

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING

DATE OF MEETING: **February 14, 2017**
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes of the Regular Meeting of February 9, 2016.
- III. **PUBLIC HEARINGS**
 - A. Hearing; Case 2017-01: Request for a variance from Sections 404 and 2326 of the zoning ordinance to allow for construction of a new house that will not meet with minimum lot width; the front, side and rear setbacks; and the parking requirements, at 3560 Woodlawn Ct.
- IV. New Business
- V. Old Business
- VI. Adjourn

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETING OF THE
CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or calling the following:

Ann Marie Cummings, City Clerk
933 Terrace Street
Muskegon, MI 49440
(231) 724-6705

TTY/TDD: Dial 7-1-1 and request that a representative dial 231-724-6705

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

February 9, 2016

Chairman R. Hilt called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, B. Larson, E. Carter, E. Fordham

MEMBERS ABSENT: S. Warmington, T. Halterman, W. German

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: J. Lewis, J. Lewis, 1686 Beach St.

ELECTIONS

A motion to retain R. Hilt as Chairman and E. Fordham as Vice Chairman was made by B. Larson, supported by E. Carter and unanimously approved.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of December 8, 2015 be approved was made by B. Larson, supported by E. Carter and unanimously approved.

PUBLIC HEARING

Hearing; Case 2016-02: Request for a variance from Section 404 of the zoning ordinance to allow a property to have 17% of the lot covered in pavement in a R-1, Single Family Residential district at 1686 Beach St, by Jeff and Julie Lewis. M. Franzak presented the staff report. This parcel measures 5,410 square feet, which makes it an unbuildable lot by today's standards. However, it is considered a legal lot of record because it was a legal lot at the time it was platted, and no changes to the size of the lot have been made since then. The applicants will be putting an addition on the home, which will include a garage in the front of the home. Currently, there is no garage and the only parking pad is located behind the house. This parking pad will be removed during the addition. They would like to put a new driveway in front of the house that will lead to the garage. The ordinance allows residential properties to have a maximum pavement coverage of 10% of the property, which would allow this property to have 541 square feet of pavement. This property is unique because there is an adjacent easement which serves as the ingress/egress to five other properties in this block. A portion of this paved alley/easement is located on the property at 1686 Beach St. and cannot be removed. The amount of pavement for this alley that is located on 1686 Beach St. totals 440 square feet, leaving only 101 square feet of additional pavement that can be added to the property. In order to have a driveway that will reach their garage, they need an additional 440 square feet of pavement on the lot, which will bring their total pavement allotment up to 17% of the property. In addition, one reason for allowing only 10% for pavement coverage is due to drainage. That is not a concern on this property, since it is all beach sand.

E. Fordham asked if there was a height restriction in that area. M. Franzak stated that there was, and that would be addressed when a site plan is submitted. J. Lewis stated that the house behind them on Nelson St. was at a higher elevation than the houses on Beach St.

A motion to close the public hearing was made by B. Larson, supported by E. Carter and unanimously approved.

Board members discussed the review standards. The following findings of fact were offered: 1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, specifically the easement on the property; 2) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity; 3) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, 4) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, 5) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and 6) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the variance request to allow 17% of the property at 1686 Beach Street to be covered in pavement be approved, was made by B. Larson, supported by E. Carter and unanimously approved, with R. Hilt, B. Larson, E. Carter, and E. Fordham voting aye.

OLD BUSINESS

None

OTHER

None

There being no further business, the meeting was adjourned at 4:10 p.m.

CITY OF MUSKEGON
ZONING BOARD OF APPEALS
STAFF REPORT

February 14, 2017

- A. Hearing; Case 2017-01: Request for a variance from Sections 404 and 2326 of the zoning ordinance to allow for construction of a new house that will not meet with minimum lot size and width, the rear setback, and the parking requirements, at 3560 Woodlawn Ct.

BACKGROUND

1. The house at 3560 Woodlawn Ct is for sale. The potential new owner has applied for several variances so that he may demo the home and rebuild it in the same footprint.
2. The parcel does not abut an active street, however, Nelson St is platted as a right-of-way to the east of the property, so that is considered the front of the property.
3. The variances necessary to rebuild the home in its current location are as follows:
 - a. Lot size. The lot must be at least 6,000 sf. It is only about 5,663 sf.
 - b. Lot width. There must be at least 50 ft of road frontage. There currently is not any road frontage and the lot is only 22ft wide on the side nearest to Nelson St.
 - c. Rear setback. It is currently only 6ft, but 30 ft is required.
 - d. Parking. Homes are required to have at least two parking spaces. This parcel cannot provide any parking spaces. The current home owner is allowed to park in the adjacent parcel at 1767 Nelson St.
4. Please see the answers by the applicant to the variance questions that are enclosed.
5. Please see the enclosed site plan of the property.

3560 Woodlwan Ct, looking north from Woodlawn Ct.



Looking northwest from the porch at 3560 Woodlwan Ct



Aerial Map



DETERMINATION:

The following motion is offered for consideration:

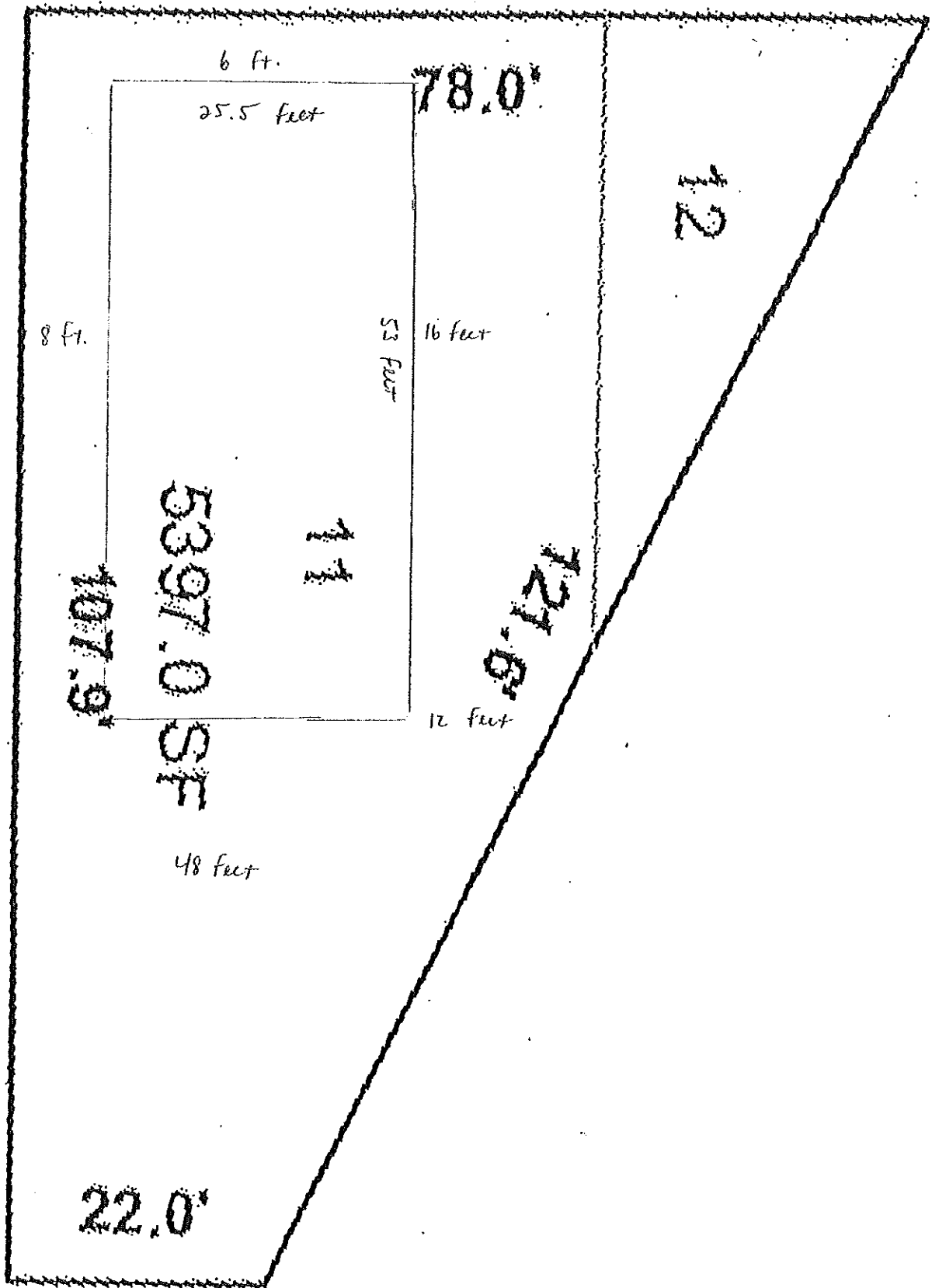
I move that the variance requests for:

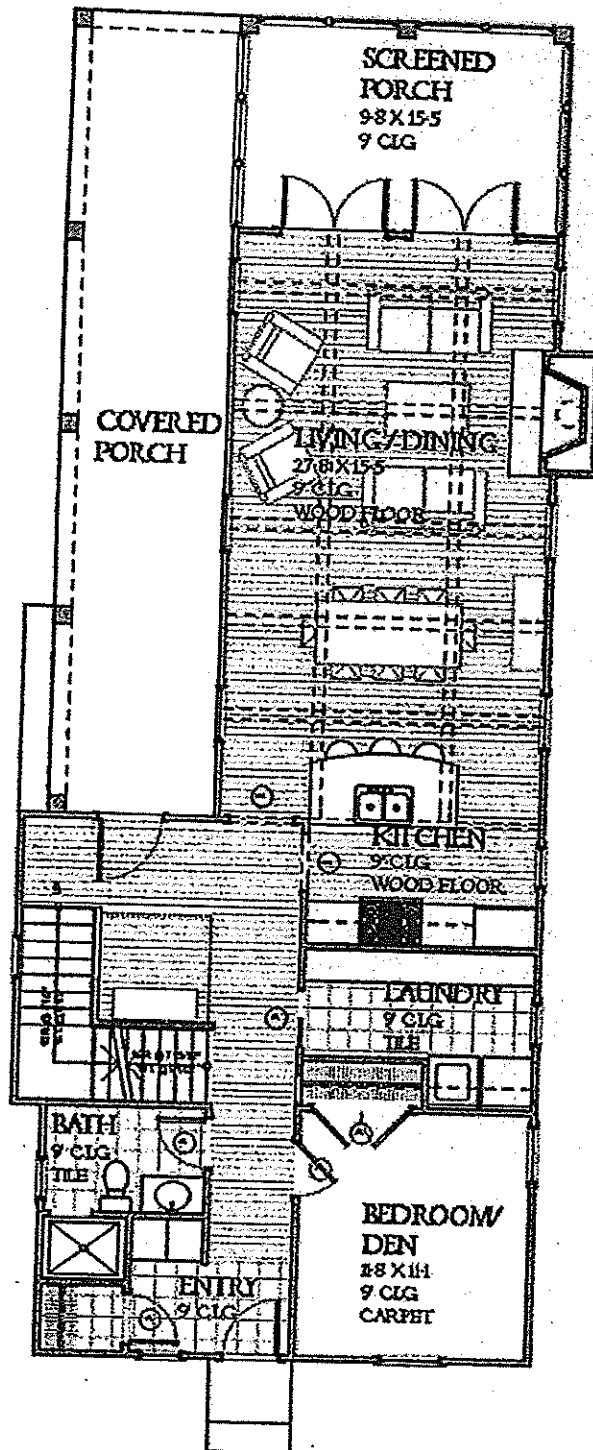
1. A reduced minimum lot size of 5,663 sf.
2. A reduced lot width of 22 ft.
3. A rear setback of 6 ft.
4. And no provided parking on site.

at 3560 Woodlawn Ct be (approved/denied), based on the following review standards listed below (found in Section 2502 of the Zoning Ordinance) and subject to conditions (if any):

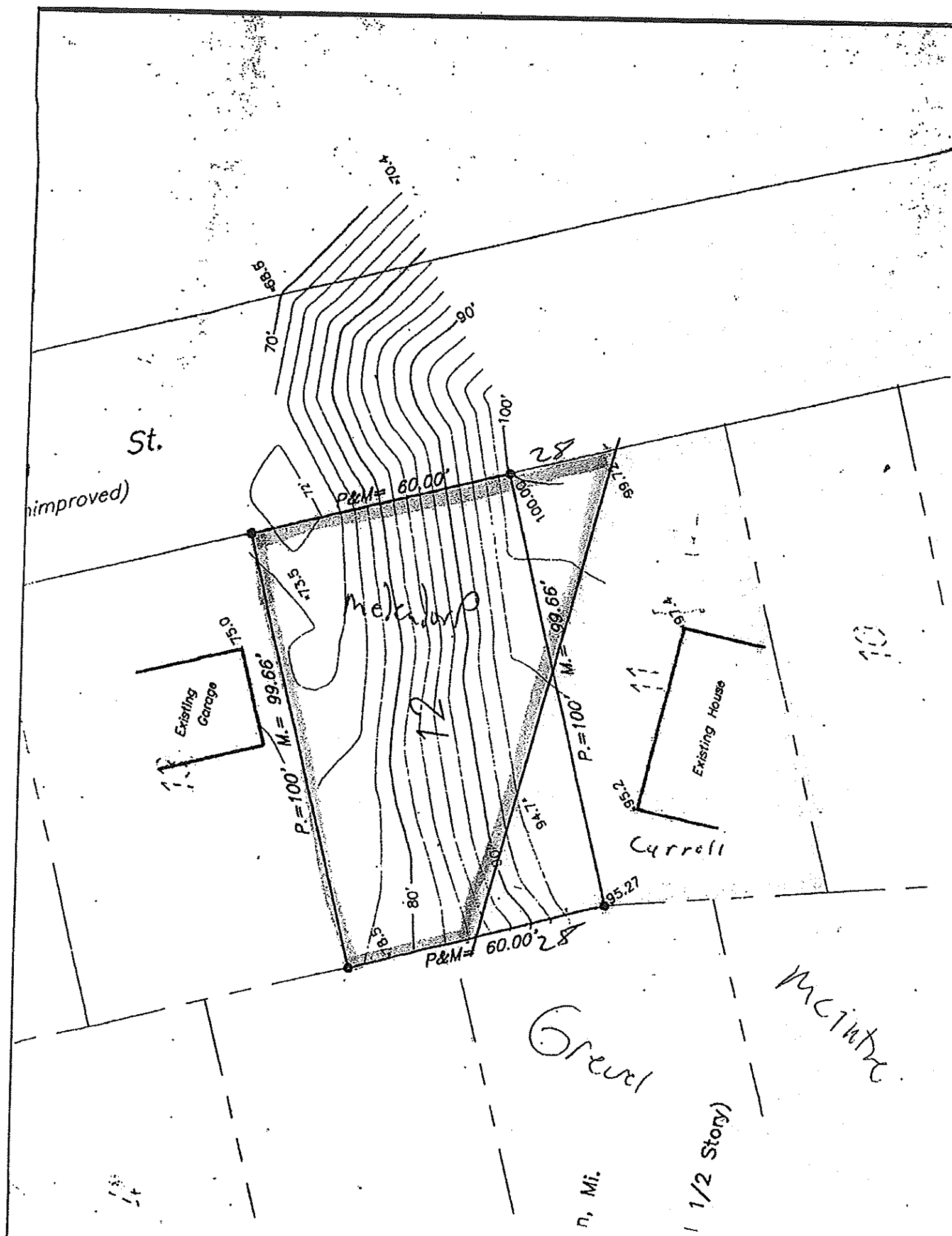
- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district.
- b. That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
- c. That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest.
- d. That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner.
- e. That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
- f. That the requested variance is the minimum action required to eliminate the difficulty.

3560 WOODLAWN COURT





MAIN FLOOR
1092 SQ. FT.



Kober

Poppen

P=100' M=99.66'

1745 Nelson

Poppen

f Muskegon, Mi.

JIM & DORIS
STONE

ear 30' (1-1 1/2 Story)
1/2 Story)

Emily
McIntyre
1762 Beach St.

Bill McIntyre

Bill McIntyre
1770 Beach St.

er, PS No. 16946

Wo

City of Muskegon Planning & Zoning Application

Planning Commission*	Zoning Board of Appeals* (2-page application)
☐ Amendment to Ordinance (\$500)	☐ Variance (\$200 Residential/ \$400 Commercial/Industrial)
☐ Rezoning (\$500)	☐ Ordinance Interpretation (\$200 Res./ \$400 Com./Ind.)
☐ Special Use Permit (\$500)	☐ Zoning Appeal (\$200 Residential or \$400 Com./Ind.)
☐ PUD - Preliminary (\$500)	☐ Special Meeting (\$400 additional)
☐ PUD - Final (\$500)	
☐ PUD - Amendment (\$500)	Site Plan Review*
☐ Vacation - Alley or Street (\$500)**	☐ Staff Review - Minor (\$200)
☐ Special Meeting (\$500 additional)	☐ Staff Review - Major (\$400)
	☐ Planning Comm. Review (\$500)

*Application fees are non-refundable

**Alley/Street vacations require 90 days advance notice

Address/Location of Subject Property: 3560 Woodlawn Ct. Muskegon, MI 49441

Parcel # of Subject Property: 61-24-505-002-0011-00

Current Zoning & Use of Subject Property: Residential

Applicant Information:

Name: Clark Ver Helst Organization: _____
 Address: 4223 Lamoignon Ct. City/State/Zip: Grandville MI 49418
 Phone: 616-856-2255 Alt. Phone: Same Fax: _____
 E-mail: Clark@recreationsonline.com

I hereby attest that all information on this application is, to the best of my knowledge, true and accurate.

Signature: [Signature] Date: 11-18-16

I hereby grant permission for members of the City of Muskegon (Planning Commission / Zoning Board of Appeals / City Commission / Staff) to enter the property described below (or as described in the attached) for the purpose of gathering information related to this application. (Note to applicant: This is optional and will not affect any decision on your application)

Signature of Owner: _____

Date: _____

Applicant is the: ☐ Owner ☐ Lessee ☐ Contractor/Architect ☒ Other: _____

If the applicant is not the owner of the property, complete the following:

Owner's Name: DONALD CARROLL
 Address: 882 WILSON AVE City/State/Zip: MUSKEGON, MI 49441
 Phone: 231-755-2530 Signature: Donald Carroll

Proposed Use: Residential Proposed Zoning: Residential

Explanation of Request: The property has been used for residential since before 1940. We are requesting permission to take down the old home & replace with a new home.

If application is for a Special Use Permit or Planning Commission Site Plan Review, please attach sixteen (16) copies of a complete site plan. If application is for a Planned Unit Development, please attach nineteen (19) copies of a complete site plan. If application is for a Staff Site Plan Review, please attach six (6) copies of a complete site plan.

TO BE COMPLETED BY CITY:

Date Received: _____ Received by: _____

Paid by: Cash ☐ Credit ☐ Check ☐ check number: _____

Meeting date (if applicable): _____ ZBA ☐ PC ☐

City of Muskegon Planning & Zoning Application

Page 2a – Non-Use Variances

4/05

Please provide an answer to the following questions:

1. Why are there "exceptional or extraordinary circumstances applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district"? (i.e., Why is your property unique compared to others in the neighborhood?)

SEE ATTACHED

2. Why is a variance "necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity"? (i.e., What property rights do your neighbors enjoy that you can't because of the nature of your property?)

SEE ATTACHED

3. How will the authorizing of a variance "not be of substantial detriment to adjacent property and not materially impair the purposes of the City's zoning ordinance or the public interest"? (i.e., Will granting a variance to you negatively affect your neighbors or the public in general?)

SEE ATTACHED

4. Explain why the alleged difficulty is "caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner": (i.e., Who/what is the cause of the difficulty?)

SEE ATTACHED

5. The alleged difficulty is "not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner" because: (i.e., Do you have reasons, other than financial gain, for asking for the variance?)

SEE ATTACHED

6. Is the requested variance "the minimum action required to eliminate the difficulty"? (i.e., Could you get by with less of a variance from the ordinance requirement(s)?)

SEE ATTACHED

CITY OF MUSKEGON PLANNING AND ZONING APPLICATION

PAGE 2A- NON-USE VARIANCE

1. **Why is your property unique compared to others in the neighborhood?** This lot has approximately 5000 square feet. However, it is surrounded by vacant lots on three sides and it is approximately 120 feet away from the house in the front of the lot.
2. **What property rights do your neighbors enjoy that you can't because of the nature of your property?** All of the other properties face Beach Street. This property faces Beach Street. We are asking that the side of the home that faces Beach Street and the side of the home that is faces Wooldlawn Court continue to have the same setbacks they currently have. The side facing Beach Street is approximately 120 feet away from the home in front of it. The side facing Woodlawn Court has a vacant lot adjacent to the property.
3. **Will granting a use variance to you negatively affect your neighbors or the public in general?** Granting a variance would make it much safer for neighbors and the community. The current home is very old and is currently vacant. Having a new home would be advantageous to adjacent properties and it would be much safer having a new home with somebody living in it rather than an old home that is in poor condition with nobody living in it.

We arrived at the home on Friday, November 18 and the door had been kicked in and was unlocked. I spoke with the Stones who live right in front of the vacant home and they said they had recently seen the basement door blowing in the wind and went up and closed it and locked it. We had been at the home in early November and the bottom of the door had been kicked in and there was a 6 inch opening that animals could easily get in and out.

The neighbors that we have spoken with are very supportive of having this home replaced with a new home. Granting a variance shouldn't negatively affect neighbors or the public. As mentioned, the home is surrounded by vacant lots on three sides and the home in front of the property is approximately 120 feet away.

4. **What is the cause of the hardship?** The builder who built the home caused the hardship. There is a record at the County Record of Deeds that says the home was "sold 1942-\$1200 House and lot." All of the neighbors who have moved in since the home was built knew the situation prior to purchasing their homes.
5. **Do you have reasons, other than financial gain, for asking for the variance?** We wish the home didn't need any improvements. The current home is very old and is currently vacant. Having a new home would be advantageous to adjacent properties and it would

1/0

City of Muskegon Planning & Zoning Application
Page 2b – Use Variances

Please provide an answer to the following questions:

1. Explain why "the property could not be used (put to a reasonable use) for the purposes permitted in the zone district" it's in:
(i.e., Why can't your property be used for what it's zoned for?)
SEE ATTACHED
2. Is "the plight due to unique circumstances peculiar to the property and not to general neighborhood conditions"? (i.e., Why is your property unique compared to others in the neighborhood?)
SEE ATTACHED
3. How would "the proposed use not alter the essential character of the area and not materially impair the purposes of this ordinance or the public interest"? (i.e., Will granting a use variance to you negatively affect your neighbors or the public in general?)
SEE ATTACHED
4. Explain why the alleged hardship is "caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner": (i.e., Who/what is the cause of the hardship?)
SEE ATTACHED
5. The alleged hardship is "not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner" because: (i.e., Do you have reasons, other than financial gain, for asking for the variance?)
SEE ATTACHED
6. Is the requested variance "the minimum action required to eliminate the hardship"? (i.e., Could you get by with less of a variance from the ordinance requirement(s)?)
SEE ATTACHED
7. Would "the use variance permit a use specifically identified by this Ordinance as a use excluded from the particular zone in which requested"? (i.e., Is your use specifically mentioned in the ordinance as not being allowed in your zoning district? Staff can assist you with answering this if necessary.)
SEE ATTACHED

Other considerations: The extent to which the ordinance protect users or neighbors from threats to health, safety and welfare shall be considered. A use that seriously threatens the health of future residents or neighbors is not a beneficial or allowable use. In no case shall a use that is a nuisance per se, or a use which in that particular location constitutes a nuisance, be granted as a use variance. Such uses are not legal uses of the land.

CITY OF MUSKEGON PLANNING AND ZONING APPLICATION

PAGE 2B- USE VARIANCE

1. **Why can't your property be used for what it's zoned for?** The property has been zoned for residential since before 1940. We are asking that it continue to be zoned residential.
2. **Why is your property unique compared to others in the neighborhood?** This lot has approximately 5000 square feet. However, it is surrounded by vacant lots on three sides and it is approximately 120 feet away from the house in the front of the lot.
3. **Will granting a use variance to you negatively affect your neighbors or the public in general?** Granting a variance would make it much safer for neighbors and the community. The current home is very old and is currently vacant. Having a new home would be advantageous to adjacent properties and it would be much safer having a new home with somebody living in it rather than an old home that is in poor condition with nobody living in it.

We arrived at the home on Friday, November 18 and the door had been kicked in and was unlocked. I spoke with the Stones who live right in front of the vacant home and they said they had recently seen the basement door blowing in the wind and went up and closed it and locked it. We had been at the home in early November and the bottom of the door had been kicked in and there was a 6 inch opening that animals could easily get in and out.

The neighbors that we have spoken with are very supportive of having this home replaced with a new home. Granting a variance shouldn't negatively affect neighbors or the public. As mentioned, the home is surrounded by vacant lots on three sides and the home in front of the property is approximately 120 feet away.

4. **What is the cause of the hardship?** The lot isn't 6000 square feet and it doesn't have 50 feet of street frontage. The hardship was created by the developer prior to 1940. We are requesting to continue to use the site the way it has been used for over 60 years.
5. **Do you have reasons, other than financial gain, for asking for the variance?** We wish the home didn't need any improvements. The current home is very old and is currently vacant. Having a new home would be advantageous to adjacent properties and it would be much safer having a new home with somebody living in it rather than an old home that is in poor condition with nobody living in it.
6. **Could you get by with less of a variance?** No
7. **Is your use specifically mentioned in the ordinance as not being allowed in your zoning district?** No

Proposed Home

	<u>Width</u>	<u>Length</u>
Current	22.8	42.2

Proposed	25.5	53	= 1351 less 259 Porch
			1092 Sq. Feet