

Department of Economic
Development and Planning
Brian McGrain, Director



Andy Schor, Mayor

Planning and Zoning Office
316 N. Capitol Avenue, Suite D-1
Lansing, Michigan 48933
PH: 517.483.4060 – FAX: 517.483.6036
www.lansingmi.gov

May 8, 2020

BOARD OF ZONING APPEALS MEETING NOTICE

The regular meeting of the Board of Zoning Appeals will be conducted as follows:

Date: Thursday, May 14, 2020
Time: 6:30 p.m.
Topic: Meeting ID: 849 2980 1902
Location: Dial from your phone: (646) 876-9923 or (312) 626-6799
or use the following link to join the meeting on your computer:
<https://us02web.zoom.us/j/84929801902>

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With Executive Order 2020-75, Governor Whitmer declared a statewide state of emergency due to public safety concerns resulting from the spread of the novel coronavirus (COVID-19). To mitigate the spread of COVID-19 and to provide essential protections to vulnerable Michiganders, this State's health care system and other critical infrastructure, it is crucial that all Michiganders take steps to limit in-person contact, particularly in the context of large groups.

The Board of Zoning Appeals meeting is being held remotely in accordance with the Open Meetings Act in an effort to protect the health and safety of the public. Members of the public wishing to participate in the meeting may do so by logging into or calling into the meeting using the website or phone number, and meeting ID provided above. Michigan Executive Order 2020-15 provides temporary authorization of remote participation in public meetings and hearings. You may direct any questions or comments to the Planning Board via email at susan.stachowiak@lansingmi.gov.

Persons with disabilities who need an accommodation to fully participate in this meeting should contact Susan Stachowiak at (517) 483-4085. 24 hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodation requests.



Andy Schor
Mayor

**LANSING BOARD OF ZONING APPEALS
REGULAR MEETING
DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING
Thursday, May 14, 2020, 6:30 PM**

Due to public safety concerns resulting from the COVID-19 pandemic, and as authorized by Michigan Executive Order 2020-75, this meeting will be conducted remotely via Zoom Conferencing using Meeting ID No: 849 2980 1902. To join the meeting, dial (646) 876-9923 or (312) 626-6799 or click on the following link:

<https://us02web.zoom.us/j/84929801902>

AGENDA

- I. **ROLL CALL**
- II. **APPROVAL OF AGENDA**
- III. **PUBLIC COMMENT**
- IV. **PUBLIC HEARING/ACTION**
 - A. BZA-4057.20, N. Homer Street, Variance to the height limitation for a telecommunications tower
 - B. BZA-4058.20, 1015 Westmoreland Avenue, Variances to permit a bicycle sales & repair business with outdoor storage as a home occupation
- V. **OLD BUSINESS**
- VII. **NEW BUSINESS**
- VI. **APPROVAL OF MINUTES**
 - A. Regular Meeting, March 12, 2020
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**

FOR SPECIAL ACCOMMODATIONS, PLEASE GIVE 24 HOURS NOTICE PRIOR TO THE MEETING BY CALLING SUSAN STACHOWIAK IN THE PLANNING OFFICE AT 517-483-4085 OR BY DIALING (TTY 711).

GENERAL INFORMATION

APPLICANT:	Metro Fibernet, LLC 3701 Communications Way Evansville, IN 47715
OWNER:	Lansing Board of Water & Light P. O. Box 13007 Lansing, MI 48901
STATUS OF APPLICANT:	The applicant has a license agreement with the owner
REQUESTED ACTION:	Variance to the height limitation for a telecommunications tower in the "A" Residential zoning district
EXISTING LAND USE:	Board of Water & Light pump house
EXISTING ZONING:	"A" Residential District
PROPERTY SIZE & SHAPE:	Entire site: 300' x 267.9' = 80,370 square feet Licensed are: 75.3' x 80' = 6,024 square feet
SURROUNDING LAND USE:	N: Single Family Residential S: Duplex E: Freeway W: Single Family Residential
SURROUNDING ZONING:	N: "A" Residential District S: "DM-3" Residential District E: "A" Residential District W: "A" Residential District
MASTER PLAN DESIGNATION:	The Design Lansing Comprehensive Plan designates the subject property for low density residential use. N. Homer Street is designated as a local road.

APPLICANT'S PROPOSAL:

This is a request by Metro Fibernet to construct an 85 foot high telecommunications tower at the southeast corner of the Board of Water & Light property (Parcel No. 33-01-01-11-251-281) located between 1220 and 1306 N. Homer Street. Section 1248.10 limits the height of structures in the "A" Residential district, which is the zoning designation of the subject property, to 35 feet. A variance of 120 feet to the height limitation is therefore, being requested.

MetroNet is a provider of fiber optic telecommunication services, including high-speed Fiber Internet, full-featured Fiber Phone, Fiber-based streaming television and a wide variety of programming and products. The purpose of the antenna pole is to receive over the air digital television broadcasts from local television stations in order to provide those same program choices to MetroNet customers. The antennae on the antenna pole are for reception of existing signals only – no broadcasting antennae are used.

HEIGHT LIMIT	PROPOSED HEIGHT	VARIANCE REQUEST
35 feet	85 feet	50 feet

ANALYSIS

The applicant bases a practical difficulty on the need to exceed the 35 foot height limitation in order to receive signals necessary to make the tower/antenna functional.

Four criteria are described in Section 1244.06 (c) for the Board to apply in determining if complying with the ordinance would pose an unreasonable practical difficulty on the applicant:

1. The hardship results from the application of this Zoning Code to his or her lot, rather than some other factor.
2. The hardship is not the result of his or her own actions.
3. The hardship is peculiar to the lot of the applicant.
4. If the owner of the lot complies with this Zoning Code, he or she can secure no reasonable return from, or make reasonable use of his or her lot.

A case can be made that the applicant's practical difficulty can comply with three of the criteria and the fourth does not appear to be applicable in this case.

The request complies with the first criterion since the practical difficulty is directly related to the Ordinance regulation. The Zoning Ordinance permits a maximum height of 35 feet in the "A" Residential District, which is the zoning designation of the subject property. The BZA has considered and approved numerous cases in the past to permit additional height for telecommunication towers, many of which are also located on publicly owned land. The basis for these approvals was primarily that it is impractical to construct a telecommunications tower that would comply with the 35 foot height limitation and still be able to receive or transmit signal necessary to fulfill its purpose.

With respect to the second criterion, the practical difficulty cannot be considered self-created as telecommunication towers simply cannot function at a height of 35 feet. This also makes them inherently unique and thus, able to satisfy the third criterion as well. By assuring that the practical difficulty is adequate to differentiate it from a claim that could be made by most other applicants, the intent of the ordinance standard is preserved. Correspondingly, the practical difficulty must be more

than a matter of mere preference. As with all communication towers, the proposed tower must be of sufficient height to transmit and receive signals. At 35 feet, the tower would be lower than most mature trees in the area and several buildings that separate it from towers in the area that transmit television, radio, internet and telephone services. Since the purpose of the applicant's tower is to receive those signals in order to provide the same services to its customers, denial of the variance would render the proposed project unfeasible.

The fourth consideration relates to whether there is a viable use of the property without the variance. This standard is typically applied to use variances, however, which require a much higher threshold than a 'dimensional' variance such as this one.

IMPACT CRITERIA

The Ordinance also establishes four standards under Section 1244.06 (e) that must be satisfied relating to the impact of the variance on the surrounding properties and general public. These standards and the manner in which they relate to the request are as follows:

1. **The use will be in harmony with the appropriate and orderly development of the surrounding neighborhood.**

The proposed tower/compound area will not negatively impact the surrounding area. The site adjoins the freeway to the east and will be located more than 200 feet from the residential properties to the north and west. The mature trees on the site, which are to be preserved to the greatest extent possible, should be adequate to obscure the view of the tower and compound area from the north, east and west. The applicant will be installing a row of evergreen trees along the entire length of the south property line to buffer the tower/compound area from the residential property to the south. Telecommunication towers in residential zoning district also require a special land use permit (SLU) from the City Council. The SLU in this case has already been approved and included a condition giving the Planning Office staff the authority to require additional landscaping and possibly even a screen fence along all or part of the south property line, if the proposed trees do not prove to be sufficient to provide effective screening.

2. **The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved.**

Traffic generated by the proposed will be limited to a technician visiting the site once or twice daily to install new customer service and to perform testing and repairs. There will be no other traffic associated with this proposal.

3. **The use will be designed to eliminate a possible nuisance emanating therefrom.**

There will be no noise, odors, vibrations, light glare, excessive traffic or any other type of nuisance that would have a detrimental effect on the adjoining residential properties. The applicant will be required to maintain the gravel access drive in a dust-free condition. With

the exception of emergency lighting, there will be no lighting on the tower or in the leased area, unless required by FAA.

4. **The use will not interfere with or discourage the appropriate development and use of adjacent land and structures or unreasonably affect their values.**

The variance will have no adverse impacts on future land use patterns in the area. The tower will be located in an area of the site that is relatively obscured from view of the surrounding properties. The only property that is directly impacted by the proposed tower/compound area is the residential duplex to the south. With the proposed row of evergreens along the south property line and by controlling the dust from the gravel access drive, any negative impacts of the proposed project on the property to the south can be mitigated.

SUMMARY

This is a request by Metro Fibernet to construct an 85 foot high telecommunications tower at the southeast corner of the Board of Water & Light property (Parcel No. 33-01-01-11-251-281) located between 1220 and 1306 N. Homer Street. Section 1248.10 limits the height of structures in the "A" Residential district, which is the zoning designation of the subject property, to 35 feet. A variance of 120 feet to the height limitation is therefore, being requested.

Based on the available information, the request appears consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e) of the Zoning Ordinance. In addition, the location, size and character of the proposed tower is reasonable and will be compatible with the surrounding area.

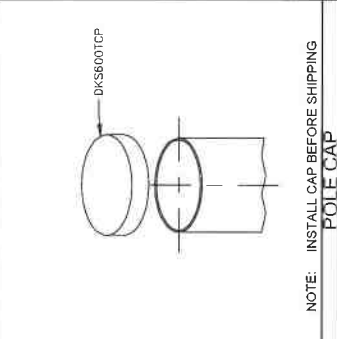
RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

"I make a motion to approve BZA 4057.20 for a variance of 50 feet to the height limitation to permit an 85 foot high telecommunications tower at the southeast corner of the Board of Water & Light property (Parcel No. 33-01-01-11-251-281) located between 1220 and 1306 N. Homer Street, on a finding that the variance is consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as described in the staff report for this application."

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator



NOTES:

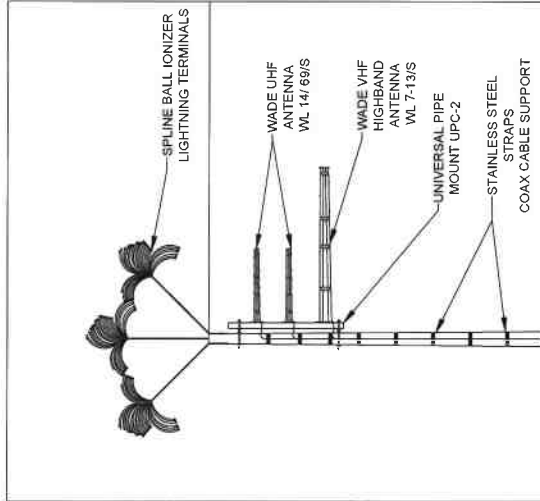
1. POLE SHAFT GOVERNING REACTIONS.
2. $\text{COMPRESSION IDENTIFICATION LOCATIONS INDICATED BY CALLOUTS ON DRAWING. SUBSEQUENT DIGITS WILL INDICATE SEQUENCE OF MANUFACTURE.}$
3. ASSEMBLY AND ERECTION GUIDELINES. SEE VALMONT TRANSMISSION INSTALLATION GUIDELINE 1002.
4. SLIP JOINT JACKING FORCE:
MINIMUM - 25000#
MAXIMUM-30000#
5. STRUCTURES WHICH UTILIZE EMBEDDED BASE INSTALLATION, TYPICALLY THE BOTTOM (EMBEDDED) SECTION OF THE POLE IS TO BE EMBEDDED INTO THE GROUND. THE SECOND EMBEDMENT DEPTH IS SHOWN ON THE VALMONT EMBEDMENT DRAWING.

NOTE: INSTALL CAP BEFORE SHIPPING

POLE CAP

REFER TO ELEVATION VIEW FOR MINIMUM AND
MAXIMUM SPLICE VALUES

SPLICE DETAIL



BILL OF MATERIAL (SHIPPING SEQ.=1 FOR ALL)					
VALMONT PART NUMBER	DESCRIPTION	UNIT WEIGHT PER (LBS) SHIP	QTY.		
AG700A	SECTION ASSEMBLY	988	1		
AGF90AB	SECTION ASSEMBLY	686	1		

ITEM	VALUOM PART NUMBER	DESCRIPTION				QTY PER STR
		HARDWARE SIZE (IN)	GENERAL	FINISH	ASTM SPEC	
1		BOLT	NUT	WSHL		
2		DIA LONG				
3						
4						
5						
6						
7						
8						
9						
10						

SW CATALOG NUMBER:

ORDER	PROJECT	FILE ID	SCALE	DATE	E
		001-9002	NONE	11/25/19	BY
DESCRIPTION					
90' C2 Round, Slip Joint, SWR					
SECTION INFORMATION					
ITEM ID	LENGTH	BASE OD	TOP OD	THK	MATL
1	47' - 8.00"	22.30"	13.53"	0.133"	A5 2 65 KSI
2	45' - 0.00"	14.28"	6.00"	0.133"	A5 2 65 KSI

[illegible]

ELEVATION VIEW

DWG NO.

GALV. STEEL UTILITY POLE

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AND SHALL BE RETURNED
UPON REQUEST.

[illegible]

PID: 33-01-01-11-251-281 North Homer Street, Lansing, Ingham County, Michigan
Photographs taken by: Jessica Trainer November 26, 2019



View of Site facing southeast.



View of Site facing northwest.



View of on Site municipal well pump house facing northeast.



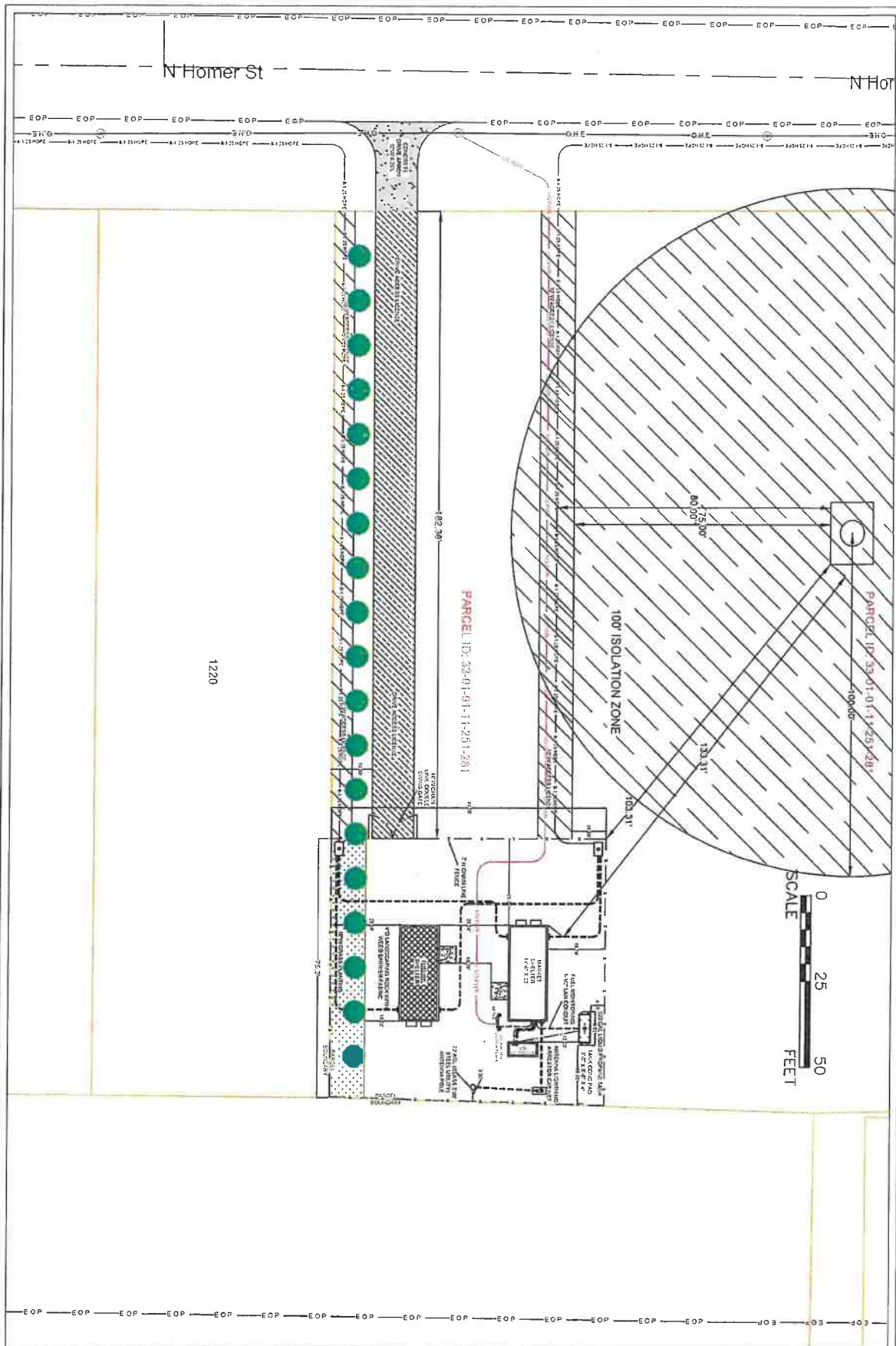
View of interior of pump house.



View of interior of pump house.



View of interior of pump house, note the pump is not in operation or currently connected.



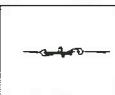
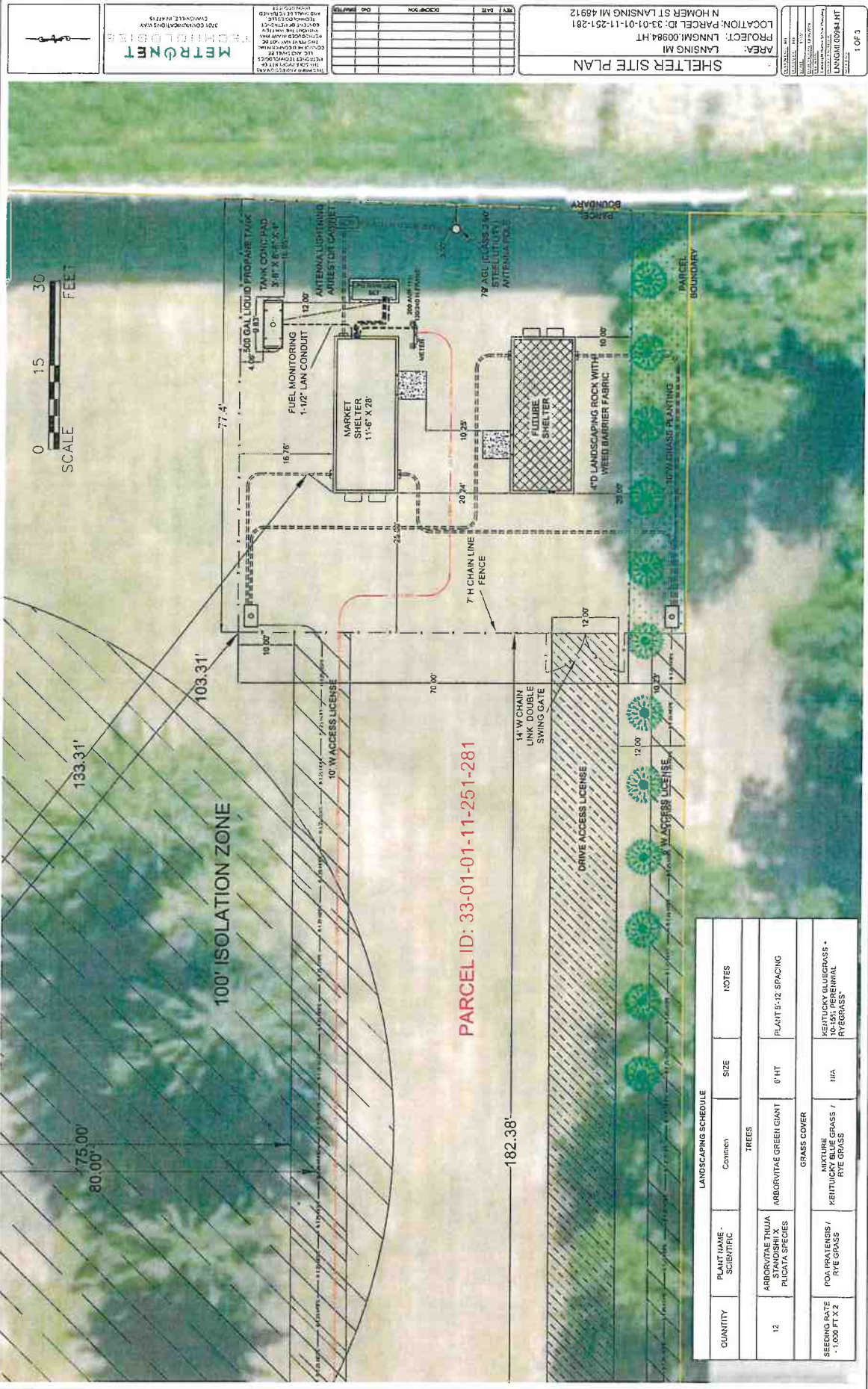
SHELTER SITE PLAN

AREA: LANSING MI
 PROJECT: LNNGMI.00984.HT
 LOCATION: PARCEL ID: 33-01-01-11-251-281
 N HOMER ST LANSING MI 48912

REV	DATE	DESCRIPTION	BY	CHK

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METRONET
 TECHNOLOGIES
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 EVANSTON, IL 60201



METRPOINT
TECHNOLOGIES
3301 COMMERCIAL AVENUE
ANN ARBOR, MI 48106

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NO.	DATE	DESCRIPTION
1	01/11/2011	ISSUED FOR PERMIT

SHELTER SITE PLAN
AREA: LANSING MI
PROJECT: LANSING MI 00984 HT
LOCATION: PARCEL ID: 33-01-01-11-251-281
N HOMER ST LANSING MI 48912

1 OF 3
DRAWN: J. BROWN
CHECKED: J. BROWN
DATE: 01/11/2011

PARCEL ID: 33-01-01-11-251-281

LANDSCAPING SCHEDULE				
QUANTITY	PLANT NAME - SCIENTIFIC	Common	SIZE	NOTES
TREES				
12	ARBORVITAE THUJA PLICATA SPECIES	ARBORVITAE GREEN GIANT	6' HT	PLANT 5'-12' SPACING
GRASS COVER				
SEEDING RATE * 1,000 FT ² X 2	POA PRATENSIS / RYE GRASS	MIXTURE KENTUCKY BLUE GRASS / KENTUCKY ALLEGRASS * 10-15% PERENNIAL RYEGRASS	N/A	



METROPLAN
3750 COMMERCIAL DRIVE
ANN ARBOR, MI 48106

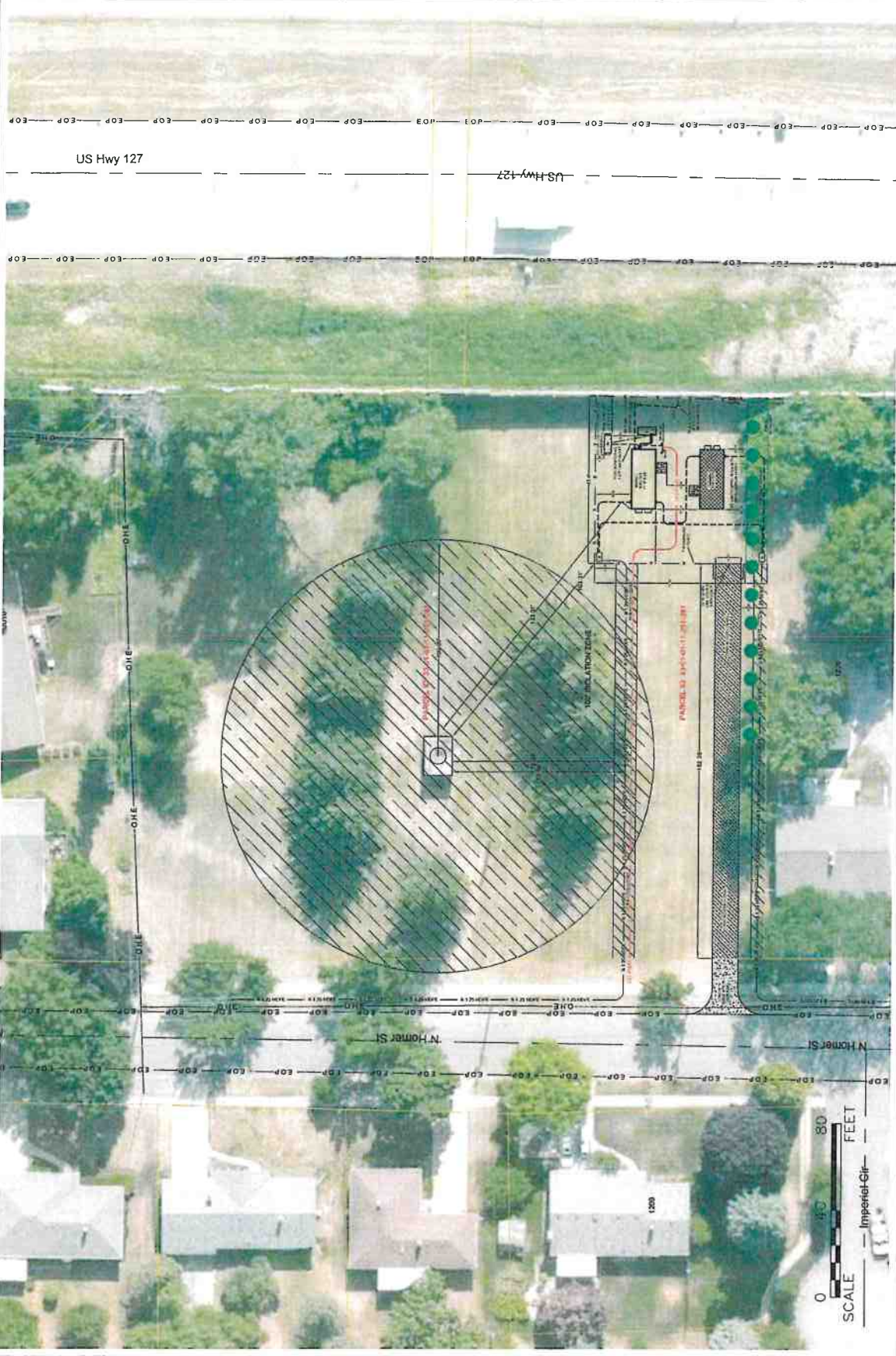
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NO.	DATE	DESCRIPTION	BY	CHECKED

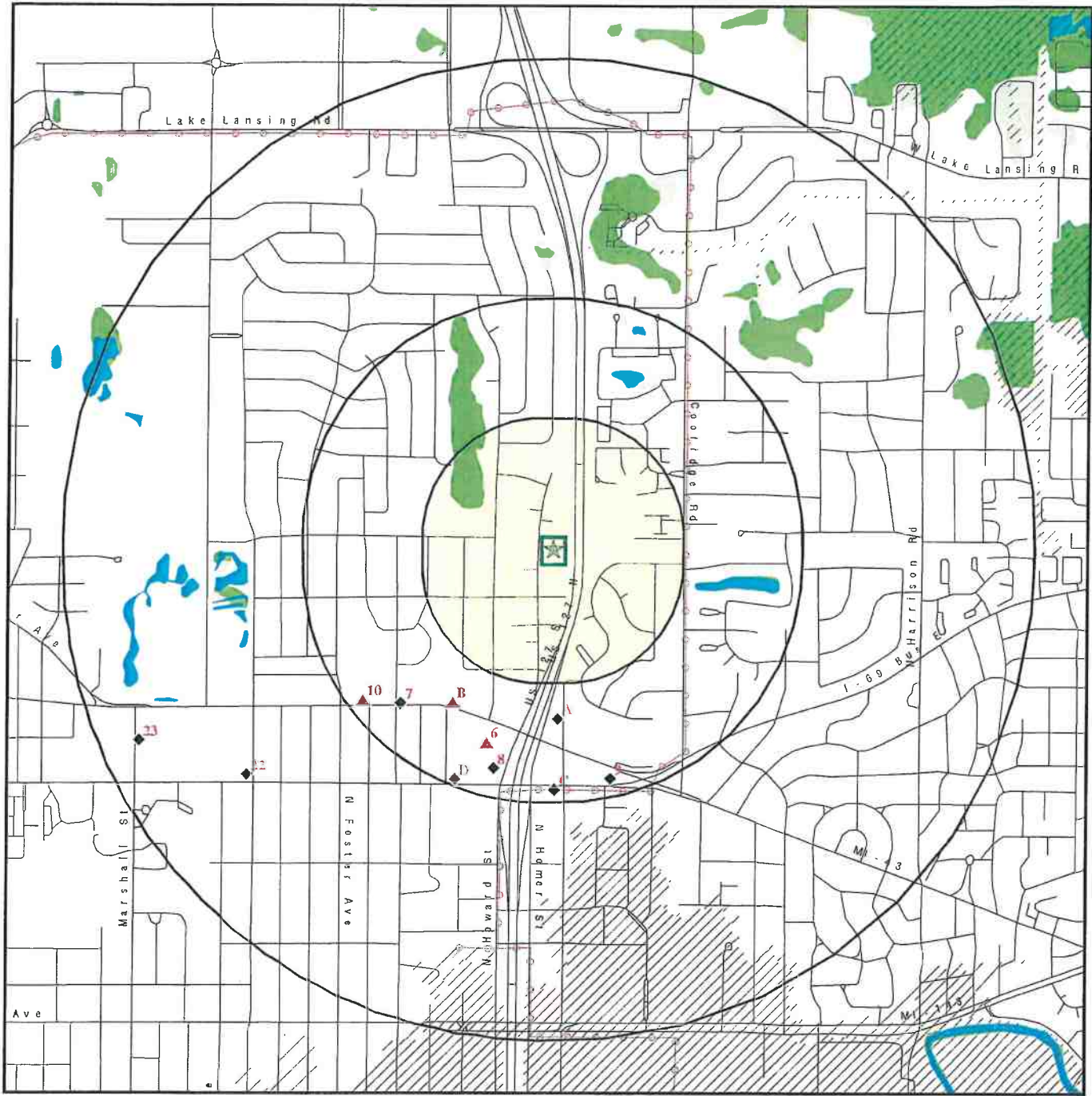
SHELTER SITE PLAN

AREA: LANSING MI
PROJECT: LANSING MI
LOCATION: PARCEL ID: 33-01-01-11-251-281
N HOMER ST LANSING MI 48912

3 OF 3
SHEET



OVERVIEW MAP - 5871264.2S



- Target Property
- Sites at elevations higher than or equal to the target property
- Sites at elevations lower than the target property
- Manufactured Gas Plants
- National Priority List Sites
- Dept. Defense Sites
- Indian Reservations BIA
- Power transmission lines
- Special Flood Hazard Area (1%)
- 0.2% Annual Chance Flood Hazard
- National Wetland Inventory
- State Wetlands

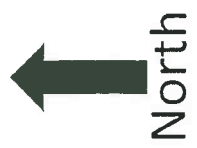
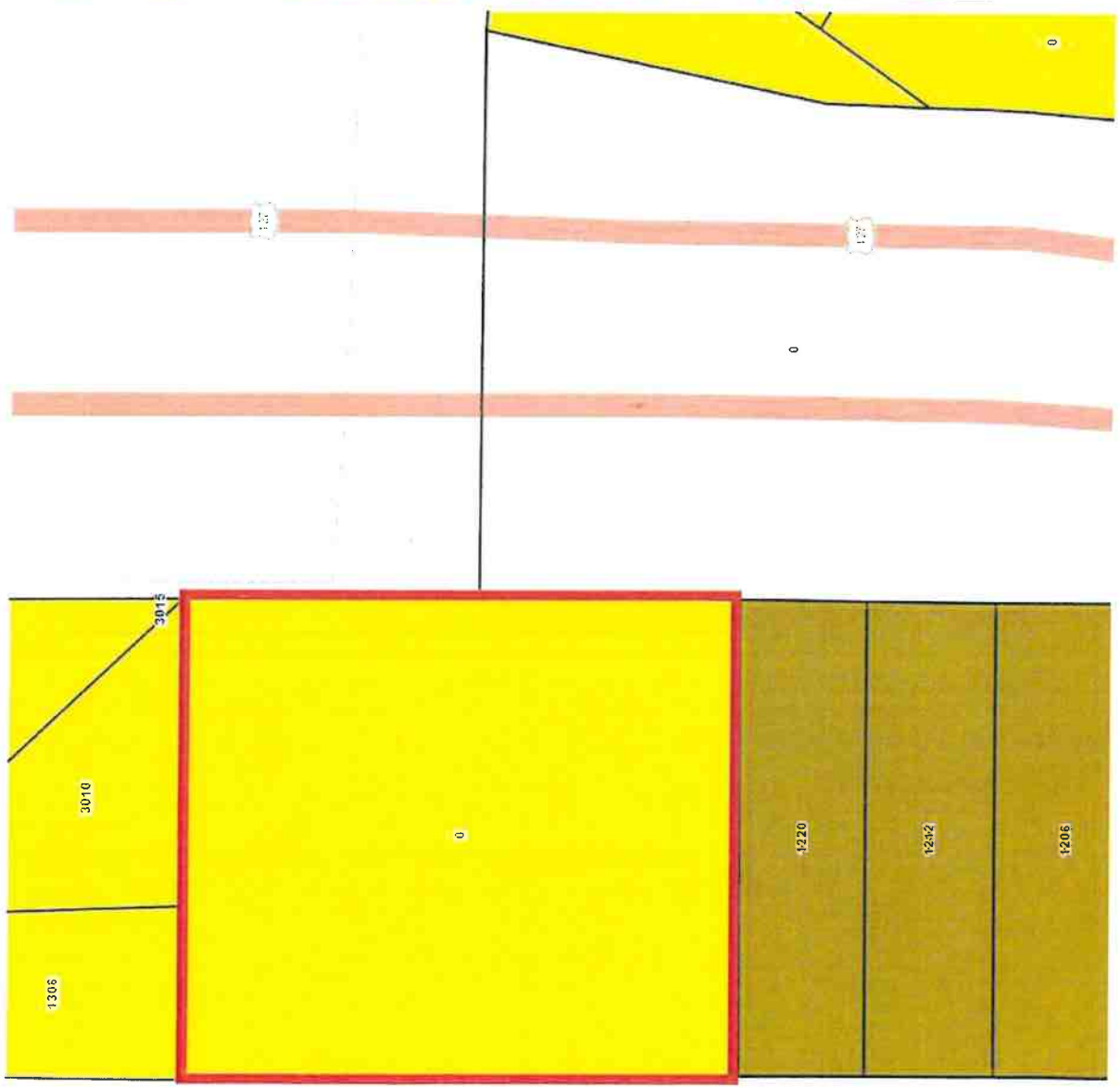
This report includes Interactive Map Layers to display and/or hide map information. The legend includes only those icons for the default map view.

SITE NAME: N HOMER ST
ADDRESS: N HOMER ST
LANSING MI 48912
LAT/LONG: 42.748003 / 84.508843

CLIENT: The Mannik & Smith Group
CONTACT: Jessica
INQUIRY #: 5871264.2s
DATE: November 15, 2019 11:01 am



Zoning District	
	A Residential-Single
	B Residential-Single
	C Residential-2 Unit
	NONE
	CUP Community Unit Plan
	D-1 Professional Office
	D-2 Residential/Office
	DM-1 Residential-Multiple
	DM-2 Residential-Multiple
	DM-3 Residential-Multiple
	DM-4 Residential-Multiple
	E-1 Apartment Shop
	E-2 Local Shopping
	F Commercial
	F-1 Commercial
	G-1 Business
	G-2 Wholesale
	H Light Industrial
	I Heavy Industrial
	J Parking
	ROW Right of Way



GENERAL INFORMATION

APPLICANT/OWNER: Aaron Wallace
1015 Westmoreland Avenue
Lansing, MI 48915

REQUESTED ACTION: Variance to permit a home occupation that involves the outdoor storage/display and sale of bicycles

EXISTING LAND USE: Single Family Residential

EXISTING ZONING: “B” Residential District

PROPERTY SIZE & SHAPE: Rectangular shaped lot
70’ x 120’ = 8,400 square feet

SURROUNDING LAND USE: N: Single Family Residential
S: Single Family Residential
E: Single Family Residential
W: Single Family Residential

SURROUNDING ZONING: N: “B” Residential District
S: “B” Residential District
E: “B” Residential District
W: “B” Residential District

MASTER PLAN DESIGNATION: The Design Lansing Master Plan designates the subject property for low density residential land use. Westmoreland Avenue is designated as a local road.

REQUEST

This is a request by Aaron Wallace to permit the outdoor storage/display of bicycles for sale at 1015 Westmoreland Avenue. Section 1248.03(e) of the City of Lansing Zoning Ordinance permits home occupations in single family residential zoning districts that are conducted entirely within the confines of a dwelling unit and do not involve the sale of goods on the property. The applicant repairs and sells bicycles at 1015 Westmoreland Avenue, a significant amount of which are being stored/displayed outside on the property.

ANALYSIS

Section 1244.06 (c)(1-4) of the Zoning Code sets forth the criteria and standards which must be used to evaluate a variance request. They are: (1) Does a practical difficulty or unnecessary hardship exist; (2) Is the Location, Size and Character in harmony with surrounding uses; and (3) Will the request impact vehicular and pedestrian traffic?

Evaluation Standards:

The applicant is currently operating a bicycle repair and sales business from home at 1015 Westmoreland Avenue. As evidenced by the attached photographs, there is a large amount of bicycles in the yard at this location in violation of the Zoning Ordinance. The applicant was cited by the Planning Office for these violations and in response, filed an application requesting the variances that would be necessary for him to continue using the property to sell/repair bicycles and to store and display them in his yard. Unlike a variance to a dimensional requirement (setback, height, lot size), the applicant's request does not involve establishing a practical difficulty that prevents or makes compliance with the ordinance unreasonable difficult due to a condition (irregular shape, uneven topography, small size) of the lot that is unique in comparison to most other lots to which the ordinance standard applies. In this case, the standard that must be satisfied is a determination as to whether denial of the variances would create an "unnecessary hardship" on the applicant if authorizing the requested variances to allow the sale and outdoor display/storage of bicycles would be consistent with the intent and purpose of the ordinance.

Applicable Ordinance Provisions:

Section 1240.03 of the Zoning Ordinance defines a 'home occupation' as:

"A business conducted in a dwelling unit by a person of legal or equitable interest in the dwelling unit."

Section 1248.03(e) of the Zoning Ordinance permits home occupations in single family residential zoning districts, subject to compliance with the following conditions applicable to this request:

- (2) The use of the dwelling unit as a home occupation shall be clearly incidental and subordinate to its use for residential purposes.
- (3) Not more than 20 percent of the gross floor area of the dwelling unit is used in any way for the home occupation.
- (6) The sale of goods does not occur in the dwelling unit or on the lot on which the dwelling unit is located.

The bicycles sales/repair business is not being conducted entirely within a dwelling unit and thus, it does not qualify as a permitted "home occupation" as defined above. Furthermore, even if it were determined that the applicant's business could be considered a home occupation, the sale of bicycles on the property is expressly prohibited and the outdoor storage and display of vehicles is clearly not "incidental and subordinate to its use for residential purposes".

IMPACT STANDARDS

The Ordinance establishes four standards under Section 1244.06 (e) that must be satisfied relating to the impact of the variance on the surrounding properties and general public. These standards and the manner in which they relate to the request are as follows:

1. **The use will be in harmony with the appropriate and orderly development of the surrounding neighborhood.**

The bicycle repair business and the outdoor display and storage of bicycles on the applicant's property is not consistent with the appropriate and orderly development of the neighborhood. The ordinance permits the use of a small portion of a home in single family residential zoning district for business purposes and establishes certain conditions applicable thereto. The intent of the ordinance is to ensure that the business will have no impact on the surrounding neighborhood to the extent that it is not even noticeable that a business is occurring on the property. A typical home occupation would be a resident of a home using a room as an office for an accounting business. Such a business generates very little traffic, no noise or other nuisances, does not involve any changes to the residential appearance of the property that indicates business activity occurring thereon and does not involve outdoor storage or display of any kind. The applicant's business is clearly not consistent with the intent and purpose of the ordinance. The bicycles dominate the appearance of the property in a very negative way and are simply not something that one would reasonably expect to find in a residential neighborhood.

2. **The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved.**

The requested variance will have no impacts on vehicle or pedestrian traffic.

3. **The use will be designed to eliminate a possible nuisance emanating there from.**

The proposed business has, to the best of our knowledge, not generated any nuisances in terms of noise, light glare, excessive traffic, etc. The bicycle business, however, could be considered a nuisance in general given the appearance of the property, which has the potential to negatively impact property values in the surrounding residential neighborhood. The photographs demonstrate that the bicycle business is completely out of character with a residential neighborhood. Allowing it to continue would be unfair to the neighbors who are not operating businesses, do not use their property as a storage yard and have a reasonable expectation that the City will uphold and enforce the ordinances that are intended to protect the residential character of their neighborhood.

4. **The use will not interfere with or discourage the appropriate development and use of adjacent land and structures or unreasonably affect their value.**

See response to item 1 above. Additionally, since approval of the variances would allow a use that is completely contrary to the intent and purpose of the ordinance, doing so could set a negative precedent for future requests of a similar nature.

FINDINGS

This is a request by Aaron Wallace to permit the outdoor storage/display of bicycles for sale at 1015 Westmoreland Avenue. Section 1248.03(e) of the City of Lansing Zoning Ordinance permits home occupations in single family residential zoning districts that are conducted entirely within the confines of a dwelling unit and do not involve the sale of goods on the property. The applicant repairs and sells bicycles at 1015 Westmoreland Avenue, a significant amount of which are being stored/displayed outside on the property.

The available information does not support a finding that the request is consistent with the criteria set forth in the zoning ordinance for evaluating whether denial of the variances will result in an unnecessary hardship on the applicant.

RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

“I make a motion to deny BZA 4058.20, a request for variances to permit a bicycle sales business with outdoor storage/display at 1015 Westmoreland Avenue, on a finding that the variances would be contrary to the intent and purpose of the ordinance and therefore, denial of said variances will not constitute an unnecessary hardship on the applicant, as described in the staff report.”

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

Describe or explain your proposal for this property;

attach a separate sheet if more space is necessary

The proposal would be to keep the property as it has been kept for over a decade, and allow me to continue to buy and sell bicycles. The proposal would allow for the storage and sale of bikes in a residential area.

Section # with which this proposal is in conflict: 1248.03 (b) (10) & (15)

If this petition is not granted, explain how your proposal will be affected;

attach a separate sheet if more space is necessary

If the petition is not granted, I will face undue hardship as I will have lost a business that I have operated on the premises for over a decade. Additionally, I will have to remove a substantial number of bikes, which would cause substantial strain. I will be strained physically, as I have a disability which makes long periods of activity difficult, and financially strained as I will have to pay for the removal in addition to losing a source of income.

Items to be submitted with the petition:

- 1 **A site plan drawn to a scale of at least 1" = 100'** showing the location of all structures, existing and proposed, in relation to the lot lines and access points.
- 2 **Flood plain information** where applicable.
- 3 Non-refundable fee for processing (7/14/98)

FEES:

<u>Single Family Home Improvement:</u>	\$160.00
<u>Other appeals by acreage:</u>	
Less than one (1) acre:	\$250.00
One (1) to three (3) acres:	\$350.00
Greater than three (3) acres:	\$450.00

A zoning variance means a modification of the strict letter of the zoning or sign codes, being title six and chapter 1442 respectively, of the City of Lansing, granted when, by reason of exceptional conditions, the strict application of the provisions of this chapter result in peculiar or exceptional practical difficulties or unnecessary hardship to the owner of the lot.

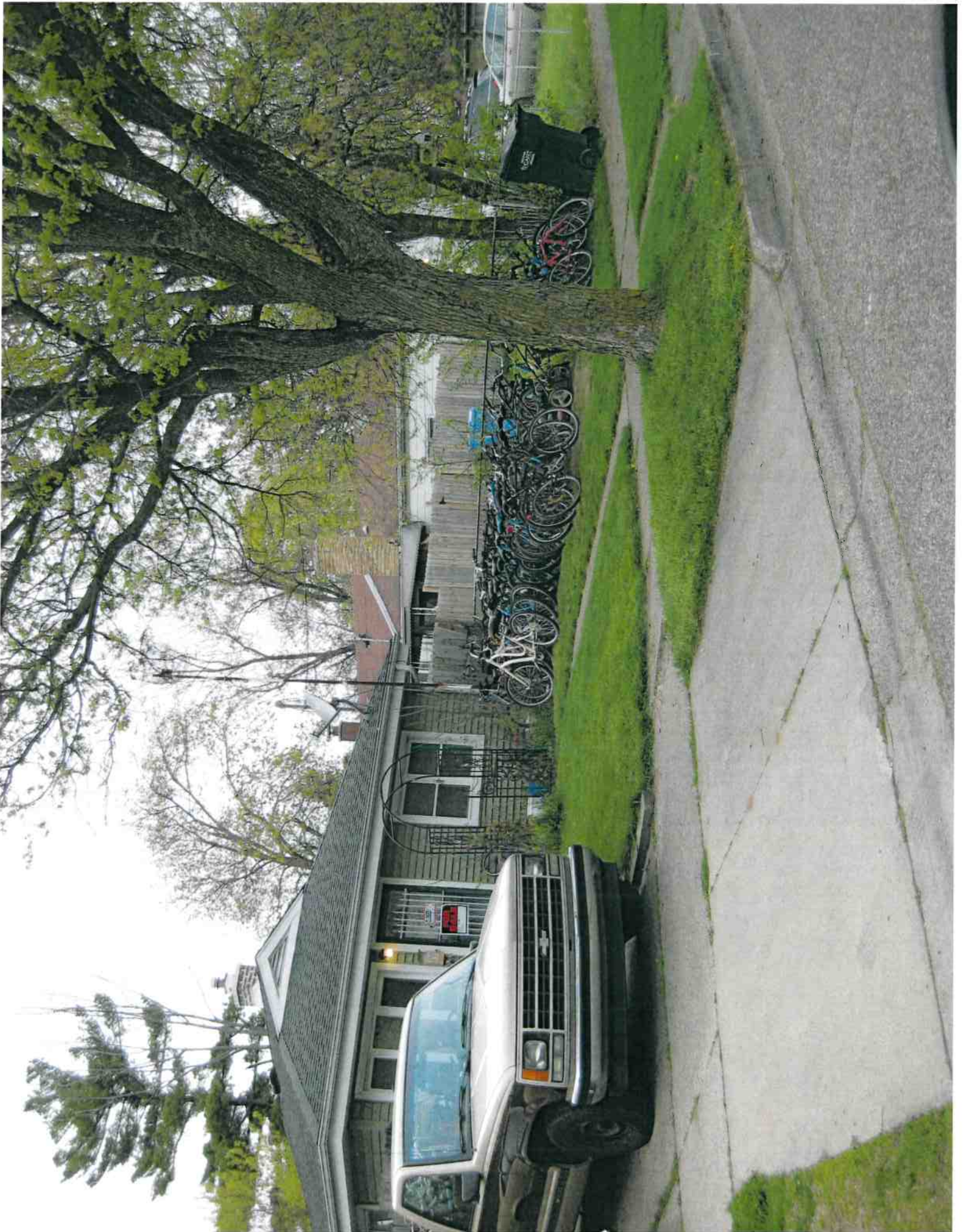
Please file this petition with the Planning Office.

Signature of applicant: Am L Wallace

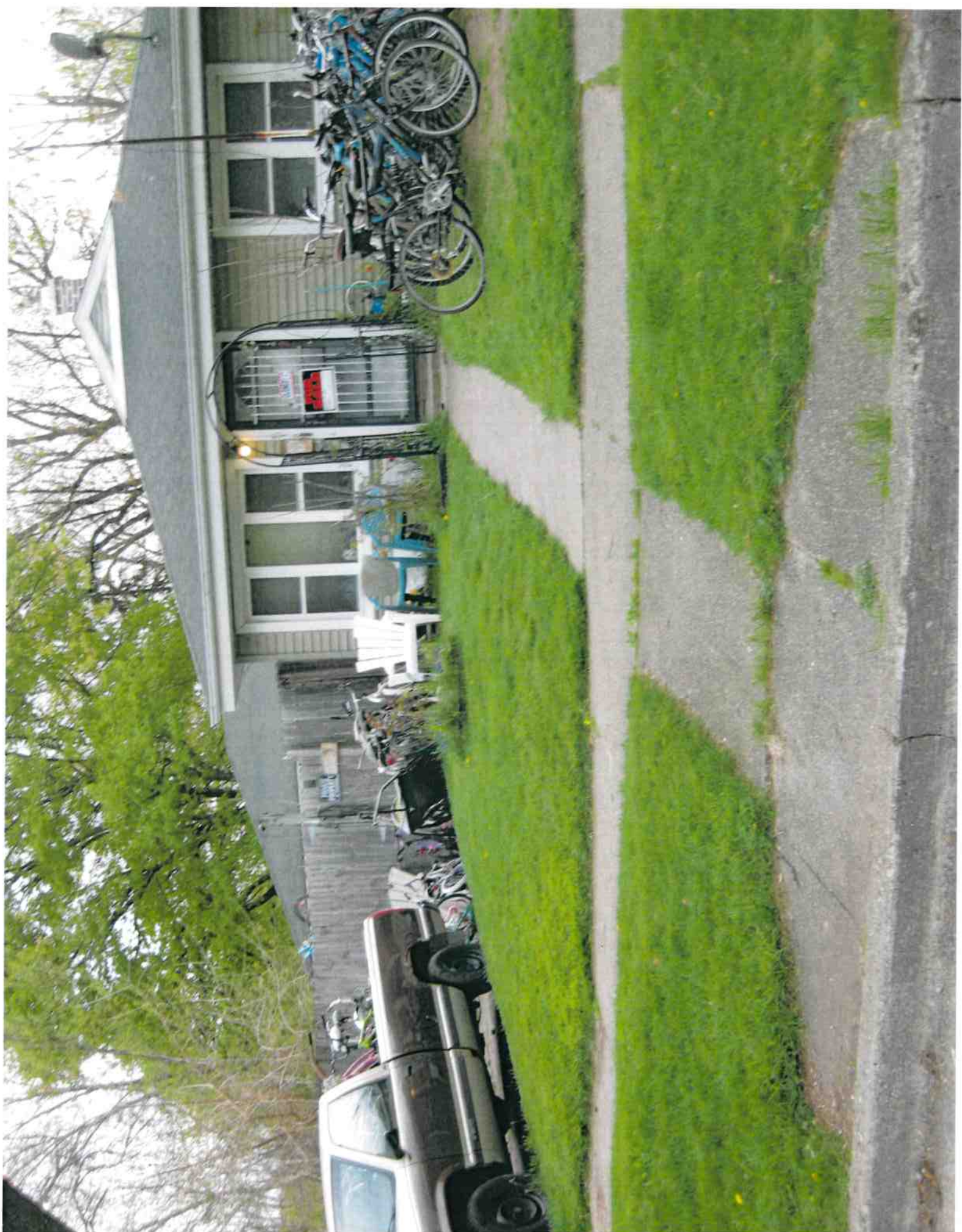
Name: Arion L Wallace

For assistance, please contact:

PLANNING OFFICE
316 N. CAPITOL AVE., SUITE D-1
LANSING, MI 48933-1236
(517) 483-4066
FAX: (517) 483-6036









**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
March 12, 6:30 P.M.
Neighborhood Empowerment Center - 600 W. Maple Street**

I. ROLL CALL

The meeting was called to order by Marcie Alling at 6:30 p.m. Roll call was taken.

Present: M. Alling, J. Leaming, M. Rice, K. Berryman, Chris Iannuzzi, R. Fryling & E. Jefferson

Absent: J. Hovey & M. Solak

Staff: S. Stachowiak

A quorum of five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

It was moved by Mr. Leaming, seconded by Ms. Jefferson to approve the agenda with the addition of "excused absences" under New Business. On a voice vote, the motion carried 7-0.

III. PUBLIC COMMENT

IV. PUBLIC HEARING/ACTION

A. BZA-4056.20, 230 S. Holmes Street, Request to permit the restoration/reconstruction of a nonconforming fire damaged church building

Ms. Stachowiak said that this is a request by Unity Spiritual Center of Lansing to permit the fire damaged church building at 230 S. Holmes Street to be restored/repared at a cost exceeding 50% of its value prior to the damage. She said that the site is considered nonconforming because it does not comply with the minimum 2 acre lot size and does not have access to a major or minor arterial as required for churches on a residentially zoned parcel of land. As a "Class A" nonconformity, the building cannot be restored/repared following damaged caused by a fire where the restoration/repair work exceeds 50% of the value of the building prior to the damage, unless approved by the Board of Zoning Appeals following approval by the Planning Board of a Class A nonconforming status request. Ms. Stachowiak stated that the Planning Board has granted the request for Class A nonconforming status.

Ms. Stachowiak stated that she received a petition with 109 signatures in support of the churches request, 13 letters/emails in support of the request and letters/emails from 5 individuals in opposition to the request.

Ms. Stachowiak stated that the estimate from the church's insurance company to restore the building exceeds \$400,000 and while the exact value of the church building prior to the damage is unknown, it would not even come close to \$800,000 and thus, there is no question as to the need for approval by the Board of Zoning Appeals to

allow its restoration/reconstruction. Ms. Stachowiak said that the staff recommendation is to approve the restoration/reconstruction of the church on a finding that the request complies with the three criteria set forth in the zoning ordinance for evaluating these types of requests. She said that there is no evidence that the church has caused any negative impacts on the transportation system in the area or caused any type of nuisances such as noise, excessive traffic, light glare, etc. that would negatively impact the surrounding residential neighborhood. Ms. Stachowiak said that it is the determination of the Planning Division that the available parking is sufficient to meet the demand for parking during the peak hour of the churches highest intensity of use. The church holds one service on Sunday mornings where, for a period of 2-3 hours, it is operating at its highest intensity level. The remainder of the week, with the exception of the occasional funeral or special event, the level of activity is much lower and is generally able to be accommodated by the existing, roughly 12-16 on-site parking spaces. She said that the church is permitted to use the Sparrow Hospital 100+ space parking lot located one block to the north, which is not in use during peak hour parking demand for the church on Sunday mornings, and there are more than 50 on-street parking spaces within 1 block of the church along both Holmes and Prospect Streets. Ms. Stachowiak stated that the applicant has provided a plan showing that the site is capable of accommodating parking for 24 vehicles. She explained that expanding the existing parking lot would bring the parking much closer to the adjoining houses which could negatively impact those residents in terms of noise and light glare and from an appearance/aesthetic standpoint (views from windows). Ms. Stachowiak said that in order to protect the adjoining residents from the effects of adding additional parking and since the available parking in the area has historically proven to be adequate to support the church during its peak hour parking demand, any expansion of the on-site parking lot is not recommended.

Ms. Alling opened the public hearing.

Dan Maynard, 2237 Luwanna Street, spoke in favor of the request as a representative of Unity Spiritual Church. He said that the value of the church building was fairly low prior to the damage and thus, there would be no way to restore it or to construct a new church without exceeding 50% of its pre-damage value. He said that they have already received the necessary approvals to make the church handicap accessible.

Belinda Fitzpatrick, 224 S. Holmes Street, spoke in opposition to the request. She stated that she lives adjacent to the church and her house is 9 feet away from the church building. Ms. Fitzpatrick expressed concerns about the potential for the church to expand the parking lot, thus bringing it much closer to her property which would result in increased noise and light glare. She spoke about issues that have occurred with excessive use of the on-street parking by the church which has been even worse since The Fledge came into the area, one block from the church. Ms. Fitzpatrick said that the church property needs to be used for residential purposes so that it is compatible with the residential area in which it is located.

Christine Clements, 1219 Prospect Street, spoke in support of the request. She said that she is the owner of the other property that directly adjoins the church property and she does not object to expanding the on-site parking lot.

Seeing no one else wishing to speak, Ms. Alling closed the public hearing.

Mr. Leaming asked about the ability of the church to expand the parking lot to the north

where it would be very close to the adjoining property/house.

Ms. Stachowiak said that the church could do so to a certain extent but that would not be desirable given its impact on the adjoining neighbor. She said that the approval could be conditioned upon prohibiting any expansion of the parking lot. She also said that the Planning Board approval of the Class A status request included a condition that the church is to install shrubbery/bushes around the perimeter of the parking lot to soften its view from the adjoining properties and from the street.

Mr. Rice said that the issue seems to primarily involve concerns about expanding the parking lot. He expressed support for the church's request, with the same condition that the Planning Board included in its approval regarding planting shrubs/bushes around the perimeter of the site and with the condition that there is no expansion of the on-site parking area.

Ms. Stachowiak described the variances that have already been approved to allow for an addition to the existing church to make it handicap accessible.

Mr. Leaming expressed support for the request as well, subject to the same conditions described by Mr. Rice.

Mr. Leaming made a motion, seconded by Mr. Rice to approve BZA 4056.19 a request to permit the restoration/repair of the fire damaged church building at 230 S. Holmes Street at a cost that exceeds 50% of its value prior to the damage, with the following conditions:

- **The necessary permits are obtained and the work to restore/repair the fire damage to the building at this location commences within one (1) year from the date of this approval,**
- **The church plants shrubbery/bushes around the perimeter of the parking lot to soften its view from the street and from the adjoining properties; and**
- **No expansion of the existing on-street parking area is permitted.**

On a roll call vote, the motion carried unanimously (7-0).

B. BZA-4055.19, 1215 River Street, Appeal of administrative decision to permit a new telecommunications tower that would have a reduced setback and a reduced separation distance between telecommunication towers

Ms. Alling stated that Ms. Stachowiak would be given 10 minutes to present her position on this matter, after which the appellant will be given the same amount of time to make a presentation to the Board.

Ms. Stachowiak stated that SBA Communications is appealing her decision to authorize the setback and separation distance waivers necessary to permit a new Verizon wireless telecommunications tower at 1215 River Street, in accordance with the authority granted to her under Section 1298.05 (A) (4) of the Zoning Ordinance. Setbacks of 85 feet from the tower to the east and west side property lines (90 foot setbacks required) and separation distances of 1,396 feet (disputed) from an existing tower at 209 Baker Street and 1,481 feet (disputed) from an existing tower at 910 River Street (1,500 foot separation distance between towers is required) were approved by the Zoning Administrator as part of the site plan review and approval process.

Ms. Stachowiak said that the appellant asserts that she should not have granted waivers to Verizon for the construction of a new tower at 1215 River Street since there is an existing SBA tower at 209 Baker Street upon which Verizon could lease space to collocate an antenna. The appellant also contends that, in lieu of constructing a new tower, Verizon could simply upgrade its existing antenna on the tower at 910 River Street in order to improve its service in the area.

Ms. Stachowiak stated that the decision to authorize the reduced setbacks was based on the following:

- * There is no way to situate the tower on the site in compliance with the setback requirements from all 4 property lines.
- * The reduced setbacks will have no negative impacts on the adjoining property owners, both of which are currently being used for open storage yards/parking lots.
- * Since the property is zoned industrial and surrounded by industrial zoning and land uses, any construction on the property other than a tower would not be subject to any setback requirements (see setback requirements listed in Chapter 1276 of the Zoning Ordinance).
- * The nearest property being used for residential purposes is located approximately 800 feet to the northwest of the proposed tower. The location is therefore, consistent with one of the primary goals of the wireless communication tower ordinance which is to locate towers on sites that do not adjoin or are located in close proximity to residential uses.
- * The setback waivers are very minimal (5 feet) and denial would prohibit the tower, despite it being an appropriate location given the heavy industrial area in which it would be located.

Ms. Stachowiak said that her decision to authorize the reduced separation requirements was based on the following:

- * The site plan for the proposed Verizon tower at 1215 River Street was submitted to the City for approval in September of 2019. At the time that the site plan and the setback/separation distance waivers were approved by the Zoning Administrator, there were no antennas on the tower at 209 Baker Street. The only antenna that is currently on that tower was installed by Sprint in October of 2019. To the best of our knowledge (not disputed by SBA), the tower at 209 Baker Street had not been in use for more than a year prior to October of 2019, thus making it an "abandoned" tower by the standards of Section 1298.09 of the Zoning Ordinance. As such, the City could have and should have required the appellant to remove its tower at 209 Baker Street but failed to do so. Instead, the City allowed the tower to remain and even be put back into use by authorizing a permit for installation of the Sprint antenna. Had the City required the removal of that tower, the separation distance from it to the proposed tower would not be an issue. Given these circumstances, it is unreasonable for the appellant to

challenge the decision of the Zoning Administrator to authorize a slight waiver to the separation distance requirement between the two towers when the appellant's tower at 209 Baker Street should not even exist at this time.

- * The only tool available to the Zoning Administrator to measure distances is with the City's GIS system which shows that the existing tower at 910 River Street is located more than 1,500 feet from the proposed tower. This is not a 100% accurate means of measurement, however, and thus, the Zoning Administrator cannot state with absolute certainty that it exceeds the separation requirement. At most, the separation distance is 1,481 feet which is a waiver of 19 feet (1.2%). Denial of the tower for such a slight reduction in separation, particularly when there is a fair chance that it may actually comply with the requirement, is not reasonable.

Ms. Stachowiak said that she would like to share her remaining time with the representatives from Verizon.

Robert LaBelle, Attorney representing Verizon Wireless, stated that the SBA tower located at 209 Baker Street was not in use for at least 3 years and thus, the City should have required it to be removed in which case, it would not even be an issue. He said that denial of the reduced setbacks and separation distances would result in the need for the company to seek an alternate location that it needs in order to optimize and prevent gaps in its coverage to serve the needs of its customers. Mr. LaBelle said that Verizon already has an antenna on the tower at 910 River Street and is still experiencing issues with its coverage in the area. He stated that the separation distance and setback waivers are very minimal and denial would prohibit the tower, despite it being in a location that meets the intent and purpose of the City's Ordinance regulating the placement of towers. He asked that the Board uphold the decision of the Zoning Administrator stating that she acted in accordance with the authority provided to her under the ordinance.

Ronald Redick, attorney representing the appellant, SBA Communications, stated that the Zoning Administrator exceeded her authority in granting the waivers to allow the tower at 1215 River Street and thus, her decision should be overturned. He said that this is all about economics because Verizon does not want to keep paying SBA to lease space on its towers. Mr. Redick stated that there is no technical justifications for allowing towers within 1500 feet of each other and in fact, that is contrary to the goal of the ordinance which is to reduce the number of towers by encouraging co-locations on existing towers of which, there are 2 in the area that are owned by SBA and can serve the needs of Verizon with regard to coverage. Mr. Redick said that in order for the waivers to be granted, the Zoning Administrator has to find that the waivers are necessary to encourage shared use and to reduce the proliferation of towers. He said that the waivers granted by the Zoning Administrator have the opposite effect.

Mr. Redick stated that Verizon has not submitted any technical information to demonstrate that their needs cannot be served by the existing towers within 1500 feet of the property tower. He said that Verizon has not even provided a rebuttal to the technical information that SBA provided which shows that its towers are sufficient. Mr. Redick stated that with regard to the tower at 209 Baker, SBA was in negotiations with Sprint, which now has an antenna on that tower, but they delayed making the decision until 2018 which is why it was vacant for some time.

Robert LaBelle spoke in response to the comments made by Mr. Redick. He stated that it is telling that the tower at 209 Baker Street was vacant for 3 years. He also said that the new tower will be half way between the two existing towers which fills a gap in coverage. Mr. LaBelle said that under Mr. Redick's interpretation of the ordinance, no waivers could ever be granted and thus, there would be no reason to provide for doing so in the ordinance. He said that the only cause for overturning the Zoning Administrator's decision would be if there had been an abuse of power and that is not case where this matter is concerned.

Ms. Alling opened the public hearing.

Seeing no one wishing to speak, Ms. Alling closed the public hearing.

Mr. Leaming asked if there is any dispute as to whether the tower at 209 Baker Street should have been removed, given the amount of time that it was not in use.

Ms. Stachowiak stated that the City should have required the tower to be removed but did not do so.

Mr. Iannuzzi asked what happens if the appeal is upheld.

Mr. LaBelle said that Verizon will have to find another location which will be difficult because the search ring to fill the coverage gap is so small. He said that Verizon has no desire to build new towers where it is not necessary as it is very expensive to do so. He said that co-locating is the preferred course of action.

Mr. Leaming asked if all of the towers shown on the map that SBA provided are owned by SBA.

Mr. Redick said that they are all owned by SBA.

Mr. Fryling asked Mr. LaBelle why there is a need for a new tower when there are other towers in the area.

Mr. LaBelle said that it is not just a matter of coverage but a matter of capacity and their needs simply cannot be met by collocating on an existing tower in the area.

Mr. Rice stated that the BZA is charged with determining if the Zoning Administrator position was appropriate and in keeping with the ordinance standard and with the intent and purpose of the ordinance. Mr. Rice stated that the waivers that were granted by the Zoning Administrator were minimal and the result was to allow a tower in a location consistent with the intent and purpose of the ordinance regulating towers. He said that he is not inclined to overturn the decision that is being appealed.

Mr. Leaming stated that both parties have monetary interest in this matter. He said that the tower that is the subject of the appeal is intended to achieve more capacity in the service area and only needed very minimal waivers in order to allow the tower in the proposed location so that it can fulfill that objective. Mr. Leaming stated that he does not find anything egregious with regard to the Zoning Administrator's decision.

Mr. Rice made a motion, seconded by Mr. Leaming to deny the appeal and uphold the decision of the Zoning Administrator to waive the setback

requirement and the required separation distance between towers in order to locate a new tower on the property at 1215 River Street. On a roll call vote, the motion carried unanimously (6-1). Mr. Berryman cast the dissenting vote.

V. OLD BUSINESS - None

VI. NEW BUSINESS

A. Excused Absences

Mr. Leaming made a motion, seconded by Mr. Rice to grant excused absences for Mr. Hovey and Mr. Solak. On a voice vote, the motion carried unanimously (7-0).

VII. APPROVAL OF MINUTES

A. Regular Meeting, October 10, 2019

Mr. Leaming made a motion, seconded by Ms. Jefferson to approve the minutes from the regular meeting held on October 10, 2019, as printed. On a voice vote, the motion carried unanimously (7-0).

VIII. PUBLIC COMMENT

IX. ADJOURNMENT AT 7:43 p.m.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator