

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

MINUTES OF MEETING HELD SEPTEMBER 22, 1997

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Agenda

WOODLAND ESTATES - VARIANCE FROM SIGN REQUIREMENTS - 4797 S. 4<sup>TH</sup> ST.

TEERINK, HANK & TERESA - VARIANCE FROM FOUNDATION STANDARDS -  
385 N. 4<sup>TH</sup> ST.

RICE, JIM - VARIANCE FROM FOUNDATION STANDARDS - 4055 O'PARK

DAVIS, JACK & JUDITH - VARIANCE FROM 200' ROAD FRONTAGE  
REQUIREMENT- 8505 ALMENA DR.

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A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Monday, September 22, 1997, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall, pursuant to notice.

MEMBERS PRESENT:     Brian Dylhoff, Chairperson  
                              Thomas Brodasky  
                              David Bushouse  
                              Lara Meeuwse (after 3:15 p.m.)

MEMBER ABSENT:       William Saunders

Also present were Rebecca Harvey and Mike West on behalf of the Planning and Zoning Department, Patricia R. Mason, Township Attorney, and six (6) other interested persons.

**CALL TO ORDER**

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

**MINUTES**

The Board discussed the minutes of the meeting of September 8, 1997. The change suggested by Ms. Harvey was noted. Mr. Brodasky moved to approve the minutes as amended. Mr. Bushouse seconded the motion, and the motion carried unanimously.

The Chairperson advised that all three members would have to agree on a vote in order for action to be taken since at that time only three members were present. The Chairperson stated that each applicant had the option to table an item. He said it was possible that one more member of the Board would arrive late.

**WOODLAND ESTATES - VARIANCE FROM SIGN REQUIREMENTS - 4797 S. 4<sup>TH</sup> ST.**

The Board considered the application of Germano Mularoni of Germano Management Co., representing Wildwood Mobile Home Community, LTD (aka Woodland Estates), for variance approval from the sign requirement applicable to "R-5" District established by Section 76.120 of the Zoning Ordinance. The subject property is located at 4797 S. 4<sup>th</sup> Street and is within the "R-5" Residence District Zoning classification.

The applicant was present and stated that he wished to go forward with the item.

The report of the Planning and Zoning Department is incorporated herein by reference. Ms. Harvey identified that the applicant was seeking variance from the sign standards set forth in the Ordinance. The sign proposed by the applicant would be a second sign at the site and, since the Ordinance allows only one sign, variance was required in this regard. A variance would also be needed to allow the applicant's total signage to exceed that which was allowed by the Ordinance (i.e., 30 sq. ft.). Further, the applicant proposed a 20' setback.

Ms. Harvey noted that the Zoning Ordinance regulates the "R-5" District, allowing "a couple of uses." Further, the Ordinance contains provisions regulating signage within the "R-5" District. The Ordinance states that the setback of a sign is one-half of the "required building setback." The Ordinance then goes on to provide building setback standards.

Ms. Harvey noted that mobile home parks are largely regulated by the state. State provisions do not regulate sign placement but do regulate building placement. Therefore, the Planning and Zoning Department sought an interpretation from the ZBA as to which building setback would be used in calculating a sign setback. In the past, the Planning and Zoning Department had interpreted the Ordinance to utilize the Township Ordinance's building setbacks within the "R-5" District as a whole. Ms. Harvey stated that the reasoning of the Planning and Zoning Department was that the signage setback provisions related to the District as a whole and not to a particular use within the District. Therefore, for the sake of consistency within the District, the Ordinance standards for the District on building setbacks was utilized.

Ms. Harvey pointed out, however, that the applicant would need a variance to place the sign 20' from the right-of-way, whichever building setback was utilized. It was noted that Mobile Home Commission Rule #944(2) provides that a building setback is 50' from the right-of-way line. Therefore, one-half would be 25'. The Zoning Ordinance provides, in Section 64.100, a 70' setback from the right-of-way line, one-half of which would be 35'.

Ms. Meeuwse entered the meeting.

Mr. Brodasky inquired as to whether the setback in state regulation was a "minimum" standard. It was responded that the setback provided in state regulations was a minimum and obviously the buildings could be set back at a greater distance.

The applicant questioned whether there had been a previous interpretation of this provision by the ZBA. It was stated that there had not been a previous interpretation by the ZBA but there had been an interpretation by the Planning and Zoning Department.

The applicant submitted a handout concerning his request, which handout is incorporated herein by reference. He argued that ordinances are police powers and, as such, needed to be reasonably related to health, safety and welfare. He was concerned about the substantial justice criterion, stating he felt this was a "questionable tenet." He felt that each case should be reviewed on its own merits to determine whether the "ordinance provisions" make sense. He referenced a letter from the Mobile Home Commission dated July 11, 1997, stating that the Township could not require a greater setback for a building than was allowed by the state unless approved by the state. He also argued that the Zoning Ordinance of the Township requires a mobile home project to have two entrance points. He stated that his project had established a second entrance point when the project was expanded.

The Chairperson commented that he felt the Board should make its interpretation before discussing the variance. The Chairperson stated that, in his opinion, it would be inequitable to allow signage to be placed closer to the right-of-way for a mobile home park than other uses within the "R-5" District. He felt that signage placement should be consistent throughout the District without regard to use.

Mr. Brodasky commented that, because no specific provision as to signage was in place in the state regulations, he felt that it was left to the Township to govern signage. It was recognized that other mobile home parks within the Township have placed their signage at one-half of the Township building setbacks. Ms. Meeuwse and Mr. Bushouse both agreed that signage should be consistent throughout the District and that the distance should be, therefore, judged as half of the distance of the Township's building setback.

The Chairperson sought public comment, and none was offered. The public hearing was closed with regard to the interpretation. Mr. Brodasky moved to interpret the Township Zoning Ordinance to require that the sign setback within the "R-5" District be determined as one-half of the building setback provided for in the Township Zoning Ordinance for the "R-5" District. In this case, that would be 35'. Ms. Meeuwse seconded the motion, and the motion carried unanimously.

The applicant was called upon to comment with regard to the variance request, and he noted that 223 families reside within the park "off the original entrance." With the expansion, 116 new residences were established, and the residents accessed the site principally from the "new entrance." Mr. Mularoni felt it was important for the project that there be an identification sign at each entrance point so that residents could clearly determine how to access the site. He noted that the signs are not advertising but identification. He noted that the project does have an advertising sign located on Stadium Drive which predated the Ordinance provisions.

In response to questioning, Mr. Mularoni stated that there is an existing 24-sq.-ft. identification sign at the original entrance, again stating that another identification at the new entrance point was needed. The Chairperson noted that Huntington Run had been granted a second sign at its second access point as had Clayton Estates. However, it was also noted that in both cases the applicant had been limited to a total of 30 sq. ft. for both signs combined.

In response to questioning by the Chairperson, Ms. Harvey confirmed that, although the Ordinance allows one sign, in two previous applications with regard to mobile home parks, the Board had granted a second sign at the second access point. The Chairperson stated that he could see the reasoning to allow for a second sign as long as both signs when totaled together did not exceed 30 sq. ft.

There was some concern with regard to the billboard sign on Stadium Drive and whether this would constitute a second sign. Ms. Harvey noted that this sign was legally nonconforming and was off site. Since it pre-exists the Ordinance, she did not feel that the Board should be concerned about this sign in discussing the variance. It was noted that it was different in character and function, i.e., did not relate to the function of identifying the second entrance point.

The Chairperson sought public comment, and Matthew Weaver, of Mill Creek Apartments, stated that the apartment complex had sought an almost identical variance approximately one year before. The variance had been granted to allow one sign at each entrance point, but Mill Creek was allowed only a total of 30 sq. ft. split between both signs. He felt that the present application should be similarly treated.

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

Ms. Meeuwse moved to approve variance to allow two signs (one at each entrance point) conditioned upon the total of both signs combined not exceeding 30 sq. ft. Ms. Meeuwse reasoned as follows:

(1) That conformance was unnecessarily burdensome in that there were two entrance points to the mobile home park, and it was reasonable that each entrance point should be identified by signage. It was noted that the signage as proposed by the applicant, in which one entrance point would be designated Woodland Estates I and the other Woodland Estates II, would differentiate between the two entrance points.

(2) That substantial justice would weigh in favor of the variance in that other similar applications had been granted where the total square footage of both signs had been limited to 30 sq. ft.

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

(4) That the hardship was somewhat self-created in that the sign design and placement was at the discretion of the applicant.

(5) However, it was felt that the spirit and intent of the Ordinance and public health, safety and welfare would be served by the second sign at the second entrance point so as to allow each entrance to be identified for members of the public who sought to access the site.

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

There was a discussion of the setback variance. No public comment was offered, and the public hearing was closed.

Mr. Brodasky moved to deny setback variance to the sign, reasoning as follows:

(1) That conformance was not unnecessarily burdensome in that the second sign could be placed in conformance with setback requirements set forth in the Ordinance.

(2) That substantial justice would require denial of the variance in that similar applications had been denied in the past.

(3) That there were no unique physical circumstances at the site which limited or prevented compliance with the setback provision.

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

(5) That granting the variance would be contrary to the spirit and intent of the Ordinance and the public health, safety and welfare in that the Ordinance was drafted to provide consistency throughout the "R-5" Zoning District.

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

**TEERINK, HANK & TERESA - VARIANCE FROM FOUNDATION STANDARDS - 385 N. 4<sup>TH</sup> ST.**

The next item was the application of Tim Cassidy of Cassidy Builders, representing Hank and Teresa Teerink, for variance approval from the foundation standards applicable to dwellings/residences established by Section 11.250(3) of the Zoning Ordinance. The subject site is located at 385 N. 4<sup>th</sup> St. and is within the "AG"-Rural District Zoning classification.

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

Although the applicant was not present, Ms. Harvey suggested proceeding with the request, noting that the Building Department representative had been requested to be present. She stated that the Zoning Board of Appeals had not reviewed a similar application in the past.

It was noted that, in order for a dwelling to be placed within the Township on a property, it must meet the definition of Section 11.250 of the Zoning Ordinance. In this case, a building permit had been issued and the building established. At the time of inspection, after the building had been established, it was determined that the home did not meet the requirements of subpart (3) of Section 11.250. She felt that the Board should inquire of the ~~Zoning~~ ~~Building~~ Department representative as to whether there were reasonable options to bring the premises into compliance.

The Chairperson noted that the next item on the agenda concerning the Rice application involved the same issue. He felt that, since the applicant was present with regard to that application, the Board should consider that item first. The other Board members concurred.

### **RICE, JIM - VARIANCE FROM FOUNDATION STANDARDS - 4055 O'PARK**

The Board therefore moved to the application of Bill Fry and Charles Van Kula of CVK Construction, representing Jim Rice, for variance approval from the foundation standards applicable to dwellings/residences established by Section 11.250 of the Zoning Ordinance. The subject site is located at 4055 O'Park and is within the "AG"-Rural District Zoning classification.

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

The applicant, represented by Bud Smith and Jim Rice, was present. The applicant stated that a variance was needed because they would need to take the house down and take out the foundation in order to bring the home into compliance.

Robert Horton, of the Building Department, was present, stating that the home in question was a manufactured home and that it was designed so that the walls would not bear weight at the perimeter. The manufacturer of the home required that the unit be set on a foundation as shown in the report on blocks or "I-beams." The outward appearance of the home was not aesthetically different from one which would bear on the perimeter of the foundation but, technically, the home did not meet the foundation requirement of subpart (3) in that it was not attached to bearing walls around the perimeter. He felt that the home was manufactured in such a way that it could not be altered to bear on the perimeter. There was no other way for this home to be set on a foundation other than in this manner.

In response to questioning by Mr. Brodasky, Mr. Horton stated that this was not a violation of the Building Code but was a violation of the Zoning Ordinance. Mr. Bushouse had a question with regard to subpart (8) of Section 11.250 and whether this subpart would excuse compliance with subpart (3). It was noted that subpart (8) of Section 11.250 was with

regard to Building Code and Fire Code and did not relate to the Zoning Ordinance standards within Section 11.250. It was recognized that there was an error at the time the applicant had presented its building plans and the Township issued a permit. Given the manner in which the home would be set on the foundation, a permit should not have been issued. However, since the mistake was recognized after the home had been installed, a variance was sought.

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

Mr. Bushouse commented he still felt that Section 11.250(8) allowed the home to be installed in the manner in which it had been placed on the foundation and therefore he did not believe the applicant needed a variance. Ms. Harvey again explained that subpart (8) did not excuse compliance with subparts 1 through 7, which were Zoning Ordinance requirements.

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

(1) That conformance was unnecessarily burdensome in that the home had been established in reliance upon a building permit issued by the Township and there was no reasonable method for the dwelling to come into compliance.

(2) That substantial justice would require the variance in that the applicant had relied upon the building permit issued by the Township and in fact had established/installed the home completely by the time the error was discovered.

(3) That the hardship was not self-created in that the applicant had relied upon a Township permit.

(4) That there were no unique physical circumstances preventing compliance, at least prior to the establishment of the home.

(5) That the spirit and intent of the Ordinance would be served in that the dwelling was otherwise consistent with the provisions of Section 11.250 and was structurally sound.

Ms. Meeuwse seconded the motion, and the motion carried 3:1 with Mr. Bushouse voting in opposition.

#### **TEERINK - VARIANCE FROM FOUNDATION STANDARDS - 385 N. 4<sup>TH</sup> ST.**

The Board returned to this item, and Mr. Horton stated that the situation was the same with regard to the Teerink dwelling.

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

Mr. Brodasky moved to approve variance, utilizing the reasoning of the previous variance application. Ms. Meeuwse seconded the motion, and the motion carried 3:1 with Mr. Bushouse voting in opposition.

**DAVIS, JACK & JUDITH - VARIANCE FROM 200' ROAD FRONTAGE REQUIREMENT- 8505 ALMENA DR.**

The next application was that of Jack and Judith Davis for variance approval from the 200' road frontage requirement established by Section 66.201 of the Zoning Ordinance. The subject site is located at 8505 Almena Drive and is within the "AG"-Rural Zoning District classification.

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

The applicant was present, stating that he and his wife had purchased the property in 1965 and at that time it was in two pieces. A boundary change had been effected in 1985, which had an effect on the frontage. This parcel now has 108' of road frontage. He is attempting to build a garage on the site. The property already has one accessory building.

Ms. Harvey clarified with questions to the applicant that in 1985 a land division was made which resulted in the parcel going from 175' of frontage on Almena Drive to 108' of frontage.

Ms. Meeuwse inquired of the applicant whether there was a possibility that he could purchase additional frontage from a neighboring property. The applicant stated that it was possible, and there was a discussion of how his lot might be configured to add an additional 92' of frontage.

Mr. Brodasky pointed out that the applicant also had the option of creating a site condominium with both parcels which had been created in the split of 1985. Platting was also an option.

The Chairperson stated that, in his opinion, it would be difficult to grant a variance due to the size of the variance being requested.

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

Mr. Bushouse wondered whether the Board should not act on the application and see if the applicant could purchase additional land. The Township Attorney responded that, since the applicant had filed its application and paid the fee, the Board had a duty to decide the application unless the applicant offered to withdraw it.

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

(1) That conformance was not unnecessarily burdensome in that the applicants have reasonable use of their property as developed. Further, they have other reasonable options, such as purchase of additional property, site condominiumizing or platting to conform to Ordinance frontage requirements.

(2) That substantial justice would require denial of the variance due to the high degree of variance requested and the fact that similar applications had been denied.

(3) That there were no unique physical circumstances weighing in favor of granting the variance.

(4) That the hardship was self-created in that the parcel division resulting in the present frontage situation had occurred in 1985.

(5) That variance would be contrary to the spirit and intent of the Ordinance due to the degree of the variance sought.

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

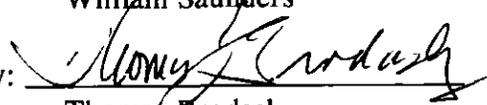
### **ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 4:45 p.m.

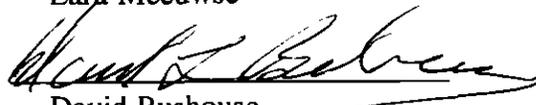
#### OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

By:   
Brian Dylhoff, Chairperson

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

By:   
Thomas Brodasky

By: \_\_\_\_\_  
Lara Meeuwse

By:   
David Bushouse

Minutes Prepared:  
September 23, 1997

Minutes Approved:  
10-6-97

AGENDA: \_\_\_\_\_

DATE: September 22 1997

MINUTES: ZBA

SENT: October 29, 1997

ZBA

- Lara M.
  - Dave B.
  - Bill S.
  - Brian
  - Tom B.
- } 10-2-97

PC

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

TB

- Fred
- Dave B.
- Marvin
- Norm

OFFICE

- Becky
- Bob
- Marci
- Lois
- Ron
- Elaine
- Jim
- Attorney's
- Mike
- Ken
- Tobey
- Cathy

PEOPLE

Germano Mularoni  
Germano Management Company  
32540 Schoolcraft, Suite 110  
Livonia, MI 48150

Mr. Tim Cassidy  
Cassidy Builders  
1125 33rd  
Allegan, MI 49010

Hank & Teresa Teerink  
385 North 4th Street  
Kalamazoo, MI 49009

Bill Fry & Charles Van Kula  
CVK Construction  
34570 Mill Lake Road  
Gobles, MI 49055

Jim Rice  
4055 O'Park  
Kalamazoo, MI 49009

Jack & Judith Davis  
8505 Almena Drive  
Kalamazoo, MI 49009

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**

September 22, 1997  
3:00 p.m.

### **AGENDA**

1. Call to Order

2. Approval of Minutes

- September 8, 1997

3. Variance Request - Woodland Estates

Germano Mularoni of Germano Management Company, representing Wildwood Mobile Home Community LTD (aka Woodland Estates), requests Variance Approval from the sign requirements applicable to an "R-5" District established by Section 76.120, Zoning Ordinance.

Subject property is located at 4797 South 4th Street and is within the "R-5" District.  
(3905-33-355-022/031 & 3905-33-335-029)

4. Variance Request - Teerink

Tim Cassidy of Cassidy Builders, representing Hank & Teresa Teerink, requests Variance Approval from the foundation standards applicable to dwellings/residences established by Section 11.250 (3), Zoning Ordinance.

Subject site is located at 385 North 4th Street and is within the "AG" Rural District.  
(3905-17-430-235)

5. Variance Request - Rice

Bill Fry and Charles Van Kula of CVK Construction, representing Jim Rice, request Variance Approval from the foundation standards applicable to dwellings/residences established by Section 11.250 (3), Zoning Ordinance.

Subject site is located at 4055 O'Park and is within the "AG" Rural District.  
(3905-33-402-050)

6. Variance Request - Davis

Jack and Judith Davis request Variance Approval from the 200 ft. road frontage requirement established by Section 66.201, Zoning Ordinance.

Subject site is located at 8505 Almerna Drive and is within the "AG" Rural District.  
(3905-16-330-081)

7. Other Business

8. Adjourn

AGENDA: ZONING BOARD OF APPEALS

DATE: September 22, 1997

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

SENT: September 12, 1997

ZBA

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

PC

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

TB

~~X~~ Fred  
~~-~~ Dave B.  
~~X~~ Marvin  
~~X~~ Norm

OFFICE

~~X~~ Becky  
~~X~~ Bob  
~~X~~ Marci  
~~X~~ Lois  
~~X~~ Ron  
~~X~~ Elaine  
~~X~~ Jim  
~~X~~ Attorney's  
~~X~~ Mike  
~~X~~ Ken  
~~X~~ Tobey  
~~X~~ Cathy

PEOPLE

Germano Mularoni  
Germano Management Company  
32540 Schoolcraft, Suite 110  
Livonia, MI 48150

Mr. Tim Cassidy (Teerink)  
Cassidy Builders  
1125 33rd  
Allegan, MI 49010

12 Labels

Bill Fry & Charles Van Kula (Rice)  
CVK Construction  
34570 Mill Lake Road  
Gobles, MI 49055

13 Labels

Jack & Judith Davis  
8505 Almena Drive  
Kalamazoo, MI 49009

8 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

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

Cripps Fontaine Excavating  
7229 Douglas Avenue  
Kalamazoo, MI 49004

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

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:** 9-22-97

**From:** Planning/Zoning Department

**Agenda Item:** #4

**Applicant:** Tim Cassidy, Cassidy Builders  
Representing Hank & Teresa Terrink (property owner)

**Property In Question:** Terrink Residence  
385 North 4th Street

Reference Vicinity Map

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

**Request:** Variance Approval - Foundation/Bearing Wall

**Ordinance Section(s):** Section 11.250 - Definition of a Dwelling/Residence

**Planning/Zoning Department Report:**

Background Information

- On 6-17-97, the Building Department issued a building permit (#97-159B) for the erection of a dwelling at 385 North 4th Street (Parcel #3905-17-430-235).
- After issuance of the building permit, it was determined that the proposed dwelling did not meet the foundation standards defined by Section 11.250(3), Zoning Ordinance:

*"Permanently attached to a solid foundation constructed on the site in accordance with the Township Building Code not less in area than the area of the dwelling as measured around its perimeter, which attachment shall also meet all buildings codes or other state regulations and which foundation shall consist of a fully enclosed attached bearing wall around the perimeter of the dwelling extending from the footing to the ground floor."*

- A field inspection conducted upon discovery of the Building Department's error revealed that the foundation in question had already been installed at the subject site.
- Applicant requests variance approval from Section 11.250(3) pertaining to foundation standards of a "dwelling or residence"

## Reference Building Permit Application and Foundation Plot Plan

### Department Review

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

#### 1. *Conformance Unnecessarily Burdensome*

: Are reasonable options for compliance available?

- A Building Department representative will be present at the 9-22-97 meeting to discuss technical issues and options for compliance.

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

- Conformance with Section 11.250(3) would require the removal and replacement of the existing foundation and footings.

#### 2. *Substantial Justice*

: The ZBA has not considered a variance request (since 1984) which pertained to foundation standards regarding the definition of a "dwelling or residence", as described in Section 11.250(3).

: Consider the general character of the surrounding area (i.e., nature and construction elements of area residential dwellings).

#### 3. *Unique Physical Circumstances*

: There are no unique physical limitations on the subject site preventing compliance with the foundation standards for a dwelling or residence.

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

: Building permit application procedures were followed by the Applicant and approval/issuance of the building permit was granted by the Building Department.

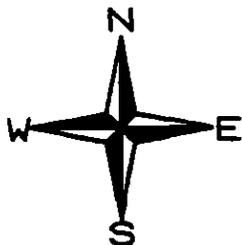
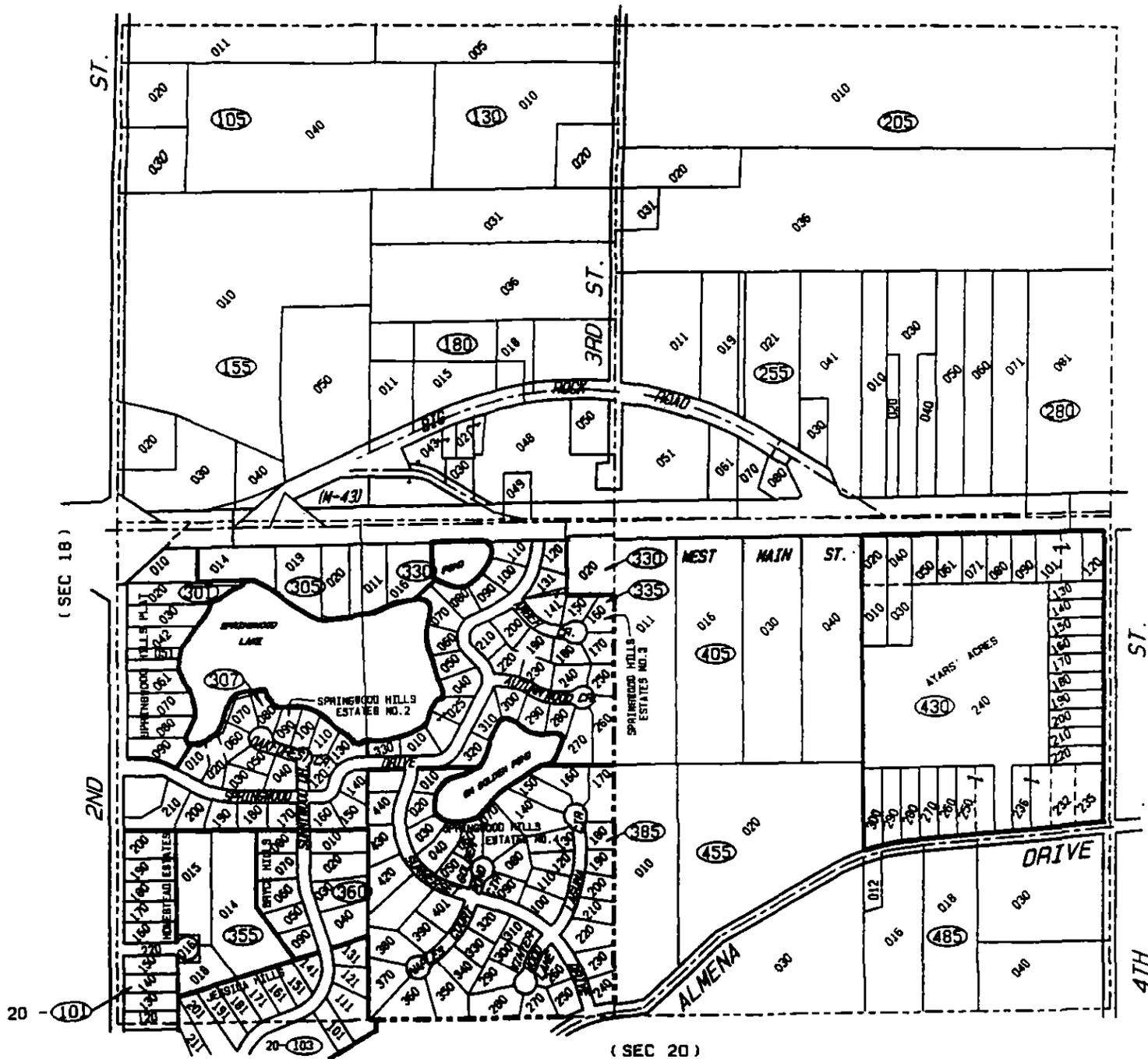
5. *Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance is granted?*

: Does the dwelling comply with the remaining provisions of Section 11.540, Zoning Ordinance.

: Does the established foundation function consistent with the intent of Section 11.540, Zoning Ordinance.

# SECTION 17

( SEC 8 )



SCALE 1" = 800'

DATE: AUGUST 25, 1993

REVISED DATE: MARCH 3, 1995

PRINTED DATE: MARCH 21, 1996

CHARTER TOWNSHIP OF OSHTEMO  
7275 West Main Street  
Kalamazoo, MI 49009  
(616) 375-4260

Permit No. 97-159B  
Parcel # 17-430-235

AUTHORITY P A 230 OF 1972, AS AMENDED  
COMPLETION MANDATORY TO OBTAIN PERMIT  
PENALTY: APPLICATION MUST BE COMPLETED,  
SIGNED, PROPER FEE ENCLOSED OR  
PERMIT WILL NOT BE ISSUED.

OSHTEMO TOWNSHIP WILL NOT DISCRIMINATE AGAINST  
ANY INDIVIDUAL OR GROUP BECAUSE OF RACE,  
RELIGION, AGE, NATIONAL ORIGIN, COLOR, MARITAL  
STATUS, HANDICAP, OR POLITICAL BELIEFS.

APPLICANT TO COMPLETE ALL ITEMS IN SECTION I, II, III, IV, V AND VI  
NOTE: SEPARATE APPLICATIONS MUST BE MADE FOR ELECTRICAL, MECHANICAL AND PLUMBING PERMITS

I. LOCATION OF BUILDING

Address 385 N 4<sup>TH</sup> ST OSTE

II. IDENTIFICATION

A. OWNER OR LESSEE

Name HANIK & TERESA TERRINIX Telephone # 616 226 9741

Address 1005 DAVIS City KALAMAZOO State MI Zip Code 49005

B. ARCHITECT OR ENGINEER

Name \_\_\_\_\_ Telephone # \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

License # \_\_\_\_\_ Expiration Date \_\_\_\_\_

C. CONTRACTOR

Name CASSIDY BUILDER Telephone # 616 613 3932 \*

Address 1125 33 ST City ALLEGAN State MI Zip Code 49010

Builders License # 2102119297 Expiration Date 5-31-95

Federal Employer ID # or Reason for Exemption 38-3005446

Workers Comp Insurance Carrier or Reason for Exemption MARYLAND CASUALTY

MESC Employer # or Reason for Exemption 1165675000.0

III. TYPE OF IMPROVEMENT AND PLAN REVIEW

VALUATION \$ 40,000.81750

A. TYPE OF IMPROVEMENT

- 1  Modular NEW BUILDING  ALTERATION 5  DEMOLITION 7  FOUNDATION ONLY 9  RELOCATION OTHER \_\_\_\_\_  
2  ADDITION 4  REPAIR 6  MOBILE HOME SET-UP 8  PREMANUFACTURE 10  SWIMMING POOL

APPLICANT IS RESPONSIBLE FOR PAYMENT OF ALL FEES APPLICABLE AND MUST PROVIDE THE FOLLOWING INFORMATION.

NAME CASSIDY BUILDER TELEPHONE 616 613 3932

ADDRESS 1125 33 ST CITY ALLEGAN STATE MI ZIP CODE 49010

FEDERAL I.D. NUMBER/SOCIAL SECURITY NUMBER 38-3005446

I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS HIS AUTHORIZED AGENT, AND WE AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THE STATE OF MICHIGAN ALL INFORMATION SUBMITTED ON THIS APPLICATION ACCURATE TO THE BEST OF MY KNOWLEDGE

SECTION 23A OF THE STATE CONSTRUCTION CODE ACT OF 1972, ACT NO. 230 OF THE PUBLIC ACTS OF 1972, BEING SECTION 125 1523A OF THE MICHIGAN COMPILED LAWS, PROHIBITS PERSONS FROM CONSPIRING TO CIRCUMVENT THE LICENSING REQUIREMENTS OF THIS STATE RELATING TO PERSONS WHO ARE TO PERFORM WORK ON A RESIDENTIAL BUILDING OR RESIDENTIAL STRUCTURE VIOLATORS OF SECTION 23A ARE SUBJECT TO CIVIL FINES

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE 6-16-97





# BUILDING PERMIT

This Permit Must Be Displayed on  
the Premises When Work Starts

Any person willfully destroying this permit before the completion of this building will be punished the full extent of the law.

Date 06/17/97 Permit No. 97-159B

This permit is issued for the ( Erection ) of a Dwelling

Location: 385 4th

OSHTEMO TOWNSHIP

  
Building Inspector.



# CASSIDY BUILDERS

Tim Cassidy  
Licensed Builder

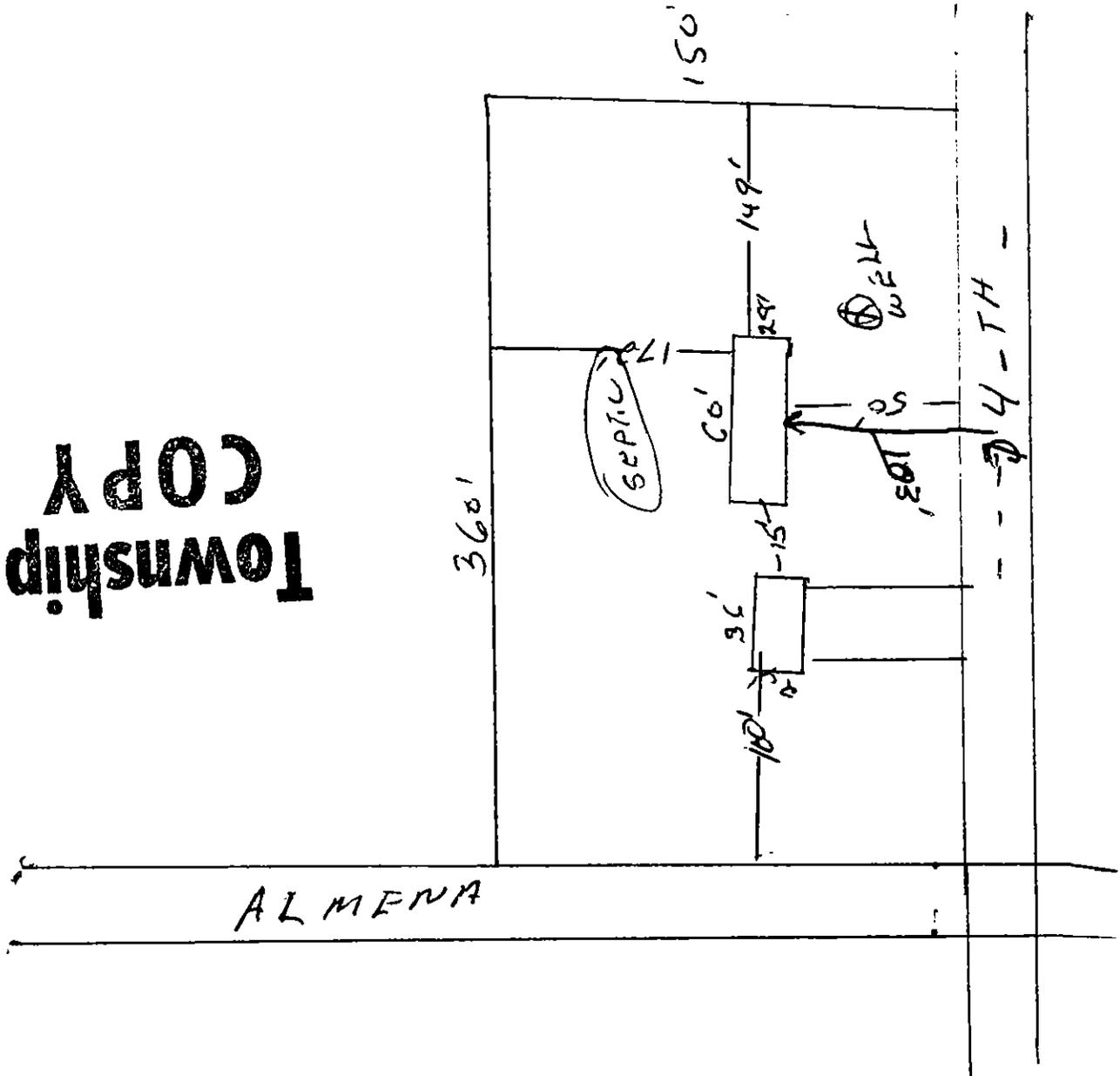
"For All Your Building Needs!"

1125 33rd  
Allegan, Michigan 49010

Phone/Fax  
(616) 673-3932

↑ N

Township  
COPY





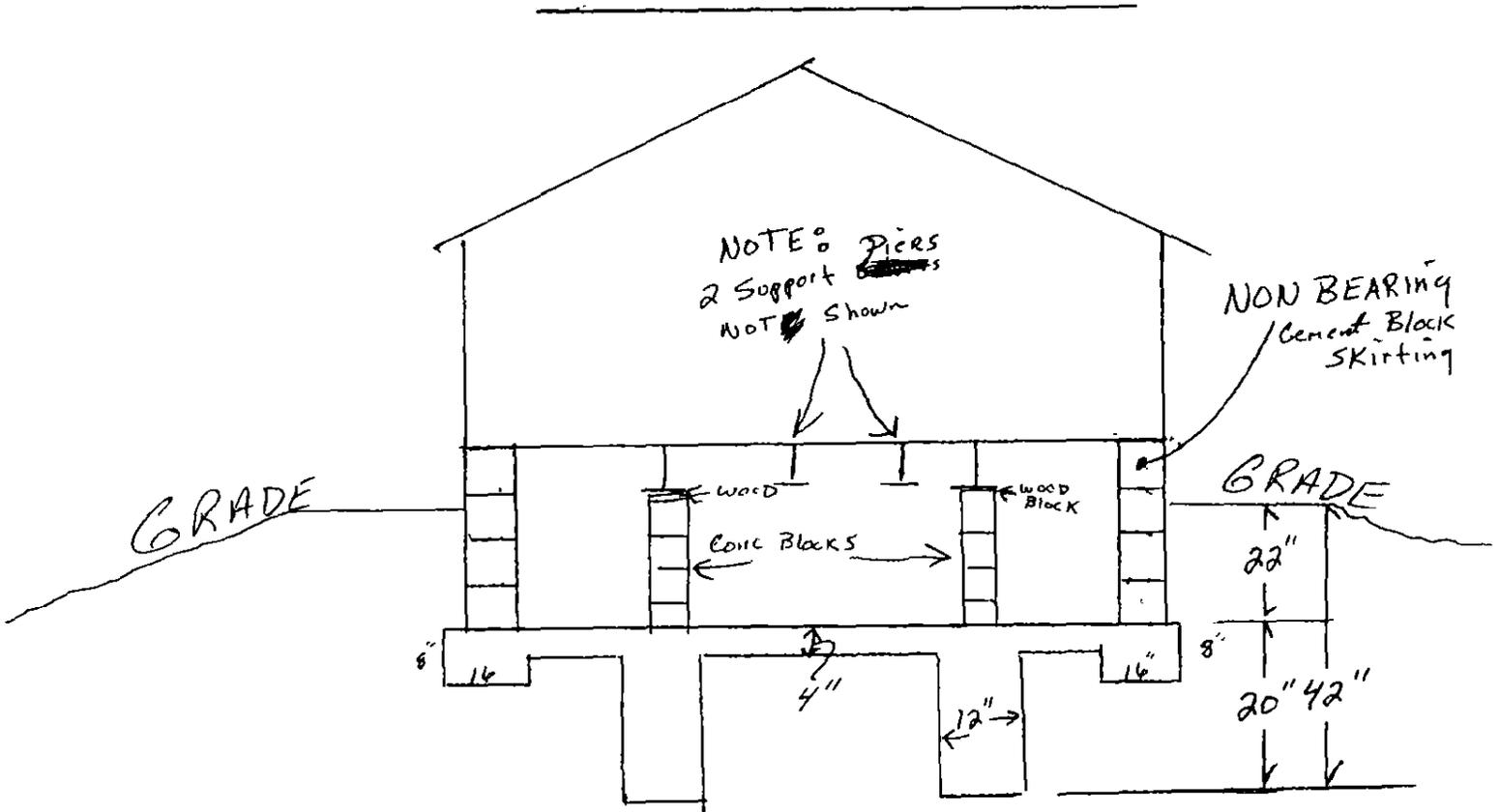
# CASSIDY BUILDERS

Tim Cassidy  
Licensed Builder

"For All Your Building Needs!"

1125 33rd  
Allegan, Michigan 49010

Phone/Fax  
(616) 673-3932



**Township  
COPY**

**1994  
U.B. CODE**





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

**To:** Zoning Board of Appeals

**Meeting Date:** 9-22-97

**From:** Planning/Zoning Department

**Agenda Item:** #5

**Applicant:** Bill Fry & Charles Van Kula, CVK Construction  
Representing Jim Rice (property owner)

**Property In Question:** Jim Rice Residence  
4055 O'Park Street

Reference Vicinity Map

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

**Request:** Variance Approval - Foundation/Bearing Wall

**Ordinance Section(s):** Section 11.250 - Definition of a Dwelling/Residence

**Planning/Zoning Department Report:**

Background Information

- On 7-8-97, the Building Department issued a building permit (#97-181B) for the erection of a dwelling at 4055 O'Park Street (Parcel #3905-33-402-050).
- After issuance of the building permit, it was determined that the proposed dwelling did not meet the foundation standards defined by Section 11.250(3), Zoning Ordinance:

*"Permanently attached to a solid foundation constructed on the site in accordance with the Township Building Code not less in area than the area of the dwelling as measured around its perimeter, which attachment shall also meet all buildings codes or other state regulations and which foundation shall consist of a fully enclosed attached bearing wall around the perimeter of the dwelling extending from the footing to the ground floor."*

- A field inspection conducted upon discovery of the Building Department's error revealed that the foundation in question had already been installed at the subject site.
- Applicant requests variance approval from Section 11.250(3) pertaining to foundation standards of a "dwelling or residence"

## Reference Building Permit Application and Foundation Plot Plan

### Department Review

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

#### 1. *Conformance Unnecessarily Burdensome*

: Are reasonable options for compliance available?

- A Building Department representative will be present at the 9-22-97 meeting to discuss technical issues and options for compliance.

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

- Conformance with Section 11.250(3) would require the removal and replacement of the existing foundation and footings.

#### 2. *Substantial Justice*

: The ZBA has not considered a variance request (since 1984) which pertained to foundation standards regarding the definition of a "dwelling or residence", as described in Section 11.250(3).

: Consider the general character of the surrounding area (i.e., nature and construction elements of area residential dwellings).

#### 3. *Unique Physical Circumstances*

: There are no unique physical limitations on the subject site preventing compliance with the foundation standards for a dwelling or residence.

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

: Building permit application procedures were followed by the Applicant and approval/issuance of the building permit was granted by the Building Department.

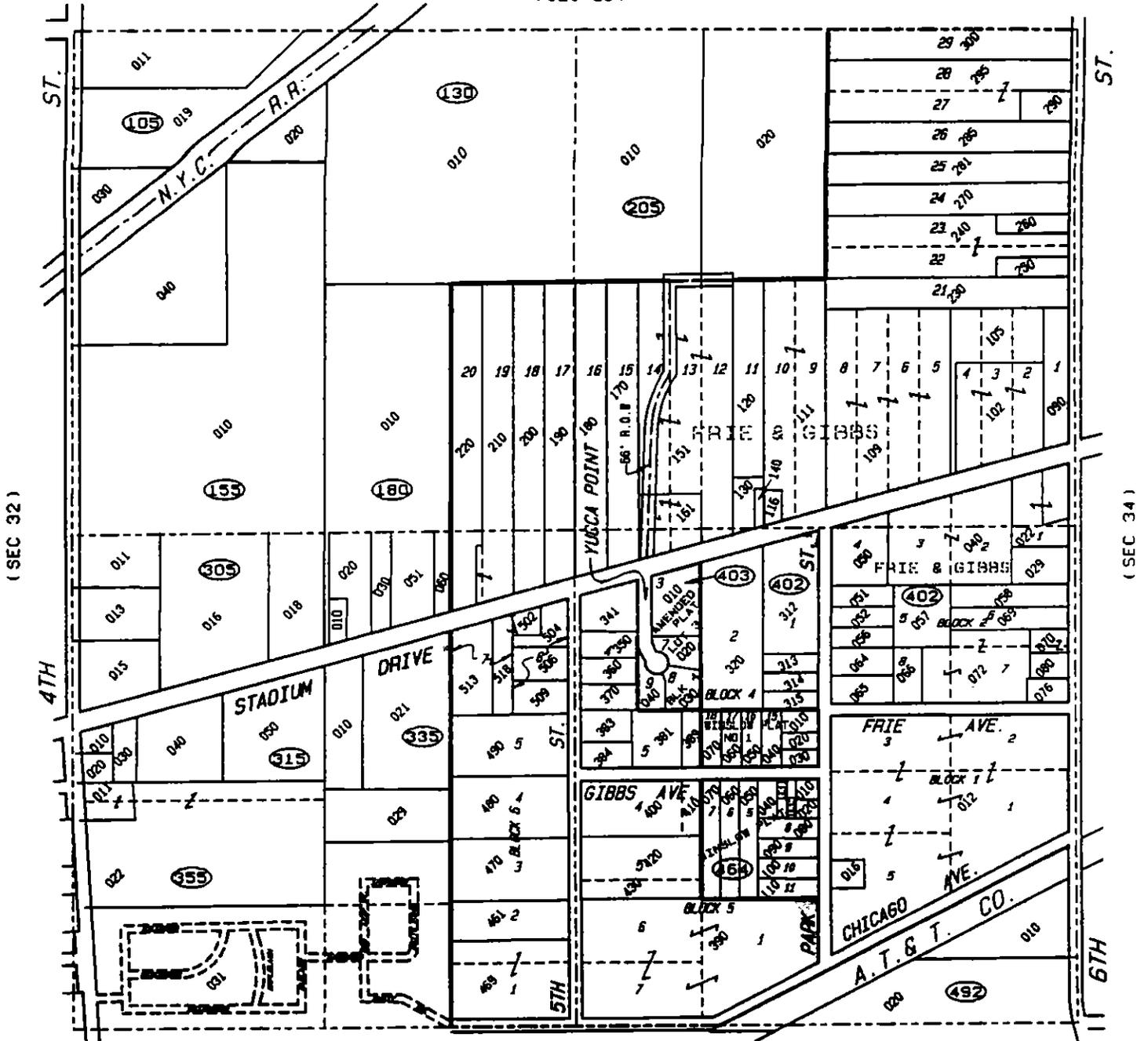
5. *Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance is granted?*

: Does the dwelling comply with the remaining provisions of Section 11.540, Zoning Ordinance.

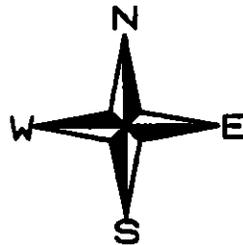
: Does the established foundation function consistent with the intent of Section 11.540, Zoning Ordinance.

# SECTION 33

( SEC 28 )



( TEXAS 4 )



SCALE 1" = 800'

DATE: AUGUST 25, 1993

REVISED DATE: MARCH 11, 1996

PRINTED DATE: MARCH 22, 1996

CHARTER TOWNSHIP OF OSHTEMO  
7275 West Main Street  
Kalamazoo, MI 49009  
(616) 375-4260

Permit No. 97-151B  
Parcel # 32-463-000

AUTHORITY P.A. 230 OF 1972, AS AMENDED  
COMPLETION MANDATORY TO OBTAIN PERMIT  
PENALTY: APPLICATION MUST BE COMPLETED,  
SIGNED, PROPER FEE ENCLOSED OR  
PERMIT WILL NOT BE ISSUED.

OSHTEMO TOWNSHIP WILL NOT DISCRIMINATE AGAINST  
ANY INDIVIDUAL OR GROUP BECAUSE OF RACE,  
RELIGION, AGE, NATIONAL ORIGIN, COLOR, MARITAL  
STATUS, HANDICAP, OR POLITICAL BELIEFS.

APPLICANT TO COMPLETE ALL ITEMS IN SECTION I, II, III, IV, V AND VI  
NOTE: SEPARATE APPLICATIONS MUST BE MADE FOR ELECTRICAL, MECHANICAL AND PLUMBING PERMITS

I. LOCATION OF BUILDING

Address 7055 W. Paris

II. IDENTIFICATION

A. OWNER OR LESSEE

Name Jim Rice Telephone # 341-1099

Address 5650 Beacon City Portage State MI Zip Code 49024

B. ARCHITECT OR ENGINEER

Name \_\_\_\_\_ Telephone # \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

License # \_\_\_\_\_ Expiration Date 5/1/2000

C. CONTRACTOR

Name Chris Coast Telephone # 219-7673

Address 303 S. Athens City Elletts State MI Zip Code 49424

Builders License # 2102117040 Expiration Date 3-31-99

Federal Employer ID # or Reason for Exemption 35-3137578

Workers Comp Insurance Carrier or Reason for Exemption Auto Owners

MESC Employer # or Reason for Exemption 1211920

III. TYPE OF IMPROVEMENT AND PLAN REVIEW

VALUATION \$ 63,000.00

A. TYPE OF IMPROVEMENT

- 1  NEW BUILDING
- 2  ADDITION
- 3  ALTERATION
- 4  REPAIR
- 5  DEMOLITION
- 6  MOBILE HOME SET-UP
- 7  FOUNDATION ONLY
- 8  PREMANUFACTURE
- 9  RELOCATION
- 10  SWIMMING POOL
- OTHER \_\_\_\_\_

APPLICANT IS RESPONSIBLE FOR PAYMENT OF ALL FEES APPLICABLE AND MUST PROVIDE THE FOLLOWING INFORMATION.

NAME Bill Fog (Chris Coast) TELEPHONE # 628-5320

ADDRESS 34570 Rice Cir NW CITY Combs STATE MI ZIP CODE 49055

FEDERAL I.D. NUMBER/SOCIAL SECURITY NUMBER 310 72 2021

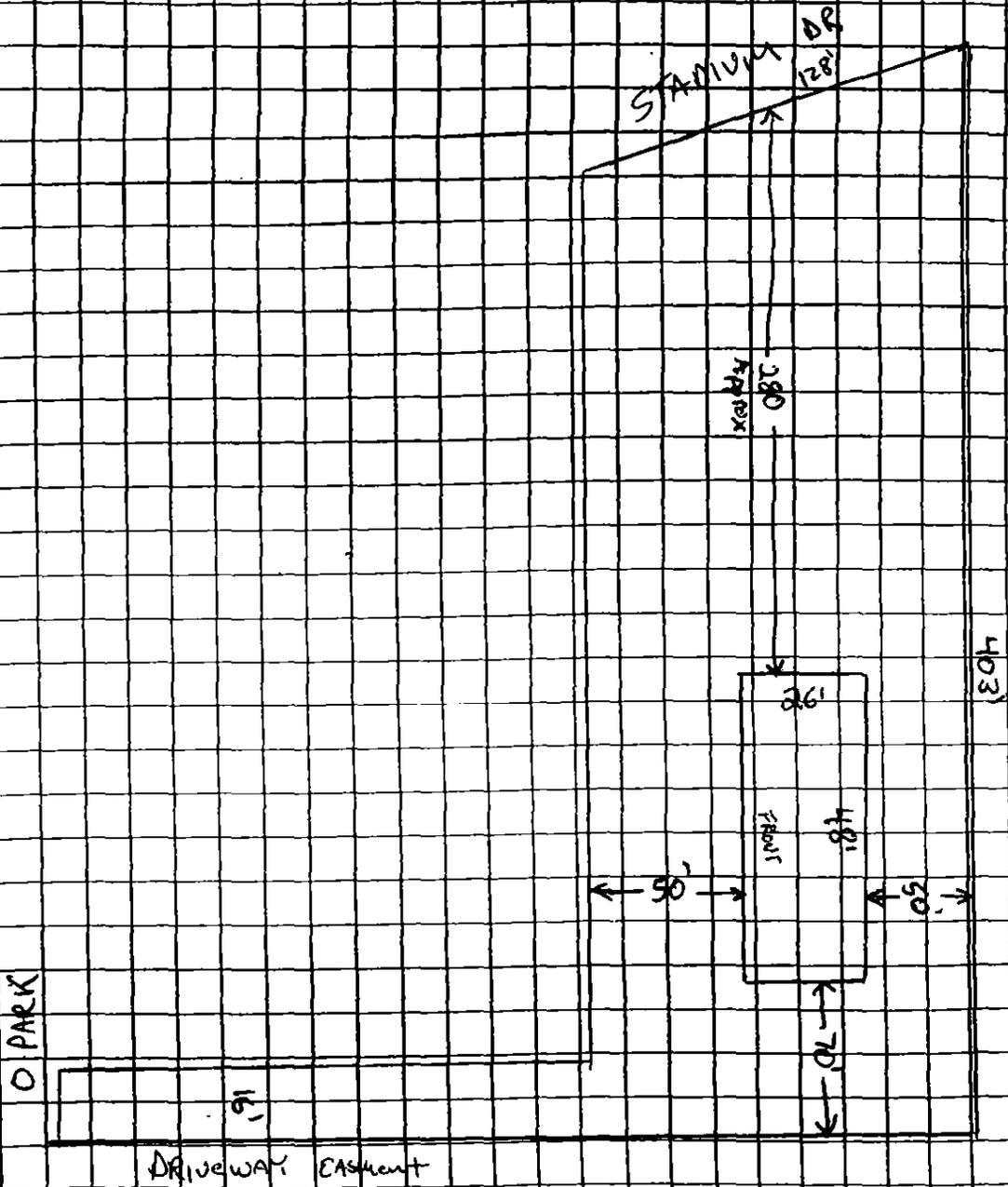
I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS HIS AUTHORIZED AGENT, AND WE AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THE STATE OF MICHIGAN. ALL INFORMATION SUBMITTED ON THIS APPLICATION ACCURATE TO THE BEST OF MY KNOWLEDGE

SECTION 23A OF THE STATE CONSTRUCTION CODE ACT OF 1972, ACT NO. 230 OF THE PUBLIC ACTS OF 1972, BEING SECTION 125 (523A) OF THE MICHIGAN COMPILED LAWS, PROHIBIT PERSON FROM CONSPIRING TO CIRCUMVENT THE LICENSING REQUIREMENTS OF THIS STATE RELATING TO PERSONS WHO ARE TO PERFORM WORK ON A RESIDENTIAL BUILDING OR RESIDENTIAL STRUCTURE. VIOLATORS OF SECTION 23A ARE SUBJECT TO CIVIL FINES

SIGNATURE OF APPLICANT Bill Fog DATE 7-7-97



IX. SITE OR PLOT PLAN - FOR APPLICANT USE



INDICATE DIRECTION OF NORTH WITHIN THE CIRCLE:



**BUILDING PERMIT CHECKLIST  
(TOWNSHIP USE ONLY)**

✓ Complete Building Permit Application (with plot plan showing front, side and rear setback, building location, etc.)

✓ Building Plans - 2 sets for Residential (require sealed plans if over 3500 sq ft)  
3 sets for Commercial - sealed

✓ Recorded Deed

NA Earth Change Permit (Kalamazoo County Drain Commissioner)

✓ Driveway Permit(s) (Kalamazoo County Road Commission)

✓ Health Department Permit(s)

\_\_\_\_\_ Sewer In assessment district # \_\_\_\_\_

Front footage \_\_\_\_\_ x \$20.00/ft = \_\_\_\_\_  
plus connection fee 2,000.00  
plus benefit fee 1,000.00

Total sewer \$ \_\_\_\_\_

\_\_\_\_\_ Water In assessment district # \_\_\_\_\_

Front footage \_\_\_\_\_ x \$18.68 = \_\_\_\_\_

Total water \$ \_\_\_\_\_

OK Zoning Approval rh

Permit released by LDI on 7 18 197  
Paid - 7 1 11 11 Reg # 53300

\*All of the above must be submitted before a building permit can be issued

**APPROVED**

BUILDING DEPT.

07/08/97

**OSHTEMO BLDG. DEPT.**  
**775 WEST MAIN**  
**ANN ARBOR, MICHIGAN 48106**  
**PHONE 323-2400**

PERMIT #

1994

**U.B. CODE**

NOTE: ALL EXTENSIONS OVER AND WINDOW COORDINATES ARE TO THE CENTER OF THE STUDY AND NOT THE FACE OF THE WINDOW OR DOOR.

DRAWN BY: KAG  
 DATE: 2/21/97  
 REV. DATE: 5/5/97

DATE: 0000

APPROVED BY: [Signature]

QUAL. SIZE: 52-48X28/26

REV. DATE: 0000

ULTIMATE VALUE

Lincoln Park Homes

Division of Patriot Homes, Inc.

DESCRIPTION

BR-1

BR-2

DINING

MORNING ROOM

LIVING ROOM

UTILITY

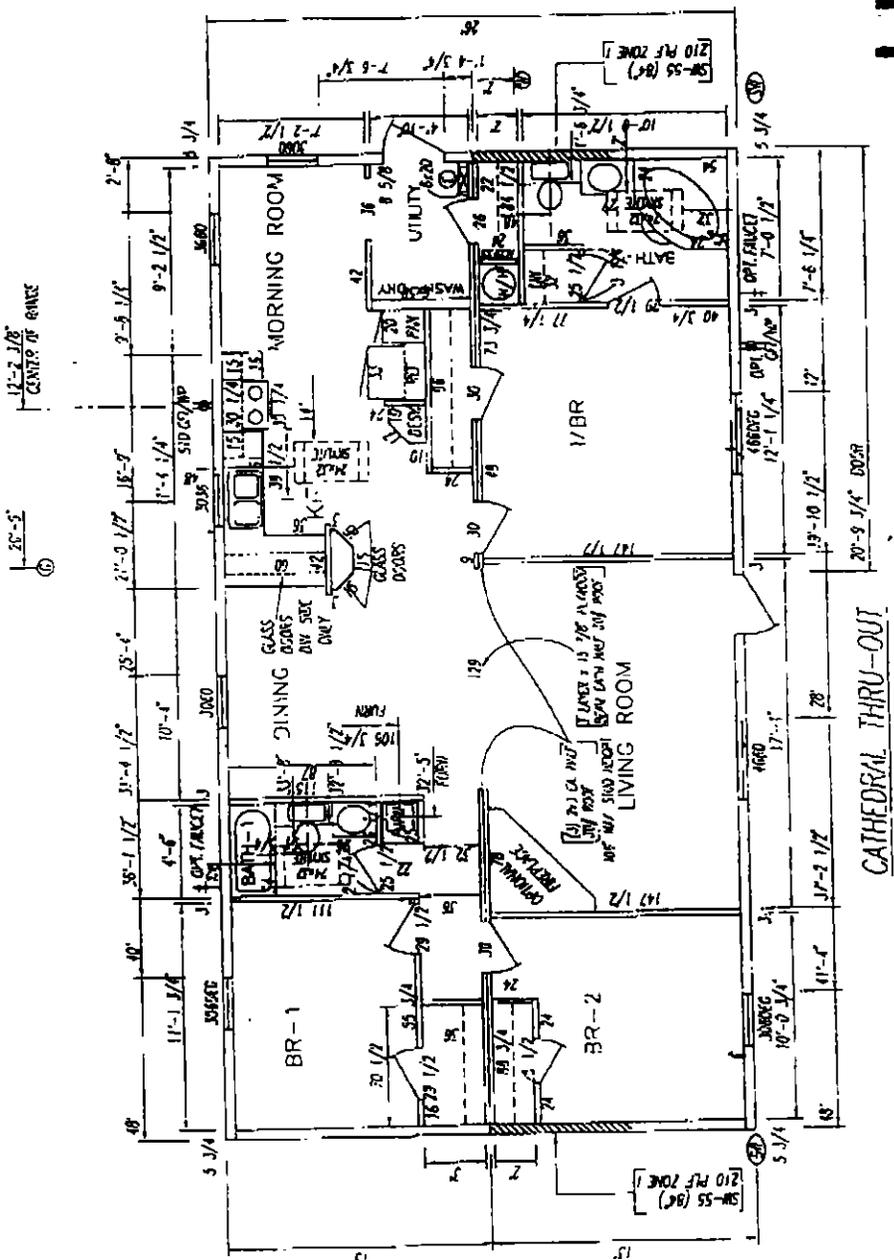
BATH-1

BATH-2

1/BR

210 PF ZONE I

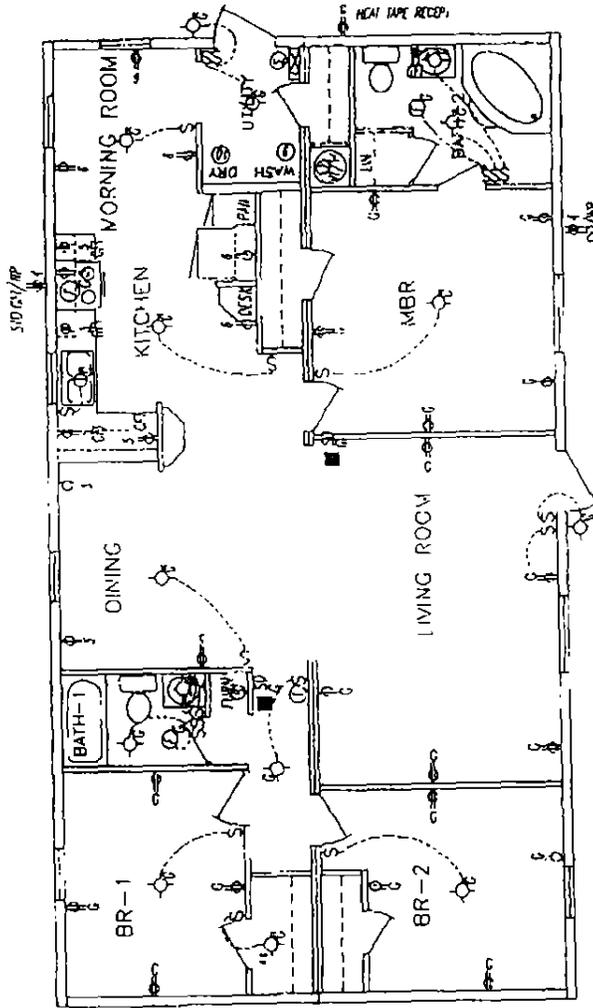
SM-55 (84)



THERMAL ZONE	INSULATION PACKAGE
3	R-11, R-21 R-11, R-31
TOTAL PERMITTED QUANTITY ALLOWED	36,225
QUANTITY INSTALLED	55,10
PERCENTAGE OF PERMITTED QUANTITY ALLOWED	20.91
41,125	

SM-55 (84)

W/CH OUTLETS TO BE LOCATED  
IN THE CLOSET QUARTERS  
APPROXIMATE W/CH 110-K (2x4)



**INCLUDES**  
 12-15 AMP 14-2 W/CH CU GEN LIGHTING  
 15 AMP 14-2 W/CH CU GEN BATH & OUTSIDE RECEPT  
 20 AMP 12-2 W/CH CU SMALL APPLIANCE  
 20 AMP 12-2 W/CH CU SMALL APPLIANCE

**CIRCUITS**  
 20 AMP 12-2 W/CH CU W/CH  
 20 AMP 10-2 W/CH CU W/CH  
 8-15 AMP 14-2 W/CH CU FURNACE  
 9-10 AMP 12-2 W/CH CU WASHER  
 10/12 30 AMP DP 10-3 W/CH CU DRYER (DPT)

**CIRCUITS**  
 13-20 AMP 12-2 W/CH CU SMALL APPLIANCE  
 3 OR 1000 RECEPT LOAD SITUATION  
 AS PRACTICAL WITH VENTHOOD & PATIFIRMS

**RECEPT**  
 1300 RECEPT  
 0 F1 RECEPT  
 01 W/CH PRCS

**SERVICE PANEL**  
 LIGHTED POWER VENT  
 SWITCH  
 FAN  
 SMOKE DETECTOR  
 20 (ON SEPARATE CIRCUITS)  
 RICHMOND/AT

**APPROVED BY:**  
 DATE: 7/11/1997  
 DRAWN BY: XAG  
 DATE: 7/11/1997

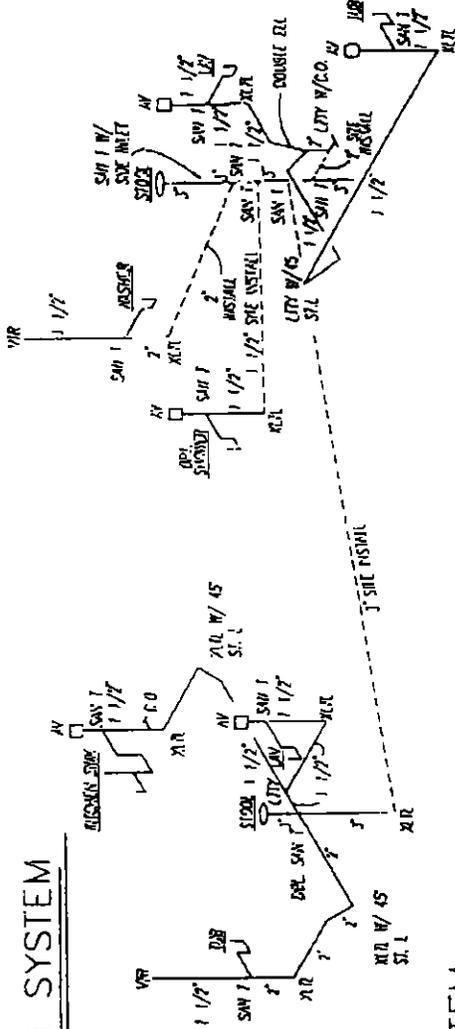
**CALL SIZE**  
 57-48X 26  
**LINE**  
 UV005

**REVISIONS**  
 REV. DATE: \_\_\_\_\_  
 REV. DATE: \_\_\_\_\_  
 REV. DATE: \_\_\_\_\_

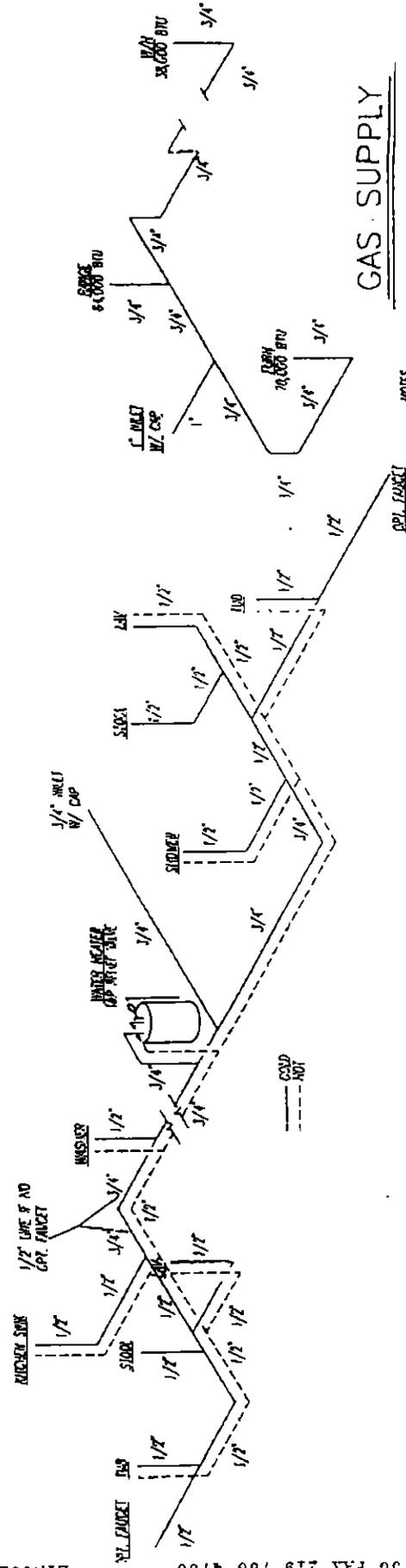
**ULTIMATE VALUE**  
 ELECTRICAL PLAN

**Lincoln Electric Companies**  
 Division of Palflex Homes, Inc.

### DRAIN SYSTEM



### WATER SUPPLY SYSTEM



### GAS SUPPLY

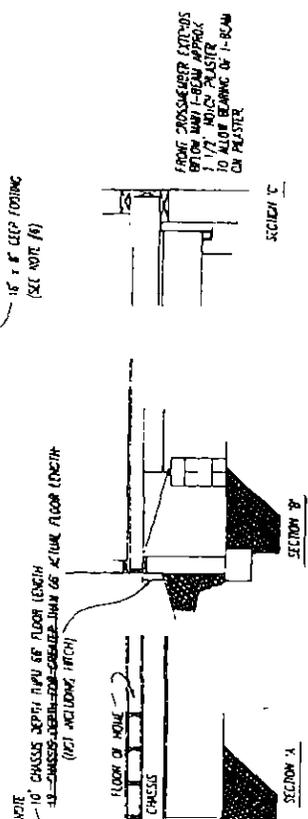
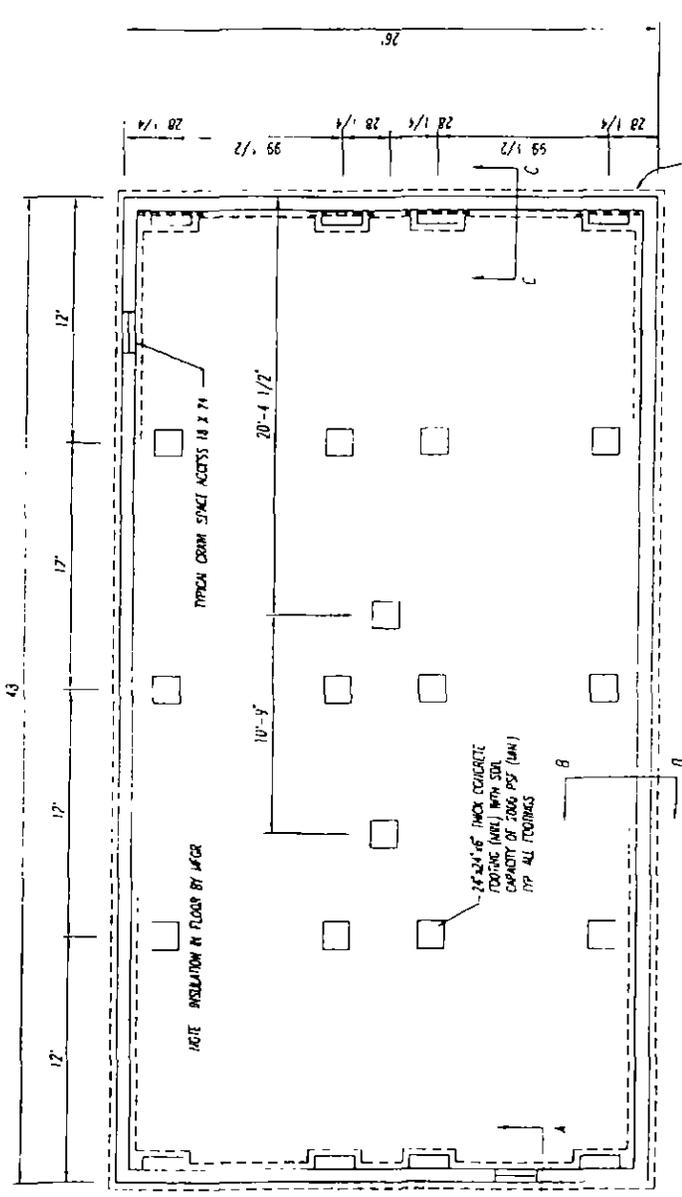
- NOTES:
- ALL APPLIANCES CONNECTED W/ 1/2" PEX W/ SHUT-OFF VALVE
  - TRAIL BRN = 172,000 BTU
  - W/4" DISTANCE FROM WALL TO FURTHEST APPLIANCE - 40"
  - ALL PPE IS 1/2" BLACK PIPE UNLESS NOTED OTHERWISE

Lincoln Park Homes Division of Petrol Homes, Inc.	DESCRIPTION	APPROVED BY: _____ DATE: _____ REV. DATE: _____ REV. DATE: _____		DEPART BY: _____ DATE: _____	REV. DATE: _____ DATE: _____
	ULTIMATE VALUE	CALL SIZE: 52-48X	LINE: UV005	26	1187

U005 Crawl/Pier

MODEL

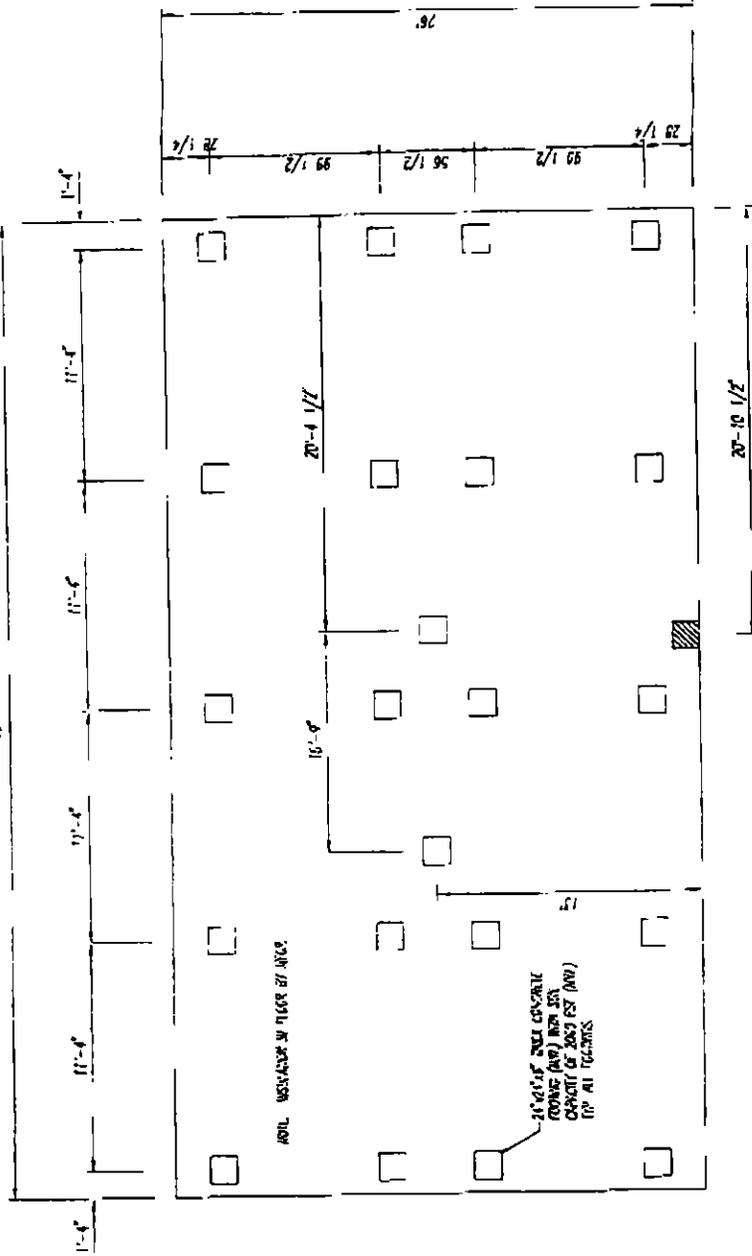
IT IS THE RESPONSIBILITY OF THE BUILDER/DEALER TO VERIFY THAT ANY PRINTS OR INFORMATION FOR WORK PERFORMED AT THE HOME/SITE CORRELATES WITH THE UNIT ORDERED. PATRIOT HOMES, INC. WILL NOT BE HELD RESPONSIBLE FOR DAMAGES ARISING FROM FAILURE OF THE PROPER INFORMATION BEING MATCHED WITH THE MODEL, REGARDLESS OF WHAT WAS SUPPLIED. THIS FOUNDATION DRAWING APPLIES ONLY TO THE FLOORPLAN WITH THE SAME MODEL DESIGNATION AND IDENTICAL REVISION DATE.



- NOTES
- 1) PIERS LOCATED UNDER EACH SIDE OF OPENINGS IN BATING WALLS 4'-0" AND LARGER
  - 2) 1/2" X 4" ANCHOR BOLTS 1'-0" FROM CORNERS AND 5' 0" O.C. AROUND PERIMETER
  - 3) PROVIDE POSITIVE UNDERBENT DRAINAGE MAX 4" PEA GRAVEL & 6 MIL POLY VAPOR BARRIER
  - 4) TYPICAL 8" X 16" FOUNDATION VENTS LOCATED WITHIN 3'-0" OF EACH CORNER OF EXHAUST SHALES OPENINGS SHALL BE COVERED WITH A CORROSION RESISTANT WIRE MESH NOT GREATER THAN 1/2" X 4" (LESS THAN 1/4" IN ANY DIRECTION)
  - 5) VENTILATION PROVIDED EQUAL TO OR GREATER THAN 1 S.F. FOR EACH 110 S.F. OF FLOOR AREA
  - 6) DUE TO VARIANTS IN LOCAL SOIL CONDITIONS AND FROST LEVELS, ALL FOUNDATION AND FOOTINGS TO BE REVIEWED BY LOCAL ENGINEER AND APPROVED BY LOCAL BUILDING COMMISSION

Lincoln Park Homes Dealer of Patriot Homes, Inc.	DESCRIPTION <b>ULTIMATE VALUE</b> 216 FLOOR-CRAWLSPACE-PIER SET-FRAMEWORK WALL-FOUNDATION	REV. DATE REV. DATE REV. DATE	APPROVED BY CHL SITE	DRAWN BY KAG DATE 11/14/1995	REV. DATE 1997
	52--18X	26	JVO05	1997	1997

UV005 Plan 16lab



- NOTES
- 1) PUMPS LOCATED UNDER EACH SIDE OF OPERATOR'S IN JAINING WALLS 4' 0" AND UNDER.
  - 2) PROVIDE FROSTING UNDEFINITION ORANGE AND 4" PER GPMEL & 6 IN PER HAPON BRUSHUP
  - 3) DUE TO VARIANCES IN LOCAL SOILS, SOIL CONDITIONS AND FROST LEVELS, ALL FOUNDATION AND FOOTINGS TO BE REVIEWED BY LOCAL ENGINEER AND APPROVED BY LOCAL BUILDING COMMISSION.
  - 4) CONCRETE FOOTINGS THAT EXTEND BELOW FROST LINE ARE RECOMMENDED TO BE USED. MINIMUM SOIL FOOTINGS ARE 24" x 24" x 26" THICK IF FROST LINE ALIGNS APPROX 2000 TO SOIL CAPACITY
  - 5) MINIMUM PER CAPACITY 75000. BEAMS SHOWN FOR ILLUSTRATION ONLY. PILES SHALL BE REVIEWED BY A LOCAL P.E. FAMILIAR WITH CONDITIONS AT SITE.
  - 6) MINIMUM PER CAPACITY 75000. DETAILS SHOWN FOR ILLUSTRATION ONLY. PILES SHALL BE REVIEWED BY A LOCAL P.E. FAMILIAR WITH CONDITIONS AT SITE.

MINING - THESE LOCATIONS ARE NOT REQUIRED TO BE FOLLOW GROUND LINE, HOWEVER OWNER MAY OBTAIN AND PERFORM ADJUSTMENTS WILL BE REQUIRED

NOTE: IT IS THE RESPONSIBILITY OF THE SUNDAY/OWNER TO VERIFY THAT ANY PRINTS OR NOTIFICATION FOR WORK PERFORMED AT THE HOUSES CORRELATES WITH THE LAST ORDERED. HANCOCK HOMES, INC. WILL NOT BE HELD RESPONSIBLE FOR DAMAGES ARISING FROM FAILURE OF THE PROPER INFORMATION BEING WATCHED WITH THE HOME, REGARDLESS OF WHAT WAS SUPPLIED. THIS FOUNDATION DRAWING APPLIES ONLY TO THE FLOORPLAN WITH THE SAME MODEL DESIGNATION AND NEUTRAL MEASUREMENT DATE.

Lincoln Park Homes Div. of Point Homes, Inc.	DESCRIPTION <b>ULTIMATE VALUE</b> 275 TICS PER 311-302-7306/311	APPROVED BY: _____ DATE: 12/9/96	DRAWN BY: LAG DATE: 12/9/96	REV. DATE: REV. DATE: REV. DATE:	REV. DATE: REV. DATE: REV. DATE:
	52-48X 26	LINE UV005	1997	1997	1997



# BUILDING PERMIT

This Permit Must Be Displayed on  
the Premises When Work Starts

Any person wilfully destroying this permit before the completion of this building will be punished the full extent of the law.

Date 07/08/97 Permit No. 97-181B

This permit is issued for the ( Erection ) of a Dwelling

Location: 4055 O PARK

OSHTEMO TOWNSHIP



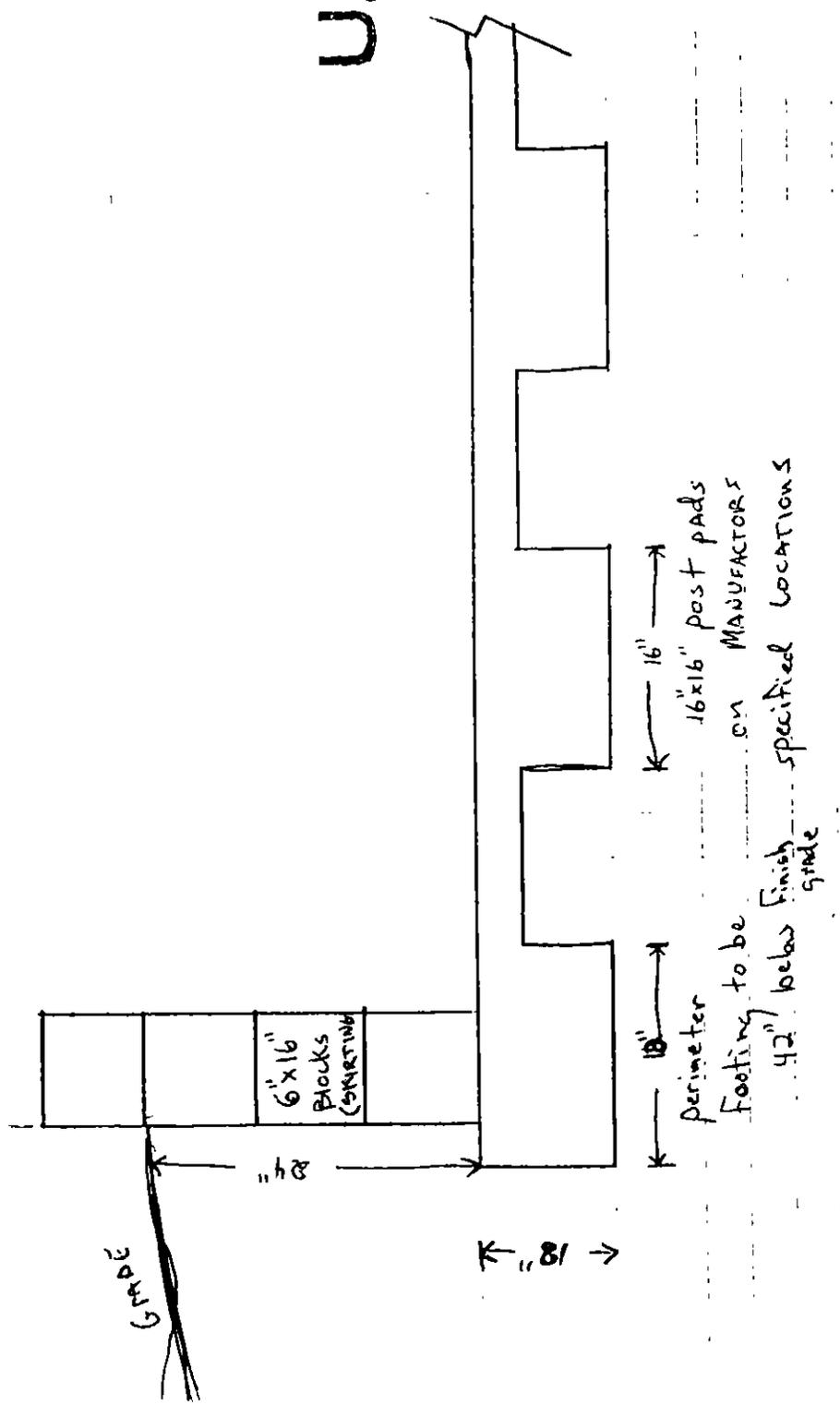
Issuing Inspector. OS-100

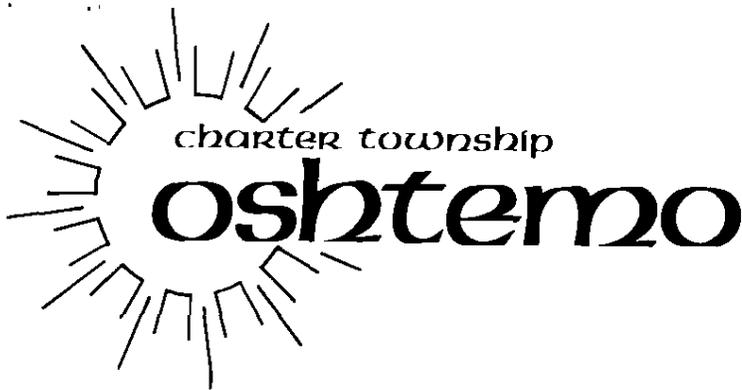


PERMIT #

1994  
U.B. CODE

**Township  
COPY**





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

**To:** Zoning Board of Appeals

**Meeting Date:** 9-22-97

**From:** Planning/Zoning Department

**Agenda Item:** #6

**Applicant:** Jack and Judith Davis, property owners

**Property In Question:** Davis Residence  
8505 Old Almena Drive

Reference Vicinity Map

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

**Request:** Variance Approval - 200 Ft Road Frontage Requirement

**Ordinance Section(s):** Section 66.201 - Dimensional Standards

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

**Background Information**

- On 10-18-85, the subject parcel (Parcel #3905-16-330-081), 8505 Old Almena Drive, was created from portions of two other parcels (Parcel #3905-16-330-080 and Parcel #3905-16-405-020).
  - : The split resulted in the subject parcel (Parcel #3905-16-330-081) being left with approximately 108 ft of road frontage along Old Almena Drive.
  - : A single family residence and detached garage, which were constructed prior to the 1985 split, are still located upon the subject parcel.
  - : Prior to the 1985 split, the parent parcel (Parcel #3905-16-330-080) had approximately 173 ft of road frontage along Old Almena Drive.

- Since the subject parcel was created after the 1965 adoption of the 200 ft road frontage requirement, the subject parcel is considered to be non-buildable under the Ordinance (i.e., a building permit can not be issued).
- Applicant is requesting variance approval from the 200 ft road frontage requirement (108 ft road frontage currently exists) for construction of a pole building upon the subject parcel.

Reference Application and Parcel Map

Department Review

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

1. *Conformance Unnecessarily Burdensome*

: Are reasonable options for compliance available?

- Acquisition of additional road frontage to meet the 200 ft requirement.
- Develop the subject parcel under the Land Division Act or Site Condominium development standards.

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

- The existing residence and detached garage can continue to be utilized, however, non-conformance with the road frontage requirement prohibits the issuance of a building permit for the subject parcel.

2. *Substantial Justice*

: Consider past decisions in similar requests.

**Frontage Variance Requests** (since 1984 Ordinance)

11-18-96	William Gates	Denied
9-23-96	Ray and Henry Ekema	Denied
1-9-95	Gordon Food Service	Granted
2-7-94	Scott Husted	Denied
4-19-93	Patricia Annen	Granted
5-21-90	Wilbur and Mary Lou Wilson	Granted
5-15-89	Christian Spiritualist Church	Denied

9-12-88	Lenore O'Keefe	Denied
1-4-88	John and Ida Vels	Denied
10-5-87	Fred Sakri	Denied
2-9-87	Andres Herrera	Denied
2-2-87	Mike Straka	Denied
12-1-86	Ron Rutgers	Granted
6-19-86	Hayes and Lois Brown	Granted
6-3-85	LaVerne Boerman	Denied
9-10-84	John Kelly	Denied

Reference ZBA Minutes (excerpts)

: Consider the road frontage of surrounding properties to determine consistency with the general character of the area.

- Parcel #3905-16-405-021 (immediately east) 136 ft road frontage
- Parcel #3905-16-330-070 (immediately west) 415 ft road frontage

Reference Parcel Map

3. *Unique Physical Circumstances*

: There are no unique physical limitations on the subject parcel preventing compliance with Ordinance frontage standards.

4. *Self-Created Hardship*

: The subject parcel was split/created in 1985, after adoption of the 200 ft road frontage requirement in 1965.

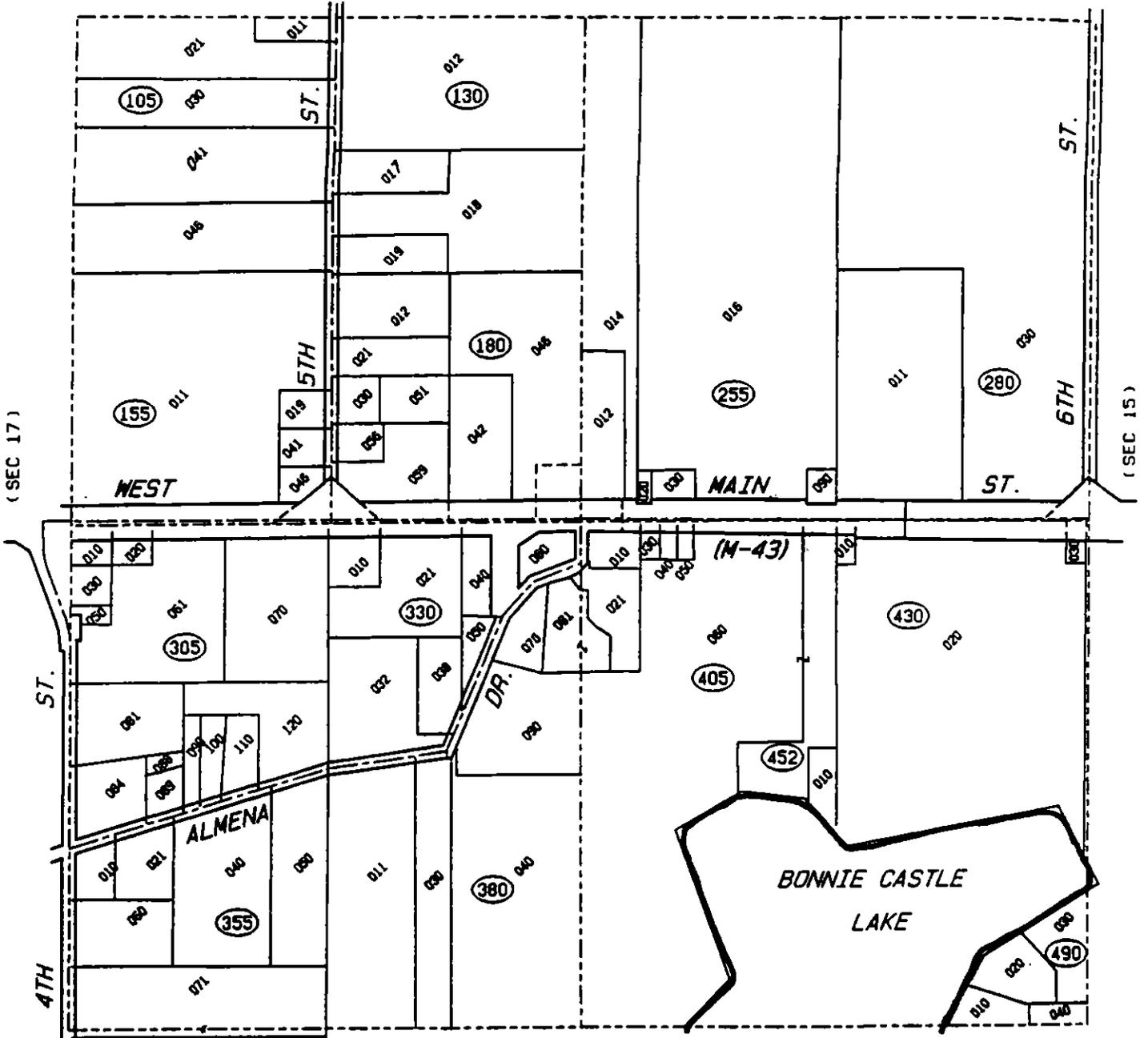
5. *Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance is granted?*

: Consider ZBA discussion and application of the frontage standard in previous variance requests (reference *Substantial Justice/ZBA Minutes* - excerpts).

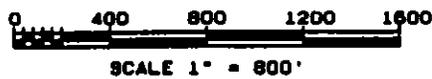
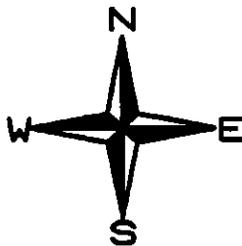
: Consider character of surrounding properties in regards to existing road frontage (reference *Substantial Justice/parcel maps*).

# SECTION 16

( SEC 9 )



( SEC 21 )



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



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

REQUEST FOR ZONING BOARD OF APPEALS MEETING

Date 25 AUG 97 Present Zoning AG Fee \$100

Land Owner JACK L. + JUDITH DAVIS

Address 8505 ALMENA DR Phone 375-5521

Person Making Request JACK L. + JUDITH DAVIS

Address 8505 ALMENA DR Phone 375-5521

Interest in Property OWNER

Size of Property Involved 2.8 ACRES 16-330-081

Reason for Request VARIANCE FROM 200' FRONTAGE  
STANDARD FOR CONSTRUCTION OF POLE  
BLDG.

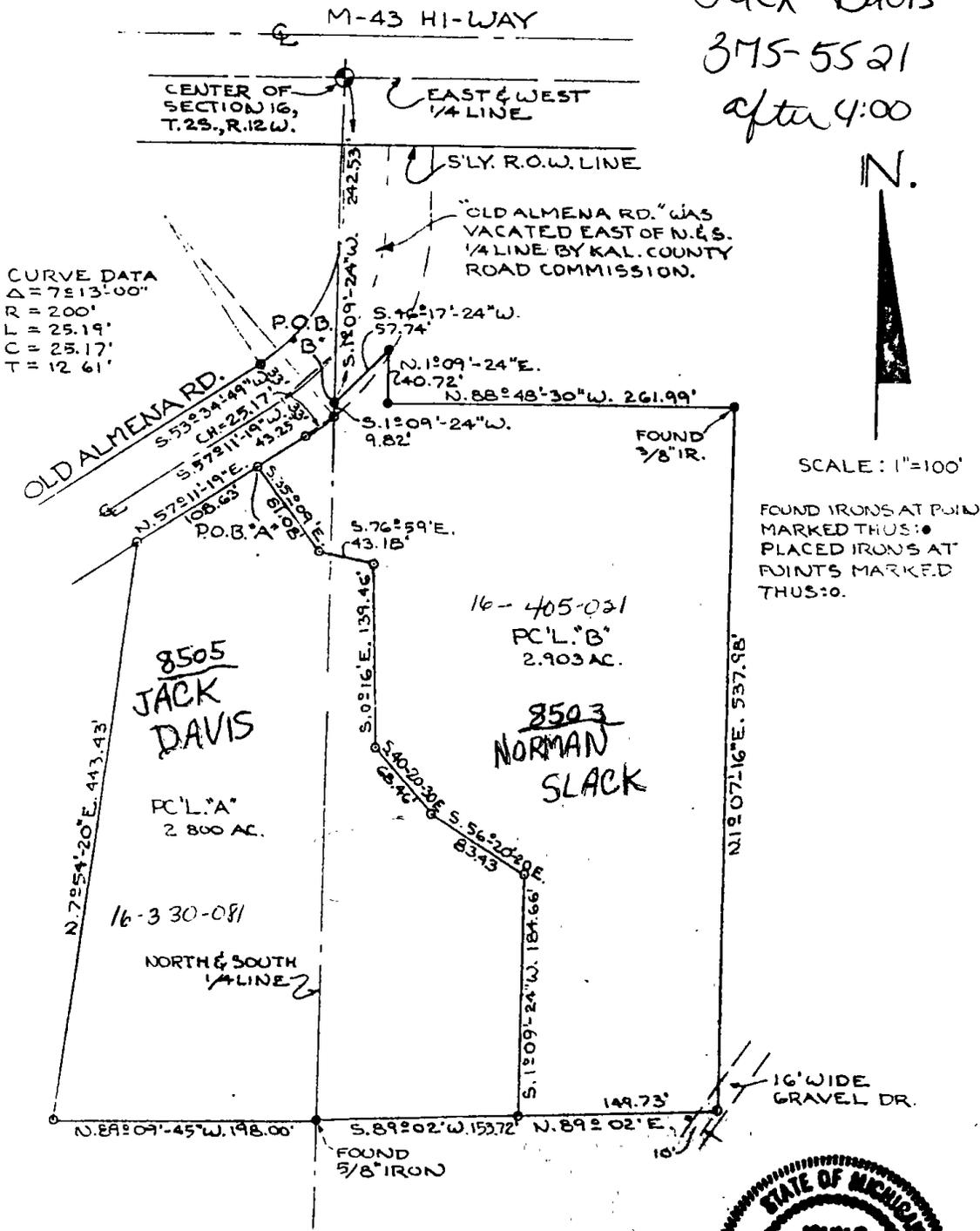
**CHARTER TOWNSHIP  
OF OSHTEMO**  
7275 W. MAIN STREET  
KALAMAZOO, MI 49009  
616-375-4260

8/25/97 JF

054232 ZBA REQUEST/DAVIS 100.00  
TOTAL PAID 100.00

THANK YOU

Jack Davis  
375-5521  
after 4:00



PROPERTY SURVEY OF A PARCEL OF LAND IN THE SOUTH HALF OF SECTION 16, TOWN 2 SOUTH RANGE 12 WEST, OSHTEND TOWNSHIP, KALAWAZOO COUNTY, MICHIGAN

JOHN F. STACK  
 R.L.S. No. 10707  
 102 W. Michigan Avenue  
 Paw Paw, Michigan 49079

REVISIONS	DATE	SHEET
	6-4-85	1/2

CERTIFIED SURVEY MAP OF KALAMAZOO COUNTY, MICHIGAN

CERTIFICATE

I, John F. Stack, a Registered Land Surveyor, Number 10707, in the State of Michigan, do hereby certify that the drawing hereon delineated is an accurate representation of a land survey begun on April 30, 1985 and completed on May 18, 1985 of the property described as:

Parcel "A"

Commencing at the center of Section 16, Town 2 South, Range 12 West, County of Kalamazoo, Michigan; thence S.1°09'-24"W. along the North and South Quarter line of said section, a distance of 252.35 feet to a point on the Southerly Right-of-Way line of OLD ALMENA ROAD; thence 25.19 feet along the arc of a curve to the right, having a radius of 200 feet and a chord bearing S.53°34'-49"W. 25.17 feet to a point of tangency; thence S.57°11'-19"W. along said Right-of-Way line 43.25 feet to the Point of Beginning; thence S.35°09'E. 81.08 feet; thence S.76°59'E. 43.18 feet; thence S.0°16'E. 139.46 feet; thence S.40°20'-30"E. 68.46 feet; thence S.56°20'-20"E. 83.43 feet; thence S.1°09'-24"W. parallel the North and South Quarter line of said section 184.66 feet; thence S.89°02'W. 153.72 feet to a point on the North and South Quarter line of said section 16; thence N.89°09'-45"W. 198.00 feet; thence N.7°54'-20"E. 443.43 feet to a point on the Southerly Right-of-Way line of OLD ALMENA ROAD; thence N.57°11'-19"E. along said Right-of-Way line 108.63 feet to the Point of Beginning. The parcel contains 2.800 acres of land. Also subject to conditions, easements and restrictions of record.

Parcel "B"

Commencing at the center of Section 16, Town 2 South, Range 12 West, County of Kalamazoo, Michigan; thence S.1°09'-24"W. along the North and South Quarter line of said section a distance of 242.53 feet to the Point of Beginning; thence S.1°09'-24"W. along said North and South Quarter line 9.82 feet to a point on the Southerly Right-of-Way line of OLD ALMENA ROAD; thence 25.19 feet along the arc of a curve to the right, having a radius of 200 feet and a chord bearing S.53°34'-49"W. 25.17 feet to a point of tangency; thence S.57°11'-19"W. along said Right-of-Way line 43.25 feet; thence S.35°09'E. 81.08 feet; thence S.76°59'E. 43.18 feet; thence S.0°16'E. 139.46 feet; thence S.40°20'30"E. 68.46 feet; thence S.56°20'-20"E. 63.43 feet; thence S.1°09'-24"W. parallel the North and South Quarter line of said section 184.66 feet; thence N.89°02'E. 149.73 feet; thence N.1°07'-16"E. 537.98 feet; thence N.88°48'-30"W. 261.99 feet; thence N.1°09'-24"E. parallel said North and South Quarter line 40.72 feet; thence S.46°17'-24"W. 57.74 feet to the Point of Beginning. The parcel contains 2.903 acres of land. Also subject to conditions, easements and restrictions of record.

Further, that the error of closure of the unadjusted field observations which resulted in the above description does not exceed one part in 5,000.

Further, that all the requirements of Act 132, of the Public Acts of 1970 have been fulfilled.

Further, that a yellow plastic cap has been securely affixed to the top of all metal stakes, where shown hereon, with the registration number of the undersigned clearly embossed thereon.

Certificate

6-5, 1985

*John F. Stack*  
John F. Stack  
Registered Land Surveyor



PROPERTY SURVEY OF A PARCEL OF LAND IN THE SOUTH HALF OF SECTION 16, TOWN 2 SOUTH, RANGE 12 WEST, OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN

JOHN F. STACK R.L.S. No. 10707 202 W. MICHIGAN AVENUE PAW PAW, MICHIGAN 49079	REVISIONS	DATE	SHEET
		6-4-85	2/2

11-18-96 William Gates

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

(1) That conformance was not unnecessarily burdensome in that there were other reasonable development options, such as development under the Subdivision Control Ordinance or the Site Condominium provisions of the Zoning Ordinance. Additionally, the split could be reconfigured so that there was adequate frontage along Ravine Road for each resulting parcel. Moreover, there was reasonable use of the property without variance.

(2) That substantial justice would weigh in favor of denying the variance in that other similar variance applications, such as that of the Ekemas, had been denied.

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

(4) That the hardship was self-created in that the related division of the 50-acre parcel was at the discretion of its owner/applicant.

(5) That it was felt the spirit of the Ordinance would be served by denying the variance in that there ~~were~~ other development options.

Mr. Saunders seconded the motion.

The Ekemas spoke, stating that they did not object to the Board granting the variance.

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

END OF MEETING

9-23-96

**EKEMA - VARIANCE FROM 200' FRONTAGE/50,000 SQ. FT. AREA REQUIREMENTS**

The next item was the application of Ray and Henry Ekema for variance approval from the 200' frontage requirement and the 50,000 sq. ft. area requirement established by Section 66.201 of the Zoning Ordinance. The subject property consists of three 100' x 218' parcels and is located in the vicinity of 5340 West G Avenue and is within the "AG" Agricultural-Rural Zoning District classification.

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

Ms. Harvey entered the meeting.

The applicants were present and stated that the lots had been purchased by their father in approximately 1961; originally four lots were purchased. However, the recording had indicated all four parcels were one. In 1965, a home was built on one of the lots and a recorded deed was filed. The applicants' father then thought he had three more buildable lots. In 1987, the remaining three 100' x 218' parcels were split through a recorded instrument contrary to the Ordinance requirements in the effect at the time. The applicants indicated that they received separate tax bills for each of the four lots.

Ms. Branch stated she had obtained a larger map of the area (than had been included in the Planning and Zoning report) and had indicated on this map the locations of homes. She shared this map with other Board members. The Chairperson asked the applicants about the possibility of combining the four lots and dividing into two which complied with the 200'

frontage requirement. The applicants said that this was to their legal disadvantage even though it could be done under the Ordinance.

Ms. Branch was concerned that other similar applications had been denied. There was a discussion of the fact that the land area could be divided into four lots under the Subdivision Control Act and Ordinance and under the Condominium Act and the site condo provisions of the Zoning Ordinance. The resulting lots or building sites would meet frontage requirements but would be shy of area requirements by 200 sq. ft.

The Board returned to discussion of the previous applications that were similar in nature to the instant application. It was noted that John and Ida Vels, as well as Tom Wetter, had been denied in situations where parcels had been purchased prior to 1965, but a recording not made. Further, in the application of Lenore O'Keefe, there were other lots in the area with 100' of frontage. This application had also been denied.

Ms. Branch was also concerned about granting a 50% frontage variance. There was discussion of the possibility of granting a variance from the area requirements so as to allow the lots to be divided via the site condominium or platted lot methods.

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

Mr. Brodasky moved to deny the frontage variance requested by the applicants with the following reasoning:

(1) That conformance was not unnecessarily burdensome in that there were other reasonable options available. The lots could be combined and divided into two parcels which comply with Ordinance standards and could be divided according to the Site Condominium or Subdivision Control Ordinance standards.

(2) That substantial justice would require denial of the variance in that other similar applications had been denied in the past.

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

(4) That the hardship was self-created in that the description of the four lots had not been recorded prior to October 4, 1965.

(5) That denial was in keeping with the spirit and intent of the Ordinance.

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

Mr. Brodasky moved to grant variance to allow a reduction of up to 200 sq. ft. of area per lot if developed according to the Site Condominium or Subdivision Control Act with the following reasoning:

(1) That conformance was unnecessarily burdensome in that to develop under the Site Condominium or Subdivision Control Ordinance would require an area variance.

(2) That substantial justice was in favor of granting the variance in that it was less than 10% in amount.

(3) That there were no unique physical circumstances.

(4) That the hardship was self-created but it was recognized that these land divisions had existed prior to 1965 but had not been properly recorded.

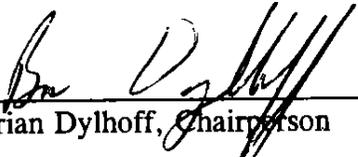
(5) That it was felt the variance would be within the spirit and intent of the Ordinance and in keeping with the character of other area lots.

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

**ADJOURNMENT**

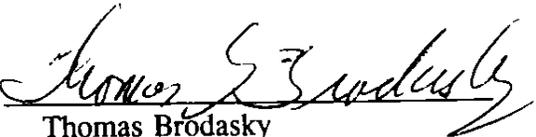
There being no further business to come before the Board, the meeting was adjourned at 4:04 p.m.

OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS

By:   
Brian Dylhoff, Chairperson

By:   
Elaine Branch

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

By:   
Thomas Brodasky

By:   
Lara Meeuwse

Minutes Prepared:  
September 24, 1996

Minutes Approved:  
10-7-96

## 1-9-95 Gordon Food Service

Given this reasoning, Ms. Branch moved to grant a 22' variance as to required frontage on a public road to the subject parcel with the conditions that:

(1) That there be no direct access for the parcel onto Drake Road, that access be provided through shared drive(s); and

(2) That no development is permitted from the boundary lines of this parcel, south 800'. This was subject to the review of the development documents by the Township Attorney. It was indicated that the Township Attorney must conclude that the "development documents" concerning the "mall properties" prohibit development from this parcel south 800'.

Mr. Saunders seconded the motion. Upon a vote on the motion, the motion carried unanimously.

## 2-7-94 Scott Husted

Ms. Branch moved to deny the variance requested for the reason that same did not meet the criteria for the granting of a non-use variance; Ms. Branch reasoned:

(1) That conformance was not unnecessarily burdensome in that the owner had other reasonable options for development, such as extension of public road into the site or development under the Subdivision Control Ordinance or pursuant to site condominium development standards.

(2) That substantial justice would not justify the granting of the variance in that past decisions of the Board granting such variance involved requests for minimal variance from the 200' requirement.

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

(4) That the hardship was self-created in that the frontage situation was created as a result of a 1988 land division and the current proposal was at the discretion of the applicant.

(5) That the spirit and intent of the ordinance would not be observed, particularly in that the intent of the requirement was to control the number of curb cuts and this intent would not be served by granting such a variance.

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

4-19-93 Patricia Annen

Mr. Zuiderveen moved to approve the variance for the following reasons:

(1) That conformance was unnecessarily burdensome and that there were no reasonable options, such as platting or creation of a public road.

(2) That substantial justice would be served by granting the variance, given the history of the creation of the parcel and the erroneous issuance of the building permit. Further, the size of the parcel was in character with other parcels in the area.

(3) That the property was not unique but the history surrounding same was.

(4) That the hardship had not been created by the current owners.

(5) That the spirit of the ordinance would be served, given the character of the remaining lot or parcels in the area.

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

5-21-90 Wilbur & Mary Lou Wilson

Ms. Brown moved to approve the 13,000 square foot minimum lot size variance and the 15 foot frontage variance for the parcel (measuring 185 feet by 200 feet) which resulted from the combination of parcels 3905-16-405-030 and 040 for the following reasons:

- (1) That combining the parcels creates one parcel which more closely complies with Zoning Ordinance requirements;
- (2) That there is no possibility of acquiring additional frontage or square footage (with a possible exception of square footage which would add to the depth, thus causing a depth to width ratio ordinance violation);
- (3) That it is more desirable to have one more closely complying parcel than two nonconforming parcels;
- (4) That platting is not a viable alternative due to parcel size and location on a major thoroughfare;
- (5) That granting of the variances for a parcel which results from the combination of two unbuildable parcels is distinguishable from the granting of a variance for a parcel resulting from a split.

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

5-15-89 Christian Spiritualist Church

Ms. Brown then made a motion that the request for a 50' variance from the 200' foot road frontage requirement be denied based on the following reasons:

1. That this request is for a variance of 25% from the required road frontage which is considered too great a variance.
2. That the decision is based on past decisions by the ZBA regarding road frontage variances and is consistent with those decisions.
3. That the Board finds that the situation is self-created in that the previous owner split the property in 1977 after the current ordinance had been in effect for several years.

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

ZONING BOARD OF APPEALS MINUTES - SEPTEMBER 12, 1988  
EXCERPTS

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ITEM D - LENORE O'KEEFE - REQUEST FOR A VARIANCE FROM FRONTAGE REQUIREMENTS FOR PROPERTY AT 9750 WEST "M" AVENUE.

The Chairman announced that the last item on the agenda was the request from Lenore O'Keefe for property at 9750 West "M" Avenue located in an Agriculture District for a variance from the 200 feet frontage requirements to a proposed 100 feet of frontage.

The parcel in question is approximately 8.5 acres in size and has 300 feet of road frontage. The current site is occupied by a single family residence and the applicant proposes to divide the parcel into two parcels as indicated in the exhibit attached

to the staff report. Parcel 1 would have 200 feet of road frontage and be approximately 7 acres. Parcel 2 would have 100 foot of road frontage and 1.5 acres.

The applicant was present and explained that the property was owned by her father and they intended to build a second house on parcel 2. Mrs. O'Keefe noted that there were six houses on "M" Avenue that had 100 feet of frontage and that none of the neighbors were against their request. Further the house would be located at the back of the lot.

Mr. D. Griffin of 9710 West "M" Avenue stated that he was a neighbor and that he had nothing against the proposal, but was concerned about where the driveway would be located.

There were no other public comments.

Mr. Vuicich noted that the problem with the request was that in the future, anyone else who came to the Board asking for a 50% variance on road frontage would be entitled to the same consideration. He questioned that there might be other options in the dividing of the property that would satisfy the requirements. He also noted that while other lots on the road might have 100 feet of frontage, these parcels existed prior to the ordinance requiring 200 feet. He further noted that the problem was self-created because the corner lot had been split off (years ago) while the 200' requirement was in effect. Mr. Ballo concurred.

The Township Attorney reminded the Board that they had considered a request near "KL" and 2nd Street earlier in the year where the request was for only 66 feet of frontage and the applicant at that time intended to build a house farther back on the parcel. That case (American Air and Pressure Pin) went to court challenging the Zoning Board of Appeals denial of a variance from the frontage requirements, and the court upheld the Zoning Board of Appeals decision.

Rebecca Harvey reminded the Board that in January and again in August, variance requests for similar frontage reductions were also denied.

Frank Ballo then made a motion to deny the request for a 50%, or 100 foot reduction, in the frontage requirements for the following reasons:

1. That denial of the variance would not unreasonably prevent the use of the site in that it was currently occupied by a residence.
2. That the Board finds that there are no unique circumstances of the property different from any other request for a frontage variance.

3. That the problem is self-created (and) in that it is the property owners decision to divide and split off the property.
4. (That) In light of recent decisions in similar requests, the granting of the variance would not do justice to other property owners in the district.
5. That the request is a very substantial request of 50% from the frontage requirements, and the Board expresses a concern for establishing this type of precedent and also recognize they have not granted these types of variances in the past.

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

There followed discussion about alternative ways of splitting the property i.e. using a 66 foot dedicated right-of-way upon which a road could be constructed and the property split in order to have a requisite of frontage.

There being no further business to come before the Board of Appeals, the meeting was adjourned at 5:10 p.m.

OSHTEMO TOWNSHIP ZONING BOARD OF  
APPEALS

---

Marvin Block, Chairman

---

Stanley Rakowski

---

Frank Ballo

---

George Vuicich

Minutes prepared:

September 13, 1988

Minutes approved:

November 14, 1988

ZONING BOARD OF APPEALS MINUTES - AUGUST 1, 1988

EXCERPTS

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ITEM B - REQUEST FOR VARIANCE FROM 200' ROAD FRONTAGE.

The Chairman announced that the next item on the agenda was a request from Realtor Tom Whetter for a variance from the 200' road frontage requirement for property which is approximately 35,000 square feet located on the north side of "ML" Avenue adjacent to 7090 "ML" Avenue on the east. The parcel is located in an "AG" Rural District, and the applicant proposes to have 81 feet of frontage.

Mr. Whetter noted that the interested purchasers are the neighbors to the west. They own a parcel which has 180.5 feet of frontage. First of America Bank owns the subject property. The purchasers intend to build a duplex. The applicant noted that the water from South Lake comes near the property designated as lot #036 and near lot #040. The First of America Bank is anxious to sell the property.

According to the report from the Planning Department, this parcel was created in 1968. Although the deed reflects that the parcel was created in 1964 it was not recorded until 1968.

Section 66.205 and Section 66.201 of the zoning ordinance regarding the frontage requirement was adopted in 1965 thus requiring that parcels of property had to be recorded prior to October of 1965.

Ms. Brown saw no difference between this request and one that was considered in January of 1988. She noted that the deed had been unrecorded until after the adoption of the zoning ordinance, and that the variance request was very substantial being over 60% of the requirement. She did not feel that the granting of such a large variance could be justified to the other neighbors.

Mr. Vuicich concurred and noted that this would set a precedent and explained to the applicants that the Board could only grant these types of variances where there were substantial reasons, and that limits had to be set in order to comply with the purpose of the ordinance. Mr. Graham, representing the bank, noted that if the property was not sold it would be a hardship to the purchasers.

Gordon and Linda Pennel, the purchasers, arrived at that point in the hearing and explained that they owned a nearby duplex and had purchased the property two years ago to build an additional duplex. Mr. Pennel noted that parcel #031 was granted a variance many years ago for 180 feet of frontage.

Ms. Brown responded that the variance for parcel #031 was a variance of only 19.5 feet from the frontage requirements, but that the applicants here were requesting a variance of 119 feet from the frontage requirements. Mr. Rakowski noted that in January they had considered a similar piece of property which was only requesting a 50% reduction, whereas the request of the applicant here was in excess of 60%. He said he would find it difficult to approve such a variance because it was a self-created situation. He noted that the property could be sold to either adjacent owner to expand their frontage.

Frank Ballo then made a motion to deny the request for a variance because it was similar to a request that had been made in January of 1988 which had been denied, and for the following reasons:

1. The deed was not recorded until after the ordinance went into affect.
2. That the request was for a variance of over 60% and was a very substantial request.
3. That the Board found an unrecorded deed does constitute a unique circumstance and the compliance with the frontage requirements would not be unnecessarily burdensome or constitute a practical difficulty.

4. That this was a self-created situation because the deed was not timely recorded.
5. That the granting of the variance would not be of substantial justice to other property owners based upon past precedents.
6. That the Board was concerned over setting precedent by granting such a substantial variance.

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

ZONING BOARD OF APPEALS MINUTES - JANUARY 4, 1988

EXCERPTS

Rebecca Harvey pointed out the unique traffic conditions at the intersection, the hill and the topography. The residential project existed prior to the M.U.D. Ordinance and the request for a variance was not self-created.

Mrs. Brown then made a motion that the ZBA approve the proposed variance because of the following reasons:

1. That the Board recognized the unique topography of the land and <sup>with the steepness of the hill</sup> ~~with~~ the steepness of the hill and the closeness to the intersection of KL and Drake ~~and that~~ the extension of multi-family use <sup>on the hill</sup> would not be practical.

2. That the Board did not see this as a self-created situation in that the <sup>development</sup> development occurred prior to the MUD Ordinance.

3. That the Township Zoning Board and County Planning Commission had recognized traffic problems in that area.

4. That the Board also recognized the unique traffic problems at the intersection.

5. That the proposed variance and proposed M.U.D. would <sup>promote a better traffic situation</sup> promote a better traffic situation for the site and access at that corner.

6. ~~That as a result of traffic problems the proposed variance would help to integrate the project into a larger and more orderly development,~~ <sup>which would assist in correcting the unique situation.</sup>

The motion was seconded by Stanley Rakowski and the motion passed unanimously.

ITEM C - JOHN AND IDA VELS - VARIANCE REQUEST FROM FRONTAGE REQUIREMENT

John Buttery, from Jaqua Real Estate Company, was present on behalf of John and Ida Vels to request a variance from the 200 foot road frontage requirement established by Section 66.200.

The site is located on West Main near 7th Street in the "AG" district.

It was pointed out that a variance request for the subject property had been made and denied at the October 5, 1987 ZBA meeting. At that time, Mr. Fred Sakri had made the request. Mr. Buttery had written Chairman Block regarding the situation and explaining that there was new and additional information upon which he felt the Board should hear the request again. He stated that he was aware that the ZBA had no procedures for "rehearings" but felt that new information had a bearing on his request.

Mrs. Harvey responded that she had placed this item on the agenda as a new request based on the fact that there was new information and that another party was making the request. The Township Attorney advised the Board that based on that information they could decide whether or not to hear the request. By consensus, the Board agreed that if there was some new information they felt that they should hear it.

Mr. Buttery then advised the Board that pursuant to a deed which was recorded in 1968 there was reference to a land contract that was dated January 1, 1963. Also, he noted there was reference to the unrecorded land contract of 1963 in the 1963 income tax returns of Gerald and Margaret Dunn. Although the unrecorded land contract itself was not available he felt that there was enough circumstantial evidence to show that indeed such a contract existed. Mr. Buttery stated that the Deed was recorded in 1968, 3 years after the Ordinance went into effect. In 1979 the property was sold to Mr. Vels and 2 sales representatives claimed that they had checked with the Township regarding whether or not the property was buildable. Fred James was the listing agent (who was present), and was sure that he checked before listing it as a buildable parcel.

Phyllis Stomman (who was not present), explained to Mr. Buttery that she recalls specifically coming to the Township Hall for parcel size and to make sure that the parcel was legal. She had told Mr. Buttery she specifically "walked off" the dimensions of property with the Vels and since it is located near the Township Hall, went over to the Township Hall immediately to check on its status. Mr. Vels was present and explained that Jerry Dunn had sold him the property and he knew that someone had checked on it because he wouldn't buy it if it was not buildable. He further recalls Phyllis Stomman stating that she had checked with the Township and that everything was okay.

In conclusion, Mr. Buttery urged the Board to consider granting a variance of 100 feet because the property had been established since 1963 as a parcel by land contract and even though the Deed was not recorded until 1968 the parcel had

existed for over 26 years and should be considered as "grandfathered".

Mrs. Brown responded that there were still many unrecorded land contracts within the Township but that the Ordinance was very specific and that a person needed to have a recorded instrument in order to take advantage of the Ordinance exception. She also inquired whether Mr. Dunn had purchased the property through a real estate agent. Mr. Dunn responded that it had been a private sale.

Mr. Rakowski suggested that if the Board were to recognize unrecorded land contracts then the Board could be setting up a precedent in which they would have to consider other unrecorded land contracts which could make handling zoning issues of this kind very difficult in the future. Mr. Buttery responded that the parcel size had been created and established before the Ordinance had gone into effect and that the Board should take this into consideration.

Rebecca Harvey pointed out to the Board that they should consider practical difficulties and whether or not the situation was unique.

Chairman Block reminded the audience that many people purchase property that is not buildable. Mrs. Brown added that the property was sold again in 1979 and that inquiry should have been made at that time. Mr. Buttery responded that he believed that his personnel had checked with the Township and even though there was no documentation of this, it was their belief that it was buildable property.

Mrs. Brown responded that a person can divide and split their property any way they wanted and she did not see that the Township could regulate how people divided their property. However, if they were going to divide property that is not buildable then they could not expect to have variances granted.

Mr. Rakowski then made the motion that the request for a 100 foot variance of the frontage requirement be denied for the following reasons:

1. That the Board did not consider an unrecorded land contract a contract by operation of law.
2. That the Deed to the property was not recorded until after the effective date of the Ordinance.
3. That the requested variance would be a 50% reduction of frontage which is too great a variance for consideration.

4. That the variance should be denied because of the reasons stated in the October 5, 1987 minutes, to wit: because it would not provide for orderly development; it would not allow access to further development; that it did not follow the spirit of the Ordinance; and that the problem was self-created.

5. That an unrecorded land contract is not considered to be a unique circumstance.

Mrs. Brown seconded the motion and the motion carried 3-1 with Ross Hamilton voting against. (Ross Hamilton left the meeting at this time.

2-2-87 Mike Straka

Mr. Vuicich made the motion to deny the request for a variance for the following reasons: (1) That denial of the request would not unreasonably prevent the owner from reasonable use of his property; (2) that the plight of the owner was due to his own self-creation and not due to the uniqueness of the parcel; (3) that granting the variance would put the parcels out of conformity with the rest of the area. Motion was seconded by Mr. Rakowski was passed 4 - 1 with Mr. Hamilton voting against.

2-9-87 Andres Herrera

Mr. Vuicich then made the motion to deny the request for the variance for the following reasons: (1) That to allow the request would only produce inconsistencies with the rest of the neighboring property; (2) that the variance request was too great; (3) that the request did not meet the four standards for a variance in that the situation was not a unique circumstance; that the applicant still had reasonable use of the property and that no injustice was done by complying with the ordinance, and that the situation was self-created. The motion was seconded by Mrs. Brown and was passed 4 - 0 with Mr. Rakowski abstaining.

10-5-87 Fred Sakri

The Chairman called for a motion. Mr. Rakowski made a motion to deny the variance request because it would not provide for orderly development, it would not allow access to further development, it did not follow the spirit of the ordinance and the problem was self-created. The motion was supported by Mr. Hamilton. The Chairman called for a vote and the motion passed unanimously.

6-19-86 Hayes & Lois Brown

Mr. Vuicich then moved that the Board grant the requested variances, subject to the condition that Parcel A be developed as a whole and not be further split unless and until a further variance is approved by the Zoning Board of Appeals. Mr. Vuicich stated that he believed there were practical difficulties justifying the requested variance. He noted that there were four existing properties in the vicinity having frontage comparable to that proposed. He further noted that with respect to the requested variance for the parcel having 198.7 feet of frontage, this was a very small variance. Mr. Vuicich further stated that he believed the requested variance was consistent with the purposes of the Ordinance. Mr. Vuicich also cited as a reason for his motion the fact that there are platted lots across the street having public road frontage of approximately 110 feet. Mr. Vuicich further cited as a reason for his motion the fact that Parcel A was proposed to be developed as a whole. Mr. Vuicich further stated that he believed the granting of the requested variances was consistent with prior decisions made by the Board.

Mr. Gemmill seconded the motion and the motion passed by a vote of three to nothing, with Mrs. Brown abstaining.

12-1-86 Ron Rutgers

George Vuicich asked Mr. Rutgers about the trees on the property and Mr. Rutgers indicated that the trees would be left and he would build on the property at a later date. Mr. Greenberg said he had no problem with granting the variance. Mr. Rakowski made a motion that the Board grant the variance as requested being a variance of three feet from the frontage requirement of 200 feet and a variance of 750 square feet from the total square footage requirement of 50,000 square feet. Mr. Rakowski's reasoning was that the variance was negligible and that it was compatible with the surrounding property and it would not have an adverse impact upon the area. Mr. Greenberg seconded the motion. Mr. Block called for a vote and the motion passed unanimously.

9-10-84 John Kelly

After general discussion, Mr. Jameson noted that in reviewing the parcels along Van Kal Avenue from Red Arrow Highway through West Main Street, those parcels were shown to be in conformance with the 200-foot frontage requirement for unplatted lands. Mr. Jameson moved that the Board deny the variance application. Mr. Block seconded the motion.

Mr. Jameson noted that there were no other properties with similar variances or similar size lots in the area of the subject property and that there had been no showing of practical difficulties or unnecessary hardship that would justify the granting of a variance.

A vote was then held on the motion and the motion passed unanimously. The Chairman indicated that the applicant could return to the Board at another time with a different proposal if the applicant so wished.

6-3-85 LaVerne Boerman (8760 Almena Drive)

After further discussion, Mr. Jameson moved that the Board deny the variance application. Mr. Greenberg seconded the motion. Mr. Jameson stated as reasons for his motion the fact that the applicant was seeking a 90-foot variance from the 200-foot public road frontage requirement, which was a very substantial variance from the 200-foot road frontage guide set forth in the Township Zoning Ordinance. Mr. Jameson stated that the Board had not previously granted a variance of such magnitude. Mr. Jameson noted that the 200-foot public road frontage requirement served, among other things, to control the number of curb cuts within an area. Mr. Jameson further indicated that the applicant had not made a showing of practical difficulties or unnecessary hardship that could justify the granting of the requested variance.

Ms. Brown stated that she did not agree with Mr. Jameson's statement pertaining to control of curb cuts. She stated that the 200-foot public road frontage requirement was not intended to control curb cuts. The Chairman indicated that he agreed with Ms. Brown.

The Chairman stated that this was a close question. He stated that if the Board did not grant the requested variance, then the applicant would be permitted to have only the one existing house on a 4-1/2 acre parcel of land. He noted that one-acre parcels are the standard in the area in question.

Mr. Jameson stated that he did not believe the Board could look just at acreage without also considering shape. He noted that the dogleg area in back was of no practical use. He stated that accordingly the proposed vacant parcel to be created was considerably smaller if the back dogleg portion was eliminated from consideration. Mr. Jameson indicated that Mr. Boerman's situation had been caused by how someone in the long past had chosen to carve up the land and that this did not provide sufficient justification for a variance.

A vote was then held on the motion and the motion passed by a vote of 3 to 2, with the Chairman and Ms. Brown voting in the negative.

ST.

A = 207.45  
D = 107  
R = 572.96  
T = 104.30  
L = 207.50

L = 98.56'

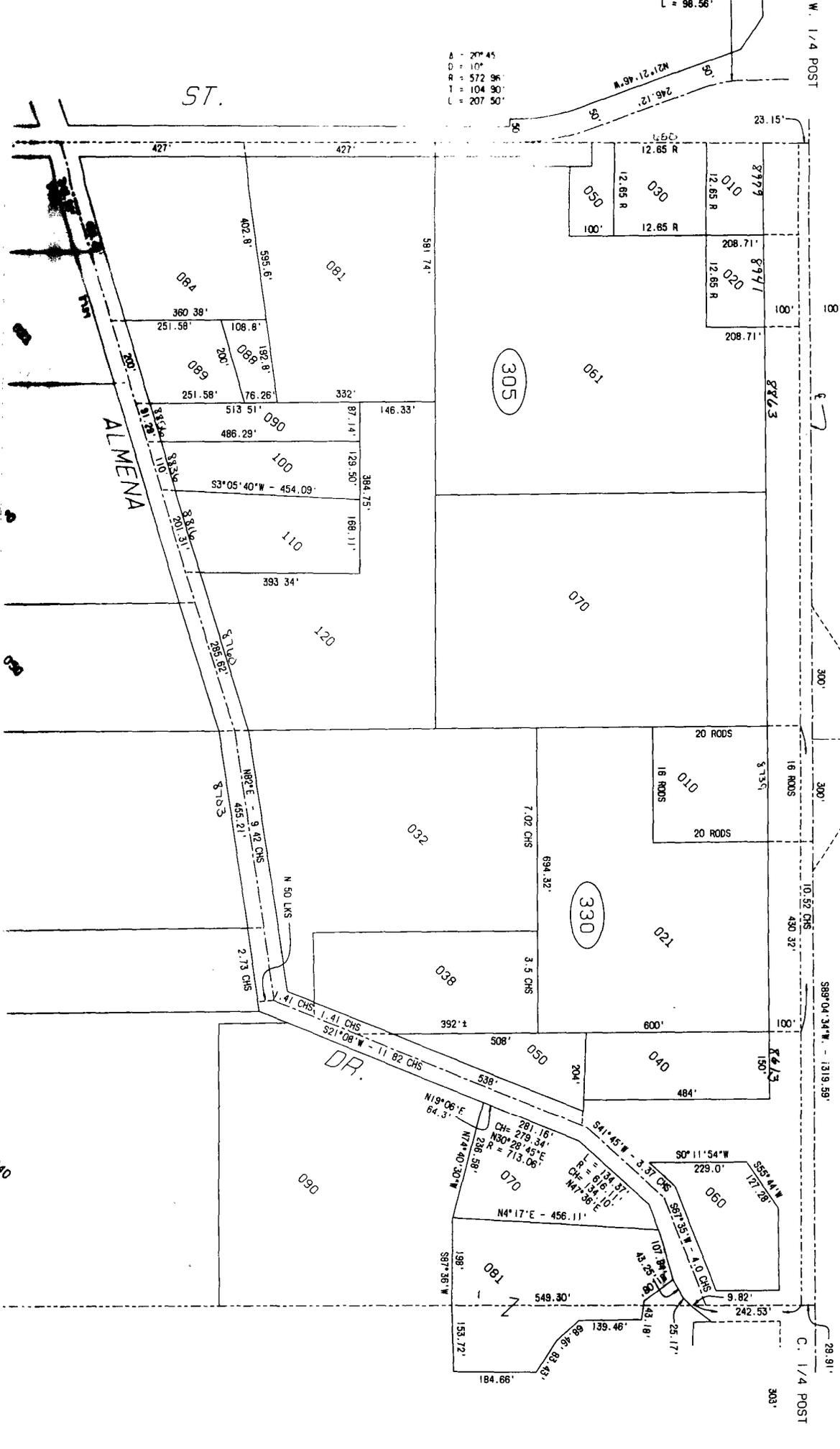
W. 1/4 POST

WEST

5TH ST.

MAIN

ST.



ALMENA

305

070

330

T20

DR.

070

090

C. 1/4 POST

140





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

REQUEST FOR ZONING BOARD OF APPEALS MEETING

*Waived  
Due To  
Temp Error  
8/14 EB*

Date 8-14 Present Zoning AG Fee \$100

Land Owner Teresa Derink

Address 385 North 4th Phone 353-9765

Person Making Request owner

Address \_\_\_\_\_ Phone \_\_\_\_\_

Interest in Property - same as above -

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

Reason for Request to allow a mobile home to  
set on bear on piers rather than on a  
fully enclosed foundation and bear  
on perimeter there of  
[Section 11.250(3)]

Leerink

3905-17-430-235

Leerink

17-430-190

Husted

No 0

200

"

No 0

210

Lammers

220

Husted (Dup.)

No 0

232

Bishop

236

Rawlinson

240

Husted (Dup.)

0

17-485-030

Husted, J.

16-305-081

Morse

0

084

"

No 0

16-355-010

Craft

021

Walker

060

Carpenter

Mr. Tim Cassidy  
Cassidy Builders  
1125 33rd  
Allegan, MI 49010

17-430-235

MARKUS DANIEL C & BETTY A  
TEERINK HENDRIKUS & TERESA  
1005 DAVIS STREET *Returned*  
KALAMAZOO MI 49008

17-430-235

OCCUPANT  
385 NORTH 4TH STREET  
KALAMAZOO, MI 49009

17-430-210

LAMMERS EDWARDS R & ROBERTA I  
445 NORTH 4TH STREET  
KALAMAZOO MI 49009

17-485-030

HUSTED JAMES B & CAROL G  
9069 ALMENA DRIVE  
KALAMAZOO MI 49009

17-430-232

FISHER MARY  
BISHOP BRADLEY & LISA  
9050 ALMENA DRIVE  
KALAMAZOO MI 49009

16-305-081

MORSE EUGENE R & DORIS L  
378 NORTH 4TH STREET  
KALAMAZOO MI 49009

17-430-236

RAWLINSON SCOTT W & JANENE  
9100 ALMENA DRIVE  
KALAMAZOO MI 49009

16-355-010

CRAFT LEO & KATHERINE  
8951 ALMENA DRIVE  
KALAMAZOO MI 49009

17-430-240

HUSTED GLENN R & ALICE S  
6760 WEST KL AVENUE  
KALAMAZOO MI 49009

16-355-021

WALKER AILENE  
8939 ALMENA DRIVE  
KALAMAZOO MI 49009

17-430-240

OCCUPANT *Returned*  
9210 ALMENA DRIVE  
KALAMAZOO, MI 49009

16-355-060

CARPENTER DALE E *Returned*  
151 NORTH 4TH STREET  
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 8-19-97 Present Zoning R-3 Fee \$100 (Waived)

Land Owner Jim Rice

Address 4055 O' Park Phone 349-1699

Person Making Request CVK Const. (Bill Fry & Charles Van Kula)

Address 34570 Mill Lk Rd Gobles Phone 628-5320

Interest in Property Contractor

Size of Property Involved 128.87' X 400' Approx.

Reason for Request To install a different type of  
Foundation that is not approved in township  
codes

Rice

3905-33-402-050 Rice

33-402-040 Iny  
051 Schulze  
052 De Boer  
056 Smith  
057 Raymond  
312 Houghton

returned 109 Kuipers  
111 Schramm 0  
116 " 0

James Rice  
4055 O'Park  
Kalamazoo, MI 49009

Bill Fry & Charles Van Kula  
CVK Construction  
34570 Mill Lake Road  
Gobles, MI 49055

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

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

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

33-402-051  
SCHULZE MARK H & BARBARA M  
4081 O'PARK STREET  
KALAMAZOO MI 49009

33-402-052  
DEBOER DAVID & SHELLY  
4115 O'PARK STREET  
KALAMAZOO MI 49009

33-402-056  
SMITH GARY & HENNY  
4149 O'PARK STREET  
KALAMAZOO MI 49009

33-402-057  
RAYMAN SCOTT ALLEN & KELLY S  
8180 FRIE AVENUE  
KALAMAZOO MI 49009

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

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

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

33-402-116  
~~SCHRAMM RICHARD & CHARLOTTE  
2001 SOUTH 4TH STREET  
KALAMAZOO MI 49009~~

33-402-116  
OCCUPANT  
8340 STADIUM DRIVE  
KALAMAZOO, MI 49009



7275 W. MAIN STREET, KALAMAZOO, MI 49009-933  
616-375-4260 FAX 375-7180 TDD 375-719

**REQUEST FOR ZONING BOARD OF APPEALS MEETING**

Date 25 AUG 97 Present Zoning AG Fee \$100

Land Owner JACK L. + JUDITH DAVIS

Address 8505 ALMENA DR Phone 375-5521

Person Making Request JACK L. + JUDITH DAVIS

Address 8505 ALMENA DR Phone 375-5521

Interest in Property OWNER

Size of Property Involved 2.8 ACRES 16-330-081

Reason for Request VARIANCE FROM 200' FRONTAGE  
STANDARD FOR CONSTRUCTION OF POLE  
BLDG.

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

8/25/97 JF

054232 ZPA REQUEST/DAVIS 100.00  
TOTAL PAID 100.00

THANK YOU

Jack Davis

3905-16-330-081

Davis

16-330-040

Sonnevil

050

Schoonbeck

060

Slack

070

Marutz

090

Town

16-405-010

Dougherty's Corners

021

Slack (Daps)

060

Maier

0

16-330-081

DAVIS JACK & JUDITH  
8505 ALMENA DRIVE  
KALAMAZOO MI 49009

16-330-040

SONNEVIL LYNN  
8613 WEST MAIN  
KALAMAZOO MI 49009

16-330-050

SCHOONBECK LARRY N & LINDA L  
8594 ALMENA DRIVE  
KALAMAZOO MI 49009

16-330-060

SLACK NORMAN TRUST  
8503 ALMENA DRIVE  
KALAMAZOO MI 49009

16-330-070

MARUTZ CARL & JOYCE  
8555 ALMENA DRIVE  
KALAMAZOO MI 49009

16-330-090

TOWN LEE E & EVELYN J  
8601 ALMENA DRIVE  
KALAMAZOO MI 49009

16-405-010

DOUGHERTY'S CORNER MARKET  
8441 WEST MAIN STREET  
KALAMAZOO MI 49009

16-405-010

OCCUPANT  
8441 WEST MAIN  
KALAMAZOO, MI 49009

16-405-021

SLACK NORMAN E TRUST  
8503 ALMENA DRIVE  
KALAMAZOO MI 49009

16-405-060

MAIER PAUL L  
8383 WEST MAIN  
KALAMAZOO MI 49009