

Standards for Non-Use Variances

1. Special or unique conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures or buildings in the same district.
2. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary.
3. The special conditions and circumstances do not result from the actions of the applicant.
4. The granting of the variance will be in harmony with the general purpose and intent of this ordinance.
5. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
6. The spirit of this ordinance shall be observed, public safety secured and substantial justice done.

RECOMMENDED FORM FOR MOTIONS GRANTING
OR DENYING REQUESTS FOR DIMENSIONAL VARIANCES

MOVE TO GRANT THE VARIANCE REQUESTED:

- I. PRELIMINARY FINDINGS: The variance would:
- A. Not be contrary to public interest; and
 - B. Does not permit the establishment of a prohibited use within a zoning district; and
 - C. Does not cause an adverse effect to properties in the immediate vicinity or zoning district; and
 - D. Relates only to property described in the application for variance.

II. SPECIAL FINDINGS:

- A. The petitioner has any of the following practical difficulties:
- 1. No reasonable use can be made of the property; or
 - 2. Public health, safety and welfare would be negatively affected; or
 - 3. Conforming is unnecessarily burdensome. Variance is not excessive.

AND

- B. These practical difficulties result from the following unusual characteristics of the property:
- 1. (size – e.g.)
 - 2. (location – e.g.)
 - 3. (configuration – e.g.)

ALTERNATIVE TO A AND B

- C. The following significant natural features or resources would be destroyed:
- 1.
 - 2.
 - 3.

*This is a two stage motion. The first stage is to make all the findings under I. If you cannot make all the findings under I, you must deny the variance and state why

If all the preliminary findings are met under I, then you must make special findings under II. This requires that the petitioner demonstrate A(1) or A(2) or A(3) and B. If the purpose of the variance is to preserve natural features, only C applies under II. Therefore to grant a variance you need:

I (A) (B) (C) (D) + II (A) (B)

Or

I (A) (B) (C) (D) + II (C)

MOVE TO DENY VARIANCE REQUESTED

I. PRELIMINARY FINDINGS

- A. It would be contrary to public interest; or
- B. It would permit the establishment of a prohibited use as the principal use within a zoning district; or
- C. It causes an adverse effect to properties in the immediate vicinity; or
- D. Relates to property not described in the application for the variance.

(If any of the above, you must state the facts for the finding.)

OR

II. SPECIAL FINDINGS

- A. The petitioner has not demonstrated any practical difficulty; or
- B. The petitioner's problem or practical difficulties do not result from any unusual characteristics of the property because:
 - 1. They are the result of the proposed use and not the property – e.g.
 - 2. They are economic alone – e.g.
 - 3.

OR

- C. No significant natural features or resources are negatively affected.

RECOMMENDED FORM FOR MOTIONS GRANTING OR
DENYING REQUESTS TO EXPAND NONCONFORMING USES

MOVE TO GRANT EXPANSION OF NONCONFORMING USE:

I. PRELIMINARY FINDINGS: Expansion would

- A. Not be contrary to public interest; and
- B. Does not cause an adverse effect to properties in the immediate vicinity or zoning district; and
- C. Relates only to property described in the application for variance.

II. SPECIAL FINDINGS:

A. The petitioner has a hardship due to the following exceptional conditions applying to the property:

- 1. Expansion is necessary to implement the spirit of the ordinance because (state facts).

OR

- 2. Expansion is necessary to insure public safety because (state facts).

OR

- 3. Expansion is necessary to accomplish substantial justice because

AND

- B. Expansion is necessary for the preservation and enjoyment of substantial property rights possessed by the subject property because (state facts).

III. CONDITIONS:

Expansion is conditioned upon petitioner complying with all requirements of the City Code applicable to the subject use as if the use was in the proper zoning district.

MOVE TO DENY EXPANSION OF A NONCONFORMING USE:

I. PRELIMINARY FINDINGS:

- A. It would be contrary to the public interest because . . . (state facts) or
- B. It would cause an adverse effect to properties in the immediate vicinity because . . . (state facts) or
- C. Relates to property not described in the application for expansion.

OR

II. SPECIAL FINDINGS:

- A. The petitioner has not demonstrated a hardship;

OR

- B. The petitioner's problem or hardship does not result from exceptional conditions applying to the property because:
 - 1. The problem is the result of the proposed use – e.g.
 - 2. The problem is economic alone – e.g.

OR

- C. Expansion is not necessary for the preservation and enjoyment of substantial property rights possessed by the subject property because: (state facts).

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.

INTRODUCTIONS

Chairman introduces staff and Board members. Suggest starting with Recording Secretary and go counterclockwise.



BOARD OF ZONING APPEALS

MEETING AGENDA

REGULAR MEETING

500 W. Big Beaver
Troy, MI 48084
(248) 524-3364
www.troymi.gov
planning@troymi.gov

David Lambert, Chair, and Michael Bartnik, Vice Chair
Glenn Clark, Kenneth Courtney, Donald L. Edmunds
William Fisher, A. Allen Kneale

November 16, 2010

7:30 P.M.

Council Chamber

1. ROLL CALL – Excuse Absent Members if necessary
2. APPROVAL OF MINUTES – October 19, 2010 Regular Meeting
3. POSTPONED ITEMS
 - A. REVIEW AND APPROVAL REQUEST, ROBERT AND GENOVEVA RASCOL, 635 HARTLAND – A request to allow the temporary outdoor parking of a commercial vehicle (stake truck) in a one family residential district.

ORDINANCE SECTION: 43.74.00
4. HEARING OF CASES
 - A. VARIANCE REQUEST, ROBERT WALDRON OF PRO ENTERPRISES INC., PRO CAR WASH WEST, 3785 ROCHESTER ROAD – In order to modify the front of and construct an addition to the rear of the existing car wash, the following variances are requested: 1) A 1 foot variance to the required 40 foot front yard setback, 2) an 8 foot variance to the required 75 foot rear yard setback, 3) a variance from the requirement that two trees be provided along the front of the property, and 4) a 1,539 square foot variance to the requirement that 10% of the site area be landscaped (10% of the site area is 2,927 square feet).

ORDINANCE SECTIONS: 30.20.07, 30.20.07 (note G), 39.70.02 and 39.70.04

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by e-mail at 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.

-
5. COMMUNICATIONS

 6. PUBLIC COMMENT

 7. MISCELLANEOUS BUSINESS

 8. ADJOURNMENT

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The Board of Zoning Appeals meeting was called to order by Chair Lambert at 7:30 p.m. on October 19, 2010, in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:

Michael Bartnik
Kenneth Courtney
Donald L. Edmunds
William Fisher
A. Allen Kneale
David Lambert

Absent:

Glenn Clark

Also Present:

Paul Evans, Zoning and Compliance Specialist
Allan Motzny, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF MINUTES

Resolution # BZA 2010-10-044

Moved by Edmunds
Seconded by Courtney

MOVED, To approve the September 21, 2010 Regular and Study Session meeting minutes as published.

Yes: All present (6)

Absent: Clark

MOTION CARRIED

3. POSTPONED ITEMS

A. **VARIANCE REQUEST, JOSEPH MANIACI, MONDRIAN PROPERTIES WESTON DOWNS LLC, VACANT SITES AT 694, 702 AND 710 SEABISCUIT AND 3901, 3909, 3925, 3933 AND 3941 APPALOOSA (WESTON DOWNS)**

– In order to construct 8 detached condominium units, a variance to allow the minimum distance between buildings to be no less than 10 feet. Chapter 31.30.00 (L) of the Zoning Ordinance allows no less than a 20 foot minimum distance between buildings.

Mr. Evans announced receipt of written correspondence from the applicant requesting to withdraw the item. Mr. Evans said the applicant would be required to re-apply and proper noticing would be required in accordance with State law should the applicant wish to pursue the variance in the future. He indicated it would be appropriate for the Board to entertain a motion to accept the withdrawal request.

Resolution # BZA 2010-10-045

Moved by Courtney
Seconded by Fisher

MOVED, To accept the applicant’s withdrawal request.

Yes: All present (6)
Absent: Clark

- B. **VARIANCE REQUEST, YACOUB MURAD, VACANT LOT ADJACENT TO AND EAST OF 734 AMBERWOOD** – In order to build a new house, 1) a 5 foot variance from the required 10 foot side yard setback, and 2) a 15 foot variance from the required 45 foot rear yard setback.

Mr. Evans announced receipt of a letter from the applicant requesting to withdraw the item. Mr. Evans said the applicant would be required to re-apply and proper noticing would be required in accordance with State law should the applicant wish to pursue the variance in the future. He indicated it would be appropriate for the Board to entertain a motion to accept the withdrawal request.

Resolution # BZA 2010-10-046

Moved by Courtney
Seconded by Edmunds

MOVED, To accept the applicant’s withdrawal request.

Yes: All present (6)
Absent: Clark

4. **HEARING OF CASES**

Chair Lambert announced that four (4) affirmative votes are required for approval to grant or deny a request. He indicated that because one Board member is absent at tonight’s meeting, the Applicant has the option to request their item be postponed to a future date certain where a full Board might be present.

- A. **REVIEW AND APPROVAL REQUEST, ROBERT AND GENOVEVA RASCOL, 635 HARTLAND** – A request to allow the temporary outdoor parking of a commercial vehicle (stake truck) in a one family residential district.

The applicant, Robert Rascol, was present. Mr. Rascol requested to postpone the request to the November 16, 2010 regularly scheduled meeting.

Mr. Evans confirmed that notice of this Public Hearing was given in accordance with the State law and the Zoning Ordinance, and that further notice is not required should the Board grant postponement to a date certain.

Resolution # BZA 2010-10-047

Moved by Courtney

Seconded by Kneale

MOVED, To postpone the item to the November 16, 2010 Regular meeting.

Yes: All present (6)

Absent: Clark

MOTION CARRIED

- B. **VARIANCE REQUEST, DAVID J. ZABLOCKI, 3920 CHESTNUT HILL COURT** – In order to enlarge the existing deck so that it is 21 feet from the rear property line, 1) a 9 foot variance to the requirement that unenclosed decks may extend into the required rear yard setback by no more than 15 feet, and 2) a 4 foot variance to the requirement that the unenclosed deck be set back at least 25 feet from the rear property line.

The applicant, David Zablocki, was present. Mr. Zablocki indicated he would like the Board to hear his request tonight, acknowledging his right to postpone due to there not being a full Board.

Mr. Evans gave a brief report on the proposed variance request with respect to its location and zoning of adjacent properties and addressed the requested setback variances. He reviewed the photographs submitted by the applicant.

Chair Lambert noted the application indicated the primary reason for the variance request is a safety concern for his children in relation to the slope of the pond. He asked if there are any other steps legally that the applicant could take to address the safety concerns, such as filling in the pond or putting up a fence.

Mr. Evans said the applicant would be allowed to put up a six-foot high fence along the rear and side property lines.

Mr. Bartnik said it appears from the photographs that the deck is already under construction.

Mr. Evans agreed, and said the applicant would address that.

Mr. Zablocki said he would like to expand the existing deck for the safety of his children when they are outside. He addressed concerns with the lot elevations, the natural pond owned by his neighbor and the Rouge River to the south. Mr. Zablocki confirmed that construction of the deck is in progress. He voluntarily stopped the project when he heard by word of mouth that the City requires a permit, and it is his intent to comply with City requirements. Mr. Zablocki stated his neighbors are supportive of the project because they believe the deck will add value to the neighborhood. Mr. Zablocki noted documentation from neighbors in support of the

deck is on file. Mr. Zablocki addressed the deck design and appearance, and its relation to the sight line of his children when they are outside.

There was discussion on how to redesign the deck so that it might fit within the required setbacks. The existing deck is approximately 10 feet deep at its maximum depth. The deck expansion would be at the same elevation and blend into the existing deck. It was determined that the existing deck could be lengthened by about 7 feet maximum and still be within the zoning requirements.

Mr. Edmunds asked the applicant to address the practical difficulty with the land that necessitates the requested variance.

Mr. Zablocki addressed the layout of the property; the elevation and slope variations, the pond, the Rouge River, the existing walkout basement and sight distance to keep children in view. He said installing a fence along the rear property line (263') would be a financial challenge, as well as taking away the beauty of the lot. Mr. Zablocki indicated the existing berm is necessary to prevent potential flooding problems. Mr. Zablocki said they moved into the house in August of this year, and they believe the deck would add value to their home as well as to neighboring homes.

Mr. Motzny stated the City Ordinance as well as the Zoning Enabling Act does not allow the Board to grant a variance based solely on financial considerations, but he noted the Board can consider financial information as relates to other determinations made under the Ordinance.

Mr. Kneale asked if the Board can consider the impact of an aesthetic issue to the property as part of its determination.

Mr. Motzny replied that a portion of the City Ordinance allows the Board to consider environmental impacts; for instance, a practical difficulty based on a significant natural feature that would be negatively affected.

Mr. Evans confirmed that the same dimensional setback requirements would apply if a patio at ground level were proposed.

PUBLIC HEARING OPENED

No one was present to speak. Chair Lambert noted that written correspondence from three neighbors in support of the variance request is on file.

PUBLIC HEARING CLOSED

Discussion continued on modifications to the deck design.

Resolution # BZA 2010-10-048

Moved by Bartnik

Seconded by Edmunds

MOVED, To deny the variance request.

Special Findings:

- There is not a practical difficulty that runs with the land. It is a self-created problem as the property has been purchased within the last several months and a matter of which the applicant should have exercised due diligence prior to buying.
- There are significant natural features that would be negatively impacted if the variance were granted; namely, the pond and the Rouge River are both natural features which should be preserved. In this instance, there would be some encroachment onto the aesthetic view of those features.

Discussion on the motion on the floor.

Mr. Courtney said he does not see the deck as a detriment to the pond or the Rouge River. He is not sure that one can see the Rouge River from the deck unless the trees are bare, and he believes the pond is located too far away for any negative impact.

Mr. Bartnik said that although he wants people to move into Troy and buy beautiful pieces of property, from viewing the photographs provided by the applicant, it appears the deck would extend out into the visual area of the pond and interfere with the natural features of the pond.

Mr. Zablocki said they took into consideration the pond, the Rouge River and the differences in elevations when they bought the house.

Mr. Zablocki further discussed the deck dimensions and photographs. He voiced the support of his neighbors to build an aesthetically pleasing deck. Mr. Zablocki said the deck would not impact any view of the water, nor interfere with visual sight line of the water and pond from neighboring properties. He addressed the elevation issues and said they cannot be resolved by fill.

Discussion continued on alternative ways to expand the deck within the parameters of the Zoning Ordinance:

- Expand width of existing deck in other locations.
- Construct deck along the entire rear width of the house.
- Reconfigure stairs.

Mr. Kneale commended the applicant in following through with City regulations. Mr. Kneale said he does not believe there is an aesthetic impediment to the Rouge River, the pond or the scenic nature of the trees. He believes there are other options the applicant could consider to build a deck without getting a variance from the City.

Mr. Edmunds said the applicant has not demonstrated a practical difficulty with the land. He said the applicant purchased the property knowing that with two small children there always is a safety concern with a pond, and putting up a temporary fence is an alternative.

Mr. Courtney agreed that there appears to be no practical difficulty with the land.

Chair Lambert indicated he would be voting no on the motion to deny the request. Chair Lambert addressed what he sees as practical difficulties with the land; the unusual configuration of the property and the unusual slope in the back yard. He would like to see the applicant consider alternative modifications to the deck design.

Vote on the motion on the floor.

Yes: Bartnik, Courtney, Edmunds, Fisher, Kneale
No: Lambert
Absent: Clark

MOTION CARRIED

5. COMMUNICATIONS

None.

6. PUBLIC COMMENT

There was no one present who wished to speak.

7. MISCELLANEOUS BUSINESS

Resolution # BZA 2010-10-049

Moved by Courtney
Seconded by Fisher

MOVED, To excuse Member Clark from attendance at this meeting.

Yes: Courtney, Lambert
No: Bartnik, Edmunds, Fisher, Kneale
Absent: Clark

MOTION FAILED

Mr. Motzny addressed the following questions posed by Mr. Edmunds, as relates to the granting/denial of commercial vehicle appeals:

- Can and/or should the BZA consider financial hardships in making a determination?

Mr. Motzny: *Under the Zoning Ordinance, it is indicated that in determining whether or not to approve the temporary parking of a commercial vehicle, except for the specific provisions relating to commercial vehicles, the matter should be considered like any other variance request. A variance cannot be granted based on a financial hardship alone. However, that does not mean that financial implications cannot be considered. In determining whether to grant a commercial vehicle request, this Board must determine whether alternatives such as another storage area or building a garage is practical or feasible. In my opinion, if someone presents financial information relating to finding an alternative place to locate a vehicle, I think it is appropriate for the Board to consider financial information as far as the cost involved or the distance involved in making a determination whether or not the alternatives are practical or feasible.*

- Is there any limit as to how many times a permit can be granted?

Mr. Motzny: *The Zoning Ordinance does not state a limit on the number of times one can apply for a commercial vehicle temporary use. I think the intent of the Ordinance is that one could apply again after an approval lapses. Arguably Section 43.74.02 can be interpreted to mean that the Board may only grant a temporary approval for up to two years so that after the two years have elapsed, one cannot re-apply. However, this Board has the authority to make its own interpretation in administering the Zoning Ordinance, so if that question came up, this Board could interpret that Ordinance as it deems appropriate.*

- What constitutes evidence that a person seeking a permit has contacted an alternate secure storage for the vehicle?

Mr. Motzny: *There is no clear answer. In those cases where our office is required to defend in Circuit Court a Board of Zoning Appeals decision, we have to show the decision is supported by substantial, competent and material evidence on the record. Such evidence may include testimony from the applicant that indicates practical and feasible alternatives to store a commercial vehicle were researched. I do not believe swearing-in the applicant is necessary, as long as the information offered in support of the request is part of the public record. I think it would be helpful to give an applicant a list of local storage areas from which quotes can be obtained and presented to the Board so it can use that information in determining whether efforts by the applicant reveal there are no feasible alternative locations for parking of the subject commercial vehicle.*

- What is the City’s notification procedure for renewals of Commercial Vehicle Permits?

Mr. Motzny: Under the Ordinance there is no procedure for a renewal of a commercial vehicle request. If you are granted permission to store a commercial vehicle, once that initial period has expired, it is my opinion you must submit a new application. It is not a renewal.

Mr. Evans: When a commercial vehicle approval expires, should the applicant want to pursue it, he is required to go through the standard application procedure. Proper noticing similar to a variance request (300’ radius) is provided, and the Board considers factors a, b and c of the Ordinance.

There was discussion on the following items:

- Rewrite of Zoning Ordinance.
 - Input from Board of Zoning Appeals.
 - Notification of screen wall renewals.
- Master Plan presentation.
- Commercial/recreational vehicle regulations.

8. ADJOURNMENT

The Board of Zoning Appeals meeting adjourned at 9:12 p.m.

Respectfully submitted,

David Lambert, Chair

Kathy L. Czarnecki, Recording Secretary

3. POSTPONED ITEMS

- A. REVIEW AND APPROVAL REQUEST, ROBERT AND GENOVEVA RASCOL, 635 HARTLAND – A request to allow the temporary outdoor parking of a commercial vehicle (stake truck) in a one family residential district.

ORDINANCE SECTION: 43.74.00



3320

3301

3289

757

3300

3264

675

3242

3238

635

655

3220

471

563

575

587

599

611

623

695

705

715

HARTLAND

620

630

640

672

680

690

710



3320

3301

3289

757

3300

675

(R-1E)

3264

3242

3238

635

655

695

705

715

7

3220

471

563

575

587

599

611

623

HARTLAND

620

630

640

672

680

690

710

RECOMMENDED FORM FOR MOTIONS GRANTING REVIEW AND APPROVAL OR DENIAL OF TEMPORARY PARKING OF COMMERCIAL VEHICLES IN ONE-FAMILY RESIDENTIAL DISTRICTS

MOVE TO GRANT THE REQUEST:

1. The request must meet standard C below, and then
2. The request must meet either standard A OR B below
 - a. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
 - b. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
 - c. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).
3. The approval cannot be for a period exceeding 2 years

MOVE TO DENY THE REQUEST:

The request does not meet standard C

OR

The request meets standard C but does not meet standard A OR B.

CITY OF TROY

BOARD OF ZONING APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248- 524-3364
FAX: 248-524-3382
E-MAIL: planning@troymi.gov
http://www.troymi.gov/Planning



FILE NUMBER _____
LOCATION _____
REGULAR MEETING FEE (\$150.00) _____
VARIANCE RENEWAL (\$35.00) _____
SPECIAL MEETING (\$650.00) _____

NOTICE TO THE APPLICANT

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 TWENTY-SEVEN (27) DAYS BEFORE THE MEETING DATE.

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

- 1. ADDRESS OF THE SUBJECT PROPERTY: 635 Hartland
LOT NO. 27 SUBDIVISION Beaver Brook
LOCATED ON THE N SIDE OF (ROAD) Hartland
BETWEEN Rochester AND Livernois
ACREAGE PROPERTY: Attach legal description if this an acreage parcel
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88-20-22-476-014
3. ZONING ORDINANCE SECTIONS THAT ARE APPLICABLE TO THIS APPEAL: 43.74.01
4. REASONS FOR APPEAL: On a separate sheet, please describe the reasons justifying the requested action.
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: yes, Tuesday, September 15, 2009

6. APPLICANT INFORMATION:

NAME Robert & Genoveva Rascol
COMPANY _____
ADDRESS 635 HARTLAND
CITY TROY MI. STATE MI. ZIP 48083
TELEPHONE (248) 619-9448
E-MAIL Sycamore_33@yahoo.com

7. RELATIONSHIP OF APPLICANT TO THE OWNER OF THE SUBJECT PROPERTY:

same.

8. OWNER OF SUBJECT PROPERTY:

NAME Robert & Genoveva Rascol
COMPANY _____
ADDRESS 635 Hartland
CITY TROY STATE Michigan ZIP 48083
TELEPHONE (248) 619-9448
E-MAIL Sycamore_33@yahoo.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, Robert Rascol (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 Robert Rascol DATE 9/16/10
PRINT NAME: ROBERT RASCOL

SIGNATURE OF PROPERTY OWNER Robert Rascol DATE 9/16/10
PRINT NAME: ROBERT RASCOL

We don't own any other property where we could keep our truck. Our lot is 90' by 500'.

Statement describing how the request satisfies standard b

The cost of building a garage that accommodates our truck is over \$20,000.00 (twenty thousand) dollars.

Statement describing how the request satisfies standard c

The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street.







From: [Brent Savidant](#) on behalf of [Planning](#)
To: [Kathy Czarnecki](#); [Paul M Evans](#)
Subject: FW: Zoning Ordinance 43.74.00
Date: Monday, October 04, 2010 8:27:40 AM

FYI, this is in Planning Folder

From: robo2@comcast.net [mailto:robo2@comcast.net]
Sent: Saturday, October 02, 2010 12:28 AM
To: Planning
Subject: Zoning Ordinance 43.74.00

Zoning Appeals Board,

In regards to commerical vehicle parked in residential district at 635 Hartland I live two doors east of owner Robert Rascol and have no problems with Robert parking his truck on his property. His truck and his property are well taken care of and are no eye sore to the neighborhood.

Thank you,
Dennis Ure

ITEM #3 – con't.

Mr. Lambert suggested that the petitioner could go in and speak with City Staff regarding alternate plans.

Mr. Courtney said that the petitioner could come back with a lesser variance request.

ITEM #4 – APPROVAL REQUEST. ROBERT & GENOVENA RASCOL, 635

HARTLAND, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioners are seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F450 stake truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

Mr. Bartnik asked if the three (3) lots to the north of this site had homes on them.

Mr. Stimac stated that he knows that there was at least one existing home and does know for sure if there are others.

Mr. Kovacs stated that he had looked at the area on line and there are three homes on the property.

Mr. Courtney said that he felt those homes would be too far away to see this truck.

Mr. Rascol was present and stated that the truck is slightly larger than a F150 or F250. It is approximately 3' longer, 2' wider and 2' taller than a normal pickup truck. They have lived in Troy since 1996 and previously had lived at 680 Hartland. They had been before Council and received a variance either in 1996 or 1997 and they have not had to appear before a Board since then. In May 2006 they moved across the street to a home that has a larger lot, and the present vehicle is 1' shorter than the original truck. Mr. Rascol has a small tree service and only one truck is required. Due to the economy, it is much easier for them to keep the truck on their property rather than spend the extra money to store it in another location. The truck is not visible and Mr. Rascol would like to be able to keep the truck parked on his property. This is a very large property and if the Board wished, they would be willing to move the truck to another location on their lot.

Mr. Kovacs informed the Board that there are three (3) written approvals on file and two (2) written objections on file.

Mr. Lambert stated that he was probably on City Council the last time this request came before a Board and asked Mr. Rascol if Council had placed any stipulations on this request such as additional screening with landscaping or fencing.

ITEM #4 – con't.

Mr. Rascol said that the last time they had received approval they were not required to add any fencing or landscaping to park the truck on their property. This was at 680 Hartland and it was parked in front of the garage. Mr. Rascol said that he would like to be able to keep his truck on his property.

Mr. Courtney stated that the Ordinance had changed and it may cost the petitioner some money to park the truck elsewhere. Mr. Courtney said that he would be in favor of short term approval to allow the petitioner the opportunity to explore other possibilities for the storage of this truck. Mr. Courtney also stated that it may be possible for Mr. Rascol to build a garage that would hold this vehicle.

Mr. Rascol said that the truck is approximately 10' tall and is not sure that he would be able to fit it inside his attached garage.

Mr. Kovacs asked how high the opening of a garage door could be.

Mr. Stimac said that presently an attached garage could have a door opening with a 10' height.

Mr. Kovacs said that in his opinion the restrictions of the Ordinance do not allow a petitioner to build a garage with a large enough door opening to hold a commercial vehicle.

Mr. Stimac said that there is no limit on the size of the door opening for a detached garage, although the maximum height of a detached garage is limited to 14' to the average roof line.

Mr. Rascol said that he can lower the box of the truck and asked how close he could come to the side property line with the attached garage.

Mr. Stimac said that as long as there is 10' from the side property line on the east side of the house, then the west building line could be within 5' of the property line.

Mr. Rascol said that he would prefer to keep the truck outside.

Mr. Kovacs opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

Mr. Kovacs asked Mr. Rascol about the standards listed on the application and said that the Board had to agree that the petitioner met Item C and either A or B. Mr. Kovacs asked the petitioner how he felt that he met the other criteria.

Mr. Rascol said that in his opinion, he had met all of the criteria listed in order for the Board to grant approval.

ITEM #4 – con't.

Motion by Courtney
Supported by Lambert

MOVED, to grant Robert & Genovena Rascol, 635 Hartland, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of one-year.

- One-year time frame will give the petitioner the opportunity to look into other options for the storage of this vehicle.
- Petitioner met the requirements of A and C.

Mr. Bartnik stated that he did not believe the petitioner met the criteria for either A or B and was concerned about granting this approval for one-year without evidence of either A or B. Mr. Bartnik informed the applicant that it was up to him to provide evidence that he looked for another area to store this vehicle.

Mr. Rascol stated that he would really like to keep this commercial vehicle at his home as he has done for the past ten (10) years.

Mr. Bartnik stated that this was a residential neighborhood and would like to see the motion amended and reduce the amount of time allowed to six months rather than one-year.

Mr. Courtney said that he would be willing to amend the motion for a period of six months, and if during that time period the petitioner had shown that he was trying to enlarge the existing garage, he would be willing to extend that another month or two.

Mr. Kovacs said that the Board is looking for the information it needs that Mr. Rascol has made a solid, reasonable effort to find somewhere else to store this vehicle.

Mr. Kovacs asked for a vote on the motion with the amendment of time allowed from one year to six months.

MOVED, to grant Robert & Genovena Rascol, 635 Hartland, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of six (6) months.

- Six-month time frame will allow the petitioner to explore the possibility of enlarging his attached garage.
- Six-month time frame will allow the petitioner to look into other sites where this vehicle could be stored.

Yeas: 4 – Clark, Courtney, Kovacs, Lambert
Nays: 2 – Wright, Bartnik

ITEM #4 – con't.**MOTION TO GRANT APPROVAL FOR SIX MONTHS CARRIED**

ITEM #5 – VARIANCE REQUEST. VASILE CARSTEA, 5353 LIVERNOIS, for relief of the Ordinance to reduce the width of the driveways by installing gates. The site plan submitted indicates that the gates will reduce the width of both driveways, (Stalwart and Livernois), to 18'. Section 40.25.00 requires a minimum width of 22' for a two-way driveway.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to reduce the width of the existing driveways by installing gates at 5353 Livernois. The site plan submitted indicates installing entrance gates at the north (Stalwart) and east (Livernois) driveways to the parking lot. As shown on the plans, these gates will reduce the width of both driveways to 18'. Section 40.25.00 requires a minimum width of 22' for a two-way driveway.

Mr. Lambert asked if the gate width is set up for public safety purposes such as the ingress and egress of Fire Trucks.

Mr. Stimac stated that he did speak with the Fire Department on this issue and presumably if the Fire Department were arriving to the site, they would not be dealing with on-coming traffic to get to the site. A fire truck can get through an area that is 18' wide. The actual requirement is basically to deal with day to day passenger vehicles trying to go through this opening in both directions simultaneously. Standard parking spaces in the City of Troy are 9 ½' wide and you will be doing two-way traffic with 1' less for two cars if this variance is granted. The gates have already been fabricated.

Mr. Courtney asked for a clarification on the size of parking spaces.

Mr. Stimac said that the width of two parking spaces is required to be 19' and two-way traffic is 22'. A drive aisle is 11' wide.

Mr. Bartnik asked what the width of the pavement on Stalwart as it appeared to him that the north driveway was no narrower than the pavement on Stalwart.

Mr. Stimac stated that the typical width of asphalt street pavement is 22' from edge to edge. Right now the drive at the church is 24 1/2' wide. In a parking lot arrangement where you are actually maneuvering in and out of a parking space the two-way driveway width is actually 24'. Where there are just two cars passing each other in a driveway, the minimum width is 22'. The extra space is required when you are backing out and making a 90° turn.

Mr. Bartnik asked what the zoning of this property was.

ITEM #7 – con't.

Mr. Mark Hayes, 230 McKinley was present. Mr. Hayes stated that for the first five years he lived in this area he was completely unaware that these buildings were on the property. None of the neighbors have any complaints as the property is well maintained. Mr. Hayes read a letter from his wife and she also approves of this request.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals or complaints on file.

Mr. Courtney asked if there were any animals on the property now.

Mr. Brown stated that they have five miniature horses and a dog.

Motion by Lambert

Supported by Courtney

MOVED, to grant W. Kaye Barclay, 5501 Houghten, relief of the Ordinance to maintain a total of 7001 square feet of accessory buildings where Section 40.56.02 limits the square footage of all accessory buildings on this site to not more than 1816 square feet.

- Variance is not contrary to public interest.
- Variance does not permit the establishment of a prohibited use in a Zoning District.
- Variance relates only to the property described in this application.
- Conformance is unnecessarily burdensome.
- Property is large and bordered by a highway and a large commercial development.

Yeas: 6 – Lambert, Ullmann, Bartnik, Clark, Courtney, Kempen

Absent: 1 – Kovacs

MOTION TO GRANT VARIANCE CARRIED

ITEM #8 – APPROVAL REQUESTED. MR. & MRS. ROBERT RASCOL, 635

HARTLAND, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioners are seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F450 stake truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

ITEM #8 – con't.

This item last appeared before this Board at the meeting of March 18, 2008 and the petitioners were granted a six (6) month time frame to look into the option of enlarging the existing garage; and to explore the possibility of parking this vehicle at another site.

Mr. Rascol was present and stated that he and his wife lived in Troy since 1996 and previously had lived at 680 Hartland. They had been before Council and received a variance either in 1996 or 1997. Mr. Rascol went on to say that in October 1998, City Council granted approval for him to keep the truck on his property, which at that time was 680 Hartland. In May 2006 they moved across the street to a home that has a larger lot. Due to the economy, it is much easier for them to keep the truck on their property rather than spend the extra money to store it in another location. The truck is not visible and Mr. Rascol would like to be able to keep the truck parked on his property as it does not affect any of the adjacent property.

Mr. Bartnik said that in March 2008 the petitioner was given a six-month extension in order for him to look at other locations to store this vehicle or to determine whether or not a garage could be built.

Mr. Rascol said that he did not look into storing this vehicle off-site.

Mr. Bartnik stated that this truck has been parked on residential property for ten years and any approval granted is to be on a temporary basis, not longer than two years. City Council gave approval for one year. Ten years is more than temporary usage.

Mr. Rascol said that it was his understanding that the property was adequate to provide parking for this vehicle.

Mr. Courtney stated that the Ordinance has been revised and is now completely different. Mr. Courtney stated that he did not mind if additional time was granted.

A discussion began regarding the approval by City Council and the Board of Zoning Appeals.

Mr. Stimac stated that officially the Ordinance does not call this a temporary approval but does limit the approval of the time frame granted by the Board of Zoning appeals to not more than two (2) years.

Mr. Rascol stated that the truck does not affect his neighbors and he would like to keep it on his property.

Mr. Clark stated that this Board has the ability to approve this request anywhere from six months to two years. Mr. Clark said that he is very familiar with this area and the lots are quite wide and deep. Mr. Clark asked how close the truck was to the neighbors' property.

ITEM #8 – con't.

Mr. Rascol said that it is parked within 5' of the property line and there are a lot of trees that have been planted. Mr. Rascol said that he would be willing to move the truck back on the property.

Mr. Courtney asked how long Mr. Rascol has owned this truck.

Mr. Rascol said that he has owned this truck since 2006.

Mr. Courtney asked how long the neighbor has lived in his home.

Mr. Rascol said that he has been there for a long time and this truck does not bother him at all.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file. There are no written objections on file.

Mr. Lambert stated that he believes the petitioner meets the criteria under Item C, but there is no substantiation regarding Item A or B. Mr. Lambert suggested that the petitioner go out and determine if there is somewhere else he could park this vehicle. Mr. Lambert also stated that he would like this petitioner to come back before the Board with some kind of substantiation that he had explored other alternatives.

Mr. Bartnik said that this is a "permitting situation" and the Ordinance only calls for a temporary approval. Petitioner was granted a six month extension and did not come back before this Board for a year.

Mr. Rascol said that he had spoken to a couple of builders and they estimated that the cost of a garage would be between \$15,000.00 and \$25,000.00. Mr. Rascol said that they would put up a larger garage if they could. Mr. Rascol also stated that he did not check on parking this vehicle at a storage facility. In this economy it is very difficult to pay for outside storage. Mr. Rascol also stated that he believed that as long as he met the criteria listed in Item C, he did not have to meet any of the other criteria.

Mr. Courtney pointed out that the application states that the petitioner has to meet the criteria in Item C and also either A or B.

Motion by Courtney
Supported by Lambert

MOVED, to postpone the request of Mr. & Mrs. Robert Rascol, 635 Hartland, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property until the meeting of September 15, 2009.

ITEM #8 – con't.

- To allow the petitioner to bring in documentation regarding construction of a garage.
- To allow the petitioner to explore other sites to park this vehicle.

Yeas: 4 – Lambert, Ullmann, Courtney, Kempen
Nays: 2 – Bartnik, Clark
Absent: 1 – Kovacs

MOTION TO POSTPONE THIS REQUEST UNTIL SEPTEMBER 15, 2009 CARRIED

Motion by Courtney
Supported by Lambert

MOVED, to excuse Mr. Kovacs from this meeting as he is out of the county on vacation.

Yeas: 6 – Ullmann, Bartnik, Clark, Courtney, Kempen, Lambert
Absent: 1 – Kovacs

MOTION TO EXCUSE MR. KOVACS CARRIED

The Board of Zoning Appeals meeting adjourned at 8:19 P.M.

Glenn Clark, Chairman

Pam Pasternak, Recording Secretary

ITEM #2 – con't.

Absent: 2 – Lambert, Kovacs

MOTION TO GRANT RENEWAL FOR THREE (3) YEARS CARRIED

ITEM #3 - APPROVAL REQUESTED. ANDREW PUMA, 951 E. SQUARE LAKE, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

Mr. Stimac explained that the petitioner is requesting approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The enclosed utility trailer described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy Zoning Ordinance.

This item last appeared before this Board at the meeting of August 18, 2009 and was postponed to this meeting to allow the petitioner to present further documentation to the Building Department regarding the use of this trailer. Mr. Stimac further explained that the petitioner had not given any further documentation to Building Department Staff.

Motion by Courtney
Supported by Bartnik

MOVED, to deny the request of Andrew Puma, 951 E. Square Lake, for approval under Section 43.74.01 to store an enclosed utility trailer outside on residential property.

- Petitioner has indicated that this trailer will not be used for commercial purposes therefore approval is not required.

Yeas: 5 – Ullmann, Bartnik, Clark, Courtney, Kempen
Absent: 2 – Lambert, Kovacs

MOTION TO DENY REQUEST CARRIED

ITEM #4 – APPROVAL REQUESTED. MR. & MRS. ROBERT RASCOL, 635 HARTLAND, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

Mr. Stimac explained that the petitioners are seeking approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property. The Ford F450 stake truck described in the application does not meet the exceptions found in Section 40.66.00 of Chapter 39 of the Troy City Ordinance.

This item last appeared before this Board at the meeting of August 18, 2009 and was postponed to allow the petitioner to bring in documentation regarding costs of

ITEM #4 – con't.

constructing a garage; and also to allow the petitioner to explore other sites to park this vehicle.

Mr. Rascol was present and passed out quotes regarding construction of a garage. Mr. Rascol also stated that he did not find anywhere else to park this truck that would be considered a secure area. Mr. Rascol indicated that he had found commercial sites that may allow him to park his vehicle, but he does not feel they are safe.

Mr. Courtney asked if Mr. Rascol had contacted the Building Department regarding parking of this vehicle and he said that he did not.

Mr. Courtney stated that there is a list of secured parking for commercial vehicles that Mr. Rascol could look at. Mr. Courtney further stated that no one was around this vehicle at this time and asked why Mr. Rascol considered it safe in this location.

Mr. Rascol said that there were neighbors around. Mr. Rascol also brought in paperwork from the City Council meeting from 1998, which he had interpreted as granting approval of the storage of this vehicle outside.

Mr. Courtney pointed out that it was only for one-year.

Mr. Rascol stated that he believed that once he had received approval from City Council he did not need to come back or do anything else.

Mr. Bartnik asked why Mr. Rascol was before this Board.

Mr. Rascol replied that it was because someone from the City had notified him that he needed to do this.

Mr. Bartnik confirmed that the City had let him know there was a violation. Mr. Rascol said that was correct and he wants approval under the existing law.

Mr. Bartnik said that Mr. Rascol does not make any attempts to move this commercial vehicle until he is told there is a violation.

Mr. Rascol said that he believed the approval from City Council was for more than one year.

Mr. Bartnik pointed out that in March 2008, Mr. Rascol was given a six-month time frame to look into other alternatives for this vehicle and he did not come back before the Board. Mr. Rascol apologized.

ITEM #4 – con't.

Mr. Clark stated that Mr. Rascol had given the Board several quotes regarding the construction of a garage ranging in price from \$21,900.00 to \$26,000.00. Mr. Clark asked if Mr. Rascol would be able to construct a garage at this time.

Mr. Rascol said that right now it would be a financial hardship.

Mr. Clark said that this parcel is very deep and there is a list available regarding outside storage of this vehicle.

Mr. Bartnik asked if Mr. Rascol has had a commercial vehicle on his property since he moved to Troy in 1996. Mr. Rascol said that was correct.

The Chairman opened the Public Hearing.

Mr. Alan Brown, 672 Hartland, was present and stated that he lives across the street. Mr. Brown indicated that Mr. Rascol maintains his home and truck and it is never parked beyond the front of the house. Mr. Brown said that you couldn't ask for a better neighbor and is in favor of this request.

No one else wished to be heard and the Public Hearing was closed.

Mr. Kovacs asked how many objections were on file regarding this vehicle.

Mr. Clark looked through the file and determined that there are four (4) approvals and two (2) objections on file.

Mr. Stimac said that these responses did not include the property occupied by Mr. Rascol in 1996 at 680 Hartland.

Motion by Bartnik

MOVED, to deny the request of Mr. & Mrs. Robert Rascol, 635 Hartland, for approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property.

- Petitioner did not meet the criteria outlined in Item C.
- Petitioner has made no attempt to indicate that he is seeking a temporary approval.

Motion to deny fails due to lack of support.

Mr. Kovacs apologized for missing the August meeting and stated that he had been on vacation and also apologized for being late at this meeting.

ITEM #4 – con't.

Mr. Courtney said that he did not like the truck parked in a residential area, but that the location on the side of the house where it was parked was not a problem. Mr. Courtney indicated that he would rather not see a garage constructed on this property and indicated that Mr. Rascol should be looking into alternative parking spots. Mr. Courtney also said that he would be willing to grant a short term approval at this point so that Mr. Rascol could look into other locations to park this vehicle.

Motion by Courtney
Supported by Ullmann

MOVED, to grant Mr. & Mrs. Robert Rascol, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of nine (9) months.

- The petitioner has complied with the requirements of Items B & C.
- To allow petitioner the opportunity to explore other sites on which to park this vehicle.

Mr. Kovacs stated that he did not understand why the petitioner does not meet the criteria outlined in Item C.

Mr. Bartnik said that in his opinion this is a large stake truck and believes that the box makes it appear larger.

Mr. Kovacs stated that the vehicle is always parked behind the front of the house and if it were a recreational vehicle it would be allowed to park in this area.

Mr. Kempen said that he thought the vehicle could be moved farther back on the property.

Mr. Clark stated that he believes it is very difficult for families to keep going in this economy and said that he would like to amend the motion to approve for one-year rather than nine (9) months.

Mr. Courtney said that he would support an amendment as he would rather not see a garage on this site and would rather see the vehicle parked off-site.

Motion by Clark
Supported by Courtney

MOVED, to amend the original motion by striking 9 months and substituting a time period of one (1) year.

ITEM #4 – con't.

- To allow petitioner the opportunity to explore other sites on which to park this vehicle.
- To aid the petitioner during this economic climate.

Mr. Bartnik stated that he is objecting to this motion. This is a residential area, one block north of Big Beaver and he does not believe a commercial vehicle belongs in this location. Mr. Bartnik further stated that he does not understand why the Board would put a commercial vehicle in a residential area. Commercial vehicles devalue property and this approval is in place for people to come before this Board to ask for more time to look for other alternatives. This petitioner did not ask permission again and no effort has been made on his part to find another location. Mr. Bartnik said that he would like to deny both motions as this vehicle has been parked in a residential location for the last 10 to 12 years. Economics have changed up and down over the years and the truck has not been moved.

Mr. Kovacs said that in his opinion the petitioner meets the criteria outlined in Item C and furthermore, if this was a recreational vehicle it could remain in that location indefinitely. In order for this Board to grant approval the petitioner has to meet the criteria in Item C and either A or B. Mr. Kovacs said that he would like to give the petitioner one more year to find another location for this vehicle.

Mr. Clark said that he agrees with Mr. Kovacs in that the petitioner has met the criteria listed in Item C, but doesn't necessarily agree that any type of vehicle could be parked in this location. The facts are that southeast Michigan has been horribly impacted by today's economy and he believes this will only be a temporary situation. There are no traffic concerns in this area and the truck is gone for a good portion of each day. Mr. Clark is in favor of the amended motion.

Mr. Bartnik pointed out that a garage could be constructed based on the quotes brought in by the petitioner and he does not feel the petitioner meets the criteria in Item B.

Vote on motion to amend original motion.

Yeas: 4 – Kovacs, Clark, Courtney, Kempen
Nays: 2 – Bartnik, Ullmann
Absent: 1 – Lambert

MOTION TO AMEND MOTION CARRIED

Vote on amended motion which will state:

MOVED, to grant Mr. & Mrs. Robert Rascol, approval under Section 43.74.01 of the Troy Zoning Ordinance to store a commercial vehicle outside on residential property for a period of one (1) year.

ITEM #4 – con’t.

- The petitioner has complied with criteria B & C.
- To allow petitioner the opportunity to explore other sites on which to park this vehicle.
- To aid the petitioner during this economic climate.

Yeas: 4 – Clark, Courtney, Kempen, Kovacs
 Nays: 2 – Ullmann, Bartnik
 Absent: 1 – Lambert

MOTION TO GRANT APPROVAL FOR A PERIOD OF ONE (1) YEAR CARRIED

Motion by Courtney
 Supported by Ullmann

MOVED, to excuse Mr. Lambert from tonight’s meeting as he is out of town.

Yeas: 6 – Clark, Courtney, Kempen, Kovacs, Ullmann
 Absent: 1 – Lambert

MOTION TO EXCUSE MR. LAMBERT CARRIED

Mr. Stimac informed the Board that it was possible that the October meeting would be cancelled, depending on whether any new applications were received. A discussion began regarding the by-laws of the Board of Zoning Appeals and it was determined that the by-laws do not address the cancellation of a regularly scheduled meeting.

Motion by Courtney
 Supported by Kovacs

MOVED, to allow Mr. Stimac to cancel the next meeting of the Board of Zoning Appeals on Tuesday, October 20, 2009 if no other new items are presented.

Yeas: 6 – Bartnik, Clark, Courtney, Kempen, Kovacs, Ullmann
 Absent: 1 – Lambert

MOTION TO ALLOW MR. STIMAC TO CANCEL THE OCTOBER MEETING CARRIED

Mr. Stimac addressed the Board regarding the memo sent out by the City Manager. Mr. Stimac said that Mr. Szerlag offered to attend a future Board of Zoning Appeals meeting to discuss the plans. He will also be attending other Board’s meetings and would be happy to include the BZA members at any of those meetings as well. Mr. Stimac indicated that he would get a list together of the meetings Mr. Szerlag will be at and pass those along to the Board.

4. HEARING OF CASES

- A. **VARIANCE REQUEST, ROBERT WALDRON OF PRO ENTERPRISES INC., PRO CAR WASH WEST, 3785 ROCHESTER ROAD** – In order to modify the front of and construct an addition to the rear of the existing car wash, the following variances are requested: 1) A 1 foot variance to the required 40 foot front yard setback, 2) an 8 foot variance to the required 75 foot rear yard setback, 3) a variance from the requirement that two trees be provided along the front of the property, and 4) a 1,539 square foot variance to the requirement that 10% of the site area be landscaped (10% of the site area is 2,927 square feet).

ORDINANCE SECTIONS: 30.20.07, 30.20.07 (note G), 39.70.02 and 39.70.04





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3837
3835

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GATWICK

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3801

3740

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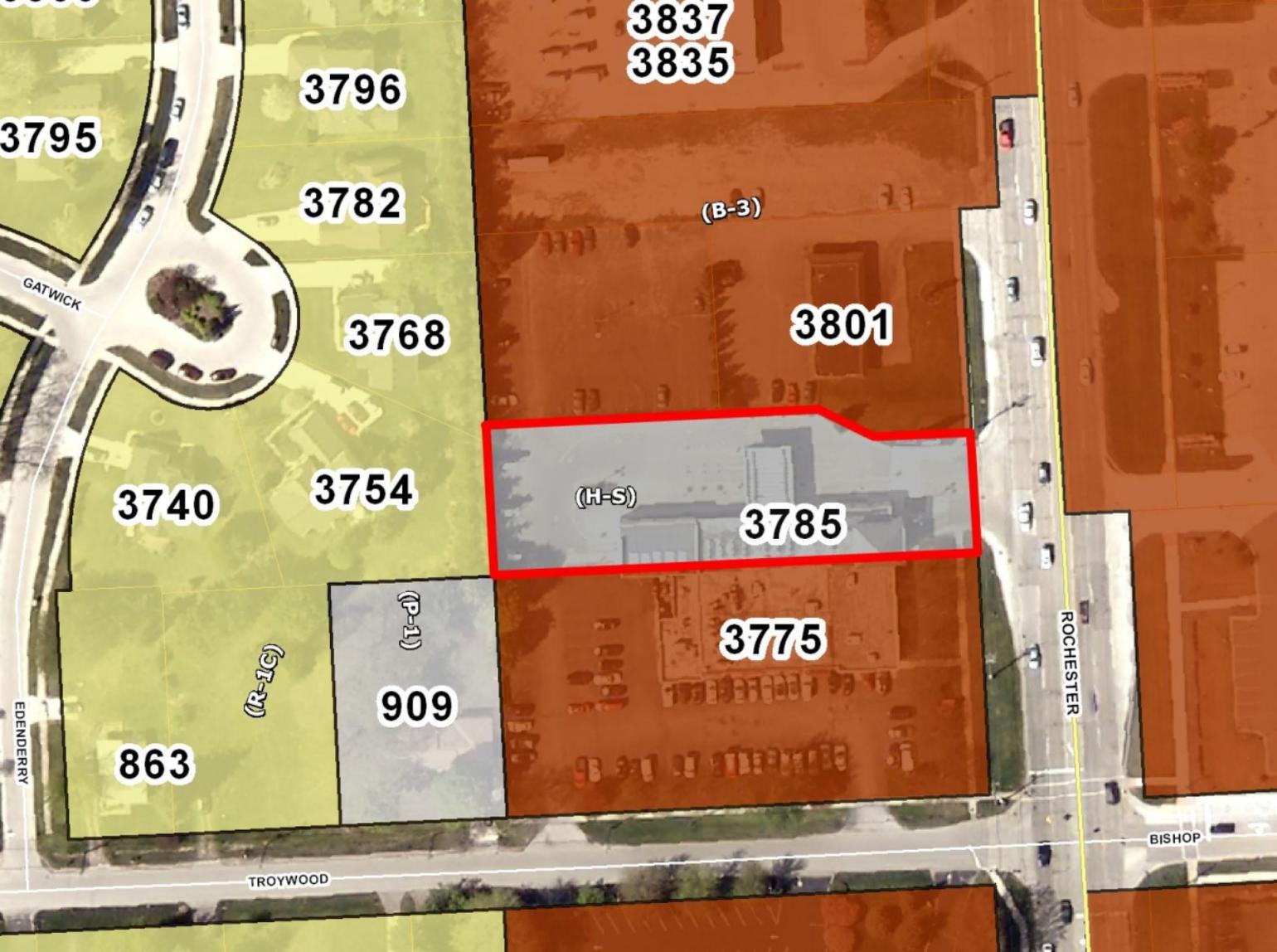
ROCHESTER

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EDENDERRY

TROYWOOD

BISHOP



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(B-3)

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(H-S)

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(R-1C)

(T-d)

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3775

ROCHESTER

BISHOP

EDENDERRY

TROYWOOD

863

CITY OF TROY

BOARD OF ZONING APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248- 524-3364
FAX: 248-524-3382
E-MAIL: planning@troymi.gov
<http://www.troymi.gov/Planning>



FILE NUMBER _____
LOCATION _____
REGULAR MEETING FEE (\$150.00) _____
VARIANCE RENEWAL (\$35.00) _____
SPECIAL MEETING (\$650.00) _____

NOTICE TO THE APPLICANT

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 **TWENTY-SEVEN (27) DAYS BEFORE** THE MEETING DATE.

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

1. ADDRESS OF THE SUBJECT PROPERTY: 3785 Rochester Road, Troy, Michigan 48083
LOT NO. See Legal SUBDIVISION See Legal
LOCATED ON THE West SIDE OF (ROAD) Rochester Road
BETWEEN Troy Wood AND Wattles
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): 88 20 22 226 077
3. ZONING ORDINANCE SECTIONS THAT ARE APPLICABLE TO THIS APPEAL: 30.20.07, 39.70.02, & 39.70.04
4. REASONS FOR APPEAL: *On a separate sheet, please describe the reasons justifying the requested action.*
5. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: Not known.

6. APPLICANT INFORMATION:

NAME Robert Waldron
 COMPANY Pro Ent. Inc.
 ADDRESS 3785 Rochester Road
 CITY Troy STATE Michigan ZIP 48083
 TELEPHONE 248-689-8135
 E-MAIL robertraywaldron@aol.com

7. RELATIONSHIP OF APPLICANT TO THE OWNER OF THE SUBJECT PROPERTY:

TRUSTEE / PRO Enterprise Title

8. OWNER OF SUBJECT PROPERTY:

NAME Martha Waldron
 COMPANY Sentry Inc.
 ADDRESS 3785 Rochester Road
 CITY Troy STATE Michigan ZIP 48083
 TELEPHONE 248-689-8135
 E-MAIL N/A

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, Robert Waldron (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 10-18-10
 PRINT NAME: Robert Waldron

SIGNATURE OF PROPERTY OWNER [Signature] DATE 10-18-10
 PRINT NAME: Martha Waldron



SDA ARCHITECTS, INC.

42490 Garfield - Suite 204

Clinton Twp., MI 48038

(586) 286-9100

Fax: (586) 286-9130

REASONS FOR APPEAL

PRO CAR WASH WEST

3785 Rochester Road, Troy, MI 48083

Revised October 26, 2010

As a general reason to the three appeals being requested, it should be noted that the petitioner would not be proposing to do any work (removing the front section of his existing building and adding on to the back) if the Rochester Road Right-Of-Way hadn't been widened.

Landscape Area (Zoning Ordinance Section 39.70.04):

Reason for Appeal: The reason for the appeal on this Ordinance Section is Landscape Area was lost due to the Rochester Road Right-Of-Way being increased. Also, the elimination of the existing acceleration and deceleration lanes due to the road widening required the widening of the entrance/exit driveway on the property also reducing the amount of Landscape Area.

Practical Difficulty: Existing Site Conditions do not allow a practical place to add Landscape Area sufficient enough to satisfy the Zoning Requirements.

Frontage Trees (Zoning Ordinance Section 39.70.02):

Reason for Appeal: The reason for the appeal on this Ordinance Section is Frontage Tree plantable area was lost due to the Rochester Road Right-Of-Way being increased. Also, the elimination of the acceleration and deceleration lanes due to the road widening required the widening of the entrance/exit drive way on the property also reducing the amount of plant-able area for frontage trees.

Practical Difficulty: Existing Site Conditions do not allow a practical place along the property frontage sufficient enough to satisfy the Zoning Requirements.

Rear Setback (Zoning Ordinance Section 30.20.07):

Reason for Appeal: The reason for the appeal on this Ordinance Section is in order to provide a safe distance between the end of the car wash conveyor and the new road right-of-way the conveyor needs to shift towards the rear of the site – therefore requiring a larger addition at the rear than what is being demolished in the front.

Practical Difficulty: The placement of the existing building does not allow for the required rear setback after placing the minimum size addition to accommodate the shifted conveyor as noted above.

Front Setback (Zoning Ordinance Section 30.20.07[G]):

Reason for Appeal: The reason for the appeal on this Ordinance Section is the portion of the building being demolished back to the required setback can only shift so far before a significant portion of existing construction would also be required to be demolished as well. It should be noted that the entire building meets the required 40' setback except for the two proposed building piers (each at 48" wide). The building piers are being provided to match the existing building Architecture and cannot be made shallower without significantly reducing their visual impact.

Practical Difficulty: By moving the piers back the additional required 0.96' (11-1/2") the portion of East wall and façade proposed to remain as-is will also have to be demolished in order to terminate properly into the upper portion of the building. This would significantly impact this portion of the existing structure, electrical service room, and the proposed relocated emergency egress.

Drawing Reference: Note on North Elevation on Sheet A3.1 "EAST END OF BUILDING REMOVED BACK TO THIS POINT TO ALLOW EXISTING LOWER E.I.F.S. CORNICE TO TERMINATE AGAINST NEW CONSTRUCTION".

6. PUBLIC HEARING – SPECIAL USE APPROVAL AND PRELIMINARY SITE PLAN REVIEW (File Number SU 315-B) – Proposed Pro Car Wash West, West side of Rochester and South of Wattles (3785 Rochester), Section 22, Currently Zoned H-S (Highway Service) District

Mr. Branigan presented a summary of the proposed Special Use and Preliminary Site Plan application. He noted the project requires relief from the Zoning Board of Appeals for rear yard setback and landscaping deficiencies; therefore no action is requested or required. He specifically addressed parking and stacking requirements, site access and circulation.

There was a brief discussion on the following:

- Handicapped spaces.
- Zero lot line.
- Dumpster.
- Designated planting areas.

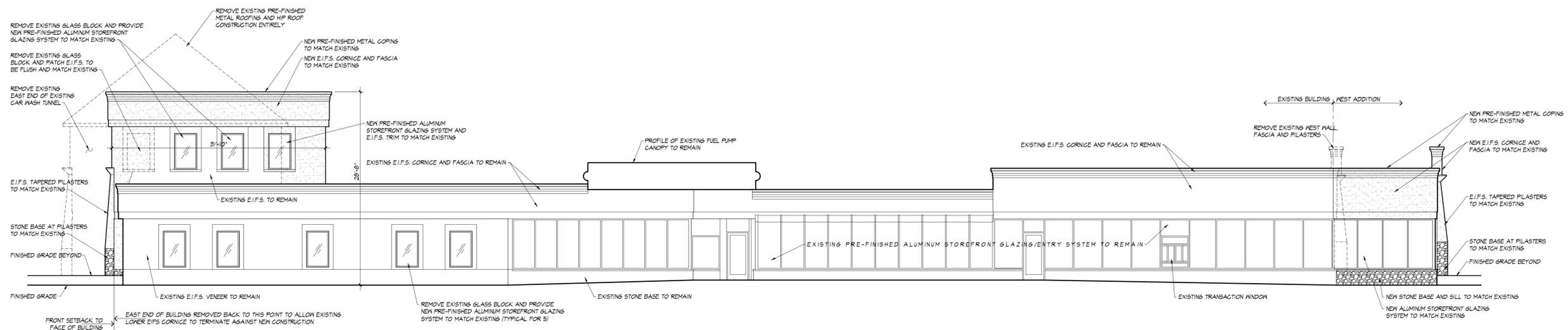
The petitioner, Robert Waldron of 3785 Rochester Road, Troy, was present. Mr. Waldron briefly addressed landscaping and remodeling issues in relation to the Rochester Road widening.

PUBLIC HEARING OPENED

No one was present to speak.

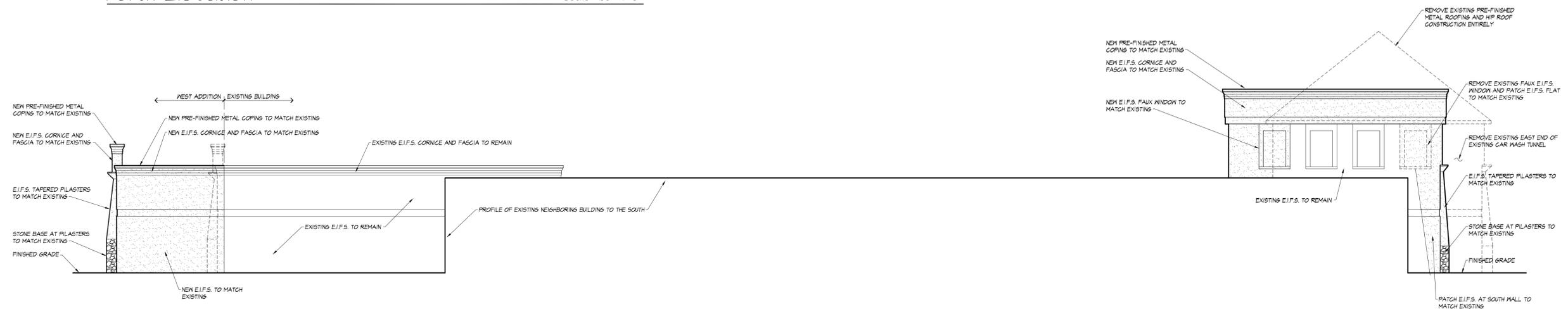
PUBLIC HEARING CLOSED

There was discussion on the coordination of scheduling meetings for applications that require variances from the Board of Zoning Appeals.



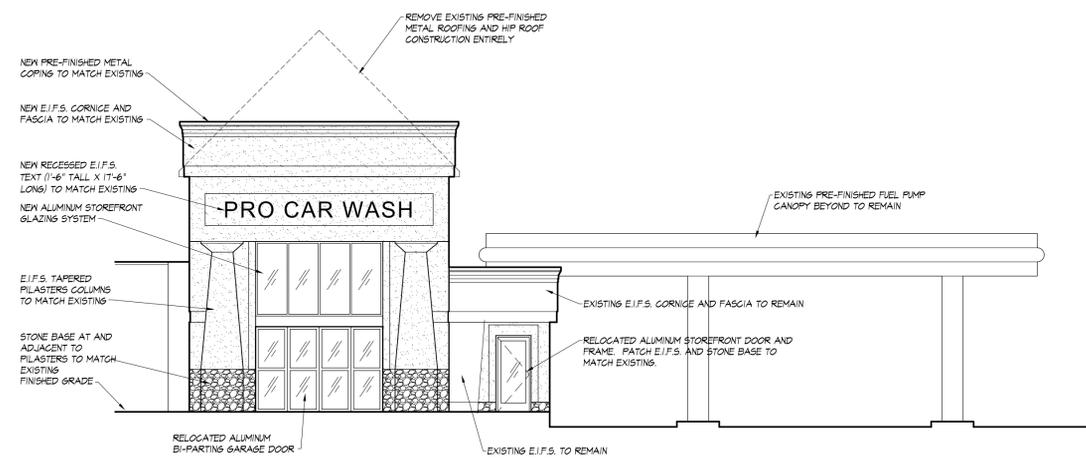
North Elevation

Scale: 1/8"=1'-0"



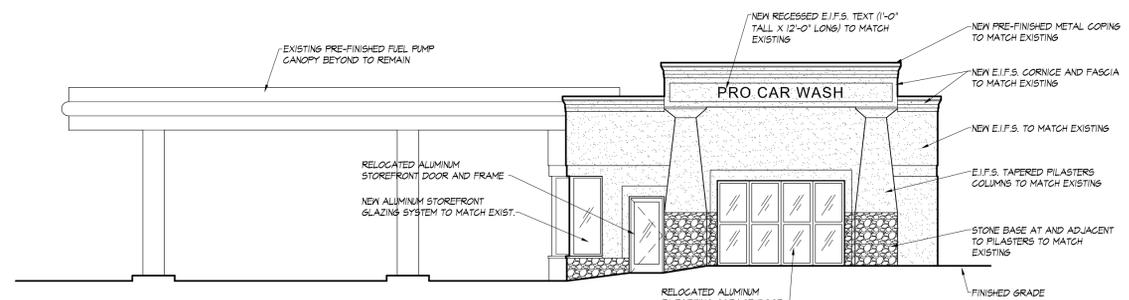
South Elevation

Scale: 1/8"=1'-0"



East Elevation

Scale: 1/8"=1'-0"



West Elevation

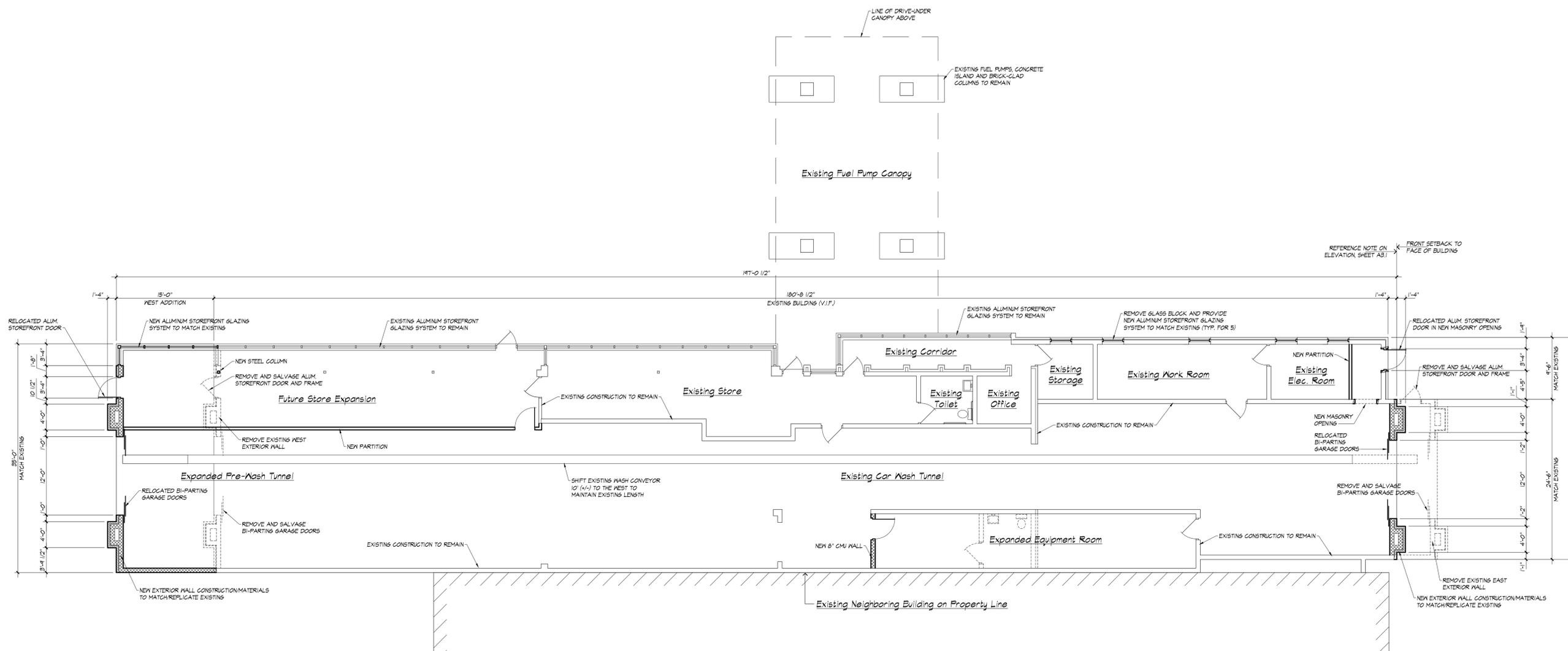
Scale: 1/8"=1'-0"



Pro Car Wash West

3785 Rochester Road
Troy, Michigan

Date	Issued For
09/01/10	AS BUILT
09/08/10	CLIENT REVIEW
09/14/10	SITE PLAN APPROVAL



Architectural Floor Plan

Scale: 1/8" = 1'-0"



Sheet Number

A2.1

Architectural Floor Plan

Project Number

10-124

TABULATION

ZONING:
SITE: H-S HIGHWAY SERVICE DISTRICT

SITE AREA:
SQUARE FOOTAGE: 30,427 S.F.
ACRES: .7

BUILDING AREA:
EXISTING BUILDING: 4,100 S.F.
PROPOSED ADDITIONS: 2,404 S.F.
TOTAL BUILDING AREA: 6,504 S.F.

PARKING REQUIRED:

REQUIRED CAR STACKING SPACES:
1 PARKING SPACE FOR EACH EMPLOYEE AND 5 CARS FOR EACH 20 FEET OF WASH LINE
LENGTH OF BUILDING AFTER ADDITION = 187'-0"
187.0/20 = 9.35 X 5 = 47 STACKING SPACES

PROVIDED CAR STACKING SPACES: 47
STACKING SPACE INDICATED 19 FOOT X 9 1/2 FOOT

REQUIRED PARKING SPACES FOR EMPLOYEES: 4

PARKING PROVIDED FOR EMPLOYEES: ④

REQUIRED PARKING SPACES FOR CUSTOMERS: 2

PARKING PROVIDED FOR CUSTOMERS: ②

VACUUM STATIONS EXISTING TO REMAIN
REQUIRED SPACES: 6
PROVIDED SPACES: ⑥

LANDSCAPING:
REQUIRED LANDSCAPING SITE AREA: 30,427 SF. X .10% = 3,043 S.F.

EXISTING LANDSCAPING SQUARE FOOTAGE: 2,410 S.F.
EXISTING LANDSCAPING TO BE REMOVED: (-359 S.F.)

PROPOSED LANDSCAPING SQUARE FOOTAGE: (1485 S.F.)
TOTAL SQUARE FOOTAGE AFTER PROPOSED ADDITION: 2,536 S.F.
LANDSCAPING ADDED: 2,536 S.F.

LANDSCAPE LEGEND

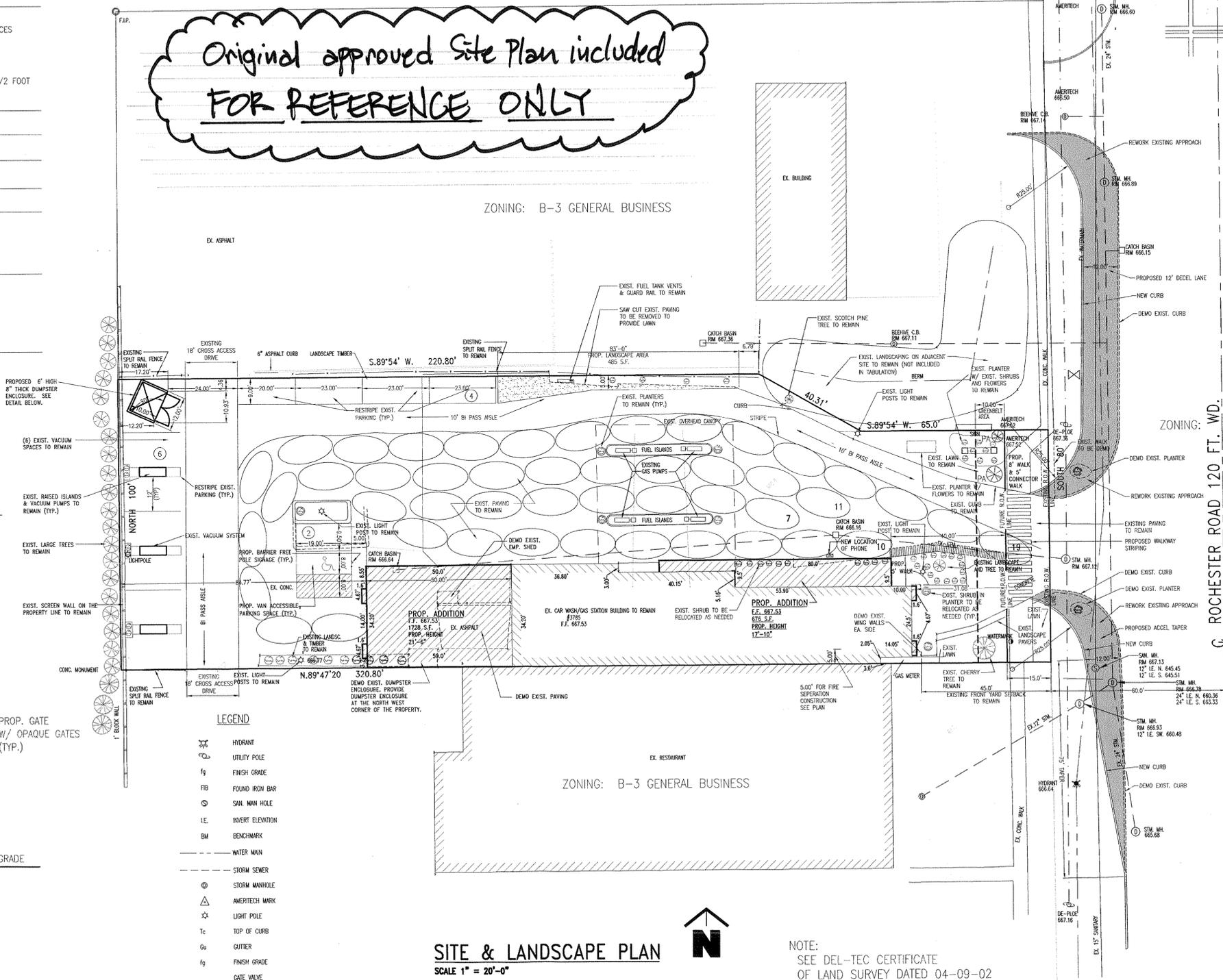
SYMBOL	DESCRIPTION	QTY.	SIZE
	PICEA ABIES	2	10" MIN. AT TIME OF PLANTING
	NORWAY SPRUCE		

LEGAL DESCRIPTION
(88-20-23-156-002)
T2N, R11E, SEC23, PART OF NW 1/4, BEGIN AT NW SEC CORNER S. 00° 12' 22" E. 110.18 FT. THENCE N. 89° 15' 22" E. 420.76 FT. THENCE 00° 11' 35" W. 100.38 FT. THENCE S. 89° 46' 25" W. 420.76 FT. TO THE POINT OF BEGINNING. 1.04 ACRES

CONSTRUCTION NOTE
UTILITY INFORMATION AS SHOWN INDICATES APPROXIMATE LOCATIONS AND TYPES OF FACILITIES ONLY, AS DISCLOSED TO THIS FIRM BY THE WADCOX UTILITY COMPANY'S RECORDS. NO GUARANTEE IS GIVEN OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF.
PRIOR TO CONSTRUCTION, ALL LOCATION AND DEPTHS OF EXISTING OVERHEAD AND UNDERGROUND UTILITIES (IN CONFLICT WITH THE CONSTRUCTION OF PROPOSED IMPROVEMENTS) SHALL BE VERIFIED IN THE FIELD.
DURING CONSTRUCTION, CONTRACTOR SHALL USE EXTREME CAUTION WHEN OPERATING NEAR OVERHEAD AND/OR BURIED UTILITIES. CALL MISS. DIG.

BENCHMARKS
BENCHMARK #22-N-1 "ARROW" ON HYDRANT SW. CORNER OF ROCHESTER RD. & WATLIES RD. ELEV. 670.44
BENCHMARK #1 "ARROW" ON HYDRANT AT #3845 ROCHESTER RD. ELEVATION 670.28
BENCHMARK #2 "ARROW" ON HYDRANT AT #3775 ROCHESTER RD. ELEVATION 668.89

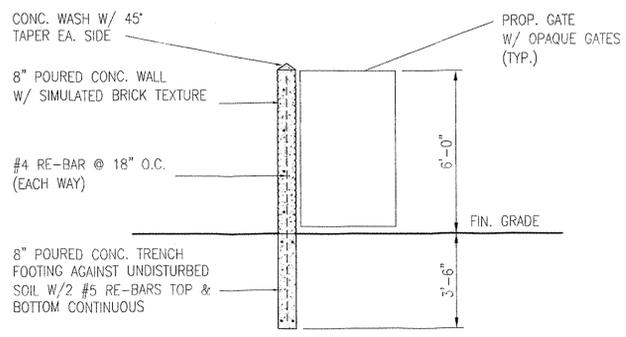
Original approved Site Plan included FOR REFERENCE ONLY



LOCATION MAP
4" = 1 MILE

SHEET INDEX

- C1. SITE PLAN (THIS SHEET)
- C2. SITE SURVEY PLAN
 - 1. FOUNDATION PLAN
 - 2. FLOOR PLAN
 - 2.1 U.L. DESIGN NUMBERS SPECIFICATIONS
 - 3. ELEVATIONS
 - 4. ROOF FRAMING PLAN
 - 5. ROOF PLAN
 - 6. SECTION "A"
 - 7. SECTION "B"
 - 8. SECTION "C"
 - 9. SECTION "D"
 - 9.1 SECTION "E" AND SECTION "F"
 - 10. MECHANICAL PLAN
 - 11. ELECTRICAL PLAN



LEGEND

	HYDRANT
	UTILITY POLE
	FINISH GRADE
	FOUND IRON BAR
	SAN. MAN HOLE
	I.E. INVERT ELEVATION
	BM BENCHMARK
	WATER MAIN
	STORM SEWER
	STORM MANHOLE
	AMERITECH MARK
	LIGHT POLE
	TOP OF CURB
	GUTTER
	FINISH GRADE
	DATE VALVE

SITE & LANDSCAPE PLAN
SCALE 1" = 20'-0"

NOTE:
SEE DEL-TEC CERTIFICATE OF LAND SURVEY DATED 04-09-02

REVISIONS

22 MARCH 2000
18 APRIL 2000
4 DEC. 2000
13 DEC. 2000
22 MARCH 2001
1 MAY 2001
14 SEPTEMBER 2001
6 MARCH 2002
MARCH 20, 2002
PLANNING
24 APRIL 2002
PLANNING DEPT.
7 MAY 2002
PLANNING DEPT.
28 JUNE 2002
HIP ROOF
16 JULY 2002
HIP ROOF
26 AUGUST 2002
BLDG. PERMIT
4 APRIL 2004
APPROACH REVISION
5 JULY 2006
OWNERS REVIEW
11 JULY 2006
18 JULY 2006
OWNERS REVIEW
8 SEPTEMBER 2006
OWNERS REVIEW
8 NOVEMBER 2006
PERMIT RESUBMITTAL
16 NOVEMBER 2006
PERMIT RESUBMITTAL
4 JANUARY 2007
PERMIT RESUBMITTAL

PROPOSED ADDITIONS FOR
PRO CAR WASH
3785 ROCHESTER RD.
TROY, MI 48064

QUINLAN ASSOCIATES
31325 HARPER
ST. CLAIR SHORES, MI 48082
(810) 394-4900
FAX 394-4978

quinalan asso^o ARCHITECTS AND ENGINEERS

DRAWN BY:
J.P.

CHECKED BY:

DATE:
14 OCT. 1999

SCALE:
AS NOTED

JOB NO.
9966

SHEET NO.
C1

OF 15 SHEETS



CARLISLE/WORTMAN ASSOCIATES, INC.
Community Planners /Landscape Architects

605 S. Main, Suite 1
Ann Arbor, MI 48104
734-662-2200
fax 734-662-1935

6401 Citation Drive, Suite E
Clarkston, MI 48346
248-625-8480
fax 248-625-8455

Date: October 6, 2010

Special Land Use Review For City of Troy, Michigan

Applicant: Robert Waldron on behalf of Martha Waldron

Project Name: Pro Car Wash West

Plan Date: September 14, 2010

Location: 3785 Rochester Road

Zoning: H-S, Highway Service

Action Requested: Preliminary Site Plan Approval

Required Information: Deficiencies noted

PROJECT AND SITE DESCRIPTION

We are in receipt of a special land use and preliminary site plan submittal for a building addition to an existing car wash facility. In addition, the east elevation will be modified and several site improvements are proposed.

Location of Subject Property:

The property is located near the corner of Troywood Drive and Rochester Road (3785 Rochester Road) in section 22.

Size of Subject Property:

The parcel is 0.67 acres in size.

Proposed Uses of Subject Parcel:

The applicant proposes to expand the existing building at the west end by fifteen (15) feet, adding 523 square feet of floor area. This addition accommodates an extended pre-wash tunnel for the existing car wash facility. Additionally, the applicant is proposing to remove and replace the east exterior wall of the car wash facility decreasing this portion of the building by 155 s.f. The new building configuration will encompass 6,872 s.f. of total space consisting of a car wash, store, and mechanical / storage / office facilities. A new car wash automated pay station is also proposed within the proposed landscaped area north of the barrier-free parking space at the west end of the site.

Current Use of Subject Property:

The property is currently used as an automatic car wash where engine fuels are sold as a significant part of the operation and features a store, cashier window, three vacuum stations, and four multiple product dispensing gasoline pump units.

Current Zoning:

The property is currently zoned H-S, Highway Service. Section 23.30.03 permits auto washes where engine fuels are sold as a significant part of the operation in the H-S District as a use permitted subject to special land use approval and to the provisions of Chapter 71 of the City Code.

Zoning Classification of Adjacent Parcels:

North: B-3 General Business District.
South: B-3 General Business District.
East: B-3 General Business District.
West: R-1C One-Family Residential.

Future Land Use Plan Designation:

The property is located in the Rochester Road Future Land Use Plan designation.

AREA, WIDTH, HEIGHT, SETBACKS

Required and Provided Dimensions:

Section 30.20.07 requires the following setbacks and height limits:

Setbacks from FUTURE R.O.W.	<u>Required:</u>	<u>Provided:</u>
Front (east)	40 feet (car wash) 25 feet (canopy edge) 35 feet (canopy support) 30 feet (pump island)	40.36 feet (car wash) 95 feet (canopy edge) 95 feet (canopy support) 94 feet (pump island)
Side (south)	0 feet (car wash) 10 feet (canopy edge) 20 feet (canopy support) 20 feet (pump island)	0 feet (car wash) 35 feet (canopy edge) 35 feet (canopy support) 42 feet (pump island)
Side (north)	10 feet (car wash) 10 feet (canopy edge) 20 feet (canopy support) 20 feet (pump island)	57 feet (car wash) 17 feet (canopy edge) 17 feet (canopy support) 22 feet (pump island)
Rear (west)	75 feet (car wash) 75 feet (canopy edge) 75 feet (canopy support) 75 feet (pump island)	68.4 feet (car wash) 148 feet (canopy edge) 148 feet (canopy support) 147 feet (pump island)
Building Height	40 feet (car wash) 40 feet (canopy)	28.7 feet (car wash) Unknown (canopy)

The proposed building addition encroaches upon the required rear yard setback by 6.6 feet. This will have to be addressed through altering the site plan or obtaining a variance from the Zoning Board of Appeals.

Items to be Addressed: Address rear yard setback deficiency.

PARKING, LOADING

Proposed Parking:

The site plan indicates that 59 spaces are proposed, including one handicapped space, the 8 pump island spaces, 39 stacking spaces for the car wash, and employee and customer spaces for the store.

Parking Calculations:

The parking calculations are as follows.

	<u>Required</u>
Pump Islands	1 per pump station = 8 spaces
Automobile Wash	5 Stacked cars/20 feet of wash line = $197/20 * 5 =$ 50 stacking spaces
Employees	1/employee = 4 spaces
Retail	1/200 sf. Of gross floor area = $1635 /200 =$ 8 spaces
Total Required	20 spaces + 50 stacking spaces = 70 spaces
Total Provided	12 regular parking spaces, 8 pump station spaces. The applicant also claims that 47 stacking spaces are provided; however we believe that several of these spaces are ineligible to be considered stacking spaces, and conflict with pump spaces that are not shown on the drawings.

Parking Deficiency:

The increased automatic car wash square footage results in an increase in required stacking spaces. The site plan proposes some stacking spaces which clearly conflict with the fuel pump parking, however. We calculate that the site plan only provides 33 spaces that can truly be considered stacking spaces for the car wash. The Zoning Ordinance requires stacking parking calculations to be based upon feet of wash line. Automobile wash stacking spaces must be provided at a rate of five spaces per 20 feet of wash line, or in this case, 50 spaces. Therefore, the site is deficient 15 automobile wash stacking spaces. However, 47 spaces are shown on the site plan, and were there to be no vehicles at the pump stations; it is conceivable that all 47 spaces shown could be occupied. Of course, access not only to the refueling stations, but also to the access and exit lanes would also be restricted if all 47 spaces were occupied.

We believe it is highly unlikely that over 40 vehicles would occupy the site for refueling simultaneously, and if they did, no customers would enter the site for refueling only. It is likely that customers who are entering the site would refuel and attain a car wash or patronize the store, which would also ease the burden on the stacking spaces by bringing the refueling spaces into play. That said, we do believe that the stacking spaces shown meet minimum requirements.

Two (2) parking spots are blocked by the car wash queue. This may not be a problem which can be solved on this restricted site. Also, this condition currently exists in many car wash facilities. The space near the car wash entrance, for instance, will likely be used by staff, and it is unlikely that such demand will exist in the site that the barrier-free space, which is located so as to provide access to the main building, will be blocked.

Items to be Addressed: None.

SITE ACCESS AND CIRCULATION

Proposed Circulation:

The site will be accessed from one existing curb cut on Rochester Road. An existing access point is also provided via a cross-access agreement with the property to the north.

Additional problems exist with the site access and circulation. They are as follows:

- The merging of the four lanes of car wash queued cars near the island on the east side of the property creates a conflict.
- A by-pass lane is identified for vehicles fueling to exit the property without entering the car wash queue. However, vehicles utilizing the southernmost fuel pumping stations nearest the building at busy times would be required to “cut” in line, and as such, could create conflicts.

Items to be Addressed: Address issues identified in bulleted list above.

NATURAL RESOURCES

The site is existing and devoid of natural features, with the exception of some existing landscaping and a few trees. Please refer to our analysis of site landscaping later in this review.

Items to be Addressed: None.

LANDSCAPING

A landscape plan has been provided identifying how Ordinance requirements are being met. The site does currently have required frontage trees, and the applicant has relocated several existing planters, reducing waste and the need for new plants. The revised site plan preserves only one tree, which does not qualify as a frontage tree. **The required frontage trees must be provided, although we do recognize the limited area in which trees could be located near the right-of-way.** This should be discussed with the Planning Commission.

The applicant has not provided sufficient open space. The landscape design and tree preservation standards specify that 10% of the site area be landscaped. For this site, that would equate to

2,918 square feet, but the plan only allocates 1,388 square feet. Thus, the site plan is deficient by 1,530 square feet of landscaped area.

Items to be addressed: 1.) Provide frontage trees. 2.) Obtain a variance from the Zoning Board of Appeals for landscaping deficiencies.

SPECIAL USE REVIEW

For any special land use, according to Section 03.31.04, the Planning Commission shall review the request, supplementary materials either in support or opposition thereto, as well as the Planning Department's report, at a Public Hearing established for that purpose, and shall either grant or deny the request, take action on the request, or grant the request subject to specific conditions.

Required Information

In the H-S District, an auto wash where engine fuels are sold as a significant part of the operation is a special land use, with the conditions that waiting and stacking spaces shall be provided in accordance with Section 40.21.44 and drives providing waiting or stacking spaces shall be set back at least twenty-five feet from any residential district as section 23.30.03 specifies. As such, a special land use permit must be issued to allow the project to move forward, in accordance with Section 03.31.00. Section 03.33.00 establishes the information required for a special land use application. All required information has been provided.

Standards of Approval

Section 03.31.05 states that before approving any requests for Special Use Approval, the Planning Commission, or the City Council, where indicated, shall find that:

- 1. The land use or activity being proposed shall be of such location, size and character as to be compatible with the orderly development or use of adjacent land and/or Districts.*
- 2. The land use or activity under consideration is within the capacity limitations of the existing or proposed public services and facilities which serve its location.*

We believe the use of this land use as proposed by the site plan (and as it exists today) is of such location and character as to be compatible with the orderly development or use of adjacent land and/or Districts. This site plan represents an improvement to the site made necessary by the revisions to Rochester Road.

The applicant will have to modify the proposed building addition or obtain a variance from the Zoning Board of Appeals in order to meet the required rear yard setback for a car wash facility in the H-S, Highway Service zoning district. The applicant will also be required to obtain a variance for landscaping area.

The site plan as designed largely mimics the existing uses that are present on the subject site, albeit in a slightly different configuration, with more floor area. The site's intensity is atypical

for a property of this size, but the changes made in the site plan do improve the condition over the existing facility. Therefore, we support special use approval.

Items to be addressed: Address site design issues.

RECOMMENDATIONS

With additional commercial square footage and a larger car wash building, there is a slight intensification of use and therefore parking and stacking requirements. Overall, the intensity of the site will be similar to what exists now, but may cause a few more vehicles moving throughout the site.

We are confident that the proposed alterations to the existing business will be an improvement to the site, if the rear setback requirement can be rectified. We recommend that Planning Commission postpone action on the application until such time as the applicant can obtain ZBA approval for the required variances, and to allow the applicant a chance to revise the site plan to address and other outstanding items noted herein.



CARLISLE/WORTMAN ASSOCIATES, INC.
Zachary G. Branigan, LEED AP, AICP
Associate

I have updated the current City of Troy Board of Zoning Appeals Application which follows.

Specifically I incorporated our Zoning Ordinance language specifying required conditions and special findings that must exist in order to be granted a variance.

I've also included the Standards For Non Use Variances provided by the City Attorney at our September training session.

The new information is highlighted for the Board's reference. The highlighting is removed on the public copies.

FYI.

Paul

CITY OF TROY

BOARD OF ZONING APPEALS APPLICATION

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
PHONE: 248- 524-3364
FAX: 248-524-3382
E-MAIL: evanspm@troymi.gov
<http://www.troymi.gov/CodeEnforcement/#>



FILE NUMBER _____
LOCATION _____
REGULAR MEETING FEE (\$150.00) _____
VARIANCE RENEWAL (\$35.00) _____
SPECIAL MEETING (\$650.00) _____

NOTICE TO THE APPLICANT

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 **TWENTY-SEVEN (27) DAYS BEFORE** THE MEETING DATE.

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

1. ADDRESS OF THE SUBJECT PROPERTY: _____
LOT NO. _____ SUBDIVISION _____
LOCATED ON THE _____ SIDE OF (ROAD) _____
BETWEEN _____ AND _____
ACREAGE PROPERTY: *Attach legal description if this an acreage parcel*
2. PROPERTY TAX IDENTIFICATION NUMBER(S): _____
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: _____

6. APPLICANT INFORMATION:

NAME _____
COMPANY _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
TELEPHONE _____
E-MAIL _____

7. RELATIONSHIP OF APPLICANT TO THE OWNER OF THE SUBJECT PROPERTY:

8. OWNER OF SUBJECT PROPERTY:

NAME _____
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, _____ (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 _____ **DATE** _____

PRINT NAME: _____

SIGNATURE OF PROPERTY OWNER _____ **DATE** _____

PRINT NAME: _____

SUBMITTAL CHECKLIST

REQUIRED **PROVIDED**

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | TWO (2) ORIGINAL COPIES OF THE APPLICATION FORM. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | TWO (2) COPIES OF DOCUMENTS DESCRIBING THE REQUEST, CONSTRUCTION AND/OR WORK INCLUDING <ul style="list-style-type: none">▪ PLOT PLANS DRAWN TO SCALE, SHOWING THE SHAPE AND DIMENSION OF LOT(S),▪ ALL EXISTING BUILDING(S) AND PROPOSED BUILDING(S) TO BE ERECTED, ALTERED OR CHANGED▪ DISTANCES OF SETBACKS▪ ELEVATION DRAWINGS▪ PHOTOS AS NECESSARY TO ACCURATELY DESCRIBE THE PROPERTY AND/OR, REQUEST INCLUDING EXISTING AND PROPOSED PROPERTY CONDITIONS▪ MINIMUM SIZE OF ALL DOCUMENTS 8.5" X 11" |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | TWO (2) COPIES OF INFORMATION THAT CLEARLY EXPLAIN THE REQUEST OR IMPACTS OF THE REQUEST ON NEIGHBORING LOTS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | TWO (2) COPIES OF A WRITTEN EXPLANATION OF THE REASONS JUSTIFYING THE REQUEST. IF SEEKING A VARIANCE, THE REASONS MUST INCLUDE SUFFICIENT INFORMATION TO ALLOW THE BOARD OF ZONING APPEALS TO MAKE A DETERMINATION AS TO WHETHER THE CONDITIONS AND PRACTICAL DIFFICULTIES EXIST THAT WOULD ALLOW THE VARIANCE TO BE GRANTED UNDER SECTION 43.72.00 OF THE ZONING ORDINANCE. SEE NEXT PAGE FOR REVIEW STANDARDS. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | ONE (1) COMPACT DISC CONTAINING AN ELECTRONIC VERSION OF THE APPLICATION AND ALL SUPPORTING DOCUMENTATION, PLANS, PRINTS, PHOTOGRAPHS, ETC. DOCUMENTATION SHOULD BE IN PDF, JPG, or TIFF FORMAT. OTHER FORMATS MAY BE COMPATIBLE, PLEASE CONTACT THE PLANNING DEPARTMENT FOR COMPATABILITY GUIDELINES. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | COMMERCIAL VEHICLE APPEAL: PROVIDE TWO (2) COPIES OF A STATEMENT DESCRIBING HOW THE REQUEST SATISFIES STANDARDS A OR B, OF SECTION 43.74.01 OF THE ZONING ORDINANCE. PROVIDE TWO (2) COPIES OF A SEPARATE STATEMENT DESCRIBING HOW THE REQUEST SATISFIES STANDARD C OF SECTION 43.74.01 OF THE ZONING ORDINANCE. |

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 first class mail.

ZONING ORDINANCE CHAPTER 43.72.00

VARIANCE CONDITIONS: Any variance must:

- A. Not be contrary to the public interest or general purpose and intent of this Chapter.
- B. Not permit the establishment of a prohibited use as the principal use within a zoning District.
- C. Not cause substantial adverse effect to properties in the immediate vicinity or in the zoning District.
- D. Relate only to property described in the application for the variance.

SPECIAL FINDINGS:

If all variance conditions are satisfied, a variance may be granted where there are practical difficulties resulting from unusual characteristics of the property which do not make it feasible to carry out the strict letter of this Chapter, or where strict adherence to the letter of this Chapter would destroy significant natural features or resources. Increased financial return alone to the applicant shall not be just cause for a variance based on practical difficulties. In granting a variance, the Board shall find that the practical difficulties justifying the variance are:

- A. That absent a variance, no reasonable use can be made of the property; or
- B. That absent a variance, a significant natural feature would be negatively affected or destroyed; or
- C. That absent a variance, public health, safety and welfare would be negatively affected; or
- D. That literal enforcement of the Zoning Ordinance precludes full enjoyment of the permitted use and makes conforming unnecessarily burdensome. In this regard, the Board shall find that a lesser variance does not give substantial relief, and that the relief requested can be granted within the spirit of the Ordinance, and within the interests of public safety and welfare.

ALSO REQUIRED:

STANDARDS FOR NON USE VARIANCES

1. Special or unique conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures or buildings in the same district.
2. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary.
3. The special conditions and circumstances do not result from the actions of the applicant.
4. The granting of the variance will be in harmony with the general purpose and intent of this ordinance.
5. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.
6. The spirit of this ordinance shall be observed, public safety secured, and substantial justice done.