



## 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.



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

248.524.3364  
planning@troymi.gov

## ZONING BOARD OF APPEALS MEETING AGENDA

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

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**July 18, 2023**

**7:00 P.M.**

**COUNCIL CHAMBERS**

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1. ROLL CALL
2. PROCEDURE
3. APPROVAL OF MINUTES – June 20, 2023
4. APPROVAL OF AGENDA
5. HEARING OF CASES:
  - A. 2285 Kirkton, Gopinath Ravula - A variance request to allow a proposed deck to be constructed 20 feet from the rear property line, where the Zoning Ordinance requires the deck to be no less than 25 feet from the rear property line.  
  
ZONING ORDINANCE SECTION: 7.08 B
6. COMMUNICATIONS
7. MISCELLANEOUS BUSINESS
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.

## ZONING BOARD OF APPEALS – OPENING STATEMENT

The Zoning Board of Appeals is a group of seven of your neighbors appointed by the Troy 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. Applicants 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 approved agenda. When an item is called, the Chairperson will verify that the applicant is present. Then the City Administration will summarize the facts of the case. If there is less than a full board (7 members) present at a meeting, an applicant may request a postponement so his or her request can be heard by a full board. If there is no request for a postponement, the applicant will then be given an opportunity to address the Board to explain the justification for the action requested.

After the applicant 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.

On June 20, 2023 at 7:02 p.m., Chairperson Bossenbroek called the Zoning Board of Appeals meeting to order.

1. ROLL CALL

Present:

Michael Bossenbroek  
Tommy Desmond  
David Eisenbacher  
Tyler Fox  
James McCauley  
Barb Chambers

Absent:

Mahendra Kenkre  
Aaron Green

Also Present:

Ben Carlisle, Planning Consultant  
Jackie Ferencz, Planning Department staff  
Allan Motzny, Assistant City Attorney

2. PROCEDURE- read by Vice Chair Desmond

3. APPROVAL OF MINUTES –

Moved by Fox  
Seconded by Eisenbacher

RESOLVED, to approve the May 16, 2023 draft minutes.

Yes: All

MOTION PASSED

4. APPROVAL OF AGENDA – No changes

5. HEARING OF CASES:

- A. 4928 PARK MANOR, NEETU SHARMA/AMBUJ MATHUR - A variance request to allow a proposed deck to be constructed 10 feet from the rear property line, where the development approval requires the deck to be no less than 25 feet from the rear property line.

ZONING ORDINANCE SECTION: 7.08 B

Ben Carlisle, of Carlisle and Wortman, Associates, presented the case description with historical reference to a cluster development.

Motion to approve variance request,  
Moved by Eisenbacher  
Seconded by Fox

RESOLVED, to GRANT the variance request.

Yes: Eisenbacher, Chambers, Fox, Desmond  
No: McCauley, Bossenbroek

MOTION PASSED

6. COMMUNICATIONS – Member Fox provided Planning Commission report.
7. MISCELLANEOUS BUSINESS –
8. PUBLIC COMMENT – Mr. McCauley spoke on variance requests for decks.
9. ADJOURNMENT –The Zoning Board of Appeals meeting ADJOURNED at 7:50 p.m.

Respectfully submitted,

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Michael Bossenbroek, Chairperson

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Jackie Ferencz, Planning Department Office Manager

# **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):*

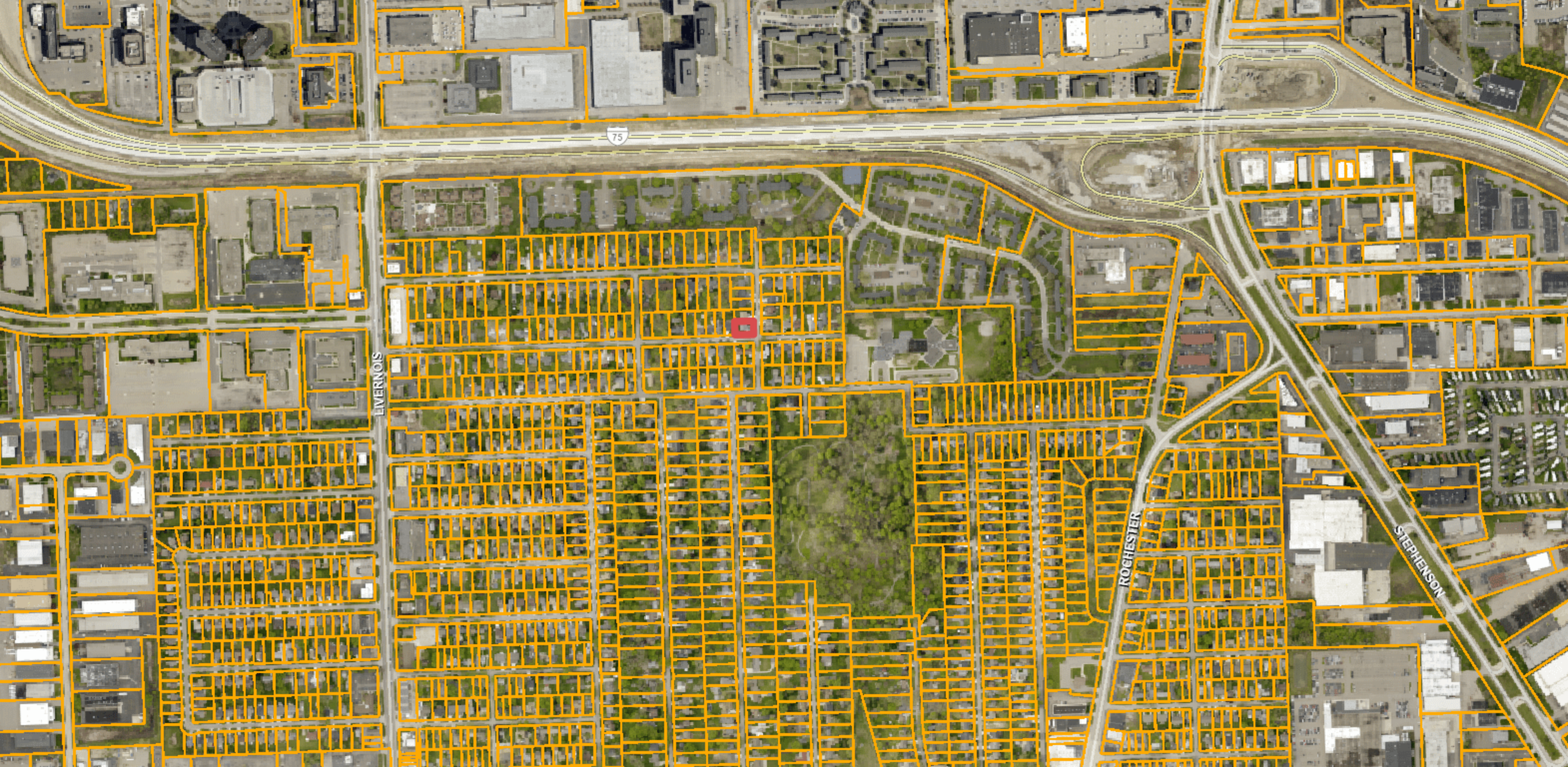
Yeas:

Nays:

**MOTION CARRIED / FAILED**

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HICKORY





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 7:00 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: \_\_\_\_\_



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

## 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.



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## 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



### **Statement of Practical Difficulty**

Current 25ft setback ordinance allows only 10ft wide deck for our 2285 Kirkton dr (built in 2019). We are seeking 5ft variance (to allow 20ft setback from property line)

A) Exceptional property characteristics:

2285 Kirkton dr is the only property in neighborhood with ~35ft setback from back property line, making it challenging to meet 25ft setback ordinance for backyard (see attached Plot Plan).

B) The above characteristics are related to premises at 2285 Kirkton dr for which variance is sought. We are hopeful that proposed variance agrees with intent of the ordinance and is reviewed outside of its limiting interpretation.

C) These characteristics are not of personal nature, but objectively suggest the optimal structure for the current location.

D) The property dimension characteristics of this new construction were created by Builder and grading (and not by this owner). The owner was not informed of the setback restrictions at the time of signing construction contract.

E) The lack of adverse effects of proposed variance:

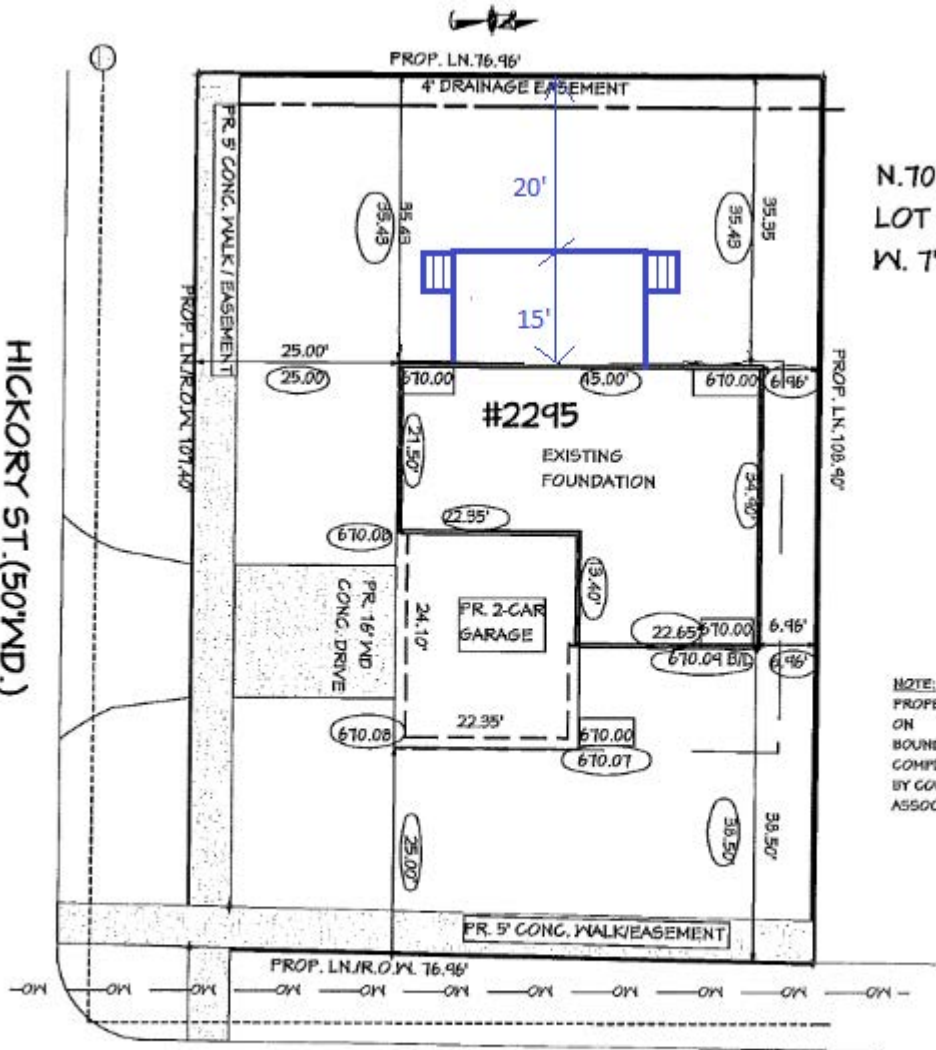
(1) The sought variance preserves separation to adjacent property. It would allow a deck structure of 15ft-wide that is smaller than most decks built in the neighborhood. The deck on posts is least intrusive with storm easement, and is also safer (single level, higher surface traction)

(2) Being only 28" tall at the back edge of the house and with 80% see-thru railing system (see Elevations), it would certainly not impair an adequate supply of light and air to an adjacent property – nor would it be harmful or alter the essential character of the area in which the property is located. Instead, building a narrow 10ft deck (allowed without variance) may adversely compare to other decks and diminish property value. The fire hazard will not increase since the deck will be built from high-quality composite materials.

(3) The proposed deck structure is 10-times lighter than cement construction of a similar size, can be dismantled in one day, and does not require heavy duty cement breaking equipment and disposing of debris which makes it more environment friendly. The deck surface has 1/8" spacing between boards – which allows rainwater to pass through and soak into the ground below, whereas a concrete surface would create 100% runoff to the rear of the property, exacerbating the accumulation of water and swamping in the green space which is already occurring.

(4) The proposed deck structure is surrounded by a Privacy Fence and is not visible to the adjacent property.

HICKORY ST. (50' WD.)



N. 70.50' OF  
LOT 107 EXCEPT  
W. 7'

NOTE:  
PROPERTY LINES BASED  
ON  
BOUNDARY SURVEY  
COMPLETED  
BY COULTER AND  
ASSOCIATES

KIRKTON ST. (50' WD.)











