



## 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**

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## 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.



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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**September 17, 2024**

**7:00 P.M.**

**COUNCIL CHAMBERS**

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1. ROLL CALL
2. PROCEDURE
3. APPROVAL OF MINUTES – August 20, 2024
4. APPROVAL OF AGENDA
5. HEARING OF CASES:
  - A. 5356 CAPRI, PETER STUHLREYER - A variance request to allow an existing deck to be located within a dedicated easement. The deck was constructed without City approval.  
  
ZONING ORDINANCE SECTION: 7.03 A 3
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.

On August 20, 2024 at 7:04 p.m., Chair Bossenbroek called the Zoning Board of Appeals meeting to order.

1. ROLL CALL

Present:

Michael Bossenbroek  
Tommy Desmond  
David Eisenbacher  
Aaron Green  
Tyler Fox  
Mahendra Kenkre  
James McCauley

Also Present:

Paul Evans, Zoning and Compliance Specialist  
Nicole MacMillan Julie Quinlan Dufrane, Assistant City Attorney

2. PROCEDURE- read by Vice Chair Desmond

3. APPROVAL OF MINUTES –

Moved by Fox  
Second by Green

RESOLVED, to approve the July 16, 2024 draft minutes.

Yes: All

MOTION PASSED

4. APPROVAL OF AGENDA – no changes

5. HEARING OF CASE:

55 FLORENCE, KEVIN HAMILTON for KHTM BUILD LLC - A variance request to allow a new home to be setback 38 feet from the front property line, where the Zoning Ordinance requires a setback of 40 feet. The subject home is currently under construction.

Moved by Eisenbacher  
Second by Desmond

RESOLVED, to grant the request.

Yes: McCauley, Kenkre, Desmond, Eisenbacher

No: Green, Fox, Bossenbroek

6. COMMUNICATIONS – Mr. Evans advised the board there was one case for the September agenda.
7. MISCELLANEOUS BUSINESS
8. PUBLIC COMMENT – None
9. ADJOURNMENT –The Zoning Board of Appeals meeting ADJOURNED at 7:53 p.m.

Respectfully submitted,

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Michael Bossenbroek, Chair

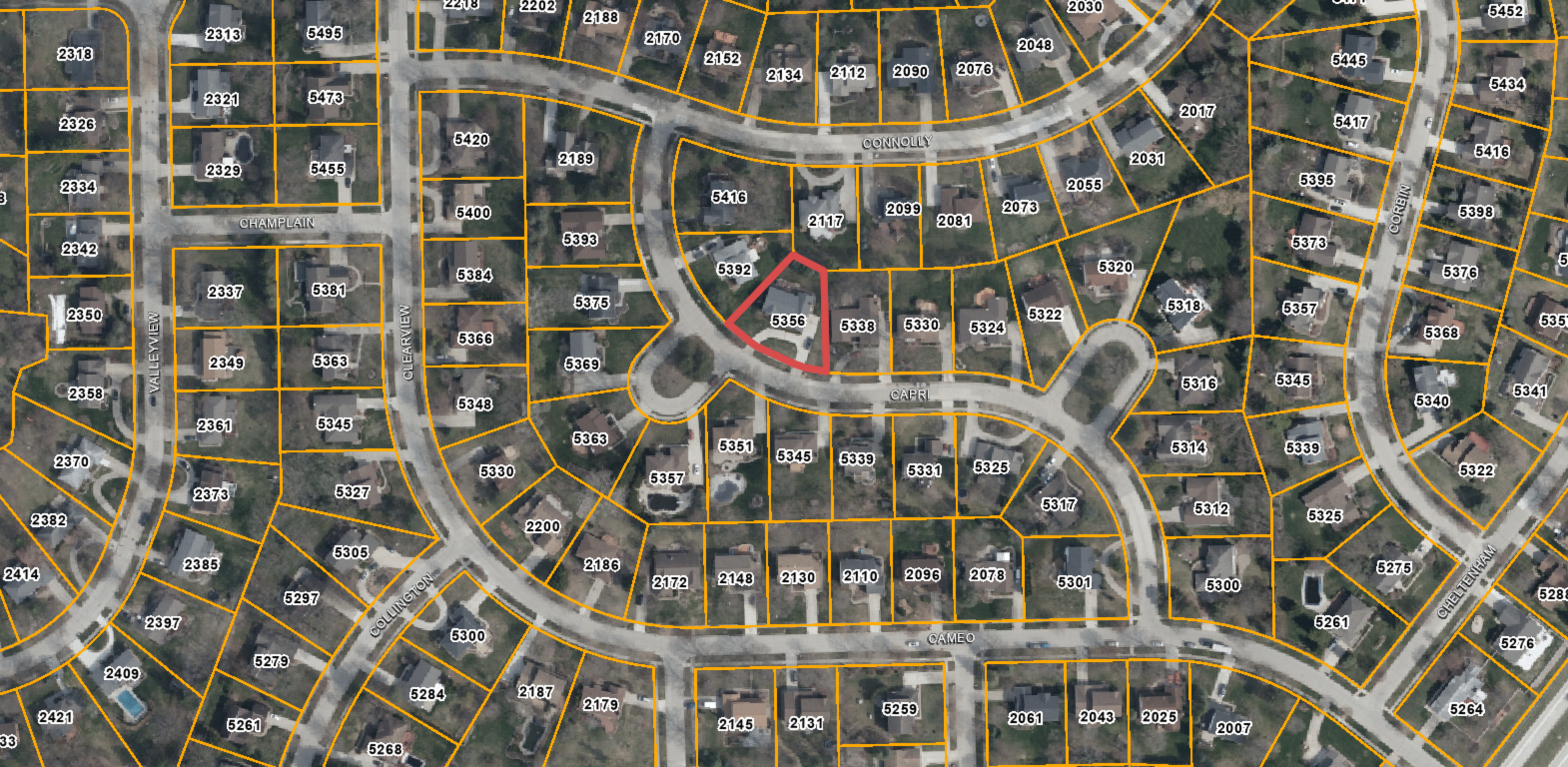
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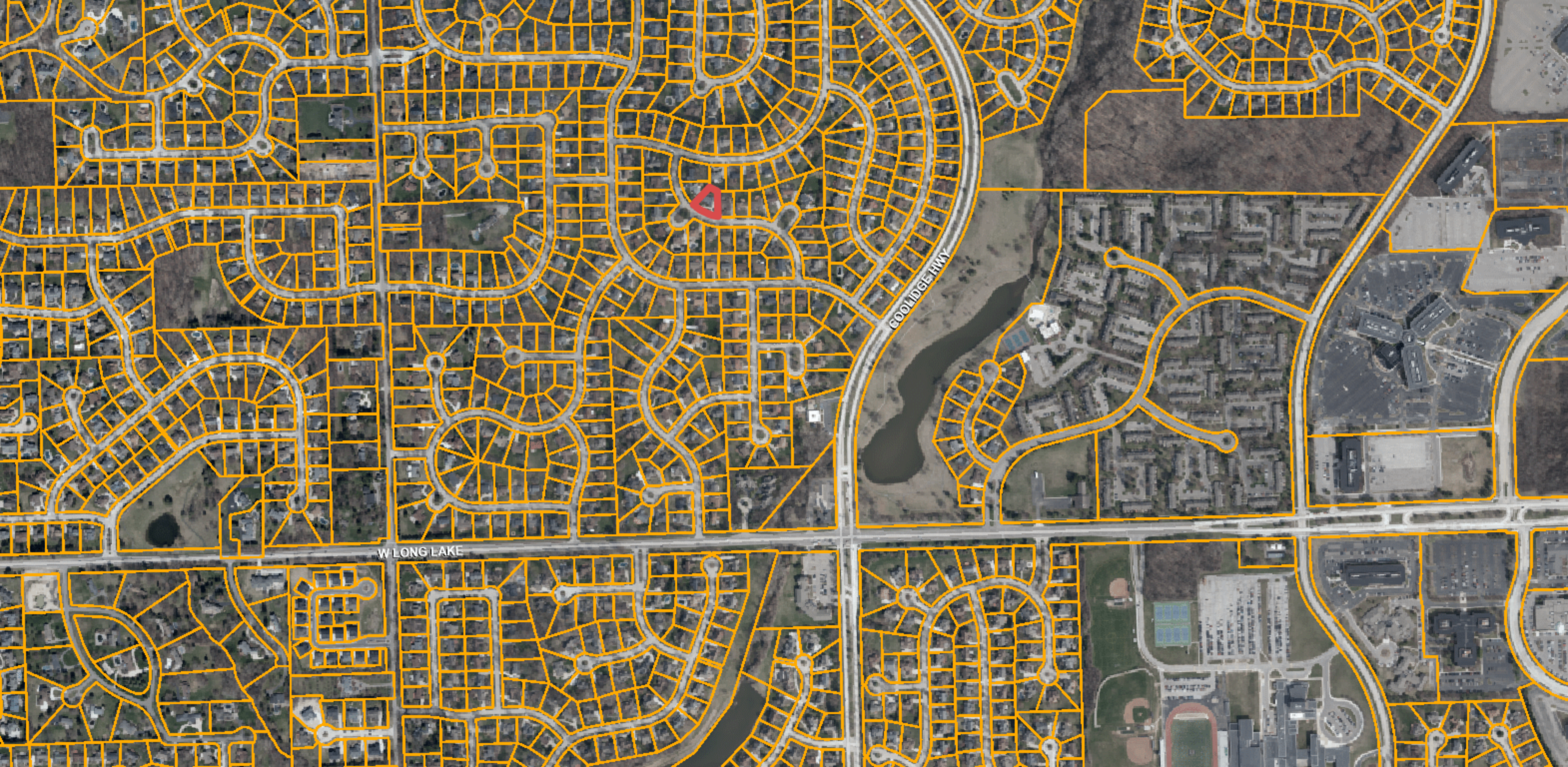
Paul Evans, Zoning & Compliance Specialist



- A. 5356 CAPRI, PETER STUHLREYER - A variance request to allow an existing deck to be located within a dedicated easement. The deck was constructed without City approval.

ZONING ORDINANCE SECTION: 7.03 A 3





COOLIDGE HWY

W LONG LAKE



3

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9

CAPRI



## Zoning Board of Appeals Application

[planning@troymi.gov](mailto:planning@troymi.gov) | Fee: \$500.00

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: \_\_\_\_\_

Accessory buildings, structures, and uses shall not be located within dedicated easements or R.O.W..

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 Nouri Orow

COMPANY \_\_\_\_\_

ADDRESS 5356 Capri Dr.

CITY troy STATE MI ZIP 48084

TELEPHONE 248-227-0661

E-MAIL norow902@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, Peter Stuhlreyer (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 *Peter Stuhlreyer* DATE 04.09.2024

PRINT NAME: Peter Stuhlreyer

PROPERTY OWNER SIGNATURE *Nouri Orow* DATE 4-9-24

PRINT NAME: NOURI OROW TR

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 or flash 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). SEALED SURVEY required for lot area or dimension requests.
- ✓ 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



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Variance Request:  
Request Relief per Ordinance Section:  
7.03 Accessory Buildings, Structures, and Uses

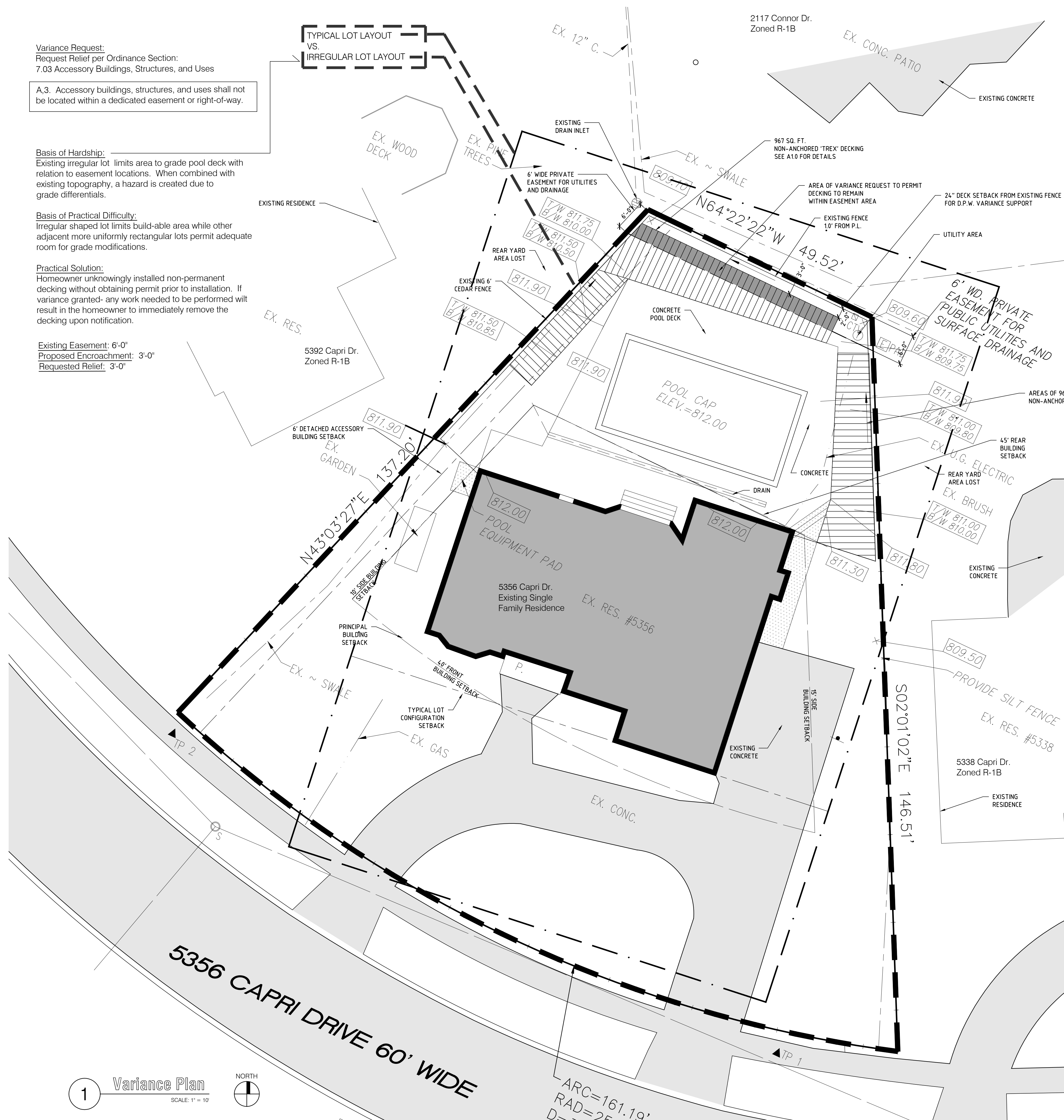
A.3. Accessory buildings, structures, and uses shall not be located within a dedicated easement or right-of-way.

**Basis of Hardship:**  
Existing irregular lot limits area to grade pool deck with relation to easement locations. When combined with existing topography, a hazard is created due to grade differentials.

**Basis of Practical Difficulty:**  
Irregular shaped lot limits build-able area while other adjacent more uniformly rectangular lots permit adequate room for grade modifications.

**Practical Solution:**  
Homeowner unknowingly installed non-permanent decking without obtaining permit prior to installation. If variance granted- any work needed to be performed will result in the homeowner to immediately remove the decking upon notification.

Existing Easement: 6'-0"  
Proposed Encroachment: 3'-0"  
Requested Relief: 3'-0"



**SITE DATA**

Regulation	Information
Parcel I.D.	20-07-427-010
Address	5356 Capri Ln. Troy, MI
Zoning	Zoned: R1-B
Lot Area	+/- 13,575 Sq. Ft. (0.31 Acres)

**ZONING SCHEDULE OF REGULATIONS**

Regulation	Required	Provided
Setbacks	(R1-B Zoning) Front - 40' Sides - 10' / 25' Rear - 45'	<b>EXISTING BUILDING</b> Front: 65.83' Sides: 38.5' / 24.83' Rear: 35.67'
Building Height	2.5 Stories / 30'	32' - 0"
Minimum Lot Area	15,000 SF	79,793 Sq. Ft.
Maximum Lot Coverage	.30%	House - 2,655 SF Pool - 733 SF Deck - 1,100 <b>Total Coverage: 30%</b>
Minimum Lot Width / Frontage	100'	

Existing House: 2,858 SF  
Maximum Accessory Building Area (75%): 714.50 SF  
Maximum Accessory Building Coverage: 450 SF

**5356 Capri Ln**



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 of 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 County Executive  
David Coulter  
1100 - 50 West

Date Created: 4/2/2024

Scale: 1" = 50'

**DESIGNHAUS** EST 1998  
**ARCHITECTURE**

3300 AUBURN RD, SUITE 300  
AUBURN HILLS, MI 48326  
T: 248.601.4422 F: 248.453.5854  
WWW.DESIGNHAUS.COM  
INFO@DESIGNHAUS.COM

Item	Date
Deck Permit	24.05.16
ISSUANCE	DATE

**5356 Capri Dr Variance Request**

5356 Capri Dr.  
Troy, MI 48068

**Variance Request Plan**

024044

**AS1.1**

8/5/2024  
AS1.1 Architectural Site Plan.dwg  
Mike Pizzolo





August 2, 2024

City of Troy  
500 W Big Beaver Rd.  
Troy, MI 48084

Attn. Zoning Board of Appeals

**Re:** Mr. Nouri Orow - Variance Request of non-permanent structures within recorded easement.

**Address:** 5356 Capri Dr.

**Property Tax ID Number:** 20-07-427-010

Board Members,

Designhaus Architecture of Auburn Hills, Michigan has been retained by Mr. Nouri Orow for review and consideration of granting a use variance approval of a non-permanent deck structure within rear drainage and utility easements. The property is located on the north side of Capri Dr. between Connolly and Cameo Drives in the Beach Forest subdivision west of Coolidge Hwy. Zoning is R-1, Single Family Residential. The 0.31-acre parcel was recently purchased and has undergone extensive renovations inside and out. Most recently, an inground pool for Mr. Orow and his family to enjoy. It was quickly discovered that after the pool deck was installed, the layout ultimately led to an 18" drop in grade off the rear concrete pad to a seemingly reduced rear yard. Beyond this is a graded easement for utilities and drainage. This condition seems to be created by the irregular lot shape and reduced rear yard as a result. After several young family members stumbled on this drop several times, decking was researched, and due to the underground limitations a nonpermanent Trex deck was installed. Unknowingly without a permit. The grades were not altered, and no holes were required. If at any time the area needs accessed, the homeowner will remove it immediately at his expense. The reduced rear yard area, placement of storm drain and resulting swale towards it create a means of practical difficulty which was identified once the pool and surrounding concrete deck was installed. We are requesting that the deck remain in the easement area. To achieve D.P.W. variance support, the following is being requested as a minimum:

**3' setback relief for non-permanent decking within easement.**

**Existing Easement:** 6.0'

**Proposed Deck Encroachment:** 3'-0"

**Requested relief:** 3'-0".

**Zoning Ordinance Chapter 39, Section 7.03, A.3:**

**Accessory buildings, structures, and uses shall not be located withing a dedicated easement or righ-of-way.**



We are requesting the non-permanent decking remain and any work requiring its removal will be immediately done at the homeowner's expense.

**Statement of Practical Difficulty:** When the request is applied to similar or adjacent properties of the subdivision, the request would not be required and be deemed compliant. More traditional rectangular lots offer maximum buildable area. However, when compared to the current situation, the area is reduced, thereby creating hardship. We feel that this is due to the nature of the land and layout of the subdivision, not part of the homeowners' own doing. The irregularly shaped parcel limits the opportunity to fully utilize placement of attached or detached accessory structures. We intend to prove this as such by applying the following 5 statements of practical difficulty, we think are relevant to this request as follows:

***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.***

The existing irregular lot is 'pie shaped' such that the front property line is 161.19' and the rear is 49.52'. Sides are 137.20' and 146.51'. Adjacent lot, like many others are more traditional and rectangular with lot widths of 90' – 100'. When this project is applied to lots such as those, compliance is obtainable.

***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.***

The characteristics are directly related to this site when applying dimensional standards of the R-1 single family district of which the property falls within. The existing layout and construction of the house of the site is the main cause of concern regarding the request.

***C. The characteristics which compliance with the dimensional requirements shall not be of a personal nature.***

The request presented is the minimum non-compliance situation for those surrounding properties and is not in any way a personal nature. Project has been discussed with those directly affected by the placement and letters of comment to be presented.



**D. The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.**

The characteristics of the situation have not been created by the current or previous homeowners. The initial design and layout when approved created a hardship within itself. Geometry or angles and curves should be a underlying factor when considering the case presented.

**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.***

The decking is currently installed and does no harm. The design and installation will not infringe or impair the adjacent property in any way, nor increase congestion in public streets. No dangers such as fire risk or endangerment of public safety to any inhabitants would be present.

In conclusion, the homeowner has recently agreed to reduce the width as recommended by the D,P.W so that the deck is located 2' from the existing fence. Letter of such action anticipated for variance support. Please review the enclosed drawings and application materials, and we would be happy to discuss this matter further at the next available ZBA meeting. Upon review of the proposed documents, we ask you to consider the practical difficulty that the irregular lot imposes and consider allowing the proposed encroachment.

We will be available to discuss this at future ZBA meetings.

Regards.

A handwritten signature in black ink, appearing to read "Peter Stuhlreyer". The signature is fluid and cursive, written over a white background.

Peter Stuhlreyer  
Chief Architect  
Designhaus, LLC

