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**NOTICE
OSHTEMO CHARTER TOWNSHIP
Zoning Board of Appeals**

**Tuesday,
November 27, 2018
3:00 p.m.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Public Comment on Non-Agenda Items
4. Approval of Minutes: October 13, 2018
5. **Public Hearing: Variance request from Metro Leasing, LLC**
Metro Leasing, LLC, on behalf of Rykse Properties LLC, request variances from Section 30.409.a and Section 30.409.d of the C: Local Business District ordinance to allow the existing sales office at 5850 Stadium Drive to function as the car sales office for the subject parcel and to utilize the existing parking lot found at 5850 Stadium Drive, which violates the current setback ordinance. The subject property is addressed as 5850 Stadium Drive, parcel no. 3905-25-305-03.
6. **Site Plan Review: D & R Sports**
D & R Sports is requesting site plan approval for an expansion to their existing retail facility located at 8178 West Main Street, parcel number 3905-16-280-012.
7. Any Other Business
 - a. Meeting dates for 2019
 - b. Acknowledgement of Board member end of term
8. ZBA Member Comments
9. Adjournment

Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

- a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.
- b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be board discussion prior to call for a motion.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment or Citizen Comment on Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 5/9/2000)
(revised 5/14/2013)

Policy for Public Comment
6:00 p.m. "Public Comment"/Portion of Township Board Meetings

At the commencement of the meeting, the Supervisor shall poll the members of the public who are present to determine how many persons wish to make comments. The Supervisor shall allocate maximum comment time among persons so identified based upon the total number of persons indicating their wish to make public comments, but no longer than ten (10) minutes per person. Special permission to extend the maximum comment time may be granted in advance by the Supervisor based upon the topic of discussion.

While this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 2/27/2001)
(revised 5/14/2013)

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD OCTOBER 23, 2018

Agenda

SITE PLAN REVIEW:

SELECT HINGES MANUFACTURING BUILDING SELECT PRODUCTS, LTD, A PARENT COMPANY OF SELECT HINGES, IS REQUESTING UPDATED SITE PLAN APPROVAL FOR A NEW MANUFACTURING FACILITY WITH SPACE FOR ADMINISTRATIVE OFFICES AT AN UNADDRESSED PROPERTY AT THE NORTH END OF STADIUM PARK WAY, PARCEL NUMBER 3905-34-130- 050.

A meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, October 23, 2018 at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT:	James Sterenberg, Chair Nancy Culp Neil Sikora, Vice Chair Anita Smith Bruce VanderWeele
MEMBERS ABSENT:	Bob Anderson

Also present were Julie Johnston, Planning Director and Martha Coash, Meeting Transcriptionist. One other person was in attendance.

Call to Order and Pledge of Allegiance

Chairperson Sterenberg called the meeting to order and invited those present to join in reciting the "Pledge of Allegiance."

Public Comment on Non-Agenda Items

There were no comments on non-agenda items.

Approval of the Minutes of August 28, 2018

Chairperson Sterenberg asked if there were any additions, deletions or corrections to the minutes of August 28, 2018.

One typo was noted. The Chair asked for a motion.

Mr. Sikora made a motion to approve the Minutes of August 28, 2018, with the typo correction noted. Mr. VanderWeele supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW:

SELECT HINGES MANUFACTURING BUILDING SELECT PRODUCTS, LT4 A PARENT COMPANY OF SELECT HINGES, IS REQUESTING UPDATED SITE PLAN APPROVAL FOR A NEW MANUFACTURING FACILITY WITH SPACE FOR ADMINISTRATIVE OFFICES AT AN UNADDRESSED PROPERTY AT THE NORTH END OF STADIUM PARK WAY, PARCEL NUMBER 3905-34-130- 050.

Chairperson Sterenberg moved to the next item on the agenda and asked Ms. Johnston for her review.

Ms. Johnston indicated that on June 27, 2017, Select Products, Ltd., a parent company of Select Hinges, received site plan approval from the Zoning Board of Appeals for the construction of a new manufacturing facility at 3258 Stadium Park Way. Per Section 82.900 of the Site Plan Review Ordinance:

“Approval of the Site Plan shall be valid for a period of one year after the date of approval. If a building permit has not been obtained and on-site development actually commenced within said one year, the Site Plan approval shall become void and new approval obtained before any construction or earth change is commenced upon the site. Extensions may be granted by the approving body if requested prior to the expiration of the one-year validity period.”

Unfortunately, she said, the one-year mark has passed for both the ability to commence work and to receive an extension from the approving body. Therefore, Select Hinges is requesting site plan re-approval from the Zoning Board of Appeals (ZBA).

The original approval received from the ZBA allowed Select Hinges to defer 20 parking spaces located at the north end of their parking lot and included the following conditions to be resolved administratively:

1. Prior to the issuance of a building permit, a more detailed photometric plan shall be submitted for staff review, indicating all points at which light levels drop to 0.1 foot-candles.
2. Prior to the issuance of a building permit, any outstanding issues pertaining to the design of the storm water management facilities for the Select Hinges site shall be reviewed and approved by the Township Engineer.
3. Prior to the issuance of a certificate of occupancy, any necessary easements shall be drafted and recorded with the Kalamazoo County Register of Deeds. This

condition shall include, but not necessarily be limited to, any relevant items listed in the Township Engineer's memo to the applicant, dated June 13th, 2017.

4. Prior to the issuance of a certificate of occupancy, Township staff shall inspect landscaping on the site in order to ensure that adequate vegetation has been preserved. If not, a compliant landscape plan shall be provided to the Township for administrative review and approval.

Ms. Johnston reported a new photometric plan was submitted to Township staff and was reviewed and approved. No further issues remain related to this condition. However, the condition related to storm water management is still outstanding. Staff requests this condition continue to be attached to the issuance of a building permit and be included in any consideration of re-approval. The remaining two conditions will not be resolved until after construction is complete and consequently should still be attached to any new approval.

Therefore, she said Planning Department staff continues to recommend approval of the Select Hinges site plan, with the following conditions, to be resolved administratively:

1. Prior to the issuance of a building permit, any outstanding issues pertaining to the design of the storm water management facilities for the Select Hinges site shall be reviewed and approved by the Township Engineer.
2. Prior to the issuance of a certificate of occupancy, any necessary easements shall be drafted and recorded with the Kalamazoo County Register of Deeds. This condition shall include, but not necessarily be limited to, any relevant items listed in the Township Engineer's memo to the applicant, dated June 13, 2017.
3. Prior to the issuance of a certificate of occupancy, Township staff shall inspect landscaping on the site in order to ensure that adequate vegetation has been preserved. If not, a compliant landscape plan shall be provided to the Township for administrative review and approval.

There were no questions from ZBA members; Chairperson Sterenberg noted there were no members of the public present for comment. He asked whether the applicant wished to speak.

Mr. Tim Vermeulen, 9770 Shaver Road, Portage, Vice President of Operations for Select Hinges, explained the multiple delays that caused them to not be able to activate the site plan within the initial 12-month approval window, including the serious environmental issues involved in dealing with the brownfield onsite. He noted they still have to go through the brownfield approval process for a second time.

Chairperson Sterenberg moved to Board Deliberations.

Both The Chair and Mr. Sikora expressed their appreciation for Select Hinges' continued commitment to staying in Oshtemo Township despite the complications they have encountered.

Ms. Smith pointed out a discrepancy in the total square footage for the office and manufacturing facility; Ms. Johnston said she would clarify the total with the Township Engineer.

Hearing no further comments, Chairperson Sterenberg asked for a motion.

Mr. Sikora made a motion to grant the updated site plan as requested and recommended by Staff with the inclusion of the three conditions listed and the continued deferral of the 20 parking spaces. Mr. VanderWeele supported the motion. The motion was approved unanimously.

Any Other Business

Ms. Johnston indicated there will likely be a November meeting to address a request for a setback variance.

ZBA Member Comments

There were no comments.

Adjournment

Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, he adjourned the meeting at 3:22 p.m.

Minutes prepared:
October 24, 2018

Minutes approved:
_____, 2018



November 19, 2018

To: Zoning Board of Appeals

From: Julie Johnston, AICP
Planning Director

Mtg Date: November 27, 2018

Applicant: Metro Leasing, LLC
Jeff DeNooyer

Owner: Rykse Properties, LLC

Property: 5924 Stadium Drive

Zoning: C: Local Business District

APPLICATION OVERVIEW

Metro Leasing, LLC, located at 5850 Stadium Drive, is interested in purchasing the Rykse's restaurant property to expand their automotive sales lot. The subject property is located to the west of the existing automotive sales business, across Quail Run Drive, at 5924 Stadium Drive. Car sales lots are a special exception use under Section 30.409 of the C: Local Business District ordinance, which will also require Planning Commission approval. The applicant's hope is to demolish the existing restaurant building and utilize the extent of the current parking lot for their sales lot, requiring needed relief from Section 30.409, which states the following:

Section 30.409: *New and/or used car sales lots; recreational vehicle sales lots; mobile home sales lots outside of mobile home parks; farm machinery and other equipment sales lots; boat sales lots; and other businesses involving substantial outdoor sales or activities connected with retail sales, subject to the conditions and limitations:*

- a. *No such outdoor sales or activities in connection therewith shall be conducted upon premises which do not contain a sales office in a building.*

- d. *All operations and business activities, including the parking or display of sales items and equipment and outdoor sales and display area enclosures, shall comply with the setback requirements for buildings and structures contained in the Ordinance.*

Variance request #1: The applicant would like to utilize the existing sales office located at 5850 Stadium Drive, which is across Quail Run Drive to the east, to meet the Ordinance requirement outlined in Section 30.409.a.

Variance request #2: Per Section 30.409.d, the sale and display of cars must meet the same setback requirements as any building or structure onsite. This would require the following setbacks per Sections 64.100, 64.300, and 64.700 of the Setback Ordinance:

- 120 feet from the centerline of Stadium Drive
- 70 feet from the right-of-way of Quail Run Drive
- 85 feet from the rear property line and the adjacent R-4 property, which is a supplemental setback between residentially and commercially zoned properties
- 20 feet from the west property line adjacent to the Consumers Energy parcel, which is also zoned C: Local Business District

The applicant would like to utilize the existing pavement found at the site for the display of vehicles, which has the following setbacks:

- 76 feet from the centerline of Stadium Drive, requiring a 44-foot variance
- 11 feet from the right-of-way of Quail Run Drive, requiring a 59-foot variance (The applicant's statement indicates the parking lot is approximately 26 feet from the edge of Quail Run Drive. From staff's review of aerial photography, this dimension appears to be from the Quail Run Drive pavement, not the right-of-way or property boundary. The applicant cannot utilize linear feet within the right-of-way towards required setbacks.)
- 9 feet from the rear (north) property line, requiring a 76-foot variance
- 15 feet from the side (west) property line, requiring a 5-foot variance

ADDITIONAL ZONING CONSIDERATIONS

The current configuration of the parking lot at 5924 Stadium Drive is nonconforming to Section 75.000: Landscaping. Per Section 75.130, the following landscape setbacks are required:

- Stadium Drive frontage – 20-foot landscape setback
- Quail Run Drive – 20-foot landscape setback
- Rear yard (north) adjacent to R-4 zoning – 35-foot landscape setback
- Side yard (west) – 10-foot landscape setback

While the existing parking lot configuration would be considered legal nonconforming, redevelopment of a parcel generally allows the Township to bring a site into zoning compliance. With the amount of change that is anticipated for this site, it is not unreasonable to require the new development to meet these standards, for both setbacks and landscaping material.

A comparison of the existing parking lot and the Landscape Ordinance requirements determines the following:

- Stadium Drive frontage: The existing parking lot is approximately 25 feet from the right-of-way of Stadium Drive, which will accommodate the required 20-foot landscape setback.
- Quail Run Drive frontage: The existing parking lot is approximately 11 feet from the right-of-way of Quail Run Drive, **9 feet less** than the required 20-foot landscape setback.

- Rear yard adjacent to R-4 zoning: The existing parking lot is approximately 9 feet from the north property line, **26 feet less** than the required 35-foot landscape setback.
- West side yard adjacent to Consumers Energy: The parking lot is approximately 15 feet from the west property line, providing enough space for the required 10-foot landscape setback.

The Zoning Board of Appeals may wish to consider these landscaping requirements when deliberating the requested setback variances.

STANDARDS OF REVIEW - STAFF ANALYSIS

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.

Staff has analyzed the request against these principles and offer the following information to the Zoning Board of Appeals.

Standards of Approval of a Nonuse Variance (practical difficulty):

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

Comment: There are no unique physical conditions to the land hindering development of this parcel like steep slopes, unusual lot shape, water features, or unstable soils, that would justify a variance. However, there are two circumstances related to this property that warrant consideration.

The first is the property is a corner parcel requiring additional front yard setbacks, which is particularly difficult for this request because the display of vehicles for sale must also meet these setbacks. While not necessarily unique, corner lots do carry an extra setback burden having two front yards. The designated highway setback from Stadium Drive would require the placement of vehicles to be a minimum of 120 feet from the centerline of the road. This would locate the setback approximately 56 feet from the property boundary, or 86 feet from the pavement of Stadium Drive. Meeting this setback would eliminate the front row of parking currently existing on site. The setback from Quail Run Drive is 70 feet from the right-of-way. This would remove the entire parking area along

the east side of the existing restaurant building. Please see the Setback Area Map provided with this report.

The second item to consider is the existing configuration of the asphalt lot, which currently allows vehicular travel and parking in areas that would not be permitted if the site was built today due the landscape setback requirements. If a new business was to utilize the existing building on site, staff would not require any changes to the existing parking lot configuration. Section 62.152 of the Nonconforming Ordinance indicates that uses of land, existing and lawful at the time the use commenced, may be continued, even though such use does not conform to the provisions of the ordinance.

*Standard: Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?*

Comment: The matter of a vehicular sales lot expansion is discretionary, and reasonable use of the property in general does exist for other commercial ventures, even if the variance requests are denied. Parking lots for other commercial uses would not be required to meet the building setback standards, only the landscape ordinance requirements. That being said, utilizing this site for a car sales lot within the confines of the ordinance would be difficult. After setbacks are met, approximately 25,000 square feet or 29 percent of the 2.0-acre (87,120 square feet) parcel is available for the display of vehicles. This significant reduction in allowable space is unnecessarily burdensome.

With regard to the elimination of the sales building, Section 30.409.a. states that the sales office must be on the same “premises” as the sales lot. Section 11:000: Definitions does not provide a definition for “premises.” Staff has interpreted “premises” outlined in Section 30.409.a to mean the sales office must be on the same parcel in which the outdoor sales activity takes place. Unfortunately, because of the Quail Run Drive right-of-way, the applicant is not able to adjoin the subject property with their current business at 5850 Stadium Drive, necessitating the variance request. Requiring a sales office at the subject property could be considered unnecessarily burdensome to this particular applicant because of the existing sales office at the neighboring property. If the subject property was not to become part of the larger existing car sales operation, then requiring the sales office would be necessary to ensure a lasting and functional business.

The applicant has provided an alternate definition for “premises” from the Township’s General Ordinance, Section 126.000: Medical Marihuana Operations Ordinance, as follows:

“Facility or Premises means one (1) commercial business premises having a separate or independent postal address...”

While a legitimate definition within the General Ordinance, the variance request is for the requirement within the Zoning Ordinance, which staff believes is clearly intended to require sales offices and sales lots on the same parcel.

*Standard: Minimum Necessary for Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).*

Comment: In researching past Zoning Board of Appeals decisions regarding setbacks for the display of cars for sale, staff investigated car dealerships within the Township – Halli’s Auto, Maple Hill Auto Group, Metro Toyota, and DeNooyer Chevrolet. All four dealerships sought and were granted variances from the setback requirement for the sales display area.

1. DeNooyer Chevrolet, 5800 Stadium Drive
In 1983, DeNooyer Chevrolet received a variance to display vehicles within the 100-foot setback, required at that time, from the centerline of Stadium Drive. This approval was based on the site plan permitted by the Planning Commission on November 17, 1983, which allowed pavement up to the Stadium Drive right-of-way and the first 320 feet of Ventura Park Road from the centerline of Stadium Drive.
2. Maple Hill Auto Group, 5622 West Main Street
In 2003, the Maple Hill Auto Group received a variance to expand their display area to within 10-feet of the rear (north) and side (west) property lines where a 20-foot setback was required. It should also be noted that the Maple Hill Auto Group vehicle display area is within approximately 80 feet of the West Main Street centerline where a 170-foot setback is required and is immediately adjacent to the Maple Hill Drive right-of-way where a 70-foot setback is required. Staff could not find variances for these display areas. It is possible that the right-of-way lines changed since the development of this dealership.
3. Halli’s Auto, 8688 West Main Street
In 2005, Halli’s Auto received a variance to display cars within the required 170-foot setback from the centerline of West Main Street on their existing parking lot, which was originally intended for customer use. The southern edge of the existing parking lot is approximately 108 feet from the centerline of West Main Street.
4. Metro Toyota, 5850 Stadium Drive
Also in 2005, Metro Toyota received a variance to place their vehicle display area within 20 feet of both the Stadium Drive and Quail Run Drive rights-of-way where a 120- and 70-foot setback was required.

In addition to the car dealerships, the Zoning Board of Appeals granted a variance in September of 2000 to Steensma Lawn and Power Equipment at 7561 Stadium Drive to allow the display of merchandise at the right-of-way line.

Certainly, past precedence has been set to allow some flexibility for the display of merchandise for sale. However, for the current application staff questions if the request is the minimum necessary for substantial justice considering the landscape setbacks also required. Providing the landscape setbacks would offer some consistency along Quail Run

Drive and provide an opportunity for better screening between the requested site and the R-4 zoned property to the north.

No past precedent could be found for the variance request to not have a sales office on the subject parcel. However, considering the subject property will be incorporated into the larger Metro Toyota business, substantial justice is achieved as a sales office building currently exists.

Standard: Self-Created Hardship
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Comment: The request to allow the existing sales office at 5850 Stadium Drive to function as the sales office for this parcel is technically created by the applicant. However, expansion of the business can only happen to the west of their current parcel, unless Metro Toyota intends to move from this location entirely. With that said, the true hardship is the right-of-way of Quail Run Drive. If the parcels had been legally described to the centerline of road instead of the right-of-way line, the parcels could have been combined and the variance for the sales office would not be needed. Unfortunately, this is not the case and therefore the ordinance language related to “premises” prevails.

In the case of the setback variances, the applicant is requesting to use the existing parking lot area, which was not self-created.

In addition to the above principles, the Zoning Enabling Act of Michigan states that when considering a variance request, the Zoning Board of Appeals must ensure that the “spirit of the ordinance is observed, public safety secured, and substantial justice done.” To help ensure these standards are met for both the applicant and adjacent property owners, the Zoning Board of Appeals may want to consider conditioning any variances granted on meeting the landscaping requirements of Section 75.000 of the Zoning Ordinance. This suggestion is more thoroughly described in the Alternatives section below.

In addition, any consideration for the variance related to the sales office should be closely tied to the existing Metro Toyota business. Granting a variance to the subject parcel eliminating the requirement for a sales office could open up the parcel for future outdoor display sales without a sales building if Metro Toyota ever decides to sell the property. Any considered approval should instead state that the variance is to allow the existing sales office at 5850 Stadium Drive to function as the sales building for the subject parcel. That way, if the parcel ever sells and a new outdoor display use moves in, a sales building would still be required.

ALTERNATIVES

The Zoning Board of Appeals may wish to consider an alternative to the requested setback variances. Currently, the applicant is requesting variances be granted so the existing parking lot can continue in its current configuration. However, it is likely that some redevelopment will happen on the site. If the variance to remove the sales office/building is permitted, then the existing restaurant structure will be demolished. If that variance request is denied, the applicant will likely demolish a portion of the building

to allow more space for the outdoor sale of cars. With these inevitable changes to the site, additional alterations could be considered.

As previously stated, some yards within the site do not meet current landscaping setback requirements. An alternative to the requested setback variance would be to grant relief but to the current requirements for landscaping. This would equate to the following setbacks and variances:

- 20-foot setback from the right-of-way line of Stadium Drive, approximately an 85-foot variance
- 20-foot setback from the right-of-way of Quail Run Drive, a 50-foot variance
- 35-foot setback from the rear (north) property line, a 50-foot variance
- 20-foot setback from the side (west) property line, no variance needed

In addition, the Zoning Board of Appeals could condition the variance to also require the landscape materials outlined in Section 75.130. This would be particularly important to the residentially zoned property to the north. Providing the necessary 35-foot greenspace with the required canopy, understory, and evergreen trees would help to screen the new sales lot use. As the requested use also requires special exception use approval, the Planning Commission would likely require landscaping compliance. Conditioning it as part of any variance consideration provides surety to the residential neighbors to the north.

POSSIBLE ACTIONS

The Zoning Board of Appeals may take the following possible actions:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, below are findings of fact:

Variance request #1: Elimination of a sales office building at 5924 Stadium Drive

Support of variance approval:

- Conformance to the ordinance is unnecessarily burdensome and substantial justice is achieved as a sales office exists for the entirety of the automotive sales business.

Support of variance denial:

- Reasonable use of the property still exists under the C: Local Business District for any other allowable use.

Variance request #2: Setback variance to allow the use of the existing asphalt

Support of variance approval:

- The physical condition of a corner property places an extra burden on the parcel to meet front yard setback requirements.

- Significant precedence has been set allowing encroachment into the required setbacks, especially along rights-of-way.
- The requested setback variances are not the minimum which could still provide substantial justice to both the applicant and neighboring residential uses.

Support of variance denial:

- Reasonable use of the property still exists under the C: Local Business District for any other allowable use.

Possible motions for the Zoning Board of Appeals to consider include:

1. Based on the findings of fact, motion to approve to allow the sales office at 5850 Stadium Drive to function as the sales office for 5924 Stadium Drive and to allow the following outdoor sales display setbacks (applicant's request):
 - 76 feet from the center of Stadium Drive
 - 11 feet from the right-of-way of Quail Run Drive
 - 9 feet from the rear (north) property line
 - 15 feet from the side (west) property line
2. Based on the findings of fact, motion to approve to allow the sales office at 5850 Stadium Drive to function as the sales office for 5924 Stadium Drive and to allow the following outdoor sales display setbacks with the required landscaping outlined in Section 75.130 of the Landscape Ordinance (alternate approach):
 - 20-foot setback from the right-of-way line of Stadium Drive
 - 20-foot setback from the right-of-way of Quail Run Drive
 - 35-foot setback from the rear (north) property line
 - 20-foot setback from the side (west) property line
3. Motion to deny the requested variances because reasonable use of the property is possible under the C: Local Business District for any other allowable use.
4. A combination motion that would approve one and deny the other variance request, utilizing the findings of fact and the possible motions outlined above.

Respectfully Submitted,



Julie Johnston, AICP
Planning Director

Attachments: Application and Applicant's Statement
Aerial Map with Setbacks
Zoning Map
ZBA minutes excerpts: 12/5/1983, 4/22/2003, 5/5/2005, 5/24/2005



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-216-5223 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS Metro Leasing, 5924 Stadium Drive, Kalamazoo, MI 49009

PLANNING & ZONING APPLICATION

Applicant Name : Metro Leasing, LLC
Company Metro Leasing, LLC
Attn: Jeff DeNooyer
Address 5850 Stadium Drive
Kalamazoo, MI 49009
E-mail jdenooyer@Metro-Toyota.com
Telephone (269) 375-1000 Fax _____
Interest in Property Potential Buyer (pending due diligence)

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

Fee Amount _____
Escrow Amount _____

OWNER*:

Name Rykse Properties, LLC
Address 5924 Stadium Drive
Kalamazoo, MI 49009
Email _____
Phone & Fax _____

NATURE OF THE REQUEST: (Please check the appropriate item(s))

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: _____

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): Applicant is requesting

variances from subsections 30.409(a) and (d) of the special exception use requirements for car sales lots to allow the existing sales office on Applicant's adjacent parcel to be considered on the same "premises" and to reduce the setback requirements for displayed vehicles to the dimensions of the existing parking lot.

LEGAL DESCRIPTION OF PROPERTY *(Use Attachments if Necessary):*

SEC 25-2-12 COM AT PT E&W1/4 LI 132 FT E OF W1/4 POST TH S PAR TO W LI 479.91 FT TO BEG

TH N 53DEG39MIN30SC E PAR TO NLY LI W MICH AVE 274.09 FT TH S 36DEG20MIN30SC E

240 FT TO NLY LI SD AVE TH S 53DEG39MIN30SC W 452.56 FT TH N TO PL OF BEG

PARCEL NUMBER: 3905- 25-305-031

ADDRESS OF PROPERTY: 5924 Stadium Drive, Kalamazoo, MI 49009

PRESENT USE OF THE PROPERTY: Restaurant

PRESENT ZONING "C" Local Business District **SIZE OF PROPERTY** 2 acres

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.

Owner's Signature <i>(* If different from Applicant)</i>	Date
/s/ Jeff DeNooyer	October 26, 2018
Applicant's Signature	Date

- Copies to:
 - Planning -1
 - Applicant -1
 - Clerk -1
 - Deputy Clerk -1
 - Attorney-1
 - Assessor -1
 - Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS

Oshtemo Charter Township
ZONING VARIANCE APPLICATION

Applicant: Metro Leasing, LLC

Owner: Rykse Properties, LLC

Property: 5924 Stadium Drive, Kalamazoo, MI 49009

Request: Setback relief and request to consider adjacent sales office as located on the same “premises”

Sections: 30.000 - “C” Local Business District Classification
30.400 - Special exception uses
64.000 - Setback and Side Line Spacing

Overview

Metro Leasing, LLC (“Metro”) is in negotiations with the Rykse Properties, LLC (“Rykse”) to purchase the subject property. Metro currently owns the adjacent property located at 5850 Stadium Drive, on which it operates a used car sales business. Metro desires to purchase and use the subject property as additional display area for its existing business, under a special exception use permitted by subsection 30.409 of the Zoning Ordinance for used car sales lots. Metro intends to use the existing parking lot on the subject property with its current dimensions and to remove the building currently on the subject property.

Subsection 30.409(a) requires that such outdoor sales be conducted upon premises which contain a sales office in a building. Metro is requesting a variance to allow the existing sales office in a building on Metro’s adjacent parcel to be considered on the same “premises” as the subject property in order to comply with the Zoning Ordinance.

Subsection 30.409(d) requires that the parking or display of sales items complies with the setback requirements for buildings. Under the section 64.000 of the Zoning Ordinance, the setback requirements for buildings on the subject property would be:

120 feet from the center of Stadium Drive on the front/south side
70 feet from the edge of Quail Run Drive on the east side
85 feet from the rear R-4 property on the north side
20 feet from the Consumers Energy parcel on the west side

Metro is requesting a variance to reduce the setback requirements for displayed vehicles to the dimensions of the existing parking lot, as shown on the attached survey, which are:

76 feet from the center of Stadium Drive on the front/south side
26 feet from the edge of Quail Run Drive on the east side
9 feet from the rear R-4 property on the north side
15 feet from the Consumers Energy parcel on the west side

Argument

Sales Office Variance

Standard: Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

“Premises” is not defined in the Zoning Ordinance, but the Medical Marihuana Operations Ordinance defines it in subsection 126.003: “Premises means one (1) commercial business premises having a separate or independent postal address.” Metro intends to operate its used car sales operation on the two parcels as one business with one postal address. Metro intends to use the existing sales office located on the adjacent parcel as the sales office for the collective “premises” covering the two parcels in order to comply with the Zoning Ordinance. Moreover, given the unity of operation of the two parcels and the existing sales office, a second sales office serves no practical operational or business purpose. Requiring the construction of one merely for purposes of technical compliance with the Ordinance presents an unnecessary and unreasonable burden.

Standard: Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).

Substantial justice would be served by allowing the same definition of “premises” to apply to Metro’s business as applies to marihuana businesses, thereby allowing the existing sales office to be considered on the same “premises” as the subject property in order to comply with the Zoning Ordinance. Moreover, it would be fundamentally unjust to require Metro to construct an extraneous sales office that serves no practical operational or business purpose merely to achieve technical compliance with the Ordinance.

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

The existing sales office is positioned on the adjacent parcel such that the subject property is actually closer to the sales office than the majority of the adjacent parcel on which the sales office is located. The layout of the properties makes it reasonable to consider the two parcels as one collective “premises” for purposes of the sales office requirement.

Standard: Self-Created Hardship
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Metro’s business has grown enough that it requires more display space for its vehicles than is available on its existing adjacent parcel. Metro must purchase the subject property in order to expand, and it desires that the Township consider the two parcels as one collective “premises” of its business. The hardship in this case is a unique one in that it constitutes the mandatory construction of a sales office in order to achieve technical compliance with the

Ordinance. As such, the hardship is not self-created, but rather, results from the peculiar consequences of applying the Ordinance in this unique circumstance.

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

Metro intends to observe the spirit of the Ordinance by using the existing sales office located on the adjacent parcel as the sales office for the collective “premises” covering the two parcels. There will be one business with one postal address, and that business will have a sales office on the premises. The spirit and purpose of the sales office requirement appears to be to avoid situations where individuals may exploit vacant lots and use them for unsightly, “fly-by-night” sales lots. That concern is not present here. Metro is an established, first class auto dealer with a long history of operations in Oshtemo Township. Granting the variance to Metro in this circumstance permits it to expand its existing operations and infrastructure without requiring it to build an extraneous and unnecessary sales office which would not otherwise be constructed but for purposes of technical compliance with the Ordinance.

Setback Variance

Standard: Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

Metro intends to use the existing parking lot on the subject property with its current dimensions and to retain the existing greenspace surrounding the parking lot. Under the special exception use requirement that the parking or display of sales items complies with the setback requirements for buildings, Metro would only be able to use a small portion of the existing parking lot to display vehicles. The remaining portion of the parking lot would have to remain vacant or be used for employee or customer parking. Putting employees’ vehicles in prime display locations along the outer edges of the parking lot, in front of inventory vehicles, would be incompatible with the operation of a used car sales business. It would not be aesthetically pleasing, and it would not create a uniform setback with Metro’s adjacent parcel, which the Township previously granted a setback variance. The minutes of the May 24, 2005 ZBA meeting considering Metro’s variance application for the adjacent parcel show that the Board members even questioned the reasonableness of Ordinance itself and whether passenger vehicles should be removed from the setback restrictions for outdoor sales.

Standard: Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).

The Township previously granted Metro a similar setback variance for its adjacent parcel. Substantial justice would be served by allowing Metro relief similar to what the Township granted for the adjacent parcel. Granting the variance would also create a uniform setback along Stadium Drive as the parking lot and greenspace of the subject property are consistent with Metro’s adjacent parcel.

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

Metro is requesting a variance so that it can fully use the existing parking lot for display of vehicles. If a variance is not granted, Metro would only be able to use a small portion of the existing parking lot. The remaining portion of the parking lot would have to remain vacant or be used for employee or customer parking. Putting employees' vehicles in prime display locations along the outer edges of the parking lot, in front of inventory vehicles, would be incompatible with the operation of a used car sales business.

Standard: Self-Created Hardship
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Metro did not create the existing parking lot on the subject property. It is simply requesting that it be allowed to fully use the existing parking lot for display of vehicles. Additionally, Metro did not draft the Ordinance which requires a greater setback for a parked passenger vehicle that is available for purchase than the setback for a parked passenger vehicle owned by an employee or customer.

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

The parking lot on the subject property is already being used for parking by passenger vehicles, so allowing Metro to park passenger vehicles that are available for purchase on that parking lot will not endanger public health, safety, and welfare. Substantial justice will be done by granting the same setback variance to Metro for the subject property that the Township previously granted to Metro for the adjacent parcel. Moreover, the Township's objectives of good, consistent planning resulting from uniform setbacks dovetail perfectly with Metro's request to utilize the target site as a consistent, component part of its existing operation, and it does so without expanding the footprint of the existing parking area, and thus, without increasing the burden on neighboring property owners.

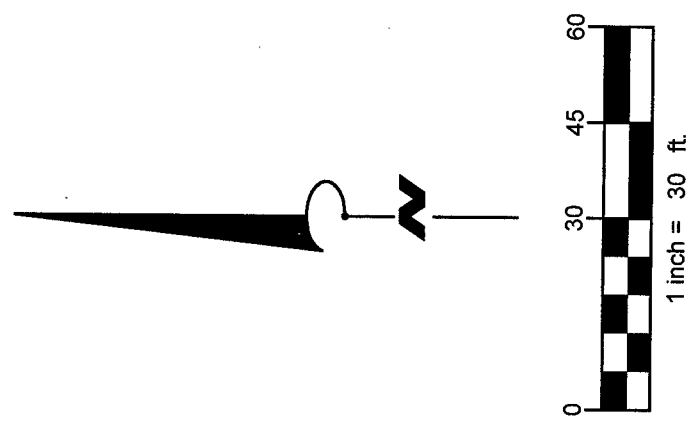
Conclusion

Metro desires to expand its existing used car sales business by purchasing the subject property to use for additional display of vehicles. The two parcels—the subject property and the adjacent parcel—will collectively make up the “premises” of Metro's business. There will be one business with one postal address, and that business will have a sales office in a building on the premises in compliance with the Ordinance. The sales office is the existing sales office located on the adjacent parcel.

Metro intends to use the existing parking lot on the subject property with its current dimensions and to retain the existing greenspace surrounding the parking lot. In order to fully use the parking lot, it is requesting a setback variance similar to the variance it received for its adjacent parcel. This will allow the two parcels to have an aesthetically pleasing uniform setback.

"ALTA/NSPS LAND TITLE SURVEY"

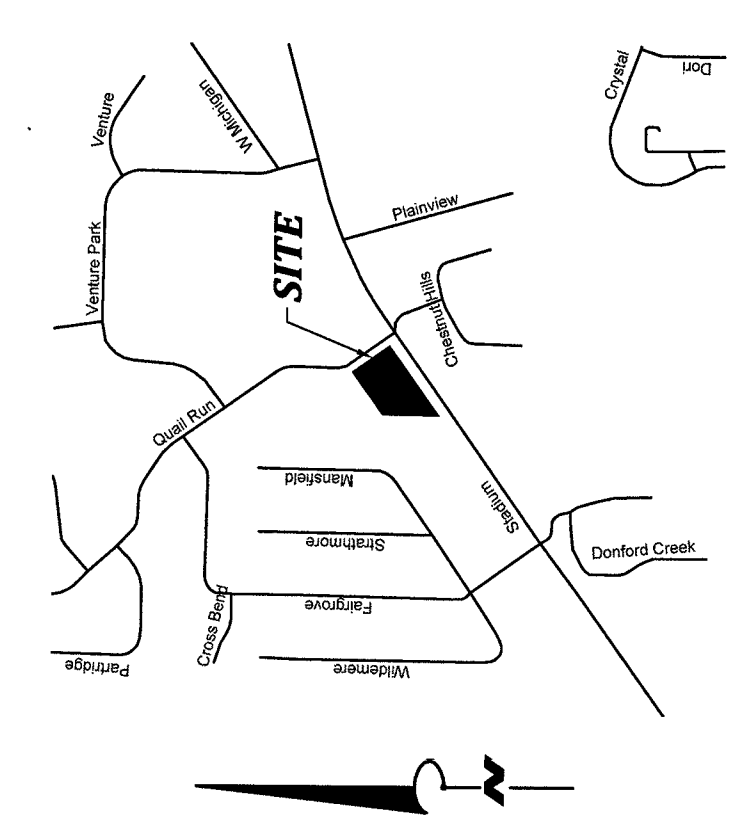
IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 12 WEST, OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN



STORM SCHEDULE

CB 1	RM = 946.81 ELEVATION = 947.85 12" PVC NELY INV. = 951.687
CB 2	RM = 946.57 ELEVATION = 947.87 NO PIPES VISIBLE
CB 3	RM = 955.37 ELEVATION = 948.94 NO PIPES VISIBLE
CB 4	RM = 955.46 ELEVATION = 948.96 NO PIPES VISIBLE
CB 5	RM = 955.76 ELEVATION = 947.85 12" PVC NELY INV. = 951.687
CB 6	RM = 946.57 ELEVATION = 947.87 NO PIPES VISIBLE
CB 7	RM = 955.37 ELEVATION = 948.94 NO PIPES VISIBLE
CB 8	RM = 955.76 ELEVATION = 948.96 NO PIPES VISIBLE

VICINITY MAP
(NOT TO SCALE)



LEGAL DESCRIPTION PER "EXHIBIT A", COMMITMENT FOR TITLE INSURANCE PREPARED BY CHICAGO TITLE OF MICHIGAN, INC., COMMITMENT NO. 391068339CML, COMMITMENT DATE SEPTEMBER 9, 2018:

LAND SITUATED IN THE STATE OF MICHIGAN, COUNTY OF KALAMAZOO, TOWNSHIP OF OSHTEMO, COMMENCING AT A POINT ON THE EAST AND WEST 1/4 LINE OF SECTION 25, TOWN 2 SOUTH, RANGE 12 WEST, 132 FEET EAST OF THE WEST 1/4 CORNER OF THE SOUTH PARALLEL TO THE WEST LINE, 479.91 FEET TO THE BEGINNING, THENCE NORTH 53°39'30" EAST PARALLEL TO THE NORTHERLY LINE OF WEST 1/4 CORNER OF THE SOUTH PARALLEL TO THE WEST LINE, 240 FEET TO THE NORTHERLY LINE OF 840 AVENUE, THENCE SOUTH 53°39'30" WEST, 452.96 FEET, THENCE NORTH TO THE PLACE OF BEGINNING.

SCHEDULE B, SECTION II, EXCEPTIONS, PER COMMITMENT FOR TITLE INSURANCE PREPARED BY CHICAGO TITLE OF MICHIGAN, INC., COMMITMENT NO. 391068339CML, COMMITMENT DATE SEPTEMBER 9, 2018:

- ITEM 8. RIGHT OF WAY AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO MICHIGAN BELL TELEPHONE COMPANY AS RECORDED IN LIBER 874, PAGE 892 SHOWN HEREON.
- ITEM 9. TERMS, COVENANTS, AND CONDITIONS OF THE SANITARY SEWER EASEMENT CONTAINED IN THE DEED AS RECORDED IN LIBER 1038, PAGE 1938 SHOWN HEREON.
- ITEM 10. TERMS, COVENANTS, AND CONDITIONS OF THE EASEMENT AGREEMENT AS RECORDED IN LIBER 1257, PAGE 234 SHOWN HEREON.

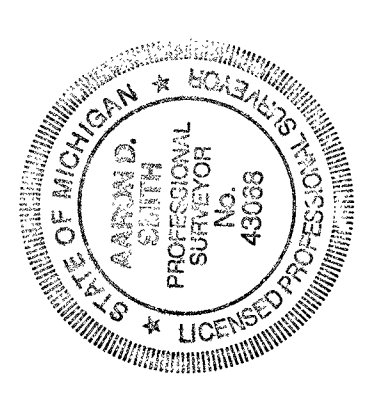
SURVEY NOTES:

- MONUMENTS HAVE BEEN PLACED (OR A REFERENCE MONUMENT OR WITNESS TO THE CORNER, AT ALL MARKS CORNERS OF THE BOUNDARY OF THE PROPERTY, UNLESS ALREADY MARKED OR REFERENCED BY EXISTING MONUMENTS OR WITNESSES IN CLOSE PROXIMITY TO THE CORNER (TABLE A, ITEM 1)). THIS PARCEL'S ADDRESS WAS OBSERVED TO BE 5924 STADIUM DRIVE (TABLE A, ITEM 2).
- THE SURVEYED PARCEL IS LOCATED IN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER INFORMATION OBTAINED FROM NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP, MAP NUMBER 28077C015D, EFFECTIVE DATE FEBRUARY 17, 2010 (TABLE A, ITEM 3).
- THE SURVEYED PARCEL CONTAINS 2.00 ACRES MORE OR LESS (TABLE A, ITEM 4).
- VERTICAL RELIEF SHOWN HEREON HAS BEEN OBTAINED BY A GROUND SURVEY WITH ONE (1) FOOT CONTOUR INTERVALS, NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88), BASED ON MICHIGAN STATE CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS) (TABLE A, ITEM 5).
- NO ZONING REPORT OR LETTER WAS PROVIDED TO THE SURVEYOR TO DATE (TABLE A, ITEMS 6(a) AND 6(b)).
- EXTENSION DIMENSIONS OF ALL BUILDINGS OBSERVED AT GROUND LEVEL ARE SHOWN HEREON (TABLE A, ITEM 7(a)).
- SQUARE FOOTAGE OF EXTERIOR FOOTPRINT OF ALL BUILDINGS AT GROUND LEVEL SHOWN HEREON (TABLE A, ITEM 7(b)).
- SUBSTANTIAL FEATURES OBSERVED IN THE PROCESS OF CONDUCTING THIS SURVEY ARE SHOWN HEREON (TABLE A, ITEM 9).
- THERE ARE 99 REGULAR MARKED PARKING SPACES AND 4 MARKED BARRIER FREE PARKING SPACES ON THE SURVEYED PARCEL (TABLE A, ITEM 8).
- THE UNDERGROUND UTILITIES SHOWN, IF ANY, HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN-SERVICE OR ABANDONED. THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES ARE IN THE EXACT LOCATION INDICATED ALTHOUGH THE SURVEYOR DOES CERTIFY THAT THE UTILITIES WERE LOCATED AS FAR AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES (TABLE A, ITEM 11).
- NAMES OF ADJOINING OWNERS OF PLATTED AND UNPLATTED LANDS ARE SHOWN HEREON (TABLE A, ITEM 13).
- NO EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS WERE OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK (TABLE A, ITEM 16).
- AT THE TIME OF THE SURVEY THERE WAS NO OBSERVABLE EVIDENCE OF CHANGES IN STREET RIGHT OF WAY LINES OR OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS (TABLE A, ITEM 17).
- NO FIELD DELINEATION MARKERS OF WETLANDS WERE OBSERVED IN THE PROCESS OF CONDUCTING THE FIELDWORK (TABLE A, ITEM 18).
- NO OFFSITE APPURTENANT EASEMENTS WERE DISCLOSED IN THE COMMITMENT FOR TITLE INSURANCE PROVIDED (TABLE A, ITEM 19).
- BEARINGS ARE RELATED TO THE RECORDED BEARING OF THE NORTH RIGHT OF WAY LINE OF STADIUM DRIVE.
- SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE.
- THIS SURVEY WAS PERFORMED WITH AN ACCURACY THAT IS NOT LESS THAN REQUIRED BY THE MINIMUM STANDARDS OF PRACTICE FOR PROFESSIONAL SURVEYING IN MICHIGAN.

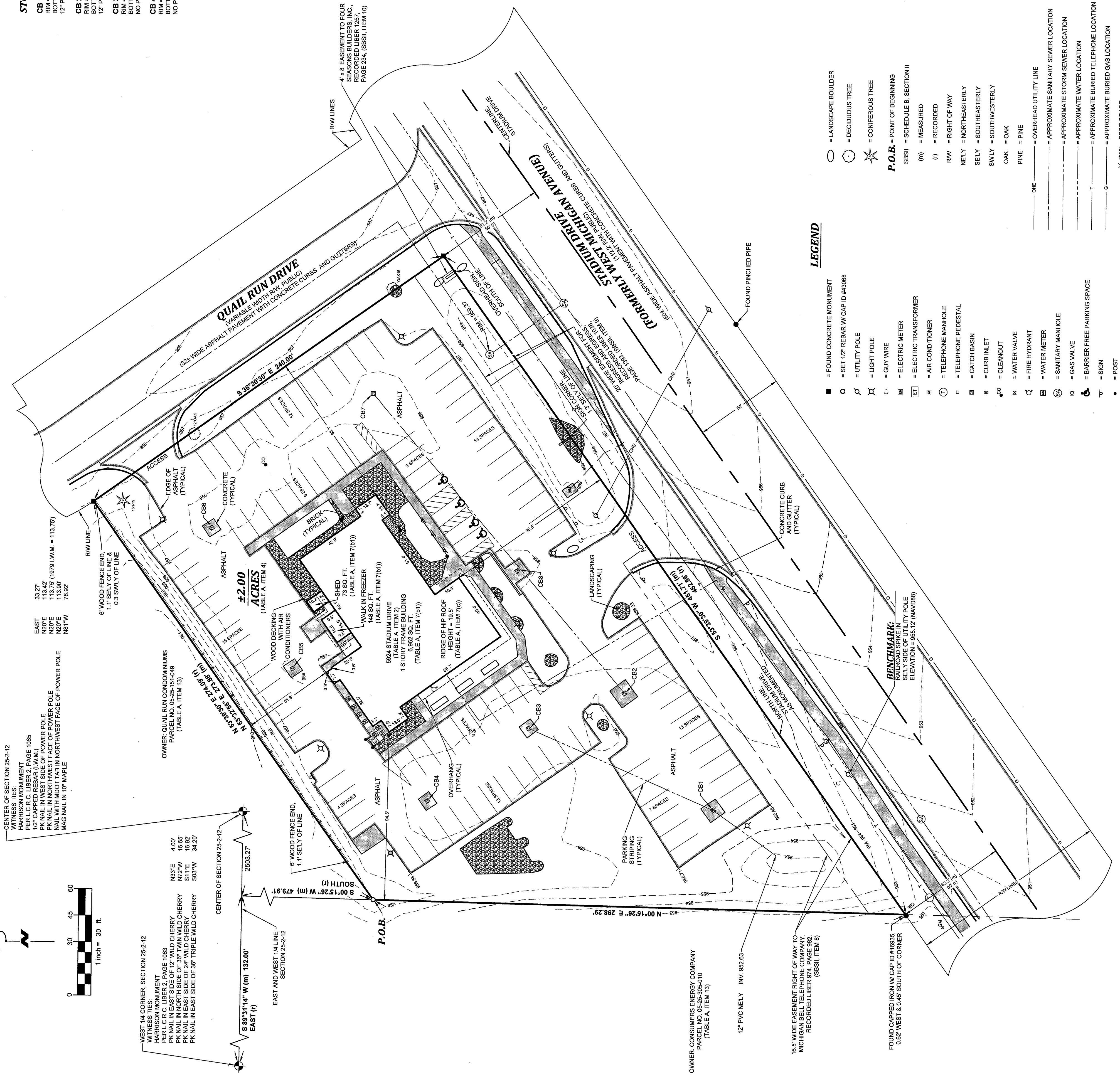
CERTIFICATION:

TO METRO IMPORTS, INC., CHICAGO TITLE OF MICHIGAN, INC. AND CHICAGO TITLE INSURANCE COMPANY. THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD FOR PROFESSIONAL SURVEYING IN MICHIGAN. THIS SURVEY WAS COMPLETED AND ACCEPTED BY ACTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6(a), 6(b), 7(a), 7(b), 8, 11, 13, 16, 17, 18, 19 AND 20 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON OCTOBER 19, 2018.

Arion D. Smith
ARION D. SMITH PFS - 43088
asdm@gwrightman.com

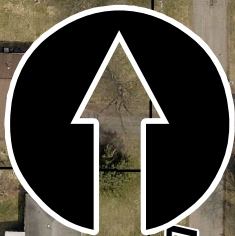


10/23/2018
DATE

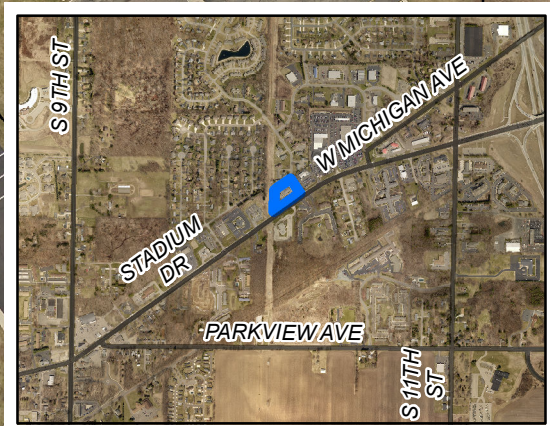
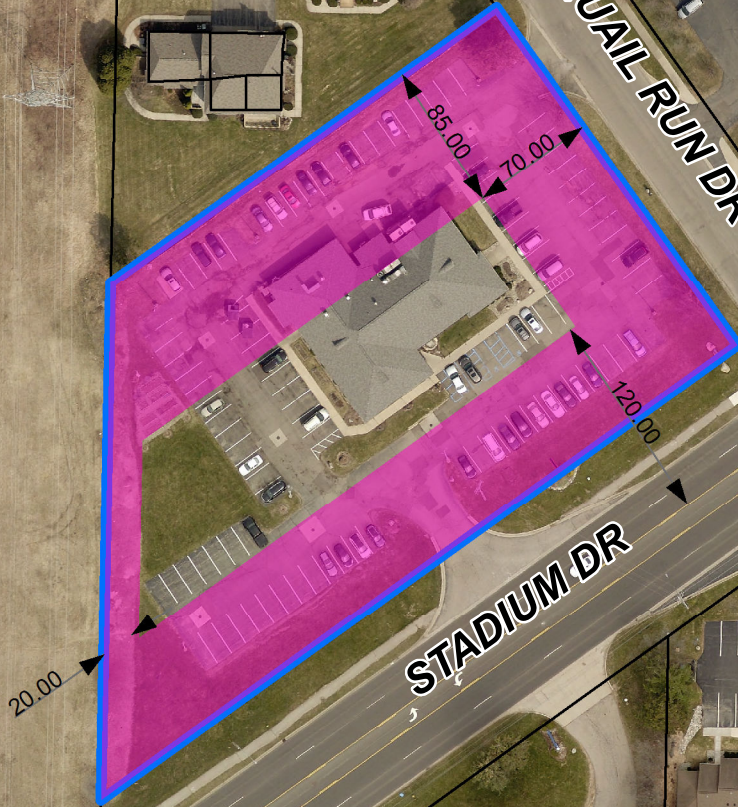


LEGEND

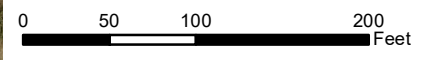
- FOUND CONCRETE MONUMENT
- SET 1/2" REBAR W/ CAP ID #43088
- UTILITY POLE
- LIGHT POLE
- GUY WIRE
- ELECTRIC METER
- ELECTRIC TRANSFORMER
- AIR CONDITIONER
- TELEPHONE MANHOLE
- TELEPHONE PEDESTAL
- CATCH BASIN
- CURB INLET
- CLEANOUT
- WATER VALVE
- FIRE HYDRANT
- WATER METER
- SANITARY MANHOLE
- GAS VALVE
- BARRIER FREE PARKING SPACE
- SIGN
- POST
- LANDSCAPE BOULDER
- DECIDUOUS TREE
- CONIFEROUS TREE
- P.O.B. = POINT OF BEGINNING
- SSBII = SCHEDULE B, SECTION II
- (M) = MEASURED
- (I) = RECORDED
- RW = RIGHT OF WAY
- NELY = NORTHEASTERLY
- SELY = SOUTHEASTERLY
- SWLY = SOUTHWESTERLY
- OAK = OAK
- PINE = PINE
- OH = OVERHEAD UTILITY LINE
- APPROXIMATE SANITARY SEWER LOCATION
- APPROXIMATE STORM SEWER LOCATION
- APPROXIMATE WATER LOCATION
- APPROXIMATE BURIED TELEPHONE LOCATION
- APPROXIMATE BURIED GAS LOCATION
- X 85311 = SPOT GRADE

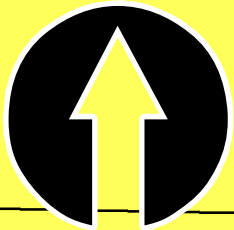
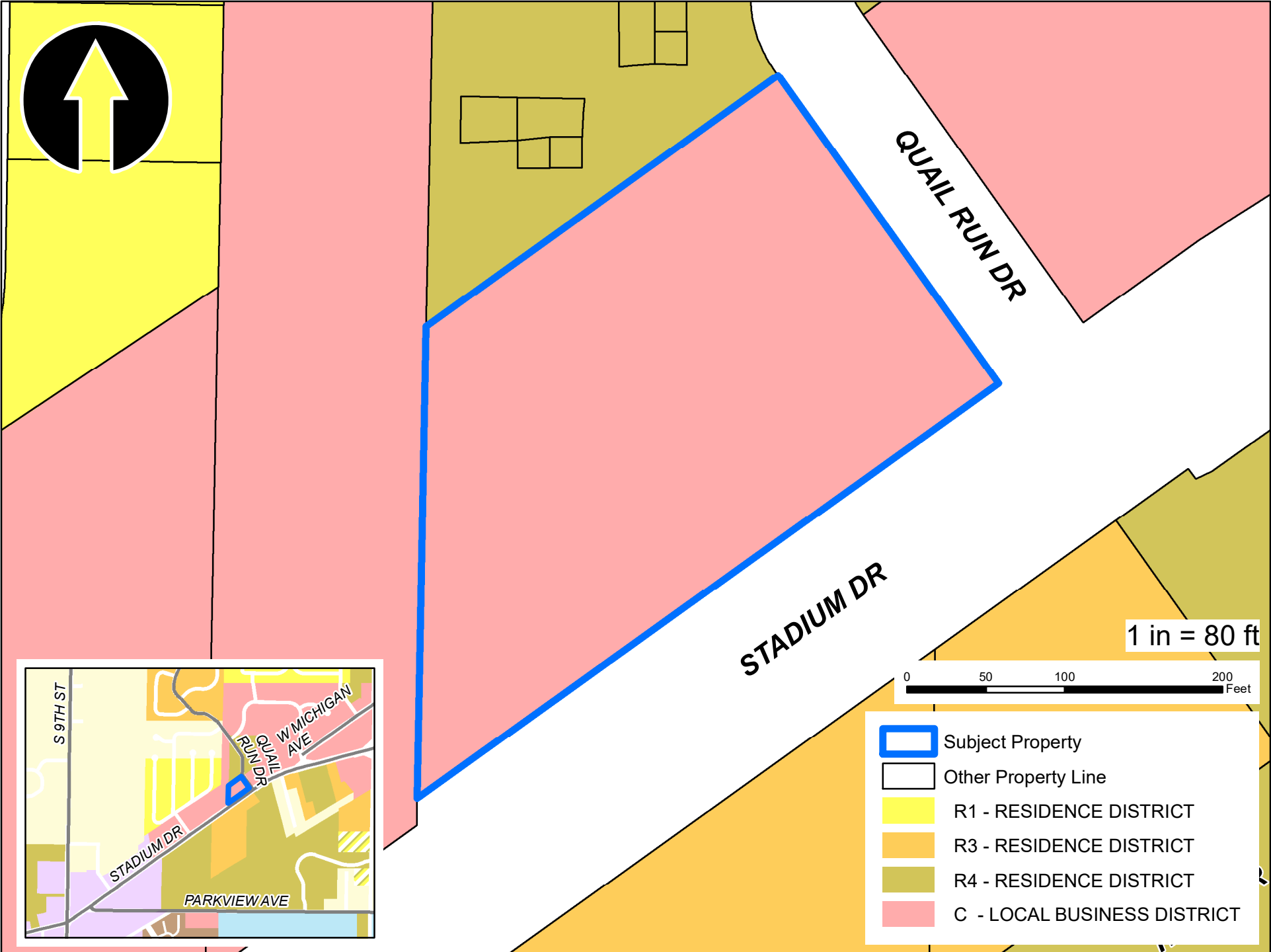


MANSFIELD ST



- Setback Area
- Subject Property
- Other Property Line

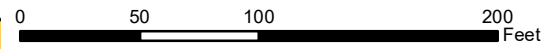










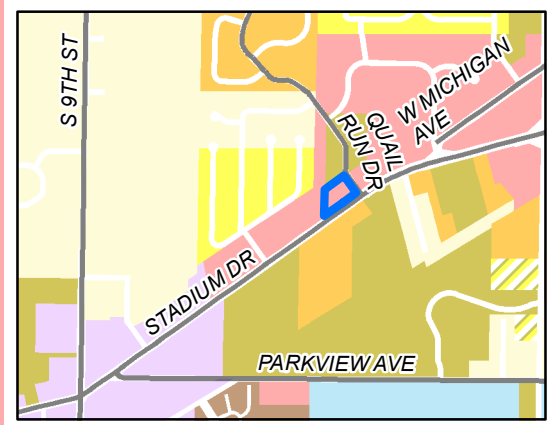
QUAIL RUN DR

STADIUM DR

1 in = 80 ft



-  Subject Property
-  Other Property Line
-  R1 - RESIDENCE DISTRICT
-  R3 - RESIDENCE DISTRICT
-  R4 - RESIDENCE DISTRICT
-  C - LOCAL BUSINESS DISTRICT



DENOoyer'S AUTO DEALERSHIP - VARIANCE REQUEST

The Chairman noted that the final item on the agenda was a request by Three Brothers Realty Co. (DeNooyer Bros. Chevrolet) for a variance to permit them to display new vehicles on the setback on the property located at the junction of West Michigan Avenue and Stadium Drive.

Mr. Jameson inquired as to the legal authority for the requested variance to be granted and Attorney Vincent Early indicated it was Michigan Statutes Annotated §5.2963(23). Mr. Early stated that the property had been purchased by the applicant in 1979 and the ordinance provision from which a variance is sought was not enacted until July 1980. He further stated that Jerry DeNooyer, the father of Gerald DeNooyer, had inquired of the Township at the time of the new ordinance and was informed that a variance could be granted.

Mr. Early also submitted an affidavit from Richard Byce and pointed out that the curb line is 31 feet 10 inches from the center line of the road on the front of the property, and that the right-of-way extends for an additional 28 feet 2 inches, for a total of 60 feet. He further indicated that the sidewalk and bicycle path now on that 28 feet 2 inches would not be affected by the granting of the variance. The front of the proposed building will be 235 feet from the front property line.

Mr. James asked the applicant what hardship they were claiming as a justification for the variance. The applicant indicated the fact that the property had been purchased for a new car dealership prior to the adoption of the present provision, and the fact that competitors of DeNooyer Chevrolet could display their cars right up to the right-of-way line because their buildings predated the ordinance amendment.

It was pointed out during the discussion that the request did not apply solely to the frontage on Stadium Drive/Michigan Avenue, but also to sideline setback lines of Venture.

There was no public comment on the request except that given by the applicant.

It was moved by Lois Brown, supported by Marvin Block, and carried by a vote of three to one, that a variance be granted to permit display of new vehicles on the setback line on all of the property in question except that portion on Venture north of a line parallel to and 320 feet from the center line of Stadium Drive, for the reason that the property had been purchased for a new car dealership before the ordinance was amended, and that the applicant had pursued in a timely fashion its intended use of the property.

Mr. Jameson cast the negative vote and requested that the minutes show that his negative vote was based upon the failure of the applicant to establish a hardship, and that the other comments of the applicant should go to the legislative body, not to the Zoning Board of Appeals.

There being no further business to come before the Board, the meeting was adjourned at 5:25 P.M.

proposed style of the accessory building would "blend" with the architecture of the house. Further, the proposed placement would not "block" a neighbor's view.

Ms. Borgfjord noted that, since the parcel was heavily wooded, the appearance of the accessory building should not be a problem.

Mr. Turcott stated that he was in favor of granting the placement of the accessory building since he felt that it would not set an undesirable precedent. The Township Attorney confirmed that each case would be reviewed on a case-by-case basis.

The Chairperson agreed that there would be no problem with the placement of the building since the architecture of the accessory building would be similar to the home with siding the same as the home and a 4/12 pitch roof.

Mr. Borgfjord moved to grant approval of the placement of the accessory building in compliance with the 70-foot setback but in front of the existing dwelling, pursuant to Section 78.820, based upon the architecture and materials used in construction of the accessory building and the wooded nature of the parcel. Mr. McClung seconded the motion, and the motion carried unanimously.

BORTON - VARIANCE FOR TEMPORARY SECOND DWELLING - 2875 NORTH 6TH STREET - (PARCEL NO. 3905-09-230-087).

The Board considered the application of Ralph Borton for variance approval to allow the construction of a second dwelling on a parcel in the "RR" Rural Residential District to precede removal of the existing home. A variance from the provisions of Section 66.150 was necessary. The subject property is located at 2875 North 6th Street and is Parcel No. 3905-09-230-087. The Report of the Planning Department is incorporated herein by reference.

The Board determined that it would table the item in that the applicant was not yet present.

MAPLE HILL AUTO - VARIANCE REGARDING PARKING IN SETBACK - 5622 WEST MAIN STREET - (PARCEL NO. 3905-13-180-035).

The Board considered the application of Maple Hill Leaseholds, LLC for a variance from the outdoor sales lot provisions of Section 31.403 so as to allow vehicle parking within 10 feet of the side and rear property lines where the Ordinance requires a 20-foot setback. The subject property is located within the "C" Local Business District zoning classification at 5622 West Main Street and is Parcel No. 3905-13-180-035.

The Report of the Planning Department is incorporated herein by reference.

Ms. Bugge referenced the background information and history concerning approvals for the subject site. She noted that special exception use/site plan approval had been granted on March 27, 2003, by the Township Planning Commission to permit expansion of the parking lot for storage of excess stock conditioned upon receiving a variance to permit paving and parking to within 10 feet of the property line in the expansion area. Ms. Bugge noted that Section 31.403 regarding outdoor sales lots requires all business activities including parking to conform to building setbacks.

Ms. Bugge stated that the existing drainage pond at the site would be paved over, and the drainage system placed under the paving. There would be no more property available for expansion after this area is paved over. The applicant was requesting to be allowed to pave within 10 feet of the rear and side property lines. The 10-foot setback for pavement would allow storage of excess inventory. Ms. Bugge noted that the remainder of the site is "pre-existing" and therefore paved to the property line.

Ms. Bugge pointed out that Township Staff could not find any information regarding similar applications.

It was noted that the proposed paving would be consistent with and in character with the existing site and the area. The applicant confirmed that it would meet all landscaping standards as approved by the Planning Commission for the subject area and lighting standards of the Ordinance.

Jim VandenBerg, owner and manager, was present, stating that the site had originally been established in 1968. The applicant's proposal would "follow the current fence line".

Mr. Bushouse had questions concerning the drainage, and the applicant stated that the proposed system had been designed to a 100-year water mark. Mr. VandenBerg stated that the grade along the edges of his site were higher than that of Evergreen North, and therefore, in a big rainfall, the water would back up onto the applicant's site before it flowed off site.

In response to questions, the applicant stated that, if another 10 foot of setback were accommodated, about 20% of the available parking area would be lost.

Ms. Borgfjord had questions concerning the bullpen fencing, and the applicant stated that the fencing would stay in place along the perimeter of the property.

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

After some discussion, Mr. McClung moved to grant the variance, finding that conformance was unnecessarily burdensome since the proposed setback would be more consistent with the existing parking lot pavement. Further, substantial justice and the spirit and intent of the Ordinance would be served since the proposed paving was in character with the existing site and the area. Mr. Turcott seconded the motion, and the motion carried unanimously.

BORTON - VARIANCE FOR TEMPORARY SECOND DWELLING - 2875 NORTH 6TH STREET - (PARCEL NO. 3905-09-230-087).

The Board returned to consideration of the application of Ralph Borton for a variance to allow the construction of a second dwelling on the subject property. It was noted that the applicant was still not present, but the Board decided to proceed with the application.

The Report of the Planning Department is incorporated herein by reference.

Ms. Bugge reviewed the standards for a non-use variance, noting that, as to whether conformance was unnecessarily burdensome, the applicant planned to remove the existing house once the new house was constructed, thus returning the parcel to a conforming status. As to substantial justice, it was noted that two applications had been approved for similar cases, but that this was the first request under the revised Section 66.150.

Ms. Bugge suggested that, concerning whether the spirit of the Ordinance would be observed, the Board should consider that the request was for a temporary non-conformity. Mr. Bushouse had questions concerning how long two structures would be located on the property, and Ms. Bugge stated that she had not obtained a time line from the applicant. Ms. Bugge suggested that the Board could request a performance guarantee for the cost of demolition of the existing dwelling prior to the issuance of a building permit.

The Chairperson stated that, given the size of the property, he would have no problem with the proposed variance. However, he felt that a performance guarantee for removal of the existing dwelling was appropriate.

Ms. Stefforia entered the meeting.

2000, to replace their existing signs, using an overall formula of 1.5 square feet of wall sign per lineal foot of tenant space in replacing their existing signs, and that any future signs would have to comply with the then existing Sign Ordinance. Her motion was further subject to the requirement that all additional illegal signs within the West Century Center be removed. Mr. McClung seconded the motion. The Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed 4-to-1, with Mr. Bushouse in opposition.

HALLI'S AUTO SALES, LLC - DISPLAY IN SETBACK VARIANCE - 8688 WEST MAIN STREET - (PARCEL NO. 3905-16-180-059)

The Chairman said the next item for consideration was a request from Halli's Auto Sales, LLC for a variance under Section 31.403 to allow vehicles for sale to be displayed within the required building setback area. He said the subject property was located at 8688 West Main Street, Parcel No. 3905-16-180-059. Ms. Borgfjord excused herself from the Board due to a conflict of interest. The Chairman asked to hear from the Planning Department. Ms. Stefforia submitted her reported dated April 26 and May 5, 2005, to the Board for its consideration, and the same is incorporated herein by reference.

Ms. Stefforia then took the Board through a review of the property located at 8688 West Main Street. She provided an analysis of the variance provisions as set forth in the Zoning Ordinance. In her analysis, Ms. Stefforia noted that it would be reasonable for the applicant to prefer to use the existing parking lot for vehicle display rather than developing additional parking to the west. She also noted that the Board had granted a variance to Paul Brown at 8410 West Main Street to display vehicles within the setback area. She also noted that automobile display within the setback area was allowed at Maple Hill Mall and DeNooyer Chevrolet. She noted, in addition, that Steensma had been allowed a variance to display its equipment at the property line on Stadium Drive.

Ms. Stefforia said, with regard to whether there were unique physical limitations, that the topography of the subject property presented some physical limitations which would prevent compliance with the setback requirements. In conclusion, she noted that there were several properties with significant outdoor display in the area, and that this commercial area of the Township differed significantly from other areas within the Township.

The Chairman asked if there were any questions, and hearing none, asked to hear from the applicant. Ms. Borgfjord, on behalf of Halli's Auto Sales, LLC, told the Board that she thought the Planning Department had outlined their request quite well. She explained that the sale of automobiles had taken place at the site for years as an accessory use. However, with the change in State law requiring all used car sales dealers to post a sign, the Planning Department had asked that they seek a special use permit and a variance to continue the use. Ms. Borgfjord said nothing would change with regard to the very limited sale of used cars and believed, given the topography and limited use, that a variance was warranted.

The Chairman asked if there were any questions of the applicant, and hearing none, said he would entertain a motion. Mr. McClung made a motion to grant the variance as requested for the reasons set forth in the Planning Department's report. Mr. Turcott seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

Other Business

There was no "Other Business" to come before the Board.

Adjournment

The Chairman asked if there was any other business to come before the Board, and hearing none, the Chairman called for adjournment at approximately 5:10 p.m.

OSHTEMO CHARTER TOWNSHIP**ZONING BOARD OF APPEALS****May 24, 2005****Agenda****METRO LEASING, LLC - VARIANCE - DISPLAY IN BUILDING SETBACK - 5850 AND 5900 STADIUM DRIVE - (PARCEL NOS. 3905-25-180-015 AND 3905-25-305-045)****METRO LEASING, LLC - SIGN DEVIATION - FREESTANDING SIGNS - 5850 STADIUM DRIVE - (PARCEL NO. 3905-25-180-015)**

A meeting was conducted by the Oshtemo Charter Township Zoning Board of Appeals on Tuesday, May 24, 2005, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: James Turcott, Acting Chairman
Dave Bushouse
Grace Borgfjord
Duane McClung

MEMBER ABSENT: Millard Loy

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner; James W. Porter, Township Attorney; and approximately four other interested persons.

CALL TO ORDER

The Acting Chairman called the meeting to order at approximately 3:00 p.m.

MINUTES

The Acting Chairman said that the first item on the Agenda was consideration of the minutes of April 26 and May 5, 2005. Ms. Borgfjord asked that the reference to "Lexan" be removed from the comments in the first paragraph on page 6, of the May 5, 2005 minutes. The Acting Chairman asked if there were any further revisions to the May 5, 2005 minutes or the minutes of April 26, 2005. Ms. Borgfjord made a motion to approve the minutes of April 26, 2005, and to approve the minutes of May 5, 2005, as corrected. Mr. McClung seconded the motion. The Acting Chairman called for a vote on the motion. The motion passed unanimously.

METRO LEASING, LLC - VARIANCE - DISPLAY IN BUILDING SETBACK - 5850 AND 5900 STADIUM DRIVE - (PARCEL NOS. 3905-25-180-015 AND 3905-25-305-045)

The Acting Chairman stated that the next item for consideration was a request from Metro Leasing, LLC, located at 5850 and 5900 Stadium Drive, Parcel Nos. 3905-25-180-015 and 3905-25-305-045. He then asked for a report from the Staff. Ms. Stefforia presented her report to the Zoning Board of Appeals dated May 24, 2005, and the same is incorporated herein by reference.

Ms. Stefforia explained to the Zoning Board of Appeals that the applicant was requesting approval to display vehicles in the required building setback area under Section 31.403 of the Zoning Ordinance. She said that the current area for displaying vehicles complies with the Ordinance requirement of 120 feet from the centerline of Stadium Drive right-of-way line and 70 feet from the Quail Run Drive right-of-way line.

Ms. Stefforia told the Board that the property at 5900 Stadium Drive had been recently acquired and combined with the property to the east, even though tax records did not yet reflect the combination.

Ms. Stefforia then went through a brief history of the uses at 5850 Stadium Drive and 5900 Stadium Drive. She said that the applicant was requesting a setback variance for both sites as set forth in the applicant's narrative. She added that, if the display is going to be within the road right-of-way, they would also have to obtain authorization from the Kalamazoo County Road Commission.

Ms. Stefforia took the Board through the Planning Department's report and the standards for approval for a nonuse variance. The Staff report concluded that conformance would not be unnecessarily burdensome, since both sites currently have approved outdoor display areas in compliance with the Ordinance. However, substantial justice would not be served in granting the variance, since other parties receiving a variance had specific site restrictions, such as size or width of the lot, not applicable to the applicant. Staff also found no unique limitations or physical conditions exist on the property to prevent compliance. It being in the applicant's best interest to decrease greenspace and bring paving closer to the road right-of-way, Staff concluded that the hardship was self-created. With regard to whether the spirit of the Ordinance would be observed, public health, safety and welfare secured and substantial justice done, Staff submitted that the spirit of the Ordinance would be violated if the variances were granted, and it would be more appropriate to ask the Planning Commission and the Township Board to amend the Ordinance, eliminating setback requirements for outdoor display, rather than grant the variance.

The Acting Chairman asked if there were any questions of Ms. Stefforia. There being none, the Acting Chairman asked to hear from the applicant. Mr. Bob Lennon introduced himself to the Board as the attorney for Metro Leasing, LLC. He then took the opportunity to introduce Jeff DeNooyer of Metro Leasing.

Mr. Lennon began by explaining that the three properties, Metro Toyota, the former Deep Sea Aquarium property and the Chevrolet dealership were really operating as one business entity. He said all of the principals were the same, and it was important to look at the site as a single business operation.

Mr. Lennon explained that DeNooyer had received a variance in 1984 and that they were looking to obtain the same setback variance for Metro Toyota and for the former Deep Sea Aquarium property. He said, when Metro Toyota was developed in 1988, they thought they had sufficient area to handle the inventory, but with the increase in sales, they were looking to the Township to help line up Metro Toyota and their used car sales with the DeNooyer property. He said, in doing so, they would create one uniform setback along Stadium Drive and Quail Run, which would provide a better-looking site. He said it would also allow them to better integrate the sites and allow desperately-needed area for additional sales and inventory for Metro Toyota. Attorney Lennon said the he did not think that the restriction, as applied to his client, made sense. He said it was a distinction without a difference.

Mr. Lennon then proceeded to read Section 31.403 to the Board, and said that the provision of the Ordinance made sense, except when it came to trucks and cars. He said that parking was a permissible use in the area, but not for the purpose of sales. He said he did not think it made any sense to exclude passenger cars and trucks from the area for purposes of sales and yet allow the use of that area for a parking lot. He said the Ordinance would allow putting their Staff parking lot in front of their sales area, but he did not think it would be aesthetically pleasing, nor would it serve the purpose for which the property was zoned.

Mr. Lennon then reviewed the individual criteria, arguing that conformance with the Ordinance was unnecessarily burdensome in that it would require putting employees' vehicles out in front of the inventory for Metro Toyota, which would be incompatible with the operation of a car sales facility.

Mr. Lennon said they thought substantial justice could be done to the applicant and other property owners in the district since there was no negative impact to any of the businesses in the area. Also Metro Toyota was purchased as an automobile dealership at approximately the same time that DeNooyer purchased the property for a dealership, but they simply had not applied for the variance at that time.

Mr. Lennon said he thought that there were unique physical characteristics, given the need to integrate the Metro site with the properties, both to the east and to the west. He also said that his client had not created the hardship, and that the hardship was created by the application of the Ordinance to his client's property.

Attorney Lennon concluded by saying that his client wanted to be a good corporate citizen, and, because their sales were up 30% this year alone, his client needed additional space, or they would be forced to do something different. He said that he hoped that the Township would work with Metro Leasing to grant the relief requested.

The Acting Chairman asked if there were any questions for Mr. Lennon. Hearing none, he asked to hear from Mr. DeNooyer.

Mr. DeNooyer explained to the Zoning Board of Appeals that he and his partners had owned the property for approximately 17 years. He said they had always lived with the restrictions, but they never had anticipated that they would use all of the space which they currently had. He said, when they started, they had 28 employees and sold approximately 500 new cars a year and 250 used cars per year. He said they now have 75 employees and sell approximately 1,000 new cars a year and 600 used cars a year. He noted that the growth in the last few years had grown expediently and that they needed additional space. He indicated that Toyota was actually reviewing their dealerships to determine whether they had adequate space to continue to grow. He said that all they were asking for was 51 additional spaces, 28 spaces for Metro Toyota and 23 additional spaces for the used car division. He said they had talked to their neighbors, who he thought were supportive. He surmised that the reduction in greenspace would not be inconsistent with other commercial properties along Stadium Drive, particularly in the Village area. He also thought it would not have a negative impact on public safety and asked that the Board consider granting their request.

The Acting Chairman asked if there were any questions. Hearing none, he asked to hear from the public. Kris Kirkpatrick, representing the Quail Run Association, introduced herself to the Board. She said she respectfully disagreed with Mr. Lennon's and Mr. DeNooyer's presentations. She said she had picked up on the implied threat from the corporation and did not think that the Board should succumb to such tactics. She told the Board that the Association did not have a problem with some of the variances which had been granted, but was deeply disturbed by the change in the use from the Deep Sea Aquarium. She said initially it was to be a Jaguar-Hummer dealership, and now it is going to be a used car lot. She said she saw an erosion to the quality of the residential area. She explained that she represented 48 taxpaying property owners who wanted to protest the decrease in the value of their property. She said the elimination of the greenspace, coupled with a used car lot, would have a negative impact on the Quail Run Condominium development. She said she believed it was reasonable to deny the request, based upon the impact upon the quality of life and loss of greenspace, and asked that the Board respectively reject the requested variance.

The Acting Chairman asked if there was further public comment, and hearing none, he closed the public portion of the meeting and called for Board deliberations. The Acting Chairman said that the Board had heard the various comments and asked if the Board wanted to proceed through each individual point.

Mr. Bushouse said that, when he had looked at the situation, he immediately noticed that the property to the east was operating right at the property line. Looking to the west, he had a hard time understanding why they should not be consistent. He said it was typical to see these types of uses at

the property line. The Zoning Board of Appeals had authorized other similar uses throughout the Township. He said, in order to be consistent, he thought they should grant the variance. He said they would still have a substantial greenspace similar to Rykse's and that it would create a more uniform setback along Stadium Drive.

Mr. McClung said he had to agree with Mr. Bushouse. He said he did not see any difference between DeNooyer, Metro and Rykse's, and thought they should have similar setbacks and greenspace.

Based on the comments she heard, Ms. Stefforia commented that it sounded as if the Board was saying that the setback provisions for this type of outdoor sales should be excluded from the Ordinance. Mr. Bushouse said he was not saying that, because there were certain types of sales, as pointed out by Attorney Lennon, that should not be within the setback area. He said that perhaps they should take passenger vehicles out of the restrictions involving outdoor sales.

Ms. Borgfjord asked the developer if providing approximately 50 parking spaces would be sufficient to handle the growth anticipated by Metro Toyota. Mr. DeNooyer said he thought that adding the additional 51 spaces would be sufficient. He said they would try to limit their inventory, but must carry additional cars and trucks as Toyota expands its automotive lines.

Ms. Borgfjord asked if Metro Toyota could use part of DeNooyer Chevrolet's lot. Mr. DeNooyer said that was absolutely prohibited by the manufacturer. He said that would have served their interest years ago, but it was absolutely prohibited by any of the car manufacturing companies. He said they not only had to have separate lots, but separate buildings serving the separate dealerships.

Ms. Borgfjord asked what Metro Toyota was doing with the area in the rear. Mr. DeNooyer said that much of the area in the back was used for water retention. He said that area not used for water retention and a leaching pond was being used for employee parking.

Ms. Borgfjord asked if they would be adding additional lighting. Mr. DeNooyer said that they would be adding lighting in the parking lot, but he did not anticipate additional display lighting.

Ms. Borgfjord asked what the current greenspace was for Halli's Auto. Ms. Stefforia said they currently have 15 feet of greenspace. She noted that, if the relief was granted, Metro Leasing should still be required to have a greenspace from the property line in accordance with Township Ordinance.

Ms. Borgfjord expressed a concern about the ability to limit the types of passenger vehicles allowed on the lot. She said, if they allowed trucks and cars, would they have to allow SUV's, and would that lead to larger and larger vehicles being displayed in this area? Mr. Bushouse said there was always a tendency of different businesses to push the envelope, but thought that a clear demarcation line would develop over time, or that the Township could define where that line should be set.

The Acting Chairman said he had a concern about the loss of greenspace. He said he certainly thought that their development was far superior to what was on Stadium Drive to the east where the cars were displayed at the road right-of-way line. He said they had worked hard to preserve that, and he thought if a variance was granted, they should require a Type C greenspace, at the very minimum. He said he did not think it was up to the Zoning Board of Appeals to rewrite the Ordinance in that respect.

Mr. Bushouse said that they could make suggestions to the Planning Commission to consider changes. The Acting Chairman asked if they could grant the variance, subject to a special exception use permit being granted by the Planning Commission. Ms. Stefforia indicated that they could. Attorney Porter indicated that they could grant the variance subject to certain conditions.

The Acting Chairman asked if Toyota warehoused vehicles for Metro Toyota. Mr. DeNooyer said that they did not; he said, once the cars were built, they were shipped directly to the dealers, who were

required to display the vehicles.

A brief discussion ensued regarding the number of vehicles which could be located on the property if there was an expansion of the parking area, not including the requisite greenspace.

Mr. Bushouse asked if the fact the property was located next to an existing dealership, which was allowed to display vehicles at the property line, made it unique. Attorney Porter said he did not believe that met the definition of unique physical characteristics of the property itself; it was more directed toward the issue of substantial justice.

Mr. Bushouse asked if limited land availability would be considered a unique factor. Attorney Porter indicated he did not believe it would meet that requirement.

Ms. Borgfjord was concerned with having only 20 feet of greenspace. Mr. McClung asked for what reason. She said, given the fact that there is substantial greenspace currently existing, she hated to see the loss of greenspace. Ms. Stefforia said that sometimes people simply outgrow their site. The Acting Chairman said he thought that the greenspace requirements currently applied up and down Stadium Drive. Ms. Stefforia pointed out that the greenspace requirements had been applied to various businesses which had either recently developed or had revised their site plans in the area.

Mr. McClung asked what size greenspace Rykse's had. Ms. Stefforia said it was approximately ten to twelve feet.

Mr. DeNooyer said there would be additional greenspace consistent with other development in the area. Ms. Stefforia pointed out that much of the greenspace Mr. DeNooyer was pointing to was located within the public street right-of-way, and if the road expanded in the future, or if a boulevard were developed in that location, that portion of the greenspace would be gone.

Mr. Bushouse made a motion to allow outdoor display within the 20 feet of the property line. Mr. McClung seconded the motion. Attorney Porter noted that the Board needed to support their motion with specific findings of fact which would support such a motion. Mr. Bushouse said that the motion was supported by the fact that it was consistent with the neighborhood setbacks in the area, and it was consistent with what they had done for other vehicle sales facilities in the past.

The Acting Chairman asked what type of greenspace would be developed. Mr. Bushouse said the type of greenspace would be up to the Planning Commission to consider at the time the special use was granted. The Acting Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed 3-to-1, with Ms. Borgfjord dissenting.

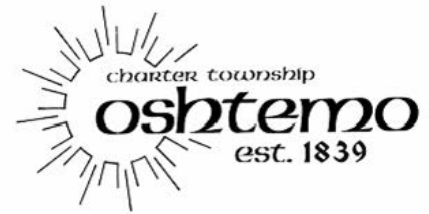
METRO LEASING, LLC - SIGN DEVIATION - FREESTANDING SIGNS - 5850 STADIUM DRIVE - (PARCEL NO. 3905-25-180-015)

The Acting Chairman indicated that the next item on the Agenda was the request of Metro Leasing, LLC for a sign deviation at 5850 Stadium Drive, Parcel No. 3905-25-180-015. The Acting Chairman asked for a report from the Planning Department. Ms. Bugge presented her report dated May 24, 2005, and the same is incorporated herein by reference.

Ms. Bugge stated the applicant was requesting sign deviations to permit a pole sign exceeding permitted sign area by 2.2 square feet and exceeding sign support area by 20.6 square feet. The existing sign would be removed.

Ms. Bugge took the Board through the previous review and consideration of a sign deviation at the Board's December 14, 2004 meeting. She then compared the height, sign area and area of supports allowed for existing signs, the permitted pole sign and the proposed pole sign, comparing them to the deviation granted for the Jaguar pole sign on December 14, 2004. Ms. Bugge then proceeded to take

11/19/2018



Meeting Date: November 27th, 2018

To: Zoning Board of Appeals

From: Ben Clark, Zoning Administrator

Applicant: Randy VanDam, D&R Sports

Owner: Randy VanDam

Property: 8178 West Main Street, parcel number 05-16-280-012

Zoning: C: Local Business District

Request: Site plan approval for a 9,000 square foot addition to the already-present retail operations.

Section(s): 30.000—C: Local Business District; 82.000—Site Plan Review

Project Name: D&R Sports 2018 Expansion

OVERVIEW

The 15-acre subject parcel is located on the north side of West Main Street, approximately 900 feet west of North 6th Street. The location of a large outdoor recreation retail operation for a number of years, the owner would like to add an additional 9,000 square feet of store space to the west end of the existing main building near West Main Street. Zoned *C: Local Business District*, the proposed retail expansion is permitted by right, per section 30.200 of the Zoning Ordinance, which governs such uses in the C zoning district.

Section 82.000—Site Plan Review of the Zoning Ordinance dictates that any expansion to an existing use exceeding 2,000 square feet may not be administratively approved, but must instead go to either the Zoning Board of Appeals or the Planning Commission for review. Being a permitted use, in excess of 2,000 square feet in size, this project falls under the jurisdiction of the Zoning Board of Appeals.

GENERAL ZONING COMPLIANCE

Staff have reviewed the project site plan and have determined that—along with the general use—the dimensions, placement, and overall design of the addition are *largely* in compliance with the applicable standards of the Zoning Ordinance. However, the new parking area south and west of the expansion does not contain the necessary interior landscaping features, and an amended site plan will be required. The proposed project site plan contains a surplus of 14 to 18 parking spaces, eight of which can be converted into landscape features without causing ordinance compliance issues. Such an approach would remedy any interior landscaping deficiencies without impacting the proposed site layout.

Staff also notes that the project site plan does not include the necessary 20-foot-wide landscape buffer between the *new* paving area and the West Main Street right-of-way. Elimination of the new parking spaces in this area will resolve the balance of the parking spaces count overage as well as provide the required landscape buffer area.

The project's proposed photometric plan also needs to be revised, as light levels in excess of 0.1 foot-candles are indicated at and beyond the subject parcel's south boundary.

SITE ACCESS AND CIRCULATION

No new site access is being proposed at this time, and the existing site circulation scheme in place will largely remain. Motorists will still be able to circulate around the south, west, and north sides of the building, only further to the west than currently due to the building addition.

ENGINEERING

Most of the Township Engineer's concerns have been addressed, although a few spot elevations and other design details pertaining to the barrier free parking spaces and their associated ramps do need to be evaluated before final sign-off.

FIRE DEPARTMENT

All of the Fire Marshal's concerns have been addressed. No further changes to the plan are necessary.

RECOMMENDATION

Staff recommends approval of the project site plan to the Zoning Board of Appeals. If the body is inclined to grant such, staff do request the following conditions be attached, resolution of which is to be administratively reviewed and approved prior to the issuance of a building permit:

1. The recently-installed on-site fire hydrant shall be dedicated to the Township as a public facility, via recorded easement.
2. In order to satisfy internal parking lot landscape requirements, eight spaces within the new parking area shall be converted to landscaped peninsulas, in accordance with the Zoning Ordinance. A revised site plan illustrating such shall be submitted for staff approval.
3. In order to provide the necessary landscape buffer along West Main Street and resolve the remainder of the parking space surplus, the seven new parking stalls currently indicated adjacent to West Main Street shall be eliminated. A revised site plan illustrating such shall be submitted for staff approval.
4. The Township Engineer shall be satisfied that no revised notation or adjustments are needed for the site plan.

5. A revised photometric plan shall be submitted to the Township, indicating that light levels from any new fixtures do not exceed 0.1 foot-candles at or beyond any property line.

Respectfully Submitted,



Ben Clark
Zoning Administrator

Attachments:

- Application
- Site Plan Excerpts
- Aerial and Zoning Maps



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-216-5223 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS D&R Sports Center 8178 W. Main St Kalamazoo MI 49009

PLANNING & ZONING APPLICATION

Applicant Name : Randy VanDam
Company D & R Sports Center
Address 8178 West Main St
Kalamazoo MI 49009
E-mail Randy@DandRSports.com
Telephone 269-372-2277 Fax 372-9072
Interest in Property Owner

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

OWNER*:

Name Randy VanDam
Address 5641 N 3rd St
Kalamazoo MI 49009
Email Randy@DandRSports.com
Phone & Fax 269-372-2277 269-372-9072

Fee Amount _____
Escrow Amount _____

NATURE OF THE REQUEST: (Please check the appropriate item(s))

- | | |
|---|---|
| <input type="checkbox"/> Planning Escrow-1042 | <input type="checkbox"/> Land Division-1090 |
| <input type="checkbox"/> Site Plan Review-1088 | <input type="checkbox"/> Subdivision Plat Review-1089 |
| <input type="checkbox"/> Administrative Site Plan Review-1086 | <input type="checkbox"/> Rezoning-1091 |
| <input type="checkbox"/> Special Exception Use-1085 | <input type="checkbox"/> Interpretation-1082 |
| <input type="checkbox"/> Zoning Variance-1092 | <input type="checkbox"/> Text Amendment-1081 |
| <input type="checkbox"/> Site Condominium-1084 | <input type="checkbox"/> Sign Deviation-1080 |
| <input type="checkbox"/> Accessory Building Review-1083 | <input type="checkbox"/> Other: _____ |

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): _____

Adding a retail sales addition to the west side of our
existing retail building

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

PARCEL NUMBER: 3905- 16-280-012

ADDRESS OF PROPERTY: 8178 W. Main St Kalamazoo MI 49009

PRESENT USE OF THE PROPERTY: Commercial - Retail

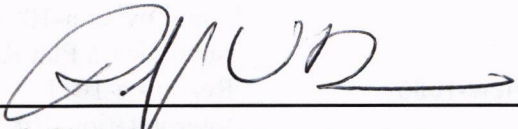
PRESENT ZONING C: Local Business District and **SIZE OF PROPERTY** _____

NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:

Name(s)	Address(es)
N/A	
_____	_____
_____	_____

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.


Owner's Signature (* If different from Applicant)

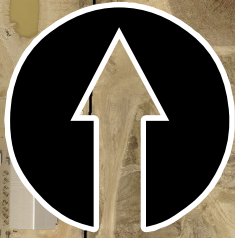
09-11-2018
Date

Applicant's Signature

Date

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS



W MAIN ST

N 6TH ST

N 7TH ST

N 6TH ST

W MAIN ST

N 9TH ST



S 8TH N 8TH ST

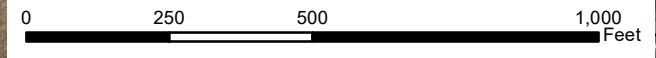
S 9TH ST

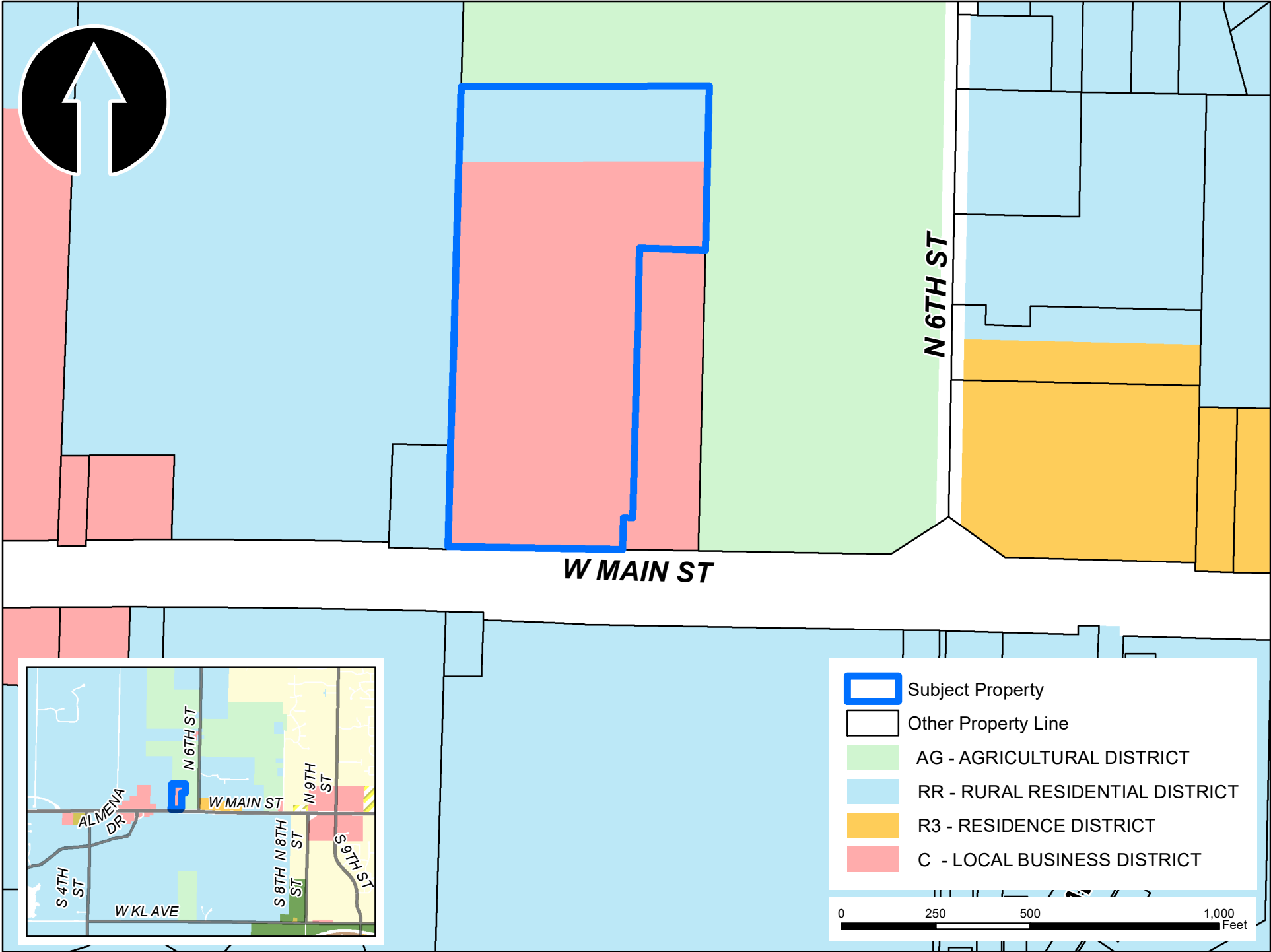
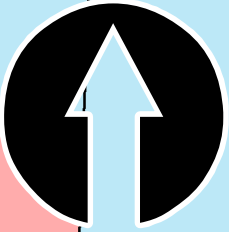
ALMENA DR

S 4TH ST

W KLAVE







-  Subject Property
-  Other Property Line



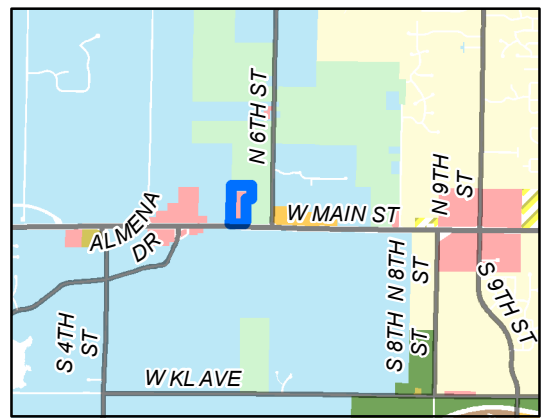


W MAIN ST

N 6TH ST

-  Subject Property
-  Other Property Line
-  AG - AGRICULTURAL DISTRICT
-  RR - RURAL RESIDENTIAL DISTRICT
-  R3 - RESIDENCE DISTRICT
-  C - LOCAL BUSINESS DISTRICT

0 250 500 1,000 Feet



ADDITIONAL PARKING FOR NEW RETAIL ADDITION:

REQUIRED: 9,000 SFT / 150 SFT PER SPACE = 60 SPACES

PROVIDED: 71 SPACES MINUS 11 SPACES LOST = 60 SPACES

TOTAL BARRIER FREE SPACES REQUIRED: 6 (1 VAN-ACCESSIBLE)

TOTAL BARRIER FREE SPACES PROVIDED: 6 (1 VAN-ACCESSIBLE)

ALL BARRIER FREE SPACES DESIGNED PER ADA REQUIREMENTS

TYPICAL PARKING SPACE AREA = 10' X 20' = 200 SFT

THE RETAIL BUSINESS WILL KEEP SAME NUMBER OF CURRENT EMPLOYEES.

SITE AREA CALCULATIONS:

TOTAL SITE AREA (NOT INCLUDING ROW) = 666,165 SFT (15.29 ACRES)

TOTAL BUILDING COVERAGE = 83,416 SFT / 666,165 = 12.52%



LANDSCAPING:

25 SFT OF LAND AREA PER PARKING SPACE = 53 X 25 = 1,325 SFT.
 ONE DECIDUOUS CANOPY TREE AND TWO LOW GROWING SHRUBS PER
 200 SFT OF LAND AREA = 1,325 / 200 = 7 CANOPY TREES AND 13 LOW
 GROWING SHRUBS.

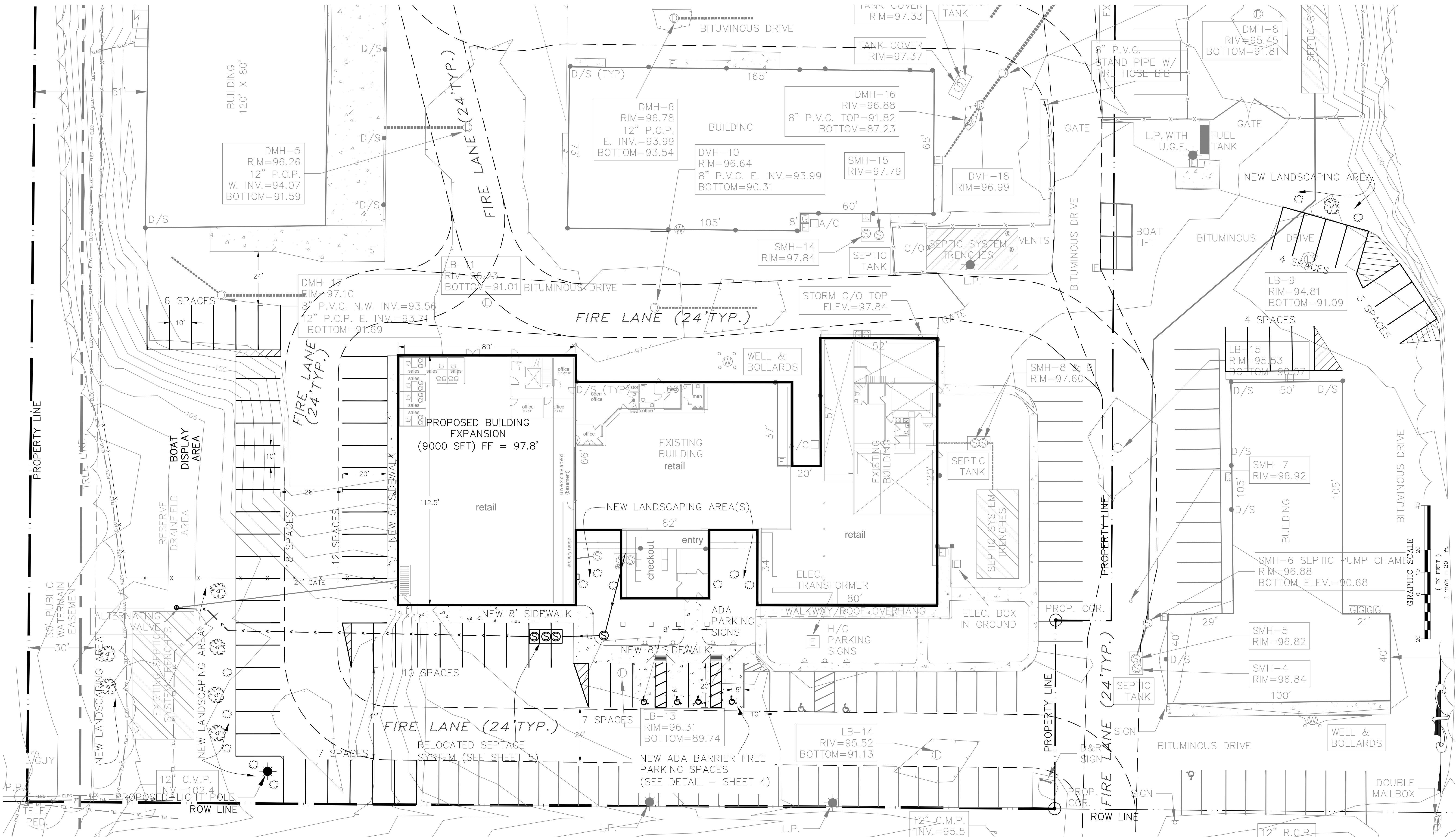
LIGHTING:

ONE ADDITIONAL LIGHT POLE AND WALL PACKS ON NEW BUILDING
 ADDITION SHALL COMPLY WITH TOWNSHIP LIGHTING ORDINANCES.

LANDSCAPING LEGEND:

-  LOW GROWING SHRUB (QTY 13)
-  DECIDUOUS CANOPY TREE (QTY 7)

Nov 16, 2018 4:03pm P:_2018\180103 d&r sports building expansion\DESIGN\04-Drawings\plan.dwg



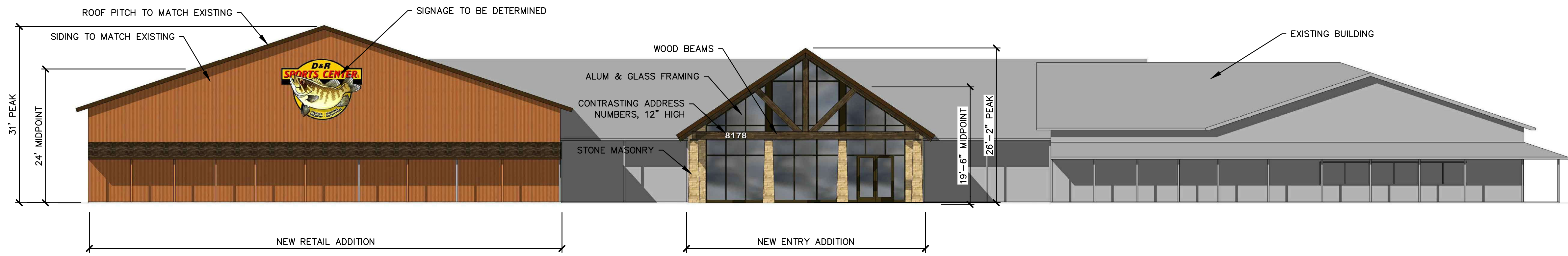
CIVIL ENGINEERS, INC.
 14250 BEADLE LAKE RD SUITE 150
 BEADLE LAKE, MI 48424
 PHONE: 989-964-5127
 FAX: 989-964-5130
 www.cei-inc.com
 Over 700 Licenses of Professional Engineer



JOB NO:	180103
DATE:	11/16/18
SCALE:	1" = 20'
CHECKED BY:	RAR
REVISION	REVISION
DRAWN BY:	JAS
PRELIMINARY	<input checked="" type="radio"/>
FINAL	<input type="radio"/>

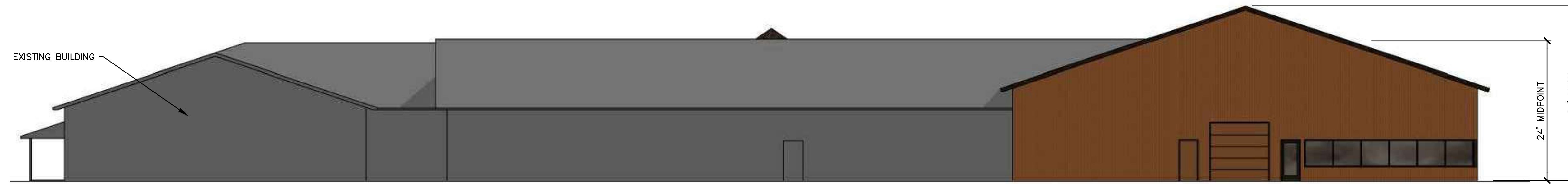
SITE PLAN

D&R Sports 2018 Expansion



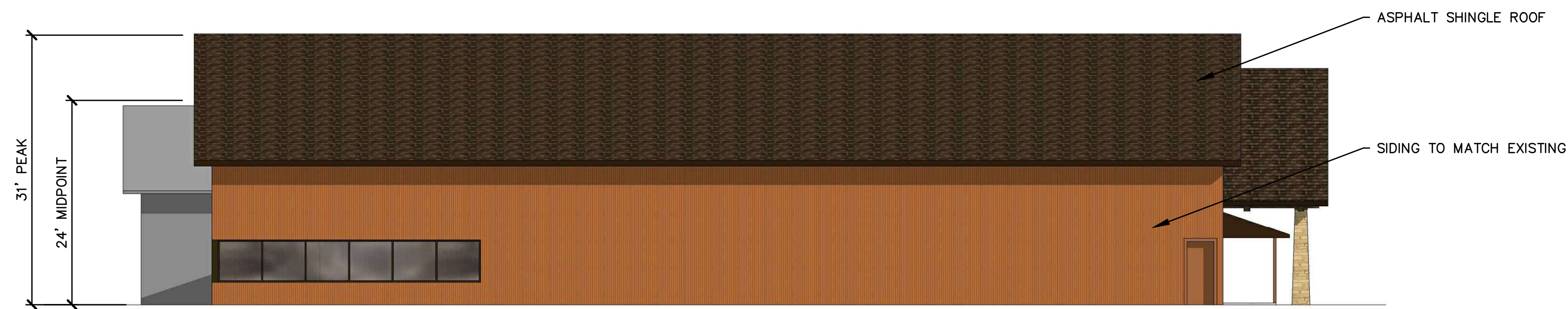
PROPOSED SOUTH ELEVATION

N.T.S.



PROPOSED NORTH ELEVATION

N.T.S.



PROPOSED WEST ELEVATION

N.T.S.



VIEW OF PROPOSED ENTRY

N.T.S.



VIEW LOOKING NORTHEAST

N.T.S.

GENERAL NOTES:

1. BUILDING FIRE ALARM SYSTEM TO MEET OSHTEMO TOWNSHIP ORDINANCE AND NFPA 72 REQUIREMENTS
2. BUILDING DESIGN IS SUCH THAT NO FIRE SUPPRESSION IS REQUIRED BY CODE
3. FIRE EXTINGUISHERS COMPLYING WITH NFPA 1, 2018, 13.6.2 TO BE INSTALLED IN BUILDING PRIOR TO OCCUPANCY
4. BUILDING STAIRWAY IDENTIFICATION TO COMPLY WITH NFPA 1, 2018, 10.11.3

Addition to
D & R Sports Center
8178 West Main Street
Kalamazoo, MI

sheet name

EXTERIOR ELEVATIONS

project number

18023

drawing date

10.2.2018

sheet number

A3.1

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

***PROPOSED 2019 MEETING DATES
Fourth Tuesday of the month***

Submitted November 27, 2018

<i>Month</i>	<i>Meeting Date</i>
January	22 nd
February	26 th
March	26 th
April	23 rd
May	28 th
June	25 th
July	23 rd
August	27 th
September	24 th
October	22 nd
November	19 th or 26 th
December	17 th *

*Changed from normal meeting date to 3rd Tuesday due to holiday

Thanksgiving falls on Thursday, November 28th in 2019. The ZBA will need to decide if they want to meet on Tuesday, November 26th or move the meeting date up a week to the 19th.

JOINT MEETINGS (tentative – still to be approved by Township Board)

April 16th
October 15th