



ZONING BOARD OF APPEALS

September 12, 2016

CITY OF PORTAGE ZONING BOARD OF APPEALS

Agenda

Monday, September 12, 2016

(7:00 pm)

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES

- * August 8, 2016 meeting

OLD BUSINESS:

- * ZBA #16-4, Adam & Sarah Beuker, 2611 Woodbine Avenue: Requesting: a) variance to construct a 25-foot wide by 20-foot deep attached garage 5.6 feet from the front property line where a minimum 30-foot setback is required; or b) a variance to retain the existing dwelling 25.6 feet from the front property line where a minimum 30-foot front setback is required.

NEW BUSINESS:

- * ZBA #16-6, Wal-Mart Stores, Inc.: Requesting a variance to allow 735 square feet of wall signage where a maximum 325 square feet is permitted.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

 DRAFT

Minutes of Meeting – August 8, 2016

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. Seven people were in the audience.

MEMBERS PRESENT: John Byrnes, Michael Robbe, Jeffrey Bright, Alexander Philipp, Lowell Seyburn and Phillip Schaefer.

MEMBERS EXCUSED: Chadwick Learned, Jay Eichstaedt and Randall Schau

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

APPROVAL OF THE MINUTES: Byrnes moved and Schaefer seconded a motion to approve the July 25, 2016 minutes as submitted. Upon voice vote, the motion was approved 6-0.

NEW BUSINESS:

ZBA #16-4, Adam & Sarah Beuker, 2611 Woodbine Avenue: Chairman Bright explained that since there were only six Board members present, the applicant had the option to either move forward with Board consideration of the request tonight or request postponement to the next regularly scheduled meeting when seven members were present. The applicant stated he would like to request a postponement. A motion was made by Seyburn, seconded by Byrnes to postpone the item until the September 12, 2016 meeting. Upon voice vote the motion passed 6-0.

ZBA #16-5, Abdallah Alwane, 1001 Karendale Drive: Mais summarized the request for a variance to construct a 1,350 square-foot dwelling where a minimum 1,600 square feet is required. Mr. Alwane was present to answer questions.

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

A motion was made by Seyburn, seconded by Schaefer, to grant a variance to construct a 1,350 square-foot dwelling where a minimum 1,600 square feet is required 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 applicant's property is the only lot in the subdivision that the 1,600 square-foot minimum applies to and the proposed dwelling size is consistent with other houses in the neighborhood; the variance is necessary for the preservation of a substantial property right - the right to build a residence compatible with others in the neighborhood; 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. In addition, the application and supporting material, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and action of the Board be final and effective immediately. Upon roll call vote: Philipp-yes, Bright-Yes, Schaffer-yes, Robbe-yes, Seyburn-Yes, Byrnes-Yes. The motion passed 6-0.

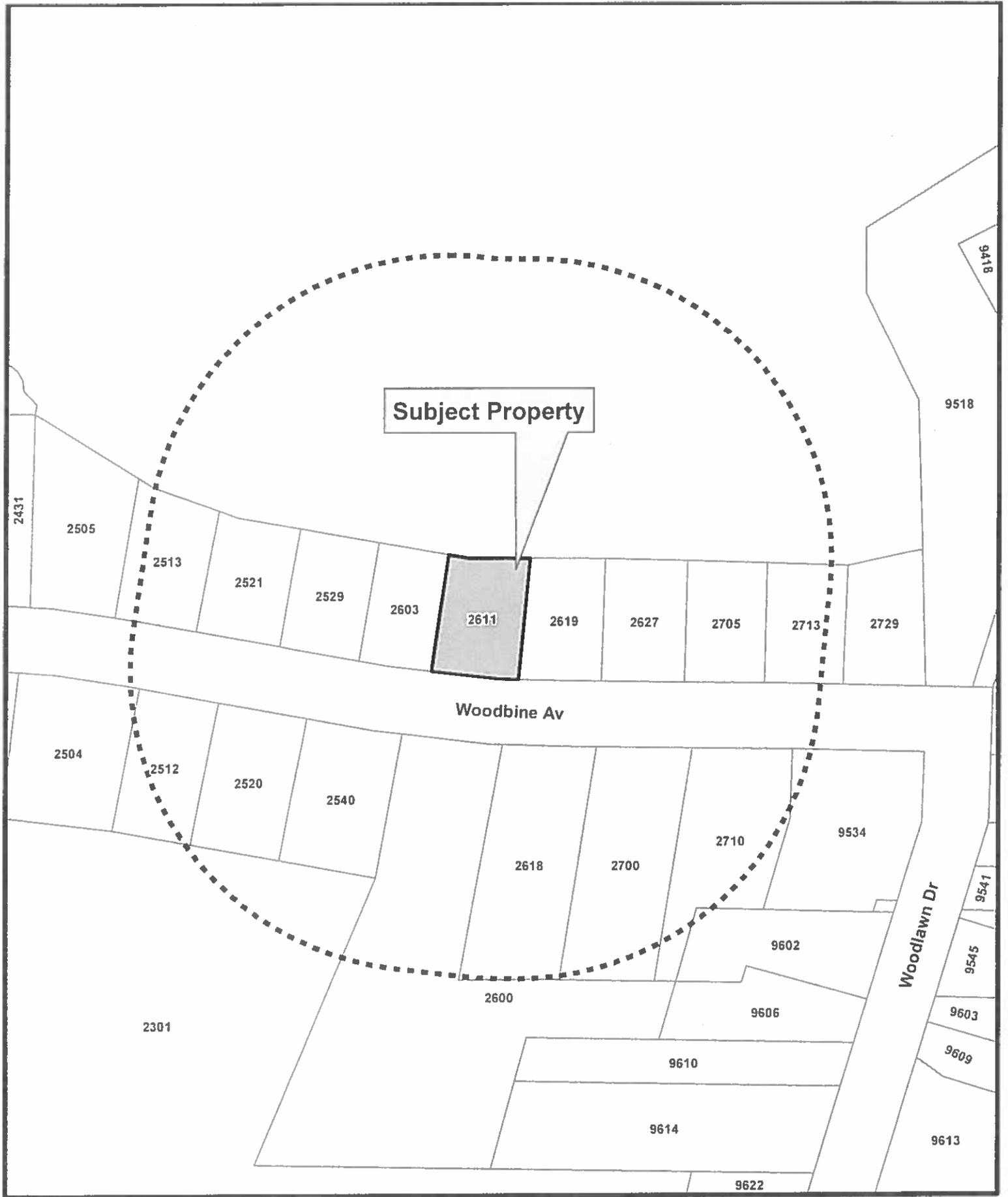
OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:24 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



Subject Property

Woodbine Av

Woodlawn Dr

Legend



300'



2611 Woodbine

ZBA #16-04
2611 Woodbine Avenue



1 inch = 125 feet



Subject Property

2603

2611

2619

Woodbine Av

Legend

 2611 Woodbine

ZBA #16-04
2611 Woodbine Avenue



1 inch = 25 feet

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 6/30/2016
 Name of Applicant Adam & Sarah Beuker Sarah J. Beuker Adam B. Beuker
Print Signature
 Applicant's Address 2611 WOODBINE AVENUE Phone No. (269) 323-7802
 Name of Property Owner (if different from Applicant) SAME AS ABOVE
 Address _____ Phone No. _____
 Address of the Property that is the subject of this Application:
 Street Address 2611 WOODBINE AVENUE
 For Platted Property: Lot 6 of MCCAMLEY MANOR 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: JOINT OWNERS / JOINT TENANCY

Application Fee \$13500 (Residential Uses) _____ (All Other Uses)

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

Variance from Zoning Ordinance: Article 4. Zoning Section 42-350 Paragraph A
 Regarding: Use _____ Area _____ Yards _____
 Setbacks front Parking _____ Other _____

Reason for Request (Also complete page 2 of application): variance of the prescribed front setback, necessary to alleviate structural problems & safety hazards.

____ **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 _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

Application Number: <u>16-4</u>	Filing Date: <u>7/30</u>	Tentative Hearing Date: <u>8/8/16</u>
Previous Application Filed Regarding This Property:		

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.)

SEE ATTACHED

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

SEE ATTACHED

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)

SEE ATTACHED

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.)

SEE ATTACHED

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.)

SEE ATTACHED

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.)

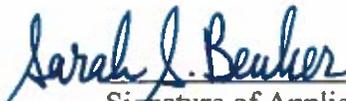
SEE ATTACHED

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.)

SEE ATTACHED

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

SEE ATTACHED


Signature of Applicant




Date

Addendum to Zoning Board of Appeals Application

Re: Variance Requested for the Property at 2611 Woodbine Avenue, Portage, MI 49002
(also known as "Lot 6, McCamley Manor"; and "Parcel Number: 05160-006-O")

Portage's Zoning Board of Appeals has the power to hear an appeal and grant variances, interpret code provisions and grant temporary uses as authorized in the Zoning Code (Chapter 42, Land Development Regulations, Division 7 of the Zoning Code). The process of review by the Zoning Board of Appeals is established in the Zoning Code. The property located at 2611 Woodbine Avenue, in the City of Portage (hereinafter the Subject Property) is zoned R1-B per the Zoning Code, which prescribes a 30-foot setback from the front property line. For the reasons set forth below, the Applicants Adam and Sarah Beuker, the current owners of the Subject Property request a variance of this prescribed setback.

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.

Although the Subject Property generally meets the minimum standards set by the R-1B regulations, there are exceptional or extraordinary circumstances or conditions applying to the Subject Property that do not apply generally to other properties in the same zoning district. The Subject Property's driveway is unusual, with an abnormally steep grade. The Subject Property's driveway begins at street level, but descends steeply in order to enter the garage, which is at basement level. This configuration has led to both structural problems and potential safety hazards.

The structural problems are caused by water infiltrating the garage from the abnormally steep driveway. The rainwater and snowmelt inevitably gathers at the driveway's low-point, where the driveway meets the existing garage. The previous owners of the Subject Property have taken measures to alleviate the water problem (such as installing multiple drains and relocating eaves troughs). The current property owners have worked diligently to clean and maintain these measures. However, this drainage is insufficient to solve the problem – water continues to gather at the driveway's low-point and in the drain(s), soaking and rotting the concrete base of the steel column located between the two garage doors, causing sinking of this column, which supports the garage structure and the bedrooms above the garage. Cracks are visible in the brick mortar above this column, and the façade is beginning to sag.

There are also safety hazards which result from the existing configuration. The slope of the driveway, when coupled with ice and/or snow, makes backing out of the garage onto the street treacherous. In winter months, even after adequate plowing and salting of the driveway, rapid acceleration is often

required in order to get up the steep and slippery drive. However, rapid deceleration is then immediately necessary to prevent the vehicle from entering the street. Even when executed successfully, such maneuvers are startling to oncoming traffic, which has been observed swerving to avoid what they perceive as a potential collision.

To remedy this situation, Applicants request a variance of the Required Setback from the Street/Right-of-Way. The existing garage structure is setback 25.6 feet from the Front Property Line/Right-of-Way, approximately 46 feet from the edge of the street. In order to eliminate the steep slope of the driveway, applicants propose building a new attached garage, immediately adjacent to the existing garage. The new garage would be accessed via a new driveway, as close as possible to grade level, in order to remedy the structural and safety-related hardships caused by the current steep slope.

Although many two car garages are 22 or 24 feet deep, the proposed garage would only be 20 feet deep, in order to minimize the variance required. The proposed garage would thus be setback 5.6 feet from the front property line, approximately 26 feet from the edge of Woodbine Avenue, leaving adequate room for vehicles to safely and completely exit Woodbine Avenue before maneuvering into the garage.

2. Are the physical characteristics you explained above unique and not shared by neighboring properties?

Yes. The driveway configuration is unusual, with an abnormally steep grade, hampering the intended use of the garage and driveway and causing safety and structural concerns (outlined above). The requested variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. There are many other properties in the vicinity with functional two stall garages capable of safe ingress and egress; there are numerous properties in the vicinity with no structural damage or safety hazards as a result of abnormally steep driveways.

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance?

No, as set forth above.

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?

Yes, the variance for a garage with 20 foot depth is the minimum necessary to permit the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same

zoning district and in the vicinity. Although many two car garages are 22 or 24 feet deep, the proposed garage would only be 20 feet deep, in order to minimize the variance required.

5. Explain how the variance would not result in adverse effects on adjacent properties or alter the character of the area.

The variance will not adversely affect adjacent property or the surrounding neighborhood. The garage addition will not negatively impact the use or enjoyment of adjacent land owners. The requested variance does not impact the setback requirements for the property lines shared with adjacent properties. The requested variance only impacts the required setback from the street / right-of-way.

Nor will the requested variance alter the character of the area. Several nearby homes have garage / setback configurations very similar to that requested in the instant variance:

Address	Feet from Right-of-Way	Feet from Street Edge
9541 Woodlawn	N/A	18 ft
9629 Woodlawn	8 ft	20 ft
9637 Woodlawn	9 ft	20 ft
9533 Woodlawn	12.8 ft	21 ft
2611 Woodbine (proposed)	5.6 ft	26 ft
9643 Woodlawn	17 ft	32ft
2729 Woodbine	18 ft	36 ft
2705 Woodbine	19.5 ft	40 ft
2611 Woodbine (current)	25.6 ft	46 feet

Note: Measurements for 2611 Woodbine are based on April 5, 2016 Survey by Wightman & Associates, Inc., which included staking of the property. Measurements for the neighboring properties are approximate, obtained by utilizing the City of Portage's online GIS tool.

The proposed garage will actually improve the curb appeal of the home and allow for vehicles, along with landscaping equipment, to be easily stored in the garage addition. The proposed driveway would also remove the safety hazards caused by the existing configuration.

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.

The requested variance will not result in any of the above detrimental conditions. As set forth above, it will have little or no impact on adjacent or nearby properties, but will significantly improve the value and utility of the Subject Property. Further, the requested variance will actually improve traffic on Woodbine Ave, by removing the safety/traffic hazards caused by the existing driveway configuration.

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?

No. The practical difficulty causing the need for the variance request was not created by the applicant, but by a previous (original) property owner and/or home builder. The House was constructed in 1967 with a brick exterior. Over the years, settling of the soil has been exacerbated by the increased water run-off toward the basement level garage, garage doors and structural support. This has weakened the dwelling's structural integrity and has also made pulling out of the driveway difficult, even hazardous, particularly in the winter. Numerous attempts to increase (previous owners) and meticulously maintain (previous and current owners) optimal drainage of this area have not remediated the problem.

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance.

The variance will not materially impair the intent and purpose of the Zoning Code, i.e., promoting the public's health, safety, comfort, convenience and general welfare. ¹ Because Woodbine Avenue has a standard right-of-way width of 66 feet, the depth of the right-of-way will allow ample space for vehicles to safely and completely exit Woodbine Avenue before maneuvering into the proposed garage. The requested variance will fulfill the spirit and intent of the Zoning Ordinance by improving the structural integrity of the existing dwelling, providing safer egress and ingress to the Subject Property, thus improving traffic flow, while maintaining the character of the neighborhood, improving the dwelling's functionality and curb appeal, and permitting Applicants to enjoy a substantial property rights possessed by other properties in the vicinity.

CONCLUSION

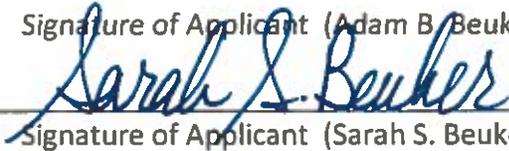
The requested variance should be granted in light of the proffered evidence of hardship and because of the property's unique conditions. The requested variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by others in the same zoning district and in the vicinity. The variance will not be detrimental to adjacent properties or the surrounding neighborhood. Rather, it will enhance curb appeal and traffic safety, and is in keeping with the neighborhood's character. The variance will not materially impair the intent and purpose of the Zoning Ordinance. See Ord. No. 03-01, § 42-702 (2003). The immediate hardship necessitating the variance request was not created by the applicants. Accordingly, the Applicants hereby request a variance from the prescribed setback from the Right-of-Way (City of Portage Code of Ordinances §42.350).

Respectfully submitted,



Signature of Applicant (Adam B. Beuker)

June 30, 2016
Date



Signature of Applicant (Sarah S. Beuker)

June 30, 2016
Date

¹ The City of Portage's Zoning Ordinance provides that: "In its interpretation and application, the provisions of this article shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience or general welfare." City of Portage Code of Ordinances, § 42-100.

2611 Woodbine Avenue – Existing Configuration:

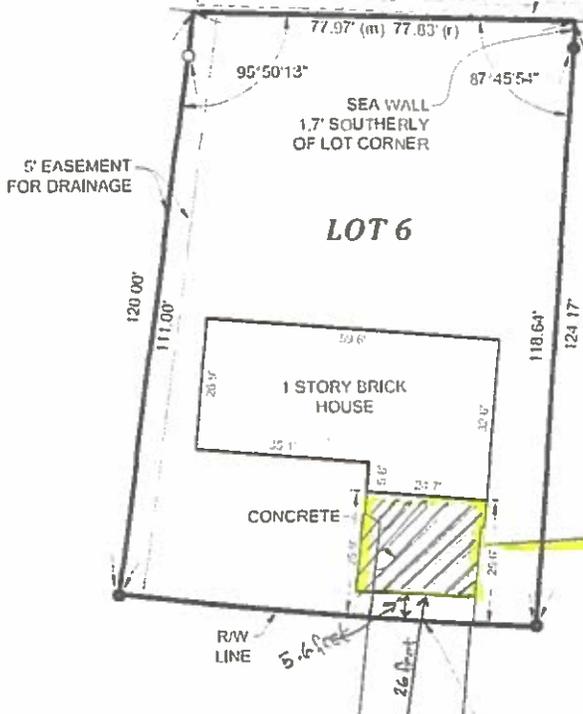


Proposed garage would extend essentially to the back end of the red SUV (seen above), at a grade even with or slightly below the edge of the retaining wall. The following photo is a very rough approximation of the proposed design. Applicants would work closely with an architect to ensure that the new garage is aesthetically pleasing and consistent with the existing structure.



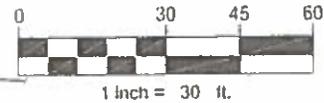
SURVEY REPORT

SEA WALL 1.5' NORTHERLY OF LOT CORNER
 SEA WALL 1.7' SOUTHERLY OF LOT CORNER
 EDGE OF WATER (SEA WALL) AS LOCATED ON MARCH 29, 2016



LEGEND

- = FOUND IRON
- = SET 1/2" REBAR W/ ID CAP



$\Delta = 4' 13.21"$
 $L = 85.48'$
 $R = 1159.95'$
 $T = 42.76'$
 $CH = S 85^{\circ}08'28" E$
 $85.46'$

LOT 6, "MC CAMLEY MANOR," BEING A SUBDIVISION IN THE SOUTH HALF OF OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 11 WEST, PORTAGE TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 25, PAGE 42, KALAMAZOO COUNTY RECORDS.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD OR OTHERWISE.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.



WIGHTMAN & ASSOCIATES, INC.
 ENGINEERING • SURVEYING • ARCHITECTURE

CLIENT: ADAM BEUKER
 JOB No: 164065
 DATE: APRIL 5, 2016

214 Westgate Avenue
 Westland, MI 48186
 Phone: 313.916.7544

2051 Poplar Avenue
 Dearborn, MI 48124
 Phone: 313.916.7544

10114 Poplar Road
 Farmington Hills, MI 48334
 Phone: 248.474.5244

SCALE: 1" = 30'
 DRAWN BY: BKG
 CHECKED BY:

AARON D. SMITH

P5 - 2/16/16

CITY OF PORTAGE, KALAMAZOO COUNTY

SECTION 26 T 3 S R 11 W

A - 104065

Photo

This certificate does not apply to taxes, if any, now in process of collection by the Township, City or Village collecting officers.

This plat has been examined and approved on the _____ day of _____, 1900, by the Kalamazoo County Board of Road Commissioners.

CERTIFICATE
 is a correct one and that permanent monuments
 if (1/2) inch in diameter by thirty-six (36) inches
 in diameter and thirty-six (36) inches in depth,
 as thereon shown, at all angles in the boundaries
 the Avenue, Road and Drive and at the interse-
 boundary of the plat.

Leonard Kloet
 Leonard Kloet, County Treasurer

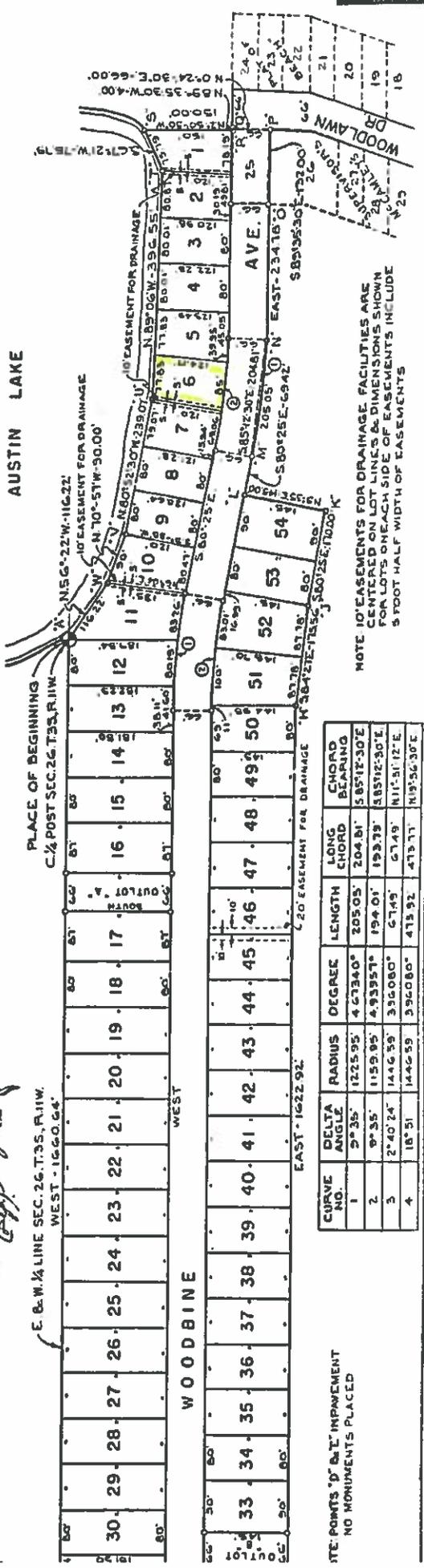
Arthur J. Mulholland Sr.
 Arthur J. Mulholland Sr., Member

Merle Vobberg
 Merle Vobberg, Member

NOTE: All dimensions are in feet and decimals thereof.

NOTE: 20' EASEMENT FOR DRAINAGE FACILITIES IS CENTERED ON LOT LINE AND DIMENSIONS SHOWN FOR LOTS ON EACH SIDE OF EASEMENT INCLUDES 10' HALF WIDTH OF EASEMENT.

March 16, 1900
Richard G. [Signature]



42529

TO: Zoning Board of Appeals **DATE:** July 29, 2016
FROM: Vicki Georgeau, ^{Vb} Director of Community Development
SUBJECT: ZBA #16-04, Adam & Sarah Beuker, 2611 Woodbine Avenue; R-1B, One Family Residential.
CODE SECTION: 42-350 Schedule of Regulations; p. CD42:84.

APPEAL: Requesting: a) variance to construct a 25-foot wide by 20-foot deep attached garage 5.6 feet from the front property line where a minimum 30-foot setback is required; or b) a variance to retain the existing dwelling 25.6 feet from the front property line where a minimum 30-foot front setback is required.

STAFF RECOMMENDATION: The applicant is requesting the variances per the enclosed application, plot plan, and related materials. The lakefront property is zoned R-1B, one family residential, and is located in a single-family residential neighborhood. The subject property is improved with a nonconforming 1,690 square-foot bi-level house with an attached (bottom level) two-stall garage constructed in 1967. The dwelling is nonconforming because it is setback 25.6 feet from the front property line where a 30-foot front setback is required, but meets all other setback and lot coverage requirements.

The applicant indicates the descending slope of the driveway in front of the dwelling causes safety problems for vehicles pulling in and out of the property, especially during winter months, and also caused structural problems due to water collecting at the low point and eroding the concrete base of the steel support column between the garage doors. The applicant proposes to alleviate these issues by constructing an attached 25-foot wide by 20-foot deep two-stall garage in front of the dwelling thereby permitting vehicles to enter/exit the garage at street grade level. The proposed garage would extend to within 5.6 feet of the front property line. During the course of conducting research for the variance it was discovered the original 1967 building permit was issued in error: the house was permitted with a front setback of 25.6 feet where a 30-foot setback applies. Variances are therefore requested.

Concerning a), the drainage problems caused by the descending slope of the driveway and bi-level design are acknowledged. The proposed garage location, however, presents problems of its own. The City Code requires two (2) off-street parking spaces per dwelling unit and a 10-foot setback for off-street parking. Due to the proposed 5.6-foot setback, vehicles in the driveway would be primarily parked in the in the city street right-of-way, as opposed to private property. Further, under this scenario, necessary future roadway improvements may be adversely impacted by the proposed garage location. Finally, the proposed garage would also project considerably closer to the street than any other dwelling on Woodbine Avenue.

Conforming alternatives are available. For example, the applicant could modify the grade of the driveway near the road to reduce drainage onto the property, install a heated driveway system with additional drainage and/or install a sump pump in the existing garage. Another alternative is to convert the bedrooms currently over the existing garage into a new garage, and add new living space on the north (lake) side of the dwelling. For the aforementioned reasons, the variance is not recommended.

Regarding b) the existing setback was erroneously permitted by the city in 1967 and no complaints have been received during that time. The immediate practical difficulty causing the need for the variance request was not caused by the applicant, and the variance will not be detrimental to adjacent property and the surrounding neighborhood. For these reasons variance b) is recommended.

PRACTICAL

DIFFICULTY: None noted by staff. Building permit issued in error. See suggested motion form.

T:\COMMDEV\2016-2017 Department Files\Board Files\Zoning Board\16-04 2611 Woodbine\2016 07 29 VG ZBA 16-04 Woodbine, 2611 (staff rpt).docx

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

I move, in regard to ZBA # _____, the application by _____
for a variance from _____

be:

a. **granted** for all of the following reasons:

- 1a. 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 _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to _____, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

-or-

b. **denied** for one of more of the following reasons:

- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as _____;
- 3b. The immediate practical difficulty causing the need for the variance request was created by the applicant;
- 4b. The variance would be detrimental to adjacent property and the surrounding neighborhood, and;
- 5b. The variance would materially impair the intent and purpose of the zoning ordinance.

c. **In addition**, the application and supporting materials, staff report, and all comments, 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.



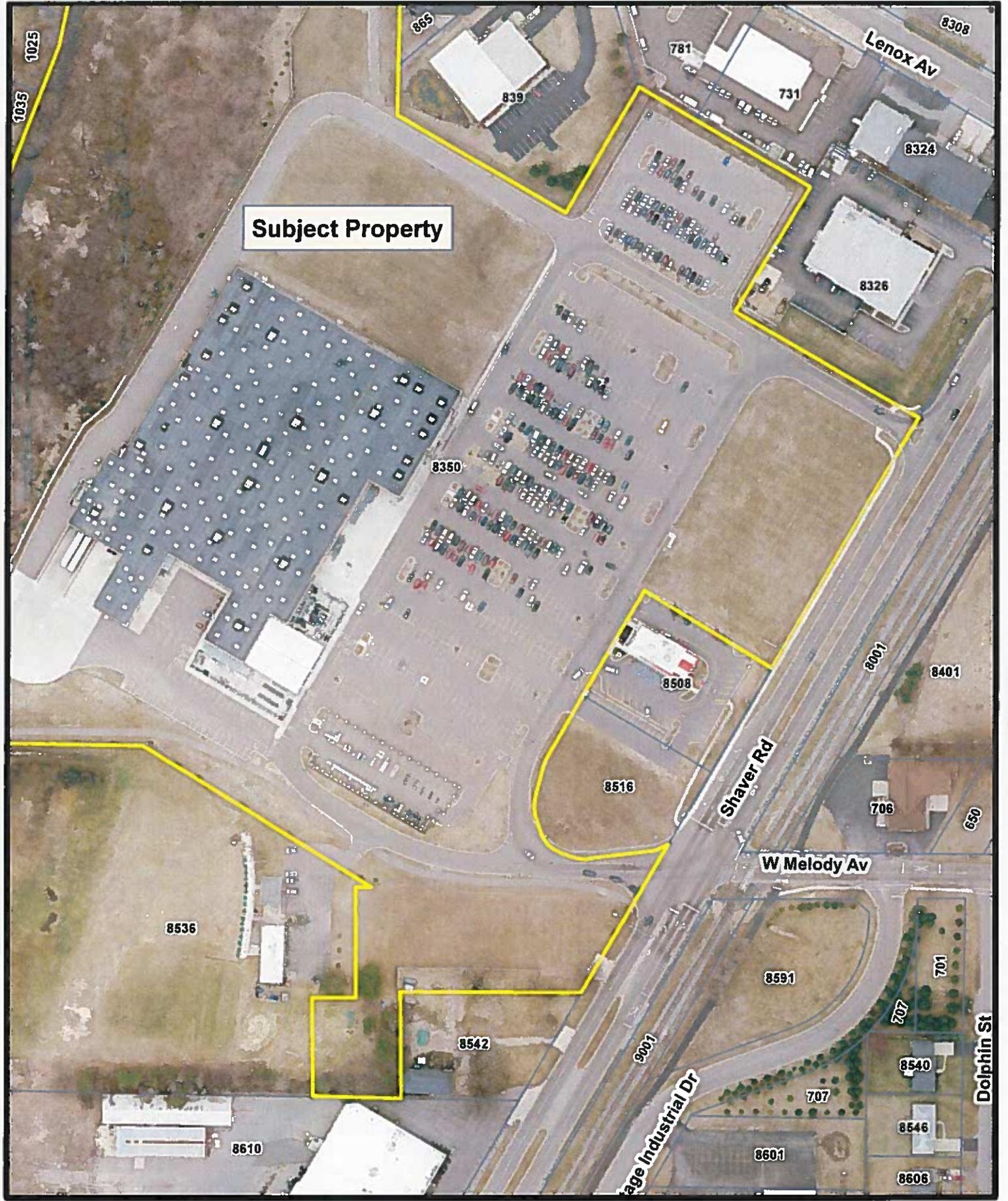
Legend

-  300'
-  8350 Shaver

ZBA #16-06
8350 Shaver Road



1 inch = 500 feet



Subject Property

Legend

 8350 Shaver

**ZBA #16-06
8350 Shaver Road**



1 inch = 175 feet



Department of Community Development

RECEIVED

JUL 21 2016

ZONING BOARD OF APPEALS APPLICATION

COMMUNITY DEVELOPMENT

FOR COMPLETION BY APPLICANT

Application Date 07/18/16

Name of Applicant Polo Padilla
Print

Signature
Phone No. 214-290-7062

Applicant's Address 211 N. Record St; Ste 222

Name of Property Owner (if different from Applicant) Wal-Mart Stores, Inc

Address 2001 S.E. 10th Street - Bentonville, AR
Phone No.

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

Street Address 8350 Shaver Road, Portage, MI 49024

For Platted Property: Lot of 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: Architect

Application Fee (Residential Uses) 330.00 (All Other Uses)

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

X Variance from Zoning Ordinance: Article 4 Section 42 Paragraph
Regarding: Use Retail Area Yards
Setbacks 590 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 Section Paragraph

Reason for Request: Variance is to request additional 410.45 square footage. The ordinance allowance would be 325 SQ. The existing signage is 347 and proposed is 735.45

the existing store was 480'-8" and has been expanded additional 114'-2" for total of 594'-10"

FOR STAFF USE

Table with 3 columns: Application Number (16-06), Filing Date (7/20), Tentative Hearing Date (9/12/16). Row 2: Previous Application Filed Regarding This Property (03-22 / 03-23 / 04-30 (WITHDRAWN))

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.)
Our current setback back from road is 590 ft, larger signs would be better suited for visibility. This also includes future development on Shaver Road that would also alter the visibility of the proposed signs and could have negative affect of proposed business.
2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)
Wal-Mart has several operating departments functioning inside store, which will require additional signage. Most of the neighboring business are conveniently located right on Shaver Road and majority do not have businesses in front of to affect view.
3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets is needed.)
Yes, however the proposed signs helps to indentify the building and the nature of the proposed businesses that Wal-Mart proves (ie Pharmacy, Auto center, etc) resulting in substantial justice for the public's benefit
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 amount of current store frontage and the proposed sign is proportionate with the overall store and the depth of our property
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.)
We believe the adjacent properties and neighborhood will not have any negative affect for our sign proposal. Our intent is to provide information to neighborhood and provide a great looking building that would benefit the overall area.
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 intent of a Walmart store is to provide a pedestrian friendly design and insure safety and quality for the surrounding patrons. The requested signs of the Walmart designs does not create a physical or visual hazard for site; therefore, the public safety and welfare are secured.
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.)
Practical difficulty - Large retail buildings require a lot of parking spaces that are located between the front of the building and the street. With setback, it would greatly assist on having adequate sign size and secondary signs to promote the services provided
8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)
We believe our current proposal follows the intent of ordinance of 15% of wall area. Our frontage is 16,276 SF, 15% would be 2,442 Sq ft of signage. We understand ordinance wanting to cap the total square footage, but believe we meet intent of not oversizing signs and our proposed signage is adequate for the size/setback of building.



Signature of Applicant

07/18/16
Date

TO: Zoning Board of Appeals **DATE:** September 2, 2016

FROM: Vicki Georgeau, ^{kg} Director of Community Development

SUBJECT: ZBA #16-06, Wal-Mart Stores, Inc., 8350 Shaver Road; CPD, Commercial Planned Development.

CODE SECTION: 42-552(I) CPD Wall Signs; p. CD42:131

APPEAL: Requesting a variance for 735 square feet of wall signage where 325 square feet is permitted.

STAFF RECOMMENDATION:

The applicant is requesting the variance per the enclosed application, site plan, and sign sketches. The 34.42 acre zoning lot is zoned CPD, commercial planned development, and improved with a 149,997 square-foot commercial building (Walmart), off-street parking lot and related improvements. Construction is currently underway on a recently approved 40,892 square-foot building addition on the north side, and a 1,440 square-foot fueling station near the zoning lot's south entrance. Walmart holds in reserve an additional 1.7 acres along Shaver Road for future outlot developments and/or banked parking.

The applicant proposes to erect nine (9) wall signs: Walmart (298 sq. ft.); Home & Pharmacy (97.6 sq. ft.); Outdoor Living (77.1 sq. ft.); Grocery (42 sq. ft.); Auto Center (east elevation 34.5 sq. ft.); Auto Center (rear elevation 31.5 sq. ft.); Pharmacy Drive-Thru (east elevation 74.7 sq. ft.); and two (2) Pharmacy Drive-Thru (north elevation 39.9 sq. ft.). The combined wall sign area measures 735 square feet. Based on 595 feet of building wall length and a building setback of 570 feet, Walmart is permitted up to 325 square feet of wall signs. As background for the Board, the applicant was denied a similar variance request for 732 square feet of wall signs in 2004 (ZBA #03-22). In its decision, the Board cited Section 42-552(I) of the Zoning Code (adopted in 2003) that permits wall sign area bonuses specifically to accommodate 'big box' retailers having significant building setback and wall length. Subsequent to the Board decision, Walmart erected a 120 square-foot freestanding sign and currently has 262 square feet of wall signs.

With regard to this variance request, the applicant indicates most businesses along Shaver Road do not have businesses in front of them that impact the view of the main store. However, development of outlots in front of the Walmart store is a self-created hardship. Based on the zoning lot street frontage, Walmart is permitted a second 120 square foot freestanding sign that would improve visibility. The desire to identify the addition of the superstore with sale of groceries and pharmacy drive-through is acknowledged. However, much of the proposed increase in sign area is the result of the applicant increasing the Walmart sign above the main entrance from 123 square feet to 298 square feet. In addition to a second freestanding sign, Walmart has available 63 square feet of additional wall sign area that can be used to advertise the superstore expanded goods and services. For the reasons noted above, including the availability of conforming alternatives, staff does not recommend the variance request.

PRACTICAL

DIFFICULTY: Building setback noted by applicant. None noted by staff. See suggested motion form.

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

I move, in regard to ZBA # _____, the application by _____
for a variance from _____

be:

a. granted for all of the following reasons:

- 1a. 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 _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to _____, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

-OR-

b. denied for one of more of the following reasons:

- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as _____.
- 3b. The immediate practical difficulty causing the need for the variance request was created by the applicant;
- 4b. The variance would be detrimental to adjacent property and the surrounding neighborhood, and;
- 5b. The variance would materially impair the intent and purpose of the zoning ordinance.

c. In addition, the application and supporting materials, staff report, and all comments, 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.**