

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

MINUTES OF MEETING HELD APRIL 21, 1997

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Agenda

LUCENT TECHNOLOGIES - VARIANCE FROM WALL SIGN STANDARDS -  
5349 WEST MAIN

SUMMER RIDGE APARTMENTS - VARIANCE FROM SIGN STANDARDS - MAPLE  
HILL DRIVE/WEST MAIN

HAAS HARDWARE - VARIANCE FROM WALL SIGN STANDARDS - 6857 WEST  
MAIN

BLACKBERRY SYSTEMS - SITE PLAN APPROVAL - PROPOSED 120 SQ. FT.  
BUILDING ADDITION, PARKING LOT EXPANSION - 6477 WEST KL AVENUE

RICE - VARIANCE REQUEST FROM LIMITATION ON NO. OF BUILDINGS PER  
LOT - 4047 O'PARK

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A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Monday, April 21, 1997, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall, pursuant to notice.

MEMBERS PRESENT:     Brian Dylhoff, Chairperson  
                              David Bushouse  
                              Thomas Brodasky  
                              Lara Meeuwse  
                              William Saunders

MEMBERS ABSENT:     None

Also present were Rebecca Harvey, Patricia R. Mason, Township Attorney, and seven (7) other interested persons.

**CALL TO ORDER**

The meeting was called to order at 3:04 p.m.

**MINUTES**

The Board considered the Minutes of a meeting of April 7, 1997. Mr. Brodasky moved to approve the minutes as submitted, and Mr. Bushouse seconded the motion. The motion carried unanimously.

**LUCENT TECHNOLOGIES - VARIANCE FROM WALL SIGN STANDARDS -  
5349 WEST MAIN**

The next item was consideration of the application of Sign Art, Inc., representing Lucent Technologies, for variance approval from the wall sign standards established by Section 76.135 of the Zoning Ordinance. The subject site is located at 5349 West Main (Golf Ridge Centre) and is within the "C" Local Business District Zoning classification. The item had been tabled at the request of the applicant from the meeting of April 7, 1997.

The report of the Planning and Zoning Department is incorporated herein by reference.

Ehren Koelsch was present representing the applicant and submitted a letter in support of the application. Mr. Koelsch questioned the Board's ability to grant a variance from something that did not exist. He claimed that there was no provision in the Ordinance which required wall signage to be on the wall of the suite or unit being occupied by a business identified by the sign in a retail or office center.

It was noted that Section 76.135 of the Zoning Ordinance permits the use of wall signage in Commercial and Industrial Districts. Wall signs are to have a total area not exceeding two square feet for each one foot in length or height, whichever is greater, of the wall to which it is affixed. Since the adoption of the Ordinance, the wall sign provision has been applied to multiple-tenant retail centers and office buildings as follows: the maximum area of the wall sign is determined based on the length or height of the facing of the suite or unit being occupied by the business identified by the sign, and each wall sign is to be located on the facing of the suite or unit being occupied by the business identified by the sign.

The applicant currently occupies a suite or unit within the Golf Ridge Centre retail center located on the south side of West Main adjacent to the east of Steak 'N Shake. The suite occupied by Lucent Technologies is located in the southwest corner. The applicant sought to place a sign on the north wall of Golf Ridge Centre. The proposed location would not be in the vicinity of the suite occupied by Lucent or on the facing of the suite.

The Township Attorney suggested to the Board that it would need to make an interpretation as to whether the Zoning Ordinance required that a wall sign be placed on the facing of the suite or unit being occupied by the business identified by the sign. The Township Attorney suggested that the Board should consider the definition of "sign" in Section 11.560. The Attorney felt that, since Section 76.135 refers to a wall sign, the definition of sign is incorporated therein. Section 11.560 defines a sign as an outdoor sign structure or symbol advertising services or products which are produced, assembled, stored or sold upon or from the lot or premises upon which the same is located. In contrast, a "billboard" is defined in Section 11.230 as an outdoor sign, structure or symbol advertising services or products which are not made, produced, assembled, stored or sold upon or from the premises upon which the same is located. The Township Attorney felt that the Board should determine whether the word "premises" referred to a suite or unit in a retail center or to the entire site.

In response to questioning by Mr. Brodasky, Ms. Harvey stated that the applicant would be allowed wall signage on the outside facing of their suite under the staff's interpretation. Additionally, the site is allowed one freestanding sign of a certain square footage. This was currently largely taken up by the advertising for Social Security Administration at the site. The applicant stated that, if the freestanding sign were used, they would be allowed only six square feet, which would not be visible. It was noted that there were currently two signs on the building which were not in compliance and had not been issued a permit. The appropriate persons had been contacted to remove the signs or to apply for permit.

Mr. Bushouse indicated that the Steketee's sign was at the front of Maple Hill Mall while the store was at the back of the mall. He further noted that the Holiday Inn West had a sign listing the tenants and their suite numbers. Mr. Bushouse further felt that this property was somewhat unique in that it had been used for a golf clubhouse and had been converted for offices. He felt that the wall signage was based upon the length of the entire building and that it was between landlord and tenant where the signage was to be located.

It was noted that the Steketee's sign predated Ordinance provisions and therefore was lawfully nonconforming. As to the Holiday Inn West sign, since it was not advertising to the street, the Ordinance was not applied to it or other directory signs.

Mr. Brodasky felt that placing wall signage on a wall other than the tenant's suite could conflict with signage of other tenants. The Chairperson agreed, stating that he felt a directory at this location would be helpful but that signage above another suite would be confusing. Mr. Saunders commented he felt that ~~he felt~~ the intent of the Ordinance was that signage be on the wall of a particular suite. He felt that this is what is meant as premises. Ms. Meeuwse and the Chairperson agreed that the intent of the Ordinance appeared to be that signage relates to the area from which particular business's services or goods were sold. If wall signage were located on the suite of another user, it would not ~~be~~ related to the location of the goods or services offered.

There was no public comment offered, and the public hearing was closed.

Mr. Brodasky moved to interpret Section 76.135 to require that wall signage be affixed to the wall of the suite or unit being occupied by the business identified by the sign; that the suite or unit is the "premises" from which goods and services are being sold. Therefore, based upon the definitions of "sign" and "billboard," he felt it was the intent of the Ordinance to limit the signage to the location where goods and services were offered. However, he would recommend that the Planning Commission review this language for consideration of whether other sorts of signage (such as off-premises signage) should be allowed.

The motion was seconded by Ms. Meeuwse.

Mr. Bushouse stated he believed that the intent of the Ordinance was to allow wall signage on any portion of a building at a particular site. However, he would also agree that

the Planning Commission may wish to review this language. Again, he stated he believed that the word "premises" referred to the entire building.

Mr. Saunders stated he felt that, if all wall signage were located on one side of the building, he might feel that a variance was appropriate.

The Chairperson stated he felt that this interpretation was consistent with past interpretations and with the definitions in the Ordinance.

Upon a vote on the motion, The motion carried 4:1, with Mr. Bushouse voting in opposition.

The Board next reviewed the variance criteria. Members considered whether conformance with the Ordinance would be unnecessarily burdensome. The Chairperson felt that the applicant had other reasonable options in that wall signage could be placed on the walls of its suite and in that the entire site was allowed freestanding signage.

As to substantial justice, it was noted that the Board had not considered a similar variance request since the adoption of the standards in 1984.

It was felt that the site offered no unique physical circumstances preventing compliance.

Board members felt that the hardship was self-created in that the proposed use and design of the site and building were at the discretion of the owner and developer of Golf Ridge Centre. Further, the freestanding signage options available at the site were at the discretion of the owner of the site. Mr. Saunders agreed, stating he felt that it was significant that the applicant had chosen the location of its suite at the site. The Chairperson concurred, stating that a directory at the site might assist the applicant and that the applicant had the option of requesting a text change by the Planning Commission.

Public comment was sought, and none was offered. The public hearing was closed.

Ms. Meeuwse felt it was significant that the Ordinance had been applied consistently to other retail centers and that no variances had been granted previously.

Mr. Bushouse was concerned that the wall signage, affixed to the applicant's suite, would not be visible to traffic on West Main. He therefore felt that a variance should be granted.

Mr. Saunders commented that, if the owner of the site sought a coordinated wall-signage arrangement, perhaps locating all suite wall signage on one side of the building, this would be more in keeping with the spirit and intent of the Ordinance and more likely to receive a variance, in his opinion.

Mr. Brodasky moved to deny the variance with the following reasoning:

(1) That compliance was not unnecessarily burdensome in that there were other reasonable signage options, such as wall signage on the applicant's suite, a directory sign, and freestanding signage.

(2) That substantial justice would not be served by the variance in that the Ordinance had been applied consistently to other multiple-tenant retail and office sites and no variances had been granted.

(3) That there were no unique circumstances of the site justifying the variance.

(4) That the hardship was self-created in that the tenant's suite was at its discretion and the use of the freestanding signage was at the discretion of the owner/developer.

(5) That the spirit and intent of the Ordinance would not be met if there were haphazard or piecemeal wall signage at such locations.

The motion was seconded by Ms. Meeuwse.

Mr. Bushouse commented he felt that it was significant that there was no service road around the building and that the building had been remodeled. In his opinion this presented a hardship that should be addressed by variance.

Upon a vote on the motion, the motion carried 4:1, with Mr. Bushouse voting in opposition.

#### **SUMMER RIDGE APARTMENTS - VARIANCE FROM SIGN STANDARDS - MAPLE HILL DRIVE/WEST MAIN**

The next item was the application of Michael Jenkins, representing Summer Ridge Apartments, for variance approval from the sign standards applicable to the "R-4" District established by Section 76.120 of the Zoning Ordinance. The property is located on the west side of Maple Hill Drive approximately 1,400' north of West Main and is within the "R-4" Residence District Zoning classification.

The applicant proposed placement of a 28-square-foot directional sign on the existing directional sign for Maple Hill Mall located at the northeast corner of West Main and Maple Hill Drive, which is the site of the Firestone Service Company.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey noted that the applicant had made a similar request a few months ago and had originally requested a second directional sign at the site of Firestone and had been denied by the Board. Instead of a new freestanding sign, the applicant now requested that its sign be attached to the Maple Hill Mall entrance sign. The applicant was asking for an "off-premises" sign or billboard.

Ms. Harvey noted that, when the Maple Hill Mall entrance sign was established, the current Ordinance was not in effect. Moreover, the site of the sign was originally a part of

the mall parcel. The parcel is now no longer owned by the mall, and the Ordinance has been amended. It was noted that the Board denied a 1984 request by the mall to expand the sign. She stated that she felt the Maple Hill Mall entrance sign was a lawful nonconforming sign. Therefore, in approving the variance, the Board would be approving modification of a nonconforming sign and an off-premises sign/billboard.

The applicant was present, stating that it was trying to establish a directional sign so as to direct traffic to the site from West Main down Maple Hill Drive. Ms. Meeuwse stated she felt that the sign was advertising rather than directing in that it contained a telephone number. The applicant stated that he was willing to modify the sign design to meet the Board's requirements. There were no proposed adjustments to the Summer Ridge on-site sign.

It was agreed that the sign, being off the premises of Summer Ridge, would be considered a "billboard" under the Ordinance.

Mr. Brodasky stated that he was concerned about setting a precedent which would lead to the establishment of additional "directional signs" for the theatre, Bronson Place and Hospice.

The applicant wondered whether the Board would consider one directional sign for all uses located along Maple Hill Drive.

Ms. Harvey noted that the Planning Commission currently has as a work plan item a completion of the West Main Corridor Study, which would include and address coordinated designs for signage.

Mr. Bushouse commented that, if a variance were allowed in this case, an undesirable precedent would be set and directional signage would likely be requested for the opposite corner and on the corners of all major thoroughfares. Mr. Saunders agreed.

The Chairperson also noted that the existing sign was within the setback. Placing the sign in compliance with the setback would likely move it at or in the Firestone building.

There was no public comment offered, and the public hearing was closed.

Ms. Meeuwse moved to deny the variance for the following reasoning:

(1) That compliance was not unnecessarily burdensome in that the applicant had other reasonable options with regard to signage. It was noted that the project has signage at its entrance. Further, the intersection of West Main and Maple Hill Drive did not represent the entrance to the development located along Maple Hill Drive.

(2) That substantial justice would not weigh in favor of granting the variance in that the proposed directional sign would result in two identification signs for the subject site and that properties located in the "R-4" and/or "C" Districts are permitted a single freestanding sign. Further, granting the variance would be expanding a nonconforming sign

and establish an undesirable precedent in that any factors which might support this variance would be applicable to all major thoroughfares. It was further determined that the application was not similar to that granted for the Quail Run Drive sign.

(3) That there were no unique physical circumstances at the site supporting variance approval.

(4) That the hardship was self-created in that the project location was at the applicant's discretion and was designed and developed under the current sign standards.

(5) That the spirit and intent of the Ordinance would not be served by granting the variance in that the proposed off-premises sign would provide signage at the project site in excess and in nonconformance with numerous Ordinance standards. As to quantity, one sign was permitted by the Ordinance and two were proposed by the applicant. Overall freestanding sign square footage would exceed the total allowed under the Ordinance. Further, the existing Maple Hill Mall sign is a nonconforming sign due to its off-premises location and location in the setback. The proposed sign would constitute the expansion of a nonconforming structure. Additionally, granting the variance would be contrary to the 1984 decision and reasoning of the Board to deny the mall's proposed expansion of its sign to 60 square feet. Moreover, the proposed off-premises sign did not serve to address any traffic safety issue. Additionally, the intersection of West Main and Maple Hill Drive did not constitute a project entrance point.

The motion was seconded by Mr. Saunders. Mr. Bushouse commented he felt that the appropriate road agency should be encouraged to place a larger street sign identifying Maple Hill Drive at this corner.

Upon a vote on the motion, the motion carried unanimously.

#### **HAAS HARDWARE - VARIANCE FROM WALL SIGN STANDARDS - 6857 WEST MAIN**

The next item was the application of David Haas, representing Haas Hardware, for variance approval from the wall sign standards established by Section 76.135 of the Zoning Ordinance. The subject site is located at 6857 West Main (Hamilton's Landing) and is within the "C" Local Business District Zoning classification.

The report of the Planning and Zoning Department is incorporated herein by reference.

The applicant was present and stated that he had believed that the signage was allowed under his existing sign permit, and he apologized for erecting the sign without permission. He felt that Section 76.135 did not limit the location of his wall signage.

It was noted that Haas Hardware currently occupies a suite/unit within the Hamilton's Landing retail center located on the south side of West Main, adjacent to the west of General Rental Center. The suite or unit occupied by Haas Hardware is located in the central corner

of the L-shaped building and provided a facing on the south, west and northeast sides of the building. Therefore, under the interpretation of the Ordinance by Township staff, the applicant was permitted wall signage on the south, west and northeast walls of the Hamilton's Landing building. The applicant had established a 72-square-foot sign on the northeast facing of the Haas Hardware suite or unit above the main entrance to its suite or unit. The applicant requested variance for placement of another sign for Haas Hardware on the west wall of the Hamilton's Landing building on the facing of the suite or unit occupied by Westside Appliance. The proposed location would not be in the vicinity of the Haas Hardware suite.

The applicant stated that this location was more visible to 8th Street and eastbound traffic on West Main. He recognized that there was a freestanding sign at the site but that the name of his business on the sign was small, and he believed it was not visible to passing traffic.

Mr. Haas stated that Mr. Hamilton, his landlord, had offered this space for signage and he believed this was part of the common area.

Mr. Brodasky felt that there was nothing to distinguish this application from the application of Lucent Technologies. He felt that both were the same in that they were proposing off-premises signs.

Mr. Saunders agreed, stating that, if the policy of the Township were to be changed, it would need to be changed by Ordinance revision to allow off-premises signs. He saw no basis to distinguish this application from that of the previous applicant. The Chairperson concurred. The Chairperson felt that this applicant, too, had other options for signage.

Mr. Saunders agreed, stating he felt that this applicant suffered less hardship than did the Lucent Technologies applicant.

Mr. Bushouse stated that he still believed that the Ordinance would not prevent wall signage which was not on the facing of a particular suite or unit.

Mr. Saunders moved to deny the variance, with the following reasoning:

(1) That compliance was not unnecessarily burdensome in that the applicant had wall signage over the entrance to its unit and was identified on the freestanding signage. Moreover, additional wall signage could be placed on the Haas Hardware suite in conformance with the Ordinance.

(2) That substantial justice would require denial of the application in that this standard had been consistently applied to other retail/office uses where multiple tenants were involved and in that the Lucent Technologies application had been denied.

(3) That there were no unique physical circumstances preventing compliance.

(4) That the hardship, if any, was self-created in that the proposed use and design of the site and building were at the discretion of the owner and developer of Hamilton's Landing. Additionally, the current use of the freestanding sign was at the discretion of the owner of the site.

(5) That the spirit and intent of the Ordinance would be observed by denying the variance in that the locational guidelines applying to wall signage for retail centers was premised upon certain concerns: identification for emergency response, identification for customers, equitable distribution of wall signage area to the total facility, reserving adequate wall signage in close proximity to occupied suites/units. Again, Mr. Saunders reasoned that the Planning Commission should review to determine whether these provisions should be altered.

Mr. Brodasky seconded the motion and, upon a vote on the motion, The motion carried 4:1, with Mr. Bushouse voting in opposition.

**BLACKBERRY SYSTEMS - SITE PLAN APPROVAL - PROPOSED 120 SQ. FT. BUILDING ADDITION, PARKING LOT EXPANSION - 6477 WEST KL AVENUE**

The next item was the application of Michael Shields, representing Blackberry Systems, for site plan approval of a proposed 120 sq. ft. building addition and parking lot expansion. The subject site is located at 6477 West KL Avenue and is within the "I-1" Industrial District zoning classification.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey noted that the proposal was for a small building addition and parking lot expansion. The use was primarily that of a warehouse operation/contractor. A small showroom and office were at the site as accessory uses. This proposed building expansion would be an addition to the accessory use. She noted that the addition complies with all setback requirements.

The applicant was present and stated that the display at the site was fabricated or distributed by the applicant. The purpose of the addition was to allow installers to view the product, i.e., a sunroom. The parking expansion would serve a mixture of functions. It would allow for more customer parking, parking by employees, and for additional parking of trailers.

In response to questioning by Mr. Brodasky, the applicant indicated that the parking had been placed in this area rather than expanding the existing parking lot so as not to interfere with the semi-truck and Fire Department turnaround area.

The applicant stated, in response to the Chairperson's questions, that the aisle width could be expanded to 25'. Additionally, the parking lot area in the vicinity of the westernmost parking space, could be expanded to allow maneuverability for this space.

Ms. Meeuwse questioned the applicant with regard to trailer parking. The applicant stated that he had ten trailers but that it would be very rare for all to be at the site at the

same time. The applicant has five existing trailer spaces and needs an additional five. The applicant agreed that these could be designated/identified on the site plan. They would be a part of the "outdoor storage" permitted for the site and therefore would be subject to setback standards.

It was recognized that there would be a need for one additional barrier-free space at the site.

There was no public comment offered, and the public hearing was closed.

The Township Attorney suggested that the Board include a finding with regard to whether the addition would be contrary to the accessory nature of the display use.

Mr. Saunders moved to approve the site plan with the following conditions, limitations and notations:

- (1) That it was found that the use remains accessory to the primary use as warehouse/contractor.
- (2) That the existing ~~access~~ arrangement is not proposed to be altered.
- (3) That a revised site plan be submitted to Township staff for review and approval, revising the parking lot expansion so as to provide an aisle width of 25', and to revise the area of the westernmost parking space so as to provide adequate area for vehicle maneuverability. Additionally, the first five spaces would be designated for trailer storage to accompany the existing five spaces so designated.
- (4) That one additional barrier-free space was to be provided, and all barrier-free parking is subject to ADA and Michigan Barrier-Free Guidelines and must be designated by signage and pavement logo.
- (5) That no additional exterior lighting has been proposed.
- (6) That approval was subject to the review and approval of the Township Fire Department and Engineer.

Mr. Brodasky seconded the motion. The motion carried unanimously.

**RICE - VARIANCE REQUEST FROM LIMITATION ON NO. OF BUILDINGS PER LOT - 4047 O'PARK**

The next item was the application of Herbert Rice for variance approval from the limitation on the number of buildings per lot established by Section 66.150 of the Zoning Ordinance. The subject site is located at 4047 O'Park and is within the "AG"-Rural District zoning classification. The property is Lot 4, Block 2, of the Frie & Gibbs Plat.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey noted that the Board had looked, on more than one occasion, at establishing more than one dwelling on an unplatted parcel. However, the Board had not previously considered establishing more than one dwelling on a platted lot.

The applicant stated that he intended to have the lot surveyed if approved and would be selling or deeding half of the lot to one son. This half would be deeded before any dwelling was built.

Ms. Harvey pointed out that it was not the understanding of the Township that one-half of the lot would be sold before the dwelling established, and therefore the applicant would not need a variance. However, it would be necessary to obtain a lot-split approval from the Township Board. Ms. Harvey stated that the applicant's application fee would be refunded and the item provided to the Township Board for approval.

**ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 5:50 p.m.

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

By:   
Brian Dylhoff, Chairperson

By: \_\_\_\_\_  
William Saunders

By:   
Thomas Brodasky

By:   
Lara Meeuwse

By:   
David Bushouse

Minutes Prepared:  
April 23, 1997

Minutes Approved:  
5-5-97

AGENDA: ~~ZBA~~  
MINUTES: ZBA

DATE: April 21, 1997  
SENT: ~~May 14, 1997~~

ZBA

- Lara M.
  - Dave B.
  - Bill S.
  - Brian
  - Tom B.
- } 5-2-97

PC

- Libby
- Marvin
- Lara
- Ken H.
- Millard
- Ted C.
- Wilfred

TB

- Fred
- Dave B.
- Marvin
- Norm

OFFICE

- Becky
- Bob
- Marci
- Lois
- Ron
- Tony
- Jim
- Attorney's
- Index
- Elaine

Total

PEOPLE

Sign Art, Inc. (Mr. Ehren Eoelsch)  
5757 E. Cork Street  
Kalamazoo, MI 49001

Lucent Technologies  
5349 West Main  
Kalamazoo, MI 49009

Michael Jenkins  
Associated Estates Realty Corp.  
5545 Summer Ridge Boulevard  
Kalamazoo, MI 49009

David Haas  
Haas Hardware  
6857 West Main, Ste. #3  
Kalamazoo, MI 49009

Michael E. Shields  
Blackberry Systems Inc.  
6477 West "KL" Avenue  
Kalamazoo, MI 49009

Herbert & Nellie Rice  
P.O. Box 656  
Oshtemo, MI 49077

Home Builders Association  
5700 West Michigan  
Kalamazoo, MI 49009

Oshtemo Business Association  
P.O. Box 1  
Oshtemo, MI 49077



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

## NOTICE

### OSHTEMO TOWNSHIP ZONING BOARD OF APPEALS

April 21, 1997  
3:00 p.m.

### AGENDA

1. Call to Order
2. Approval of Minutes  
- April 7, 1997
3. Variance Request - Lucent Technologies

*: Tabled from April 7, 1997 Zoning Board of Appeals Meeting*

Sign Art, Inc., representing Lucent Technologies, requests Variance Approval from the wall sign standards established by Section 76.135, Zoning Ordinance.

Subject site is located at 5349 West Main (Golf Ridge Centre) and is within the "C" District. (3905-13-405-020)

4. Variance Request - Summer Ridge Apartments

*: Tabled from April 7, 1997 Zoning Board of Appeals Meeting*

Michael Jenkins, representing Summer Ridge Apartments, requests Variance Approval from the sign standards applicable to the "R-4" District established by Section 76.120, Zoning Ordinance.

Applicant proposes the placement of a 28 sq. ft. "directional sign" on the existing "directional sign" for Maple Hill Mall located at the northeast corner of West Main and Maple Hill Drive (site of Firestone Service Co.).

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Summer Ridge Apartments is located on the west side of Maple Hill Drive, approximately 1400 ft. north of West Main (5543 Summer Ridge Boulevard) and is within the "R-4" District. (3905-13-130-011)

5. Variance Request - Haas Hardware

David Haas, representing Haas Hardware, requests Variance Approval from the wall sign standards established by Section 76.135, Zoning Ordinance.

Subject site is located at 6857 West Main (Hamilton Landing) and is within the "C" District. (3905-14-303-011)

6. Site Plan Review - Blackberry Systems

Michael Shields, representing Blackberry Systems, requests Site Plan Approval of a proposed 120 sq. ft. building addition (sunroom display) and parking lot expansion.

Subject site is located at 6477 West "KL" Avenue and is within the "I-1" District. (3905-23-405-013)

7. Variance Request - Rice

Herbert Rice requests Variance Approval from the limitation on number of buildings per lot established by Section 66.150, Zoning Ordinance.

Subject site is located at 4047 O'Park (Lot 4, Block 2, Frie & Gibbs) and is within the "AG"-Rural District. (3905-33-402-050)

8. Other Business

9. Adjourn

AGENDA: ZBA

DATE: April 21, 1997

MINUTES: \_\_\_\_\_

SENT: April 14, 1997

ZBA

- Lara M.
- Dave B.
- Bill S.
- Brian
- Tom B.

Fred Langeland  
Balkema Sand & Gravel  
1500 River Street  
Kalamazoo, MI 49001

PC

- Libby
- Marvin
- Lara
- Ken H.
- Millard
- Ted C.
- Wilfred

Wightman Ward Corporation  
1818 W. Centre Street  
Portage, MI 49024

TB

- Fred
- Dave B.
- Marvin
- Norm

OFFICE

- Becky
- Bob
- Marci
- Lois
- Ron
- Tony
- Jim
- Attorney's
- Index
- Elaine

Stanley Rakowski  
7151 West "G" Avenue  
Kalamazoo, MI 49009

Total

PEOPLE

Sign Art, Inc. (Lucent Tech.)  
5757 E. Cork Street  
Kalamazoo, MI 49001

Michael Jenkins  
Associated Estates Realty Corp.  
5545 Summer Ridge Boulevard  
Kalamazoo, MI 49009

David Haas  
Haas Hardware  
6857 West Main, Ste. #3  
Kalamazoo, MI 49009

13 Labels

Michael K. Shields  
Blackberry Systems Inc.  
6477 West "KL" Avenue  
Kalamazoo, MI 49009

8 Labels

Herbert & Nellie Rice  
P.O. Box 656  
Oshtemo, MI 49077

10 Labels

Dave Person  
Kalamazoo Gazette  
P.O. Box 2007  
Kalamazoo, MI 49003

Home Builders Association  
5700 West Michigan  
Kalamazoo, MI 49009

Oshtemo Business Association  
P.O. Box 1  
Oshtemo, MI 49077

Cripps Fontaine Excavating  
7729 Douglas Avenue  
Kalamazoo, MI 49004



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

**To:** Zoning Board of Appeals

**Meeting Date:** 4-21-97

**From:** Planning/Zoning Department

**Agenda Item:** #5

**Applicant:** David Haas  
Representing Haas Hardware

**Property In Question:** 6857 West Main  
Hamilton Landing

Reference Vicinity Map

**Zoning District:** "C" Local Business District

**Request:** Variance Approval - Wall Sign Standards

**Ordinance Section(s):** Section 76.135 - Wall Signs

***Planning/Zoning Department Report:***

***Background Information***

- Section 76.135, Zoning Ordinance, permits the use of wall signage in the commercial and industrial districts. Specifically, the provision sets forth the following wall sign standards:

: wall signs shall have a total area not exceeding 2 sq ft for each 1 ft in length or height (whichever is greater) of the wall to which it is affixed

: wall signs shall not exceed the maximum sign height restriction for the zoning district in which it is located (20 ft from road grade)

- The wall sign provision has been applied to **retail centers** as follows:

: maximum area of each wall sign is determined based upon the length (or height) of the *facing* of the suite/unit being occupied by the business identified by the sign

: each wall sign shall be located on the *facing* of the suite/unit being occupied by the business identified by the sign

- Haas Hardware currently occupies a suite/unit within the Hamilton Landing retail center located on the south side of West Main, adjacent to the west of Nationwide General Rental.

The suite/unit occupied by Haas Hardware is located in the (central) corner of the L-shaped Hamilton Landing building, thereby provided *facing* on the south, west, and northeast sides of the building.

- The wall sign standards, using the application guidelines for retail centers, would permit wall signage on the south, west, and northeast walls of the Hamilton Landing building, in those areas that constitute the *facing* of the Haas Hardware suite/unit.

A 72 sq ft sign has been placed on the northeast *facing* of the Haas Hardware suite/unit, above the main entrance of the suite/unit.

- Applicant requests Variance Approval for the placement of a sign for Haas Hardware on the west wall of the Hamilton Landing building, on the *facing* of the suite/unit occupied by Westside Appliance. The proposed location would not be in the vicinity of the suite/unit occupied by Haas Hardware nor on the *facing* of said suite.

Reference 3-31-97 Application

### Department Review

Reference Standards of Approval of a Nonuse Variance ('practical difficulty' criteria):

#### 1. *Conformance Unnecessarily Burdensome*

: Are reasonable options for compliance available?

- Can the proposed identification sign be located in compliance with locational guidelines?

- Can the proposed identification sign be designed to provide the necessary visibility in compliance with locational guidelines?
- A 72 sq ft identification sign for Haas Hardware is currently located on the northeast (front) wall of the building, above the entrance to the suite/unit.
- Section 76.125 permits the placement of a 60 sq ft freestanding sign on the site of Hamilton Landing.

A 60 sq ft sign freestanding identification sign for 'Hamilton Landing' exists on the north side of the building, oriented toward West Main.

## 2. *Substantial Justice*

: Reference Board discussion/action regarding the sign variance request by Lucent Technologies (Golf Ridge Centre) - Agenda Item #3.

: Consider the existing/permitted signage arrangements on similar properties to determine consistency and compatibility.

- Golf Ridge Centre - the existing wall signs that have received approval and have been issued sign permits are in compliance with the locational guidelines; existing wall signs identifying Career Assessments and Edward Jones Investments constitute signs that were installed without approvals/permits.

- West Century Plaza
- Elks Place Center
- Orchard Place
- Chime Plaza
- West Main Arcade

## 3. *Unique Physical Circumstances*

: The subject site offers no **unique** physical circumstances preventing compliance.

## 4. *Self-Created Hardship*

: The proposed use and design of the site/building are at the discretion of the owner/developer of Hamilton Landing.

: The current use of the freestanding sign options available to the site is at the discretion of the owner.

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5. *Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance was granted?*

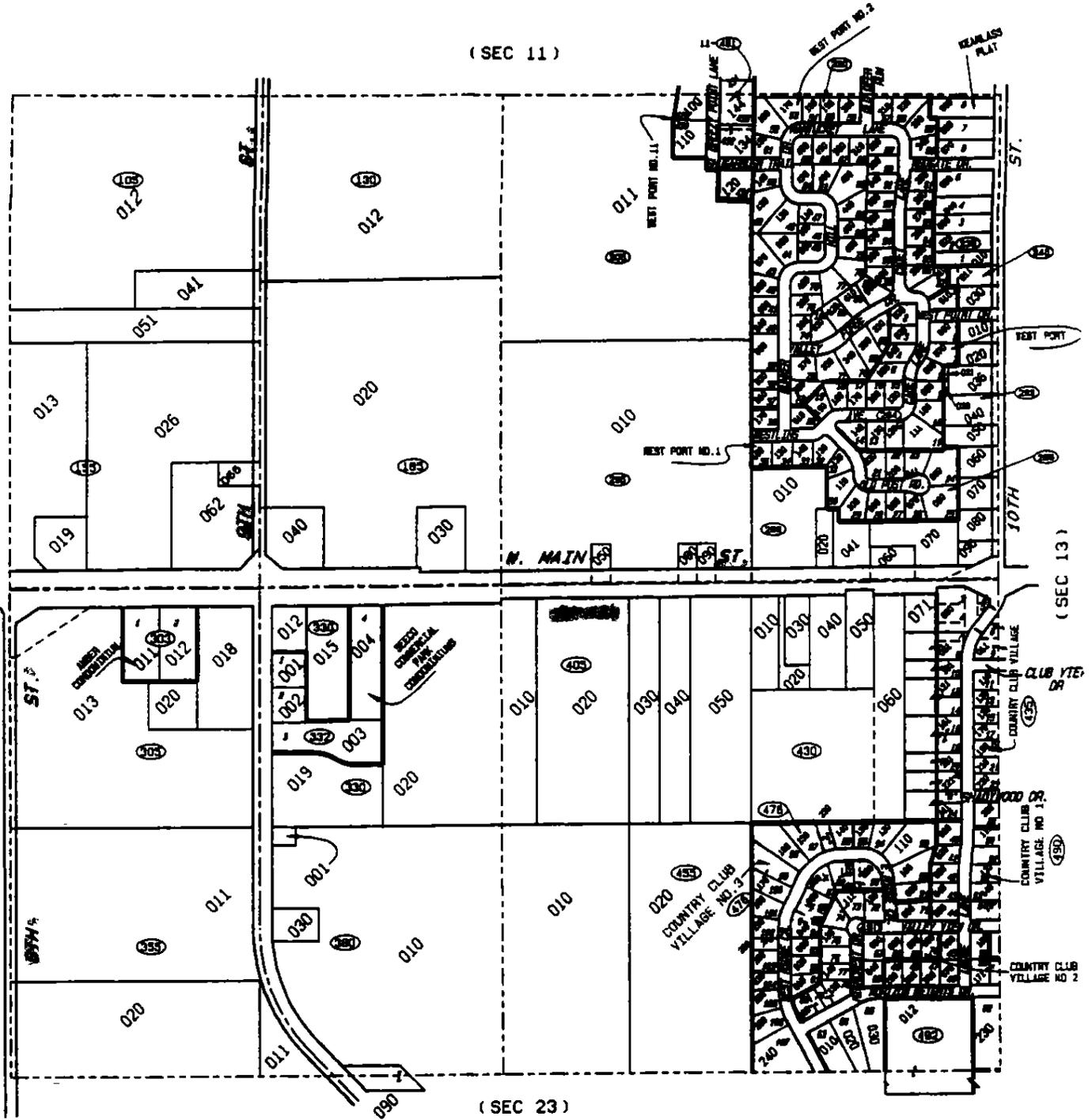
: The locational guidelines applied to wall signs for retail centers were premised upon the following concerns:

- premises identification for emergency response (fire, medical)
- premises identification for customer (parking, delivery, etc)
- equitable distribution of the wall sign area permitted the total facility
- allows (reserves) adequate wall sign area in close proximity to the occupied suite/unit

# SECTION 14

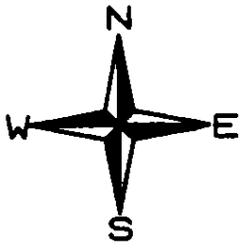
( SEC 11 )

( SEC 15 )



( SEC 23 )

( SEC 13 )



DATE: AUGUST 25, 1993  
REVISED DATE: MARCH 5, 1996  
PRINTED DATE: MARCH 21, 1996





101-115  
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28  
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4-21-97 ZBA

7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

**REQUEST FOR ZONING BOARD OF APPEALS MEETING**

Date 3/31/97 Present Zoning \_\_\_\_\_ Fee \$100

Land Owner HAMILTON LANDING - JAKE HAMILTON

Address 6857 W. MAIN ST Phone 315 8151

Person Making Request DAVID HAAS - HAAS HARDWARE

Address 6857 W MAIN ST #3 Phone 312-011

Interest in Property TENANT

Size of Property Involved \_\_\_\_\_

Reason for Request IN ACCORDANCE WITH SECTION  
26 SIGNS & BILLBOARDS ORDINANCE. REQUEST  
THAT MY HAAS HARDWARE SIGN BE  
ALLOWED ON THE WEST SIDE  
OF HAMILTON LANDING BUILDING (FRONT  
8<sup>TH</sup> STREET)

(OVER)

SIGN IS IN COMPLIANCE TO THE ORDINANCE

76.125

100 SQ FT → SIGN IS 50 SQ FT  
REQUIREMENT

- a. B<sup>T</sup>E ST NOT W. MAIN ST
- b. OVER SETBACK REQUIREMENTS
- c. OVER 10' FROM PROPERTY LINE
- d. NOT IN PUBLIC ACCESS SPACE

76.135

- NOT OVER PUBLIC PROPERTY.
- PROJECTS LESS THAN 42 INCHES
- MOUNTED FLAT TO BUILDING
- WITHIN LENGTH/HEIGHT REQUIREMENTS

NO RESTRICTIONS IN ORDINANCE AS TO WHERE SIGN IS TO BE PLACED ON BUILDING - OTHER THAN HEIGHT & SQ FOOTAGE OF ~~SIGN~~ SIGN.



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

**To:** Zoning Board of Appeals

**Meeting Date:** 4-21-97

**From:** Planning & Zoning Department

**Agenda Item:** #6

**Applicant:** Michael Shields  
Representing Blackberry Systems

**Property In Question:** Blackberry Systems  
6477 West KL Avenue

Reference Vicinity Map

**Zoning District:** "I-1" Industrial District

**Request:** Site Plan Review - Proposed 120 Sq Ft Building Addition (Sunroom  
Display)/Parking Lot Expansion

**Ordinance Section(s):** Section 82.800 - Criteria For Review

**Planning & Zoning Department Report:**

Background Information

- On 5-15-95, the ZBA granted Site Plan Approval of the proposed Blackberry Systems project (8280 sq ft office/warehouse) located at 6477 West KL Avenue.

Reference 5-15-95 ZBA Minutes

- Applicant proposes the addition of a 120 sq ft (10 ft x 20 ft) sunroom display on the east side of the existing building.

Further, a westward expansion of the existing parking area so as to accommodate an additional 8 parking spaces is also proposed.

- Pursuant to Section 82.200, Site Plan Review of the proposed site/building modifications is required.

### Department Review

#### *Site Plan Review - Section 82.800*

- a) - The existing access arrangement is not proposed to be altered.
  - A parking lot expansion consisting of 8 parking spaces is proposed. The following should be noted:
    - : All parking shall be subject to compliance with parking space dimensional standards (10 ft x 20 ft).
    - : 22 ft - 24 ft parking lot aisle widths are recommended; a 20 ft aisle width is proposed. (25 ft aisle width exists)
    - : The western-most parking space offers inadequate area for vehicle maneuverability.
    - : The use of the proposed parking expansion should be confirmed.
      - Use of the area for trailer parking raises issues regarding parking space size and compliance with setback standards.
      - Use of the area for customer parking raises the issue of 'convenience'.
  - Additional barrier-free parking will be required with the addition of 8 on site parking spaces. Said parking shall be subject to ADA and MI Barrier Free Guidelines and be designated by signage and pavement logo.

The following barrier-free parking standards should be noted:

- : 1 van accessible parking space shall be provided for every 8 barrier-free parking spaces
- : the van accessible parking space shall be 8 ft in width (10 ft depth) with an 8 ft aisle width

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b) - The proposed building addition setback complies with Ordinance standards.

- Additional exterior lighting has not been proposed.

- Outdoor storage has not been proposed.

c)

&d)-The subject site primarily adjoins industrial zoning/land use. (Midwest Auto Body, Dunshee Auto Body, NYC RR right-of-way)

Land area opposite the subject site is located within the 9th Street Focus Area and is earmarked for 'mixed-use' development.

- The 5-15-95 site plan approval was conditioned upon the proposed retention of the existing vegetation on the site and front yard and building perimeter landscaping.

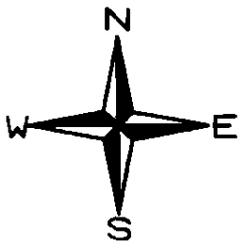
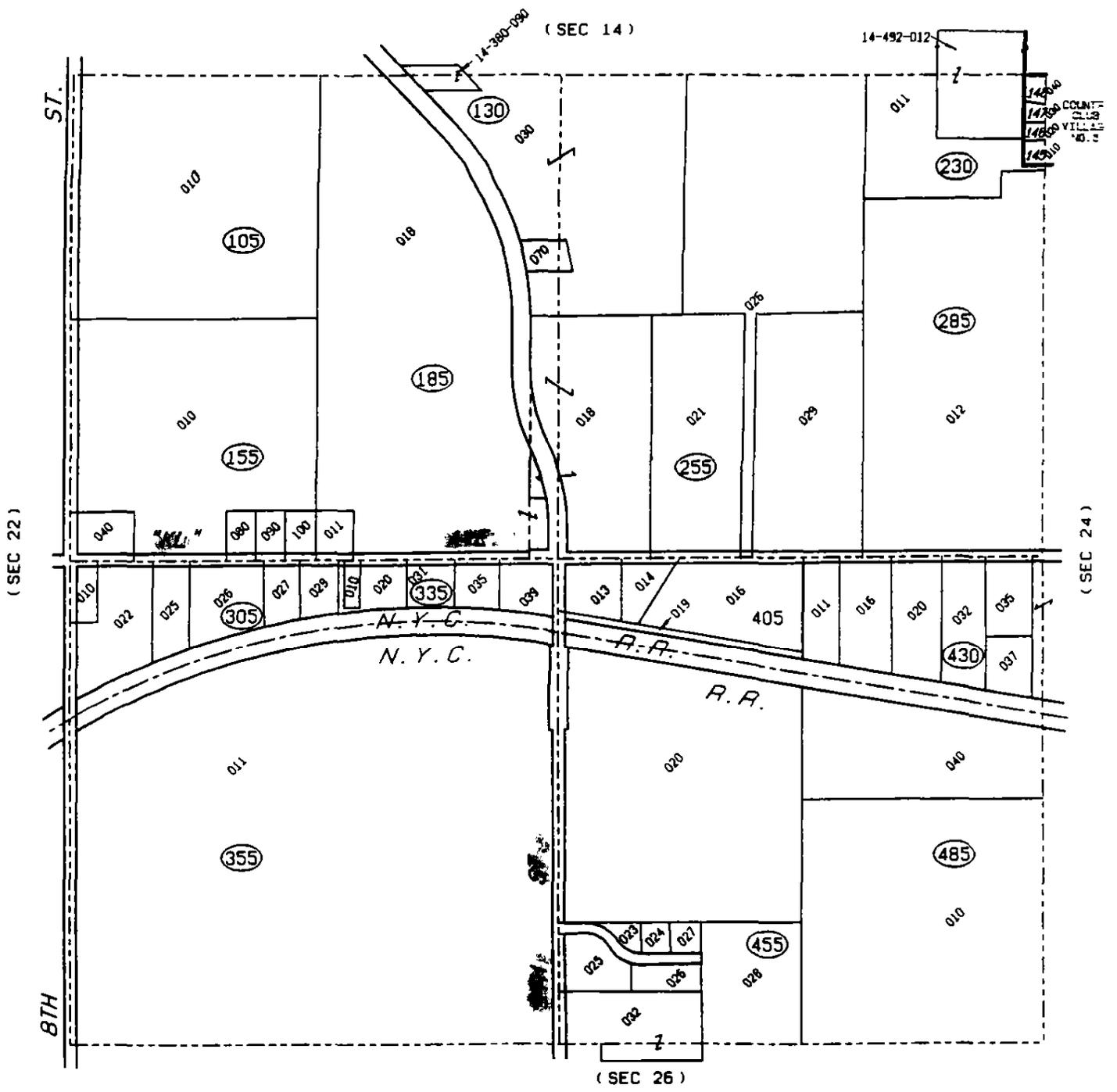
- The proposed modifications should be reviewed for impact on the previously approved land cover (and landscape) proposal.

e) - Variance approval has not been requested.

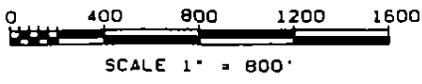
f) - Approval shall be subject to Township Fire Department review/approval.

g) -Approval shall be subject to Township Engineer review/approval.

# SECTION 23



DATE: AUGUST 25, 1993  
 REVISED DATE: MARCH 8, 1996  
 PRINTED DATE: MARCH 21, 1996



ZONING BOARD OF APPEALS MEETING - MAY 15, 1995

EXCERPTS

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(4) That the loading area be located to the rear as indicated by the applicant.

(5) That the dumpster location is acceptable; however, it was noted the applicant had indicated a desire to relocate to an alternative location. This alternative location must be approved by Township staff. The dumpster was to be enclosed on three sides, and the area in front of the dumpster was to be reinforced.

(6) That any new lighting comply with Section 78.700 of the Zoning Ordinance.

(7) That no additional signage was proposed or approved.

(8) That existing vegetation on the southern portion of the site be retained as proposed by the applicant.

(9) That the gravel drive south of the building be reclaimed.

(10) That approval was subject to review and approval of the Township Fire Department and Township Engineer.

Ms. Branch suggested that the Board require the applicant to relocate the dumpster in that there appeared to be conflicts with loading, etc., in its present location. Mr. Harris responded that the applicant had no objection but would like some time to come into compliance with this requirement. It was stated that a year would be adequate. Mr. Brodasky suggested an amendment to his motion to require that the dumpster be relocated within one year.

Mr. Miller seconded the motion as amended, and the motion carried unanimously.

**BLACKBERRY SYSTEMS - SITE PLAN REVIEW - PROPOSED 8,280 SQ. FT. OFFICE/WAREHOUSE - SE CORNER "KL" AVENUE AND S. 9TH STREET**

The next item was the application of Michael Shields, representing Blackberry Systems, for site plan review of a proposed 8,280 sq. ft. office/warehouse facility. The subject site is located on the southeast corner of "KL" Avenue and S. 9th Street and is within the "I-1" District Zoning classification.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey expanded on her report as to access, pointing out that the drive did not comply

with spacing requirements. However, assuming that a shared drive was not available, the access point is located to maximize the spacing between both the intersection and the existing access point to the east.

As to the proposed outdoor storage area, same is located within the setback and the applicant has not requested a variance.

Mr. Shields was present and made reference to the proposed site plan. He stated that Blackberry Systems was presently located on Centre Street in Portage and wishes to move same to the proposed location. As to the outdoor storage area, he indicated that the area should have been eliminated from the site plan drawing. He does not anticipate requesting an outdoor storage area be approved; he felt that all storage could be accommodated inside the building.

The applicant said the driveway spacing issue had been addressed and that it had attempted to address the drive so as to meet the guidelines as closely as was practicable. He admitted he had not approached the neighboring landowner to discuss the possibility of a shared drive. He was willing to approach the neighbor; however, he stated the neighbor had been uncooperative when approached on another issue. Mr. Shields did not believe the neighbor would have any interest in the shared-drive concept.

Mr. Miller questioned the applicant as to the type of business Blackberry Systems engaged in. The applicant stated that the business installed commercial and residential windows and other limited items. The applicant, in answering questions by Ms. Branch, stated the site would be primarily used for warehousing. Some display area would be included.

The site plan indicated seven parking spaces in which trailers would be parked overnight. Ms. Harvey stated that, given the zoning district, this outdoor storage was not prohibited. **Mr. Shields explained the trailers would be job-site trailers for residential crews. He noted the trailers would be parked at the site occasionally on weekends and during their slow periods.**

There was no public comment, and the public hearing was closed.

The Chairperson stated he was in favor of the applicant approaching the neighbor with a shared-drive-arrangement proposal. Ms. Harvey stated that the berm, which was required of the neighboring property in site plan approval, should not serve as a hurdle if the neighbor was willing to utilize a shared drive.

Ms. Branch asked about the proposed greenspace. The applicant stated that the area directly in front of the building and around the perimeter of the building would be seeded with grass. There would be low-level plantings close to the building. The applicant indicated he planned to retain the existing trees at the site.

As to the barrier-free parking space, the applicant stated it would be moved to a location next to the building entrance.

The Chairperson questioned the applicant as to the loading activities. He stated that three semi-trucks per week were average for deliveries, along with some smaller delivery vehicles.

Mr. Brodasky questioned the size of the proposed trailer parking spaces, and Ms. Harvey stated that the size was adequate.

No chemicals would be utilized in the business, according to the applicant. The applicant stated that the business deals with finished products and there is no manufacturing at the site. The business is similar to that of Hannapel, except that Blackberry Systems is also a contractor.

In response to questioning by Mr. Brodasky, the applicant stated that no drain was proposed.

Ms. Branch moved to approve the site plan with the following conditions, limitations and notations:

(1) That, as to access, it was noted that the applicant had expressed a willingness to approach the neighboring property owner with regard to a shared-drive proposal. However, if this was not successful, the driveway as proposed on the site plan was approved in that it meets the Access Management Guidelines due to the fact that it is located so as to maximize spacing between both the intersection and the existing access drive to the east. It was noted that traffic study was not required in that the access point had been designed at the best possible location given the guidelines set forth in Section 67.500 3a, 3b, and 6.

(2) That access onto "KL" Avenue has been proposed due to the existing grade limitations and the presence of the bridge along 9th Street.

(3) That the parking lot layout is satisfactory and parking spaces were subject to compliance with the dimensional requirements of the Ordinance (i.e., 10' x 20').

(4) That the barrier-free parking be subject to ADA and Michigan Barrier-Free Guidelines and be designated by signage and pavement logo.

(5) That overnight parking of trailers at the south end of the parking lot as proposed by the applicant was approved.

(6) That the outdoor gravel storage area was not approved, as the applicant had indicated that same was to be eliminated from the plan; the applicant should provide an amended plan to the Township showing this change.

(7) That proposed lighting be detailed and provided to the Township staff for review and approval; said lighting must meet the guidelines set forth in Section 78.700.

(8) That signage comply with Section 76.000 and be reviewed and approved through the permit process.

(9) That the proposed retention of the existing vegetation and the front yard and building perimeter landscaping was approved.

(9 10) That the dumpster be enclosed on at least three sides.

(101) That approval was subject to the review and approval of the Township Fire Department and Township Engineer.

(12) That a revised plan reflecting the conditions of approval be submitted.

Mr. Miller seconded the motion, and the motion carried unanimously.

### STATUS REPORT - SHARED DRIVE - 7162 STADIUM DRIVE (BEYER)

The next item was a status report by the Planning and Zoning Department regarding the shared-drive-arrangement negotiations related to the approved site plan for the proposed conversion of the existing residence located at 7162 Stadium Drive to a hair salon.

Ms. Harvey stated that a meeting had taken place at the site involving members of the City Water Department, the applicant and Ms. Harvey. It was determined that the Water Department driveway would have to be widened and improved to accommodate this shared use. ~~It was noted that to do so would be difficult due to the depth of existing utilities.~~ Instead, during this meeting, it was proposed that the access drive for the applicant's property be shifted from the west to the east side of the property, next to the City Water drive. Since the City Water Department drive is relatively unused, it was felt that the spacing requirements were not crucial. Moreover, the relocation to the east would improve the site/visibility for traffic turning from the site. Ms. Harvey said the applicant had been requested to grant an easement from the east of the parking area to the City's west property line ~~and to the property adjacent to the west~~ to allow for cross access and a future shared drive with the said ~~property to the east.~~ Ms. Harvey understood that the applicant was willing to grant such an easement. She pointed out that the city had no objection to the driveway approach or the access point for the subject property being located in front of the Water Department property in the right-of-way. Ms. Harvey felt this proposed arrangement would address the Board's previous concerns as to the site/visibility limitations. The plan would also allow for retention of some trees, which previously would have had to have been removed, ~~and for the alignment with the existing access opposite the site.~~

Mr. Hill and the applicant were present and stated that the applicant was in agreement with the proposal and also agreed to grant an easement for shared access for the property to the east and west.

Ms. Harvey stated she did not believe any further Board action was necessary unless Board members objected to the proposal since the earlier approval had left the matter to the discussion of the staff. Board members agreed that the proposal was a good one, and all were in favor of same.



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
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**To:** Zoning Board of Appeals

**Meeting Date:** 4-21-97

**From:** Planning/Zoning Department

**Agenda Item:** #7

**Applicant:** Herbert Rice

**Property In Question:** 4047 O'Park  
Lot 4, Block 2, Frie & Gibbs

Reference Vicinity Map

**Zoning District:** "AG"-Rural District

**Request:** Variance Approval - Number of Buildings Per Lot

**Ordinance Section(s):** Section 66.150 - Number of Buildings Per Lot, Parcel, or  
Building Site

**Planning/Zoning Department Report:**

**Background Information**

- The subject site is a 2.5 acre (300 ft x 380 ft) lot, located on the southeast corner of Stadium Drive and O'Park, currently occupied by a single-family dwelling. (4047 O'Park).
- Applicant proposes the establishment of a second single-family dwelling on the subject site.

Reference Plot Plan (To Be Submitted)

- Section 66.150 states 'no more than one single-family or two-family dwelling shall be allowed on a lot or building site.'

One additional single-family or two-family dwelling may be established, however, on an **unplatted parcel** if the parcel is provided at least 400 ft of frontage on a public road and twice the minimum area requirement. (50,000 sq ft x 2 = 100,000 sq ft)

The option to place a second dwelling on a platted lot or a building site is not afforded through Section 66.150.

- Applicant requests variance approval from Section 66.150 to allow for the placement of a second single-family dwelling on an existing platted lot. (Lot 4, Block 2, Frie & Gibbs)

Department Review

Reference Standards of Approval of a Nonuse Variance ('practical difficulty' criteria):

1. *Conformance Unnecessarily Burdensome*

: Are reasonable options for compliance available?

- The subject platted lot could be divided in compliance with Section 290.301 - Lot Division of the Land Division Ordinance (previously Subdivision Control Ordinance) such to create 2 separate buildable lots.

: Does reasonable use of the property exist with a denial of the variance?

- A single-family dwelling is currently located on the subject site.
- The subject lot could be divided in compliance with the Land Division Ordinance.

2. *Substantial Justice*

: Consider past decisions in similar requests. (Since 1984 Ordinance)

- A compilation of ZBA decisions regarding the placement of more than a single dwelling on a parcel (frontage variance/site plan review) has been provided.

8-6-84	Niles	Granted
9-8-86	Risk	Granted

5-4-87		
5-12-87	Boyce	Granted
6-1-87		
6-3-91	Boyce	Denied
10-16-96	Farrell	Granted

: *The Board has not previously considered any applications for additional buildings on a platted lot.*

: Consider the character of the area regarding lot size, building placement, and driveway location.

**3. *Unique Physical Circumstances***

: There are no unique physical limitations (ie. topography, vegetation) that exist on the subject site preventing compliance.

**4. *Self-Created Hardship***

: The proposed use of the subject lot is at the discretion of the applicant.

**5. *Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance was granted?***

: Reference Sections 66.203 and 66.204.

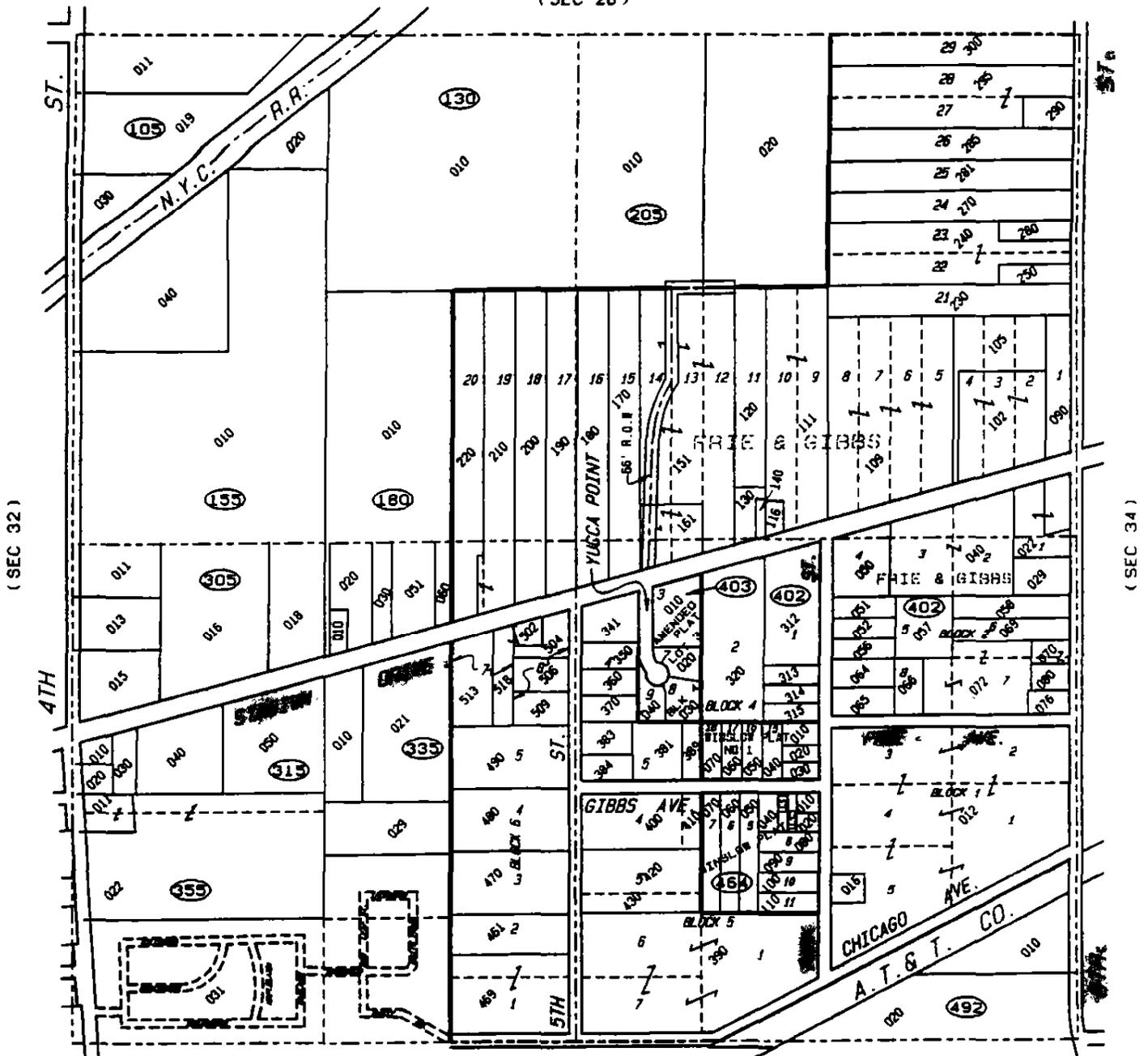
: A lot split can occur and a second single-family dwelling established in compliance with Ordinance standards.

: The subject lot complies with the increased dimensional standards applicable to parcels (400 ft frontage, 100,000 sq ft minimum area) to qualify for an additional dwelling.

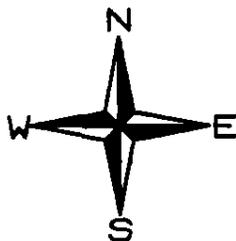
: A proposed access arrangement should be reviewed for compliance with access management guidelines (ie. no direct access onto Stadium Drive, shared driveway arrangement)

# SECTION 33

( SEC 28 )



( TEXAS 4 )



DATE: AUGUST 25, 1993

REVISED DATE: MARCH 11, 1996

PRINTED DATE: MARCH 22, 1996



SCALE 1" = 800'

8-6-84 Ray Niles

After general discussion, Mr. Jameson moved that the Board grant approval to the construction of the new residence on the proposed new parcel to consist of existing parcels 3905-32-130-046 and 3905-32-130-041, subject to the express condition that the existing residence on the site no longer be occupied as a residence after an occupancy permit for the proposed new residence is granted. Mr. Jameson further moved that the granting of this approval would in no way alter the prior condition imposed at the time of the initial granting of a variance on the property that a 66-foot easement to the public be established and maintained on the property. Mr. Block seconded the motion. Mr. Jameson noted that under the terms of his motion, the applicant would be required to discontinue occupancy of the existing residence on the site on the same day that an occupancy permit is obtained for the new residence.

A vote was then held on the motion and the motion passed unanimously. Ms. Brown did not participate in the vote.

ZONING BOARD OF APPEALS MEETING - SEPTEMBER 8, 1986  
EXCERPTS

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NICHOLAS RISK - SITE PLAN REVIEW

The Chairman stated that the next item on the agenda was consideration of the request of Nicholas Risk for site plan approval for the location of two residential dwellings on one parcel of land. It was noted that the subject site is located at 3763 North 2nd Street and is in the "AG" zoning classification.

Mrs. Harvey stated that the applicant desires to place a second dwelling on the subject site at 3763 North 2nd Street. She noted that Section 66.150 states that an unplatted parcel shall have at least 200 feet of frontage on a road and 50,000 square feet of land area for each single- or two-family dwelling established thereon. She noted that the subject parcel has adequate frontage and land area to permit a second dwelling. She further noted that Section 82.200(a) requires that two dwellings on one site obtain site plan approval by exempting only single- or two-family dwellings under separate ownership and each on a separate lot from the site plan review procedure. Mrs. Harvey distributed copies of the proposed site plan to the Board members.

Mrs. Harvey noted that the subject property had previously received a variance from the minimum 3:1 depth to width ratio requirement. She noted that there was a right-of-way on the property that had been deeded to the Township as a condition to the granting of the variance. She noted that the subject property would be under one owner.

The Board noted that the proposed site plan satisfied all of the conditions set forth in in the Township Zoning Ordinance. Mr. Vuicich therefore moved that the Board grant approval of the site plan as presented to the Board. The motion was seconded by Mr. Greenberg and passed unanimously.

ZONING BOARD OF APPEALS MEETING - MAY 4, 1987  
EXCERPTS

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Mr. Loehr stated that elimination of the parking spaces would not help the traffic situation because the parking spaces are next to the building and a semi-trailer truck tends to swing outward from the building. In response to a further comment from Mr. Vuicich, Mr. Loehr stated that the applicant did not wish to recess the building by 9 feet on the east, since this would eliminate two sales offices.

Mr. Bunkley stated that he had discussed this matter with Ms. Harvey and had tried to work out a satisfactory arrangement. He stated that he was working with an existing sales lot and that the 70-foot setback requirement from Maple Hill Drive had not been in existence at the time of the original used car sales office building. Mr. Bunkley stated that he could eliminate the proposed six feet landscaped area to the west, but this would cause Mr. Loehr some additional trouble. Mr. Bunkley indicated that he questioned the rationale for the 70-foot setback requirement.

After further general discussion, Mr. Vuicich moved that the Board deny the variance request. Mr. Vuicich stated that compliance with the 70-foot setback requirement would not be unnecessarily burdensome for the property owner and that there were not unique circumstances justifying the granting of a variance. Mr. Rakowski seconded the motion. A vote was then held on the motion and the motion passed unanimously.

HAZEL BOYCE - 5742 WEST H AVENUE

The Chairman stated that the next item on the agenda was consideration of a request from Hazel Boyce for an interpretation and/or variance approval from Section 66.150 of the Township Zoning Ordinance pertaining to maximum number of buildings permitted per lot or parcel. It was noted that the subject property is located in the "R-2" zoning classification.

Mrs. Harvey then addressed the Board. She stated that the first question before the Board was one of interpretation. Mrs. Harvey noted that the subject property is approximately 20 acres in size and has 660 feet of frontage on West H Avenue. She noted that the property was rezoned from "I-1" to "R-2" on February 24, 1987. She stated that the property is currently occupied by a main house/garage, two small residences, and a cement block building previously used as a "shop". She stated that the applicant wishes to convert the existing cement block

building to a two-family residence. Ms. Harvey indicated that Section 66.150 of the Township Zoning Ordinance states that an unplatted parcel of land shall have at least 200 feet of frontage upon a dedicated public road and at least 50,000 square feet of land area for each single- or two-family dwelling established on that parcel. Mrs. Harvey stated that it was the interpretation of the Township Building and Zoning Department that application of Section 66.150 would permit three dwellings on the subject parcel. She stated that it was the Building and Zoning Department's interpretation that a conversion of the cement block building to a residence would constitute a violation of Section 66.150, since 800 feet of frontage or a variance would be required to permit four dwellings on the site.

Mrs. Boyce stated that she had lived in the Township for over 40 years. She stated that in 1957, plans had been filed with the Township with respect to the subject property. Mrs. Boyce stated that she wished to convert the cement block building into a residence that she and her sister could possibly live in. Mrs. Boyce stated that there was a dirt road on the site that had been used for over 7 years. She stated that the road was used by members of the public and that she believed this should be deemed to constitute a public road for purposes of the 200-foot public road frontage requirement.

No public comment was offered with respect to this matter.

The Chairman stated that he agreed with the Building and Zoning Department's interpretation that a variance would be required to permit the conversion of the cement block building into a fourth residence.

It was noted that the road referred to by Mrs. Boyce was not a dedicated public road and thus could not be used to satisfy the 200-foot public road frontage requirement. The Chairman stated that the road referred to by Mrs. Boyce simply constituted a private drive.

Mr. Vuicich moved that the Board approve the Building and Zoning Department's interpretation that a variance would be required in order to permit the conversion of the cement block building to a fourth residence on the site. Mr. Rakowski seconded the motion and the motion passed unanimously.

Ms. Boyce stated that she would like the Board to now consider granting her a variance.

Mrs. Harvey indicated that an addition to the cement block building was constructed last year. She noted that a building permit had erroneously been issued to allow such construction, but was subsequently revoked. Mrs. Harvey stated that the last use of the cement block building was as a shop. Mrs. Boyce

stated that her husband used the cement block building in connection with his business. Mrs. Boyce stated that her deceased husband's original intent was to convert the cement block building into a two-story structure. In response to a question from Mr. Vuicich, Mrs. Boyce stated that her husband used the cement block building to make various parts there in connection with his business.

Mrs. Boyce stated that there was no way that she could attain additional public road frontage on her property. She stated that she didn't have sufficient energy to plat her property and that she lacked the funds to bring the road up to the standards that would be required for acceptance of it as a public road by the County Road Commission.

Mr. Vuicich stated that he had difficulty finding practical difficulty or hardship that could justify the granting of the requested variance.

The Chairman noted that an additional 140 feet of public road frontage was needed in order to allow the proposed conversion of the cement block building into a residence.

Mrs. Boyce stated that if the variance were not granted, she would have no option but to let the cement block building stand as it is. She stated that she did not believe that would be fair. She stated that she could not sell her property under these conditions and that she did not believe she was asking too much in asking for a variance.

The Township Attorney indicated that the Board could inquire as to whether any hardship justifying a variance had been created as a result of the erroneous issuance of the building permit for an addition to the cement block building. Mrs. Harvey noted that the building permit had been revoked upon discovery. Mrs. Boyce stated that the building addition had been completed by that time.

The Chairman noted that since a vote of a majority of the full Board was required for the granting of a variance and only three members of the Board were present, a unanimous vote of the Board members present would be required to grant the requested variance. He stated that Mrs. Boyce could request the Board to defer action on this matter until more Board members were present. The Chairman stated that he felt the need for additional information regarding the issuance of a building permit for the addition to the building. Mr. Vuicich stated that given the information that had been presented to date, he did not believe a basis had been presented for granting a requested variance. Mr. Vuicich stated that he would be willing to table this matter.

Mrs. Boyce stated that she thought it would be unfair to delay this matter. Mrs. Boyce stated that she had been under quite a strain with respect to this matter. Mrs. Boyce then left the meeting.

Mr. Vuicich moved that the Board table this matter in order to give Mrs. Boyce the opportunity to present additional evidence in favor of her variance request. It was noted that the tabling motion would also make it possible for additional Board members to be present and consider this matter.

Mr. Rakowski seconded the motion and the motion passed unanimously.

#### MALLORY FIGG - SITE PLAN REVIEW

The Chairman stated that the next item on the agenda was consideration of the request of Mallory Figg for site plan review of a proposed temporary land use to be located on the site of the KL Klean Center at the southwest corner of KL Avenue and Drake Road. It was noted that the applicant also requests variance approval from the parking requirement established by Section 68.304 of the Township Zoning Ordinance. It was noted that the subject property is located in the "C" zoning classification.

Mrs. Harvey then addressed the Board. She noted that on August 4, 1986, the Board had interpreted that, on the basis of Sections 82.200, 82.400, and 82.900 of the Zoning Ordinance, site plan review is required for the establishment of temporary land uses. She stated that the applicant wishes to establish a seasonal produce stand (May through October) on the site of the KL Klean Center. Mrs. Harvey stated that the proposed temporary use would comply with all applicable setback requirements. She noted that the prior site plan approval granted by the Board for an automatic car wash on the site had expired. Mrs. Harvey stated that the question of parking will need to be addressed.

Mr. Mallory Figg and Herschel Figg, his father, were present. Mr. Mallory Figg indicated that his fruit stand would consist of 4'x8' plywood tables with conduit pipes supporting a tent awning on top. He stated that there would be a temporary fence around the sales area. He stated that the fenced in area would be either 50'x80' or 50'x60'. He stated that the latter was more likely. Mr. Figg stated that there would be no sign, but he would like to have maybe a small sign on the side of the fencing.

Mr. Figg indicated that the proposed temporary use would be at the northeast corner of the site.

ZONING BOARD OF APPEALS MEETING - MAY 12, 1987  
EXCERPTS

The Board then proceeded to discuss whether they wished to table action on the proposed site plan amendment until the Township Engineer had reported with respect to this matter or whether they wished instead to make any site plan approval granted at this time subject to the Township Engineer's review and approval of the surface water drainage arrangement.

Mr. Hinckley stated that he would prefer that the Township grant site plan approval subject to the Township Engineer's review in order to minimize any additional lost time. Mr. Hinckley stated that the April 4, 1987, incident referred to by Mr. Arrigo has since been corrected. He stated that he had corrected the situation by changing the grading of the property.

After further discussion, Mr. Vuicich moved that the Board approve the proposed site plan amendment, subject to the Township Engineer's review and favorable report that the proposed amendment will not cause any additional on-site surface water onto adjoining properties. Mr. Vuicich further moved that the Township Engineer view the subject property to determine whether or not it is in compliance with the terms of the original site plan approval and with the Zoning Ordinance provision pertaining to surface water runoff onto adjoining properties. Mrs. Brown seconded the motion and the motion passed unanimously.

HAZEL BOYCE - VARIANCE REQUEST

The Chairman stated that the next item on the agenda was consideration of a request by Hazel Boyce for a variance approval from Section 66.150 of the Township Zoning Ordinance pertaining to permitted number of residential buildings per lot or parcel. It was noted that the subject site is located at 5742 West H Avenue and is in the "R-2" zoning classification.

Ms. Marjorie Hammond was present on behalf of Hazel Boyce, her mother.

Mrs. Harvey noted that this matter had been before the Board at its prior meeting and had been tabled in order to obtain more information regarding this matter. She stated that she had discussed this matter with the Township Building Inspector and obtained additional information. She stated that a building permit for expansion of the subject cement block building had been issued in June of 1986. She stated that the Building

Inspector was new to his job at the time and erroneously issued the permit. She stated that one month later, the Building Inspector discovered that he had made an error. She noted that if the proposed building expansion was intended to be used for industrial activity, then site plan review would have been required before a building permit could properly be issued. She stated that if the proposed cement block building was intended to be used for residential purposes, then rezoning of the property to a residential zoning classification was needed as well as a variance from Section 66.150 of the Township Zoning Ordinance.

Mrs. Harvey stated that framing of the subject building was completed by the time the Building Inspector had discovered his error. She stated that it was not until the middle of August that the Building Inspector was able to contact the contractor regarding this matter and inform him that the building permit was invalid. Mrs. Harvey stated that the building contractor stated that this was no problem, since the construction had been completed.

Mrs. Harvey stated that during the first part of October, the building inspector observed that there was additional electrical services on the subject building. Mrs. Harvey stated that the building inspector spoke at that time with Mrs. Boyce, and Mrs. Boyce stated that she was unsure of her plans for the subject building. Mrs. Harvey stated that she subsequently spoke with Mrs. Boyce regarding the zoning of the subject property. She stated that shortly thereafter, Mrs. Boyce requested that the property be rezoned to its present "R-2" zoning classification.

Mrs. Hammond stated that Mrs. Boyce was her mother. Mrs. Hammond stated that electricity had always been in the subject building. Mrs. Hammond stated that Mrs. Boyce had applied for rezoning of her property to the "R-2" zoning classification in the belief that this would permit her to convert the cement block building to a residence.

In response to a question from the Board, Mrs. Harvey stated that when the Building Inspector spoke with the building contractor in mid-August, the Building Inspector informed the contractor that work would have to stop on the building and the contractor said that he was done with the work on the building anyway.

After further questioning from the Board, it was noted that where there had originally been one electrical meter base on the subject cement block building, there were now four semi-completed meter bases. Mrs. Hammond stated that it was possible that this would could have been done before the Building Inspector spoke with the building contractor.

Mr. Vuicich noted that the rezoning of Mrs. Hammond's property had been approved by the Township not because of any plans regarding the cement block building, but because the requested rezoning was consistent with the Township Land Use Plan and with the use of the surrounding area.

In response to questions from Mr. Vuicich, Mrs. Hammond stated that it was not financially feasible for her mother to plat the property. She stated that there was not any available additional public road frontage that could be acquired. Mrs. Hammond stated that it would be cost prohibitive to establish a public road upon the subject property.

In response to a question from the Township Attorney, Mrs. Hammond stated that there was no way that the cement building could feasibly serve as an accessory building. Mrs. Hammond further indicated that she believed her mother had incurred expenses of \$18,000 in additional construction performed pursuant to the erroneously issued building permit.

The Township Attorney stated that he believed there were several unusual aspects with respect to this variance request. The Township Attorney noted that the cement block building, as well as the existing residences on the subject property, had been lawfully established. He stated that the cement block building could be used for industrial uses as a lawful non-conforming use unless that industrial use had been abandoned. He noted that under the terms of the Township Zoning Ordinance, discontinuance of a lawful non-conforming use for one year could serve as a basis for finding abandonment. Mrs. Hammond stated that the building had been used for industrial use from time to time within the past year. The Township Attorney stated that given the fact that the subject building did lawfully exist on the subject property, the Board could note and consider the fact that the approval of the requested variance would permit a residential use of the building, which would be more in conformance with the present residential zoning of the property.

The Township Attorney stated that if the Board found that Mrs. Boyce had reasonably relied to her substantial detriment upon the building permit allow expansion of the subject building, then Board could consider such detriment, or hardship, in deciding whether or not to grant the requested variance. The Township Attorney stated that it would appear from the information provided the Board that Mrs. Boyce had incurred construction expenses of \$18,000 pursuant to the erroneously issued building permit and that if a variance was not granted, then the building and such additional expense would be of little practical use.

Mr. Rakowski inquired as to whether, if the Board granted the requested variance, the property owner or her successors

would have to return to the Board if they later sold off a portion of the subject property so as to split one of the existing residences from the subject property. The Township Attorney stated that such a property split would increase the non-conformity with the area and frontage requirements of Section 66.150 and would require the applicant or her successors in interest to return to the Board for a further variance to make such split.

Mr. Vuicich expressed concern as to what would happen if the parcels would subsequently split. In response to a question from Mr. Vuicich, the Township Attorney stated that he did not believe a granting of the variance would possibly obligate the Township at a future time to provide for a road to one or more of the residences on the subject property.

Mrs. Harvey inquired as to whether, if a variance were granted, site plan review would be required. The Township Attorney noted that Section 82.200 excepted only single- or two-family dwellings under separate ownership and on a separate lot from site plan review. The Township Attorney stated that, accordingly, site plan review would be required for the proposed change in use of the cement block building.

Mr. Vuicich noted that originally he had not been in favor of the requested variance. Mr. Vuicich stated that his opinion had since been somewhat modified. Mr. Vuicich stated that he was still concerned about the precedent that might be set, but that he believed this situation did present very peculiar circumstances. He noted that this case was unique in that a building permit had been issued in error and substantial building construction had been commenced before the building permit was invalidated. Mr. Vuicich stated that in light of this fact, he did not believe the granting of a variance would set a very broad precedent. Mr. Vuicich stated that he did have some concern as to the possible problems that might be created down the road when portions of the subject parcel are sold off.

Mrs. Harvey noted that the building permit for the cement block building indicates that the construction costs of the building expansion were \$14,750.00.

After further general discussion, Mr. Rakowski moved that the Board grant the requested variance, subject to the condition that the applicant or her successors in interest will have to return to the Zoning Board of Appeals to apply for a further variance at such time as a portion of the subject property is sold or split off. Mr. Rakowski stated as reasons for his motion the fact that the cement block building was lawfully established on the subject property under the prior industrial zoning. Mr. Rakowski further stated that he believed there was unique hardship and practical difficulty as a result of the erroneously

issued building permit for construction of an expansion to the cement block building and the substantial expense incurred by the applicant in undertaking such construction. Mr. Rakowski stated that he believed a variance so as to allow the conversion of the subject building to a residence would be consistent with the spirit of the applicable Zoning Ordinance provisions, and with public safety, health, and welfare, and that substantial justice would thereby be accomplished. Mr. Rakowski further noted that the subject building could be used for an industrial use without a variance and that it was more consistent with the existing zoning and the surrounding area for such building to be used for residential purposes.

Mr. Vuicich seconded the motion. He stated that he believed that there were unique circumstances justifying the granting of this variance.

A vote was then held on the motion and the motion passed by a vote of three to one, with Mrs. Brown voting in the negative.

#### APPROVAL OF MINUTES

The Board then reviewed the minutes of the April 6, 1987, Zoning Board of Appeals meeting. Upon motion of Mrs. Brown, seconded by Mr. Rakowski, the minutes were unanimously approved as prepared.

#### CLOSED SESSION

At the request of the Township Attorney, Mrs. Brown moved that the Board go into closed session to consult with its attorney regarding trial or settlement strategy in connection with the pending litigation of Paul Coash v. Oshtemo Charter Township Zoning Board of Appeals. Mrs. Brown further moved that Mrs. Harvey be permitted to join the Board and the Township Attorney in this closed session. The Township Attorney stated that he believed a discussion of this matter in an open meeting would have a detrimental financial effect on the litigating or settlement position of the Township. Mr. Vuicich seconded the motion. A roll call vote was then held on the motion and the motion passed unanimously. The Board then went into closed session.

After the conclusion of its closed session, the Board then returned to open session.

ZONING BOARD OF APPEALS MEETING - JUNE 1, 1987  
EXCERPTS

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MINUTES

Motion was made by Stanley Rakowski, seconded by George Vuicich that the minutes of the meeting held on May 4, 1987 be approved as submitted. The motion carried unanimously.

A motion was made by Lois Brown, seconded by Stanley Rakowski to approve the minutes as submitted for the meeting held on May 12, 1987. Motion carried unanimously.

HAZEL BOYCE - SITE PLAN REVIEW

The next item on the agenda was the request of Hazel Boyce for site plan review of the proposed establishment of a 4th dwelling on the property located at 5742 W. "H" Avenue. The site is located in a "R-2" District.

Rebecca Harvey reported to the Board that the request was to construct a duplex into the existing building and that the setbacks were in compliance with the Zoning Ordinance.

Ms. Marjorie Hammond was present on behalf of her mother, Hazel Boyce. Mr. Vuicich inquired as to whether or not Ms. Hammond or her mother had considered having only one driveway instead of two or three as indicated on the site plan review so that there would be one exit onto "H" Avenue? Three different options of combining the different driveways were examined.

Next, Mr. Vuicich had a question on the setback requirements because of the narrow county right-of-way which went from 75 feet from the center of the road down to 66 feet. Ms. Hammond explained they had a problem with the water run-off from the county road which drained onto their property at or about that point of the right-of-way. She stated that she did not feel that the one driveway proposal would resolve the situation.

George Vuicich made a motion, seconded by Stanley Rakowski to approve the site plan as presented. The motion carried 4-1 with Lois Brown voting against.

ZONING BOARD OF APPEALS - JUNE 3, 1991  
EXCERPTS

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HAZEL BOYCE - SITE PLAN REVIEW - VARIANCE APPROVAL

The Board next considered the application of Hazel Boyce for site plan review of a proposed 576 square foot addition to the residential dwelling located at 5712 West "H" Avenue. Further, the conversion of the residence from a single family dwelling to a two-family dwelling was requested. Additionally, the Board was to consider the interpretation and/or variance approval regarding the following ordinance provisions:

- (1) Section 66.120 - Area requirements for two-family dwellings; and
- (2) Section 66.150 - Limitations on the number of buildings per parcel.

The subject 20 acres is currently occupied by three single-family dwellings and one two-family dwelling (5610, 5712, 5740, and 5742 West "H" Avenue) and is located in the "AG" Agricultural/Rural District zoning classification.

The applicant and her daughter were present.

Ms. Harvey summarized her report concerning the item, which report is incorporated herein by reference. It was noted that the report gave the history of the site. It was further noted that Section 66.150 of the Ordinance requires that an unplatted parcel of land have, for each single-family or two-family dwelling established thereon, at least two hundred feet of frontage on a dedicated public road and at least 50,000 square feet of land area. The subject site is approximately 20 acres in size and has 660 feet of frontage on West "H" Avenue. It was further noted that in 1987, the Zoning Board of Appeals had granted variance approval permitting a fourth residence on the subject site. It had granted site plan approval for the residential complex (three single-family and one two-family dwelling).

The Board was asked to consider:

- (1) Whether the proposed conversion of 5712 West "H" Avenue to a two-family dwelling would alter the conditions under which the 1987 variance was granted and therefore require a new variance from the public road frontage requirement of Section 66.150;
- (2) Whether the proposed conversion of the residence at 5712 West "H" Avenue to a two-family dwelling would require compliance with the area requirements set forth in Section 66.120.

Ms. Harvey pointed out that Section 66.150 would require the parcel to have 800 feet of frontage. The parcel, in fact, has 660

feet of frontage. A variance to allow an additional residential dwelling at the site, without the requisite 800 feet of frontage, had been granted primarily due to the fact that a building permit had been issued in error. The applicant had relied on said building permit and had started substantial construction at the time the error was discovered.

The applicant was called upon to comment on the item. She indicated that the house to be converted had a lot of area around it. She emphasized that she wished to "upgrade the house". She stated that the house had 576 feet of area, but would also have a walk-out basement.

No public comment was offered on the item and the public hearing was closed.

Ms. Branch indicated that she did not feel that conversion to a two-family dwelling negates the 1987 variance or requires a new variance. She relied on the language of Section 66.150, which says "single-family or two-family dwelling"; in her opinion, therefore, the Ordinance did not distinguish between the two types of dwellings.

Ms. Branch moved to interpret the Ordinance, taking into account the language of Section 66.150 and the Minutes of the 1987 Zoning Board of Appeals meetings concerning the site in question, so as to require no "new" variance for the site. She felt that under the Ordinance 800 feet of frontage was required, unless a variance was obtained, for three single-family dwellings and one two-family dwelling. In 1987, a variance to allow three single-family dwellings and one two-family dwelling on the subject site, even though said site had only 660 feet of frontage, was granted. Under the Ordinance, two single-family and two two-family dwellings would require 800 feet of frontage also. Therefore, she felt that the 1987 variance was sufficient. Mr. Zuiderveen seconded Ms. Branch's motion. The motion failed 3-2, with Mr. Vuicich, Mr. Block, and Mr. Rakowski voting against same.

After further discussion, Mr. Vuicich moved to interpret the Ordinance so as to require a new frontage variance for the conversion of one of the single-family dwellings at the site to a two-family dwelling. Mr. Vuicich stated that he premised his interpretation on the language of Section 66.150 and on the Minutes of the 1987 meeting at which the variance had been granted. He reasoned that a new variance was required because the 1987 variance had been granted because of the erroneous issuance of a building permit and the reliance (through expenditure of considerable monies) on said building permit; the nonuse variance criteria had not been met. Mr. Vuicich further reasoned that it was significant that the 1987 variance was granted to permit a fifth dwelling unit at the site; thus, the 1987 variance would not allow for the establishment of a sixth dwelling unit thereon. Mr. Rakowski seconded the motion. The motion carried 3-2, with Ms. Branch and Mr. Zuiderveen voting against same.

The Board then considered whether to grant a variance from the frontage requirement of Section 66.150 to permit the conversion of 5712 West "H" Avenue to a two-family dwelling. Said variance would permit two single-family and two two-family dwellings on the parcel which has 660 feet of frontage.

Mr. Vuicich opined that none of the "non-use" variance criteria had been met in the application. He felt that the hardship was self created. He further felt that there were no unique circumstances about the parcel in question which would require the variance. Additionally, Board members felt that substantial justice would not require the variance, taking into account past precedents as to frontage variances. The Chairman stated that the variance requested was a large one and was more than what was usually granted to applicants. Board members also felt that compliance with the Ordinance was not unnecessarily burdensome and that the applicant was not denied use of the property. Further, the applicant had the option of platting the property or developing with site condominiums.

Mr. Zuiderveen exited the meeting.

Ms. Branch moved to deny the variance due to the fact that the non-use variance criteria were not met, as discussed above. Mr. Rakowski seconded the motion and the motion carried unanimously.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 12:05 p.m.

Oshtemo Township Zoning Board  
of Appeals

Marvin Block  
Marvin Block, Chairman

Stanley A. Rakowski  
Stanley Rakowski.

George Vuicich  
George Vuicich

Elaine Branch  
Elaine Branch

Ron Zuiderveen

Minutes prepared:  
June 8, 1991

Minutes approved:  
September 9, 1991

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

MINUTES OF MEETING HELD OCTOBER 16, 1995

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Agenda

**JIM FARRELL - SITE PLAN REVIEW AND VARIANCE - ADDITIONAL  
SINGLE-FAMILY DWELLING - 6861 WEST H AVENUE**

**OTHER BUSINESS - ROHLFING RELEASE**

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A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Monday, October 16, 1995, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall, pursuant to notice.

MEMBERS PRESENT:      Brian Dylhoff, Chairperson  
                                 Thomas Brodasky  
                                 William Miller  
                                 Elaine Branch

MEMBER ABSENT:        William Saunders

Also present were Rebecca Harvey, Township Planning and Zoning Department representative, Patricia R. Mason, Township Attorney, and twelve (12) other interested persons.

**CALL TO ORDER**

The Chairperson called the meeting to order at 3:10 p.m.

**MINUTES**

The Board considered the minutes of the meeting of October 2, 1995. The changes suggested by Ms. Harvey were noted. Mr. Brodasky moved to approve the minutes as amended. Mr. Miller seconded the motion, and the motion carried unanimously.

**JIM FARRELL - SITE PLAN REVIEW AND VARIANCE - ADDITIONAL  
SINGLE-FAMILY DWELLING - 6861 WEST H AVENUE**

The next item was the application of Jim Farrell for site plan review for the proposed placement of an additional single-family dwelling on a parcel located at 6861 West H Avenue. The applicant also requests variance approval from the 400' road-frontage requirement established by Section 66.150 of the Zoning Ordinance. The subject site consists of approximately six acres (396' x 661') and is within the "AG"-Rural Zoning District classification.

The report of the Planning and Zoning Department is incorporated herein by reference.

Ms. Harvey noted that there were two issues to be dealt with by the Board: (1) the request for variance from the frontage requirements so as to allow the second dwelling on the parcel which has only 396' of frontage. If the parcel had 400' of frontage, no variance would be required; and (2) assuming that the variance was granted, the Board should conduct site plan review.

With regard to the substantial-justice item of the nonuse variance criteria, Ms. Harvey stated that she had included two packets of past information, one relating to the establishment of more than one dwelling on a parcel, and the other relating only to frontage variance issues. She stated that the Board did not have much of a history with regard to the establishment of more than one dwelling on a parcel where a frontage variance was involved. She stated that the Board had granted two variances in the past but under unique circumstances. On one occasion, variance had been granted where a building permit was granted in error. On the second occasion, only a temporary variance was sought by the applicant.

As to frontage variances, she felt that two variances which had been granted by the Board were similar to the instant application. In those cases the Board had granted variance where the variance was minimal in nature and where the parcels in the area were compatible in frontage. Moreover, in those cases, there were platted lots which contributed to the character of the area. Ms. Harvey noted that in this area there were a number of plats and a number of parcels with less than 200' of frontage.

Ms. Harvey said that the one intent of the frontage requirement was to minimize curb cuts onto the abutting street. Therefore, the Board should look to the access issue to determine whether the intent of the Ordinance would be met through variance.

The applicant was present and stated that the parcel in question is quite large, i.e., six acres, and that same is only lacking in 4' of frontage to establish a second dwelling.

Referring to the drawing presented to the Board, the applicant stated that the proposed drive and house would be placed on the site after a survey had been done. Therefore, the drawing was not accurate as to the exact location of the proposed drive and house.

The Chairperson opened the meeting for public comment and noted receipt of a letter containing various objections to granting the variance in this case. Rick Oulding, a resident of 3031 9th Street, was one of the signatories to the letter. He stated when he was considering purchase of his property he had asked for information with regard to the potential development on the property to the west, i.e., the subject parcel. He was told that, because of lack of frontage, nothing further could be done on the parcel.

Kevin Hanley stated that the applicant was seeking a 4' variance but that the presently existing structure on the property is "centrally located." Therefore, if the parcel were split in the future, it could not be divided so as to provide 200' of frontage to the existing home and garage and 196' of frontage to the proposed home

Mr. Miller questioned the area residents with regard to whether there was a parcel to the west of the subject property on which two homes had been established. The residents were unaware of such a parcel, indicating only that there was a duplex on the property to the west.

Amy Shinault, a 9th Street resident, felt that there was a problem with the proposed driveway in that it appears to be placed very close to the boundary of her property. She felt that the driveway should be set back at a greater distance if the variance were granted.

Rudy Schnable was concerned that the home on the property at present is rented and there are 4-6 cars on the property at any one time. He felt that an additional home, if established on the property, would be rented. He was not in favor of any more "rental units" in the area.

Amy Shinault again spoke, stating that, in her opinion, many of the trees on the parcel would have to be taken down because the applicant plans to move a large home to the property.

The public hearing was closed, and Board discussion on the item began.

In response to questioning from the Chairperson, the applicant indicated no plans to move the existing home. The applicant said that the house to be established on the property was planned as a residence for himself and his wife. The applicant stated that his son lives in the existing home at the property. He stated that there was no plan to split the parcel at this time or in the foreseeable future.

Ms. Branch stated that the Township does not have a "rental" zone. She stated that, if property is zoned for single-family or two-family use, whether it is owner-occupied or rented is not within the Township's control. Additionally, with regard to residential property, the Township could not control whether the applicant cut down trees at his/her property.

The Chairperson questioned the applicant as to whether there was an opportunity to obtain additional frontage. The applicant responded that there had not been an effort to obtain additional frontage. It was also pointed out that the applicant could develop the site with two homes through use of the site condominium or Subdivision Control Ordinance.

The traffic on H Avenue was noted. It was further noted that the location of the existing drive is on a hill, which limits visibility.

The applicant indicated he had talked with his son about establishing a combined drive to serve both homes. He stated that the drawing presented the Township was not to scale and the exact driveway location could not be established until after a survey.

Ms. Branch responded that she felt that combination of the drives would have the least negative impact on traffic. Combination of the drives would also serve to meet the intent of the Ordinance to limit curb cuts.

Mr. Miller, discussing the nonuse variance criteria, noted that compliance did not appear unnecessarily burdensome in this case and that there were other options to the applicant, i.e., seeking additional frontage, development through Subdivision Control Ordinance or site condominium standards. Additionally, the applicant had reasonable use of the property without the grant of the variance. As to substantial justice, Mr. Miller noted that there had been a few decisions in which variance was granted where there were parcels in the vicinity with similar frontages. He felt that this was the case in this situation in that a minimal variance was being sought and that there were a number of properties in the neighborhood with less than 200' of frontage. He also noted the Breckenridge Estates plat to the south of the property.

The Chairperson expressed concern that the applicant was likely, in the future, to split the property into two parcels. Ms. Harvey noted that, if the property were split, the applicant would have to return to the Zoning Board of Appeals to get a different variance or proceed through the platting or site condominium procedures. The variance that would be granted by the Zoning Board of Appeals today would not be applicable if the parcel were split in the future.

The Board members concluded that substantial justice favored granting the variance since the Board had granted variance in the past in similar cases. However, the Board felt there were no unique topographical circumstances and that the hardship was self-created. As to the spirit and intent of the Ordinance, it was felt that if a single access point were established to serve both structures it would be in keeping with the spirit and intent of the Ordinance. Further, the size of the parcel was such that it could accommodate additional well and septic, as well as comply with setback and open space requirements.

Mr. Miller moved to grant the variance conditioned upon the limitation of one shared/combined drive for the six-acre parcel. It was required that an easement be executed, recorded and on file with the Township to secure the legal right for both structures (both dwellings) to utilize the combined drive. Additionally, the drive should be positioned centrally. Mr. Miller reasoned that the variance was appropriate, especially in view of the substantial-justice criteria, in that variances had been granted in similar cases in the past. Additionally, the intent and spirit of the Ordinance was met due to the conditioning of the variance on a single access point. It was noted that criteria 1, 3 and 4 had not been met but were outweighed by the substantial-justice and intent-and-spirit criteria.

Mr. Brodasky seconded the motion, and the motion carried unanimously.

The Board next considered site plan review. However, there was concern that the applicant indicated the plan was not accurate and that the location of the drive and home could not be determined until after a survey had been conducted. The applicant indicated that he would like to return the first of the year with a drawing for the Board's consideration.

After further discussion, the applicant withdrew his application for site plan review, stating that he would reapply, probably during the first of the next year.

It was clarified for the public present that the site plan review application would be renounced at the time the reapplication was made



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4-21-97  
~~8-8-97~~ ZBA

7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

Rd 3-31-97 #52422

**REQUEST FOR ZONING BOARD OF APPEALS MEETING**

Date 3/31/97 Present Zoning \_\_\_\_\_ Fee \$100

Land Owner HAMILTON LANDING - JAKE HAMILTON

Address 6857 W. MAIN ST Phone 315 8600

Person Making Request DAVID HAAS - HAAS HARDWARE

Address 6857 W MAIN ST #3 Phone 372-0005

Interest in Property TENANT

Size of Property Involved \_\_\_\_\_

Reason for Request IN ACCORDANCE WITH SECTION  
76 SIGNS & BILLBOARDS ORDINANCE. REQUEST  
THAT MY HAAS HARDWARE SIGN BE  
ALLOWED ON THE WEST SIDE  
OF HAMILTON LANDING BUILDING (FRONT  
8<sup>TH</sup> STREET)

(OVER)

Haas Hardware

3905-14-303-012

Tracy Enterprises

14-303-011

Hamilton

14-305-013

Seeco

016

Crystal Carwash

021

Storage Investments

14-155-019

Cutty Wood Land

026

9<sup>th</sup> St. Group

062

Stewart

David Haas  
Haas Hardware  
6857 West Main, Ste. #3  
Kalamazoo, MI 49009

14-305-016  
CRYSTAL CARWASH INC *Returned*  
22155 BLUEBIRD AVENUE  
MATTAWAN MI 49071

14-303-012  
TRACY ENTERPRISES INC  
6831 WEST MAIN  
KALAMAZOO MI 49009

14-305-016  
OCCUPANT  
6775 WEST MAIN  
KALAMAZOO, MI 49009

14-303-012  
OCCUPANT  
6857 WEST MAIN  
KALAMAZOO, MI 49009

14-305-021  
STORAGE INVESTMENTS LLC  
13000 ROCKLAND ROAD  
LAKE BLUFF IL 60044

14-303-011  
HAMILTON JACK M & PATRICIA A  
3861 NORTH 2ND STREET  
KALAMAZOO, MI 49009

14-305-021  
OCCUPANT  
6779 WEST MAIN  
KALAMAZOO, MI 49009

14-303-011  
OCCUPANT  
6831 WEST MAIN  
KALAMAZOO, MI 49009

14-155-019  
PRETTY GOOD LAND MANAGEMENT  
6984 WEST MAIN  
KALAMAZOO MI 49009

14-305-013  
SEECO INVESTMENTS LLC  
107 WEST MICHIGAN AVENUE  
KALAMAZOO MI 49007

14-155-026  
NINTH STREET GROUP INC  
543 WEST MICHIGAN  
KALAMAZOO MI 49007

14-305-013  
OCCUPANT  
6883 WEST MAIN  
KALAMAZOO, MI 49009

14-155-062  
STEWART WINIFRED L  
815 WEST INKSTER  
KALAMAZOO MI 49008



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9337  
616-375-4260 FAX 375-7180 TDD 375-7191

**SITE PLAN REVIEW APPLICATION**

Date: \_\_\_\_\_ Present Zoning: \_\_\_\_\_ Fee: \_\_\_\_\_

Land Owner: Including the names & addresses of any officers of a corporation or partners of a partnership). Documentation is required.

BlackBerry Systems Inc  
Michael K Shields Pres  
Mark G. Gomolak V. Pres

Person Making Request: Michael K Shields

Address: 6477 W ICL Ave Phone: 353-8844

Interest in Property: Owner

Size of Property Involved: \_\_\_\_\_

Legal Description of Property Involved: \_\_\_\_\_

General Description of the Proposed Development: Additional Parking,  
Storage Display on East Side of  
Showroom

List Supporting Documents attached to the application, if any: 8

Revised Site Plans Storage Documents

**CHARTER TOWNSHIP  
OF OSHTEMO**  
7275 W. MAIN STREET  
KALAMAZOO, MI 49009  
616-375-4260

3/18/97 JF

052199 SITE PLAN/BLACKBERRY 100.00  
TOTAL PAID 100.00

THANK YOU

That approval of this site plan constitutes  
warranty of Oshtemo, that all improvements  
shall be made in strict compliance with the approved  
conditions imposed, and shall be  
governed under Site Plan Review.

Michael K Shields  
Owner/Agent

# Blackberry Systems

3905-23-405-013

Blackberry

23-405-015

Bule/Schippers/Britten

016

Twop.

019

"

020

Heritage

23-335-039

Drayer

23-355-011

Clayton

23-185-018

Buckham

23-255-018

Khaj

021

Holmes/Meyer/Hamilton

23-405-013

SCHMITT RICHARD N & JEAN T  
BLACKBERRY SYSTEMS INC  
6477 WEST KL AVENUE  
KALAMAZOO MI 49009

23-405-015

KUIVENHOVEN PETER & DOROTHY  
BRULE J/SCHIPPERS E/BRITTEN L  
6415 WEST KL AVENUE  
KALAMAZOO MI 49009

23-405-020

HERITAGE BAPTIST ACADEMY ASSOC  
8828 NORTH DOUGLAS AVENUE  
KALAMAZOO MI 49004

23-335-039

DRAAYER KENNETH F & SHERRIE R  
6585 WEST KL AVENUE  
KALAMAZOO MI 49009

23-355-011

CLAYTON-HOLIGAN JOINT VENTURE  
P O BOX 15169  
KNOXVILLE TN 37901

23-355-011

OCCUPANT  
1410 SOUTH 9TH STREET  
KALAMAZOO, MI 49009

23-185-018

BUCKHAM GEORGE K & THELMA L  
5661 WEST U AVENUE  
SCHOOLCRAFT MI 49087

23-255-018

KHAJ ZAFAR V & BARBARA A  
2125 OAKLAND DRIVE  
KALAMAZOO MI 49008

23-255-021

HOLMES IRENE  
MEYERS BEVERLY A  
HAMILTON PATRICIA A  
6922 LOVERS LANE  
PORTAGE MI 49007



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
616-375-4260 FAX 375-7180 TDD 375-7198

**REQUEST FOR ZONING BOARD OF APPEALS MEETING**

Date 3-20-97 Present Zoning 4 Fee \$100

Land Owner Herbert H. & Nellie M Rice

Address 4047 O Park Phone 616-372-2131

Person Making Request Herbert H Rice

Address 4047 O Park Phone 616-372-2131

Interest in Property Owner

Size of Property Involved 3.7 acres

Reason for Request to put small double wide. 3 bedrooms.

1/2<sup>nd</sup> land will be put in Jones over son's name.

**CHARTER TOWNSHIP  
OF OSHTEMO**  
7275 W. MAIN STREET  
KALAMAZOO, MI 49009  
616-375-4260

3/20/97 LI

052217 ZBA REQ/RICE 100.00  
TOTAL PAID 100.00

THANK YOU

33-402-050

Herbert Rice

3905-33-402-050

Rice

33-402-040

Fry

051

Schulze

052

Wenger

054

Smith

057

Rayman

312

Heighton

109

Kuipers

111

Schramm

116

"

33-402-050

RICE HERBERT & NELLIE  
PO BOX 656  
OSHTENO MI 49077

33-402-050

OCCUPANT  
4047 O'PARK STREET  
KALAMAZOO, MI 49009

33-402-312

HEIGHTON PARKER  
4088 O'PARK STREET  
KALAMAZOO MI 49009

33-402-040

FRY TAYLOR NANCY  
8159 STADIUM DRIVE  
KALAMAZOO MI 49009

33-402-109

KUIPERS BRUCE H  
10560 SOUTH 2ND STREET  
SCHOOLCRAFT MI 49087

33-402-051

SCHULZE MARK H & BARBARA M  
4081 O'PARK STREET  
KALAMAZOO MI 49009

33-402-111

SCHRAMM RICHARD A & CHARLOTTE  
2001 SOUTH 4TH STREET  
KALAMAZOO MI 49009

33-402-052

WENGER KERRY L & MINNIE R  
4115 O'PARK STREET  
KALAMAZOO MI 49009

33-402-111

OCCUPANT *Returned*  
8290 STADIUM DRIVE  
KALAMAZOO, MI 49009

33-402-056

SMITH GARY & HENNY  
4149 O'PARK STREET  
KALAMAZOO MI 49009

33-402-116

SCHRAMM RICHARD & CHARLOTTE  
2001 SOUTH 4TH STREET  
KALAMAZOO MI 49009

33-402-057

RAYMAN SCOTT ALLEN & KELLY S  
8180 FRIE AVENUE  
KALAMAZOO MI 49009

33-402-116

OCCUPANT  
8340 STADIUM DRIVE  
KALAMAZOO, MI 49009