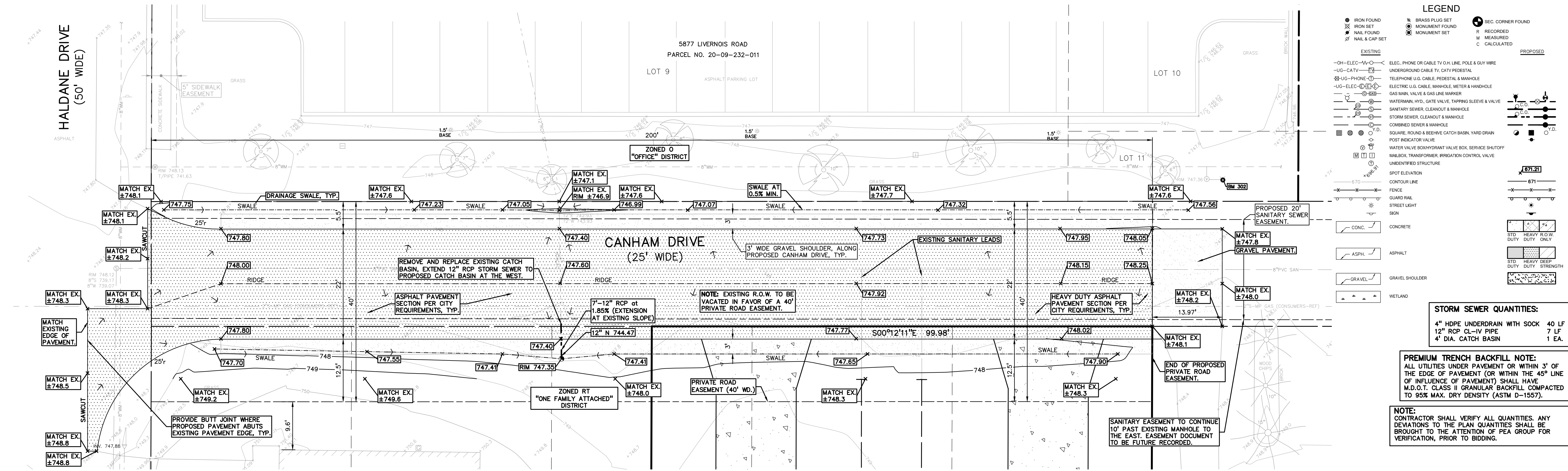
REVISIONS	
CITY COMMENTS	03-10-22

**ORIGINAL ISSUE DATE:**  
JANUARY 24, 2022  
**DRAWING TITLE**  
**TOPOGRAPHIC SURVEY**

PEA JOB NO.	2021-0011
P.M.	GB
DN.	JKS
DES.	JKS
DRAWING NUMBER:	

**C-1.0**





**PEA GROUP**  
t: 844.813.2949  
www.peagroup.com

**811** Know what's below. Call before you dig.

CAUTION!!  
THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

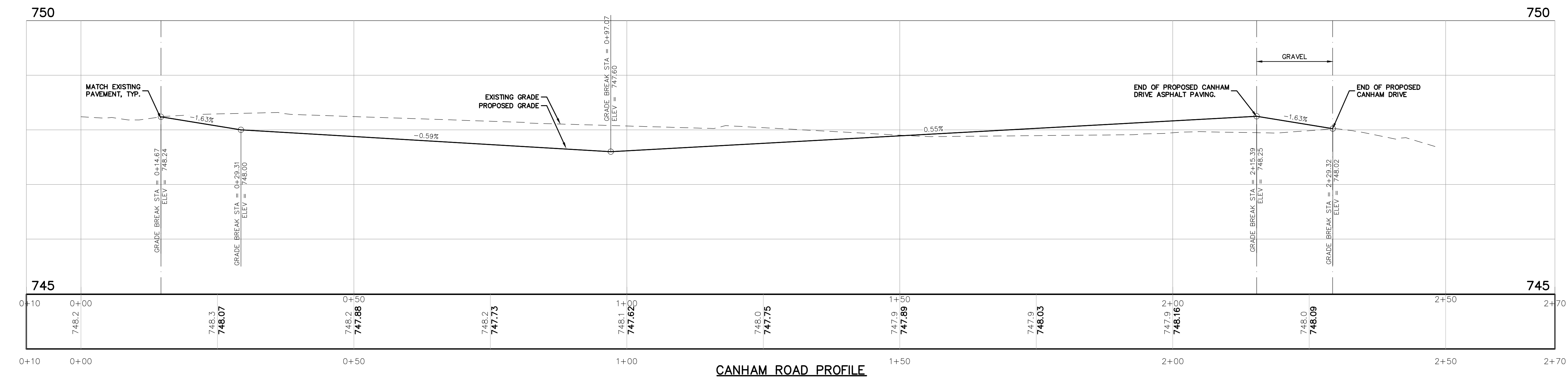
CLIENT  
**ROY RATHKA**  
11684 MAJESTIC COURT  
SHELBY TOWNSHIP, MICHIGAN 48315

PROJECT TITLE  
**CANHAM DRIVE IMPROVEMENTS**  
CITY OF TROY, OAKLAND COUNTY, MICHIGAN

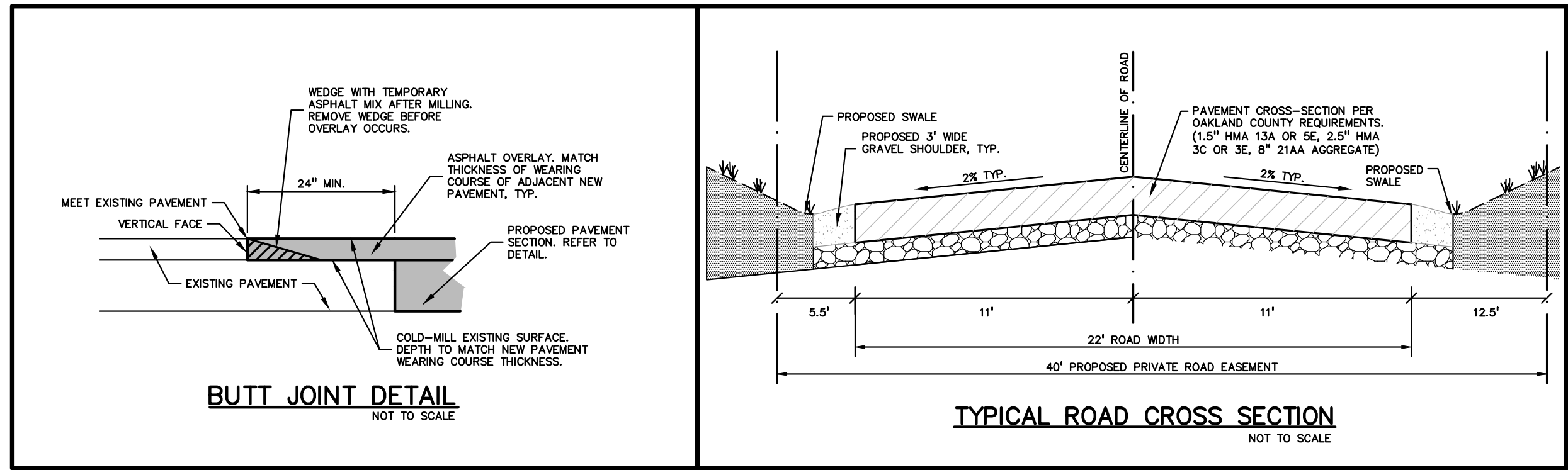
ORIGINAL ISSUE DATE:  
JANUARY 24, 2022

DRAWING TITLE  
**CANHAM DRIVE PLANS AND PROFILES**

PEA JOB NO. 2021-0011  
P.M. GB  
DN. JKS  
DES. JKS  
DRAWING NUMBER:  
**C-2.0**

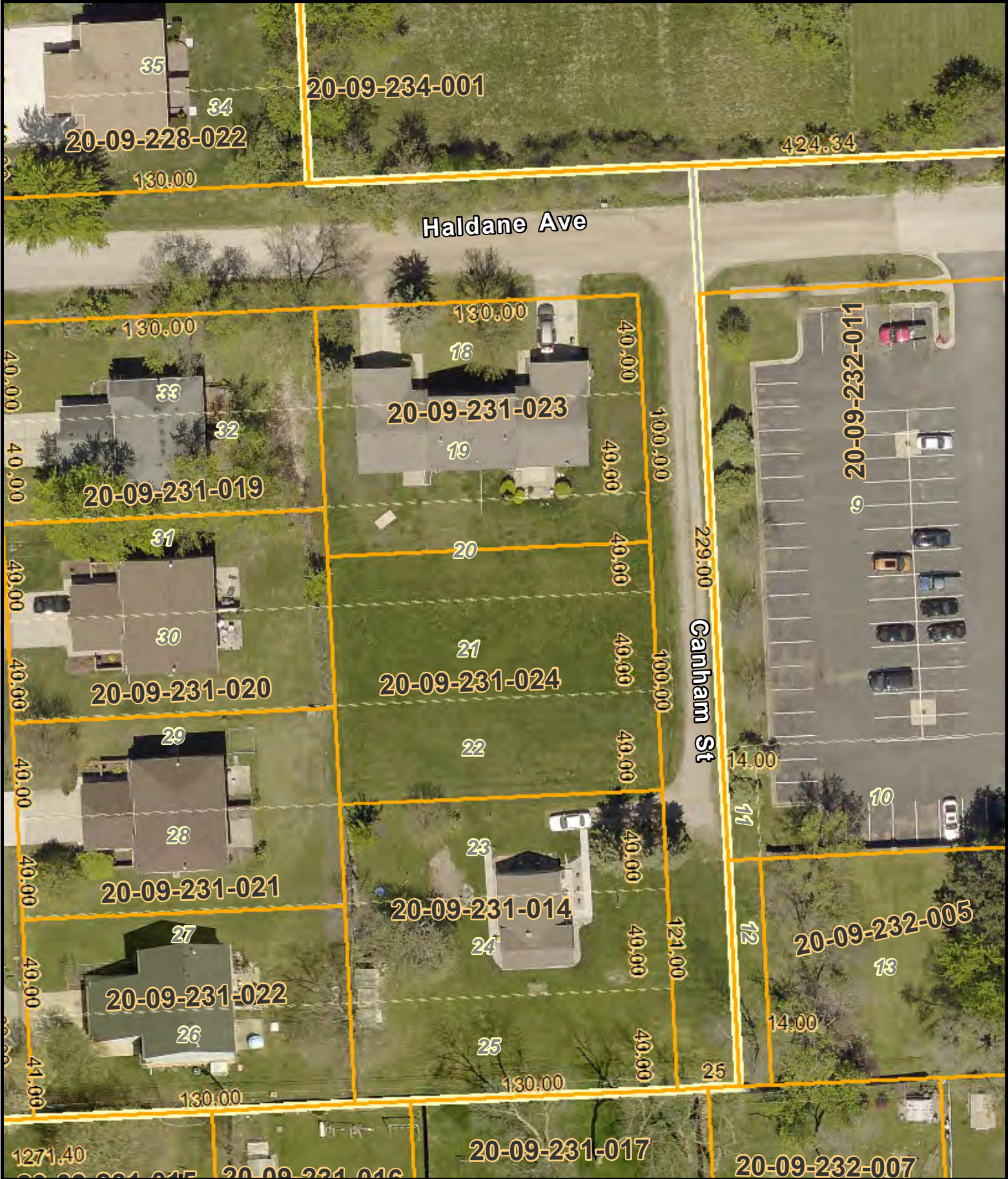


- PAVING NOTES:**
- IN AREAS WHERE NEW PAVEMENTS ARE BEING CONSTRUCTED, THE TOPSOIL AND SOIL CONTAINING ORGANIC MATTER SHALL BE REMOVED PRIOR TO PAVEMENT CONSTRUCTION.
  - PROVIDE EXPANSION JOINTS AND JOINT SEALANT AT TWO "END-OF-RADIUS" LOCATIONS (OPPOSITE SIDES AT EACH LONG END) OF CONCRETE CURB ISLANDS.
  - CONSTRUCTION TRAFFIC SHOULD BE MINIMIZED ON THE NEW PAVEMENT. IF CONSTRUCTION TRAFFIC IS ANTICIPATED ON THE PAVEMENT STRUCTURE, THE INITIAL LIFT THICKNESS COULD BE INCREASED AND PLACEMENT OF THE FINAL LIFT COULD BE DELAYED UNTIL THE MAJORITY OF THE CONSTRUCTION ACTIVITIES HAVE BEEN COMPLETED. THIS ACTION WILL ALLOW REPAIR OF LOCALIZED FAILURE, IF ANY DOES OCCUR, AS WELL AS REDUCE LOAD DAMAGE ON THE PAVEMENT SYSTEM.
  - PAVEMENT MIX DESIGNS SUBMITTED FOR REVIEW BY THE ENGINEER MUST FOLLOW THE CURRENT MDOT REVIEW CHECKLISTS AS SUMMARIZED BELOW:
    - CONCRETE MIX DESIGN REVIEW CHECKLIST (FORM 2000)
    - SUPERPAVE MIX DESIGN CHECKLIST (FORM 1862)
    - MARSHALL MIX DESIGN CHECKLIST (FORM 1849)
- GENERAL NOTES:**
- THESE NOTES APPLY TO ALL CONSTRUCTION ACTIVITIES ON THIS PROJECT.
- ALL CONSTRUCTION, WORKMANSHIP AND MATERIALS SHALL BE IN ACCORDANCE WITH CURRENT OSHA, MDT AND MUNICIPALITY STANDARDS AND REGULATIONS.
  - THE CONTRACTOR SHALL NOTIFY THE CITY ENGINEER AND/OR THE AUTHORITY HAVING JURISDICTION 3 BUSINESS DAYS PRIOR TO THE BEGINNING OF CONSTRUCTION.
  - THE CONTRACTOR MUST CONTACT THE ENGINEER SHOULD THEY ENCOUNTER ANY DESIGN ISSUES DURING CONSTRUCTION. IF THE CONTRACTOR MAKES DESIGN MODIFICATIONS WITHOUT THE WRITTEN DIRECTION OF THE DESIGN ENGINEER, THE CONTRACTOR DOES SO AT HIS OWN RISK.
  - ALL NECESSARY PERMITS, TESTING, BONDS AND INSURANCES ETC., SHALL BE PAID FOR BY THE CONTRACTOR. THE OWNER SHALL PAY FOR ALL CITY INSPECTION FEES.
  - THE CONTRACTOR SHALL NOTIFY THE APPROPRIATE 811/ONE CALL UTILITY LOCATING CENTER, THE CITY ENGINEER AND/OR THE AUTHORITY HAVING JURISDICTION 3 BUSINESS DAYS PRIOR TO THE BEGINNING OF CONSTRUCTION. IF NO NOTIFICATION IS GIVEN AND DAMAGE RESULTS, SAID DAMAGE WILL BE REPAIRED AT SOLE EXPENSE OF THE CONTRACTOR. IF EXISTING UTILITY LINES ARE ENCOUNTERED AND/OR RESTORED TO THE ORIGINAL CONDITION BY THE CONTRACTOR.
  - CONTRACTOR TO VERIFY THAT THE PLANS AND SPECIFICATIONS ARE THE VERY LATEST PLANS AND SPECIFICATIONS AND FURTHERMORE, VERIFY THAT THESE PLANS AND SPECIFICATIONS HAVE BEEN APPROVED. ALL ITEMS CONSTRUCTED BY THE CONTRACTOR PRIOR TO RECEIVING FINAL APPROVAL, HAVING TO BE ADJUSTED OR RE-DONE, SHALL BE AT THE CONTRACTORS EXPENSE. SHOULD THE CONTRACTOR ENCOUNTER A CONFLICT BETWEEN THESE PLANS AND/OR SPECIFICATIONS, THEY SHALL SEEK CLARIFICATION IN WRITING FROM THE ENGINEER BEFORE COMMENCEMENT OF CONSTRUCTION. FAILURE TO DO SO SHALL BE AT SOLE EXPENSE TO THE CONTRACTOR.
  - ANY WORK WITHIN THE STREET OR HIGHWAY RIGHTS-OF-WAY SHALL BE PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THE AGENCIES HAVING JURISDICTION AND SHALL NOT BEGIN UNTIL ALL NECESSARY PERMITS HAVE BEEN ISSUED FOR THE WORK.
  - ALL PROPERTIES OR FACILITIES IN THE SURROUNDING AREAS, PUBLIC OR PRIVATE, DESTROYED OR OTHERWISE DISTURBED DUE TO CONSTRUCTION, SHALL BE REPLACED AND/OR RESTORED TO THE ORIGINAL CONDITION BY THE CONTRACTOR.
  - THE CONTRACTOR SHALL PROVIDE ALL NECESSARY BARRICADING, SIGNAGE, LIGHTS AND TRAFFIC CONTROL DEVICES TO PROTECT THE WORK AND SAFELY MAINTAIN TRAFFIC IN ACCORDANCE WITH LOCAL REQUIREMENTS AND THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (LATEST EDITION). THE DESIGN ENGINEER, OWNER, CITY AND STATE SHALL NOT BE HELD LIABLE FOR ANY CLAIMS RESULTING FROM ACCIDENTS OR DAMAGES CAUSED BY THE CONTRACTOR'S FAILURE TO COMPLY WITH TRAFFIC AND PUBLIC SAFETY REGULATIONS DURING THE CONSTRUCTION PERIOD.
  - IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO ADJUST THE TOP OF ALL EXISTING AND PROPOSED STRUCTURES (MANHOLES, CATCH BASINS, INLETS, GATE WELLS ETC.) WITHIN GRADED AND/OR PAVED AREAS TO FINAL GRADE SHOWN ON THE PLANS. ALL SUCH ADJUSTMENTS SHALL BE INCIDENTAL TO THE JOB AND WILL NOT BE PAID FOR SEPARATELY.





# Canham Dr



Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

**OAKLAND**  
Michigan  
David Coulter  
Oakland County Executive

Date Created: 1/12/2021  
NORTH  
1 inch = 50 feet

September 17, 2012

Mr. Roy Rathka  
11684 Majestic Court  
Shelby Township, MI 48315

Regarding: **Canham Road**

Mr. Rathka,

Thank you for your patience as we reviewed and explored options for Canham road as it relates to development at 5869 and 5871 Canham.

As you are aware, Canham as a 25 foot wide half right-of-way cannot become a public road because it does not meet the physical design standards of Chapter 41 of the Troy City Code and Section 4.05(A)(6) of that same chapter prohibits half streets. As an option, Canham could become a private road. This would entail vacating the 25 foot right-of-way and the City retaining an easement over this area for public utilities. There is already a public sanitary sewer located there, which was constructed in 2009. As a private road, the road width and curb and gutter requirements would be waived to allow a 22 foot wide asphalt road and no curb and gutter. Shallow ditches and drainage basins would still be required. Since the sanitary sewer and water are already accessible to the property, the remaining improvements to be constructed by the developer at his cost would be paving of the road and installing drains. Normal tap and benefit fees would still apply to the sanitary and water.

If you are interested in pursuing this option, I would suggest scheduling a meeting with me and City Planner Brent Savidant.

Thank you again for your patience, If you have any questions please contact me directly by phone at 248.524.3383 or email at: [vandettesj@troymi.gov](mailto:vandettesj@troymi.gov) .

Sincerely,

Steven J. Vandette, P.E.  
City Engineer

Cc: A. Motzny; W. Huotari; M. Miller; B. Savidant; N. Licari; T. Richnak; S. Burns

G:\STAFF - City Hall\Steve\Rathka\_Canham\LtrRathkaCanhamPvtRoadOption.docx





June 1, 2020

Mr. Roy Rathka  
11684 Majestic Court  
Shelby Township, MI 48315

Regarding: Canham Road

Mr. Rathka,

Very little has changed since Mr. Vandette's letter dated September 17, 2012, of which you have a copy.

The plans submitted, if the proposed development were to be a duplex, would need to be revised to meet the requirements of that letter.

Succinctly, the 25' right-of-way would need to be vacated and a 40' wide private road easement granted. Twenty (20) foot wide easements would need to be in place for the existing watermain and sanitary sewer if not within the 40' private road easement. The setback requirement is 25' from the west private road easement line. Drainage improvements, centerline road profile, road cross section, etc. would all need to be shown on the proposed plan.

At this time, I am unsure of what direction you are requesting from the city as the requirements for developing this parcel were detailed in Mr. Vandette's letter and the plan, as submitted, does not meet these requirements.

The plan, dated 10-12-04 by Reichert Surveying, as submitted cannot be approved.

The property can be developed but any development would need to meet the requirements detailed in the letter and all other requirements of the city that currently apply to new construction in the city.

If you have questions, please feel free to contact me directly by phone at: 248.524.3387 or email at: [HuotariWJ@troymi.gov](mailto:HuotariWJ@troymi.gov).

Sincerely,

**APPROVED**

*By William J. Huotari at 1:01 pm, Jun 01, 2020*

William J. Huotari, PE  
City Engineer

Cc: A. Motzny; S. Finlay; K. Bovensiepe; N. Licari; B. Savidant; S. Huerta

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

# Troy Zoning Board of Appeals Legal Update

TROY CITY ATTORNEY'S OFFICE, JULY 2022



# Recent Court of Appeals Case

- ▶ In February 2022, the Michigan Court of Appeals issued its decision in *Pegasus Wind, LLC v Tuscola County and Tuscola Area Airport Zoning Board of Appeals* (*Pegasus Case*).
- ▶ The case involved the Airport Zoning Act, but since that act has language analogous to the Michigan Zoning Enabling Act (MZEA), the decision is applicable to ZBA decisions.
- ▶ The case has been appealed to the Michigan Supreme Court, and thus not binding at this time. If the decision is affirmed, it will affect how the Troy ZBA reviews dimensional variances.

# 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.

# Variances in general

- ▶ A variance excuses someone from complying with the law.
- ▶ Variances 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 variances are for dimensional (non-use) variances.



# 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

- ▶ Under Troy's Zoning Ordinance, a practical difficulty justifying the variance requires a finding of all 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



# Pegasus Case – Practical Difficulty

- ▶ The Court in *Pegasus* held that under the MZEA, an applicant for a dimensional variance is only required to establish a practical difficulty. An “unnecessary hardship” showing is only required for use variances.
- ▶ According to the *Pegasus* case, a showing that the need for a variance is based on an exceptional characteristic of the property is only required to show an “unnecessary hardship.”
- ▶ Thus, if *Pegasus* is affirmed by the Michigan Supreme Court, a person seeking a dimensional variance will no longer need to show the need for a variance is due to exceptional characteristics of the property.

# Dimensional Variance – Exceptional Circumstances

- ▶ Since the *Pegasus* case is on appeal, a dimensional variance in Troy still requires a showing of exceptional circumstances in the property.
- ▶ Exceptional Circumstances 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 – Self Created Hardship

- ▶ Self Created Hardship – a variance should not be granted if the only reason for the variance was self created. E.g. If a person builds a structure within the setback and then makes a variance request.
  - ▶ In such circumstance, a variance may still be granted if other standards are met - treat the situation as if the violation did not exist.
- ▶ 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.
- ▶ The *Pegasus* case clarified a ZBA must deny a variance on the basis of the self created hardship rule when a landowner or predecessor in title partitions, subdivides, or somehow physically alters the land **after** the enactment of the applicable zoning provision, so as to render it unfit for the uses which it is zoned.

# 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

- ▶ If granting or denying a variance, use the template.
- ▶ A statement in support should be based on information or material provided by the applicant, City staff, or members of the public.
- ▶ The Court in *Pegasus* held the ZBA may consider public comment as relevant evidence, but unsubstantiated or speculative public comment does not provide competent evidence to deny a variance.
- ▶ If denying a variance, there must be a finding that at least one standard was not met.
- ▶ A variance should not be granted solely because nobody from the public objected.
- ▶ A variance should not be denied solely because several members of the public objected.
- ▶ The Court in *Pegasus* held there is substantial evidence if a reasonable person would accept that evidence as sufficient to support a conclusion.

# 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.
- ▶ For residential property, ZBA member should knock on door and seek permission to view property.



# 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. To reverse or modify ZBA must find:
  - ▶ 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.
- ▶ Be aware of body language – avoid frowns, gestures, head hanging, dozing off.



# 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

- 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. During a recess, do not discuss any matters with other ZBA members to avoid appearance of OMA violation.
- Purpose of public meeting- discuss public business- not deal with individual personalities. However, comments pertaining to job performance cannot be prohibited.



# 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 – 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.
- ▶ ZBA members should establish dedicated email for ZBA matters.

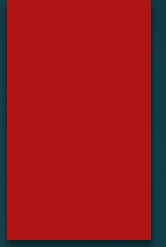


# Appeals from ZBA Decisions

- ▶ 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





ZONING BOARD OF APPEALS  
FOR THE CITY OF TROY

RULES OF PROCEDURE

ARTICLE I  
ORGANIZATION

1. The Board shall annually, ~~at its regular meeting in the month of May,~~ elect its own Chairperson and Vice-Chairperson to hold office for one year ~~or until the date of the next subsequent election for said offices.~~ The election for said offices shall take place at the regular meeting in the month of May or at the next regular meeting of the Board thereafter if the May meeting is cancelled for any reason. The Zoning Administrator shall be the Clerk of the Board, provided that the Clerk may appoint other persons to make records of the meetings.
2. The Chairperson shall preside at all meetings of the Board. In the case of the absence of the Chairperson, the Vice-Chairperson shall preside. In the case of the absence of both the Chairperson and the Vice-Chairperson, the most senior Board member in terms of years of service on the Board, shall preside. The presiding officer, subject to these rules, shall decide all points of order or procedure.
3. The Clerk or his or her representative shall keep the minutes of the Board's proceedings, shall have custody of all records of the Board, shall sign all communications of the Board, shall supervise all clerical work of the Board and perform such other duties as may be requested by the Board.

ARTICLE II  
MEETINGS

1. All meetings held by the Board shall be open to the public.
2. Board meetings shall be held on the third Tuesday of each month at 7:30 P.M. except when such day falls on a legal holiday, in which event the Board may designate an alternate meeting date.
3. A resolution supported by the majority of the members present may temporarily suspend any rule of procedure or change the date and time of regular meetings.
4. Special meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson. Notice of the Special Meeting shall be given in a manner as required by the Open Meetings Act and the Zoning Administrator or his or her designee shall notify all members of the Zoning Board of Appeals not less than 24 hours in advance of a Special Meeting.
5. Four members of the Board shall constitute a quorum for conducting of its business. The concurring vote of four (4) members shall be necessary to decide upon appeals of administrative decisions, Zoning ordinance or Zoning Map interpretations, dimensional



or other non use variances, and other matters upon which the Board is required to pass under the Zoning Ordinance.

6. Use variances shall require an affirmative vote of two thirds of the ~~board~~ Board (5 members) for approval.
7. In the event that a Board member is absent or is excused from voting on an item due to a perceived conflict of interest, one of the alternate Board members shall be temporarily seated at the call of the Chairperson.
8. Alternate members who serve and who participate in any agenda item shall continue to serve on the Zoning Board of Appeals for that item until a final decision is reached on the same.
9. The order of business at meetings shall be as follows:
  - a. Opening Statement/Procedure (attached)
  - b. Roll Call.
  - b. Approval of Minutes of Previous Meetings
  - c. Approval of Agenda
  - d. Hearing of Cases
  - e. Communications
  - f. Miscellaneous Business
  - g. Public Comment
  - h. Adjournment

10. ~~Electronic meetings~~ Remote Participation:

All members of the Board must be physically present at a meeting to count toward a quorum, participate in discussion, and vote, unless a member is unable to be physically present due to military duty.

A member of the Board on military duty shall be allowed to participate in a meeting remotely and be counted toward a quorum, deliberate, and vote by electronic means that provides for two-way communication. Such member shall make a public announcement at the outset of the meeting that he or she is attending remotely but is not required to specify his or her physical location.

Members of the public may ~~address an electronic~~ provide public comments without being physically present at the meeting in the following three ways:

- a. Public comments may be submitted via email. Email received as provided by the rules will be read aloud during the meeting. Email comments may be limited to three minutes.

Formatted: Indent: First line: 0"



- b. Public comments may be submitted via voicemail. Voicemail received as provided by the rules will be will be played during the meeting. Voicemail comments may be limited to three minutes.
- c. Electronic public access to a meeting may be provided to members of the public and for such meetings. Members of the public may attend the electronic members of the public meeting remotely and may participate in a public comment period as provided by the rules. Comments may be limited to three minutes.

### ARTICLE III VARIANCES & APPEALS

- 1. All applications to the Zoning Board of Appeals shall be filed with the City. Application forms may be obtained from the Planning Department. A copy of each application shall be served upon the Planning Department, which shall transmit to the Board all information constituting the application.
- 2. In addition to the information required on the forms, each application shall contain the following information:
  - a. The order being appealed or the section of the zoning ordinance from which a variance is sought.
  - b. The reasons for appeal.
  - c. Plans drawn to approximate scale showing shape and dimensions of lots, existing buildings and buildings to be erected, altered or changed, and any other information with regard to the lot or neighboring lots, and the proposed or existing use, as deemed necessary by the Zoning Administrator.
  - d. A clear and accurate description of the proposed use, construction, or work.
  - e. Any other information necessary to clearly explain the nature of the request.
- 3. The applicant may appear on his or her own behalf or may be represented at the hearing by an attorney or authorized agent.
- 4. The Hearing Procedure for Use Variances is governed by Section 15.05 B.3 of the Zoning Ordinance. For all other appeals, the order of procedure of hearings shall be:
  - a. Calling of the Case by the Chairperson
  - b. City Staff introduction of the case.
  - c. Applicant's presentation of the case.
  - d. Open public hearing to interested persons.
  - e. Close public hearing
  - f. Applicant rebuttal or clarification of public comments



- g. Board deliberation and motion and decision.
- 5. Time limits during public hearings: The Board may establish time limits for presentations to the Board in those cases where it is evident that a particular item is likely to involve public comments from several individuals.
- 6. The Board may require, of the applicant, additional information necessary to fully advise the Board.

#### ARTICLE IV DISPOSITION OF BOARD ACTION

- 1. The decision of the Board shall be in writing, and, so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts and findings of the Board. The applicant shall be advised of the Board's decision by mail or e-mail, within a reasonable time after the hearing unless the Board moves for a continuation of the hearing, or unless the Board decides that, in its opinion, immediate notification is necessary.
- 2. The applicant may withdraw the appeal at any time prior to the final action by the Board.

#### ARTICLE V MISCELLANEOUS

These rules of procedure are subject to and controlled by the Troy City Code and the Michigan statutes applicable to Zoning Boards of Appeal.

#### ARTICLE VI AMENDMENTS

These rules of procedure may be amended at any regular meeting upon an affirmative vote of the majority of the entire membership of the Board provided that any amendment or modification is consistent with the applicable Troy City Code and Michigan statutes.



## ZONING BOARD OF APPEALS – OPENING STATEMENT

The 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~~ Chairperson 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~~ Chairperson will open the Public Hearing. Any person wishing to speak on the request should raise their hand and when recognized by the ~~Chairman~~ Chairperson, ~~and~~ come up to the podium. The speaker should identify themselves with name and address, indicate their relationship to the property in question (i.e. next-door neighbor, live behind the property, etc.) and state whether they are in favor of or against the variance request and give reasons for their opinion. Comments must be directed through the ~~Chairman~~ Chairperson. Comments should be kept as brief as possible and closely pertain to the matter under consideration. Only one person will be recognized by the ~~Chairman~~ Chairperson to speak at one time.

At the conclusion of public ~~comments~~ comments, the ~~Chairman~~ Chairperson 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.

ZONING BOARD OF APPEALS  
FOR THE CITY OF TROY

RULES OF PROCEDURE

ARTICLE I  
ORGANIZATION

1. The Board shall annually, elect its own Chairperson and Vice-Chairperson to hold office for one year or until the date of the next subsequent election for said offices. The election for said offices shall take place at the regular meeting in the month of May or at the next regular meeting of the Board thereafter if the May meeting is cancelled for any reason. The Zoning Administrator shall be the Clerk of the Board, provided that the Clerk may appoint other persons to make records of the meetings.
2. The Chairperson shall preside at all meetings of the Board. In the case of the absence of the Chairperson, the Vice-Chairperson shall preside. In the case of the absence of both the Chairperson and the Vice-Chairperson, the most senior Board member in terms of years of service on the Board, shall preside. The presiding officer, subject to these rules, shall decide all points of order or procedure.
3. The Clerk or his or her representative shall keep the minutes of the Board's proceedings, shall have custody of all records of the Board, shall sign all communications of the Board, shall supervise all clerical work of the Board and perform such other duties as may be requested by the Board.

ARTICLE II  
MEETINGS

1. All meetings held by the Board shall be open to the public.
2. Board meetings shall be held on the third Tuesday of each month at 7:30 P.M. except when such day falls on a legal holiday, in which event the Board may designate an alternate meeting date.
3. A resolution supported by the majority of the members present may temporarily suspend any rule of procedure or change the date and time of regular meetings.
4. Special meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson. Notice of the Special Meeting shall be given in a manner as required by the Open Meetings Act and the Zoning Administrator or his or her designee shall notify all members of the Zoning Board of Appeals not less than 24 hours in advance of a Special Meeting.
5. Four members of the Board shall constitute a quorum for conducting of its business. The concurring vote of four (4) members shall be necessary to decide upon appeals of administrative decisions, Zoning ordinance or Zoning Map interpretations, dimensional



or other non use variances, and other matters upon which the Board is required to pass under the Zoning Ordinance.

6. Use variances shall require an affirmative vote of two thirds of the Board (5 members) for approval.
7. In the event that a Board member is absent or is excused from voting on an item due to a perceived conflict of interest, one of the alternate Board members shall be temporarily seated at the call of the Chairperson.
8. Alternate members who serve and who participate in any agenda item shall continue to serve on the Zoning Board of Appeals for that item until a final decision is reached on the same.
9. The order of business at meetings shall be as follows:
  - a. Opening Statement/Procedure (attached)
  - b. Roll Call.
  - b. Approval of Minutes of Previous Meetings
  - c. Approval of Agenda
  - d. Hearing of Cases
  - e. Communications
  - f. Miscellaneous Business
  - g. Public Comment
  - h. Adjournment

10. Remote Participation:

All members of the Board must be physically present at a meeting to count toward a quorum, participate in discussion, and vote, unless a member is unable to be physically present due to military duty.

A member of the Board on military duty shall be allowed to participate in a meeting remotely and be counted toward a quorum, deliberate, and vote by electronic means that provides for two-way communication. Such member shall make a public announcement at the outset of the meeting that he or she is attending remotely but is not required to specify his or her physical location.

Members of the public may provide public comments without being physically present at the meeting in the following three ways:

- a. Public comments may be submitted via email. Email received as provided by the rules will be read aloud during the meeting. Email comments may be limited to three minutes.
- b. Public comments may be submitted via voicemail. Voicemail received as provided by the rules will be played during the meeting. Voicemail comments may be limited to three minutes.
- c. Electronic public access to a meeting may be provided to members of the public and for such meetings, members of the public may participate in a public

comment period as provided by the rules. Comments may be limited to three minutes.

### ARTICLE III VARIANCES & APPEALS

1. All applications to the Zoning Board of Appeals shall be filed with the City. Application forms may be obtained from the Planning Department. A copy of each application shall be served upon the Planning Department, which shall transmit to the Board all information constituting the application.
2. In addition to the information required on the forms, each application shall contain the following information:
  - a. The order being appealed or the section of the zoning ordinance from which a variance is sought.
  - b. The reasons for appeal.
  - c. Plans drawn to approximate scale showing shape and dimensions of lots, existing buildings and buildings to be erected, altered or changed, and any other information with regard to the lot or neighboring lots, and the proposed or existing use, as deemed necessary by the Zoning Administrator.
  - d. A clear and accurate description of the proposed use, construction, or work.
  - e. Any other information necessary to clearly explain the nature of the request.
3. The applicant may appear on his or her own behalf or may be represented at the hearing by an attorney or authorized agent.
4. The Hearing Procedure for Use Variances is governed by Section 15.05 B.3 of the Zoning Ordinance. For all other appeals, the order of procedure of hearings shall be:
  - a. Calling of the Case by the Chairperson
  - b. City Staff introduction of the case.
  - c. Applicant's presentation of the case.
  - d. Open public hearing to interested persons.
  - e. Close public hearing
  - f. Applicant rebuttal or clarification of public comments
  - g. Board deliberation and motion and decision.
5. Time limits during public hearings: The Board may establish time limits for presentations to the Board in those cases where it is evident that a particular item is likely to involve public comments from several individuals.



6. The Board may require, of the applicant, additional information necessary to fully advise the Board.

#### ARTICLE IV DISPOSITION OF BOARD ACTION

1. The decision of the Board shall be in writing, and, so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts and findings of the Board. The applicant shall be advised of the Board's decision by mail or e-mail, within a reasonable time after the hearing unless the Board moves for a continuation of the hearing, or unless the Board decides that, in its opinion, immediate notification is necessary.
2. The applicant may withdraw the appeal at any time prior to the final action by the Board.

#### ARTICLE V MISCELLANEOUS

These rules of procedure are subject to and controlled by the Troy City Code and the Michigan statutes applicable to Zoning Boards of Appeal.

#### ARTICLE VI AMENDMENTS

These rules of procedure may be amended at any regular meeting upon an affirmative vote of the majority of the entire membership of the Board provided that any amendment or modification is consistent with the applicable Troy City Code and Michigan statutes.

## ZONING BOARD OF APPEALS – OPENING STATEMENT

The 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 Chairperson 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 Chairperson will open the Public Hearing. Any person wishing to speak on the request should raise their hand and when recognized by the Chairperson, come up to the podium. The speaker should identify themselves with name and address, indicate their relationship to the property in question (i.e. next-door neighbor, live behind the property, etc.) and state whether they are in favor of or against the variance request and give reasons for their opinion. Comments must be directed through the Chairperson. Comments should be kept as brief as possible and closely pertain to the matter under consideration. Only one person will be recognized by the Chairperson to speak at one time.

At the conclusion of public comments, the Chairperson 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.