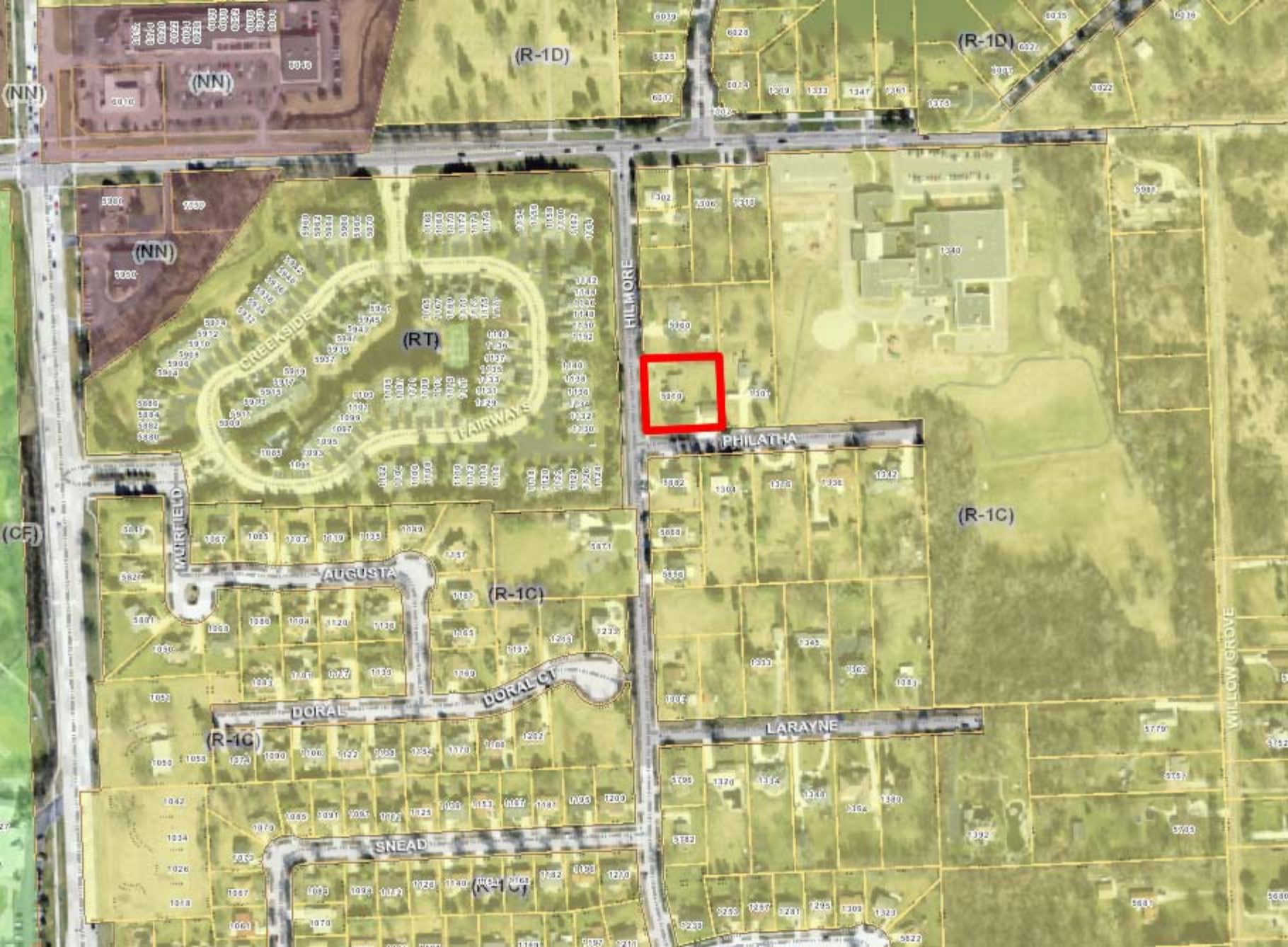
4. HEARING OF CASES

A. VARIANCE REQUEST, ALLAN SHARP, 5910 HILMORE – In order to split one parcel into two, a 2.625 foot variance to the required minimum 85 foot lot width. The variance is necessary for both of the proposed parcels.

ZONING ORDINANCE SECTION: 4.06 (C) R-1C Zoning District

SQUARE LAKE ROAD
ROCHESTER
HILMORE
CREEKSIDE
FAIRWAYS
MURFIELD
PHILATHA
AUGUSTA
DORAL
DORAL CT
LARAYNE
SNEAD
PLAYER
BEATTIE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(R-1C)
(CF)
CREEKSIDE
FAIRWAYS
MURFIELD
AUGUSTA
DORAL
DORAL CT
SNEAD
HILMORE
PHILATHA
LARAYNE
WILLOW GROVE

HILLMORE
HILLMORE
PHILATHA
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(R-1C)
5910
1307
(RT)
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5856

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

FEE $150.00
http://troymi.gov/Government/Departments/CodeEnforcement.aspx

THE ZONING BOARD OF APPEALS MEETS THE **THIRD TUESDAY OF EACH MONTH AT 7:30 P.M. AT CITY HALL**. PLEASE FILE A COMPLETE APPLICATION AND FEE, AT LEAST **27 DAYS BEFORE** THE MEETING DATE.

1. ADDRESS OF THE SUBJECT PROPERTY: 5910 Hilmore
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 20-11-126-005
3. ZONING ORDINANCE SECTIONS RELATED TO THE REQUEST: 4.06
4. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: No
5. APPLICANT:

   NAME Allan Sharp

   COMPANY

   ADDRESS 5910 Hilmore

   CITY Troy STATE MI ZIP 48017

   PHONE (586) 405-9133

   E-MAIL alsharp1@gmail.com

   AFFILIATION TO THE PROPERTY OWNER: Owner

6. PROPERTY OWNER:

NAME Same

COMPANY _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

TELEPHONE _____

E-MAIL _____

The undersigned hereby declares 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, Allan Sharp (APPLICANT) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO ENTER THE PROPERTY TO ASCERTAIN PRESENT CONDITIONS.

APPLICANT SIGNATURE _____ **DATE** 1/16/14

PRINT NAME: Allan Sharp

PROPERTY OWNER SIGNATURE _____ **DATE** _____

PRINT NAME: Allan Sharp

Failure of the applicant or their authorized representative to appear before the Board as scheduled shall be cause for denial or dismissal of the case with no refund of fees. If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

The applicant will be notified of the time and date of the hearing by first class mail.

PETERSON & CALUNAS PLLC
ATTORNEYS AND COUNSELORS

363 W. BIG BEAVER RD.
SUITE 440
TROY, MI 48084-5220
PHONE: (248) 457-6000
FAX: (248) 928-0439
www.petersoncalunas.com

ANDREW G. PETERSON
drew@petersoncalunas.com

January 16, 2014

Zoning Board of Appeals
City of Troy Planning Department
500 W. Big Beaver Rd.
Troy, MI 48084

RE: STATEMENT OF PRACTICAL DIFFICULTY

Dear Zoning Board of Appeals:

Please accept the following Statement of Practical Difficulty in support of petitioner's non-use variance request for property located at 5910 Hilmore Drive, Troy, MI 48085, Parcel ID No. 20-11-126-005 (the "subject property" or the "property").

Introduction

The subject property is a single family home with a detached garage zoned as R-1C. Petitioner is the owner of the subject property and is proposing a lot split which would create two separate equal-sized parcels (Parcel A and Parcel B). Petitioner's intention is to demolish the existing home on the property and to build two new homes, one on each new parcel. The existing detached garage will not be demolished and will remain as a detached garage for the home on Parcel B. The new homes will be similar to the existing homes in the neighborhood. The property is located in a low-density residential zone and is in close proximity to medium-density residential condominiums.

The basis for petitioner's variance request relates to the property width requirements under Section 4.06(C) of the Troy Zoning Ordinance. That Section requires that property zoned as R-1C have a width of at least 85 ft. Based upon petitioner's intentions as described above, the

two new parcels created by the proposed split will each have a width of 82.375 ft. Thus, the width of each new parcel will be 2.625 ft. less than the minimum required width of 85 ft. The new parcels otherwise will comply with all other dimensional requirements under the zoning ordinance.

Standard

The standard for granting a non-use variance is more lenient than for a use variance. "To justify the grant of a non-use variance there need only be a showing of practical difficulty. It is not necessary to show unnecessary hardship." *Heritage Hill Ass'n, Inc. v. Grand Rapids*, 48 Mich. App. 765, 769, 211 N.W.2d 77 (1973). When analyzing practical difficulties in the context of a variance request, Michigan courts consider "whether the denial deprives an owner of the use of the property, compliance would be unnecessarily burdensome, or granting a variance would do substantial justice to the owner." *Norman Corp v. East Tawas*, 263 Mich. App. 194, 203, 687 N.W.2d 861 (2004).

The Troy Zoning Ordinance expressly authorizes the Zoning Board of Appeals to grant dimensional variances in circumstances such as these:

> Where a literal enforcement of the provisions of this ordinance would involve practical difficulties within the meaning of this Article, the Zoning Board of Appeals shall have the power to authorize such variation of the provisions of this Ordinance with such conditions and safeguards as it may determine as may be in harmony with the spirit of this Article and so that public safety and welfare be secured and substantial justice done.
>
> Troy, Michigan, Zoning Ordinance § 15.04(E)(1).

The ordinance provides guidance as to what constitutes "practical difficulties" and sets forth the following standards for the Zoning Board of Appeals to grant a non-use variance:

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 difficult shall not be of a personal nature.

d. The characteristics which make compliance with the 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 the inhabitants of the City.

Troy, Michigan, Zoning Ordinance § 15.04(E)(2).

Analysis of Practical Difficulties

Here, all of the facts and conditions required by the zoning ordinance are present. A literal interpretation of the dimensional requirements would involve practical difficulties for petitioner resulting from exceptional characteristics of the subject property, namely the size of the property. These characteristics relate directly to the property itself, are not of a personal nature, and were not created by the current or previous property owner.

The size of the property is unique because it is ideal to split into two parcels, save only for the very minor difference between the actual width of the proposed parcels and the width required by ordinance. In all other respects, the proposed split would meet the dimensional requirements. The discrepancy between the actual and required width is so minimal that a literal enforcement of the ordinance's dimensional requirements in this instance is unnecessary to

uphold the spirit or practical purposes of the ordinance. On the other hand, a literal enforcement of the width requirements would unreasonably restrict petitioner's ability to take full advantage of his property and would deprive the surrounding area of new development and enhanced property values.

The proposed variance will not alter the essential character of the surrounding area or otherwise result in any harmful or negative consequences. The minor discrepancy between the actual and required width of the parcels will not be visibly noticeable or have any negative aesthetic impact on the surrounding area. To the contrary, the proposed variance and building of new homes will benefit the surrounding neighborhood by contributing to the development of the area and adding tax value to the city.

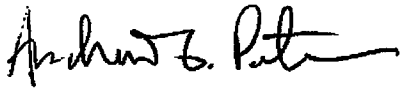
The granting of the variance will be in harmony with the general purpose and intent of the ordinance. The proposed variance will not impair the supply of air or light, will not unreasonably increase congestion in the streets, will not increase the danger of fire or endanger public safety, and will in no way be injurious to the neighborhood or otherwise detrimental to the general welfare. There are no practical considerations that support a literal enforcement of the width requirement in this instance and granting petitioner's variance request will serve the interests of justice.

Conclusion

Petitioner will face practical difficulties if the width requirement is enforced literally, as a result of exceptional characteristics of the subject property. By granting the requested variance, the spirit of the ordinance will be observed, the surrounding area will benefit, and substantial justice will be done. For all of these reasons, petitioner respectfully requests that the Zoning Board of Appeals grant his variance request.

Sincerely,

PETERSON & CALUNAS, PLLC



Andrew G. Peterson

Attorney for Petitioner

CERTIFICATE OF SURVEY

PARCEL "A":

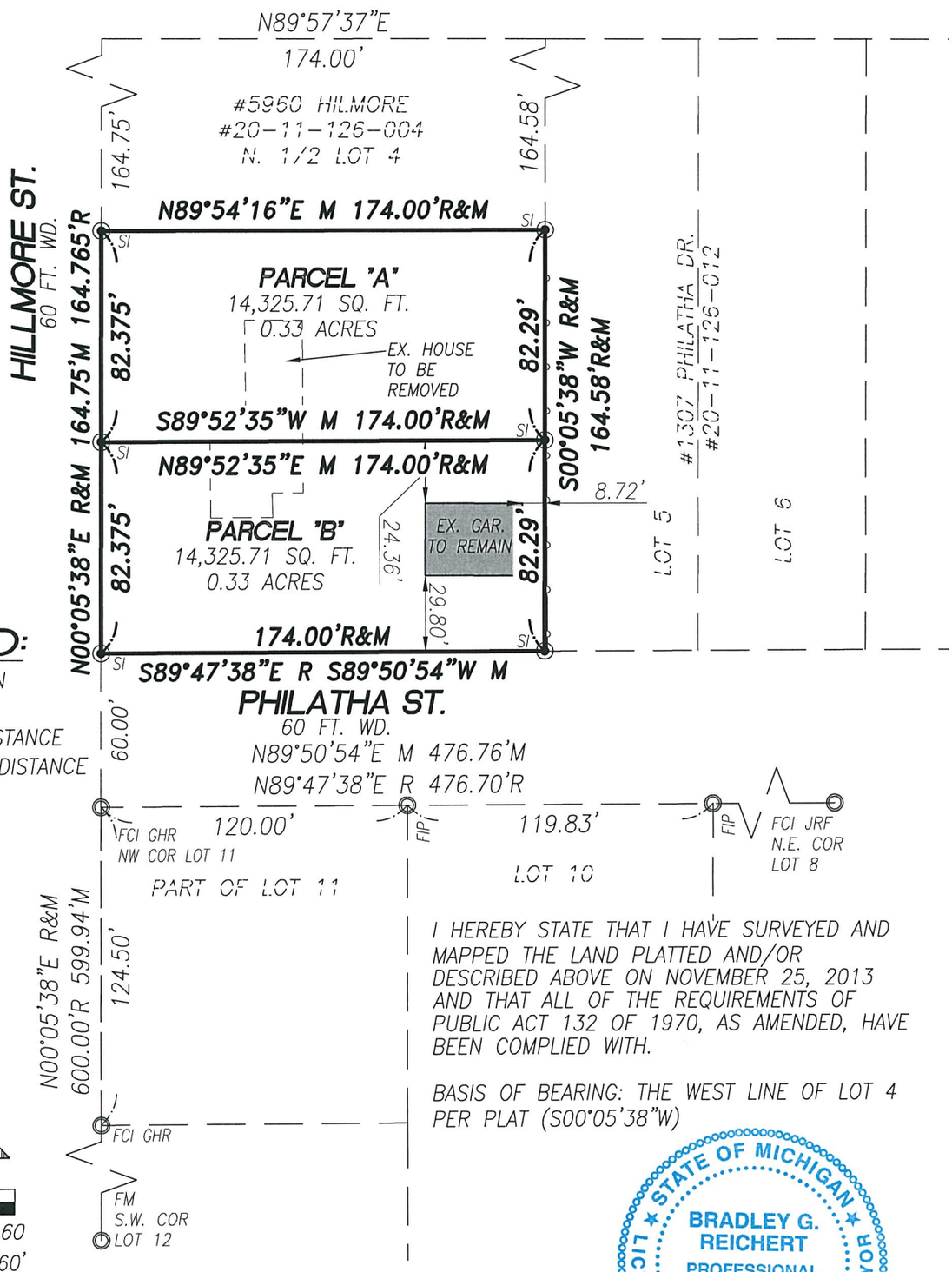
THE NORTH 1/2 OF THE SOUTH 1/2 OF LOT 4 OF "HILL'S ACRES" A SUB'D OF PART OF THE E. 1/2 OF THE N.W. 1/4 OF SEC. 11, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN L.78 OF PLATS, P.18&19 O.C.R.

PARCEL "B":

THE SOUTH 1/2 OF THE SOUTH 1/2 OF LOT 4 OF "HILL'S ACRES" A SUB'D OF PART OF THE E. 1/2 OF THE N.W. 1/4 OF SEC. 11, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN L.78 OF PLATS, P.18&19 O.C.R.

PARENT PARCEL:

THE SOUTH 1/2 OF LOT 4 OF "HILL'S ACRES" A SUB'D OF PART OF THE E. 1/2 OF THE N.W. 1/4 OF SEC. 11, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN AS RECORDED IN L.78 OF PLATS, P.18&19 O.C.R. PARCEL ID: 20-11-126-005



LEGEND:

- FOUND IRON
- SET IRON
- R RECORD DISTANCE
- M MEASURED DISTANCE

I HEREBY STATE THAT I HAVE SURVEYED AND MAPPED THE LAND PLATTED AND/OR DESCRIBED ABOVE ON NOVEMBER 25, 2013 AND THAT ALL OF THE REQUIREMENTS OF PUBLIC ACT 132 OF 1970, AS AMENDED, HAVE BEEN COMPLIED WITH.

BASIS OF BEARING: THE WEST LINE OF LOT 4 PER PLAT (S00°05'38"W)

N

0 30 60

SCALE: 1" EQ. 60'

STATE OF MICHIGAN
BRADLEY G. REICHERT
PROFESSIONAL SURVEYOR
NO. 55923
LICENSED PROFESSIONAL SURVEYOR

BRADLEY G. REICHERT P.S. #55923

PREPARED FOR:
AL SHARP
5910 HILMORE DR.
TROY, MI 48085
(586) 405-9133

SHEET: 1 OF 1

Scale: 1"=60'	REICHERT SURVEYING INC.	Date:	Rev. By:
Date: 12/3/13	140 FLUMERFELT LANE		
Job No. 13-231	ROCHESTER, MICH. 48306		
Drawn: B.G.R.	P:(248) 651-0592 F:(248) 656-7099		
	EMAIL:MAIL@REICHERTSURVEYING.COM		

Parcel Variance Report

Address:	Parcel Frontage:	Area (SQFT):
1316 PHILATHA	120	36,000
Address:	Parcel Frontage:	Area (SQFT):
1307 PHILATHA	126	41,456
Address:	Parcel Frontage:	Area (SQFT):
1342 PHILATHA	156	46,799
Address:	Parcel Frontage:	Area (SQFT):
5882 HILMORE	125	14,941
Address:	Parcel Frontage:	Area (SQFT):
1310 E SQUARE LAKE	90	24,057
Address:	Parcel Frontage:	Area (SQFT):
5960 HILMORE	165	28,653
Address:	Parcel Frontage:	Area (SQFT):
1304 PHILATHA	120	36,000
Address:	Parcel Frontage:	Area (SQFT):
1345 LARAYNE	100	30,000
Address:	Parcel Frontage:	Area (SQFT):
	100	19,000
Address:	Parcel Frontage:	Area (SQFT):
1364 LARAYNE	100	30,000
Address:	Parcel Frontage:	Area (SQFT):
1334 LARAYNE	100	30,000
Address:	Parcel Frontage:	Area (SQFT):

THE SELECTED PARCELS ARE ALL THE PARCELS IN THE PLATTED SUBDIVISION

1363 LARAYNE	100	30,000
Address: 5796 HILMORE	Parcel Frontage: 100	Area (SQFT): 13,700
Address: 5868 HILMORE	Parcel Frontage: 88	Area (SQFT): 10,530
Address:	Parcel Frontage: 110	Area (SQFT): 22,000
Address: 5856 HILMORE	Parcel Frontage: 88	Area (SQFT): 10,529
Address: 1303 LARAYNE	Parcel Frontage: 100	Area (SQFT): 19,000
Address: 1348 LARAYNE	Parcel Frontage: 100	Area (SQFT): 30,000
Address: 1333 LARAYNE	Parcel Frontage: 100	Area (SQFT): 30,000
Address: 1380 LARAYNE	Parcel Frontage: 133	Area (SQFT): 39,809
Address: 1320 LARAYNE	Parcel Frontage: 100	Area (SQFT): 29,999
Address: 5910 HILMORE	Parcel Frontage: 165	Area (SQFT): 28,653
Address: 1239 PLAYER	Parcel Frontage: 86	Area (SQFT): 16,164
Address: 1336 PHILATHA	Parcel Frontage: 117	Area (SQFT): 35,009
Address: 1383 LARAYNE	Parcel Frontage: 133	Area (SQFT): 39,809
Address: 5782 HILMORE	Parcel Frontage: 134	Area (SQFT): 13,400
Address: 1302 E SQUARE LAKE	Parcel Frontage: 120	Area (SQFT): 11,323
Address:	Parcel Frontage: 88	Area (SQFT): 10,501
Address:	Parcel Frontage: 88	Area (SQFT): 10,500
Address: 1306 E SQUARE LAKE	Parcel Frontage: 90	Area (SQFT): 24,141

Summary Parcel Frontage

Number of Parcels Selected	30
Avg (Mean)	111
Standard Deviation (STDEV)	23