

CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING AGENDA
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, June 8, 2016 6:30 PM
TOWN HALL ROOM

A. CALL MEETING TO ORDER

B. APPROVAL OF AGENDA

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

- o Wednesday, May 11, 2016

D. UNFINISHED BUSINESS

E. NEW BUSINESS

1. ZBA CASE NO. 16-06-08-1 CHRIS HUMPHREY, 4495 MILLWATER DRIVE, POWELL, OH, 43065

DESCRIPTION: 2055 W Grand River
TAX PARCEL: 21-276-010
ZONING DISTRICT: C-3 (Commercial)

The applicant is requesting variances from the following sections of the Code of Ordinances:

- Section 86-405(b)(1), which states the required minimum lot area in the C-3 district is ten thousand square feet, except where otherwise specified.
- Section 86-405(b)(2), which states the required minimum lot width in the C-3 district is one hundred feet, except where otherwise specified.

The applicant is requesting variances to allow a drive-up ATM on a licensed area that does not meet the C-3 district required minimum lot area and minimum lot width requirements on the Meijer site at 2055 West Grand River Avenue, Okemos, MI

- ☞ Variance requests may be subject to change or alteration upon review of request during preparation of the staff memorandum. Therefore, Sections of the Code of Ordinances are subject to change. Changes will be noted during public hearing meeting.

F. OTHER BUSINESS

G. PUBLIC REMARKS

H. BOARD MEMBER COMMENTS

I. ADJOURNMENT

J. POST SCRIPT – KEN LANE

Information regarding the request may be examined at the Department of Community Planning and Development, 5151 Marsh Road, Okemos, Michigan 48864-1198, between the hours of 8:00 am and 5:00 pm, Monday through Friday. Comments may be made in writing addressed to the Zoning Board of Appeals at 5151 Marsh Road, Okemos, MI 48864 or may be made at the hearing.

BRET DREYFUS, CMMC
TOWNSHIP CLERK

ZONING BOARD OF APPEALS PUBLIC HEARING PROCEDURE

Persons wishing to address the topic of a scheduled public hearing are encouraged to present their remarks during the public hearing portion of the Zoning Board of Appeals meeting. **If you do intend to speak before the Zoning Board of Appeals please sign in at the door.** During a public hearing, the following order shall be used:

1. Township Staff Review
2. Comments by the applicant or applicant's designee(s)
3. Comments by other persons
4. Applicant rebuttal
5. ZBA members discuss the case. If necessary, the applicant may be asked to respond to questions from the ZBA members
6. Action by the ZBA

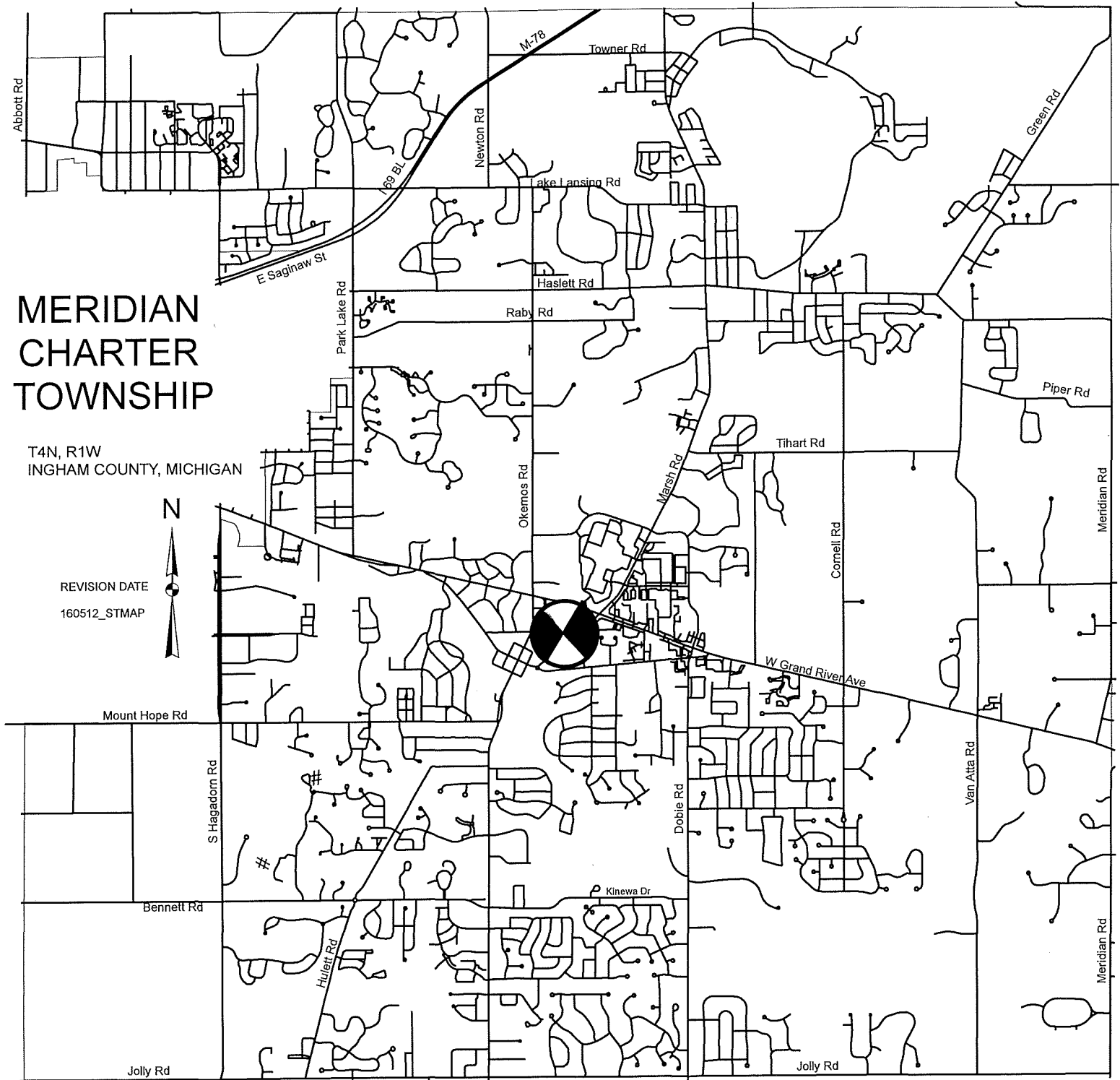
Persons wishing to appeal a decision of the Zoning Board of Appeals shall do so in accordance with Michigan Court Rules of Appeals to Circuit Court MCR 7.101.

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MERIDIAN CHARTER TOWNSHIP

T4N, R1W
INGHAM COUNTY, MICHIGAN

REVISION DATE
160512_STMAP



LOCATION MAP

**CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT**
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, May 11, 2016**

PRESENT: Members Jackson, Lane, LeGoff, Ohlrogge, Chair Beauchine
ABSENT: None
STAFF: Mark Kieselbach, Director of Community Planning and Development

A. CALL MEETING TO ORDER

Chair Beauchine called the meeting to order at 6:30 p.m.

B. APPROVAL OF AGENDA

MEMBER OHLROGGE MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER LANE.

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL, & RATIFICATION OF MINUTES

Wednesday, April 13, 2016

MEMBER OHLROGGE MOVED TO APPROVE THE MINUTES OF WEDNESDAY, April 13, 2016 AS WRITTEN.

SECONDED BY COMMISSIONER JACKSON

VOICE VOTE: Motion carried unanimously.

D. UNFINISHED BUSINESS

None.

E. NEW BUSINESS

1. ZBA CASE NO. 16-05-11-1 PIOTR LUPA, 3575 KANSAS STREET, OKEMOS, MI 48864
DESCRIPTION: 3575 Kansas Street & 3579 Indiana Road
TAX PARCEL: 33-352-001 & 33-351-002
ZONING DISTRICT: RA (Single Family, Medium Density)

The applicant is requesting variances from the following sections of the Code of Ordinances:

- Section 86-373(e)(2), which states the minimum interior lot width in the RA district is 80 feet.
- Section 86-565(1), which states no accessory structure shall project into any front yard.

The applicant is requesting the variances to (1) split a metes and bounds parcel to create two parcels, one of which with 74 feet of lot width when 80 feet is required; and (2) to allow a detached accessory structure (garage) to project into the front yard.

Director Kieselbach outlined the case for discussion.

Piotr Lupa, applicant, 3575 Kansas Road, Okemos, MI 48864, explained he and his family purchased the property with two abandoned buildings and overgrown vegetation. He started excavation and construction work without a building permit. He had applied for a building permit on March 23, 2016 and is waiting for approval of the building permit based on the variance request.

Chair Beauchine opened the floor for public remarks; with none he closed public remarks.

Chair Beauchine inquired which parcel has the current structure being considered for modification.

Director Kieselbach clarified the land division of the two parcels consist of Parcel "A" with 74 ft. frontage on Kansas Street, which has the home (garage), and Parcel "B," requesting 80ft frontage on Kansas, which currently shows frontage on Indiana Road (3579 Indiana Road), which is a private road.

Chair Beauchine stated knowing a variance would be needed if the variance was changed to have Parcel "A" with 80ft. frontage and Parcel "B" 74ft. frontage, this would allow for Parcel "B" to be developed in the future.

Mr. Lupa commented he would prefer Parcel "A" at 80ft frontage; however he was flexible with the footage.

Chair Beauchine inquired about 3579 Indiana Road and the frontage it has.

Director Kieselbach stated Indiana Road was developed as a private road. The Township has maps showing Indiana Road going all the way through Parcel "B" but no documentation showing an easement.

Member Ohlrogge asked Director Kieselbach to explain how the Township deals with private roads such as Indiana Road.

Director Kieselbach stated the difficulty has been the documentation showing the applicant has the right to use the private road. Original documentation for the right to use Indiana Road is not available, and the road was never built through Parcel "B". There is no documentation giving this property owner or any property owners farther north access to this private road.

Commissioner Jackson asked Director Kieselbach was there any documentation for property owners further south of 3579 Indiana Road, granting those property owners' access.

Director Kieselbach confirmed there was documentation for property owners further south of 3579 Indiana for access to the private road.

Commissioner Jackson questioned in the final draft what becomes of the current gravel drive on "Parcel A."

Director Kieselbach commented the owner plans to straighten out the driveway to bring it into compliance. A new driveway will be on Parcel "B" when a home is constructed.

Chair Beauchine stated if the ZBA was to grant the variances, it should be contingent upon Parcel "B" and 3579 Indiana to being joined.

Director Kieselbach indicated Parcel "B" would be 74ft. with a variance request of 6ft to bring it into compliance, and the condition it be combined with 3579 Indiana.

Chair Beauchine continued with the second variance request:

- Section 86-565(1), which states no accessory structure shall project into any front yard. The current home is 140ft back from the right away. Applicant is asking for a dimensional 90ft variance to have the garage in front of the new structure, and to specify this if the variance were to be approved.

Member Ohlogge voiced concern over the setback from the rear property line and making any structure on Parcel "A" non-conforming now or in the future.

Director Kieselbach replied there are things the property owner could do to bring it into conformance, and added that a non-conforming structure would be handled separately.

Chair Beauchine stated other variances could be requested in the future, but the ZBA should deal with the variances now so it won't be an issue in future.

Commissioner Jackson asked if House 2 on Parcel "A" meets the setback from Kansas Street.

Director Kieselbach stated the house met requirements from the side yard and the front yard setback from Kansas Street.

Member Lane asked Director Kieselbach if the house proposed to be converted in to a garage, meet the square footage requirement under the zoning ordinance.

Director Kieselbach stated in the RA district the minimum house size is a thousand square feet (1,000 sq. ft.) for a single story. A two-story the minimum is six hundred and twenty-five square foot (625 sq. ft.) on the first floor. The home closet to Kanas Street is six hundred and twenty-four square feet (624 sq. ft.), and the other house further back is four hundred and eighty square feet (480 sq. ft.). With the addition the applicant is purposing for the second house it may meet the square footage requirement.

Commissioner Jackson questioned the conversion of the house to a garage on Parcel "A" and how she needed compelling reasons in order for the structure to remain.

MEMBER JACKSON MOVED TO GRANT THE VARIANCE OF PARCEL "B" 74FT. OF FRONTAGE ON KANSAS STREET ALONG WITH JOINING PARCEL "B" TO THE PROPERTY AT 3579 INDIANA ROAD, AND GRANTING A VARIANCE OF 6FT TO BRING IT INTO COMPLIANCE. THEN MAKING PARCEL "A" 80FT OF FRONTAGE ON KANSAS STREET.

SECONDED BY CHAIR BEAUCHINE.

Member Ohlogge read review criteria one which states, unique circumstances exist which are peculiar to the land or structure not applicable to other land or structures, stating due to the unique configuration of property "B" clearly qualifies as unique circumstances.

Member Ohlogge read review criteria two, which states the circumstances are not self-created, stating the properties were created prior to current codes.

Member Ohlogge read review criteria three, which states strict interpretation and enforcement does result in practical difficulties, because of the questionable access to Indiana Road.

Member Ohlogge, read review criteria four, which states, the alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily

burdensome, stating without the variance it is virtually impossible to develop or use property on 3579 Indiana Road.

Member Ohlrogge read review criteria five, which states granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice, stating granting the variance would allow for the development of both Parcel "A" and "B".

Member Ohlrogge read review criteria six, which states the variance, would not affect the adjacent land and vicinity of the property, restating development of property in a responsible manner would make property desirable.

Member Ohlrogge read review criteria seven, which states, the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable, stating the ZBA rarely sees circumstances such as this.

Member Ohlrogge read review criteria eight, which states, granting this variance will be consistent with the public interest, stating the variances would allow for safe use of the property.

Chair Beauchine restated the motion as follows: to grant a variance from Section 86-373(e) (2) which states the minimum interior lot width in the RA district is 80 feet. The variance Parcel "A" is to be 80ft. in width, Parcel "B" to be 74ft. in width, with a grant for a variance of 6ft, and Parcel "B" is joined to 3579 Indiana property.

**ROLL CALL VOTE: YES: Members Jackson, Lane, LeGoff, Ohlrogge, Chair Beauchine
NO: None
Motion carried unanimously**

Chair Beauchine moved to the next request from Section 86-565 (1), which states no accessory structure shall project into any front yard. He recapped Member Ohlrogges previously stated reasons for not granting the variances based on not meeting review criteria four, five and six.

MEMBER LANE MOVED TO DENY THE VARIANCE.

SUPPORTED BY COMMISSIONER JACKSON.

Director Kieselbach reviewed the issue of the current houses being nonconforming and could remain on the property, even if the variance is denied.

Mr. Lupa explained his intent was to finish the addition to the second house and maintain the surrounding property with landscaping with hopes of making the first house (garage) not so noticeable.

Supervisor LeGoff recommended the ZBA allow the variance since it was an existing structure prior to the code.

Chair Beauchine reviewed the motion to deny based on Section 86-565 (1), which states no accessory structure shall project into any front yard.

**ROLL CALL VOTE: YES: Member Lane
NO: Members, Jackson, LeGoff, Ohlrogge, Chair Beauchine
MOTION FAILED.**

Member Ohlrogge explained her decision to vote no on the denial because there are unique circumstance to the land or structure that are not applicable to other land or structures in the same zoning.

Member Lane questioned Director Kieselbach on the issue of both structures and how each building affects the other in a case for non-conforming structures.

Director Kieselbach stated staff would handle each structure as a separate issue.

Member Lane stated he believed the unique property characteristics do allow for a variance request.

MEMBER LANE MOVED TO APPROVE THE VARIANCE REQUEST.

SECONDED BY CHAIR BEAUCHINE.

Commissioner Jackson inquired if there is any value in defining the purpose of structure 1 so it can't be inhabited as a residence.

Director Kieselbach stated if ZBA included the 90ft. for the setback as part of the motion this would help to detour the structure from becoming inhabitable.

Chair Beauchine suggested amending the motion that the accessory building shall be allowed to be 90ft. in front of the residence.

MEMBER LANE AS THE MAKER OF THE MOTION AND CHAIR BEAUCHINE AS THE SECONDEDER ACCEPTED THE AMENDMENT.

**ROLL CALL VOTE: YES: Members Jackson, Lane, LeGoff, Ohlrogge, Chair Beauchine
NO: None
Motion carried unanimously.**

**2. ZBA CASE NO. 16-05-11-2 GBC DESIGN, INC., 565 WHITE POND DRIVE, AKRON, OH 44320
DESCRIPTION: 2055 Grand River Avenue TAX PARCEL: 21-276-010
ZONING DISTRICT: C-3 (Commercial)**

The applicant is requesting variances from the following sections of the Code of Ordinances:

- Section 86-506, which states no fence, wall, or screen shall be erected higher than six feet, as measured from the ground upon which it sites to the highest point.
- Section 86-687(3)(a), which states one wall sign shall be permitted and may be located flat against the building's front facade or parallel to the front facade on a canopy. For businesses with frontage on more than one public street, two signs may be permitted. In no case shall more than one wall sign be located on a facade and no wall sign shall be located on a rear facade.

GBC Designs Inc. representing Chick-fil-A Inc., intends to construct a 4,730 square foot Chick-fil-A restaurant with a drive-thru facility on the south side of Grand River Avenue, in front of the Meijer site. The site is approximately 1.32 acres and has 354 feet of frontage on Grand River Avenue.

Director Kieselbach outlined the case for discussion and reminded the ZBA they could not grant a "use variance" to allow a sign on the rear facade based on the current zoning ordinance.

Gary Rouse, applicant, from GBC Design, Inc., 565 West Pond Drive, Akron, OH. 44320, introduced Joshua Mucklevaney, Team Leader for Anchor Sign, Inc. representative for the applicant; Mr. Rouse stated "Chick-Fill-A" uses larger dumpsters, (8 cubic yards), than normally used by other similar restaurants. The dumpster is 6'-8' in height and the need for additional wall height was to screen the dumpsters.

Mr. Rouse then read the eight review criteria requirements and Chick-fil-A's reason for a variance based on each criteria. (Please refer to packet and letter attached to Martha Wyatt dated April 15, 2016 outlining this information.)

Chair Beauchine called on the applicant's representative, Mr. Mucklevaney.

Mr. Mucklevaney commented when he had original requested a sign variance he was unaware the ZBA could not grant a variance for a sign on the rear facade.

Mr. Mucklevaney asked the Board to base the variance for the rear facade upon functionally and if not, could they proceed with variances for sign A1 on the west side and sign A3 on the east side, based upon details outlined in his letter dated April 15, 2016.

Chair Beauchine referred to Director Kieselbach comment. the ordinance did not allow signage on the rear of building, and ZBA could not address the issue. He then stated the ZBA should allow Director Kieselbach to determine what is the front and rear façade of this particular building.

Commissioner Jackson asked if the monument sign B1 meet the ordinance requirements.

Director Kieselbach stated it met the ordinance requirements, but would need a "special use permit" for the reader board.

Member Ohlogge stated the monument sign is sufficient for viewing from either east or west directions; and she did not believe there are unique circumstances to grant a variance.

Member Lane voiced his concerns over allowing sign A1 as it had viewing difficulties due to its location.

Chair Beauchine moved the discussion to the variance request from Section 86-506 Wall Height.

Chair Beauchine said he was not opposed to granting the variance as long as the wall height was tied to use for concealing the dumpsters.

Member Ohlogge commented she did not see any unique circumstances regarding the property, as other restaurants and businesses were managing under the current ordinance without requiring a variance.

Member Jackson stated she is pleased with the fact the company is coming in with a recycling program already in effect, although this doesn't address the issue before the Board. She wondered if using trees and plants were limited to a wall height of 6 feet also.

Director Kieselbach stated yes, if the plant material was only screening the dumpsters.

COMMISSIONER JACKSON MOVED TO DENY THE VARIANCE FROM SECTION 86-506 WALL HEIGHT.

SECONDED BY MEMBER LANE.

Member Ohlogge proceeded to read the review criteria from Section 86-221. She read review criteria one, which states, Unique circumstances exist that are peculiar to the land or structures that

are not applicable to other land or structures in the same zoning district, stating other restaurants and businesses are managing under the same zoning district.

Member Ohlrogge read review criteria two, these special circumstances are not self-created, stating the request is based on Chick-A-filets policy for using a higher dumpster than normally used making this request self-created.

Member Ohlrogge read review criteria three, which states, strict interpretation and enforcement of the literal terms and provisions of the ordinance does not result in practical difficulties, stating the ZBA is not saying you cannot use an enclosure, but the enclosure should be in compliance.

Member Ohlrogge read review criteria four, which states, the alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome, stating there is ample room for a dumpster.

Member Ohlrogge read review criteria five, which states, granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, stating the spirit of the ordinance is to have a consistent safe way to enclose garbage containers and our current ordinance adequately handles this issue.

Member Ohlrogge read review criteria six, which states, granting the variance would adversely affect adjacent land or the essential character in the vicinity of the property, stating if granted there would be a much higher barrier, which could be an annoyance to people.

Member Ohlrogge read review criteria seven, which states, conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable, stating perhaps it is time to review this ordinance and make a change to the height requirements.

Member Ohlrogge read review criteria eight, which states, granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance, stating there needs to be a consistent method for all restaurant and business to follow, and the current ordinance is taking care of this.

ROLL CALL VOTE: YES: Members Jackson, Lane, LeGoff, Ohlrogge, Chair Beauchine

NO: None

Motion carried unanimously.

At 8:45 p.m., Chair Beauchine moved for a five minute recesses and to reconvene the meeting at 8:55 p.m.

Meeting reconvened at 8:55 p.m.

Chair Beauchine announced Supervisor LeGoff had to leave. He state the ZBA needed three (3) votes to pass or deny a variance. With the absence of member LeGoff he asked the applicants present, Mr. Rouse, Mr. Mucklevaney, and Mr. Chvala, if they wanted their cases tabled until a full Board could be present or should they proceed.

All applicants were in favor of proceeding.

Chair Beauchine stated he thought the variance for sign A3 was a reasonable request, based on the fact there will be no signage facing Meijer. He also stated the monument sign meets the required purposes of attracting business from either direction east or west.

Chair Beauchine informed the ZBA if they were to approve the variance it would be approximately 79.46 sq. ft., based upon this, the variance for sign A3 and A2 should be allowed.

Member Ohlrogge disagreed with allowing sign A3 due to the angle of Grand River Avenue, as she does not think there is a unique circumstance to grant a variance.

Member Lane agreed and stated he also did not see it as a unique circumstance for a variance.

Chair Beauchine went to the overhead to describe a concern he had with the flow of traffic coming off Grand River Avenue on to the site.

MOTION BY MEMBER LANE TO APPROVE THE VARIANCE FOR SIGN A3, AND TO DENY THE VARIANCES FOR SIGNS A1 AND A4.

SECONDED BY, COMMISSIONER JACKSON.

**ROLL CALL VOTE: YES: Members Jackson, Lane, Chair Beauchine
NO: Member Ohlrogge
Motion carried unanimously**

3. ZBA CASE NO. 14-06-11-1 CORY CHVALA, 5540 EARLIGLOW LANE, HASLETT, MI 48840

DESCRIPTION: 15.86 acres south of Piper Road and east of Van Atta Road
TAX PARCEL: 13-100-035
ZONING DISTRICT: RR (Rural Residential)

The applicant is requesting to modify the plan approved under ZBA Case# 14-06-11-1 regarding the location of a proposed detached accessory building which projects into the front yard of the subject 16.86 acre site. The request is from the Code of Ordinances:

- Section 86-565, which states no accessory building shall project into any front yard.
- The modification centers on a change in the location for a proposed 4,000 square foot accessory building (barn) to the north of a proposed dwelling unit.

Director Kieselbach outlined the case for discussion.

Cory Chvala, applicant, 5540 Earliglow Lane, Haslett, MI 488405. Recapped the original variance granted in of 2014 and discussed the finalization of the current site plan, with hopes of approval so he can proceed with plans in building their family home.

Member Ohlrogge and Member Lane outlined the review criteria Section 86--221, to be considered for approval of the variance.

Member Ohlrogge read review criteria one, which states, the unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district, stating the property is inaccessible to the main road due to the wetlands creating a unique circumstance.

Member Ohlrogge read review criteria two, which states, these special circumstances are not self-created, stating due to the unique shape and position of the existing property and the wetland.

Member Ohlrogge read review criteria three, which states, strict interpretation and enforcement of the literal terms and provisions of the ordinance would result in practical difficulties, stating it is understandable needing a larger structure and the location of the structure lends to this site.

Member Ohlrogge read review criteria four, which states, the alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome, stating the location is remote and would not affect the surrounding area or be visible..

Member Ohroggle read review criteria five, which states, granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice, stating this situation does not apply as it would if the location were in a residential neighborhood.

Member Lane read review criteria six, which states, granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property, stating due to the unique location of this property there are no adverse effect to adjacent land.

Member Lane read review criteria seven, which states, the conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable, stating the same reasons apply to the unique location of the property, there are no adverse effect to adjacent land, and it is not visible to neighbors.

Member Lane read review eight, which states, granting the variance will be generally consistent with public interest, the purposes and intent of the Zoning Ordinance, stating granting the variance would not be inconsistent with the Zoning Ordinances.

MEMBER LANE MOVED TO APPROVE THE SETBACK VARIANCES OF FIFTEEN FEET FROM (15 FT.) FROM VAN ATTA ROAD AND TWO HUNDRED AND FOUR FEET (204 FT.) FROM PIPER ROAD AS PRESENTED.

SECONDED BY MEMBER OHLROGGE.

ROLL CALL VOTE: YES: Members Jackson, Lane, Ohlrogge, and Chair Beauchine

NO:

Motion carried unanimously.

F. PUBLIC REMARKS

G. MEMBER COMMENTS

Member Beauchine gave a public announcement that the is looking for alternates and applications are available for Public Service in the lobby of Meridian Charter Township.

Director Kieselbach announced since there were no applications for the next meeting Wednesday, May 25, 2016 has been cancelled.

H. ADJOURNMENT

Chair Beauchine adjourned the meeting at 9:21 p.m.


Respectfully Submitted,

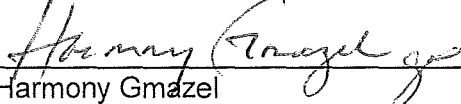
Rebekah A. Lemley
Recording Secretary

MEMORANDUM

TO: Zoning Board of Appeals

FROM:


Mark Kieselbach
Director


Harmony Gmazel
Associate Planner

DATE: June 2, 2016

RE: ZBA Case No. 16-06-08-1

ZBA CASE NO. 16-06-08-1 (Chris Humphrey), 4495 Millwater Drive, Powell OH 43065
DESCRIPTION: 2055 W. Grand River Avenue, Okemos
TAX PARCEL: 21-276-013
ZONING DISTRICT: C-3 (Commercial District)

The applicant is requesting a variance from the following Sections of the Code of Ordinances:

- From Section 405(b)(1) which states the minimum lot area is 10,000 square feet, except where otherwise specified .
- From Section 405(b)(2) which states the minimum lot width is 100 feet, except where otherwise specified.

The applicant intends to install a Huntington Bank drive-through automated teller machine (ATM) in the parking lot of the Meijer site at 2055 Grand River Avenue. The installation of the ATM facility includes areas for stacking cars and an egress from the ATM but does not include a by-pass lane. The applicant has a license from Meijer to allow the placement of The ATM. Similar to a lease, the license to occupy land for more than one year constitutes a land division. Land Divisions must comply with minimum lot width and minimum lot area for the underlying zoning district. The license area measures 22.1 feet by 162.8 feet for a total of 3,597.88 square feet in area and contains zero (0) feet of frontage on a public street. Therefore, the proposed parcel does not comply with the minimum requirements of the C-3 District. The following chart outlines the variance required:

	Required	Proposed	Variance Request
Lot Area	10,000 sq. ft.	3,598 sq. ft.	6,402 sq. ft.
Lot Width	100 feet	22 feet	78 feet

ZBA Case No. 16-06-08-1
Page 2

The applicant has not yet applied for a special use permit to install a satellite ATM machine in the parking lot of the Meijer site. If the Zoning Board of Appeals decides to approve the request, consideration may be given to a condition requiring the applicant receive special use permit approval from the Planning Commission. The elimination of 17 parking spaces may require Meijer to seek a variance for the number of parking spaces on the site. At the last count, Meijer had ten extra parking spaces above the required number.

Any approved variances will apply only to the reduction of lot area and lot width in the proposed location depicted in the applicant's documents. Any relocation of the proposed ATM facility will require a subsequent variance application.

Attachments

1. Application and Supporting Documents
2. Site Location Map and Detail Map

CHARTER TOWNSHIP OF MERIDIAN
PLANNING DIVISION
5151 MARSH ROAD, OKEMOS, MI 48864
(517) 853-4560

VARIANCE APPLICATION

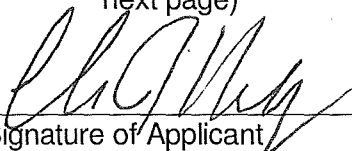
A. Applicant CHRIS HUMPHREY
Address of Applicant 4495 MILLWATER DR
Telephone (Work) 740-881-5910 Telephone (Home) _____
Fax _____ Email address: chris@humphreyarchitect.com
Interest in property (circle one): Owner Tenant Option Other

B. Site address/location 2055 W GRAND RIVER
Zoning district C-3 Parcel number 33-02-02-21-276-010

C. Nature of request (Please check all that apply):
 Request for variance(s)
 Request for interpretation of provision(s) of the "Zoning Ordinance" of the Code of Ordinances
 Review an order, requirements, decision, or a determination of a Township official charged with interpreting or enforcing the provisions of the "Zoning Ordinance" of the Code of Ordinances

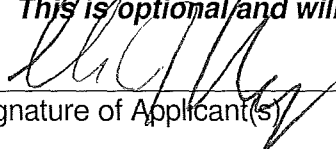
Zoning Ordinance section(s) 86-404(B)(1), 86-404(B)(2)

D. Required Supporting Material Supporting Material if Applicable
-Property survey -Architectural sketches
-Legal description -Other
-Proof of property ownership or approval letter from owner
-Site plan to scale
-Written statement, which demonstrates how all the review criteria will be met (See next page)

 CHRIS HUMPHREY 5-13-16
Signature of Applicant Print Name Date

Fee: \$ 450.00 Received by/Date: Arlene Orndorff 5/17/16

I (we) hereby grant permission for members of the Charter Township of Meridian Zoning Board of Appeals, Township staff members and the Township's representatives or experts the right to enter onto the above described property (or as described in the attached information) in my (our) absence for the purposes of gathering information including but not limited to the taking and the use of photographs. (Note to Applicant(s): This is optional and will not affect any decision on your application.)

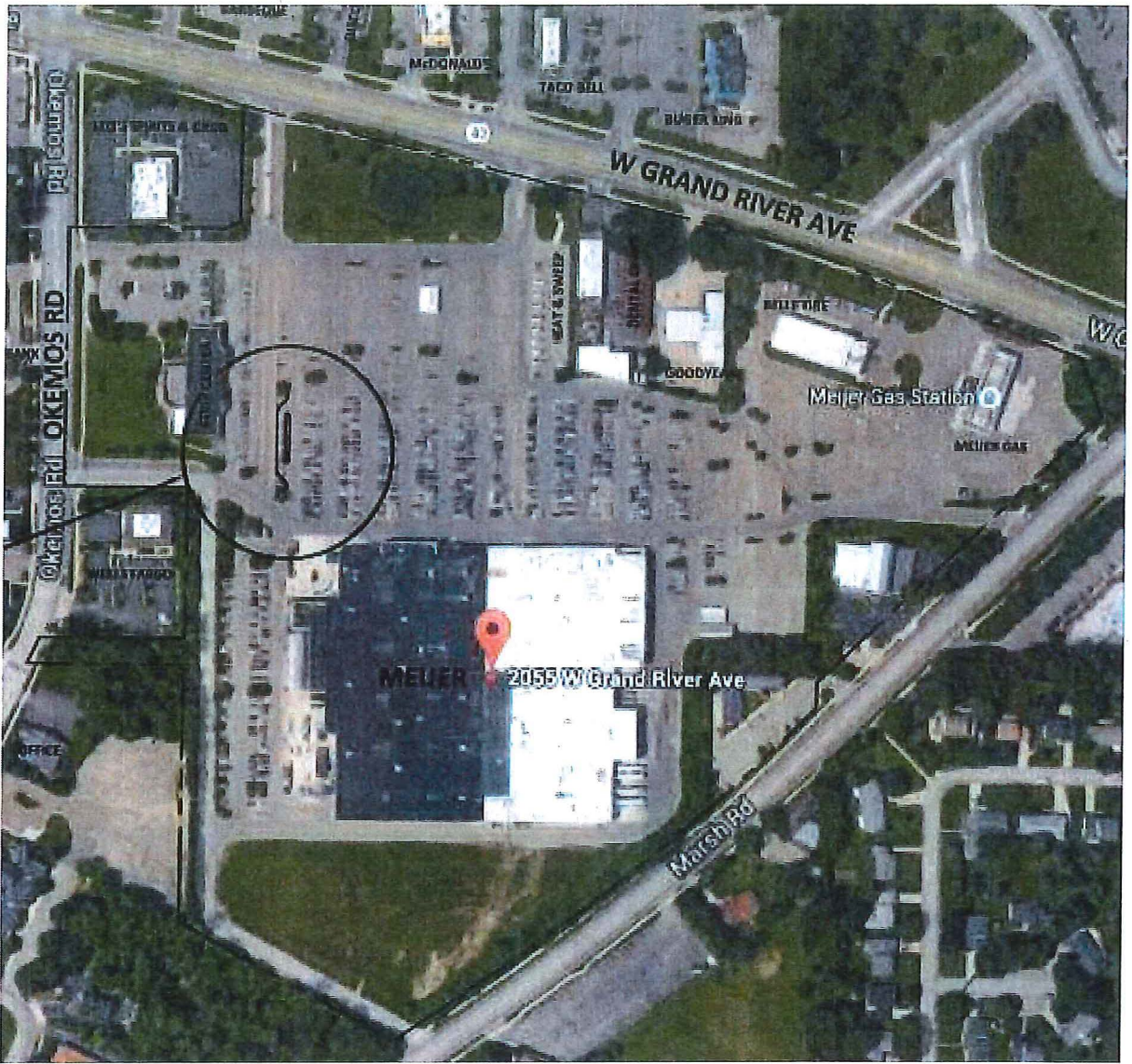
 5-13-16
Signature of Applicant(s) Date

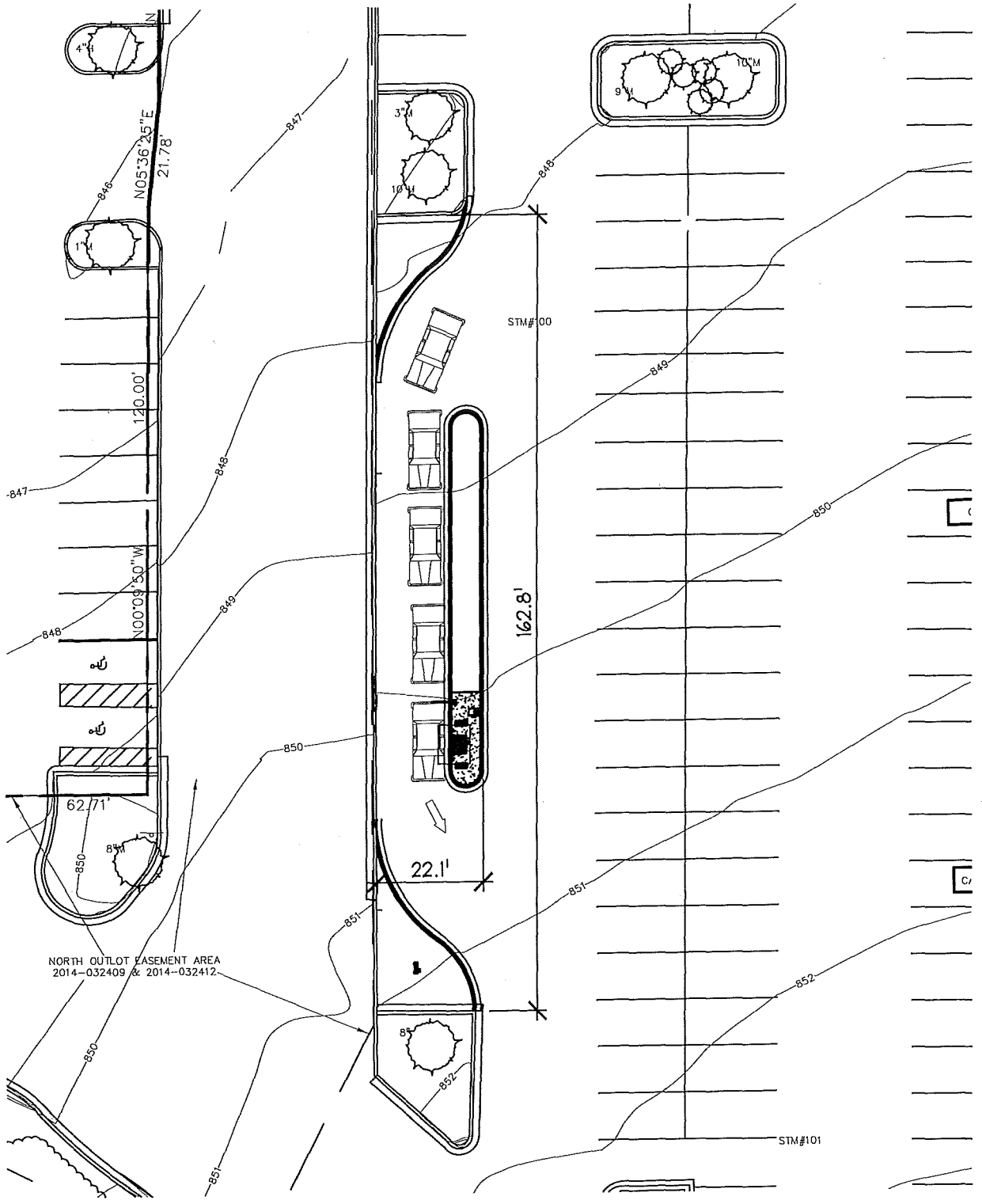
Signature of Applicant(s) Date


Huntington Banks Drive-up ATM
Meijer
2055 W. Grand River

Address of Review Criteria:

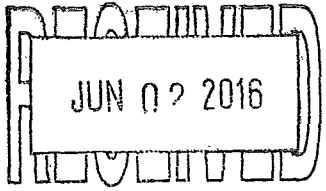
1. The size and shape of the ATM, island, stacking lane and access does not lend itself to a defined area as it might if not affiliated with the present Meijer operation. The licensee is not requiring defined ingress/egress access routes or lanes
2. The circumstances are imposed by the State' Land Division Act as interpreted by Meridian Township and not by a unique land use by Huntington or Meijer
3. Upholding the provisions of the C-3 zoning district would mean dedicating 10,000 square feet and providing 100 feet of frontage for the ATM, a much greater amount of land required for the ATM. Taking into account and including the stacking lane, the ATM operation occupies less than half that amount of ground
4. Denial of the variance means the citizens of Meridian Township would not have a drive-up ATM on the premises to use while shopping in the area nor use in conjunction with the Bank's services offered in their branch office within the Meijer store
5. Only a variance or a different interpretation of the State Land Division Act can allow the Huntington's license agreement with Meijer to stand
6. The drive-up ATM is a common and desirable use for such retail environments. The ATM is consistent with the retail district in which it is located. The ATM provides a service to local customers and is an attractor for the nearby businesses. The ATM is over 600 feet from the nearest non-commercial land use and is well screened by the surrounding businesses
7. These conditions will only occur when an entity is granted a license to conduct a business on another's property without the need for a specifically bounded piece of ground
8. The intent of this request is to allow for a normally accepted retail use in a present commercial district. The drive-thru nature is consistent with the uses of the C-3 district



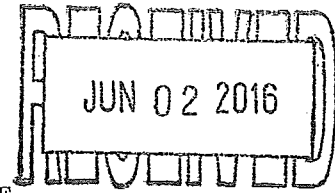


 **ATM SITE PLAN**
 SCALE: 1"=30'

NEW DRIVE-UP ATM
 **Huntington Banks**
 MEIJER STORE #25
 2055 W GRAND RIVER
 OKEMOS, MI 48864

 JUN 02 2016

ZB-1.1
 6-2-16



FIRST AMENDMENT TO MASTER STAND ALONE ATM LICENSE

THIS FIRST AMENDMENT TO MASTER STAND ALONE ATM LICENSE (this "First Amendment") is made this 22nd day of March, 2016, by and between **MEIJER, INC.**, a Michigan corporation and **MEIJER STORES LIMITED PARTNERSHIP**, a Michigan limited liability company of 2929 Walker Avenue, N.W., Grand Rapids, Michigan 49544, hereinafter, together, referred to as "Meijer," and **THE HUNTINGTON NATIONAL BANK**, a national banking association, of 37 W. Broad Street - HP 1097, Columbus, OH 43215, hereinafter referred to as "Licensee."

JOINDER: Meijer, Inc. is the owner and/or operator of the Entire Premises located in Michigan and Meijer Stores Limited Partnership is the owner of the Entire Premises located outside of Michigan. Meijer Stores Limited Partnership hereby joins the Master Stand Alone ATM License, dated March 27, 2014, along with Meijer, Inc., from and after the Effective Date of this First Amendment, Meijer Stores Limited Partnership and Meijer, Inc. shall collectively be referred to as "Meijer".

Statement of Facts

On March 27, 2014, Meijer and Licensee entered into a Master Stand Alone ATM License (the "License") granting Licensee, under certain terms and conditions, the privilege of operating an automated teller machine located within the parking lot adjacent to certain Meijer Stores. Meijer and Licensee now desire to amend the License as set forth herein.

Agreement

IN CONSIDERATION of the aforementioned facts, the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Meijer and Licensee agree as follows, effective as of the date first written above:

1. With respect to the Licensed Premises at Meijer Store #25, **Exhibit A** and **Exhibit B** are hereby deleted and replaced with **Exhibit A-1** and **Exhibit B-1** attached to this First Amendment.
2. The **Exhibit A** and **Exhibit B** relating to the Licensed Premises at Meijer Stores #35, #55, #57, #63, #122, #123, #140, #156 and #163 attached to this First Amendment are hereby added to the terms of the License.
3. The following Section 1.2 (Additional Licensed Premises) is hereby added to the terms of the License.

Section 1.2. Additional Licensed Premises. If Meijer and Licensee desire to add additional Licensed Premises to the terms of the License, such Licensed Premises may be added by amendment or by an addendum (each an "Addendum") that includes the following: (i) an **Exhibit A** containing the Meijer Store number, address and depiction of the general location of the Licensed Premises to be confirmed by Meijer in connection with Licensee's construction of its ATM and related improvements pursuant to the License; (ii) an **Exhibit B** containing the Possession Date, License Year Commencement Date, Term of License, Required Opening Date and License Fee; and (iii) a list of any terms and conditions specific for such Licensed Premises. Each such Addendum will be deemed to be effective only after Meijer countersigns the Addendum and delivers a fully executed copy to Licensee. Any reference in this License to information contained on **Exhibit A** or **Exhibit B** with respect to a Licensed Premises that has been added to the terms of the License by Addendum shall mean the information contained in the **Exhibit A** and **Exhibit B** included in the Addendum for such Licensed Premises. In furtherance of this License, each Addendum, which is fully completed, executed and delivered

by the parties hereto, for an additional Licensed Premises shall be deemed to be incorporated into this License as if fully stated herein, and such additional Licensed Premises shall be deemed to constitute a Licensed Premises for the purpose of this License, unless as otherwise expressly provided herein.

4. **Sections 3.2 (License Fee)** of the License is hereby deleted and replaced with the following:

Section 3.2. License Fee

(a) Licensed Premises located at Meijer Stores #29, #30, #56, #210 and #229. With respect to the Licensed Premises located at Meijer Stores #29, #30, #56, #210 and #229, commencing on the earlier of (i) sixty days from the date Licensee receives the construction permit for such Licensed Premises, except in the case of such Licensed Premises for which Licensee receives the construction permit less than fourteen (14) days prior to the construction freeze period set forth in Section 2.3(k) above, in which case the date used for purpose of this Section 3.2(i) shall be the following March 1st, and (ii) the date the ATM is operational on each Licensed Premises, Licensee shall pay, as a license fee for each Licensed Premises, the applicable sum set forth on **Exhibit B** attached hereto and incorporated by reference herein (which initial license fee amount shall be calculated as set forth in **Exhibit B-1**). These license fees shall be paid in advance on or before the first (1st) day of each month of the license term, and Licensee shall pay the license fee pro rata for that part, if any, of the term preceding the first License Year.

(b) All other Licensed Premises. Except as set forth in Section 3.2(a), commencing on the earlier of (i) sixty days from the date Licensee receives the construction permit for such Licensed Premises, except in the case of such Licensed Premises for which Licensee receives the construction permit less than fourteen (14) days prior to the construction freeze period set forth in Section 2.3(k) above, in which case the date used for purpose of this Section 3.2(i) shall be the following March 1st, and (ii) the date the ATM is operational on each Licensed Premises, Licensee shall pay, as a license fee for each Licensed Premises, the greater of (i) the applicable sum set forth on **Exhibit B** attached hereto and incorporated by reference herein (which initial license fee amount shall be calculated as set forth in **Exhibit B-1**) and (ii) Fifty percent (50%) of all surcharge fees collected by Licensee at a Licensed Premises, which shall not exceed One Thousand Five Hundred Dollars (\$1,500.00) per month. These license fees shall be calculated at the end of each calendar month and paid in arrears within fifteen (15) days following the end of the month in which the fees are assessed. Licensee shall pay the license fee pro rata for any partial License Year.

5. The following **Section 3.3 (Right to Audit)** is hereby added to the terms of the License:

Section 3.3. Right to Audit. Licensee shall maintain books and records conforming to usual banking practice showing all transactions completed at the ATMs. The acceptance by Meijer of payments of License Fee shall be without prejudice to Meijer's right to an examination of Licensee's books and records of the transactions completed at any of the ATMs. At its option, Meijer may cause, at any reasonable time, and upon at least twenty (20) days' notice, a complete audit to be made of Licensee's books and records relating to any or all of the Licensed Premises for the period covered by any statement issued by Licensee as set forth above. If such audit shall disclose a liability for License Fees to the extent of three percent (3%) or more in excess of the fees theretofore computed and paid by Licensee for any Licensed Premises for such period, Licensee shall promptly pay to Meijer the cost of said audit in addition to the deficiency, which deficiency shall be payable in any event and, in addition, Meijer, at Meijer's option, may terminate this License with respect to any or all Licensed Premises upon ten (10) days' notice to Licensee. If Meijer completes an audit as contemplated herein, Meijer agrees that any

member/customer information which is requested by Meijer and prominently labeled as confidential when provided to Meijer shall be held in strictest confidence by Meijer and not disclosed by Meijer to any nonaffiliated third party. Notwithstanding the foregoing, Meijer shall not cause more than two audits to be completed during any one license year.


6. **Section 5.5 (Improvement; Fixtures)** of the License is amended to include the following: "Licensee agrees that each Licensed Premises shall be opened for business on or before the "Required Opening Date" specified on **Exhibit B** for such Licensed Premises, and if Licensee fails to meet this timing obligation, upon written demand from Meijer, Licensee agrees to pay to Meijer the sum of One Thousand Dollars (\$1,000.00) per affected Licensed Premises."
7. The third sentence of **Section 5.7 (Work Requirements)** of the License is deleted and replaced with the following "Licensee shall complete all such work prior to October 16th and shall not continue or commence any such work between October 16th and December 31st."
8. **Section 9.2(a) (Right to Relocate)** of the License is amended to include the following: "In the event that any such relocation or termination contemplated in the Section 9.2(a) occurs prior to the end of the fifth License Year, Meijer shall reimburse Licensee an amount equal to the unamortized reasonable, actual, out-of-pocket costs of the improvements made to such Licensed Premises by Licensee, in accordance with the terms of this License Agreement which are not removable by Licensee and would have no value to Licensee in the event of a relocation or termination of the License (i.e. curbing, landscaping, electrical), which amount shall be prorated based upon the number of days remaining until the end of the fifth License Year. Provided, however, Licensee shall only be entitled to such a reimbursement if within sixty (60) days after the completion of such improvements, Licensee provides Meijer notice of such improvement, which notice must include documentation of its reasonable, actual, out-of-pocket costs for the improvements."
9. In all other respects, the License is ratified and affirmed. As amended, the License shall continue in full force and effect.
10. The submission of this First Amendment does not constitute an offer and this First Amendment shall become effective only upon execution by the parties. This First Amendment may be signed by facsimile or other means of electronic communication and in one or more counterparts, all of which taken together shall constitute one and the same document.

Signature Page to Follow

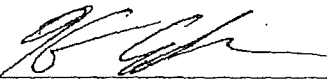
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date set forth above.

THE HUNTINGTON NATIONAL BANK

MEIJER, INC.

Legal: 
Bus: 

By: RVLW 3/8/14
(Raymond V. Wachauf)

By: 
(Kurt Adams)

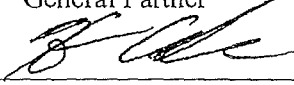
Its: Vice President
"Licensee"

Its: Director of Property Management

MEIJER STORES LIMITED PARTNERSHIP

By: Meijer Group, Inc.,

Its: General Partner

By: 
(Kurt Adams)

Director of Property Management

together, "Meijer"

[http://oneshop.meijer.com/legal/im/re/Master InStore Licenses/Huntington Bank/Stand Alone ATM Master/1st Amend To Huntington ATM Master License v4 \(2-25-2016\).docx](http://oneshop.meijer.com/legal/im/re/Master%20InStore%20Licenses/Huntington%20Bank/Stand%20Alone%20ATM%20Master/1st%20Amend%20To%20Huntington%20ATM%20Master%20License%20v4%20(2-25-2016).docx)

