

## **VARIANCE REVIEW STANDARDS ZONING ORDINANCE SECTION 15.04 (E) (2)**

Dimensional or other non-use variances shall not be granted by the Zoning Board of Appeals unless it can be determined that all of the following facts and conditions exist:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.
- b) The characteristics which make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
- c) The characteristics which make compliance with the dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- e) The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

## BOARD OF ZONING APPEALS

The Board of Zoning Appeals is a group of seven of your neighbors or peers appointed by City Council to pass judgment on requests for variances and other matters that are brought before them. A variance is a relaxation of the literal provisions of the Zoning Ordinance. Petitioners must indicate a hardship or practical difficulty running with the land that would warrant the granting of the variance.

### PROCEDURE

The Board will hear the items in the order that they appear on the agenda. When an item is called, the Chairman will verify that the petitioner is present. Then the City Administration will summarize the facts of the case. The petitioner will then be given an opportunity to address the Board to explain the justification for the action requested.

After the petitioner makes their presentation, and answers any questions that the Board may have, the Chairman will open the Public Hearing. Any person wishing to speak on the request should raise their hand and when recognized by the Chairman, come up to the podium and sign in on the sheet provided. The speaker should identify themselves with name and address, indicate their relationship to the property in question (i.e. next door neighbor, live behind the property, etc.) and state whether they are in favor of or against the variance request and give reasons for their opinion. Comments must be directed through the Chairman. Comments should be kept as brief as possible and closely pertain to the matter under consideration. Only one person will be recognized by the Chairman to speak at one time.

At the conclusion of public comments the Chairman will close the Public Hearing. Once the Public Hearing is closed, no other public comment will be taken unless in response to a specific question by a member of the Board. The Board will then make a motion to approve, deny, or table (delay action) the request. In order for the request to pass a minimum of four votes for approval are needed. If the request is not granted, the applicant has the right to appeal the Board's decision to Oakland County Circuit Court.



# ZONING BOARD OF APPEALS MEETING AGENDA REGULAR MEETING

500 W. Big Beaver  
Troy, MI 48084  
(248) 524-3364  
[www.troymi.gov](http://www.troymi.gov)  
[planning@troymi.gov](mailto:planning@troymi.gov)

David Lambert, Chair, and Allen Kneale, Vice Chair  
Michael Bartnik, Glenn Clark, Kenneth Courtney  
William Fisher, Thomas Strat  
Bruce Bloomingdale and Orestis Kaltsounis (Alternates)

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**May 15, 2012**

**7:30 P.M.**

**Council Chamber**

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1. ROLL CALL
2. APPROVAL OF MINUTES – April 17, 2012
3. APPROVAL OF AGENDA
4. HEARING OF CASES
  - A. **VARIANCE REQUEST, GARY ABITHEIRA, 1135 CHOPIN (a.k.a. property between 1125 and 1143 Chopin)** – In order to continue construction on a new house, a variance from the requirement that the house be set back at least 10 feet from one side lot line, and have combined total setbacks for both side yards of at least 20 feet. Applicant is requesting the proposed house be 9 feet from one side property line and 6 feet from the other.  
  
**SECTION: 4.07 (C)**
5. COMMUNICATIONS
6. MISCELLANEOUS BUSINESS – Annual elections for Chair and Vice Chair. Both are 1 year terms.
7. PUBLIC COMMENT
8. ADJOURNMENT

**NOTICE:** People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at [clerk@troymi.gov](mailto:clerk@troymi.gov) or by calling (248) 524-3317 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Chair Lambert called the Zoning Board of Appeals meeting to order at 7:30 p.m. on April 17, 2012, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Michael Bartnik  
Glenn Clark  
Kenneth Courtney  
William Fisher  
Allen Kneale  
David Lambert  
Thomas Strat

Also Present:

Bruce Bloomingdale, Alternate  
Orestis Kaltsounis, Alternate  
Paul Evans, Zoning and Compliance Specialist  
Susan Lancaster, Assistant City Attorney

Clark and Lambert leave the dais; Bloomingdale and Kaltsounis are seated.

2. APPROVAL OF MINUTES – March 20, 2012

Moved by Courtney  
Seconded by Fisher

RESOLVED, to approve the March 20, 2012 meeting minutes.

Yes: All present

MOTION PASSED

3. HEARING OF CASES

VARIANCE REQUEST, GAIL MORO, MAEDERS WEST GARDEN CENTER LLC, GPRZ Real Estate LLC, 6530-6550-6566 COOLIDGE HIGHWAY – A variance in order to expand the existing nonconforming use.

Moved by Bartnik  
Second by Courtney

RESOLVED, to grant the variance as most recently amended, with the following conditions:

- That trees and shrubs sold on the property shall not exceed 24 inches in height.

- That the outdoor storage of potting soil bags be allowed in the red area adjacent to and east of the greenhouse and indicated on the attached drawing.
- That City staff verify the location of the “white line” referenced in the attached drawing and make it part of the record.

Yes: All

MOTION PASSED

Bloomingtondale and Kaltsounis leave the dais; Clark and Lambert are seated.

5. COMMUNICATIONS – None
6. PUBLIC COMMENT – There was no public comment.
7. MISCELLANEOUS BUSINESS – The Board discussed the working role of the Alternates. It was agreed that the Board would not amend their Rules of Procedure at this time.
8. ADJOURNMENT – The Zoning Board of Appeals meeting ADJOURNED at 9:06 p.m.

Respectfully submitted,

---

David Lambert, Chair

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Paul Evans, Zoning and Compliance Specialist

City of Troy Zoning Board of Appeals Minutes  
4-17-2012  
Page 3



4.34 ACRES

Field measured 20' from existing building to dashed white line. 04/20/2012. MG

Red area east of greenhouse denotes soil bag storage area

COOLIDGE HIGHWAY  
Coolidge Hwy

Coolidge Hwy

CURRENT ASPHALTICEMENT PATHS/ROADS



HOUSE

150'



OFFICE  
79'



GREENHOUSE

136'

94'



ARBOR  
Elevation=10  
26'  
24'

DISPLAY

DISPLAY

DISPLAY

DISPLAY

DISPLAY

DISPLAY



ARBOR  
Elevation=10  
26'  
24'



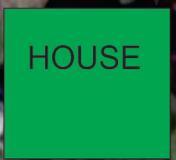
ARBOR  
72' Elevation=10



ARBOR  
Elevation=10  
22'  
26'



ARBOR  
Elevation=10  
22'  
26'



HOUSE

20'

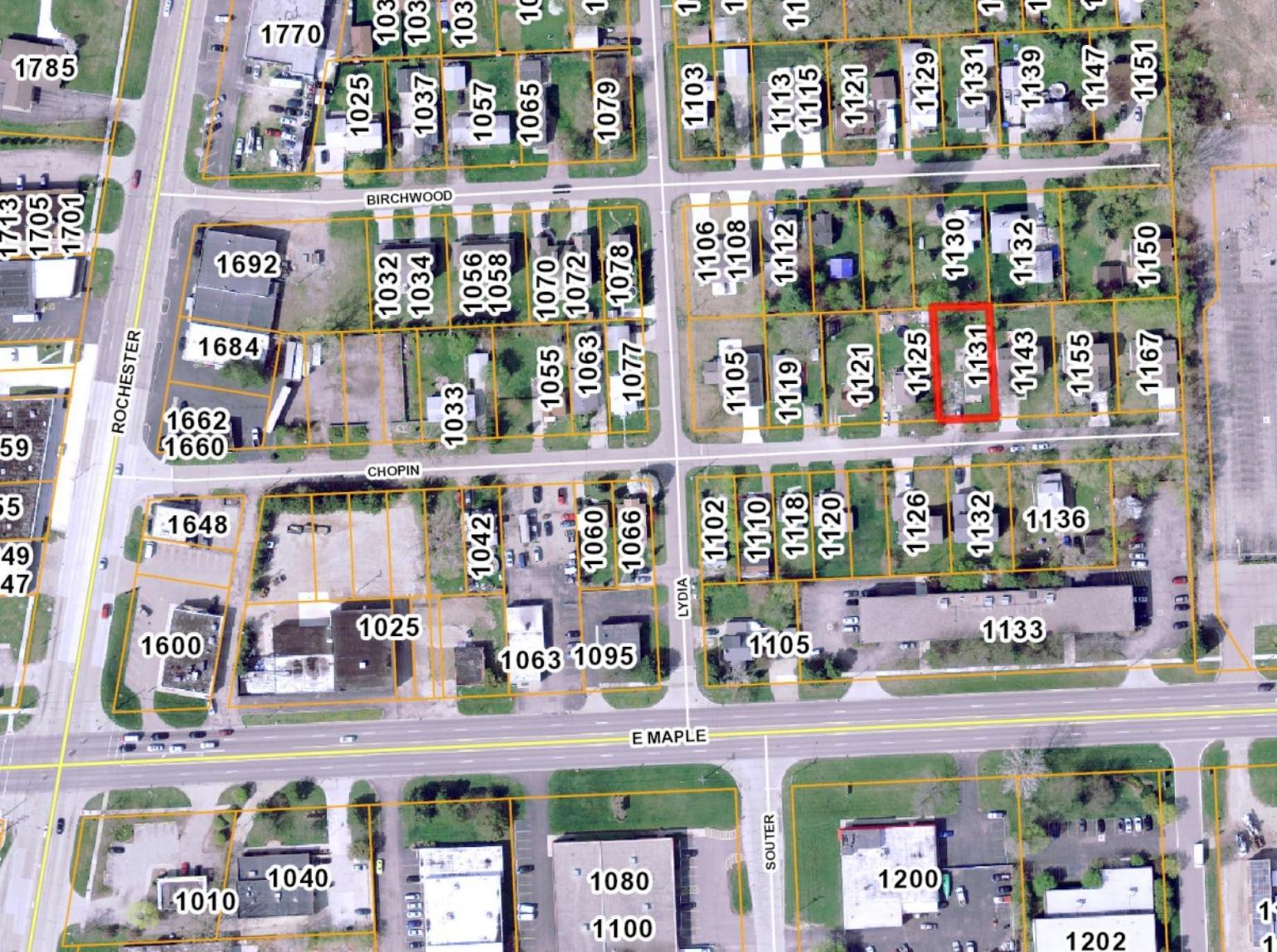
21.5'

21.5'

6600

- A. **VARIANCE REQUEST, GARY ABITHEIRA, 1135 CHOPIN (a.k.a. property between 1125 and 1143 Chopin)** – In order to continue construction on a new house, a variance from the requirement that the house be set back at least 10 feet from one side lot line, and have combined total setbacks for both side yards of at least 20 feet. Applicant is requesting the proposed house be 9 feet from one side property line and 6 feet from the other.

**SECTION: 4.07 (C)**



1785

1770

BIRCHWOOD

1025

1037

1057

1065

1079

1103

1113

1115

1121

1129

1131

1139

1147

1151

1713  
1705  
1701

1692

1032

1034

1056

1058

1070

1072

1078

1106

1108

1112

1130

1132

1150

1684

1033

1055

1063

1077

1105

1119

1121

1125

1131

1143

1155

1167

1662  
1660

ROCHESTER

CHOPIN

1648

1600

1025

1042

1060

1066

1063

1095

LYDIA

1102

1110

1118

1120

1126

1132

1136

1105

1133

E MAPLE

1010

1040

1080

1100

SOUTER

1200

1202

11261

1125

1131

1143

1155

CHOPIN

LYDIA

(RT)

BIRCHWOOD

(RT)

(IB)

CHOPIN

(RT)

(MRF)

1106  
1108  
1112

1130  
1132  
1150

1105  
1119  
1121

1125

1131

1143

1155

1167

1102  
1110  
1118  
1120

1126

1132

1136

# ZONING BOARD OF APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48084  
PHONE: 248- 524-3364  
E-MAIL: [evanspm@troymi.gov](mailto:evanspm@troymi.gov)  
<http://www.troymi.gov/CodeEnforcement/#>



REGULAR MEETING FEE \$150.00  
SPECIAL MEETING FEE \$650.00

**RECEIVED**  
APR 18 2012  
**PLANNING**

REGULAR MEETINGS OF THE CITY BOARD OF ZONING APPEALS ARE HELD ON THE **THIRD TUESDAY OF EACH MONTH AT 7:30 P.M. AT CITY HALL.** PLEASE FILE A COMPLETE APPLICATION, WITH THE APPROPRIATE FEE, AT LEAST **27 DAYS BEFORE** THE MEETING DATE.

1. ADDRESS OF THE SUBJECT PROPERTY: 1135 Chopin
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-27-481-016
3. ZONING ORDINANCE SECTIONS APPLICABLE TO THIS APPEAL: \_\_\_\_\_
4. REASONS FOR APPEAL: *On a separate sheet, please describe the reasons justifying the requested action. See Submittal Checklist*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: NO
6. APPLICANT INFORMATION:  
NAME Gary Abithera  
COMPANY \_\_\_\_\_  
ADDRESS 3301 Mirage  
CITY Troy STATE MI ZIP 48083  
TELEPHONE 248-840-2828  
E-MAIL Gabithera@wideopenwest.com

7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: Owner

8. OWNER OF SUBJECT PROPERTY:  
NAME Same  
COMPANY \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
TELEPHONE \_\_\_\_\_  
E-MAIL \_\_\_\_\_

The undersigned hereby declare(s) under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto

I, Gary Abithorn (PROPERTY OWNER) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO CONDUCT A SITE VISIT TO ASCERTAIN PRESENT CONDITIONS.

SIGNATURE OF APPLICANT [Signature] DATE 4/16/12

PRINT NAME: Gary Abithorn

SIGNATURE OF PROPERTY OWNER [Signature] DATE 4-16-12

PRINT NAME: \_\_\_\_\_

April 18, 2012

To: Zoning Board of Appeals:

I was granted a building permit to construct a home at 1135 Chopin. After digging and pouring the basement walls I was told to stop building. Apparently, a change in the zoning does not allow a home with five and ten foot side yard setbacks. The prior zoning ordinance did allow these setbacks.

I am asking for a variance for this house at 1135 Chopin.

Thank You,

Gary Abitheira

**OWNER:**  
 GFA DEVELOPMENT  
 979 BADDER AVE  
 TROY, MI 48083  
 GARY ABITHEIRA  
 248.840-2828

# PLOT PLAN

SHEET 1 OF 3

NUMBER  
 GL-2012-0015-

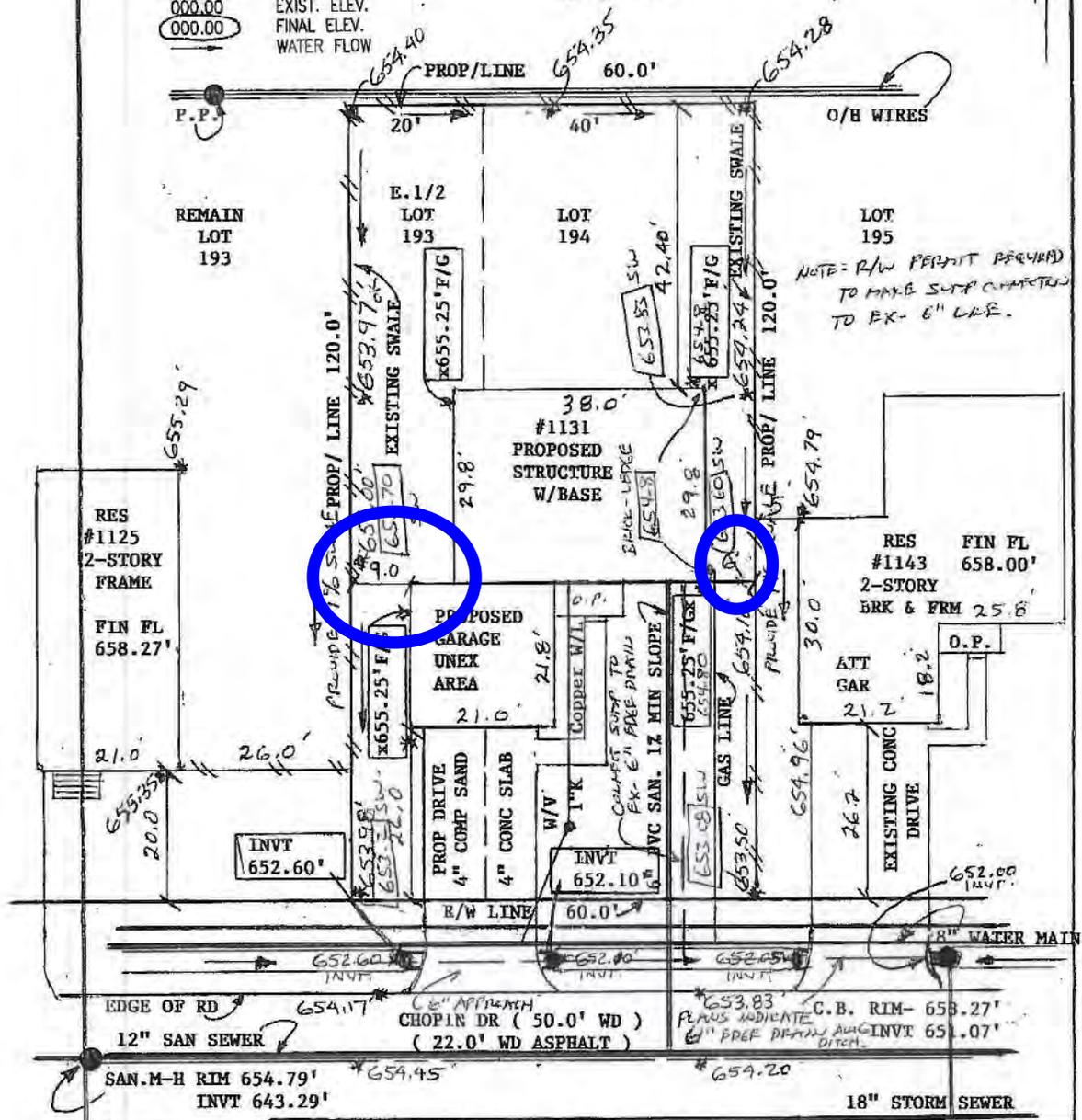
PICTURE #:  
 REF #:  
 CUSTOMER:

PERL:  
 FINAL: 3-1-2012  
 SCALE: 1" = 20'

**LEGEND**

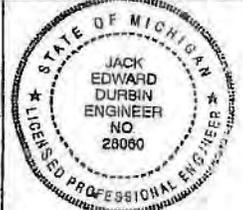
- S — SANITARY LINE
- G — GAS LINE
- W — WATER LINE
- — LOT LINE
- — PROPERTY LINE
- X — FENCE
- 000.00 PROP. FLEV.
- 000.00 EXIST. ELEV.
- 000.00 FINAL ELEV.
- WATER FLOW

**\*\* APPROVED \*\***  
 AS NOTED:  
 CITY OF TROY  
 LAND SURVEYOR  
 D/B/TM 3-26-2012  
 PROVIDE UPDATED PLANS AS PER  
 COMMENTS -



LAND ENGINEERING  
 SYSTEMS' SEVEN LLC.  
 1563 Woodgate Drive  
 Troy, MI 48063  
 PH: (248) 250-6972  
 FAX: (248) 250-0993  
 sys7survey@yahoo.com

CERTIFIED BY  
 [Signature]  
 AGENT FOR:  
 SYSTEMS' SEVEN, LLC.



ORIGINAL P.H. 3-13-12  
 (REVISED)

NOTE: THIS SITE IS SUBJECT TO ANY EASEMENTS OF RECORD AND OTHER FACTS WHICH A TITLE SEARCH MIGHT DISCLOSE.

(DEMAND COPY) 1135 CHOPIN (NEW) FB2012-0297 DEMO-1135 CHOPIN



\*PB2012-0297%PB%3081.75\*

# Building Permit No: PB2012-0297

Building Department  
**Inspection: (248) 689-5744**  
Phone: (248) 524-3344

500 W. Big Beaver Road  
Troy, Michigan 48084  
Hours: Mon-Fri 8am - 4:30pm

Fax: (248) 689-3120  
www.troymi.gov

1135 CHOPIN Location  
88-20-27-481-016 Lot:  
Subdivision:  
Zoning: R-1E Use Group: R-3  
Construction Type: 5B

Owner

ABITHEIRA, GARY  
3301 MIRAGE  
TROY MI 48083  
(248) 619 0535

Issued: 03/27/2012

Applicant

ATHENS PARC DEVELOPERS  
ATHENS PARC DEVELOPERS  
3301 MIRAGE  
TROY MI 48083  
(248) 840 2828

**FOR INSPECTIONS - CALL (248) 689-5744**  
*Inspections called in by 6:00 A.M. will be scheduled the same day.*

**Work Description:** R-FOLDED. MEET ALL CODES & INSPECTIONS FOR NEW 2 STORY HOME W/ 2 CAR ATTACHED GARAGE IN COMPLIANCE W/ 2009 MRC, MUEC, MMC, MPC, 2008 NEC.

**Special Stipulations:** AS-BUILT/FOUNDATION CERT REQUIRED PRIOR TO FRAMING. SUBMIT ENGINEERED TRUSS DRAWINGS PRIOR TO ROUGH FRAME INSPECTION SUBMIT ENERGY CODE COMPLIANCE REPORT & HEAT PLAN PRIOR TO MECHANICAL PERMIT  
Work will meet all codes and inspections.

Permit Item	Work Type	Quantity	Item Total
Value \$10,001 to 1 Million	Building Permit	191,564	2,035.00
Cert of Occupancy	C of O	2,035.0	101.75
Bond Single Family Res. w/SW Bon	Bond w/SW	1.00	350.00
Initial Plan Review Fee	Plan Rev Min.	1.00	30.00
Plan Review Fee	Plan Review	191,564	162.00
Grade/Drainage-Res	Grade Res	1.00	50.00
R-1E Street Fee	Street Fee	1.00	63.00
R-1E Tree Fee	Tree Fee	1.00	90.00
Residential Sewer Tap	Sewer Tap	1.00	200.00

**Res., New Construction**

**Total Due: \$3081.75**

**PAID on: 03/27/2012**

This permit is issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void once work is not started or is abandoned for a period of one hundred eighty (180) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, or sewer work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

TREASURER COPY

DEPARTMENT COPY

CONTRACTOR COPY

**1135 Chopin  
current site condition**



**04/20/2012**

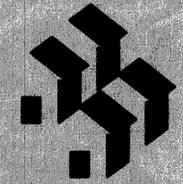
Moisev/Gordon Associates, Inc.  
818 West Eleven Mile Road  
Royal Oak, MI 48067  
tel: 248.541.2388  
fax: 248.542.0255  
www.moisev-gordon.com

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© 2002  
Moisev/Gordon Associates, Inc.  
Use of these drawings is limited  
to the client for the subject project.  
Common law copyright is reserved  
by the Architect.

Use figured dimensions only.  
Do not scale the drawings.

Client:  
**Harmony  
Developers L.L.C.**

P.O. Box 5345  
St. Clair Shores, MI



Project Title:  
**Colonial**  
West Oak Subdivision  
Troy, MI

Elevation <sup>C</sup>  
**Wider House**  
Sheet Title:  
**Elevations**

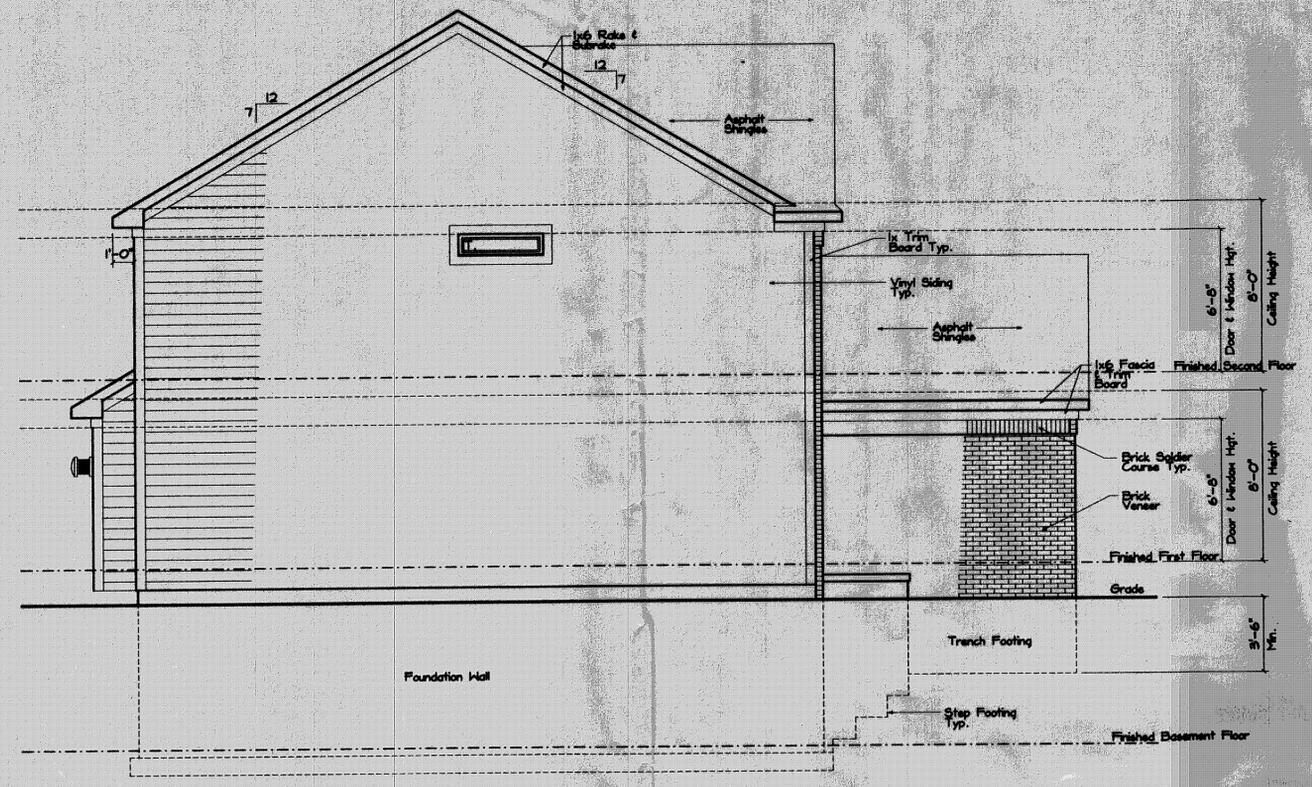
Project Number: 02300  
Drawn By: AJM, RW  
Checked By: AJM  
Approved By: AJM  
Date: 02-06-02

Issued:  
PERMIT  
02-21-02

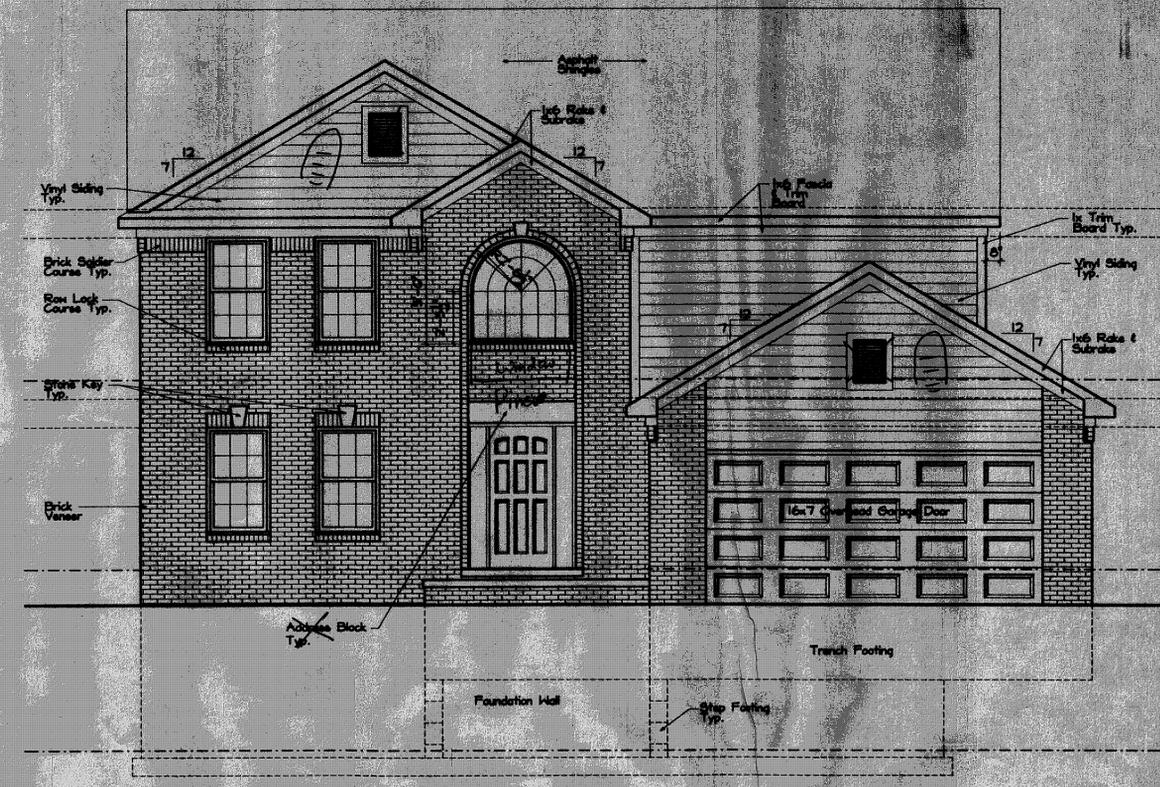
Sheet Number:

**A-4**

File: #02.1166.21136



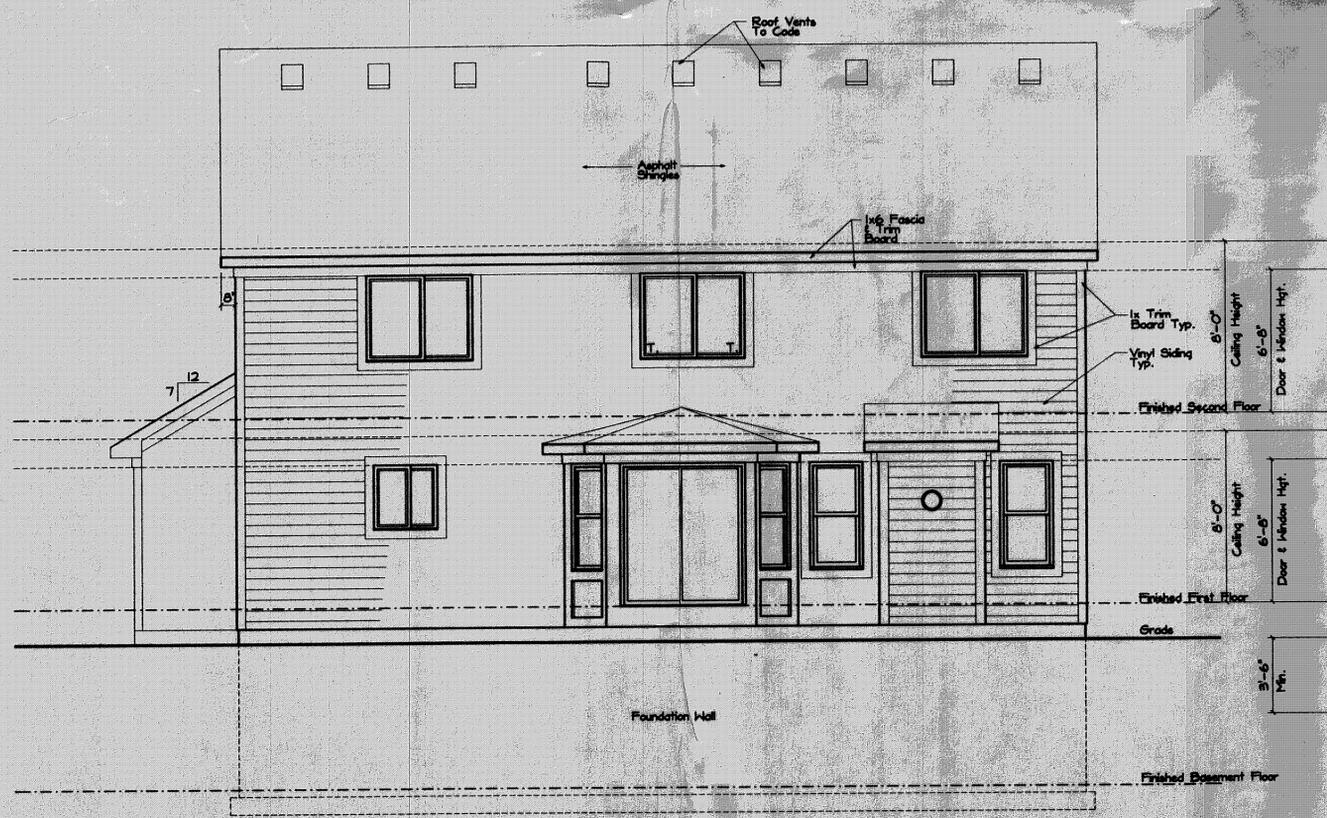
**Left Elevation**  
Scale: 1/4" = 1'-0"



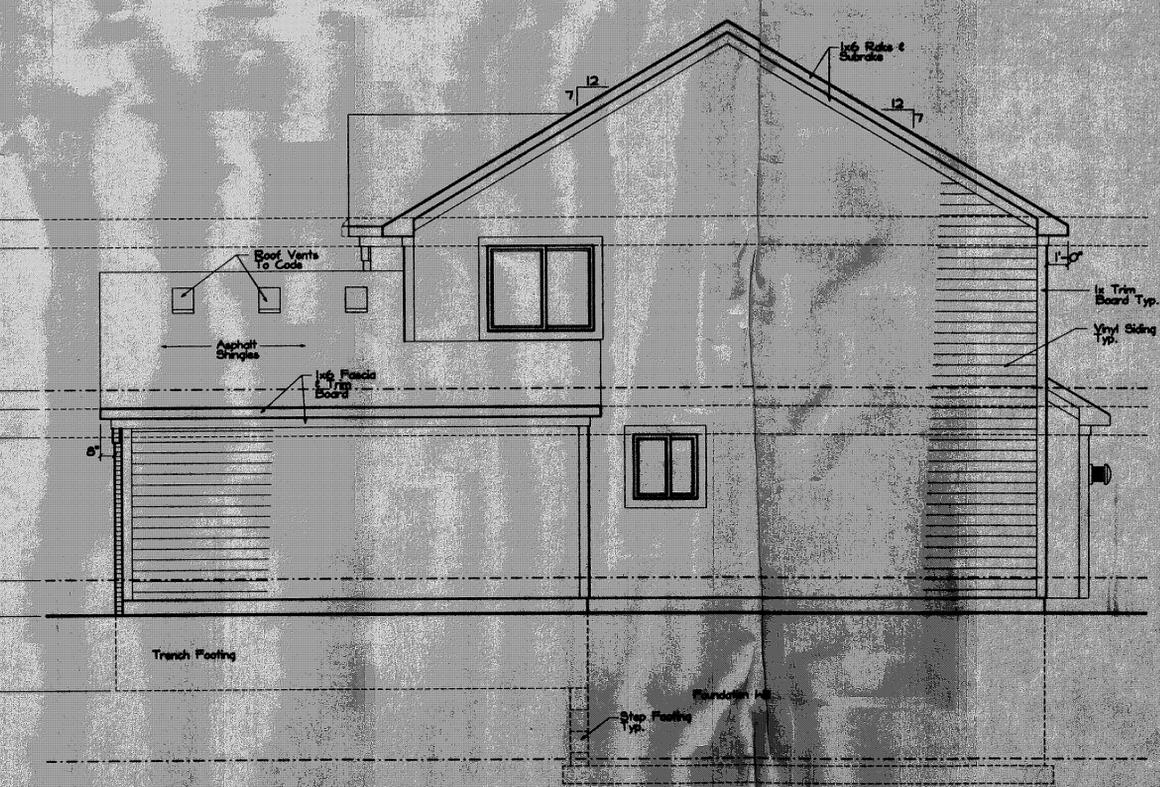
**Front Elevation**  
Scale: 1/4" = 1'-0"

NOTE:  
Provide Roof Ventilation Total  
Of 1/300 Of Roof w/ 50%  
In Eave Typ.

NOTE:  
Provide Flashing Where  
Required By Code Typ.



**Rear Elevation**  
Scale: 1/4" = 1'-0"



**Right Elevation**  
Scale: 1/4" = 1'-0"

version: 02300 West Oak Wider House.dwg(2) 023000 1.dwg 09/19/2002 04:07:50 PM

**From:** [Steve Burns](#)  
**To:** [Paul M Evans](#)  
**Subject:** 1135 Chopin Revised Email  
**Date:** Monday, April 23, 2012 11:30:12 AM

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Paul,

On 3-21-2012 we received an application for demolition of an existing single family home at 1131 Chopin, PID# 88-20-27-481-016. The application submitted indicated it was in the R-1E zoning district. A check of BS&A property file had it listed as R1-E. Having the necessary utility shut off notices it was approved.

On 3-26-12 we received an application for construction of a new single family home at PID #88-20-27-481-016. The application submitted indicated it was in the R1-E zoning district. We assigned a new address (as is customary when a house is demolished) 1135 Chopin. Seeing that the old address was listed as R1-E zoning in the BS&A system the setbacks were reviewed for R-1E.

On 3-30-12 it was discovered that the home was not in an R1-E zoning district, it was actually in the new R-T zoning district formerly R-2. In the past single family homes were regulated in two family districts by the R1-E setbacks so I thought we were ok and just needed to update the file to reflect R-T zoning. Before the zoning ordinance re-write the R-2 zoning district had an exception for single family homes being built in two-family districts that directed you to use R1-E setbacks. I believe that is why the old single family home was listed in BS&A as R1-E. I was unaware that this language was removed from the new zoning ordinance for R-T and therefore would have approved the proposed new home in error either way. This was an oversight on my part for sure. Once we discovered the exception was removed and that it was actually R-T, I immediately called the builder Gary Abitheira that morning and advised him to stop work.

We advised he would need to apply to the BZA for a setback variance. We reviewed the ordinance change and explained that single family homes in that district no longer have R1-E setbacks. I apologized for the inconvenience and have made the necessary changes to the file.

Please feel free to contact me with any further questions.

Steve Burns  
Building Official  
**SAFEbuilt®**  
City of Troy  
Building Department  
248-524-3348

*Nothing in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included.*