



# BUILDING CODE BOARD OF APPEALS REGULAR MEETING AGENDA

500 W. Big Beaver  
Troy, MI 48084  
(248) 524-3344  
[www.troymi.gov](http://www.troymi.gov)  
[planning@troymi.gov](mailto:planning@troymi.gov)

Theodore Dziurman, Chair; Gary Abitheira  
Teresa Brooks, Brian Kischnick, Andrew Schuster

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**January 7, 2015**

**3:00 PM**

**LOWER LEVEL  
CONFERENCE ROOM**

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1. ROLL CALL
2. APPROVAL OF MINUTES – December 3, 2014
3. HEARING OF CASES
  - A. VARIANCE REQUEST, JAMES R. GIRLING, 3959 NASH – This property is a double front corner lot. As such it has a required front setback along both Nash and Ogden. An inspection of this property on November 11, 2014 revealed the existing 30” high wood fence in the front setback along Ogden has been modified to a 44” high non-obscuring wood fence. The petitioner is requesting a variance from the Board to allow the altered 44” high fence in the Ogden front setback.

## **CHAPTER 83**

4. COMMUNICATIONS
5. PUBLIC COMMENT
6. MISCELLANEOUS BUSINESS
  - A. ELECTION OF CHAIR
7. 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 Dziurman called the Regular meeting of the Building Code Board of Appeals to order at 3:00 p.m. on December 3, 2014 in the Lower Level Conference Room of the Troy City Hall.

1. ROLL CALL

Members Present:

Theodore Dziurman, Chair  
Gary Abitheira  
Teresa Brooks  
Michael Carolan  
Brian Kischnick

Support Staff Present:

Mitch Grusnick, Building Official/Code Inspector  
Allan Motzny, Assistant City Attorney  
David Roberts, Assistant Fire Chief  
Kathy L. Czarnecki, Recording Secretary

Also Present:

Attached and made a part hereof is the signature sheet of those present and signed in at this meeting.

Chair Dziurman thanked Mr. Carolan for his service on the Board. Mr. Carolan's term expires January 1, 2015.

Chair Dziurman also thanked Ms. Brooks for her acknowledgment of special occasions on behalf of the Board.

2. APPROVAL OF MINUTES

Moved by: Carolan  
Support by: Abitheira

**RESOLVED**, To approve the minutes of the November 5, 2014 Regular meeting as submitted.

Yeas: All present (5)

**MOTION CARRIED**

3. HEARING OF CASES

A. VARIANCE REQUEST, TERRY GLADSTONE FOR ACTION FENCE OF MICHIGAN, 4621 SUTHERLAND – This property is a double front corner lot. As such it has a required front setback along both Sutherland and John R. The petitioner is requesting a variance to install a 4 foot high non-obscuring aluminum

fence in the required front setback along John R where City Code limits fences to 30 inches high.

Mr. Grusnick informed the Board the homeowner applied for a variance in October 2014 to install a 6 foot high privacy fence. The Board denied the request based on the number of responses from neighbors in opposition, detailing the negative impact it would have on the surrounding area and subdivision.

Mr. Grusnick reported the department received no responses to the public hearing notices for the requested variance under consideration by the Board today to install a 4 foot high aluminum non-obscuring fence.

Present were Terry Gladstone of Action Fence of Michigan and the homeowners, Daxeshkumar and Priti Patel.

Mr. Patel said he spoke with neighbors about their intent to install a 4 foot high aluminum fence. He indicated the neighbors were supportive because the fence would be similar to the type and style of other fences in the neighborhood.

There was discussion on:

- Setback requirements.
- Fence height if pool would be installed at a future date.
- Fence height and style allowable within portion of rear and westerly side of property.
- Homeowners Association bylaws.

Chair Dziurman opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Brooks  
Support by: Abitheira

**RESOLVED**, To grant the request for a 48 inch high non-obscuring aluminum fence, based on the following reasons:

1. The variance would not be contrary to the public interest or general purpose and intent of Chapter 83.
2. The variance does not adversely affect properties in the immediate vicinity of the proposed fence.

Yeas: All present (5)

**MOTION CARRIED**

- B. **VARIANCE REQUEST, VARGHESE CHACKO FOR DALLAS INDUSTRIES, 103 PARK** – The petitioner is requesting renewal of the conditional relief of the requirement of a fire suppression system. The original variance was granted in 1978 when a 6,000 square foot addition was erected. In 1984 this Board approved the renewal of the fire suppression system variance subject to terms and conditions set forth in a document/affidavit prepared by the City Attorney's Office and recorded with the Oakland County Register of Deeds. The affidavit does not automatically extend the waiver of the fire suppression system requirement upon change in ownership and it indicates the City may require a new owner to comply with the requirement. Accordingly, the new owner must apply to the Building Code Board of Appeals in order to renew the fire suppression requirement waiver.

Mr. Grusnick reviewed the variance request and provided the Board with minutes from previous Building Code Board of Appeals meetings relating to the item.

Assistant Fire Chief Roberts reported a determination upon inspection that the manufacturing facility remains a non-combustible operation. He stated he is not supportive of the fact there is no fire suppression in the building, but concluded the nature of the manufacturing process that prompted the initial variance has not changed.

Present were Stanley Szot, legal representative for the property owner, and Varghese Chacko of Dallas Industries.

Mr. Chacko said he has leased the building since 2009 and has made an offer to purchase. He said the manufacturing operation has not changed and he is before the Board today as a prospective new owner. Mr. Chacko said he would consider a fire suppression system in the future but at this time is not able to fund the expense.

There was discussion on:

- Square footage of building.
- Fire Department building inspection procedure.
- Administrative procedure that would be followed should a change in use take place (Building and Fire departments).
- Responsibility of building owner, lessee and/or possessor to report a change in use.
- Adjacent buildings; installation of fire suppression systems unknown.
- Hardship to install fire suppression system.

Mr. Szot provided a prepared affidavit for consideration and review by the City Attorney's office, noting the document is of the same concept and language as the initial affidavit.

Chair Dziurman opened the floor for public comment. Acknowledging there was no one present to speak, the floor was closed.

Moved by: Carolan  
Support by: Abitheira

**RESOLVED**, To approve the variance request to renew relief of the requirement of a fire suppression system with the conditions that (1) an affidavit is prepared by the City Attorney’s office for the continued use and is filed with the Register of Deeds and (2) the City is notified of any change in property ownership or tenancy or any change in use, based on the following reason:

1. The petitioner has a hardship or practical difficulty resulting from the unusual characteristics of the property that precludes reasonable use of the property.

Yeas: All present (5)

**MOTION CARRIED**

4. COMMUNICATIONS

None.

5. PUBLIC COMMENT

None.

6. MISCELLANEOUS BUSINESS – 2015 Meeting Dates

Moved by: Abitheira  
Support by: Brooks

**RESOLVED**, To approve the 2015 Building Code Board of Appeals meeting dates, as prepared.

Yeas: All present (5)

**MOTION CARRIED**

7. ADJOURNMENT

The Regular meeting of the Building Code Board of Appeals adjourned at 3:28 p.m.

Respectfully submitted,

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Theodore Dziurman, Chair

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Kathy L. Czarnecki, Recording Secretary

G:\Building Code Board of Appeals Minutes\2014\Draft\2014 12 03 Regular Meeting\_Draft.doc



3. HEARING OF CASES

- A. **VARIANCE REQUEST, JAMES R. GIRLING, 3959 NASH** – This property is a double front corner lot. As such it has a required front setback along both Nash and Ogden. An inspection of this property on November 11, 2014 revealed the existing 30” high wood fence in the front setback along Ogden has been modified to a 44” high non-obscuring wood fence. The petitioner is requesting a variance from the Board to allow the altered 44” high fence in the Ogden front setback.

**CHAPTER 83**

# Building Code Board of Appeals Application

Fence Code

Chapter 83, Section 2, Paragraph A

James Girling  
3959 Nash Dr  
Troy, MI 48083

# Application Index

- Completed application
- Fence permit rejection letter
- Plot plan with fence line shown
- Detailed plan of construction materials and method of construction
- Impact of the request on the area
- Justification of the request

# Completed Application

**CITY OF TROY BUILDING INSPECTION DEPARTMENT  
CITY OF TROY PLANNING DEPARTMENT  
BUILDING CODE BOARD OF APPEALS APPLICATION**

<p style="text-align: center;"><b>SIGN APPEALS</b> FEE: \$50</p> <p>CITY OF TROY PLANNING DEPARTMENT 500 W. BIG BEAVER ROAD TROY, MICHIGAN 48064 PHONE: 248-524-3344 FAX: 248-689-3210 E-MAIL: <a href="mailto:gsaramis@troymi.gov">gsaramis@troymi.gov</a> <a href="http://www.troymi.gov/CodeEnforcement/">http://www.troymi.gov/CodeEnforcement/</a></p>	<p style="text-align: center;"><b>CONSTRUCTION OR FENCE CODE APPEALS</b> FEE: \$50</p> <p>CITY OF TROY BUILDING DEPARTMENT 500 W. BIG BEAVER ROAD TROY, MICHIGAN 48064 PHONE: 248-524-3344 FAX: 248-689-3210 E-MAIL: <a href="mailto:Gensopolski@troymi.gov">Gensopolski@troymi.gov</a> <a href="http://www.troymi.com/BldgInspection/">http://www.troymi.com/BldgInspection/</a></p>
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**NOTICE TO THE APPLICANT**

REGULAR MEETINGS OF THE BUILDING CODE BOARD OF APPEALS ARE HELD ON THE FIRST WEDNESDAY OF EACH MONTH AT 3:00 P.M. AT CITY HALL.

PLEASE FILE A COMPLETE APPLICATION, TOGETHER WITH THE APPROPRIATE FEE, NOT LESS THAN TWENTY-ONE (21) DAYS BEFORE THE MEETING DATE.

A COMPLETE APPLICATION THAT MEETS CODE REQUIREMENTS IS PLACED ON THE NEXT AVAILABLE AGENDA OF THE BUILDING CODE BOARD OF APPEALS.

1. ADDRESS OF THE SUBJECT PROPERTY: 3959 Nash Dr  
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-23-130-030
3. CODE NAME (e.g. "BUILDING CODE", "SIGN CODE", "FENCE CODE") AND SECTION(S) RELATED TO THE APPEAL:  
Fence Code Chapter 83, Section 2, Paragraph A
4. REASONS FOR APPEAL/VARIANCE: *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? YES  NO

Revised 2/17/2014

6. **APPLICANT INFORMATION:**  
NAME: James R Girling  
COMPANY: \_\_\_\_\_  
ADDRESS: 3959 Nash Dr  
CITY: Troy STATE: MI ZIP: 48083  
TELEPHONE: (248) 420-9381  
E-MAIL: girlingjr@aol.com
7. APPLICANT'S AFFILIATION TO THE PROPERTY OWNER: Same
8. **OWNER OF SUBJECT PROPERTY:**  
NAME: James R Girling  
COMPANY: \_\_\_\_\_  
ADDRESS: 3959 Nash Dr  
CITY: Troy STATE: MI ZIP: 48083  
TELEPHONE: (248) 420-9381  
E-MAIL: girlingjr@aol.com

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, James R Girling (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: *James R Girling* DATE: 12/9/14  
PRINT NAME: James R Girling

SIGNATURE OF PROPERTY OWNER: *James R Girling* DATE: 12/9/14  
PRINT NAME: James R Girling

*Failure of the applicant or his/her authorized representative to appear before the Board, as scheduled, shall be justifiable cause for denial or dismissal of the case with no refund of appeal fee(s). 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 electronic mail.*

Revised 2/17/2014

# Fence Permit Rejection Letter

500 W. Big Beaver  
Troy, MI 48084  
(248) 524-3300

The City of Tomorrow...  ...Today

November 21, 2014

James Girling  
3959 Nash  
Troy, MI 48083

Re: 3959 Nash, Troy, MI,  
Dear Sirs,

The required fence height is a side yard is 30in. To proceed with your permit, a variance would be required.

If you have any questions, Please call me at 248-524-3348

  
Paul N Featherston  
Chief Building Official  
Safebuilt, City of Troy

www.troymi.gov

 **FENCE PERMIT APPLICATION** Check # \_\_\_\_\_

CITY OF TROY  
DEPARTMENT OF BUILDING INSPECTIONS  
500 W. BIG BEAVER ROAD  
TROY, MICHIGAN 48064  
Phone: 248-524-3344 Fax: 248-559-3120

Date: 11/20/14 PF 2014-0212

Project Information	Job Address: 3959 Nash Dr	Subdivision: RainTree Village Sub No. 3	Lot: 546	Owner: James Girling	Phone: (248) 420-9381
	Work to be Performed: <input checked="" type="checkbox"/> New <input type="checkbox"/> Move <input type="checkbox"/> Repair <input type="checkbox"/> Res. <input type="checkbox"/> Comm. <input type="checkbox"/> Ind.				
	Name: James Girling Phone: (248) 420-9381 Fax: _____ Address: 3959 Nash Dr City Troy State MI Zip: 48083 Email: girlingj@aol.com				

Registration - \$10 (Due after 531 of each year)  
Final lot grade shall be approved before a fence permit is issued.

Please use the box below as if it were a drawing of your lot. Draw in the proposed fencing using the symbols from the chart. Indicate the number of feet for each portion of fence.

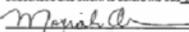
Type	Wood	Wire	Metal	Masonry	Other
Symbol:	00000	xxxxx		□□□□	-----
HEIGHT	42"-44"				
NO. OF FEET	170				
PERMIT FEE	<input checked="" type="checkbox"/> Under 300' \$15.00		<input type="checkbox"/> Over 300' \$25.00		

Interior Lot   
Corner Lot  *NR*  
Building Department Approval \_\_\_\_\_

Section 23a of the state reconstruction code set of 1972, 1975PA 235, MCL 125.1023A, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of Section 23a are subject to civil fines.

Ready for Inspection  Will Call Applicant Signature: 

Homeowner Affidavit  
I hereby certify that the fencing described on this permit application shall be installed by myself in my own home in which I am living or about to occupy. All work shall be installed in accordance with the Chapter 83 of the Troy City Ordinance. I will cooperate with the Building Inspector and assume all responsibility to arrange for necessary inspections.  
I CERTIFY THAT THE INFORMATION ON THIS APPLICATION IS TRUE AND CORRECT AND THAT I HAVE REVIEWED ALL DEED RESTRICTIONS WHICH MAY APPLY TO THIS CONSTRUCTION AND AM AWARE OF MY RESPONSIBILITY THEREUNDER.

Subscribed and sworn to before me this 21 day of November, 2014, Notary Public, Oakland County, Michigan  
  
My commission expires 09-12-2019

 Notary Public of Michigan  
Oakland County  
Expires 09/12/2019  
Acting in the County of Oakland

REVISED 06/2011

**FENCE**

*Existing Concrete Sidewalk Fence 30" height Application is to be 60" high on 12' x 12' x 6' 0" x 60" on Dr. - 12' x 12' x 6' 0" x 60"*

*70'*  
*70'*  
*30'*  
*30'*

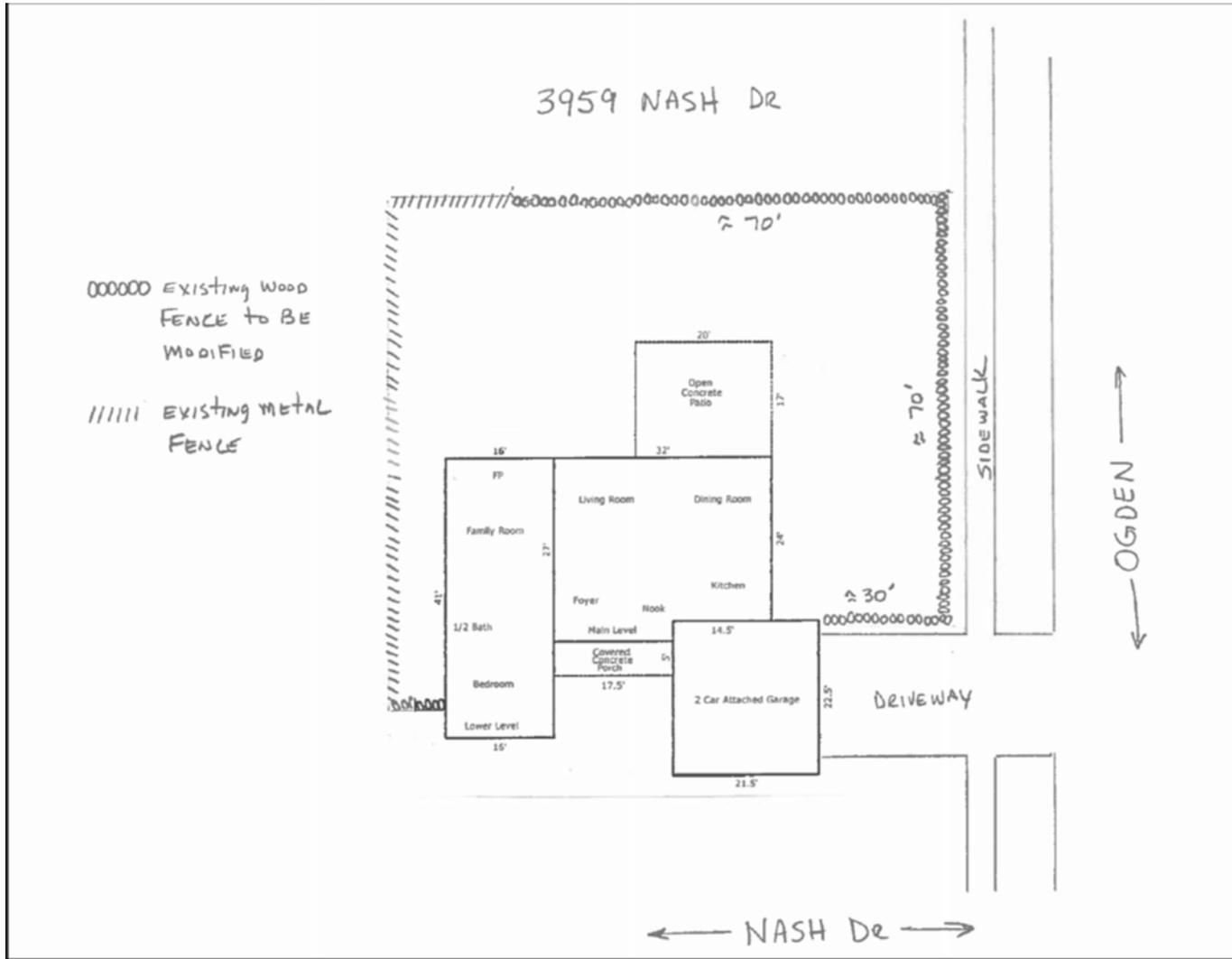
*House*  
*See Attached Sketch*  
*NASH DR*

# Plot Plan with Fence Line

- Modified existing wood fence
- Existing metal fence



# Plot Plan with Fence Line



# Construction Method and Materials

5"x5"x15" vinyl post  
w/brackets and cap  
Color: Wicker

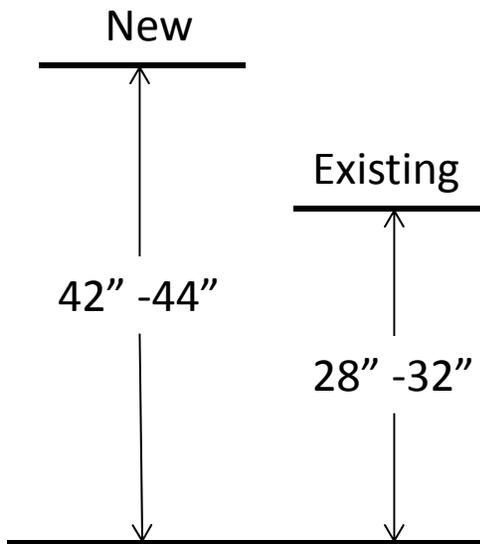
2"x6" Red Cedar  
Length varies

Vinyl post is slip fit over  
existing wood post and  
secured with wood  
screws on four sides

2"x6" fence rail is  
secured to post bracket  
with wood screws



# Construction Method and Materials



# Impact on Area

- Proposed added rail at a height of 42”–44” has little to no impact on surrounding area
- Open fence style provides adequate visibility for both pedestrians using the sidewalk and vehicles entering and exiting the driveway
- Many examples of both open and closed fence variances of this nature approved throughout the city of Troy

# Impact on Area



44" high  
double front setback

# Justification

- Safety of both our dog, pedestrians and other dogs being walked
- Little to no visibility issues for both pedestrians and drivers
- Significant number of similar appeals/requests approved by the Building Code Board of Appeals in the city of Troy

Thank you!

From:  
Lindi



## Kathy Czarnecki

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**From:** Marlene Arnhold <marlene.arnhold@yahoo.com>  
**Sent:** Tuesday, December 23, 2014 12:16 PM  
**To:** Kathy Czarnecki  
**Subject:** Re: 3959 Nash Variance Request

My problem with this proposal is that its not a uniform looking fence. Instead of tearing it down and replacing it with one uniform product they are Jerry-rigging the old fence with plastic to raise the height causing an eye-sore right on the corner at the entrance to the sub-division. This may be acceptable in Warren or Madison Heights, but this is TROY. I just had to pull a permit and install a new back fence in plastic that cost me 4500.00. Why should they get away with such an ugly mish-mash of materials just so they can save money. They are on a corner making that fence a huge eye-sore. It should all be a split rail not half beige plastic. I object to the cheesy mix of materials because the homeowner doesn't want to spend the money to do it right. On the other side of the yard the homeowner has fastened pieces of wood to his neighbors beautiful vertical metal fence, making that look shabby as well. The dog he has is large enough that it won't fit through the slats anyway . This is just my opinion, but I don't want to see the neighborhood slip into an ugly mess with no rules.

Respectfully,  
Marlene Arnhold

Marlene J. Arnhold  
Michigan Real Estate LLC  
Office: 810-523-0459  
Cell: 248-318-5991  
Fax: 248-250-6417

On Tuesday, December 23, 2014 8:28 AM, Kathy Czarnecki <CzarneckiK@troymi.gov> wrote:

Ms. Arnhold,

As promised, here is the application received for a variance request at 3959 Nash.

After checking my files, you are among the residents (300 foot radius) being notified by mail of the variance request that will go before the Building Code Board of Appeals on January 7. The notification gives you information on how to submit public comment. Any written comments will go before the Board prior to the beginning of their meeting and are acknowledged during deliberation of the matter. You can send your comments to [planning@troymi.gov](mailto:planning@troymi.gov).

Again, the meeting is open to the public.

I will be posting the Building Code Board of Appeals agenda on the City's website by the end of business day today. Here is the link;

<http://troymi.gov/Government/BoardsandCommittees?Board=buildingcodeboardofappeals>

Mitch Grusnick, our staff liaison person for the Building Code Board of Appeals (248.524.3354, [grusnickme@troymi.gov](mailto:grusnickme@troymi.gov)), and I are happy to assist you. Please feel free to contact us with any assistance you might need or questions you might have.

Sincerely, Kathy

**Kathy Czarnecki | Planning Department** \_\_\_\_\_

City of Troy | 500 W. Big Beaver, Troy, MI 48084 | Office: 248.524.3364 | [troymi.gov](http://troymi.gov)

“We believe a strong community embraces diversity, promotes innovation, and encourages collaboration. We strive to lead by example within the region. We do this because we want everyone to choose Troy as their community for life. We believe in doing government the best.”