

# **CITY OF PORTAGE ZONING BOARD OF APPEALS**

## **FINAL AGENDA**

**Monday, November 10, 2025  
7:00 PM**

**Portage City Hall  
Council Chambers**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **APPROVAL OF MINUTES:**

1. October 13, 2025 meeting Minutes

### **OLD BUSINESS:**

### **NEW BUSINESS:**

1. ZBA#25-02; 4815 West Milham Ave

### **OTHER BUSINESS:**

### **STATEMENT OF CITIZENS:**

### **ADJOURNMENT:**

### **MATERIALS TRANSMITTED**

Communications recieved regarding ZBA#25-02 , 4815 West Milham Avenue

Star (\*) indicates printed material within the agenda packet.

# CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – October 13, 2025

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Eichstaedt at 7:00 p.m. eight people were in the audience.

**MEMBERS PRESENT:** Jay Eichstaedt, David Bergher, John Sloan, Ken Seybold, Linda Fry, Mike Stempihar

**MEMBERS EXCUSED:** Aimee Potts

A motion was made by Seybold, and seconded by Fry, to excuse the absent board member. Upon voice vote, the motion passed 6-0.

**IN ATTENDANCE:** Jeff Mais, Zoning & Codes Administrator; Alex Johnson, City Planner.

**APPROVAL OF THE MINUTES:**

A motion was made by Bergher, and seconded by Stempihar, to approve May 12, 2025, minutes. Upon voice vote, motion passed 6-0.

**NEW BUSINESS:**

**ZBA #25-01; 6005 South Westendge Avenue:** Staff explained the background and request for a variance for two additional wall signs which would exceed the maximum allowance by 160.5 square feet. The applicant explained that the proposed dog image is not intended for advertising purposes but reflects the company's logo. Rick Williams spoke on behalf of the applicant and stated the right in and right out entrance design limited visibility of the building, and that heavy traffic could potentially block the view of the pylon sign making the need for larger wall signs more important. Stempihar asked if the applicant had considered placing the dog image on the menu or some other locations. The applicant responded they try to keep the appearances of their stores uniform.

A public hearing was opened. A letter of opposition from Jeffrey Case, 5691 Tradewind Drive was read into the record. Paul Goldenbeld, 219 E. Milham Avenue spoke in opposition to the request stating that any lights shining on the proposed signs or building would have negative impacts on the neighboring residences. The applicant stated the mural would not be illuminated. The public hearing was closed.

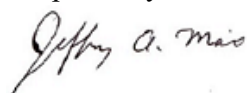
A motion was made by Fry, seconded by Seybold to deny the variance for two additional wall signs which would exceed the maximum allowance by 160.5 square feet for the following reason: the variance will materially impair the intent and purpose of the ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record, and that the action of the Board be final and effective immediately. Upon roll call vote: Eichstaedt-Yes, Seybold-Yes, Bergher-Yes, Sloan-Yes, Stempihar-Yes, Fry-Yes. The motion passed 6-0.

**OTHER BUSINESS:** The Board accepted Lena Jomaa's resignation and thanked her for her time and service.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** Motion by Bergher, seconded by Sloan to close the meeting. The meeting was adjourned at 8:12 pm.

Respectfully submitted,



Jeff Mais  
Zoning & Codes Administrator

**TO:** Zoning Board of Appeals**DATE:** November 10, 2025**FROM:** Peter Dame, Chief Development Officer**SUBJECT:****CODE SECTION:** Section 42-262 C(4)(a) Vehicle Fueling Station separation distance**APPEAL:** Seeking a variance to construct a vehicle fueling station 66 feet from a residential zoned property where a minimum 300-foot separation distance is required.**STAFF****RECOMMENDATION:** The applicant is requesting the variance per the enclosed application and site sketch. The subject property is zoned B-3, General Business. A parcel line adjustment was recently approved splitting the north (roughly half of the parcel) portion of the lot from the south B-2 zoned portion, and this north portion was recently approved to be rezoned to B-3, General Business. The property is adjacent to undeveloped properties zoned B-2, Community Business to the south and east, commercial zoned property located in the Charter Township of Texas across the street to the west, and to B-3 General Business and R-1A One Family Residential zoned property (Westfield Park) across the street to the north.

The property at 4815 West Milham Avenue is currently undeveloped, but the applicant proposes to construct a vehicle fueling station/convenience store (Casey's) there. As noted, the subject property is across the street from Westfield Park, which is zoned R-1B, One Family Residential. Section 42-262C(4)(a) requires that vehicle fueling stations must be located at least 300 feet away from residential zoned property. The park's underlying zoning is residential and is 66 feet to the north. A variance is therefore requested.

The requirement for a 300-foot separation distance from residential property is intended to protect residences from the sounds, sights, smells, and other potential negative impacts associated with the operation of vehicle fueling stations. In the instant case, however, there are no nearby residences. The nearest residential property that actually has a residence on it is located 463 feet to the north; well beyond the minimum 300-foot separation distance requirement. Westfield Park was created in 1969, and while the underlying zoning happens to be residential, the prospect of it being redeveloped as a subdivision at any point in the foreseeable future is highly unlikely. In addition, the Westfield subdivision was originally located closer to an automotive service station than the proposed development when Moore's Automotive (site of the current Sunny Mart at 4824 West Milham Avenue) was constructed in 1959. The separation standards found in Section 42-262 were not adopted until 2003. Westfield Park, however, has historically

served as a buffer for the Westfield neighborhood. The buffer is even more effective today as rows of now mature evergreen trees are located along the park's north and south property lines.

The surrounding development pattern is an exceptional circumstance applying to the property that does not generally apply to other properties in the same zoning district; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to construct a fueling station that is similar to that possessed by other properties in the same zoning district; the surrounding development pattern was not created by the applicant, and they did not cause the need for the variance; 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. For these reasons, the variance can be recommended.

**PRACTICAL  
DIFFICULTY:**

surrounding development pattern

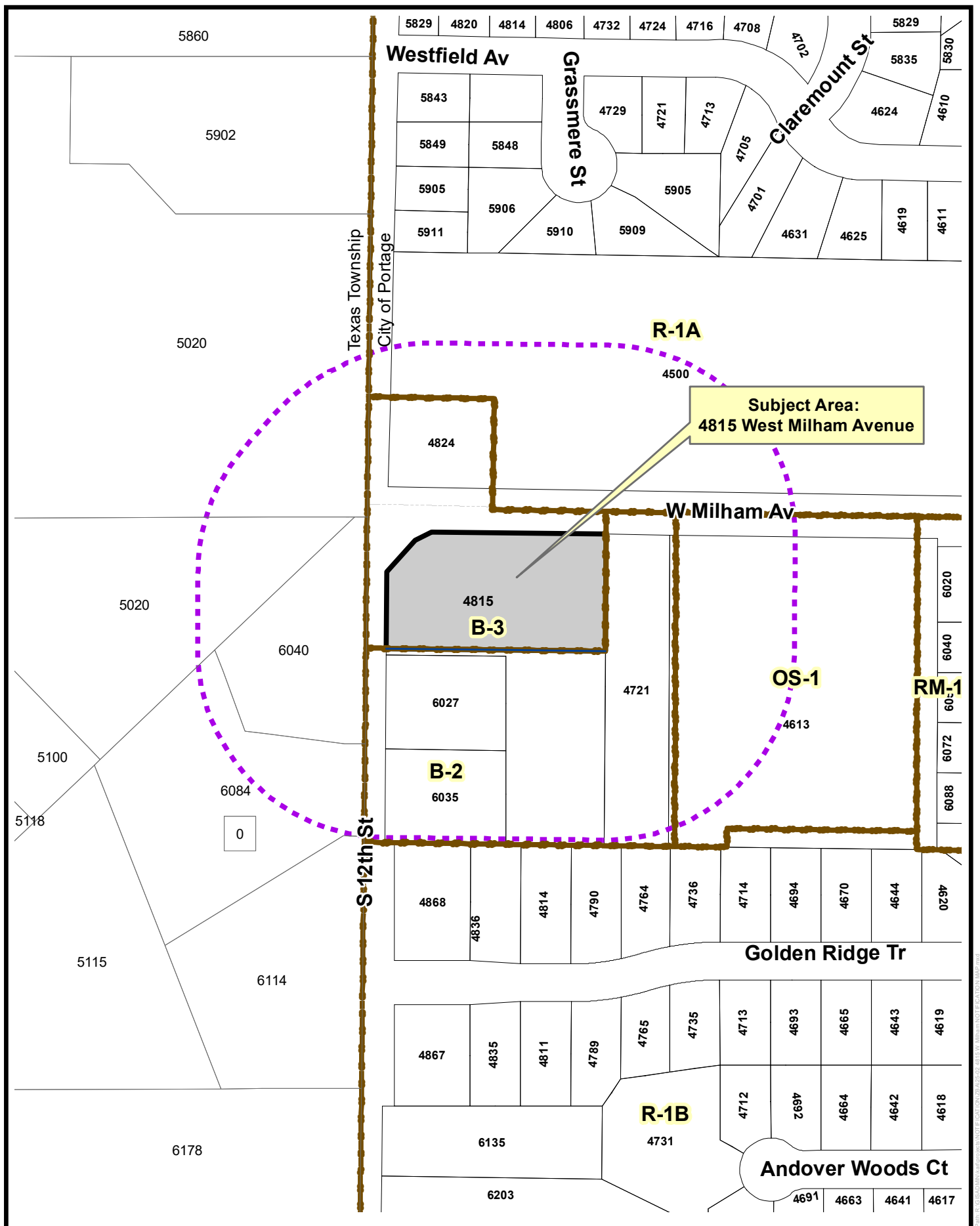
**Attachments:**

1. 25-02 4815 W Milham Aerial MAP
2. 25-02 4815 W Milham Notification Map
3. 25-02 4815 W Milham Zoning MAP
4. ZBA 25-2 Application
5. ZBA 25-2 Site Plan 4815 W Milham
6. Motion Form

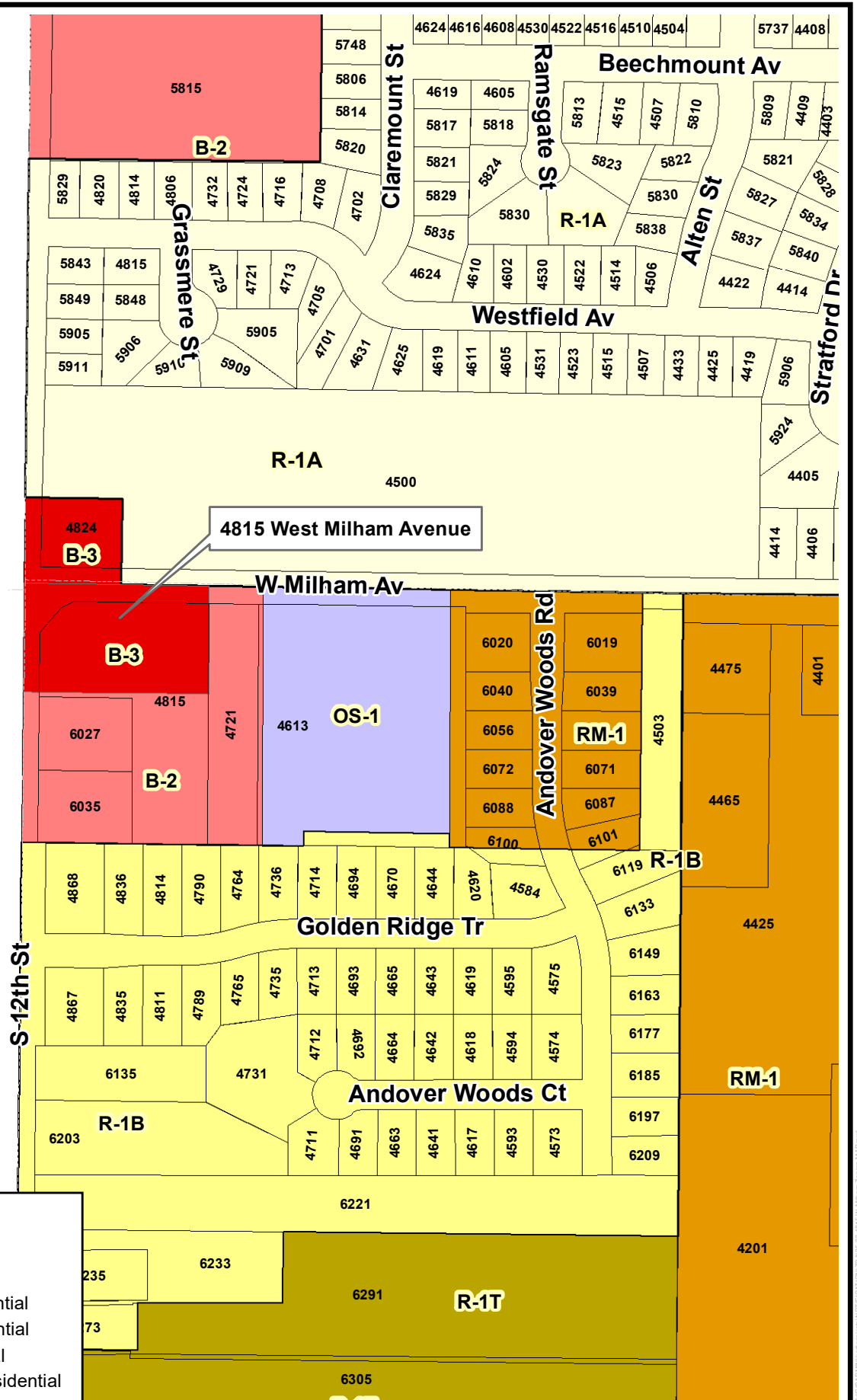








Texas Township



- B-2 Community Business
- B-3 General Business
- OS-1 Office Service
- R-1A One Family Residential
- R-1B One Family Residential
- R-1T Attached Residential
- RM-1 Multiple Family Residential



### ZONING BOARD OF APPEALS APPLICATION

#### FOR COMPLETION BY APPLICANT

Application Date 10.08.25

Name of Applicant Paul Hanson  
Print

Paul

Signature

Applicant's Address 7777 Bonhomme Avenue, Suite 1853 Clayton, MO 63105

Phone No. 618-604-7157

Name of Property Owner (if different from Applicant) Milham Crossing, LLC.

Address 241 East Michigan Ave, Suite 135, Kalamazoo, Mi 49007

Phone No. \_\_\_\_\_

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

Street Address 4815 W. Milham Ave.

For Platted Property: Lot Parcel 2 of 39-10-00007-120-A 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: vehicle fueling station

Application Fee \_\_\_\_\_ (Residential Uses)

\$374 (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 Section 42-262C(4)(a) Paragraph \_\_\_\_\_

Regarding: Use vehicle fueling station Area \_\_\_\_\_ Yards \_\_\_\_\_

Setbacks \_\_\_\_\_ Parking \_\_\_\_\_ Other proximity to residential zoning

Reason for Request (Also complete page 2 of application): Reduce the 300' separation requirement from the residentially zoned park to 65'

**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:	Filing Date:	Tentative Hearing Date:
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.)

The request for variance is not due to physical characteristics of the property. The site itself is fully capable of accommodating the proposed use in compliance with the zoning ordinance. The need for a variance arises solely due to the property's proximity to a neighboring public park. Section 42-262C(4)(a) states vehicle fueling stations are not to be located within 300' of a residential zoning district.

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

N/A

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

Yes, the property could potentially be used for other permitted uses within the zoning district without the need for a variance. The variance is not being sought to avoid compliance with the zoning regulations, but rather to allow a appropriate use that is otherwise permitted but restricted solely due to the property's location relative to the park.

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.)

Yes, the requested variance is the minimum necessary to allow for a reasonable and permitted use of the property. The variance specifically addressed the unique issue of proximity to the neighboring park and does not seek to waive or reduce any other zoning requirements.

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 proposed use is consistent with other permitted uses in the zoning district and is compatible with existing commercial developments at the intersection. All standard zoning requirements related to setbacks and screening will be met to ensure minimal impact on neighboring properties.

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 need for a variance arises solely due to the property's proximity to a neighboring public park. The stormwater runoff from the site will be detained via underground detention and released into existing public infrastructure, in order to prevent any concerns of flooding. There are two site access being proposed to help with the circulation of traffic at the intersection. The access off S. 12th street will be a shared access point with future development to eliminate the need for additional driveway cuts along the street.

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.)

The hardship arises solely from the property's location in relation to the adjacent public park, which is an external condition beyond the control of either party.

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

This variance allows the property to be developed in a way that respects the character of the area, supports land use planning, and does not create adverse impacts on the adjacent park or nearby properties. Granting this limited and reasonable variance strikes an appropriate balance between ordinance intent and the unique circumstances of the site.

*Paul*

Signature of Applicant

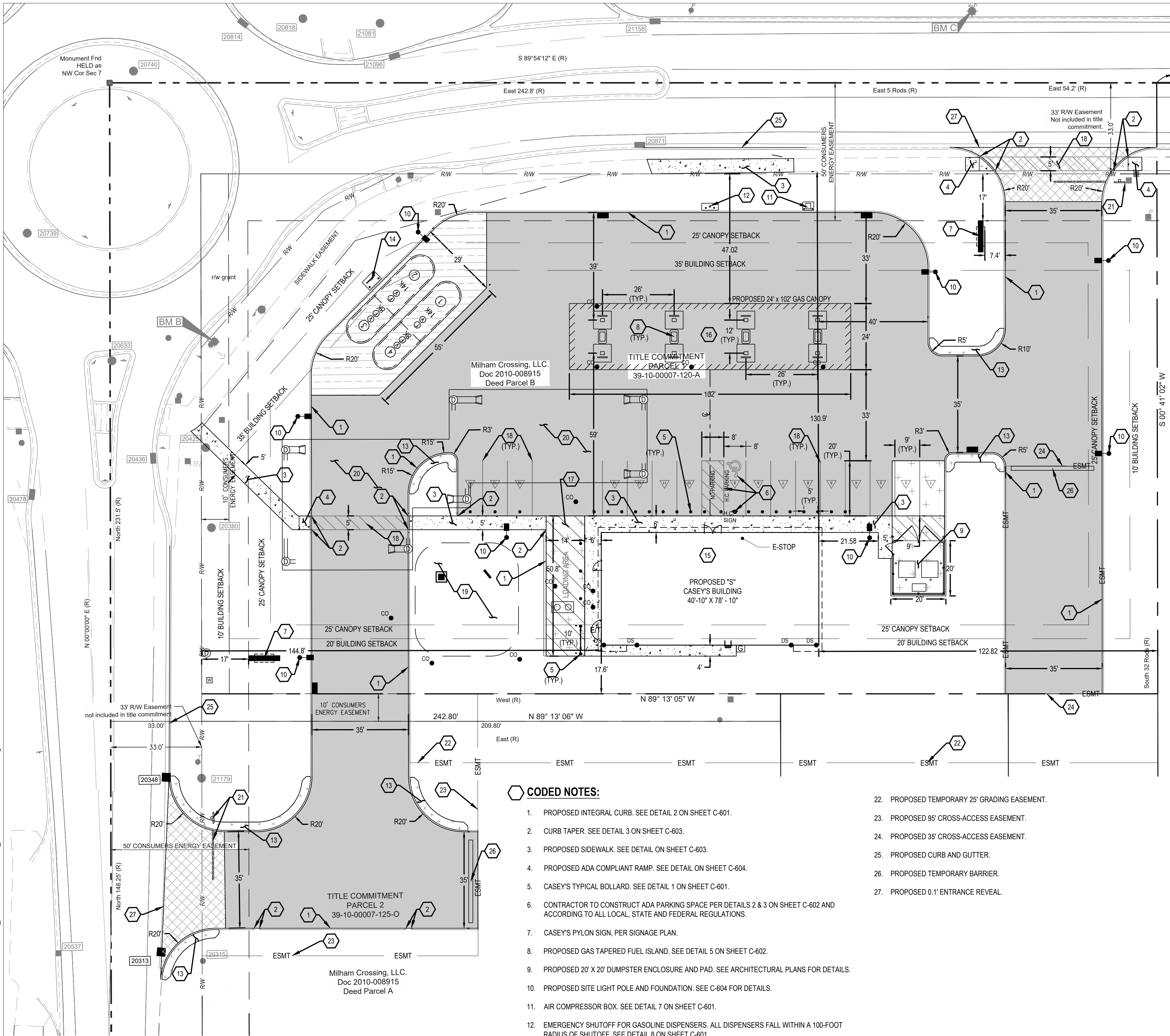
10.06.25

Date

7900 South Westnedge Avenue ♦ Portage, Michigan 49002 ♦ (269) 329-4477

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**CODED NOTES:**

1. PROPOSED INTEGRAL CURB. SEE DETAIL 2 ON SHEET C-601.
2. CURB TAPER. SEE DETAIL 3 ON SHEET C-603.
3. PROPOSED SIDEWALK. SEE DETAIL ON SHEET C-603.
4. PROPOSED ADA COMPLIANT RAMP. SEE DETAIL ON SHEET C-604.
5. CASEY'S TYPICAL BOLLARD. SEE DETAIL 1 ON SHEET C-601.
6. CONTRACTOR TO CONSTRUCT ADA PARKING SPACE PER DETAILS 2 & 3 ON SHEET C-602 AND ACCORDING TO ALL LOCAL, STATE AND FEDERAL REGULATIONS.
7. CASEY'S PYLON SIGN, PER SIGNAGE PLAN.
8. PROPOSED GAS TAPERED FUEL ISLAND. SEE DETAIL 5 ON SHEET C-602.
9. PROPOSED 20' X 20' DUMPSTER ENCLOSURE AND PAD. SEE ARCHITECTURAL PLANS FOR DETAILS.
10. PROPOSED SITE LIGHT POLE AND FOUNDATION. SEE C-604 FOR DETAILS.
11. AIR COMPRESSOR BOX. SEE DETAIL 7 ON SHEET C-601.
12. EMERGENCY SHUTOFF FOR GASOLINE DISPENSERS. ALL DISPENSERS FALL WITHIN A 100-FOOT RADIUS OF SHUTOFF. SEE DETAIL 8 ON SHEET C-601.
13. PROPOSED LANDSCAPE PROTECTOR. SEE DETAIL 4 ON SHEET C-601.
14. PROPOSED FUEL TANK VENTS AND PAD. SEE DETAIL 6 ON SHEET C601.
15. PROPOSED 3,220 SF BUILDING. REFER TO ARCHITECTURAL PLANS FOR DETAILS.
16. PROPOSED 24' X 102', 4 DISPENSER AUTO FUEL CANOPY. REFER TO ARCHITECTURAL PLANS FOR DETAILS.
17. PROPOSED 14' X 50' LOADING ZONE.
18. PROPOSED PAVEMENT MARKINGS.
19. PROPOSED DETENTION BASIN. REFER TO C-202 FOR DETAILS.
20. PROPOSED UNDERGROUND DETENTION SYSTEM. REFER TO C-203 FOR DETAILS.
21. PROPOSED "STOP" SIGN (R1-1) AND STOP BAR. REFER TO C-604 FOR DETAILS.

22. PROPOSED TEMPORARY 25' GRADING EASEMENT.
23. PROPOSED 95' CROSS-ACCESS EASEMENT.
24. PROPOSED 35' CROSS-ACCESS EASEMENT.
25. PROPOSED CURB AND GUTTER.
26. PROPOSED TEMPORARY BARRIER.
27. PROPOSED 0.1' ENTRANCE REVEAL.

BENCHMARK		DATUM: NAVD88
BM "A":	BENCHMARK SET EAST SIDE OF POWER POLE #131200, WEST SIDE OF SOUTH 12TH STREET BEHIND SIDEWALK BETWEEN ENTRANCE TO STRIP CENTER AND NEXT HOME BUSINESS. ELEVATION = 923.59'	
BM "B":	BENCHMARK SET NORTH SIDE OF POWER TELEPHONE POLE, BETWEEN SIDEWALK AND CURB, SOUTHWEST CORNER OF MILHAM AVENUE AND SOUTH 12TH STREET ROUNDABOUT, NORTHEAST FROM A LIGHT POLE. ELEVATION = 931.64'	
BM "C":	BENCHMARK SET SOUTH SIDE OF TELEPHONE POLE WITH UNDERGROUND, NORTH SIDE OF MILHAM AVENUE, BETWEEN CURB AND SIDEWALK, TWO POLES EAST FROM PORTAGE CITY SIGN. ELEVATION = 935.15'	

NOTE: REFER TO ALTA SURVEY, SHEET C-003, FOR BENCHMARK LOCATIONS

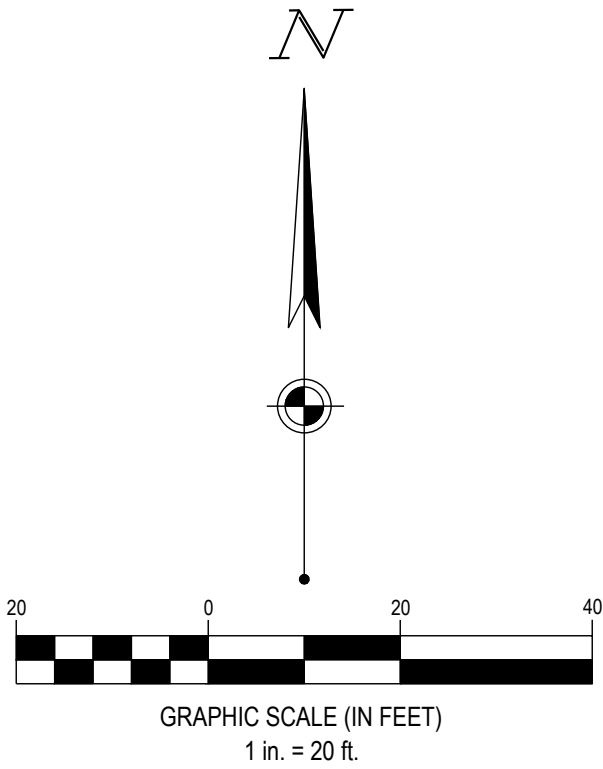
**SITE LEGEND**

**EXISTING**

REFER TO C-001 FOR EXISTING FEATURES LEGEND

**PROPOSED**

- PROPOSED STANDARD DUTY CONCRETE PAVEMENT. SEE DETAIL 2 ON SHEET C-601
- PROPOSED FUEL TANK CONCRETE PAVEMENT. SEE DETAIL 2 AND 6 ON SHEET C-601
- PROPOSED HEAVY DUTY NON-REINFORCED CONCRETE PAVEMENT. SEE DETAIL 2 ON SHEET C-601
- PROPOSED CONCRETE SIDEWALK. SEE DETAIL 1 ON SHEET C-601
- PROPOSED APPROACH CONCRETE PAVEMENT. SEE DETAIL 2 ON SHEET C-601
- SEE ENLARGED PLAN, THIS SHEET
- SETBACK
- EASEMENT
- BUILDING
- CANOPY
- CONCRETE CURB
- PAVEMENT/WALK
- RETAINING WALL
- PARKING SPACE COUNT
- SIGN
- DETECTABLE WARNING MAT.
- CATCH BASIN
- STORM MANHOLE
- SANITARY MANHOLE
- CURB INLET
- CLEANOUT
- AREA DRAIN
- DOWN SPOUT
- FIRE HYDRANT
- LIGHT POLE
- BOLLARD



SEVENTY-TWO (72) HOURS BEFORE DIGGING IS TO COMMENCE, THE CONTRACTORS SHALL NOTIFY THE FOLLOWING AGENCIES: MICHIGAN UTILITIES PROTECTION SERVICE AT 811 OR 800-482-7171 AND ALL OTHER AGENCIES WHICH MIGHT HAVE UNDERGROUND UTILITIES INVOLVING THIS PROJECT AND ARE NONMEMBERS OF STATE UTILITIES PROTECTION SERVICE



**CESO**  
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Merrimack, NH 03042  
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CASEY'S #4654

PORTAGE, MI

SEC S 12TH ST & W MILHAM AVE. 4815 W MILHAM AVE.  
PORTAGE, MI 49024

Revisions / Submissions		
ID	Description	Date

Project Number:	765037
Scale:	1" = 20'
Drawn By:	BTW
Checked By:	PDH
Date:	06/12/2025
Issue:	NOT FOR CONSTRUCTION

Drawing Title:

SITE PLAN

C-101

**MATERIALS TRANSMITTED**



Founded in 1852  
by Sidney Davy Miller



EFTIOLA GRECO  
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FAX +1.313.496.7500  
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November 7, 2025

**VIA E-MAIL: MAISJ@PORTAGEMMI.GOV**

City of Portage  
Zoning Board of Appeals  
7900 South Westnedge Avenue  
Portage, MI 49002

**Re: ZBA Appeal No. 25-02; 2815 West Milham Ave.**

Dear Chairperson and Members of the Board:

**I. EXECUTIVE SUMMARY**

Our firm represents Mr. Harbhajan Multani, the abutting neighbor and owner of 6035 South 12<sup>th</sup> Street and whose family owns 4824 West Milham Avenue. Mr. Multani objects to and opposes the variance request filed by Mr. Paul Hanson ("Applicant") on behalf of Milham Crossing, LLC ("Milham Crossing") for the property located at 4815 West Milham Avenue for the reasons detailed below.

At the outset, Milham Crossing seeks a variance to City of Portage ("City") Code of Ordinances (the "Ordinance") to construct and operate a new vehicle fueling station. The Applicant's site plan places the fueling station only 66 feet from the boundary of R-1B residentially zoned property – specifically, Westfield Park – where § 42-262(C)(4)(a) of the Ordinance mandates a minimum 300-foot separation distance between any vehicle fueling station and residentially zoned land. The Applicant has wholly failed to establish the requisite elements for a variance and approval would constitute arbitrary spot zoning in direct contravention of established zoning principles and larger community objectives.

**II. LEGAL FRAMEWORK**

The Applicant seeks authorization to construct a vehicle fueling station only 66 feet from the R-1B residentially zoned Westfield Park. This proposed siting represents a 234-foot deviation from the City's mandatory 300-foot separation requirement – a 78 percent reduction in the protective buffer established to shield residential districts from the hazards inherent in fuel storage and dispensing operations.



**A. The Bright-Line Standard: 300-Foot Separation**

Under Portage Code § 42-262(C)(4)(a), fueling stations must not be located within 300 feet of a residential zoning district (i.e., any R-1 district). This provision is a quantitative, bright-line public safety standard adopted by the City to protect nearby homes and parks from the foreseeable risks posed by fires, explosions, vapor intrusion, noise, lighting glare, and general traffic associated with fuel stations. Moreover, this separation is measured from the boundary of any residentially zoned parcel regardless of the current development status. Thus, a reduction of nearly 80 percent cannot reasonably be characterized as a traditional “variance” or a minor dimensional deviation; rather, it would nullify the core protective function of the Ordinance itself.

**B. Variance Standards Under Michigan Law and City Code**

Under Michigan law and the City’s Code, the Applicant bears the burden of proving that the conditions for granting a variance exist. Specifically, § 42-622(B)(1) provides that a “non-use variance may be allowed by the zoning board of appeals *only* in cases where there is evidence of practical difficulty . . . .” (Emphasis added).

This requires affirmative proof of each of the following mandatory elements: First, there must be exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. § 42-622(B)(1)(a). Such circumstances may include exceptional narrowness, shallowness, or irregular shape of the parcel as it existed on the effective date of the zoning ordinance; the presence of exceptional topographic, environmental, or other physical conditions peculiar to the land, building, or structure; or the existence of adjoining land uses or developments that create an extraordinary situation such that literal enforcement of the ordinance would result in practical difficulty. See *id.* Second, the variance must be necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and vicinity; however, the mere fact that compliance with the ordinance would be more expensive or less convenient does not constitute a practical difficulty. See § 42-622(B)(1)(a)(b). Third, the variance must not be detrimental to adjacent property or to the surrounding neighborhood, and it must not materially impair the intent or purpose of the zoning ordinance as a whole. See § 42-622(B)(1)(a)(c). Finally, the immediate practical difficulty must not have been created by the applicant, whether through voluntary actions, self-imposed conditions, or prior knowledge of applicable zoning restrictions. See § 42-622(B)(1)(a)(d).

Collectively, these criteria show the narrow and exceptional nature of non-use variances: they are intended to provide limited relief from strict dimensional application of the zoning code only where a property exhibits unique physical characteristics that make literal compliance unduly burdensome, and not to accommodate personal preferences, economic motives, or self-created design choices. The Applicant simply cannot satisfy these mandatory requirements.

**C. The Applicant Fails To Make Required Showing**

Under Portage Code § 42-364(b)(1), a non-use variance may be granted only if the property possesses exceptional or extraordinary circumstances or conditions not generally shared by other properties in the same zoning district.

1. *No Exceptional or Extraordinary Circumstances*

The property must have exceptional and unique physical characteristics (such as narrowness, shallowness, irregular shape, exceptional topography, or other extraordinary situation) not generally shared by other properties in the district. 4815 West Milham Avenue is a standard rectangular commercial parcel with regular dimensions and ordinary topography. The site plan confirms conventional geometry and no unusual physical constraints. The only “unique” feature is its location adjacent to residentially zoned land – but proximity to residential districts is a common characteristic of commercial zoning boundaries citywide and not an exceptional physical attribute of this specific parcel. Additionally, proximity to residential zoning is precisely the condition the Ordinance is designed to address, not an extraordinary circumstance warranting a variance. Since the parcel does not meet the threshold of uniqueness required under the first factor, the request should be denied.

2. *No Risk to Preservation and Enjoyment of a Substantial Property Right*

Second, § 42-364(b)(2) requires that the variance be necessary to preserve and enjoy a substantial property right similar to other properties in the same district. Simply put, compliance with the ordinance would not deprive the owner of reasonable use of the property. 4815 West Milham Avenue is zoned B-3, General Business, which permits dozens of commercial uses as-of-right including: Retail establishments, restaurants, professional offices, service businesses, and other forms of general commercial development. The Applicant retains full right and ability to develop the property for any conforming B-3 use. The inability to construct one specific high-impact use – namely, a fueling station – that violates setback requirements does not constitute deprivation of reasonable use, it is merely one of many commercial options.

3. *There Is Detriment to Adjacent Property or Neighborhood*

Third, and most consequentially, the variance would be detrimental to adjacent properties and the public welfare. The requested variance by Milham Crossing, LLC, to construct a vehicle fueling station only 66 feet from residentially zoned Westfield Park fails this criterion in multiple, independent ways. The operation of a vehicle fueling station inherently presents significant risks to soil, groundwater, and air quality as the development includes underground storage tanks, which are widely recognized as potential sources of groundwater contamination should a leak occur. Additionally, fuel dispensing operations emit volatile organic compounds (“VOCs”) and other hazardous air pollutants that can adversely affect human health and the environment.

Beyond environmental and safety risks, a fueling station at this location would also

substantially increase vehicular traffic, including commercial delivery trucks, ingress and egress movements, and customer vehicles resulting in traffic congestion and introduce late-night activity implicated by 24-hour operations of the business. The proposed development would impose significant effects on quality of life in the neighborhood as the sheer scale of the facility – including a multi-dispense canopy and convenience store – would create continuous noise and lights, disrupting the aesthetics and character of the area. Moreover, approval of this variance would also have citywide implications beyond the immediate site as reducing the required 300-foot buffer by 78 percent would effectively render the statutory separation standard meaningless, inviting future applicants to claim similarly “unique circumstances” to circumvent established protections.

Considering the direct environmental hazards, public safety risks, degradation of quality of life, and negative precedent the requested variance would establish, denial is required to protect both the immediate community and the long-term integrity of Portage’s zoning framework.

#### 4. *Granting a Variance Would Materially Impair the Ordinance*

Section 42-262(C)(4)(a) unequivocally establishes the 300-foot separation requirement as a bright-line protective measure for residential areas against the hazards of vehicle fueling stations. The requested reduction from 300 feet to 66 feet constitutes a 78% reduction of the mandated buffer, effectively nullifies the Ordinance’s protective function. The legislative intent—insulating residential zones from noise, traffic, environmental hazards, and incompatible land uses—would be entirely undermined. Approving this variance would erode the ordinance objectives by far exceeding minor or technical deviations typically considered permissible.

#### 5. *Hardship Is Self-Created*

Under § 42-364(b)(5), the applicant must demonstrate that the practical difficulty is not self-created. The Applicant’s claimed hardship arises entirely from voluntary decisions by the Applicant itself. First, the Applicant is pursuing a parcel split and rezoning to B-3 that would create the dimensional conflict. Similarly, the Applicant selected a specific fueling station plan rather than exploring configurations that comply with the 300-foot separation. Ultimately, choosing a high-impact, 24-hour commercial use in a location known to abut residential zoning was entirely the Applicant’s decision.

Michigan courts and zoning boards have consistently found that self-created conditions do not justify variance relief. See *Nat’l Boatland, Inc. v. Farmington Hills Zoning Bd. of Appeals*, 146 Mich. App. 380, 386, 380 N.W.2d 472, 476 (1985) (concluding plaintiff created a hardship when it chose to erect a new building on its property which extended its use in such a way that the City could require the new building to comply with all of the zoning ordinance’s requirements). This is the textbook definition of self-created hardship and is independently dispositive grounds for denial.

**D. Improper Notice to Affected Property Owners**

The Applicant also failed to provide notice to all required property owners as mandated under the City of Portage Zoning Ordinance. It appears that a portion of the proposed project - specifically, the driveway connecting the fueling station to the public right-of-way - will encroach onto a separate parcel to the south. While the Applicant characterizes this area as an access easement, it is functionally part of the proposed commercial use and appears to be essential to the operation of the fueling station and convenience store. Because this driveway is integral to the proposed use, it cannot be treated as a minor or separate easement; approval of the variance effectively authorizes its use in connection with the project.

As a result, notice should have been provided to the owners of the southern parcels, who are directly affected by the proposed driveway and its associated traffic, environmental, and safety impacts. The failure to provide notice to these property owners constitutes a procedural defect, depriving them of the opportunity to review, comment on, and participate in the public hearing concerning the variance request. This deficiency alone provides a valid basis for the Board to deny or defer action until proper notice is issued to all affected parties.

In response to this lack of notice, Mr. Multani collected written letters of opposition from those neighbors and submitted them to the Board to ensure their concerns were formally registered.

**III. CONCLUSION**

The Applicant has wholly failed to meet the statutory requirements for a variance under § 42-622(B)(1)(a) of the Ordinance. The approval of the requested reduction of the 300-foot separation from residentially zoned property to 66 feet would directly contravene the plain language and intent of § 42-262 C(4)(a) and essentially amounts to arbitrary spot zoning favoring a single property owner. Moreover, the proposed variance would endanger public health, safety, and welfare by placing a high impact fueling station in close proximity to residentially zoned land, and it would systematically erode the protective standards designed to preserve residential districts citywide. The Zoning Board of Appeals possesses both the legal authority and the community obligation to uphold the ordinance and maintain these protections, and for these reasons, we respectfully urge the Board to deny the requested variance.

Sincerely,

Miller, Canfield, Paddock and Stone, P.L.C.

By: Eftiola Greco  
Eftiola Greco





## Department of Community Development

Dear Resident/Property Owner:

October 24, 2025

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### ZONING BOARD OF APPEALS

James Eichstaedt  
Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Erika Martin  
6170 Applegrove Ln  
Portage, MI  
49024  
Do Not Approve



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Aimee Potts  
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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Michael Hecht

4790 Golden Ridge Tr.  
Portage, MI 49024

DO NOT Approve



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Michael Stempihar (alt)

Attachment: Map

Zane Butkari

6839 Cypress Bay Dr.

Kalamazoo, MI

49009

please do not approve



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John Sloan  
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Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Shannon Galloway  
5935 Downing Street  
Portage, MI 49024

Please DO NOT approve





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Michael Stempihar (alt)

Attachment: Map

Matt Parker  
3016 Coachtite Ave  
Portage 49024  
Please Do Not  
approve



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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Andrea MerriField  
4232 Cedarcrest Ave  
Portage MI 49024

Please Do  
NOT  
Approve



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David Bergher  
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Michael Stempihar (alt)

Attachment: Map

Michael Holtzhauser  
6318 Sitka Spruce St.  
Portage MI, 49024  
Please do not approve



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Michael Stempihar (alt)

Attachment: Map

Shannon Balloway

5935 Downing St

Portage, MI 49024

Please don't approve!



## Department of Community Development

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October 24, 2025

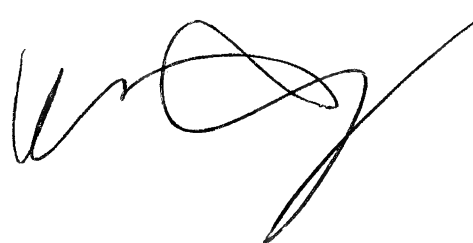
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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Kathryn Spiller  
6835 S. 12th Street  
Portage MI. 49024  
I DO NOT APPROVE!  






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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

DAN BUSH  
5631 LEWISINDA AVE  
KALAMAZOO, MI 49009  
I DO NOT APPROVE



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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Justin Payne (321) 436-1318  
6621 Annandale Dr  
Kalamazoo, MI 49009  
I do not approve.  
John R.



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John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Don't approve  
Angelina Ash  
3621 W. Wembley Ln  
Kalamazoo MI 49009



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Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

*Don't Approve*  
*Malamba Chisowa*  
*7350 Oldenburg Ln*  
*Portage, MI, 49024*



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David Bergher  
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Michael Stempihar (alt)

Attachment: Map

Dont Approve  
zyah miles  
4568 Horton DR





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Linda Fry  
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Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

*I don't approve.*  
*JASON BERGHUIS 4821 BBERHMEONT 269488010*

Attachment: Map



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Attachment: Map

*Andrea Hipolito*  
*4757 Pinefield Ave*  
*Portage, MI 49024*



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David Bergher  
Michael Reedy (alt)  
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Mike Hill  
4757 pinefield Ave  
Portage MI 49024

Attachment: Map



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Jason Hipolito  
806 Cottondale Ave  
Portage MI 49024

Attachment: Map



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Attachment: Map

Teresa Morehead  
7486 S 12<sup>th</sup> St Portage MI  
I DON'T approve





## Department of Community Development

Dear Resident/Property Owner:

October 24, 2025

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### ZONING BOARD OF APPEALS

James Eichstaedt  
Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Robert Sarnagin  
4414 W Milham Ave  
I do not approve.





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John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Peter Duarte  
5905 Grassmere St  
Portage, MI 49024

Please don't approve



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John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Robert Kemp  
5827 Downing St  
Please Don't Approve

Attachment: Map



## Department of Community Development

Dear Resident/Property Owner:

October 24, 2025

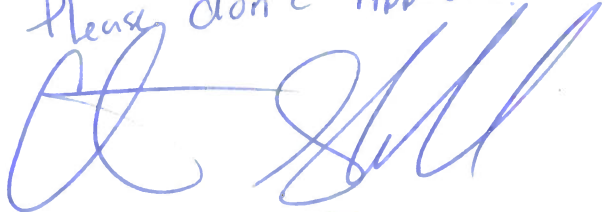
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John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

6039 Burgundy lane  
Please don't Approve! Portage, MI  
  
(269)-830-2130



## Department of Community Development

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Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Don't Approve Chris Massey 5810  
269-217-3772 Alten st.  
Portage MI  
49024



## Department of Community Development

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Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

*Cynthia Hall I don't approve  
5800 Allen St Portage, MI 49024  
269-377-3312*

Attachment: Map



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Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Please do not approve,  
Matt Trombrey  
7731 S. 12th St, 49024  
Portage, MI



Dear Resident/Property Owner:

October 24, 2025

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Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

*Handwritten notes:*

- 269-352-8041*
- Amelia Tur 4868 Golden Ridge Trl*
- John Szubala 4836 Golden Ridge 269-271-0908*
- Wendy 4764 Golden Ridge Tr 916 910 4680*
- 4643 Golden Ridge Trl.*
- Shirley 4765 Golden Ridge 269 321-0241*
- Pat P. 4789 Golden Ridge Trl. 269-873-0936*





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Linda Fry  
John Sloan  
Aimee Potts  
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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

I DON'T APPROVE 6675 TIGER LILLY  
Allen Jones



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Michael Stempihar (alt)

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Doris Perry  
4323 Stratford DR  
Portage MI 49024

I do not approve



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John Sloan  
Aimee Potts  
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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

P12 Don't Approve

KEVIN Schwoppel

5834 STRATFORD DR. Portage, MI

269-3251-1616



## Department of Community Development

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Linda Fry  
John Sloan  
Aimee Potts  
Ken Seybold  
David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Heidi N. Cameron  
5449 Texas drive  
Kalamazoo, Mich  
49009

DO NOT APPROVE!

☺ ☹



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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

*Jimmy Somscramte*  
*4877 Norfolk Cir*  
*Do Not Approve*

Attachment: Map



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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Scott VanderWalle  
4841 Mistwood Ave

TREVOR PRYSON  
5936 DOWNING ST  
PORTAGE MI  
49024  
DO NOT APPROVE



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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

Scott Moberg  
7232 Hunters Ridge Dr  
Kalamazoo MI 49009  
Do not Approve



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David Bergher  
Michael Reedy (alt)  
Michael Stempihar (alt)

Attachment: Map

DAN SHAPIRO  
5776 COPPERCENT DA  
PORTAGE MI 49024  
DO NOT APPROVE



**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 or 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.**