

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

MINUTES OF MEETING HELD JUNE 2, 1997

Agenda

GURITZ REQUEST (RANDY LEE) - VARIANCE FROM SETBACK STANDARDS - SOUTH SIDE STADIUM DR. ADJACENT TO THE WEST OF 9919 STADIUM DR.

DELTA DESIGN - VARIANCE REQUEST FROM SIGN LOCATION STANDARDS - 8240 STADIUM DRIVE

A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Monday, June 2, 1997, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall, pursuant to notice.

MEMBERS PRESENT: Thomas Brodasky, Acting Chairperson
David Bushouse
Lara Meeuwse

MEMBERS ABSENT: Brian Dylhoff
William Saunders

Also present were Rebecca Harvey, Patricia R. Mason, Township Attorney, and five (5) other interested persons.

CALL TO ORDER

The meeting was called to order at 3:11 p.m.

MINUTES

The Board considered the minutes of the meeting of May 5, 1997. The revisions suggested by Ms. Harvey were noted. Ms. Meeuwse moved to approve the minutes as amended, and Mr. Bushouse seconded the motion. The motion carried unanimously.

GURITZ REQUEST (RANDY LEE) - VARIANCE FROM SETBACK STANDARDS - SOUTH SIDE STADIUM DR. ADJACENT TO THE WEST OF 9919 STADIUM DR.

The next item was the application of Randy Lee, representing John, Paul and Dan Guritz, for variance approval from the setback standards established by Section 64.100/64.200 of the Zoning Ordinance. The subject site consists of 2½ acres

located on the south side of Stadium Drive, adjacent to the west of 9919 Stadium Drive, and is within the "AG"-Rural Zoning District classification.

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

Ms. Harvey directed the Board's attention to the parcel map which she had provided which showed the parcels abutting the subject site to the south and west. These parcels were under the same ownership as the subject parcel but were situated within Texas Township. The Texas Township parcels were currently considered separate parcels from that in Oshtemo Township.

Ms. Harvey noted that the Oshtemo Township Zoning Ordinance contains a setback standard of 120' from the centerline of the road and 10' from the sideline and rear lines of the parcel.

The applicant was present and stated that the application had been made because Texas Township had stated that, if Oshtemo Township considered the Oshtemo Township parcel unbuildable, Texas Township would consider the frontage on the Oshtemo parcel in determining the buildability of the Texas parcel when divided.

Ms. Meeuwse questioned the applicant as to where on the Oshtemo Township parcel it was planned that a building would be established. The applicant stated that there were no plans to establish a building on the "triangular" parcel in Oshtemo Township.

Ms. Harvey suggested that the Board inquire whether by virtue of the setback there was no buildable area on the Oshtemo parcel. If this were the case, the Board could determine that the parcel was unbuildable. It was noted that the parcel had 770' of frontage and that the east line of the parcel was 150' in depth. After calculations were made, it was determined that there were approximately 25,000 sq. ft. outside of the building setback upon which to establish a building on the subject parcel. However, Mr. Bushouse acknowledged that it is an odd-shaped square footage.

The Acting Chairperson stated that, in his opinion, the applicants did have a buildable parcel and, therefore, no variance would be appropriate.

Ms. Harvey suggested that, as an alternative, the applicants could combine the Oshtemo and Texas Township parcels into a single parcel and that the frontages would therefore be combined.

The applicants stated that they wished to withdraw the variance application. Mr. Bushouse moved to accept the withdrawal of the application, and Ms. Meeuwse seconded the motion. The motion carried unanimously.

DELTA DESIGN - VARIANCE REQUEST FROM SIGN LOCATION STANDARDS - 8240 STADIUM DRIVE

The next item was the application of Bruce Kuipers, representing Delta Design, for variance approval from the sign location (including setback) standards established by Sections 76.130 and/or 76.155 of the Zoning Ordinance. Delta Design is located at 8240 Stadium Drive (Lot 8 of parcel B of the Frie & Gibbs Plat). The subject sign is designed to serve the development of parcel B and is proposed to be located on Lot 6 of parcel B, Frie & Gibbs Plat.

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

Ms. Harvey noted that the approved site plan for the property proposed that Lots 5 through 8 of the Frie & Gibbs Plat (referred to as parcel B by the applicant) be served by a single access point, incorporating a cross-access arrangement between the four lots. Additionally, the four lots utilize a common retention area. Thus, the applicant had chosen to develop Lots 5 through 8 with a certain coordination in its design elements. Common signage would be in keeping with the coordinated development.

Ms. Harvey stated that, on the one occasion where the Zoning Board of Appeals had granted a similar sign variance, i.e., Quail Meadow, similar issues had arisen. Ms. Harvey stated that she had included the reasoning behind the Quail Meadow approval on page 4 of her report.

It was acknowledged that each of the four lots could potentially be afforded one free-standing sign. The proposal suggested the elimination of four individual free-standing signs and the placement of a single identification sign near the entrance point to each lot.

Mr. Bushouse stated that he felt it was preferable to have one common sign rather than four separate signs. Ms. Meeuwse agreed. However, Mr. Bushouse felt it was important to require that the lots contain deed restrictions that no further free-standing signage would be established. Wall signage would not be affected by this condition.

Scott Musser was present on behalf of the applicant. The Acting Chairperson explained that only three members of the Board were present and that a decision would have to be unanimous. The applicant's representative stated that he wished to continue with the proposed application.

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

Mr. Bushouse had questions with regard to the proposed setback variance for the sign. Ms. Harvey stated she felt it was important to be consistent with past decisions regarding setback variances for signage and noted that, in the past, the Board had recognized unique features at a site limiting placement as a reason for granting variance. Therefore, the issue in this case was whether the drainage basin at the site would limit the placement of the sign.

The Acting Chairperson questioned the applicant, who stated that, if the sign were moved to a place in compliance with setback requirements, it would be situated in the drainage culvert. Locating the sign on the west side of the drive would also place the sign in the drainage culvert. The applicant indicated that the topographical lines on the plan were inaccurate and that the dropoff was much steeper than shown.

Ms. Meeuwse, after further discussion, moved to approve variance to allow off-premises sign with the following reasoning:

(1) That there would be no increase in the number of signs at the site in that each lot was permitted one free-standing sign. In fact, a decrease in signage along the public road would be accomplished.

(2) That signage complies with size and height standards for one free-standing sign.

(3) That substantial justice would be afforded in that this applicant would not be provided signage options not available to others. The similarity to the Quail Meadow's approval was recognized.

(4) That the signage was proposed to be located at the project entrance point.

(5) That the variance allowed coordinated and a consistent approach to area identification signage.

Ms. Meeuwse further moved to condition approval upon the establishment of deed restrictions as to all four lots, restricting the lots to the use of this one free-standing sign.

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

Ms. Meeuwse moved to grant the 5' setback variance with the following reasoning:

(1) That compliance was unnecessarily burdensome in that locating the sign in compliance with setback requirements would place the sign in the drainage culvert. Placing the sign to the back of the drainage area would not allow the sign to serve all four lots. Moving the sign east or west of the drainage culvert would remove the sign from the project entrance point and therefore defeat the purpose of coordinated signage.

(2) That unique physical circumstances weigh in favor of granting the variance; again, the existing drainage basin was recognized.

(3) That substantial justice would be afforded in that other applications had been granted where a unique existing physical feature limited placement of signage.

(4) That the spirit and intent of the Ordinance would be served by the variance.

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

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at approximately 4:15 p.m.

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

By: _____
Brian Dylhoff, Chairperson

By: _____
William Saunders

By: Thomas Brodasky
Thomas Brodasky

By: Lara Meeuwse
Lara Meeuwse

By: David Bushouse
David Bushouse

Minutes Prepared:
June 3, 1997

Minutes Approved:
June 16, 1997

AGENDA: _____
MINUTES: ZBA

DATE: June 2, 1997
SENT: June 18, 1997

ZBA

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

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

Mike West

PEOPLE

Randy Lee
Network Real Estate
729 Academy Street
Kalamazoo, MI 49007

Bruce H. Kuipers
8240 Stadium Drive
Kalamazoo, MI 49009

John, Paul, Dan Guritz
185 30th Street
Allegan, MI 49010

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

June 2, 1997
3:00 p.m.

AGENDA

1. Call to Order
2. Approval of Minutes

- May 5, 1997

3. Variance Request - Randy Lee

Randy Lee, representing John, Paul, and Dan Guritz, requests Variance Approval from the setback standards established by Sections 64.100/64.200, Zoning Ordinance.

Subject site, consisting of 2.5 acres, is located on the south side of Stadium Drive, adjacent to the west of 9919 Stadium Drive, and is within the "AG"-Rural District. (3905-31-480-070)

4. Variance Request - Delta Design

Bruce Kuipers, representing Delta Design, requests Variance Approval from the sign location (including setback) standards established by Sections 76.130 and/or 76.155, Zoning Ordinance.

Delta Design is located at 8240 Stadium Drive (Lot 8 of Parcel B, Frie & Gibbs). The subject sign is designed to serve the development of Parcel B and is proposed to be located on Lot 6 of Parcel B, Frie & Gibbs. (3905-33-402-109)

5. Other Business
6. Adjourn

AGENDA: ZBA
MINUTES: _____

DATE: June 2, 1997
SENT: May 23, 1997

ZBA

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

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

Randy Lee (Guritz)
Network Real Estate
729 Academy Street
Kalamazoo, MI 49007

5 Labels

Bruce H. Kuipers
8240 Stadium Drive
Kalamazoo, MI 49009

13 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

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

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

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



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

To: Zoning Board of Appeals

Meeting Date: 6-2-97

From: Planning/Zoning Department

Agenda Item: #3

Applicant: Randy Lee
Representing John, Paul, and Dan Guritz

Property In Question: Approximately 2.5 acres located on the south side of Stadium Drive, adjacent to the west of 9919 Stadium Drive.

Reference Vicinity Map

Zoning District: "AG"-Rural District

Request: Variance Approval - Front/Side/Rear Setback Standards

Ordinance Section(s): Section 64.100/200 - Setback Standards

Planning/Zoning Department Report:

Background Information

- The subject site is a vacant 2.5 acre parcel, located on the south side of Stadium Drive, adjacent to the west 9919 Stadium Drive.
- The parcel is afforded 770 ft of frontage on Stadium Drive, with a depth ranging from 0 ft to 150 ft.
- The subject site was established prior to the adoption of the Township Zoning Ordinance (1965).

- The property adjacent to the south of the subject site is located in Texas Township and is provided 660 ft of frontage on Stadium Drive west of the subject site.
- A building cannot be located on the site in conformance with current setback standards. Variance approval from the 120 ft front setback standard and 20 ft side/rearline setback standard is requested.

A specific proposal has not been provided identifying **proposed** building setbacks.

Department Review

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

1. *Conformance Unnecessarily Burdensome*

- : Are reasonable options for compliance available?
- : Does reasonable use of the property exist with a denial of the variance?
 - A building cannot be located on the site in conformance with the current setback standards.

2. *Substantial Justice*

- : Consider past decisions in similar requests. (Since 1984 Ordinance)
 - Reference compilation of similar setback variances considered by the Board since 1984.
- : Consider the general character of the area and placement of buildings on adjoining parcels.

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*

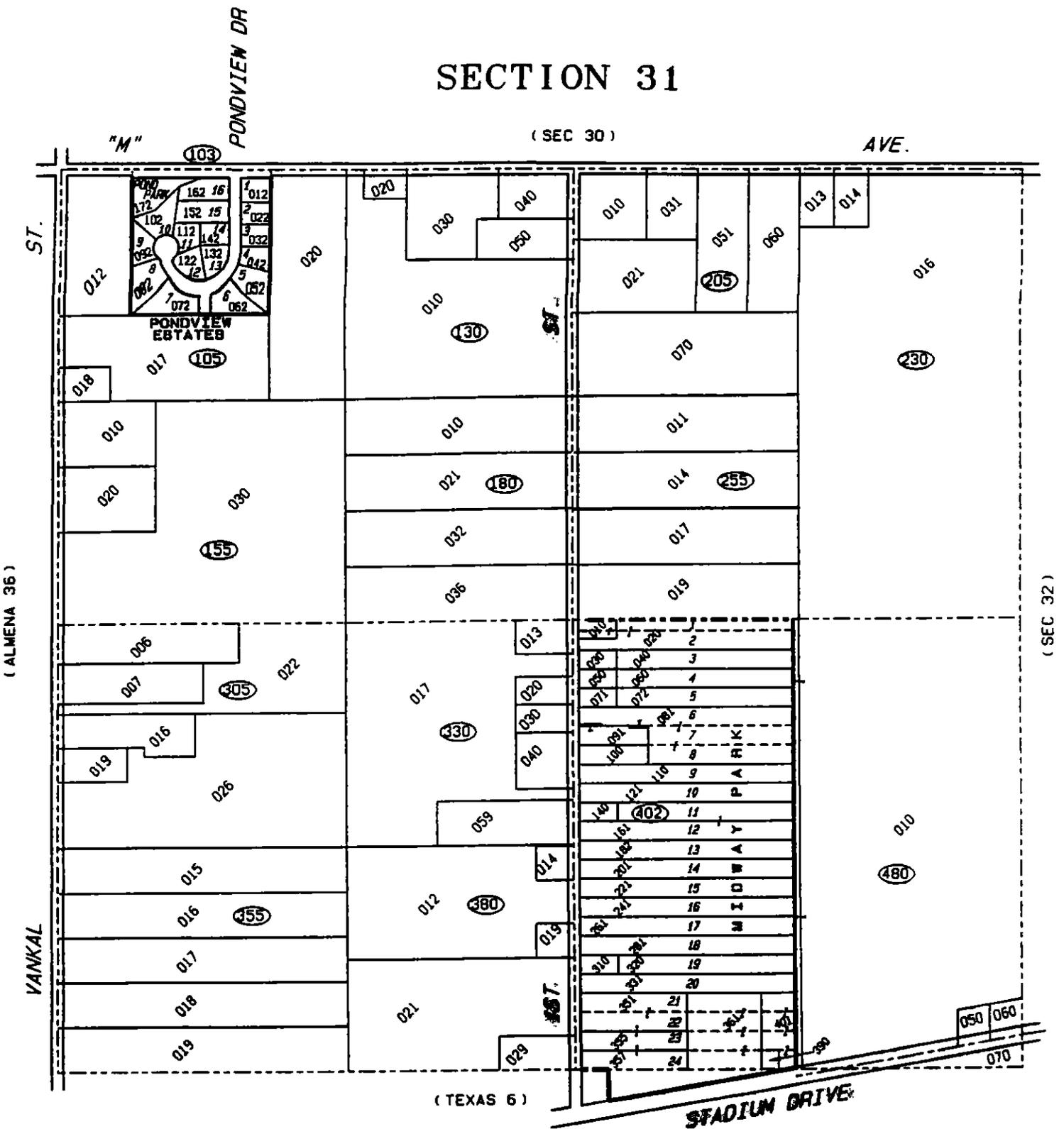
- : The subject site was established prior to the adoption of the setback standards.

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?*

SECTION 31

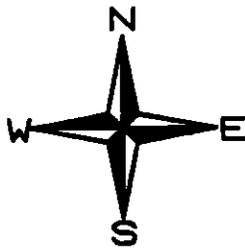
(SEC 30)

AVE.



(TEXAS 6)

STADIUM DRIVE



SCALE 1" = 800'

DATE: AUGUST 25, 1993

REVISED DATE: MARCH 11, 1996

PRINTED DATE: MARCH 22, 1996

4-7-86 Jim McCorrey

After general discussion, Mr. Vuicich moved that the Board grant the requested the variances and grant site plan approval. He cited his reasons for his motion the fact that the requested variances would not have major detrimental effect upon the surrounding neighborhood, the fact that the requested variances would not cause any major change in the pattern of land use in the surrounding area, and the fact that the changes in the width of the roads abutting the subject site came after the building had been established on the site and that those road expansions were in no way under the applicant's control.

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

7-7-86 Michael Shields (40' Setback)

After further discussion, Mr. Gemmill moved that the Board grant the applicant a 13 foot setback variance so as to allow the proposed house to be located no closer than 27 feet from the right-of-way line of Thunderbluff. Mr. Gemmill stated that he believed requiring compliance with the strict letter of the zoning ordinance restrictions governing setback would in this instance unreasonably prevent the owner from using the property for its permitted purpose and render conformity with such restrictions unnecessarily burdensome. In response to a question from the Township Attorney, Mr. Gemmill stated that he was basing these conclusions upon the unusual topography of the site.

Mr. Greenberg seconded the motion. After general discussion, a vote was held on the motion and the motion passed unanimously.

7-7-86 Richard Wolthuis (40' setback)

After further discussion, Mrs. Brown moved that the Board deny the requested variance for the reason that there had been no showing of unique circumstances or hardship warranting the grant of the requested variance. Mr. Gemmill seconded the motion and motion passed unanimously.

6-6-88 Marshburn/Bunkley (Proposed Carwash/Gas Station)

Ms. Brown then made a motion to deny the request for a variance based on the fact that the setback requirements are not found to be unnecessarily burdensome on the developer, nor are the setback requirements unreasonable and, even though it was a uniquely shaped piece of property, this would not disallow the property owner from developing it for their intended use.

It was also noted that the situation was found to be self created in that the applicants were proposing a building of a size that would not conform to the setback requirements. Further, because of (~~delete: the uniqueness of the property and~~) its high visibility it was determined that this was another reason to develop it according to the Township standards. It was also found that a variance of 80% from the required setback was too large a consideration. The motion was seconded by Mr. Rakowski.

Mr. Marshburn responded that he did not feel that the building could be diminished in size and still provide the services that the owners calculated were necessary. He noted that the circulation system was developed because of the need for a large car wash line and that they could not do a substandard building to provide the needs that have been anticipated by the owners. He further noted that he felt that the building was designed for the site and that he felt that the closeness to the property line would not have any adverse effects on the neighboring property.

Following Mr. Marshburn's comments, a vote was called for and the Board voted 5-0 in favor of the motion to deny the variance request.

12-5-88 Sheldon Cleaners

Mr. Vuicich then made a motion to approve a 6' setback variance for 9th Street on the basis that this represented approximately a 10% variance for setback, and that this was not a self-created situation in that the highway had been previously widened. The Board took into consideration the unique circumstances of the property and thought it would be unreasonable to require strict compliance with the ordinance. A variance would operate as justice to the applicant and to others in the area. Further, it would not alter the essential character of the property which the applicant desires to improve. The motion was seconded by Mr. Ballo and carried unanimously.

6-5-89 John Bosch + Anne Merritt

Mr. Vuicich then made a motion to grant a 30' variance from the right-of-way based on Section 64.100 Reduced Setback Schedule, which will serve as a guideline and over a reasonable area on the parcel, for the following reasons:

1. That the Board recognizes the practical difficulty in complying with the setback requirement given the number of years the parcel has been in existence, and the confusion over whether 7th Street was a private or public road.
2. That not to grant a variance would make the property unbuildable. Given the history of the parcel and the area, it was not clear to the Board whether this was a self-created situation.
3. That given the other structures along 7th Street, the variance would act to provide substantial justice to the surrounding property owners and to the property owner in question.

The motion was seconded by Mr. Rakowski and carried unanimously. (Lois Brown left the meeting following this vote.)

10-2-89 Home Builders Assoc.

Mr. Ballo then made a motion to deny the 10' building setback on West Michigan for the following reasons:

1. That the building could be located on the site to be in compliance with the ordinance.
2. That neither the site nor the circumstances were found to be unique. (enough to prevent compliance with the ordinance)
3. That the Board found this was a self-created situation in that the applicant was requesting a very large building on the location and that the parcel had been created under the existing setback requirements.
4. That this denial would work substantial justice for the applicant, neighbors and the Township.
5. That the Board had denied a similar request previously and this denial would be consistent with decisions in the past on this property.

The motion was seconded by Mr. Vuicich and carried 4-0.

7-16-90 Continental Designs, Inc.

Mr. Rakowski moved to grant a variance so as to allow a setback of 40 feet from the right-of-way line of Erie Street for the following reasons:

1. The character of the surrounding parcels.
2. The nature of Erie Street, i.e., that it was not a through artery.
3. The decision would be consistent with that of October 3, 1988, with regard to Sheldon Cleaners.
4. The size of the subject site, i.e., that compliance with ordinance provisions would unduly restrict the size of the buildable area for the site.
5. The building size, which could be located at the site, would be unduly restricted if a variance was not granted.
6. The parcel pre-existed current ordinance provisions, and the 40 foot setback was consistent with ordinance requirements prior to those in effect at present.
7. The Fire Department indicated that access would not be interfered with by granting the variance.

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

7-30-90 Marshburn/Bunkley Assoc.

Mr. Vuicich moved to grant the rear/side setback variance so as to allow a building to be placed 20 feet from the side/rear boundaries of the lot for the following reasons:

1. The buildable area of the lot had been significantly decreased due to:
 - a. The widening of 9th Street;
 - b. the amendment of the ordinance depriving the lot of corner lot setback relief and requiring an 85 foot setback.
2. Compliance would be unnecessarily burdensome, due to the limited buildable area.
3. The lot existed prior to the ordinance amendments and, therefore, the hardship was not self-created.
4. No viable alternative was available which would afford relief to applicant.
5. The variance would provide substantial justice in that the setback in effect prior to amendment of the ordinance would be permitted and the variance would be consistent with the Board's decision in analogous situations on October 3, 1988 and July 16, 1990.

Ron Zuiderveen seconded the motion. the motion carried unanimously.

1-6-92 Marshburn/Bunkley (Medical Offices)

Mr. Rawkowski moved to approve the variance requested by the applicant for the following reasons:

- (1) That compliance was unnecessarily burdensome in that compliance could not be achieved given the parcel's size and the existing zoning limitations.
- (2) That substantial justice required that the variance be granted given the surrounding circumstances.
- (3) That unique circumstances existed given that the parcel's size had been reduced recently as a result of the widening of South 9th Street. Further, unique circumstances existed in that the parcel's boundaries were established prior to the enactment of the Zoning Ordinance which required increased parking lot setback requirements. In addition, the applicant's need to preserve the vegetation and open space on the site in compliance with zoning limitations was recognized.
- (4) That the hardship was not self-created in that it was created due to the reduction in parcel size which resulted from the South 9th Street widening. Further, the parcel had been established prior to the enactment of more stringent setback requirements. The parcel had previously been subject to setback requirements applicable in Commercial Zoning. Further, the parcel previously enjoyed the repealed corner lot setback relief formula adopted in 1967.

Ms. Branch seconded the motion and the motion carried unanimously.

4-20-92 John Schlukebir

Mr. Rakowski moved to approve the requested variance from Sections 64.300 and 64.750 so as to permit a side/rear line setback of 10 ft., based on the following:

- (1) That conformance would be unnecessarily burdensome due to the size of the lot, to the shape of the lot, and to the 50 ft. easement.
- (2) That substantial justice to the applicant and others would be furthered by the granting of the variance due to the fact that the plat had been created in 1978, prior to the establishment of the side/rear line setback requirements presently in place. Further, the 50 ft. easement had not been created by the applicant, but by the developer. Finally, the developed character of the area was in keeping with the variance requested.
- (3) That unique circumstances of the property justified the variance requested. It was noted that the shape of the lot, the 50 ft. easement, and the location of the lot at the intersection of 11th Street and West Michigan Avenue created a situation in which the owner of Lot 6 would need to use the 50 ft. easement for access to the property from the access point(s) of Lot 5 and/or Lot 7.
- (4) That the hardship was not self created.
- (5) That granting the variance would be in accord with the spirit of the Ordinance and public safety would be secured by the fact that Fire Department review and approval of the development of the site would be required at the time of site plan review. It should be specifically noted that the applicant understood and acknowledged that the Fire Department may require additional setback at the time of site plan review.

It was specifically stated that the variance was contingent and was granted with the condition that no direct access from Lot 6 to 11th Street or West Michigan would be granted; i.e., ingress/egress would be provided via the 50 ft. easement to the access drive of Lot 5 and/or Lot 7. The motion was seconded by Ms. Branch. The motion carried 4-0, with Mr. Zuiderveen abstaining.

4-15-96 Migala Law Offices (side/rearline)

Mr. Saunders moved to grant the sideline/rearline setback variance with the following conditions, limitations and notations:

(1) It was found that compliance would be unnecessarily burdensome in that a building could not be located on the site in conformance with current setback standards. Further, the proposed setback represented a continuation of an existing building line. That existing building had been established prior to the adoption of the 20' setback standard.

(2) Substantial justice would dictate granting the variance in that previous similar applications had been approved. The approval for Kalamazoo Pool Service was particularly noted.

(3) There were no unique circumstances preventing compliance except that the substandard size of the subject site and the existing building placement were established prior to the 20' setback standard.

(4) The hardship was not self-created in that the existing building was established prior to the adoption of the 20' setback requirement. Further, the proposed building addition was an extension of an existing wall.

(5) It was felt that variance was in accord with the spirit of the Ordinance and that it was in character with the area and the proposal furthered the objectives of the Village Focus Area Development Plan.

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

TEXAS TOWNSHIP

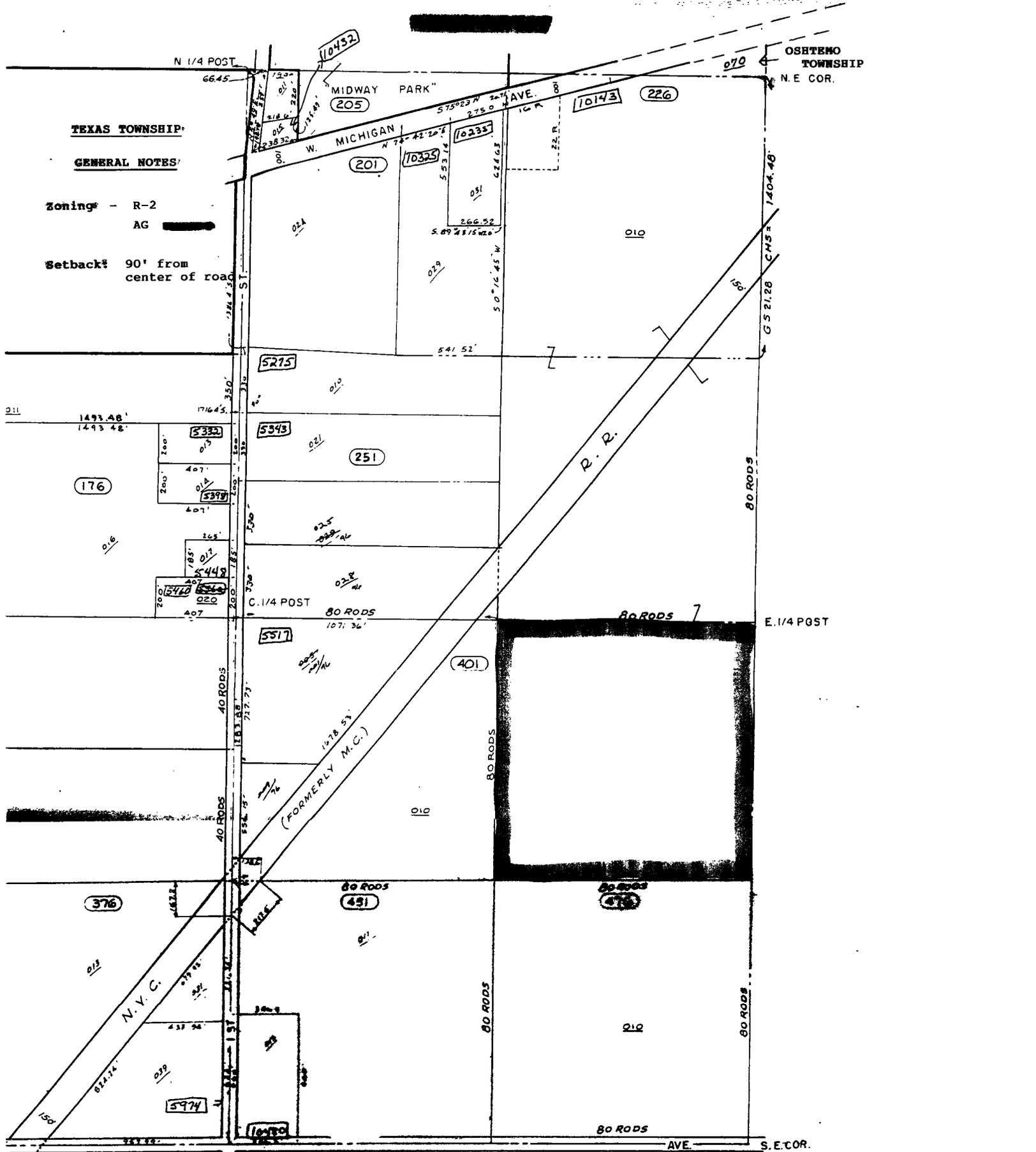
GENERAL NOTES:

Zoning - R-2

AG

Setback: 90' from center of road

OSHTMO TOWNSHIP
N.E. COR.



SCALE = 400 FT PER INCH.

LAST TRACT NO _____

SECTION 6



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

To: Zoning Board of Appeals

Meeting Date: 6-2-97

From: Planning & Zoning Department

Agenda Item: #4

Applicant: Bruce Kuipers
Representing Delta Design Systems, Inc.

Property In Question: Subject property is located on the north side of Stadium Drive, adjacent to the west and north of 8062 Stadium Drive (Vista Business Forms).

(Lots 5 - 8 of Parcel B, Frie & Gibbs Plat)

Reference Vicinity Map

Zoning District: "I-1" Industrial District

Request: Variance Approval - Sign Location/Setback Standards

Ordinance Section(s): Section 76.130 - Industrial Sign Standards
Section 76.155 - Billboards

Planning & Zoning Department Report:

Background Information

- Lots 5 - 8 of Block 3, Frie & Gibbs Plat (Parcel B), exist as individual lots and are currently owned by the applicant.

Reference 9-12-95 TB Minutes - Lot Split (Frie & Gibbs Plat)

- On 2-26-96, the ZBA granted Site Plan Approval for the construction of a proposed contractor's services facility for Delta Design Systems, Inc. on Lot 8 of Parcel B, Frie

& Gibbs Plat.

The approved site plan proposed that Lots 5 - 8 (Parcel B) be served by a single access point, incorporating a cross-access arrangement between the 4 lots.

Reference 2-26-96 ZBA Minutes

- On 4-1-96, the ZBA granted variance approval from Section 78.600 for the subject site to allow for the 'utilization of the natural depressions on the property as a whole (Parcel B) as common retention areas for development of the individual lots within Parcel B'.

Reference 4-1-96 ZBA Minutes

- Section 76.130 sets forth the following sign standards for the subject property:

1 Sign Per Lot - (Lots 5 - 8)

- : 60 sq ft maximum sign size
- : 20 ft maximum sign height
- : 60 ft setback from r.o.w. of Stadium Drive
- : 10 ft setback from side/rear property lines

- Applicant proposes the placement of a single 60 sq ft sign on Lot 6 designed to identify the developments on Lots 5 - 8. The sign is proposed to be located near the access point serving the 4 lots, approximately 55 ft from the right-of-way of Stadium Drive.

Reference Site Plan

- The sign proposal will require Board approval of an off-premise sign serving Lots 5, 7, & 8 and a 5 ft variance from the setback requirement.

Department Review

Reference Standards of Approval of a NonUse Variance ('practical difficulty' criteria).

1. *Conformance Unnecessarily Burdensome*

: Are reasonable options for compliance available?

- Each lot is permitted on-premise identification signage. The proposal suggests the elimination of 4 individual signs and the placement of a single identification

sign near the 'entrance point' to each lot.

- Can the proposed sign be located in compliance with setback standards?
(Reference Plot Plan)

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

- Lot 8 of Parcel B is currently occupied by Delta Design Systems, Inc.

- Conformance with Ordinance standards would allow for the placement of freestanding signage on each lot.

- The single access point approved to serve Lots 5 - 8 represents the 'entrance' to the developments on those properties.

2. *Substantial Justice*

: Properties located within the area (and the "I-1" District) are permitted a single freestanding sign per parcel/lot/building site.

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

5-5-97	Speedway	(Setback)	Granted
4-21-97	Summer Ridge	(Off-Premise/ Setback)	Denied
12-2-96	Summer Ridge	(Off-Premise/ Setback)	Denied
1-6-97	WMU	(Off-Premise)	Denied
12-16-96	Springwood Hills	(Setback)	Denied
5-6-96	Quail Meadows	(Off-Premise)	Granted
11-6-95	Midwest Collision	(Setback)	Denied
6-26-95	Breckenridge	(Setback)	Denied
6-5-95	VanderWeele	(Setback)	Denied
2-7-94	Target	(Setback)	Denied
1-9-95	Huntington Run	(Setback)	Granted
3-4-91	Clayton Estates	(Setback)	Denied
3-1-93	Meijer	(Setback)	Denied
9-11-89	Bertolissi	(Setback)	Denied
7-10-89	Deep Sea	(Setback)	Granted
11-7-88	Jim Karczewski	(Setback)	Granted
2-2-87	A & B	(Setback)	Denied
8-4-86	Movie Outpost	(Setback)	Granted
3-3-86	DeVisser	(Setback)	Denied

The reasoning supporting the 5-6-96 off-premise sign approval included:

- no increase in number of signs for the site
- would not provide signage options to applicant not available to surrounding properties
- signage complied with sign size/height standards
- sign location represented project entrance point
- no increase in signage along public road
- represented coordinated and consistent approach to area identification signage given the similarity of use and continuity of design

The reasoning supporting the sign setbacks that were granted generally included the following:

- unique existing features limited placement
- visibility limitations caused by adjoining parcels
- alignment with signs along the corridor
- compliance with other applicable setbacks

: Consider sign placement on area parcels to determine the streetscape character of the area/corridor.

3. *Unique Physical Circumstances*

: The sign location has been proposed in consideration of the KCRC drain basin design located on the east side of the driveway.

4. *Self-Created Hardship*

: The current sign locational standards were in effect at the time the property was developed.

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*

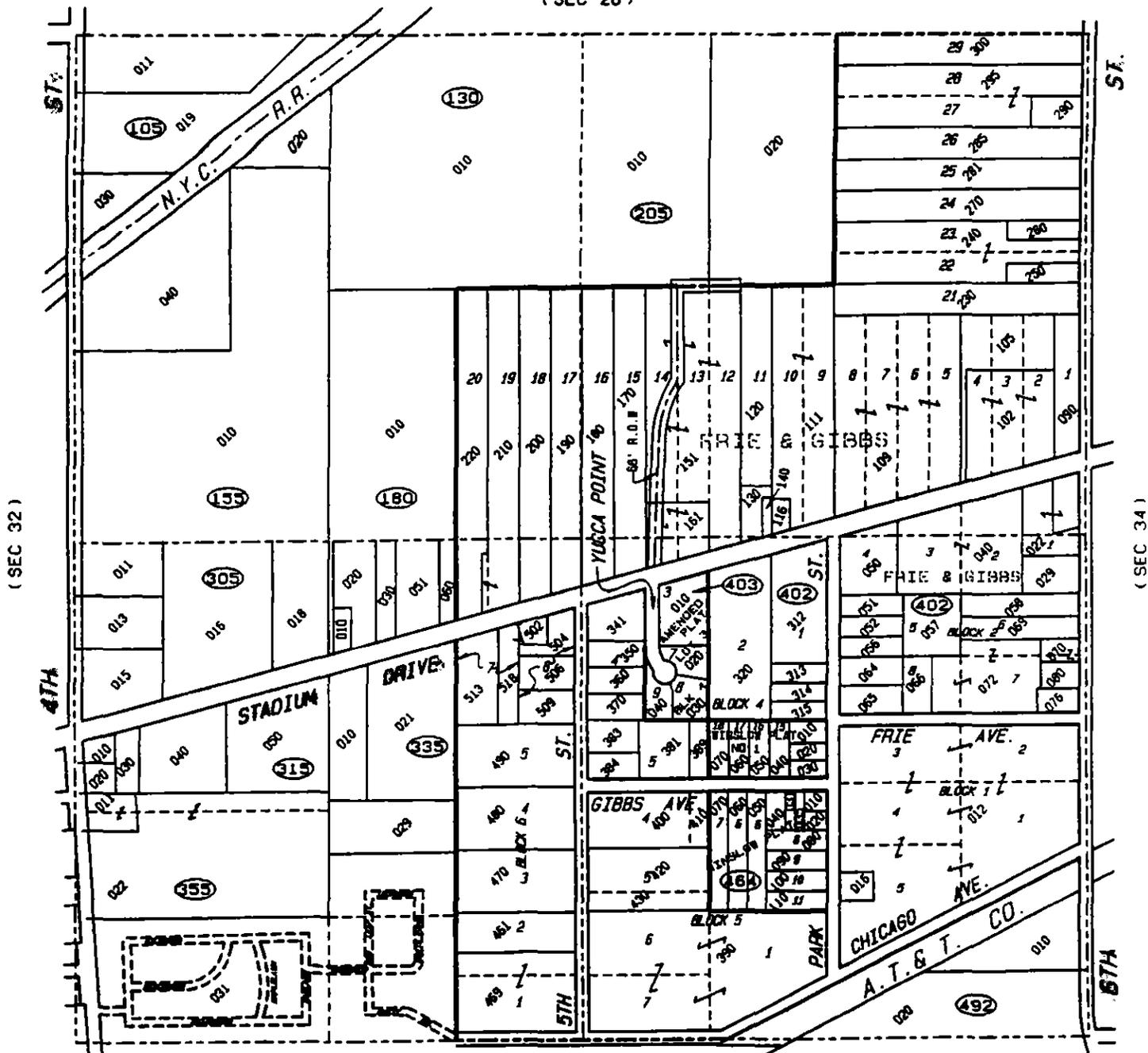
: The proposed off-premise sign will not provide signage for the project site in excess of Ordinance standards.

: The proposed sign arrangement will result in a decrease of the signage potential along Stadium Drive.

: The proposed sign arrangement represents an attempt to coordinate signage for similar uses and will result in a decrease of signage for the area.

SECTION 33

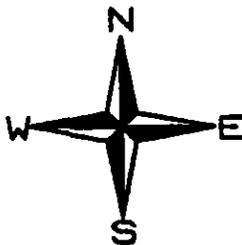
(SEC 28)



(SEC 32)

(SEC 34)

(TEXAS 4)



SCALE 1" = 800'

DATE: AUGUST 25, 1993

REVISED DATE: MARCH 11, 1996

PRINTED DATE: MARCH 22, 1996

SEPTEMBER 12, 1995

The Oshtemo Township Board held its regular meeting at the Township Hall. The meeting was called to order by Supervisor Fleckenstein at 7:00 p.m. All Board Members were present, except Lois Brown. Also present were James Porter, Township Attorney and Robert Snell, Township Engineer along with 9 interested people.

The Pledge of Allegiance was recited.

Motion made by Fiala, seconded by Johnson to approve the minutes of our last meeting, August 22, 1995. Carried.

Income to the General Fund of \$21,990.05 and disbursements of \$39,781.44 were reported. Fire Fund income was \$4.40 with disbursements of \$35,062.81. Motion made by Bushouse, seconded by Anderson to pay the bills and acknowledge the income. Carried.

CITIZENS COMMENTS

None

LOT SPLIT - FRIE & GIBBS PLAT

Bruce Kruipers was present to explain his request to split and combine lots in Block 3 of the Frie & Gibbs Plat. It was his desire to split the rear 290 feet off lots 2, 3 & 4 and combine that area with lot 21, which would have road frontage on 6th Street. The remaining portion of lots 2,3 & 4 would be 5.5 acres and continue to be one site (Vista Business Forms).

Attorney Porter reviewed the request, which was slightly different from what was reviewed by the Planning/Zoning Department. He felt it was in compliance with the Subdivision Control Ordinance regarding divisions and resulting lot size.

correction - Motion made by Anderson, Seconded by Bushouse to approve the lot split. Richard Schramm, 2001 S. 4th Street, inquired if our policy had changed because when he requested a lot split it was necessary to amend the plat. In order to amend the plat, he had to go to Circuit Court and expend a lot of money.

He was reminded by Clerk Branch, that his split involved adding a private road, which probably was the reason the plat had to be amended. He responded that private roads were allow in the ordinance then. Supervisor Fleckenstein offered to look into the matter and advise him.

With no other questions or comments, the motion carried.

SEWER MAIN CONNECTION CHARGES

The Sewer and Water Committee recommended that our policy regarding sewer connection charges be amended. Currently when a developer constructs a sewer main, by agreement with the Township he/she may receive a refund of 80% of the connection fee and front foot charges. The developer is required to pay 100% of the charges and within 30 days the Township refunds 80%.

The Committee recommended a new policy that would allow the developer to simply pay 20% rather than the 100%. This would create less work for the Township and the developer would not have funds tied up.

Clerk Branch questioned if the Committee consulted with our attorney and auditor regarding this amendment. She was concerned that the auditor, especially, might want a complete transaction bill. Supervisor Fleckenstein stated that the attorney reviewed and approved it. He agreed to

ZONING BOARD OF APPEALS MINUTES - FEBRUARY 26, 1996
EXCERPTS

DELTA DESIGN SYSTEMS - SITE PLAN REVIEW - CONTRACTOR'S SERVICES FACILITY AND RELATED OUTDOOR STORAGE - STADIUM DRIVE

The next item was the application of Bruce Kuipers, representing Delta Design Systems, Inc., requesting site plan review of a proposed 7,000 sq. ft. contractor's services facility and related outdoor storage area. The subject site is located on the north side of Stadium Drive, adjacent to the west of Vista Business Forms (lot 8 of Parcel B of the Frie and Gibbs Plat), and is within the "I-1" Industrial District Zoning classification.

The report of the Planning and Zoning Department is incorporated herein by reference. It was noted that Parcel B consists of lots 5 through 8 of the Frie and Gibbs Plat. It was proposed that they be served by a single access point. The contractor's services facility would be established on lot 8. The access point would be established on one of the other lots within Parcel B. Ms. Harvey noted that access was not required by the Ordinance to be on site and that the access arrangement complies with the Access Management Guidelines. Nevertheless, as a condition of approval, the Board should confirm that a cross-access agreement has been executed, recorded and on file with the Township. As to stormwater retention, it was the applicant's intent to return to the Board at a later date to request a common retention area. Since the Ordinance requires on-site water retention, a variance would be needed. Ms. Harvey stated that, for the time being, the Board should require the applicant comply with the Ordinance requirement and subject the approval to Township Engineer approval.

Scott Muster was present for the applicant and stated he was available to answer questions. Mr. Muster indicated that the proposed use was for a general contractor who acts as a construction manager and oversees the building process. He indicated there would be on-site storage of materials such as steel siding, and there would be storage of mobile offices that are utilized at construction sites. He said that the applicant has five such mobile offices.

Ms. Branch inquired of the applicant, who stated that Parcel B (lots 5-8) were all owned by Bruce Kuipers. Ms. Branch indicated that she was pleased to see the applicant had a willingness to establish a shared-drive system. Ms. Meeuwse concurred.

There was no public comment on the item. It was noted for the record that Richard Schramm and his attorney, Lowell Seyburn, were present but did not comment.

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

(1) That Parcel B (lots 5-8) be served by a single access point as proposed by the applicant. The access arrangement complies with the applicable design guidelines set forth in Section 67.000. It was required that the proposed drive design be subject to Road Commission review and approval. It was also required that a cross-access easement relative to the proposed access arrangement should be recorded and on file with the Township as a condition of approval.

(2) That all parking be subject to compliance with the parking-space dimensional standards of 10' x 20'. It was noted that parking was provided in compliance with Ordinance requirements.

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

(4) That, as to the storage related to the contractor's services use, a 6,325 sq. ft. outdoor storage area was proposed which complied with Section 41.301. It was further required that this area be subject to the 20' side/rear-line setback requirement.

(5) That the proposed dumpster arrangement was satisfactory but that a dumpster enclosure be detailed and submitted to Township staff for review and approval.

(6) That the proposed lighting complies with the lighting guidelines set forth in Section 78.700.

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

(8) That screening was not required but that the applicant proposed to retain the natural vegetation on the site to the extent illustrated on the site plan. A landscape plan specific to the development area is proposed to be submitted prior to construction.

(9) That on-site stormwater retention was required unless and until the applicant received a variance. Approval was subject to the review and approval of the Township Fire Department and Engineer.

Ms. Meeuwse seconded the motion, and the motion carried unanimously.

EXCERPTS

**PUBLIC HEARING - DELTA DESIGN - VARIANCE APPROVAL FROM ON-SITE
STORMWATER RETENTION REQUIREMENT - STADIUM DRIVE**

The next item was consideration of the public hearing requesting variance approval from on-site stormwater retention requirement established pursuant to Section 78.600 of the Zoning Ordinance on behalf of Delta Design Systems, Inc. The Chairperson said the applicant was represented by Mr. Bruce Kuipers. The common retention area proposed was to service the development of lots 5 through 8 and lot 21, parcel B, of the Frie and Gibbs Plat.

The Chairperson called for a report from the Planning and Zoning Department. Ms. Harvey said she believed the Board was aware of the request at the time of site plan review. However, since it had not been noticed out at that time, the Board could not previously consider the request. She said now that the application for variance had been applied for, it was appropriate for the Board to take it under consideration.

Ms. Harvey drew the Board's attention to some of the previous actions attached to her report and asked that they respond to the five points set forth at the end of her report. Ms. Harvey suggested the Board review and analyze the intent and purpose of Section 78.600, the ability of the proposal to meet the intent/purpose of Section 78.600, past decisions related to stormwater retention areas, bases for previous variance approvals, and conditions for previous variance approvals.

The Chairperson then asked Mr. Kuipers to address the Board. Mr. Kuipers said the intent of the proposal was to maintain as much of the natural terrain and vegetation located on the parcels. Mr. Kuipers presented a map to the Board and pointed out that there were several natural retention areas on the property both in front of and in back of Delta Design's proposed building. He said he did not believe that those retention areas would ever be filled, given the large natural depressions located on the property. He said it would be best to maintain the property in its current form and asked the Board if they had any questions.

There being no questions from the Board, the Chairperson asked if there was any public comment. There was no public comment, and the public hearing was closed.

The Chairperson called for discussion of the Board. The Chairperson read Section 78.600 of the Zoning Ordinance. The Chairperson said the Board had dealt with other cases similar to this in which the natural topography of the land was maintained on the property. He specifically referenced the ~~Helzinga Helzinga~~ property, the Hannapel Home Center and Bigelow common retention areas.

Ms. Branch said she was very much in favor of the proposal since it would maintain and use the natural topography to its best advantage. She said this was far superior to preparing manmade retention areas for each individual lot. It was her opinion that this would be much more pleasing aesthetically than building individual retention areas.

Mr. Brodasky asked whether further development would be under the applicant's control and whether or not future property owners would agree to use the existing natural retention areas. The applicant indicated that that was indeed his intent.

The Chairperson asked that the Board go through and consider the five issues that were raised by the Township Planning/Zoning Official. Mr. Brodasky moved to grant the variance on the following information:

(1) That it was the intent that Section 78.600 was to retain water on site and that, based upon their past decisions, this would be consistent with the intent and purpose of the Ordinance.

Counsel suggested that the Board review and consider the statements that were used in the approval of Hannapel Home Center's variance of a similar nature.

Ms. Branch suggested that the same restrictions be applied to this applicant as were applied to Hannapel Home Center. Mr. Brodasky amended his motion to approve the variance subject to the following conditions, limitations and notations:

(1) That the retention area off site, although not a part of the site in question, remain part of the approved site plan.

(2) That no further development in the area of the retention pond be permitted without return to the Zoning Board of Appeals for approval.

(3) That, if said retention area is used by any other parcels (i.e., other than the subject parcel and the parcel on which same is located), a return to the Zoning Board of Appeals for review would be necessary.

(4) That, if any cloud on the legal right of the subject site's owner to use the retention base in question arose, a return to the Zoning Board of Appeals would be necessary with the possibility that the Board might require on-site retention at that time.

The motion was seconded by Ms. Meeuwse. The Chairperson called for discussion and, hearing none, called for a vote. The motion carried unanimously.

OTHER BUSINESS

There was discussion of the agenda for April 15, 1996.

ZONING BOARD OF APPEALS MEETING - MAY 5, 1997
EXCERPTS

**SPEEDWAY - VARIANCE REQUEST FROM COMMERCIAL SIGN STANDARDS -
1250 S. DRAKE ROAD**

The next item was the application of Matt Wright, representing Emro Marketing (Speedway), for variance approval from the commercial sign standards established by Section 76.125 of the Zoning Ordinance. The subject site is located at 1250 S. Drake Road and is within the "C" Local Business District Zoning classification.

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

Ms. Harvey noted that a corner parcel such as the subject site is allowed two freestanding signs under the Ordinance. One sign was allowed to be 60 square feet and must be placed 60' from the centerline of Drake Road, 105' from the right-of-way line of KL Avenue. The second sign could be 30 square feet if it were serving KL Avenue and 35' from the right-of-way of KL Avenue and 180' from the centerline of Drake Road. The applicant proposed establishing a single 81-square-foot freestanding sign to be located 73' from the centerline of Drake Road and 23' from the right-of-way of KL Avenue.

Ms. Harvey noted that the sign across the street for the 7-11 Store was 30 square feet and was located 60' from the center of Drake Road and 35' from the right-of-way of KL Avenue. This property was in the "R-4" Residence District Zoning classification and

was only allowed one sign. The "We Clean" business had a nonconforming 72-square-foot sign established prior to the Ordinance. It was located "outside the right-of-way." The Stor-N-Lock had a 48-square-foot sign located 68' from the centerline of KL Avenue or 35' from the right-of-way. The existing Speedway sign was 50 square feet located 60' from the centerline of Drake Road.

Ms. Harvey noted that the Migala application was similar to the instant application in that the applicant in that case had sought to establish one corner sign.

Chris Crisenberry was present for the applicant. The applicant stated that, if the setbacks of the Ordinance were met, the sign would be placed within the driveway. Additionally, he urged that the Board note that, since only one sign was being established, the Board should use the setbacks applicable to one sign.

There was discussion of the proposed location of the sign, and it was noted that the setback was measured from the leading edge of the sign. The applicant stated that the proposed location would bring the sign into closer compliance with the setback but that putting the sign in the paved area would interfere with on-site circulation. As to the size of the sign, the applicant indicated that the sign proposed was the "standard" offered by the company. If the "reader board" at the bottom were eliminated, the standard sign would be 63.5 square feet. The applicant stated that they would agree to eliminate the reader board but would prefer not to since the number of uses at this site were being increased.

Mr. Brodasky noted that the applicant would be afforded wall signage on the building and felt that wall signage in addition to the freestanding signage allowed by the Ordinance would be sufficient.

Mr. Brodasky also questioned the applicant as to whether the sign location could be moved further south to come into greater compliance with the setbacks. Mr. Bushouse was concerned that relocated the sign would limit the ability of eastbound traffic on KL Avenue to see the sign. Mr. Brodasky proposed moving it in line with the canopy, which would therefore allow the sign to be visible.

The Chairperson asked for public comment. None was offered, and the public hearing was closed.

The Chairperson stated he felt that 60 square feet was adequate for a freestanding sign. Mr. Brodasky agreed, stating he felt that the sign could also be brought into greater compliance with the setback. Ms. Harvey noted that, as to location, the Board could condition variance approval on the applicant's proposal that only one freestanding sign be established at the site. Therefore, there would be a rationale for establishing the sign in the similar location to that of the 7-11, i.e., 35' from the KL Avenue right-of-way and 60' from the centerline of Drake Road. This would require moving the proposed location approximately 12' to the south. The Chairperson and Mr. Brodasky agreed that this would be acceptable.

Mr. Bushouse was concerned that the applicant would establish additional directional signage with advertising. Ms. Harvey noted that the Ordinance would allow directional signage but without logo.

In response to questioning by Mr. Bushouse, Ms. Harvey stated that the applicant could leave the existing sign in place since it is a lawful nonconforming sign.

Ms. Meeuwse moved to approve the setback variance to allow one freestanding sign to be established at least 60' from the centerline of Drake Road and at least 35' from the KL Avenue right-of-way (the variance was conditioned on allowing only one freestanding sign at the site) with the following reasoning:

(1) That compliance with the setback standards of the Ordinance was unnecessarily burdensome in that compliance would place the sign in the paved/circulation area. Further, placing the sign in compliance with the setback would impair its visibility due to the placement of the canopy.

(2) That substantial justice would weigh in favor of granting the variance. Other past decisions, such as the Migala application, would support granting the variance. Additionally, since only one sign was being established, the setbacks applicable to a single sign would be reasonable. Further, the sign location would be in character with others in the area, specifically the 7-11 on the opposite corner.

(3) That, as to unique physical circumstances, the existing parking lot and traffic circulation area limits the location options for freestanding signage at the site.

(4) That the hardship was not self-created in that the size of the site and the design of the site predated the Ordinance and limited compliance with setbacks.

(5) That variance would meet the spirit and intent of the Ordinance in that only one sign was being proposed and established, and the sign would meet the setbacks applicable to single signs.

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

Ms. Meeuwse moved to deny the sign size variance requested by the applicant with the following reasoning:

(1) That compliance was not unnecessarily burdensome in that the applicant could comply with the 60-square-foot sign size and have a visible sign. Additionally, other options were available to the applicant in that wall signage on the building and on the canopy would be allowed. Further, the argument as to "standard" signs had not been a basis for past decisions.

(2) That substantial justice required denial of the application in that similar applications, such as that for Meijer and Target, had been denied. Previous applications had

been denied where there was a claim that the company provided a "standard"-size sign. Further, the signage, if in excess of 60 square feet, would be out of character with the area.

(3) That there were no unique physical circumstances limiting the ability to comply with the Ordinance.

(4) That the hardship was self-created in that the size of the sign was at the applicant's option or discretion. The spirit and intent of the Ordinance would not be served by granting the variance in that it would be out of character with the area and out of character with the Ordinance.

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

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 4:32 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:
May 6, 1997

Minutes Approved:

SUMMER RIDGE APARTMENTS - VARIANCE FROM SIGN STANDARDS

The Board considered the application of Michael Jenkins, representing Summer Ridge Apartments, for variance approval from the sign standards applicable to the "R-4" Residence District established by Section 76.120 of the Zoning Ordinance. The applicant proposes the installation of a 21-sq.-ft. "directional sign" at the northeast corner of Maple Hill Drive and West Main (Firestone Service site). The Summer Ridge Apartments complex is located on the west side of Maple Hill Drive, approximately 1,400' north of West Main (5545 Summer Ridge Boulevard) and is within the "R-4" Residence District Zoning classification.

The report of the Planning and Zoning Department is incorporated herein by reference. It was noted that Section 76.120 permits the placement of a 30-sq.-ft. sign advertising permitted services offered upon or from the premises where the sign is located within the "R-4" District. There is currently such an identification sign at the main entrance of Summer Ridge Apartments located on Maple Hill Drive. The applicant sought to establish a sign off-site at the corner of Maple Hill Drive and West Main and therefore sought variance as to the number of signs permitted, the location permitted and the total square footage permitted. Further, assuming that the Board would find in favor of granting a sign in this location, the sign would be subject to the setbacks provided by the Zoning Ordinance. The proposed location does not comply with those setbacks.

Ron Pathak was present for the applicant, indicating that the property had been purchased in approximately April of 1996. He stated that apartment projects depend on drive-by traffic or word of mouth for tenants; therefore, it was felt that it was necessary that signage that was easily visible to drive-by traffic. He felt that Maple Hill Drive was not completed in that it did not intersect with Croyden and Drake Road and therefore was not a "thoroughfare." He urged the Board to approve the variance, at least temporarily, so as to allow a sign at the proposed site so that the project could enjoy the benefit of traffic driving along West Main. He felt that the sign could be removed once Maple Hill Drive was connected to Drake Road. The applicant indicated that they would be willing to reduce the size of the sign to conform to Ordinance requirements.

Ms. Branch questioned the applicant as to the type of market or tenant being sought. Mr. Pathak stated that they were seeking stable and upscale families who would be long-term residents. The apartment complex was not primarily marketed to students. At the present time there is about 93% occupancy; however, there was approximately 20% turnover of residents from month to month. Ms. Branch questioned the applicant's reasoning as to the need for the sign until the connection of Maple Hill Drive was made to Croyden and Drake in that she doubted that Maple Hill Drive would ever see the type of traffic that travels West Main.

Miria Rabideau, also present for the applicant, stated that there is not much traffic on Maple Hill Drive in the area of Summer Ridge, only that which is specifically going to

Summer Ridge, Bronson or the other residential properties in the area. Typically, in her experience, drive-by traffic would account for 60-70% of tenants; however, at Summer Ridge, only 10% were derived by drive-by traffic.

Ms. Meeuwse inquired as to whether the applicant was willing to remove the existing sign and relocate it to the corner of Maple Hill Drive and West Main. The applicant indicated that they were unwilling to relocate and that it was less expensive to obtain a new sign. Further, removing the sign would, it was felt, diminish the value of the property.

Ms. Meeuwse expressed concern that, if this variance were approved, other applications from properties in the area, such as Evergreen North, Bronson Place, etc., would also apply.

Ms. Meeuwse inquired whether the applicant had considered other options, and Ms. Rabideau stated that the applicant had considered billboard signage along U.S. 131. However, they did not believe that signage would be sufficient to direct traffic off the highway and to the site.

Board members inquired as to whether any other similar variances had been considered by the Board, and Ms. Harvey responded that the only sign variance remotely like the one proposed involved Quail Meadows. Ms. Meeuwse noted that, in her opinion, the Quail Meadows application, which had been granted, was significantly different in that the Quail Meadows signage had been added to an existing sign and that no additional sign square footage was added. Further, the intersection at which the signage would be located would not, in this case, represent the project entrance point as it would at Quail Meadows. Ms. Branch and Mr. Brodasky agreed that they also felt there were significant differences.

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

Mr. Saunders stated that he, too, felt this application was much different than that of Quail Meadows. Further, he was concerned about establishing more signage on West Main. Mr. Saunders also stated that, since the Board had denied variance for "financial hardship" previously, he felt it was important to be consistent with this application. Additionally, he was concerned about setting a precedent allowing off-site advertising. Ms. Branch agreed, noting that the Board had to do justice to previous applicants. There was also concern about setting precedents for other properties. Board members noted that, when the Goodrich Theatre is established in the area, it was likely to cause more traffic to travel Maple Hill Drive, benefiting this project with more "drive-by traffic."

The Board members agreed that, in this case, conformance was not unnecessarily burdensome in that the development was permitted and had established signage at the project entrance. There was reasonable use of the property without the granting of the variance. As to substantial justice, it was agreed that the application differed significantly from that of

Quail Meadows and that it was important to uphold Ordinance limitations with regard to signage on West Main.

Mr. Saunders noted there were no unique circumstances of the property and that the hardship was self-created since the project was designed and had been established under current sign standards.

As to the spirit and intent of the Ordinance, Mr. Brodasky stated he felt there were too many deviations from Ordinance standards being sought by the applicant. Mr. Saunders agreed, stating he felt there was no way to distinguish this application from those of other properties located on Maple Hill Drive and in other locations off main roads.

Ms. Branch stated that she recalled an application which was somewhat similar involving the Super 8 Motel, which had requested such signage and had been denied. She also felt concerned about setting a precedent in that there were many instances where properties would like to have signage on the "higher-traffic road."

Mr. Brodasky moved to deny the variance based upon the previously stated reasoning of the Board. Mr. Saunders seconded the motion, and the motion carried unanimously.

4-21-97 Summer Ridge Apartments

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.

1-6-97 Adams Outdoor Advertising (Billboard Variance)

Mr. Brodasky moved to deny the locational variance, i.e., deny permission to establish the billboard within the Agricultural District, for the following reasons:

(1) That compliance was not unnecessarily burdensome in that the applicant had alternative options, such as the opportunity to seek rezoning of this property or to establish such signage on a different parcel within the City of Kalamazoo or elsewhere within the Township. Additionally, the applicant had reasonable use of this property without the variance.

(2) That substantial justice would not be served by granting the variance in that it would set an undesirable precedent in allowing billboards within the Agricultural District. It was noted that no variances to allow billboard signage in the Agricultural District had ever been granted.

(3) That there were no unique physical circumstances of the property requiring the variance.

(4) That the hardship was self-created in that the billboard location was at the applicant's discretion.

(5) That the spirit of the Ordinance would not be observed by granting the variance; and health, safety and welfare would be secured by its denial in that there were other similarly situated agricultural properties which could potentially seek variance if the variance were granted.

Ms. Meeuwse seconded the motion. The motion carried unanimously.

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

(1) That compliance was not unnecessarily burdensome in that the size of the signage was at the applicant's discretion and, even if the 500-sq.-ft. signage was not standard, such signage could be established. It was noted that other signage established after the Ordinance's adoption complied with the size requirement.

(2) That substantial justice would not be afforded by granting the variance in that no previous such variances had been granted.

(3) That there were no unique physical circumstances of the property which would require the size variance, such as limitations on visibility.

(4) That the hardship was self-created in that the size and design were at the applicant's discretion.

(5) That the spirit of the Ordinance and health, safety and welfare would be secured by the denial of the variance.

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

5-6-96 United Homes of Michigan

Ms. Meeuwse moved to approve the variance with the following findings:

(1) That substantial justice would be served by granting the variance in that there would be no increase in the existing sign's size (height or area) or in the location of the existing sign. There would be no increase in the number of signs. It was noted that the development is permitted signage at the project entrance point comparable to that proposed in the application. It was further noted that the sign proposal will not provide signage options to Quail Meadows not available to Quail Run. Therefore, no particular property was being favored.

(2) It was felt it was significant that the sign complies with sign size, setback and height limitations for the Commercial as well as the "R-4" District.

(3) As to whether unique circumstances exist, it was found that the subject property did not enjoy frontage at the point of primary access to its development. The entrance point of both Quail Run and Quail Meadows is off premises at the point of the sign location.

(54) It was felt that the hardship was not self-created, noting that the extension of the Quail Run Drive through Quail Run and into Quail Meadows development was in keeping with the Township Master Land Use Plan and that the residential development was also in keeping with said plan. However, it was recognized that the sign was designed and located at the discretion of the applicant.

(65) It was felt that the spirit and intent of the Ordinance would be served and the public health, safety and welfare secured in that Quail Meadows development is permitted a sign not to exceed 30 square feet in area and 8' in height. The proposed sign would not increase the signage currently provided along Stadium Drive or provide signage to the subject development contrary to the design standards of the Ordinance. Given the similarity in use and the continuity of design between the Quail Meadows development and the Quail Run development, there was a rationale for providing a coordinated and consistent approach to the project identification signage.

The motion was seconded by Mr. Brodasky, and the motion carried unanimously.

12-16-96 Springwood Hills Subdivision

Mr. Saunders moved to deny the variance in that it was unnecessary because the applicant could comply with the setback requirements. He said that the denial would still allow reasonable use of the property and the sign would still be visible from Almena Drive. In addition, he said that substantial justice would not warrant the granting of the variance since they had rarely granted variances of this kind magnitude. He said there was nothing unique about the property and, again, that the sign could be located outside of the setback area and still be visible. He said he felt that the granting of a variance would violate the spirit of the Ordinance as well.

The Chairperson asked that the motion include some additional Board comments, including the fact that the intersection could be lighted and that the street name could be added to the cross-street signs on Almena Drive. Mr. Saunders agreed to the friendly amendment. Mr. Brodasky seconded the motion. The Chairperson called for discussion and, hearing none, called for a vote. The motion carried unanimously.

11-6-95 Midwest Collision Center

Mr. Brodasky reviewed the criteria for nonuse variance, first stating that the compliance was not unnecessarily burdensome in that there were reasonable options available to the applicant for placement of the sign in compliance with Ordinance requirements. Additionally, he felt substantial justice required denial of the variance in that no variance of this magnitude had been granted except in very extreme cases. He felt the hardship was self-created and that there were no unique circumstances, i.e., no physical limitations on the subject site, which prevented compliance. He also felt that the spirit and intent of the Ordinance would be served by denial. Mr. Brodasky, therefore, moved to deny the variance. Mr. Saunders seconded the motion. The motion carried unanimously.

6-26-95 Eric Price (Breckenridge Estates)

After further discussion, Mr. Brodasky moved to deny the variance with the following reasoning:

(1) That compliance was not unnecessarily burdensome. There was no practical difficulty in filling the small depression. Further, the likely building location on lot #4 would be quite a ways away, approximately 200' to the west; and substantial screening would remain in the way of natural vegetation.

(2) That substantial justice would require denial of the variance, given the history of the Board with regard to sign setback variances.

(3) That no unique circumstances existed which would decrease visibility. Further, there were no substantial trees which could be retained by granting the variance. Finally, the topography was not extreme but merely a slight depression. Thus, there were no physical circumstances which could not be easily remedied.

(4) That the hardship was self-created in that the location of the sign was at the discretion of the developer.

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

6-5-95 Vander Weele

Ms. Branch moved to grant the variance with the following reasoning:

(1) That compliance would be unnecessarily burdensome in that there was not sufficient room on the site to move a free-standing sign into a position in compliance with Ordinance requirements. Further, the option of wall signage was not aesthetically pleasing in that it would be covering major portions of the architecture of the building and would not be in character with the village.

(2) That substantial justice would not weigh in favor of denying the variance in that there were differences between this application and that of Crystal Circle. Further, a variance would be in keeping with the character of the area.

(3) That, as to unique circumstances, it was noted that there was limited visibility due to area signage; however, the physical limitations of the site were again recognized.

(4) That the hardship was not self-created in that the building is in existence.

(5) That the spirit of the Ordinance would weigh in favor of granting the variance in that to grant this variance would allow for the retention of the character of the area.

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

2-7-94 Target Stores

Mr. Miller moved to deny the variance for the following reasons:

(1) That compliance was not unnecessarily burdensome. Section 76.125 of the ordinance permits both free-standing and wall signage in the "C" Local Business District to provide flexibility in designing adequate site signage.

(2) That substantial justice would not be served by granting the variance. Past precedents of the Board, particularly those with regard to McDonald's and Meijer Square, dictated denial of the variance. ~~Reference was made to the character of the signage in the area, i.e., size and height, and said character would require denial.~~

(3) That there were no unique physical circumstances justifying the variance; the depression in topography and vegetation have not been considered justifications for sign size and height variances in the past.

(4) That the hardship was self-created in that proposed sign dimensions and height are at the applicant's discretion.

(5) That variance would not be in the spirit of the ordinance. Again, past precedents of the Board were cited.

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

1-9-95 Huntington Run

Mr. Miller moved to grant the variance due to the unique circumstances posed by the treeline and the angular meeting of Atlantic Avenue and Parkview Avenue which presented a visibility problem. Mr. Brodasky seconded the motion.

Ms. Branch commented she felt that the spirit and intent of the Ordinance was not observed in that the Ordinance limits the number of sign structures which can be established.

Upon a vote on the motion, the motion carried 3:2 with the Chairperson and Ms. Branch voting in opposition to the motion.

3-4-91 Southfork Mfgd. Home Community

Ms. Branch moved to deny the variances requested for the following reasons:

- (1) That the location and design of the existing sign were self created, and therefore the hardship was self created;
- (2) That compliance was not unnecessarily burdensome in that the applicant had other design options;
- (3) That there was no other precedent for the variance, therefore, substantial justice would not require the variance;
- (4) There were no unique circumstances justifying the variance.

The motion was seconded by Mr. Rakowski. The motion carried unanimously.

3-1-93 Meijer, Inc.

Ms. Branch moved to deny the variance for both proposed signs with the following reasoning:

(1) That compliance was not unnecessarily burdensome. It was noted that §76.125 permits both free-standing and wall signage in the "C" District to provide flexibility in designing adequate site signage.

(2) That substantial justice would not be served by granting the variance. It was noted, with regard to past precedents of the Board in similar applications, variance had been denied. Ms. Branch specifically cited the Board's action with regard to Spring Harbor and Family Foods. Further, considering other commercial signage in the area was largely within Ordinance requirements. Therefore, a variance here would not provide substantial justice to other area property owners.

(3) That there no unique topographical or vegetational circumstances at the site which would justify a variance. It was noted that a review of the Site Plan showing the berm and location of the existing house indicated that they did not prevent visibility of the signs in the locations proposed. Variance would not serve the spirit of the Ordinance.

(4) That the hardship was self-created in that the proposed sign dimensions were at the discretion of the applicant.

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

9-11-89 PRC Bertolissi

Mr. Vuicich then made a motion to deny the request for a setback variance of 10 feet for the following reasons:

1. That the Board found conformance with the ordinance would not be unnecessarily burdensome on the applicant.
2. That the Board found the property did not create a unique circumstance which would warrant a variance from the setback requirements.
3. That the request was self-created.

The motion was seconded by Mr. Ballo and carried unanimously.

7-10-89 Deep Sea Aquariums

Ms. Brown then made a motion to grant a 25' variance from the sign setback requirements on Quail Run pursuant to Section 76.125, on the basis that if the sign had to meet the requirements it would not be seen, and that by granting the variance the sign would be in alignment with other signs on West Michigan Avenue. The side yard setback, and the sign setback requirements for West Michigan had been met. Further, the Board recognized the unique shape of the parcel and the fact that if the sign were required to meet all setback requirements it would be blocked by the mound on the neighboring Toyota dealership property. Strict compliance would thus be unnecessarily burdensome to the applicant. The motion was seconded by Mr. Rakowski and carried 4-0.

11-7-88 Jim Karozewski

Mr. Rakowski then made a motion to grant the applicant a 10' variance for the placement of the sign as measured from Atlantic Avenue, noting that all the setbacks would be met from 9th Street. The reasons for the motion were that the 9th Street setbacks were essential due to increased safety concerns and that these would be complied with; [and that the sign would not be placed in the parking lot, but close by] that a 10' variance would allow sign placement as close to compliance as possible, without going into the parking lot; and that the parking lot presented a unique circumstance preventing compliance with the setback requirement. The motion was seconded by Ms. Brown and carried 4-0.

2-2-87 A+B Industrial Services

Mr. Vuicich then made the motion to deny the request for a variance for the following reasons: (1) That the standards were not met for granting the variance in that it did not present any practical difficulty on the applicant for complying with the sign requirements; (2) that a simple location sign for the street number of the company could be made in the location desired by the applicant; and (3) he was concerned for the precedent that would be set in the area by granting such a variance; and (4) that the situation was a self-created one in that they had determined that the sign needed to go in this location as opposed to complying with the ordinance. Mr. Hamilton seconded and the motion passed 4 - 1 with Mr. Block voting against.

8-4-86 Jeff Sauer (Movie Outpost)

After further general discussion, Mrs. Brown moved that the Board grant a variance from the sign setback requirement so as to allow the Movie Outpost sign to be located at the same location as the Wally's sign on the subject site, directly above the Wally's sign, with the pole holding the Movie Outpost sign being lined up with the south post of the Wally's sign. Mrs. Brown further moved that as a condition to the grant of such a variance, the applicant be required to remove the existing Movie Outpost sign on the site.

In response to a question from the Township Attorney it was noted that the reason for such a variance was that the sign would not be visible from adjoining streets if a setback variance were not granted. The motion was seconded by Mr. Greenberg and passed unanimously.

3-3-86 DeVisser Landscape

After general discussion, Mr. Greenberg moved that the Board deny the requested sign size and sign setback variances. Mr. Greenberg stated as reasons for his motion the fact that there had been no showing of hardship that would justify the requested variances and the fact that it is possible for the applicant to use the property and establish a sign in compliance with the Zoning Ordinance without hardship. Mr. Vuicich further noted that compliance with the Zoning Ordinance restrictions would not unreasonably prevent the owner from using the property for a permitted purpose or render conformity with such restrictions unnecessarily burdensome. He indicated that he did not believe there was any unfair hardship justifying the granting of a variance.

After further discussion, Mr. Vuicich seconded the motion and the motion passed unanimously.



7275 W. MAIN STREET, KALAMAZOO, MI 49009-93.
616-375-4260 FAX 375-7180 TDD 375-7180

REQUEST FOR ZONING BOARD OF APPEALS MEETING

Date 5-12-1997 Present Zoning AG Fee \$100

Land Owner Guritz John/Paul/Dan

Address 185 30th St. Allegan MI.49010 Phone 616-694-9597

Person Making Request Dan/Paul/John Guritz.Randy Lee (Network Realestate

Address 185 30th ST. Allegan MI. Phone 694-9597 or 694-6141

Interest in Property Owners and Realestate Agent

Is property buildable area or site

Size of Property Involved 2.5 acres road 760ft X150 Sq.ed

Reason for Request site unbuildable because of set back ruling

property is joined to property in Texas Twp. request Annex

File # 31 480 070

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

5/12/97 LI

053015 ZBA/REQUEST/GURITZ 100.00
TOTAL PAID 100.00

THANK YOU

Randy Lee (Guritz)

3905-31-480-070

Guritz

31-480-010

French, N.

No 0

050

" , N.

0

040

French, R.

32-355-010

French, N.

No 0

060

Jones

Texas Township

3909

05-101-010

Emma Jones

9919 Stadium Drive

06-226-010

Guritz, John/Paul/Dan

185 30th Street

Allagan, MI 49010

Randy Lee
Network Real Estate
729 Academy Street
Kalamazoo, MI 49007

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
31-480-070
GURITZ JOHN/PAUL/DAN
185 30TH STREET
ALLEGAN MI 49010

31-480-010
FRENCH NORMAN & ELIZABETH
9470 STADIUM DRIVE
KALAMAZOO MI 49009

31-480-050
FRENCH NORMAN & ELIZABETH
9470 STADIUM DRIVE
KALAMAZOO MI 49009

31-480-050
OCCUPANT
10040 STADIUM DRIVE
KALAMAZOO, MI 49009

31-480-060
FRENCH ROGER L & DAWN
10004 STADIUM DRIVE
KALAMAZOO MI 49009

32-355-010
FRENCH NORMAN & ELIZABETH
9470 STADIUM DRIVE
KALAMAZOO MI 49009

32-355-060
JONES EMMA T
9919 STADIUM DRIVE
KALAMAZOO MI 49009



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334
616-375-4260 FAX 375-7180 TDD 375-719E

REQUEST FOR ZONING BOARD OF APPEALS MEETING

Date May 19, 1997 Present Zoning II Fee \$100

Land Owner Bruce H. Kuipers

Address 8240 Stadium Drive Phone 353-7800

Person Making Request Bruce H. Kuipers

Address 8240 Stadium Drive - Kalamazoo, Michigan 49009 Phone 353-7800

Interest in Property Owner

Size of Property Involved 3.805 Acres

Reason for Request

- Seeking variance from 60' sign set back, to 55'

- Also, seeking variance from sign location standards for industrial district

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

5/20/97 JF

053143 ZBA REQ/B.KUIPERS 100.00
TOTAL PAID 100.00

THANK YOU

Bruce Kuipers (Delta Design)

3905-33-402-109

Kuipers

33-402-022

Myers

040

Fry

050

Rice

102

Denny

105

Kuipers (Dup)

No 0

111

Schramm

230

Kuipers (Dup)

No 0

240

Peterson

250

Stark

312

Heughton

33-205-020

Bragagnini

Bruce H. Kuipers
8240 Stadium Drive
Kalamazoo, MI 49009

33-402-105
KUIPERS BRUCE H
10560 SOUTH 2ND STREET
SCHOOLCRAFT MI 49087

33-402-109
KUIPERS BRUCE H
10560 SOUTH 2ND STREET
SCHOOLCRAFT MI 49087

33-402-111
SCHRAMM RICHARD A & CHARLOTTE
2001 SOUTH 4TH STREET
KALAMAZOO MI 49009

33-402-022
MYERS ESTELLA M
MYERS GERALD D & RANSOM JR
8081 STADIUM DRIVE
KALAMAZOO MI 49009

33-402-111
OCCUPANT *Returned*
8290 STADIUM DRIVE
KALAMAZOO, MI 49009

33-402-040
FRY TAYLOR NANCY
8159 STADIUM DRIVE
KALAMAZOO MI 49009

33-402-240
PETERSON TIMOTHY G & MONIQUE L
3444 SOUTH 6TH STREET
KALAMAZOO MI 49009

33-402-050
RICE HERBERT & NELLIE
PO BOX 656
OSHTENO MI 49077

33-402-250
STARK JON R
3450 SOUTH 6TH STREET
KALAMAZOO MI 49009

33-402-050
OCCUPANT
4047 O'PARK STREET
KALAMAZOO, MI 49009

33-402-312
HEIGHTON PARKER
4088 O'PARK STREET
KALAMAZOO MI 49009

33-402-102
DENNY WILLIAM P SR
VISTA BUSINESS FORMS
PO BOX 176
OSHTENO MI 49077

33-205-020
BRAGAGNINI BRUNO & MARY A
635 FARRELL
KALAMAZOO MI 49007

33-402-102
OCCUPANT *Returned*
8062 STADIUM DRIVE
KALAMAZOO, MI 49009