



PORTAGE



A Natural Place to Move

ZONING BOARD OF APPEALS

May 11, 2015

CITY OF PORTAGE ZONING BOARD OF APPEALS
Agenda

Monday, May 11, 2015

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * April 13, 2015 meeting

OLD BUSINESS:

NEW BUSINESS:

- * 1. ZBA #14-25 The Home Depot, 6685 South Westnedge Avenue: Requesting to modify a previously approved Temporary Use Permit to allow: a) an additional 6-foot by 55-foot outdoor sales/display in front of the store from March 15 through September 15, 2015 and annually thereafter; and b) an 8-foot by 100-foot storage area for bagged goods behind the store from April 1st through June 30th, 2015, and annually thereafter.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

Minutes of Meeting – April 13, 2015

The City of Portage Zoning Board of Appeals meeting was called to order by Jeffrey Bright at 7:00 p.m. in the Council Chambers. Five people were in the audience.

MEMBERS PRESENT: Glenn Smith, Phillip Schaefer, Jeffrey Bright, Lowell Seyburn, Chad Learned, Randall Schau, Michael Robbe, and Alexander Philipp

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator and Charlie Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Learned moved and Schaefer seconded a motion to approve the March 9, 2015 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA 14-05; Alex Gwiazdoski, 9008 Portage Road: Mais summarized the request for a variance for an eight-foot wide greenstrip along Portage Road where a minimum ten-foot width is required. Mr. Gwiazdowski presented the Board a copy of a site plan approved by the Planning Commission in 2005 for 9008 Portage Road that showed an eight-foot wide greenstrip along Portage Road and stated the Board should not find his request unreasonable.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Learned, seconded by Schaefer, to grant a variance for an eight-foot wide greenstrip along Portage Road where a minimum ten-foot width is required with the condition a six inch high curb be installed along the east edge of the parking lot maneuvering lane adjacent to Portage Road, for the following reasons: there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include the location of the existing building; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to operate a business and lease to tenants which is similar to that possessed by other properties in the same zoning district and in the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the zoning ordinance. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Robbe-Yes, Bright-Yes, Learned-Yes, Schau-Yes. The motion passed 7-0.

ZBA #14-23, Steven Bibler, 1823 Redstock Avenue: Mais summarized the requests to construct a 22-foot by 24-foot attached garage that is: a) eight feet from the west (front) property line along Starbrook Street, and b) 25 feet from the north (front) property line along Redstock Avenue where minimum 30-foot setbacks are required. Mr. Bibler stated he mostly agreed with the staff report but thought a 22-foot wide garage was the minimum necessary because they had to leave enough space to open car doors and accommodate the stairs on the west side of the dwelling. Learned inquired why staff thought a 20-foot wide garage was the minimum necessary to allow reasonable use of the property as opposed to an even smaller one stall garage. Mais stated staff's recommendation was premised on that being the minimum necessary to accommodate the applicant's request for an attached two-stall garage, which are commonly found in R-1B zones.

The public hearing was opened. A letter provided by the applicant was read into the record stating no objection to the request and signed by the occupants of: 1801 Schuring, 1723 Schuring, 1916 Schuring, 1940 Schuring, 1823 Birchton, 1817 Birchton, 1809 Birchton, 1801 Birchton, and 1725 Birchton. No one spoke for or against the request. The public hearing was closed.

Seyburn noted the subdivision standards have changed subsequent to the creation of the subject lot. Corner lots are now required to be larger and this request would likely not be necessary if dealing with a lot created under the current standards. Seyburn stated he thought the 22-foot width was the minimum necessary for a two stall garage in this instance because the stairs accessing the upper and lower levels on the west side of the dwelling have to be at least two or three feet wide. A motion was made by Seyburn, seconded by Schaefer,

to grant a variance for a 22-foot by 24-foot attached garage that is: a) eight feet from the west (front) property line along Starbrook Street, and b) 25 feet from the north (front) property line along Redstock Avenue where minimum 30-foot setbacks are required for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include drainage problems resulting from the split level design, the location of the dwelling on the lot, and the irregular shape of the corner lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to use a residential property having a garage; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments and discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Robbe-Yes, Bright-Yes, Learned-Yes, Schau-Yes. The motion passed 7-0.

ZBA #14-24. Sheila Shubnell, 9651 Portage Road: Application withdrawn.

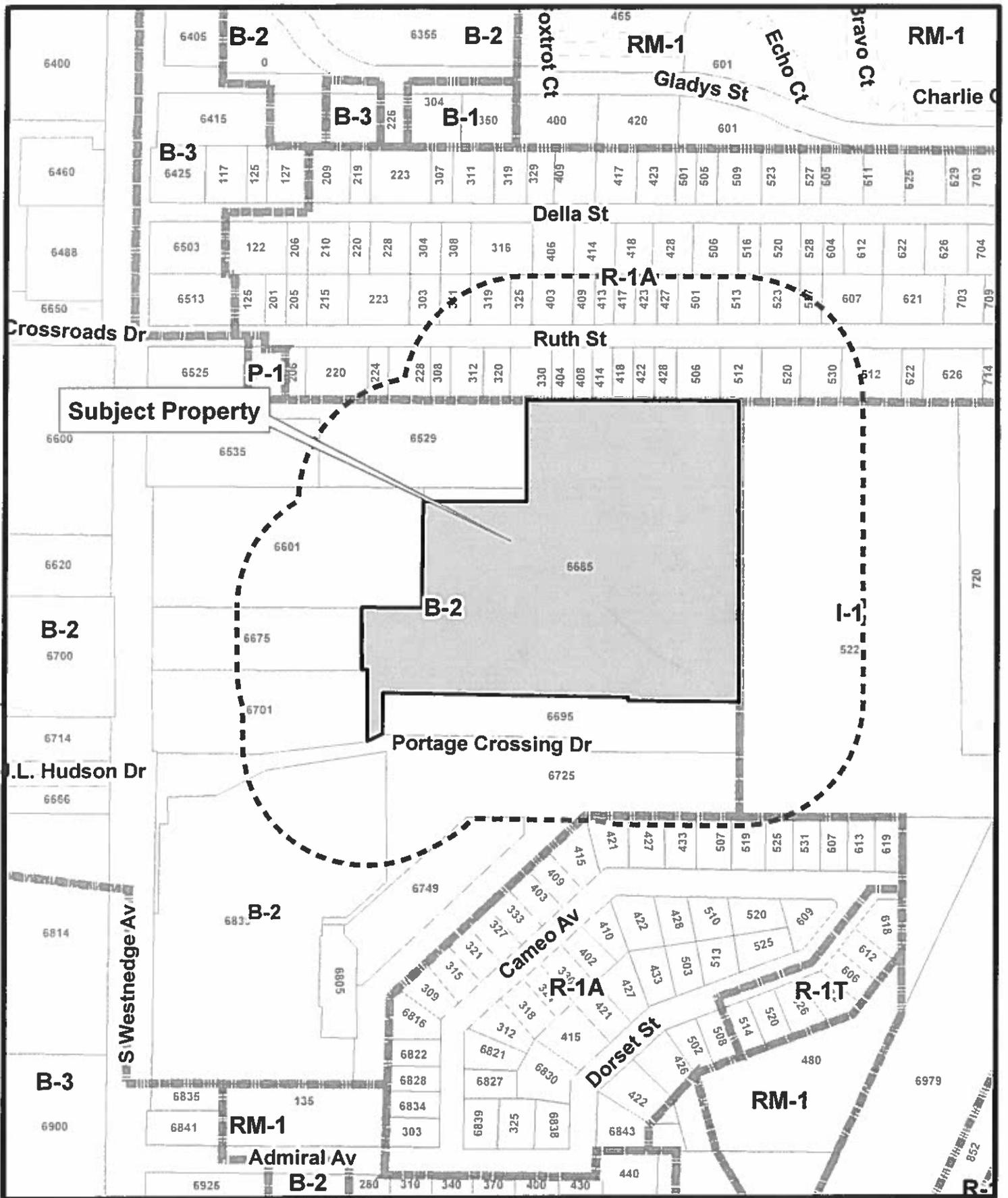
OTHER BUSINESS: None.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



-  Zoning Boundary
-  Subject Properties
-  Notification Area

ZBA 14-25
6685 South Westnedge Avenue



1 inch = 300 feet

RECEIVED
APR 16 2015
COMMUNITY DEVELOPMENT

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 4/16/15

Name of Applicant JASON HATHROWSKI [Signature]
Signature

Applicant's Address _____ Phone No. _____

Name of Property Owner (if different from Applicant) HOME DEPOT INC.

Address 60685 S. Westnedge Portage, MI 49002 Phone No. 269-324-8100

Address of the Property that is the subject of this Application:

Street Address 60685 S. Westnedge Portage, MI 49002

For Platted Property: Lot see attached parcel of reports for legal description Plat _____

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]

Applicant's interest in Property that is the subject of this Application: _____

Application Fee _____ (Residential Uses) \$ 330 (All Other Uses)

Type of Appeal (Please check one of the following bold choices and provide the requested information):

Variance from Zoning Ordinance: Article _____ Section _____ Paragraph _____

Regarding: Use _____ Area _____ Yards _____

Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): _____

Appeal of Administrative Decision: Article _____ Section _____ Paragraph _____

Reason for Request: _____

Interpretation of the Zoning Ordinance: Article _____ Section _____ Paragraph _____

Reason for Request: _____

A Temporary Permit for: Building _____ Use Other Approval _____

Article 42 Section 622 Paragraph D

Reason for Request: To add to the current temporary use seasonal permit allowing temp sales/displays on front gravel 6' x 55', and temporary storage on rear of building, 8' x 100', from April 1st - June 30th

FOR STAFF USE

Application Number: <u>14-25</u>	Filing Date: <u>4/16</u>	Tentative Hearing Date: <u>5/11</u>
Previous Application Filed Regarding This Property: <u>07-28/0433/12-23</u>		

Reason For Variance

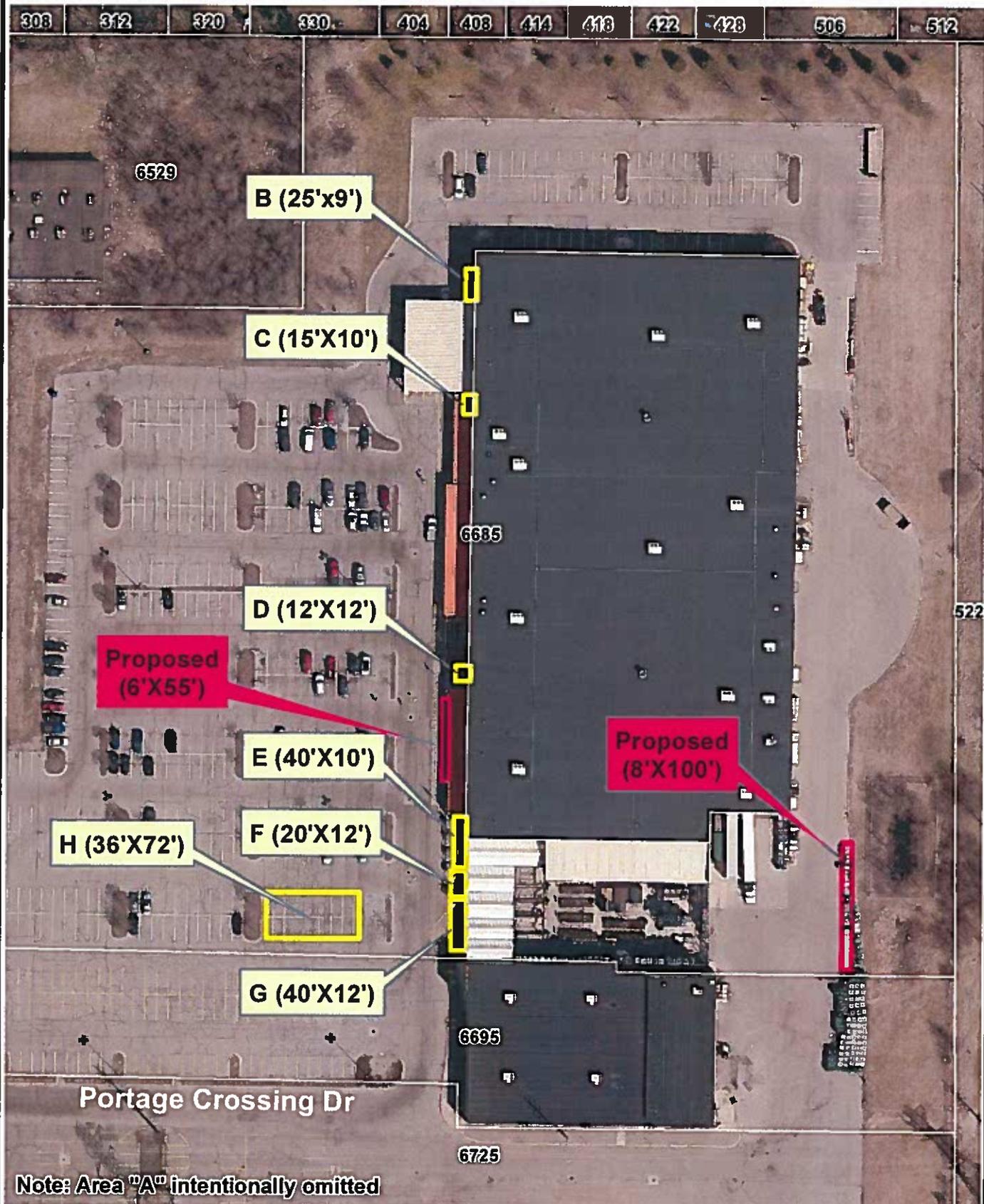
1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)
The property is constrained by its existing boundaries, and the ability to provide seasonal sales continues to grow based on public demand.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
This need is unique to Home Improvement and garden center type businesses with high seasonal demand.
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)
The volume of material demand could not be provided without the request being granted.
4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)
The area request is due to continuously increasing demand and is based on past experience where former requests have proven to be inadequate.
5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)
The request is temporary and it is not believed that any adjacent uses would be impacted.
6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)
The request would actually assist in managing traffic and operations on site.
7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)
No, the request is submitted based on public demand for product.
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
The zoning ordinance is established to assist in the success of the business owner while protecting the public. We believe this request achieves both.



Signature of Applicant

4/16/15

Date



Note: Area "A" intentionally omitted

Vicinity Map
 The Home Depot
 6685 South Westnedge Avenue



Imagery: March 2013

1 inch = 100 feet

TO: Zoning Board of Appeals **DATE:** May 1, 2015
FROM: Vicki Georgeau, ^hDirector of Community Development
SUBJECT: ZBA #14-25, The Home Depot, 6685 South Westnedge Avenue, B-2, Community Business
CODE SECTION: 42-622(D), Temporary Uses, p. CD42:140.3

APPEAL: Requesting to modify a previously approved Temporary Use Permit to allow: a) an additional 6-foot by 55-foot outdoor sales/display in front of the store from March 15 through September 15, 2015 and annually thereafter; and b) an 8-foot by 100-foot storage area for bagged goods behind the store from April 1st through June 30th, 2015, and annually thereafter.

STAFF RECOMMENDATION:

The applicant is requesting to modify a previously approved Temporary Use Permit per the enclosed application, and site sketch. As background for the Board, a Temporary Use Permit for seasonal outdoor merchandise display along designated areas of the store's west elevation was initially approved with conditions by the Board in 2004 (ZBA 03-28), and modified in 2005 (ZBA 04-33). In 2013 the Board approved an additional 36-foot by 72-foot area (ZBA 12-23) for seasonal plant sales in the front parking lot annually from April 1 through June 30 (see attached sketches of the previously approved locations).

The 2015 application proposes to add a 6-foot by 55-foot sales/display area near the south building entrance for additional plant sales to operate concurrent with the other approved display/sales areas along the building's west elevation that operate seasonally from March 15 through September 15th. In addition, the applicant proposes to designate an 8-foot by 100-foot area behind the store for the temporary storage of mulch and other bagged good during their peak sales period between April 1st through June 30th, 2015 and annually thereafter. As a side note, the aforementioned outdoor display and storage areas have already been placed without authorization, and this application to the Board effectively stays enforcement action. No citizen complaints concerning the Temporary Use Permit have been received, but placement of inventory/displays in fire lanes and other locations has led to staff-initiated enforcement on occasions over the years.

The criteria for Temporary Use approval requires that no capital improvements of a structural nature be erected (none are proposed), and the use be in harmony with the general intent of the district. Outdoor storage of goods is not permitted in the B-2 Community Business district. However, the Zoning Code does permit, subject to review and approval of a special land use permit by the Planning Commission, an "open air business" (e.g. garden center). Many businesses, including Home Depot, have open air garden centers as part of their approved site

plan for the sale of landscaping materials and yard/garden goods. In this regard, Home Depot has an approximate 18,000 square-foot open air garden area. However, additional displays and storage on a seasonal basis has been requested by the applicant similar to other similar businesses (e.g. Lowe's, Menards, Wal-Mart, Meijer). If the Board finds the proposed temporary use is in harmony with the general intent of the district the Temporary Use Permit may be approved. It is recommended that any approval include the following conditions:

1. No other outdoor display/storage be permitted outside of the proposed Temporary Use areas;
2. Hours of operation coincide with regular store operations;
3. No outdoor storage of bagged goods be permitted in front of the store;
4. No outdoor display shall encroach into or block the fire lane or emergency building exits;
5. Renewal of the permit shall be subject to review by city staff on an annual basis.

**PRACTICAL
DIFFICULTY:**

Not applicable for Temporary Use.

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