CHARTER TOWNSHIP OF MERIDIAN ZONING BOARD OF APPEALS MEETING AGENDA 5151 MARSH ROAD, OKEMOS, MI 48864-1198

(517) 853-4000 WEDNESDAY, November 9, 2016 6;30 PM

TOWN HALL ROOM

- A. CALL MEETING TO ORDER
- B. APPROVAL OF AGENDA
- C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES
 - o Wednesday, September 28, 2016
- D. UNFINISHED BUSINESS
- E. NEW BUSINESS
 - 1. ZBA CASE NO. 16-11-09-1 (BROWN), 2001 ABBOTT ROAD, EAST LANSING, MI, 48823

DESCRIPTION: Reynolds Road TAX PARCEL: 03-258-017

ZONING DISTRICT: RB (Single Family, High Density), Lake Lansing Residential

Overlay District

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

- Section 86-442(f)(1), which states lot area shall be consistent with the requirements of the underlying zoning district, except lots that were created and recorded prior to October 5, 1960, may be used for single-family residential purposes provided the lot is not less than 5,000 square feet in area.
- Section 86-442(f)(2), which states interior lot width shall be consistent with the requirements of the underlying zoning district, except lots that were created and recorded prior to October 5, 1960, may be used for single-family residential purposes provided the lot is not less than 35 feet in width at the street line and the minimum yard setbacks are maintained for the district where the lot is located.

The applicant is requesting a variance to divide a platted parcel into two parcels that have less than the minimum 5,000 square feet of lot area and 65 feet of interior lot width on Reynolds Road, north of Roe Street in Haslett.

ZBA CASE NO. 16-11-09-2 (STOLIKER), 6164 COLUMBIA STREET, HASLETT, MI, 48864

DESCRIPTION: 6164 Columbia Street

TAX PARCEL: 03-406-013

ZONING DISTRICT: RB (Single Family, High Density), Lake Lansing Residential

Overlay District

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

 Section 86-618(1), which states nonconforming single-family structures may be altered, Expanded, or modernized without prior approval of the Zoning Board of Appeals; provided, that such structural alteration or extension shall not increase the extent of the nonconformity and shall satisfy all other applicable site development regulations. The applicant is requesting a variance to construct an addition to a nonconforming single family structure at 6164 Columbia Street in Haslett..

- 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 ELIZABETH LEGOFF

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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CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT***
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, September 28, 2016

PRESENT:

Members Jackson, LeGoff, Ohlrogge, Chair Beauchine, Rios (alternate)

ABSENT:

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 JACKSON MOVED TO APPROVE THE AGENDA AS WRITTEN.

SECONDED BY MEMBER RIOS.

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL, & RATIFICATION OF MINUTES

Wednesday, September 14, 2016

MEMBER JACKSON MOVED TO APPROVE THE MINUTES OF WEDNESDAY, SEPTEMBER 14, 2016 AS WRITTEN.

SECONDED BY MEMBER RIOS.

VOICE VOTE: Motion carried unanimously.

D. UNFINISHED BUSINESS

None.

E. NEW BUSINESS

1. ZBA CASE NO. 16-09-28-1 (STUDIO INTRIGUE), 1114 S. WASHINGTON ST., LANSING 48910

DESCRIPTION:

4675 Okemos Road

TAX PARCEL:

21-409-009

ZONING DISTRICT:

C-2 (Commercial)

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

 Section 86-618 (2), which states nonconforming structures, other than single-family structures, may be altered, expanded or modernized without prior approval of the Zoning Board of Appeals; provided, that the structural alterations or extensions shall not increase the area, height, bulk, use or extent of the structure and shall satisfy all other applicable site development regulations.

The applicant is requesting a variance to construct an addition to a nonconforming structure at 4675 Okemos Road.

Director Kieselbach outlined the case for discussion and referenced two letters, one from R.J. Deans at 2191 Clinton Street and a letter from the DDA (Downtown Development Authority) of Meridian Township (letters on file).

David VanderKlok, Studio Intrigue, 1114 S. Washington St. 100, Lansing stated although he does not have a complete plan, a mixed use development is proposed for the subject site. At this time only addressing the 100 foot setback from the center of Okemos Road right-of-way is being requested.

Chair Beauchine opened the floor for public remarks.

Renee Korrey, 4633 Okemos Road, stated she is the property owner of two houses on Clinton Street, across from the subject property, and a member of the DDA. She requested the Zoning Board of Appeals (ZBA) deny the variance. Although she voted in favor of supporting the variance request at the DDA meeting on September 12, 2016, she now had questions regarding the use of the property. She opposes the subject property being used for retail. She added without a site plan the Zoning Board of Appeals (ZBA) review criteria cannot be answered.

Jim Raynak, 2143 Hamilton Road, owner of Okemos Hardware, stated he agreed with Ms. Korrey's comments and also had concerns with the use of the subject property. He stated he supported the applicant's request, as long as the following issues were addressed: setback from Okemos Road, setback from the north property line, the four (4) foot green space around the building and parking. He indicated the north side of the property has a shared easement and no encroachments are allowed into the easement.

Chair Beauchine asked the applicant if he wished to provide a rebuttal to public comments.

Mr. VanderKlok stated the type of business which will occupy the subject property has not been identified at this time. He commented the plan is to revitalize the building and allow the mixed use development to draw people and businesses to the area. He added he is aware of the easement on the north side of the property and has no intention to encroach into it. He was committed to following the proper standards and procedures for the urban revitalization. He added the variance from the 100 foot front yard setback is so they can move forward with the new construction.

Chair Beauchine closed public remarks.

Chair Beauchine asked Director Kieselbach to address Mr. Raynak's concern over the encroachment into the easement.

Director Kieselbach replied the ordinance does allow for an overhang to encroach two and half feet (2 ½) into the required setback, but staff would not allow construction to encroach into the easement.

Chair Beauchine asked Director Kieselbach if the ZBA grants the variance, would it be very specific to adding to a nonconforming building and using the documentation from the ZBA packet as to what the variance allows.

Director Kieselbach answered if the ZBA grants a dimensional variance it would go with the property. He referenced Section 86-618 (2) of the Code of Ordinances stating the code would keep the building and the addition in the nonconforming status. He added this prevents structural alterations to increase the area, height, bulk, and use without approval of the ZBA.

Member Jackson stated she supports the variance request because it is an example of redevelopment and vitalization without removing the current building and the developer has acknowledged it is a nonconforming structure.

Member Ohlrogge asked if the variance specifically notes the dimensions in order to prevent the applicant from changing the location of the variance request to another portion of the building.

Director Kieselbach replied if the site plan does not conform to what the ZBA approved the applicant would appear before the ZBA again for approval.

Member Ohlrogge questioned if the ZBA was approving the distance.

Director Kieselbach stated the ZBA is approving to allow the addition to a nonconforming building keeping with the same setback along Okemos Road.

Member Jackson asked in granting the variance to add to the current structure is the ZBA committed to the 1,700 square foot addition.

Director Kieselbach replied if the ZBA grants the variance, the commitment is to an addition to a nonconforming structure as presented. The applicant could not increase the area, height, or bulk.

Member Ohlrogge agreed with Ms. Korrey's summation of review criteria six, it is uncertain the use of the building will not adversely affect adjacent land. She continued by reading review criteria eight, which states granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance. She could not answer this with certainty, although improvements and development in downtown Okemos is vital. She added criteria six and eight are an issue to her in granting the variance request.

Member Jackson asked if a restaurant is considered retail.

Director Kieselbach replied no. He also stated if the building was a standalone restaurant, than additional parking would be required.

Member Jackson asked if the use of the building is an issue before the ZBA, or is it adding to a nonconforming structure.

Director Kieselbach replied it was adding to a nonconforming structure.

Member Ohlrogge stated if the ZBA were to approve the variance request she proposed the addition be kept to the 15 foot side yard setback from the north property line.

Chair Beauchine agreed with Member Ohlrogge. He added he would like to see the 100 foot setback from Okemos Road but not grant the setback from the north side of the property, if approved by the ZBA.

Chair Beauchine added if the ZBA were to approve the variance request he would like a motion to approve the variance for adding to a nonconforming structure, with the exception the building not expand north into the setback.

MEMBER RIOS MOVED TO APPROVE THE VARIANCE FOR ADDING TO A NONCONFORMING STRUCTURE WITH THE CONDITION THE BUILDING SETBACK BE 15 FEET FROM THE NORTH PROPERTY LINE.

MEMBER JACKSON SUPPORTED.

Member Ohlrogge requested the review criteria (Section 86-221) be read.

Member Jackson stated a variance would be granted if the following review criteria are met. She then read review criteria one, which states unique circumstances exist that are peculiar to the land or structure that is not applicable to other land or structures in the same zoning district. She stated this is clearly the case in this circumstance.

Member Jackson read review criteria two, which states these special circumstances are not self-created. She commented permission to add to a nonconforming structure is not the result of a self-created situation.

Member Jackson read review criteria three, which states strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties. She replied if the variance is not granted development of this land becomes an issue.

Member Jackson 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. She stated this is true by restricting the north setback.

Member Jackson 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. She commented this was true.

Member Jackson 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. She agreed with the statement.

Member Jackson read review criteria eight, which states granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance. She agreed with the statement.

Chair Beauchine commented on criteria six by stating it doesn't adversely affect the adjacent land but meets what is currently there and the addition is minimal.

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

NO: None.

Motion carried unanimously.

F. OTHER BUSINESS

None.

G. PUBLIC REMARKS

None.

H. BOARD MEMBER COMMENTS

Chair Beauchine made reference to the last ZBA meeting with a possible misunderstanding to his firmness in the handling of the meeting format. He added the ZBA is limited in the things they can address in reviewing a case, and those bounds had been crossed.

Director Kieselbach stated the October 12, 2016 ZBA meeting had been cancelled.

I. ADJOURNMENT

Chair Beauchine adjourned the meeting at 7:35 p.m.

J. POST SCRIPT - CAROL OHLROGGE

Respectfully Submitted,

Rebekah Lemley Recording Secretary

VARIANCE APPLICATION SUPPLEMENT

A variance will be granted, if the following Review Criteria are met:

- 1. 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.
- 2. These special circumstances are not self-created.
- 3. Strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties.
- 4. 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.
- 5. 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.
- 6. Granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property.
- 7. 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.
- 8. Granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance.

Effect of Variance Approval:

- 1. Granting a variance shall authorize only the purpose for which it was granted.
- 2. The effective date of a variance shall be the date of the Zoning Board of Appeals approves such variance.
- 3. A building permit must be applied for within 24 months of the date of the approval of the variance, and a Certificate of occupancy must be issued within 18 months of the date the building permit was issued, otherwise the variance shall be null and void.

Reapplication:

1. No application for a variance, which has been denied wholly or in part by the Zoning Board of appeals, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found by the Zoning Board of Appeals to be sufficient to justify consideration.

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MEMORANDUM

TO:

Zoning Board of Appeals

FROM:

Menoes Peter Menser Senior Planner

DATE:

November 3, 2016

RE:

ZBA Case No. 16-11-09-1 (Brown)

ZBA CASE NO.:

16-11-09-1 (PETER C. BROWN), 2001 ABBOT ROAD, EAST LANSING,

MI, 48823

DESCRIPTION:

Reynolds Road

TAX PARCEL:

03-258-017 (Lot 12A, Block 6, Hickory Grove Addition)

ZONING DISTRICT: RB (Single Family, High Density), Lake Lansing Residential Overlay District

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

- Section 86-442(f)(1), which states lot area shall be consistent with the requirements of the underlying zoning district, except lots that were created and recorded prior to October 5, 1960, may be used for single-family residential purposes provided the lot is not less than 5,000 square feet in area.
- Section 86-442(f)(2), which states interior lot width shall be consistent with the requirements of the underlying zoning district, except lots that were created and recorded prior to October 5, 1960, may be used for single-family residential purposes provided the lot is not less than 35 feet in width at the street line and the minimum yard setbacks are maintained for the district where the lot is located.

Applicant Peter C. Brown, the attorney for the property owner, is proposing to divide a vacant lot on the east side of Reynolds Road into two lots in the Hickory Grove Addition subdivision, which is located east of Marsh Road, south of Mack Avenue, near the northwest corner of Lake Lansing. The property is located in the RB (Single Family, High Density) zoning district and the Lake Lansing Residential Overlay District. The Lake Lansing Residential Overlay district requires a minimum lot area of 5,000 square feet and a minimum lot width of 35 feet. The parcel under consideration, Lot 12A of the Hickory Grove Addition subdivision, has 40 feet of lot width on Reynolds Road and 4,680 square feet of lot area. The two lots resulting from the proposed land division will have 20 feet of frontage and approximately 2,340 square feet of lot area each, which will not meet the minimum requirements for lot area and lot width in the RB zoning district.

The applicant is requesting a variance from Section 86-442(f)(1) and Section 86-442(f)(2) to allow the two lots resulting from the division of Lot 12A to have less than 5,000 square feet of lot area and 35 feet of lot width. A variance of 2,660 square feet of lot area and 15 feet of lot width is requested for each parcel. The variance is summarized in the following table:

ZBA Case No. 16-11-09-1 (Brown) November 9, 2016 Page 2

Lot Area	Lot Width	Variance Request	
Required/Proposed	Required/Proposed	Lot Area/Lot Width	
5,000 sq. ft. / 2,340 sq. ft.	35 feet / 20 feet	2,660 sq. ft. / 15 feet	

The proposed division of Lot 12A requires a land division, which is approved by the Director of Community Planning and Development, as outlined in Section 62-120 of the Code of Ordinances. The Director cannot approve a land division unless the resulting parcels meet the minimum lot area and lot width for the zoning district or have received a variance from the Zoning Board of Appeals. The applicant intends to apply for a land division pending the outcome of the variance request.

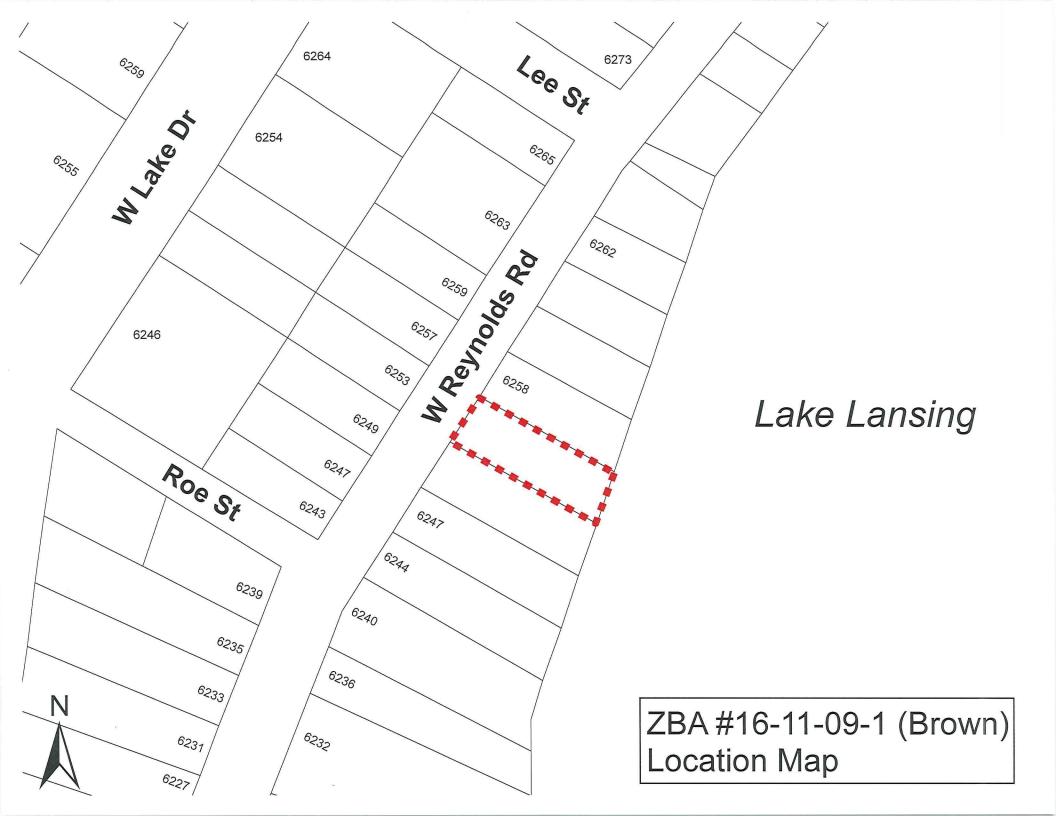
Site History

• The Hickory Grove Addition plat was approved in 1908.

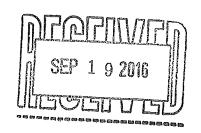
Attachments

- 1. Site location map
- 2. Application and supplements

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VARIANCE APPLICATION

A.	Applicant Peter C. Brown, Attorney for property owners Michael and Amanda Luther					
	Address of Applicant The Gallagher Law Firm, PLC					
	2001 Abbot Road, East Lansing, MI 48823					
	Telephone (Work) (517) 853-1518 Telephone (Home)					
	Fax (517) 853-1501 Email address: pcb@thegallagherlawfirm.com					
	Interest in property (circle one): Owner Tenant Option Other					
B.	Site address/location Vacant Land, Reynolds Road (Lot 12A, Block 6 Hickory Grove Addition) Zoning district Lake Lansing Overlay District Parcel number 33-02-02-03-258-017					
	Zorning district Editoring Overlay District 1 arcel Hamber do de					
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					
Zoninę	g Ordinance section(s) Sec. 86-442(f)(1) and Sec. 86-442(f)(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)					
` 						
14	-118 Peter C. Brann 9/16/16					
Signat	ture of Applicant Print Name Date					
Olyriai						
Fee: _	\$150 Received by/Date: Promenon 9-20-1					
	(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					
1	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					
ir	ncluding 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.)					
	9/16/16					
Signa	ature of Applicant(s) Date					
Signa	ature of Applicant(s) Date					

Peter C. Brown
517.853.1518 – direct dial
pcb@thegallagherlawfirm.com



Monday, September 19, 2016

Meridian Charter Township Department of Community Planning and Development Planning and Zoning Division 5151 Marsh Road Okemos, MI 48864 VIA HAND DELIVERY

RE: Variance Application

Luther, Michael and Amanda Tax ID No. 33-02-02-03-258-017 GLF File No. 10535.216

To Whom It May Concern:

Enclosed please find:

- 1) A Zoning Variance Application for the above-referenced parcel; and
- 2) A check in the amount of \$150 for the Land Division Application fee.

Thank you for your time and consideration with this request. If you have any questions of if you would like to discuss, please contact me at (517) 853-1518.

Sincerely,

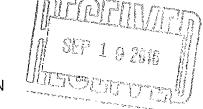
THE GALLAGHER LAW FIRM, PLC

Peter C. Brown

Peter C. Brown Attorney

cc: Michael and Amanda Luther (via e-mail) Krystle Brooks (via e-mail)

EXHIBIT A



ADDENDUM TO VARIANCE APPLICATION

I am attaching this Addendum to the Variance Application to provide further explanation regarding the proposed zoning variance. This Variance Application seeks a variance from Section 86-442(f)(1) and (2) of the Meridian Township Zoning Ordinance so that a Land Division Application can be submitted seeking to split Lot 12A, Block 6, Hickory Grove Addition, Meridian Township, Ingham County, Michigan ("Lot 12A") into the North 1/2 of Lot 12A and the South 1/2 of Lot 12A. A copy of the Tentative Parcel Map is attached as *Exhibit 1*.

Michael and Amanda Luther ("the Luthers") are currently the owners of Lot 9, Lot 10, and Lot 12A of Block 6, Hickory Grove Addition, Meridian Township, Ingham County, Michigan. Beau Hill ("Mr. Hill") is currently the owner of Lot 11 and Lot 12 of Block 6, Hickory Grove Addition, Meridian Township, Ingham County, Michigan. Recently, the Ingham County Circuit Court held that despite being the fee owners of Lot 12A in its entirety, the Luthers have no right to use, possess, or enjoy the South 1/2 of Lot 12A (Ingham County Circuit Court Case No. 15-552-CH) ("2015 Litigation"). Rather, the Court held that the owners of Lot 11 and Lot 12 have the sole and exclusive right to use and enjoy the South 1/2 of Lot 12A.

This issue dates back to 1996 when William W. Marshall, as Trustee of the Willis Marshall Trust, imposed certain restrictive covenants on Lot 12A pursuant to the Restrictive Covenants recorded on December 30, 1996 in Liber 2421, Page 407 of the Ingham County Records ("Restrictive Covenant"). A copy of the Restrictive Covenant is attached as *Exhibit 2*. The Restrictive Covenant imposed the following restrictive covenants upon Lot 12A:

- 1. Use of the South 1/2 of Lot 12A is for the sole benefit of the owner(s) of Lots 11 and 12, Hickory Grove Addition, Meridian Township, Ingham County, Michigan their family members and guests. The right to use the South 1/2 of Lot 12A is not otherwise transferable or assignable.
- 2. Use of the North 1/2 of Lot 12A is for the sole benefit of the owner(s) of Lots 9 and 10, Hickory Grove Addition, Meridian Township, Ingham County, Michigan, their family members and guests. The right to use the North 1/2 of Lot 12A is not otherwise transferable or assignable.
- 3. The use of the Property is restricted to those uses which are lawful, from time to time, under the ordinances of Meridian Township and other governmental units having jurisdiction over the Property.

In 2003, William and Cindy Jo Hurth, the prior owners of Lots 9, Lot 10, and Lot 12A, filed suit against Mr. Hill, the owner of Lot 11 and Lot 12, seeking to extinguish the Restrictive Covenant or otherwise restrict the owners of Lot 11 and Lot 12 from being able to use and enjoy the South 1/2 of Lot 12A (Ingham County Circuit Court Case No. 03-849-CH) ("2003 Litigation"). On September 7, 2004, the Ingham County Circuit Court granted Mr. Hill's Motion and entered an Amended Order to Quite Title to Real Property wherein the Court enjoined any interference with the free use granted to Mr. Hill by the Restrictive Covenant. A copy of the Amended Order is attached as *Exhibit 3*. In essence, the 2003 Litigation adjudged that the Restrictive Covenant was enforceable and that Mr. Hill, as the owner of Lot 11 and Lot 12, had the right to use and enjoy the South 1/2 of Lot 12A and that any interference with that use was specifically enjoined.

In June 2014, Lot 9, Lot 10, and Lot 12A were conveyed to the Luthers. Also at some point in 2014, Mr. Hill constructed a fence on Lot 12A that effectively bisected the North 1/2 of Lot 12A and the South 1/2 of Lot 12A. Despite being the fee owners of Lot 12A in its entirety, the

construction of the fence and other actions by Mr. Hill restricted the Luthers from being able to enter, use, possess, or otherwise enjoy the South 1/2 of Lot 12A.

As a result of Mr. Hill's actions seeking to restrict the Luther's use of the South 1/2 of Lot 12A, the Luthers initiated the 2015 Litigation. While the Restrictive Covenant and the 2003 Litigation provided that Mr. Hill had the right to use the South 1/2 of Lot 12A, the Luthers asserted that Mr. Hill did not have the right to prevent the Luthers, as the fee owners of Lot 12A in its entirety, from also using and enjoying the South 1/2 of Lot 12A. On June 20, 2016, the Ingham County Circuit Court granted Mr. Hill's Motion and dismissed the 2015 Litigation. A copy of the Order is attached as *Exhibit 4*. In a Bench Opinion, the Court held that the Restrictive Covenant gave Mr. Hill the sole and exclusive right to use the South 1/2 of Lot 12A and, despite being the fee owners of the Lot 12A in its entirety, the Luthers did not have any right to use, possess, or otherwise enjoy the South 1/2 of Lot 12A.

As a result of the Court's rulings in the 2003 Litigation and the 2015 Litigation, the Luthers (and presumably all future owners of Lot 12A that do not also own Lot 11 and Lot 12) will be the fee owners of real property that they have no right to use. Currently, the Luthers are assessed taxes on Lot 12A in its entirety, the pay property insurance on Lot 12A in its entirety, and their Mortgage in favor of The Huntington National Bank recorded on October 15, 2014 as Instrument No. 2014-039523 of the Ingham County Records describes and encumbers Lot 12A in its entirety. As such, the Luthers are currently forced to own and pay taxes, insurance, and a mortgage on the South 1/2 of Lot 12A despite not being able to use or enjoy that property. Inversely, Mr. Hill and the future owners of Lot 11 and Lot 12 get to enjoy the sole and exclusive use of the South 1/2 of Lot 12A without having to incur any of the expenses associated with that property.

To rectify this situation, the Luthers would like to apply for a land division to split Lot 12A into the North 1/2 of Lot 12A and the South 1/2 of Lot 12A so that the so that fee title to the South 1/2 of Lot 12A can be conveyed to the owner of Lot 11 and Lot 12. Following the conveyance of Lot 12A and a partial discharge of the Mortgage, the Luthers will be alleviated from paying taxes, insurance, and a mortgage on property that they own but cannot use or enjoy. However, because the proposed land division would result in two parcels that do not meet the minimum zoning requirements set forth in Section 86-442(f)(1) and (2) of the Meridian Township Zoning Ordinance, the Variance Application is necessary.

The proposed variance and subsequent division of Lot 12A would be beneficial for all parties involved. It is my understanding that Lot 12A is not currently a buildable lot. Rather, Lot 12A is merely vacant lot that provides access to Lake Lansing. Therefore, the proposed variance and land division would actually benefit both the owners of Lot 9 and Lot 10 and the owners of Lot 11 and Lot 12 because they would each have a fee interest in 1/2 of Lot 12A to provide the respective parties with access to Lake Lansing.

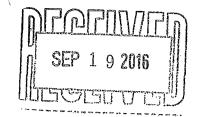
I appreciate your time and consideration with this proposed Variance Application. If you have any questions of if you would like to discuss, please contact me at (517) 853-1518.

Sincerely,

THE GALLAGHER LAW FIRM, PLC

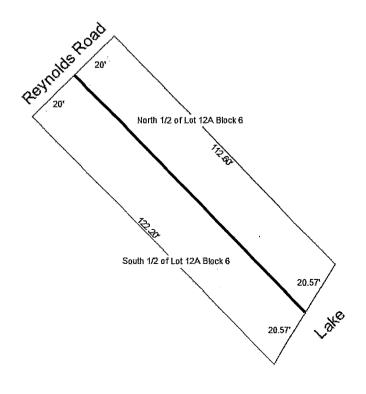
Peter C. Brown Attorney

EXHIBIT 1



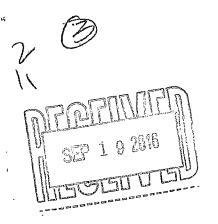
TENTATIVE PARCEL MAP

PROPOSED PARCEL DIVISION









Liber 2421 Page

Rept No 37019 MSSR 2.00 MISC 11.00 407

RECORDED
960050109
12/30/1996 11:10:34
REGISTER OF DEEDS
-Paula Johnson
THEHEM COUNTY, MI

Total 13.00

RESTRICTIVE COVENANTS

These Restrictive Covenants are imposed by Willis W. Marshall, Trustee of the Willis W. Marshall Trust dated May 6, 1987 on Lot 12A, Block 6, Hickory Grove Addition, Meridian Township, Ingham County, Michigan (the Property) for the mutual benefit of the owners of the Property and those who may be entitled to use it by easement:

- Use of the South 1/2 of Lot 12A is for the sole benefit of the owner(s) of Lots 11 and 12, Hickory Grove Addition, Meridian Township, Ingham County, Michigan their family members and guests. The right to use the South 1/2 of Lot 12A is not otherwise transferable or assignable.
- 2. Use of the North 1/2 of Lot 12A is for the sole benefit of the owner(s) of Lots 9 and 10, Hickory Grove Addition, Meridian Township, Ingham County, Michigan, their family members and guests. The right to use the North 1/2 of Lot 12A is not otherwise transferable or assignable.
- The use of the Property is restricted to those uses which are lawful, from time to time, under the ordinances of Meridian Township and other governmental units having jurisdiction over the Property.

These Restrictions may be amended or terminated only by the written consent of all of the owner(s) of Lots 9, 10, 11 and 12, recorded with the Ingham County Register of Deeds. These Restrictions shall remain in effect for the period of twenty (20) years from the date of recording, and shall automatically renew every five (5) years thereafter, unless terminated.

This instrument was prepared by and when recorded return to:
Douglas J. Austin - Fraser Trebilcock Davis & Foster, P.C.
1000 Michigan National Tower, Lansing, MI 48933 (517/482-5800)





Witnessed by:

Willis W. Marshall Trust

By:

Aillia A. Morekal Willis W. Marshall, Trustee

Dated: December 20, 1996.

The foregoing instrument was acknowledged before me in Ingham County, Michigan this Low day of December, 1996 by Willis W. Marshall, Trustee of the Willis W. Marshall Trust, on behalf of the Trust.

Douglas J.

_, Notary Public

Ingham

County, Michigan

My Commission Expires:

June 8, 1997

Consent of Easement Holder

I, Ronald G. Haarer, a single man, of 6253 Reynolds Road, Haslett, Michigan 48840 hereby consent to the foregoing Restrictive Covenants, being the holder of an easement over the South 1/2 of Lot 12 A, Hickory Grove Addition, Meridian Township, Ingham County, Michigan.

Dated: December 20, 1996.

The foregoing instrument was acknowledged before me in Ingham County, Michigan this 200 day of December, 1996 by Ronald G. Haarer.

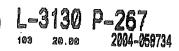
Douglas J Austin , Notary Public

Ingham County, Michigan

My Commission Expires: June 8, 1997

This instrument prepared by Douglas J. Austin 1000 Michigan National Tower Länsing, MI 48933









STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

BEAU A. HILL,

Plaintiff/Counterdefendant,

Case No. 03-849-CH

Hon, William E. Collette

WILLIAM and CINDY JO HURTH,

Defendants/Counterplaintiffs.

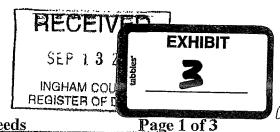
Melissa A. Hagen (P42868) McCLELLAND & ANDERSON, LLP Co-Counsel for Plaintiff/Counterdefendant 1305 S. Washington Avenue, Suite 102 Lansing, MI 48910 (517) 482-4890

Robert J. McCullen (P17349) Ronald D. Richards, Jr. (P61007) FOSTER, SWIFT, COLLINS & SMITH, PC Attorneys for Defendants/Counterplaintiffs 313 S. Washington Square Lansing, MI 48933 (517) 371-8222

AMENDED ORDER TO QUIET TITLE IN REAL PROPERTY

Kenneth W. Beall (P25236) LOOMIS, EWERT, PARSLEX **GOTTING** Co-Counsel for Plaintiff/Counterdefendant= 232 S. Capitol Avenue, Suite 1000 Lansing, MI 48933 (517) 482-2400

E- Mcclelland



At a session of said Court held in the City of Mason, County of Ingham, State of Michigan, on this 141 day of August, 2004

PRESENT:

HONORABLE WILLIAM E. COLLETTE Circuit Court Judge

The Court having heard the Motion for Summary Disposition filed by

Plaintiff/Counterdefendant, Beau A. Hill ("Plaintiff"), and the Court having heard the Motion for

Summary Disposition filed on behalf of Defendant/Counterplaintiffs, William and Cindy Jo

Hurth (the "Defendants"), and the Court having issued an Order to Quiet Title in Real Property

dated July 12, 2004, and the Court being otherwise fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Release of Restrictive Covenants executed on December 6, 2002, and recorded with the Ingham County Register of Deeds first on January 8, 2003, Liber 3000, Page 186, and again on April 16, 2003 at Liber 3022, Page 77, is null and void.

IT IS FURTHER ORDERED that these Defendants, their successors, assignees, or agents are enjoined from interfering with the free use granted to Plaintiff by the Restrictive Covenants properly executed on December 20, 1996, properly recorded with the Ingham County Register of Deeds, Liber 2421, Page 407, and hereby affirmed in this matter.

IT IS FURTHER ORDERED that Hill has leave to cause this Order, or a certified copy thereof, to be recorded in the office of the Register of Deeds for the County of Ingham, State of Michigan.



IT IS FURTHER ORDERED that this is a final order and closes this case.

Hon. William E. Collette Circuit Court Judge

APPROVED AS TO FORM:

McCLELLAND & ANDERSON, LLP Attorneys for Plaintiff/Counterdefendant

By: V Melissa A. Hagen (P42868)

Date: Deplember 2 2004

FOSTER, SWIFT, COLLINS & SMITH, PC Attorneys for Defendants/Counterplaintiffs

Robert J. McCullen (P17349)

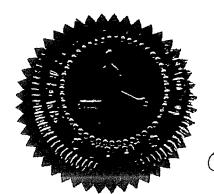
Date: 14 150, 2004

DRAFTED BY AND WHEN RECORDED RETURN TO:

Melissa A. Hagen (P42868) McClelland & Anderson, LLP 1305 S. Washington Ave., Ste. 102 Lansing, MI 48910 (517) 482-4890

G:\docs\1500\c1567\M011\Order Quiet Title.wpd





CERTIFIED COPY 30TH CIRCUIT COURT

SEP 1 3 2004

I hereby certify that this document is a true and correct copy of the original on file with this court.

Trew M & Legle Deputy Chark

STATE OF MICHIGAN

IN THE INGHAM COUNTY CIRCUIT COURT



Michael and Amanda Luther,

Plaintiffs,

Case No.: 15-552-CH

V

Hon. Rosemarie E. Aquilina

Beau Hill,

Defendant.

Peter C. Brown (P71592) Gallagher Law Firm, PLC 2001 Abbot Road East Lansing, MI 48823 Telephone: (517) 853-1500 Fax: (517) 853-1501 Attorneys for Plaintiffs Thaddeus E. Morgan (P47394) Douglas J. Austin (P10302) Fraser Trebilcock 124 W. Allegan, Suite 1000 Lansing, Michigan 48933 Telephone: (517) 482-5800 Attorneys for Defendant

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY DISPOSITION

At a session of said Court, held in the Circuit Courtrooms, Lansing, Ingham County, Michigan, this 2016.

PRESENT: HONORABLE ROSEMARIE E. AQUILINA, CIRCUIT COURT JUDGE.

This matter having come before the Court on Defendant's Motion for Summary Disposition, the Court having reviewed the briefs and other papers filed by the parties, having heard oral argument, and being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Defendant Beau Hill's Motion for Summary Disposition is GRANTED for the reasons stated on the record, and Plaintiffs' Complaint is dismissed, in its entirety, with prejudice.



IT IS FURTHER ORDERED that this order and resolves the last pending claim and closes the case.

JUDGE ROSEMARIE E. AQUILINA P37670

HON. ROSEMARIE E. AQUILINA P37670 CIRCUIT COURT JUDGE

MEMORANDUM

TO:

Zoning Board of Appeals

FROM:

Peter Menser Senior Planner

DATE:

November 3, 2016

RE:

ZBA Case No. 16-11-09-2 (Stoliker)

ZBA CASE NO.:

16-11-09-2 (TRAVIS STOLIKER), 6164 COLUMBIA STREET, HASLETT,

MI, 48840

DESCRIPTION:

6164 Columbia Street

TAX PARCEL:

03-406-013

ZONING DISTRICT: RB (Single Family, High Density), Lake Lansing Residential Overlay District

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

Menser

Section 86-618(1) - which states nonconforming single-family structures may be altered, expanded, or modernized without prior approval of the Zoning Board of Appeals; provided, that such structural alteration or extension shall not increase the extent of the nonconformity and shall satisfy all other applicable site development regulations..

The applicant intends to construct a 2-story, 1,175 square foot addition to the existing 864 square foot single family house at 6164 Columbia Street. The addition will consist of a 605 square foot garage with 570 square feet of living area above the garage. A new 5.5 foot by 8 foot wide front porch addition is also proposed to the existing house. The house is considered to be nonconforming as it does not meet the required front yard setback of 20 feet from the Columbia Street right-of-way and the seven (7) foot side yard setback from the south property line, therefore any additions to the building requires approval from the Zoning Board of Appeals (ZBA).

The house was built in 1980. At that time the front yard setback was 25 feet from the Columbia Street right-of-way. A variance granted in 1978 allowed the house to project 4.5 feet into the front yard setback at the front south corner and 8.6 feet at the front north corner. This left the structure 20.5 feet from the Columbia Street right-of-way at the north and 16.4 feet from the right-of-way at the south. In surveying the property for the proposed addition it was discovered that the south front corner of the house was actually built 15.03 feet from the Columbia Street right-of-way, a projection of 5.93 feet into the required front yard setback. This construction error results in the house being nonconforming. In 2008 the Lake Lansing Residential Overlay District was adopted, which reduced the front yard setback to 20 feet.

A variance granted in 1981 allowed the existing house to project 0.25 feet into the required seven (7) foot side yard setback on the south side of the property. The survey for the proposed addition revealed the house was actually constructed 6.19 feet from the south property line, a 0.81 foot projection into the required seven (7) foot side yard setback, which makes the house nonconforming.

ZBA Case No. 16-11-09-2 (Stoliker) November 9, 2016 Page 2

The applicant is requesting a variance to construct additions to the existing nonconforming house. The proposed 2-story addition on the north side of the property meets the required seven (7) foot side yard setback at the north and the required 40 foot rear yard setback at the east but will encroach 0.34 feet into the required 20 foot front yard setback from the Columbia Street right-of-way. A proposed porch addition to the west side of the existing house projects eight (8) feet into the front yard setback, which will make it 12 feet from the Columbia Street right-of-way.

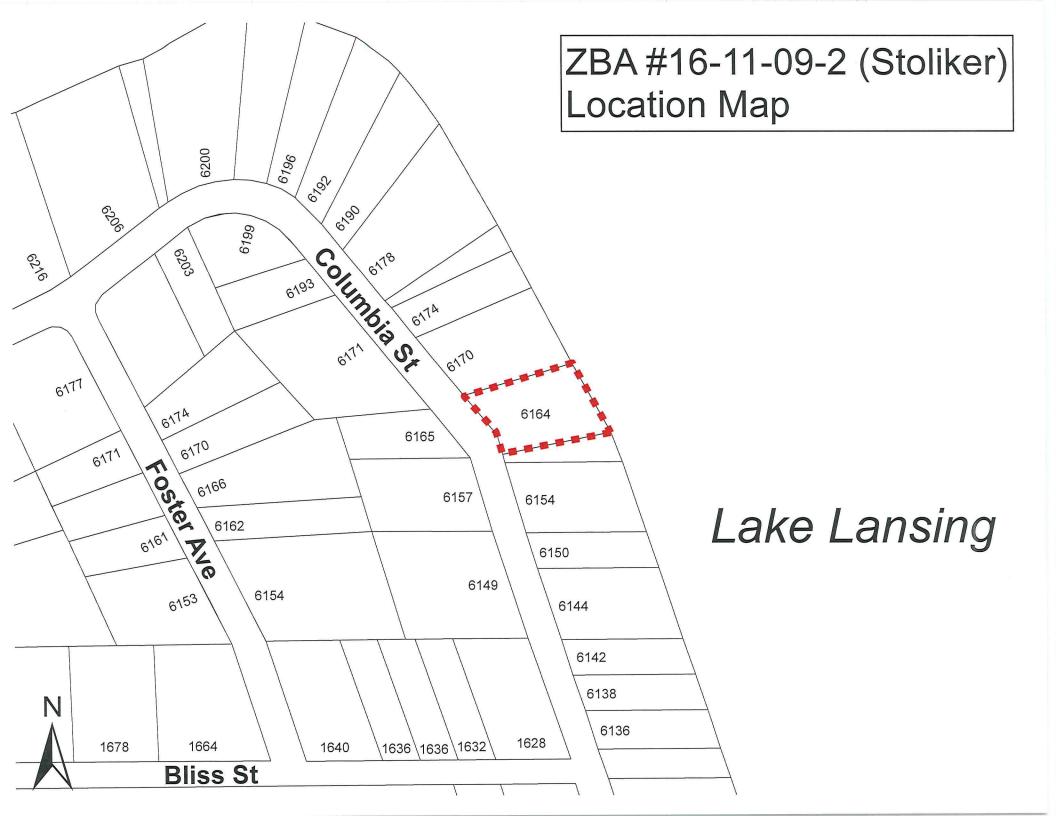
Site History

- The single-family dwelling was constructed in 1980.
- A variance granted in 1978 (ZBA #78-05-10-4) allowed the existing house to project 4.5 feet at the front south corner and 8.6 feet at the front north corner into the required 25 foot (at the time) front yard setback.
- A variance was granted in 1980 (ZBA #80-11-12-2) to allow an accessory building to project three (3) feet into the required five (5) foot setback for accessory buildings from any side or rear property line.
- A variance granted in 1981 (ZBA #81-6-10-3) allowed the existing house to project 0.25 feet into the required seven (7) foot side yard setback on the south side of the property.

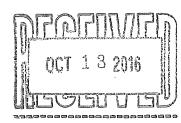
Attachments

- 1. Site location map
- 2. Application and submitted materials

G:\Community Planning & Development\Planning\ZBA\2016 ZBA\ZBA 16-11-09\ZBA 16-11-09-2 (Stoliker)

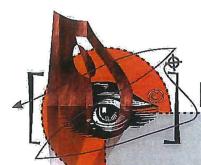


CHARTER TOWNSHIP OF MERIDIAN PLANNING DIVISION 5151 MARSH ROAD, OKEMOS, MI 48864 (517) 853-4560



VARIANCE APPLICATION

Α.	Applicant ^ & each	15 Stolla	N .	<u> </u>	
	Address of Applicant	6564 Calu	u bia		
	Telephone (Work) 517-980-6712 Telephone (Home) 517-980-6712				
	Telephone (Work) _5[7	7-980-6712	_ Telephone (Home	1517-9806712	
	Fax	Em <u>ail add</u> r	ess: Travis Stal	there grantice	
	Interest in property (circ	cle one): Owner	Tenant	Option Other	
B.	Site address/location (ollay COLUR	ABLA AIBN	TT, m1 48840	
	Zoning district 23	Pa	rce[number 33-8	12-02-03-406-01	
	Site address/location 6/6L/ COLUMBIA HASLETT, m1 48840 Zoning district ZB Parcel number 33-02-02-03-406-01 (LAKE LANSING OVERLAY)				
C.	Nature of request (Plea	se check áll that appl	y): ´		
	Request for vari				
		rpretation of provisio	n(s) of the "Zoning (Ordinance" of the Code o	
	Ordinances	u vaavijuavaanta dasi		tion of a Tournahin officia	
				tion of a Township officia	
	the Code of Ord	inances	•	he "Zoning Ordinance" o	
	5000 01 010	/ ^	1616		
Zonin	g Ordinance section(s)	36-442 (f)(b) (a.)		
	J				
D.	Required Supporting Ma	aterial Suppo	rting Material if Appli	cable	
	-Property survey		-Architectural sketo		
	-Legal description		-Other		
	-Proof of property owne	rship or			
	approval letter from ov	wner			
	-Site plan to scale			•	
	-Written statement, which	ch demonstrates how	all the review criteria	a will be met (See	
	next page)				
	1			/ /	
		1	Stolilar	12/12/11	
		1/2005	210/1 hair	10/13/16	
Signa	ture of Applicant	Print Name		Date ²	
Fee:		Receiv	ed by/Date:		
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		The state of the s			
1	(we) hereby grant permis	ssion for members o	f the Charter Towns	hip of Meridian Zoning	
	Board of Appeals, Town				
	experts the right to ente				
	attached information) in				
	ncluding but not limited to				
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ARCHITECTS

David C. VanderKlok, AIA, NCARB

Kenneth L. Jones II AIA, NCARB October 14th 2016

Meridian Township Zoning Board of Appeals 5151 Marsh Road Okemos, MI 48864

RE: 6164 Columbia House Remodel

Variance Review Criteria:

- 1. Prior to the current ownership, the existing building was built roughly 16" beyond an approved front yard setback variance granted in 1978 (see attached). As a result of this error the existing building is now a non-conforming structure.
- 2. This unique circumstance is an existing condition and not self-created. The original building was built under previous ownership.
- Strict interpretation and enforcement of the existing front yard setback variance
 and the current zoning ordinance setback would require the existing building to be
 moved roughly 16" east (towards the lake). Moving the existing structure is not
 practical.
- 4. The failure to grant the variance would prevent the owner from improving and adding on to the existing building as the building would remain a non-conforming building.
- 5. Granting the variance is the minimum action required to bring the existing building into conformity thereby allowing improvements to the existing structure. The setback variance would provide for substantial justice as many houses (including neighboring properties) are built closer to the right-of-way than this existing building. Building improvements, as a result of the variance, would also secure public safety as it would keep the building from becoming an 'eye sore' and falling into disrepair. All improvements will be in accordance with the zoning ordinance and setback variance.

architectural design

interiors

master planning

feasibility studies

construction drawings

renderings

specifications

ADA studies

ordinance research

code research

logo design

graphic design

furniture design

brochure design



1114 S. Washington Ave. × SUITE 100 × Lansing × MICHIGAN × 48910 517.372.8804 PHONE × 517.372.8805 FAX × WWW.STUDIDINTRIGUE.COM

- 6. Granting the variance will allow the owner to improve the building in a manner consistent with character of surrounding properties. The improvements made possible by the variance would provide a positive impact on adjacent land.
- 7. The conditions pertaining to the building are specific in nature a setback variance request to bring an existing non-conforming building in to conformity. This does not necessitate a change to the general regulations of the zoning ordinance.
- 8. Granting the variance would allow the owner to improve the building. The improvements are consistent with the public interest and intent of the zoning ordinance.

Attachments:

1978 variance description

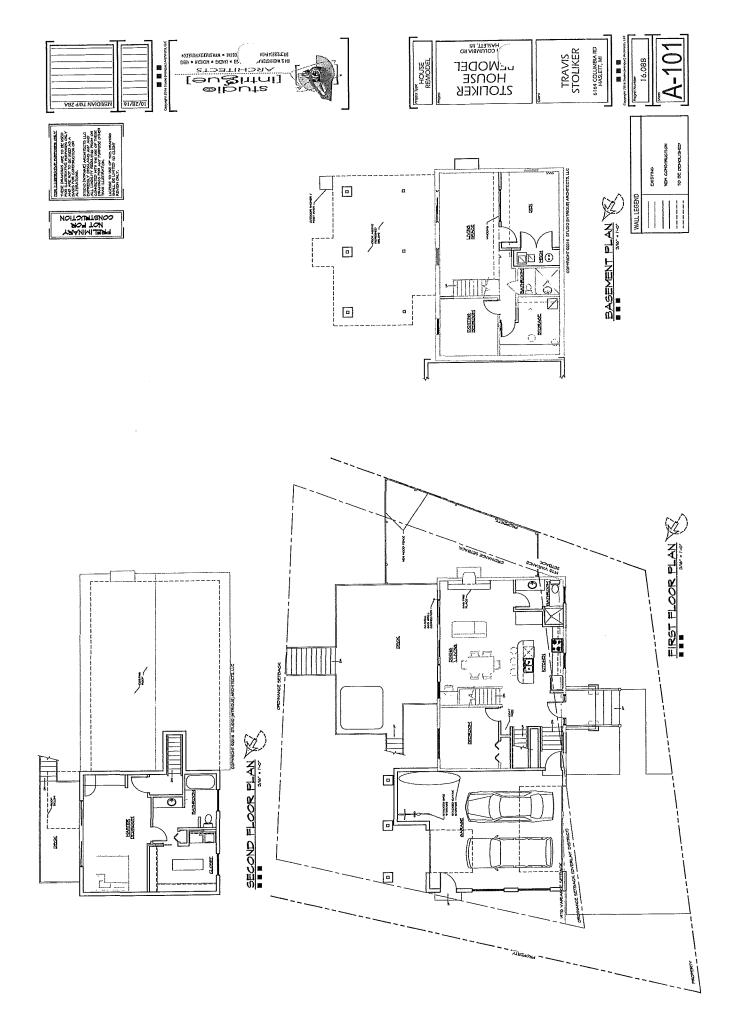
David Lenz AIA NCARB

Architect

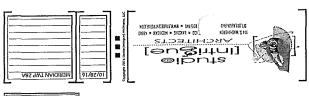
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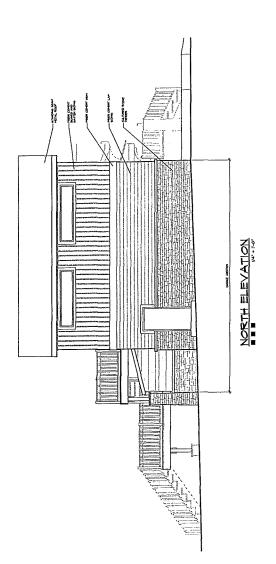


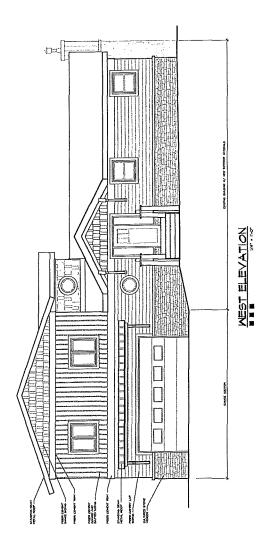


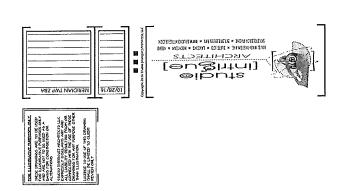












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