



CITY OF OWOSSO
Zoning Board of Appeals
Tuesday, June 18, 2024 at 9:30 a.m.
AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA – June 18, 2024

APPROVAL OF MINUTES – April 18, 2023

SELECTION OF OFFICERS: Annual selection of Chair, Vice-Chair and Secretary

PUBLIC HEARINGS: None

NEW BUSINESS:

1. Adoption of the Revised By-Laws
2. 804 W Oliver Street – Review and Renew Variance Request from 2018

OTHER BOARD BUSINESS

PUBLIC COMMENTS AND COMMUNICATIONS

ADJOURNMENT

Next regular meeting will be on Tuesday, July 16, 2024, if any requests are received.

The City of Owosso will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and recordings of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seventy-two (72) hours' notice to the City of Owosso. Individuals with disabilities requiring auxiliary aids or services should contact the City of Owosso by writing or calling the following: Amy Kirkland, City Clerk, 301 W. Main St, Owosso, MI 48867 (989) 725-0500. The City of Owosso website is www.ci.owosso.mi.us

**MINUTES
REGULAR MEETING OF THE CITY OF OWOSSO ZONING BOARD OF APPEALS
APRIL 18, 2023 AT 9:30 A.M.**

CALL TO ORDER: Chairman Grubb called the meeting to order at 9:30 a.m.

ROLL CALL: Was taken by Tanya Buckelew

MEMBERS PRESENT: Chairman Matthew Grubb, Secretary Taylor, Board Members Charles Suchanek and Robert Teich

MEMBERS ABSENT: Vice-Chair Justin Horvath

OTHERS PRESENT: Justin Sprague, CIB Planning, Tanya Buckelew, Planning & Building Director

AGENDA:
IT WAS MOVED SECRETARY TAYLOR AND SUPPORTED BY BOARD MEMBER TEICH TO APPROVE THE AGENDA FOR THE APRIL 18, 2023 REGULAR MEETING.

YEAS: ALL. MOTION CARRIED.

MINUTES:
IT WAS MOVED BY BOARD MEMBER TEICH AND SUPPORTED BY SECRETARY TAYLOR TO APPROVE THE MINUTES OF THE SEPTEMBER 20, 2022 REGULAR MEETING.

YEAS: ALL. MOTION CARRIED.

OLD BUSINESS: NONE

PUBLIC HEARINGS:

1. **APPLICANT:** ANDREW AND KELLY SNYDER
LOCATION OF APPEAL: 1306 STINSON STREET, Owosso, MI 48867
PARCEL NUMBER: 050-603-003-015-00
PROPERTY ZONING: R-1, ONE FAMILY RESIDENTIAL
CASE #: P2023-002

Dimensional variance request from the property owners.

Public Hearing opened at 9:32 a.m.

The applicant Andrew Snyder explained the project that would involve tearing down the existing attached garage and build a new attached garage. The existing garage is 7' away from the side lot line. The proposed setback for the new garage is 3' away from the property line.

No others were present to speak during the public hearing nor were any comments received from the neighbors prior to the meeting.

Discussion and clarification that the new garage would be built slightly wider (by about 4'), longer (but would still be well within the rear yard setback), and 1 story in height. This is the general norm in the neighborhood as far as close proximity to side yard setbacks.

The Building Official's comments from the department review as follows –

1. Draining requirements to avoid run-off to the neighbors will be address during the building permit process
2. At the proposed distance, no additional fire measures need to be taken

Public Hearing closed at 9:38 a.m.

The following recommendation from Justin Sprague, CIB, City Planner -

- 1. Will not be contrary to the public interest or the intent and purpose of this chapter.**

Review Comment: The intent of the ordinance is to prevent neighbors from erecting unsightly buildings or structures directly on the property line as well as to provide a level of fire safety by keeping a minimum distance of separation from adjacent structures. In this neighborhood, many of the existing structures pre-date the existing zoning regulations and the majority of accessory structures are located less than 3-feet from existing lot lines. In this case, the applicant is just looking to keep consistent with the conditions of the neighborhood.

- 2. Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required.**

Review Comment: The use is a permitted accessory use within the R-1 District.

- 3. Is one that is unique and not shared by others.**

Review Comment: This condition is applied across the community and is not unique to this property.

- 4. Will relate only to the property that is under control of the applicant.**

Review Comment: The variance will only relate to the property under the control of the applicant.

- 5. Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.**

Review Comment: The strict letter of the law will not prevent the owner of the property from reasonably using the property, and it would not be unnecessarily burdensome to comply.

- 6. Was not created by action of the applicant (i.e. that it was not self-created).**

Review Comment: while the need for the variance is self-created, the owner is only trying to maintain the existing condition of the neighborhood which pre-dates the existing ordinance.

7. **Will not impair an adequate supply of light and air to adjacent property or unreasonably increase congestion of public streets or increase the danger of fire or endanger the public safety.**

Review Comment: The variance would not impair the supply of light or air to adjacent properties, create unreasonable congestion or endanger the public.

8. **Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district which the property of the applicant is located.**

Review Comment: The variance would not impact property values in the immediate vicinity.

9. **Is applicable whether a grant of the variance would be applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.**

Review Comment: Applying a lesser variance would possibly provide justice to the property owner, however other properties in the area have the same conditions with their accessory structures being less than 8 feet from adjacent property lines.

Special Conditions - When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. **Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic but shall be evaluated in terms of the use of a particular piece of land.**

Review Comment: It is our opinion that practical difficulty or unnecessary hardship would exist by meeting the strict letter of the code.

2. **Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district.**

Review Comment: There appear to be no exceptional or extraordinary circumstances or physical conditions with this property that do not generally apply to other properties in the same district

3. **Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.**

Review Comment: The variation would allow the property owner to maintain existing conditions on the property, something that many other properties in the area also maintain.

RECOMMENDATION

After review of the requested variance against the standards of the Michigan Zoning Enabling Act and the City of Owosso Zoning Ordinance, we are of the opinion that the requested variance for 1306

Stinson Street to allow an attached garage to be placed less than 8-feet from the adjacent property line, be approved, for the following reasons:

1. The reduction would not be contrary to the intent of the ordinance;
2. The variance would provide justice shared by other properties in the area;
3. A variance is necessary for the preservation of a substantial property right possessed by others in the same district

MOTION BY SECRETARY TAYLOR, SECONDED BY BOARD MEMBER TEICH TO APPROVE THE REQUESTED VARIANCE FOR 1306 STINSON STREET TO ALLOW THE REDUCTION OF A REQUIRED 8 FOOT SETBACK BY 5 FEET FOR THE PURPOSE OF BUILDING A NEW ATTACHED GARAGE.

AYES: BOARD MEMBER SUCHANEK, SECRETARY TAYLOR, BOARD MEMBER TEICH AND CHAIRMAN GRUBB
NAYS: NONE
RCV MOTION CARRIED

NEW BUSINESS:

1. DRAFT AMENDMENTS TO THE BY-LAWS – DISCUSSION

The Board was presented with the draft amendments to the by-laws. This has also been sent to the City Planner and the City Attorney for their review. The by-laws have not been updated since 2011 and require some amendments to be in line with the Michigan Zoning Enabling Act 110 of 2006.

It was determined that unless we have a meeting sooner, the board will meet in July to review and approve the amendments as this is also the time to hold the annual selection of officers.

After the Board adopts the amendments, the by-laws will be sent to City Council for adoption.

OTHER BOARD BUSINESS: NONE

PUBLIC COMMENTS AND COMMUNICATIONS: NONE

ADJOURNMENT:

IT WAS MOVED BY SECRETARY TAYLOR AND SUPPORTED BY BOARD MEMBER TEICH TO ADJOURN THE MEETING AT 9:47 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, MAY 16, 2023.

YEAS: All. Motion carried.

Thomas Taylor, Secretary

**CITY OF OWOSSO
ZONING BOARD OF APPEALS
RULES OF PROCEDURE**

SECTION 1.0 PURPOSE

The following rules of procedure are hereby adopted by the City of ~~O~~owosso Zoning Board of Appeals (hereinafter known as ~~Appeals the~~ "Board") to facilitate the performance of its duties as outlined in the City of Owosso Zoning Ordinance, Chapter 38 of the Owosso City Code and Act No. 110 of the Public Acts of Michigan of 2006 (MCL 125.3101 et seq., as amended). ~~For simplicity of presentation the words Chairman, Vice-Chairman or his shall be representative of either gender.~~

SECTION 2.0 MEMBERSHIP AND OFFICERS

2.1 Selection~~Membership~~. The Board shall consist of five members appointed by a majority vote of the members of the City Council. Each member shall be appointed to hold office for a three-year term. A vacancy on the Board shall be filled by City Council for the remainder of the unexpired term in the same manner as the original appointment.

The City Council may, if desired, appoint two alternate members for three-year terms. One or both alternate members may be called to sit as a regular member of the Board if a regular member is absent from or unable to attend one or more meetings.

One of the regular members or an alternate member of the Board may be a member of the City Council, but that member shall not serve as Chair of the Board. One of the regular members of the Board shall be a member of the Planning Commission.

2.12.2 Officers. At the regular meeting in July of each year, the ~~Appeals B~~Board shall select from its membership a ~~Chairman, Vice-chairman and~~Chair and Secretary. All officers are eligible for reelection.

2.22.3 Tenure. The ~~Chairman, Vice-Chairman~~ and Secretary shall take office the same meeting of their selection and shall hold office for a term of one year or until their successors are selected and assume office.

2.32.4 Duties. The ~~Chairman~~ shall preside at all meetings, and perform such other duties as may be ordered by the ~~Appeals~~ Board.

2.42.5 Duties. The ~~Vice-Chairman~~ shall act in the capacity of ~~Chairman~~ in his absence and in the event the office of the ~~Chairman~~ becomes vacant, the ~~Vice-Chairman~~ shall succeed to this office for the unexpired term. The ~~Appeals~~ Board shall select a successor to the office of ~~Vice-c~~Chairman for the unexpired term. The ~~Vice-c~~Chairman shall perform such other duties as the ~~Appeals~~ Board may determine.

2.52.6 Duties. The Secretary shall record the official proceedings of the meetings and conduct all correspondence as may be directed by the ~~Appeals~~ Board. The proceedings of each meeting shall be reviewed at the following meeting of the ~~Appeals~~ Board and be affirmed as a correct representation of the proceedings or amended upon approval by a majority of the ~~Appeals~~ Board members.

SECTION 3.0 NOTICE OF APPEAL

3.1 Filing. Any interested person, or the person's authorized agent, may appeal or seek a variance in writing on a form provided by the zoning administrator, and upon payment of a fee as may be established from time to time by the governing body. Such notice of appeal shall be filed with the zoning administrator not more than 30 days from the date of the decision being appealed.

~~Such request for a variance or appeal of decision may be filed with the zoning administrator at any time.~~

3.2 Notification. Within 10 days from the date of the receipt of the request for a variance, interpretation, notice of appeal or other business item, the zoning administrator shall ~~contact~~ notify the ~~Chairman of the ZBA Board of the upcoming meeting, and establish a date and time for the board to hold a hearing and a meeting to consider and act on the case.~~ Notice of such meeting shall be made by the zoning administrator as specified in Section 4.3 of these rules of procedure. The notice sent to members of the ~~Appeals~~ Board shall include copies of the notice of appeals or request for a variance form; the entire content of the zoning administrators file, and/or other file(s) on the case; other relevant correspondence, permits by other applicable enforcement agencies; and anything else which is relevant.

~~3.2~~ In addition to the above notice requirements, notice of such meeting shall be delivered in person or by first class mail to the landowner, adjacent landowners and occupants within 300 feet of the appellant's property, and a notice sent by first class mail to the person and/or agent seeking the appeal or variance. The notice shall be delivered not less than fifteen (15) days prior to the public hearing. The notice shall be published in a newspaper of general circulation not less than fifteen (15) days prior to the public hearing. The content of such notice shall contain all information required by PA 110 of 2006, as amended.

3.3 Deadline for Action. The above notwithstanding, the ~~Appeals~~ Board shall hear the case and render and file its decision with a statement of reasons for the decision with the zoning administrator not more than 45 days after receipt of the case, unless a longer period of time is mutually agreed upon by the petitioner and the ZBA.

3.4 Site Inspection. The ~~Appeals~~ Board, if the ~~chairman~~Chair considers it necessary, may conduct a site inspection of the site at issue. In such instance, the site inspection shall be posted as part of the public meeting/hearing. A quorum of the ~~Appeals~~ Board shall not ride in the same vehicle to or from a site inspection or to or from a meeting. The site inspection, if posted as part of the meeting/hearing shall always be held the same day and as part of the same meeting as at the start of the public hearing on the case. Nothing in this paragraph shall prevent members of the ~~Appeals~~ Board from individually and separately visiting a site in question at their own expense and time. A quorum of the ~~Appeals~~ Board shall not make site inspections or otherwise discuss a notice of appeal except during posted open meetings of the ~~Appeals~~ Board.

~~3.5 Notice of Decision. The Secretary, or his designate, shall cause to have timely notices of the Appeals Board decision delivered in person or by first class mail to the zoning administrator, to the governing body's attorney's office, the petitioner or his agent, and to anyone else requesting a copy in writing.~~

SECTION 4.0 MEETINGS

4.1 Regular Meetings. The ~~Appeals~~ Board shall meet at least once each year during the month of July. Any other meetings of the ~~Appeals~~ Board shall be called as needed in response to receipt of a Notice of Appeal, so long as the meeting is scheduled within 20 days of the notice of

appeal. The meeting can be called by the zoning administrator of the City of Owosso, the Chairman of the Appeals Board, or, in his absence, the Vice-Chairman. The regular meetings of the Appeals Board shall take place at 9:30 a.m. on the third Tuesday of the month in the City Council Chambers, City Hall, 301 W. Main St., Owosso, Michigan.

- 4.2 Attendance/Performance. If any member of the Appeals Board accumulates unexcused absences for more than two meetings in a row, or more than 25% of the meetings held in a rolling 24-month period, then that member shall be considered delinquent. Delinquency shall not be established when the absent Board member has given notice to the Board at least five days in advance of their absence. The Appeals Board shall make a finding of the delinquent member's reason for absence, commitment to future performance, and impact on the Appeal Board's ability to conduct business for the public. These findings, after public discussion of the delinquency determines neglect of duty, shall be forwarded by the Secretary to the Mayor for further action which may include removal from office in accordance with the Michigan Zoning Enabling Act of 2006 as amended.
- 4.3 When a petitioner fails to appear at a properly scheduled meeting of the Board of Appeals, the Chairman may entertain a motion from the Board to dismiss the case for want of prosecution. In the absence of a motion by the Appeals Board, the chair shall rule. In cases which are dismissed for want of prosecution, the petitioner will be furnished written notice of the action by the Secretary of the Appeals Board. The applicant shall have seven (7) days from the date of notice of dismissal to apply for reinstatement of the case. In such cases, applicant must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairman for good cause shown, and upon payment of a fee set from time to time by the governing body. In all cases reinstated in the above-described manner, the case will be docketed and re-advertised in the usual manner prescribed for new cases.
- 4.4 Other Meetings. Meetings shall be called by delivering meeting notices by first class mail, electronic mail, or by personal delivery to members of the board at least five days prior to such meeting and shall state the purpose, time, location of the meeting and shall be posted at City Hall ~~ten~~ at least five days prior to such meeting.
- 4.5 Public. All meetings, hearings, records and accounts shall be open to the public, and posted in compliance with P.A. 267 of 1976, the Michigan Open Meetings Act.
- 4.6 Quorum. The presence of three members shall be necessary to constitute a quorum. A majority vote of the members shall be required to pass on business matters. For any matter under which the Appeals Board is required to pass under the provisions of the Owosso City Code, a two-thirds majority vote of the full board shall be necessary.
- 4.7 Order of Business. Agenda. The Secretary or his designate shall prepare an agenda for each meeting and the order of business therein shall be as follows:
- A. **Call to order, roll call and approval of agenda.**
 - B. **Approval of minutes from previous meeting.**
 - C. **Site inspection, then recess** (optional, if the meeting is posted to include a site inspection).
 - D. **Reconvene and roll call** (if following a site inspection).
 - E. **Election of officers**, if necessary.
 - F. **Public Hearings.** ~~The Chairman will declare a public hearing open and state its purpose.~~
 - 1. The Chair will declare a public hearing open and state its purpose
 - ~~1. The Chairman shall summarize, provide copies, or conspicuously post the procedure for~~

~~public hearing as outlined in Sections 4.6, 4.7, 4.8 and 4.9 of these rules of procedure for any members of the public in attendance.~~

2. Case number (numbered by year/sequence)
 - i. The Zoning Administrator presents the petitioner's request, his action on the latter and reasons for his decision plus a written copy of his request.
 - ii. The petitioner, through himself, his agent, or his lawyer may present his case, including presenting witnesses on his behalf. No time limit will be imposed on the petitioner.
 - iii. Members of the Appeals Board shall report on their site inspection and any conversations with the petitioner they may have had.
 - iv. Members of the public speak and correspondence is read.
 - v. The Chairman may recess the meeting for a short time to allow attending groups to caucus in order to have one individual speak on their behalf for an unlimited period of time if there are a large number of people present on an issue.
 - vi. The Chairman shall allow the rest of the public to speak in response to the matter and may impose a time limit for the each speaker.
 - vii. Rebuttal. Anyone may ask the Chairman questions on presentations or speeches given at this hearing. The Chairman will seek an answer to the question. Answers shall be given to the Chairman. There shall be no discussion, questioning or answering people except between the Chairman and the Individual who has the floor.
 - viii. Close the Public Hearing. (At this point all public participation on the issue ends).
 - ix. Members of the Appeals Board may question or request clarification with any interested party on any matter related to the case.

G. Recess to another day as provided in Section 4.8 of these rules of procedure,

H. Business Session.

1. Action on pending case number
 - i. Discussion: Review of facts based on all information presented (from the application, written request for appeal, zoning ordinance, physical characteristics of the parcels, staff reports, and hearing testimony). Discussion continues until a member proposes a motion that includes a "finding of fact" with those conclusions that are reached and conditions to be applied, if any.
 - ii. A motion is proposed on "finding of fact."
 - iii. Discussion on the Motion,
 - iv. Action on the motion.

2. Other business of the Appeals Board.

I. Public/Commissioner Comments

J. Adjournment

4.7 Comments Out of Order. The Chairman shall rule out of order any irrelevant remarks; remarks which are personal, about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or any other remarks which are not about land use.

4.8 Recesses. The Chairman may recess a public hearing and/or meeting to another time if it is after 12 noon or if the meeting (not including site inspections) has been over three hours. In order for a recess to be in order, the time, day, month, date, year and location to reconvene shall be stated as part of the action to recess. If a meeting and /or public hearing reconvenes over 36 hours after the action to recess, the reconvened meeting shall be posted at least 18 hours before the time of the reconvened meeting, to comply with Section 4.4 of these rules of procedure. Upon reconvening, a roll call shall be taken as the first order of business.

4.9 Parliamentary Procedure. Meetings shall be conducted in a formal manner, and parliamentary procedure shall be governed by Roberts Rules of Order if not specifically dealt with in these rules of procedure.

4.10 Motions. Motions shall be reiterated by the Chair~~man~~ before a vote is taken.

- A. Motions dealing with a Dimensional variance ~~appeal or a variance concerning the City of Owosso Zoning Ordinance~~ shall be stated with the following parts: ~~or stated as two motions:~~
1. The list of facts which is the information pertinent to making a decision on the matter, structured as a "finding of fact" on the case.
 2. The conclusion, decision, of the Appeals Board. This motion~~, or part of a motion,~~ shall include the following parts:
 - i. The rationale, reason, for why the conclusion was made. The rationale, reasons, shall contain, at a minimum:
 - a. If the property cannot be used in conformance with the ordinance without the requested or lesser variance.
 - a.b. (a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other "non-use" matters will unreasonably prevent the owner from using the property for a permitted purpose or will be unnecessarily burdensome. The variance will do substantial justice to the applicant, as well as to other property owners.
 - b. If the problem is due to a unique situation not shared in common with nearby property owners.
 - c. (b) A lesser variance that that requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - d. If granting the variance would not alter the essential character of an area.
 - c.e.(c) The need for a variance is due to unique circumstances or conditions peculiar to the property and not generally applicable in the area or to other properties in the same zoning district such as exceptional narrowness, shallowness, shape, topography or area.
 - d. If the problem requiring a variance was not self-created.
(NOTE): All four of the above points must be found true, or in the affirmative, or a variance shall not be granted.
(d) The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessor may or may not be considered depending upon whether the practical difficulty would have existed regardless of the action.
 - e. Other specific standards for variances that are in the City of Owosso Zoning Ordinance.
 - f. (e) The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
 - g. (f) The granting of the variance will not materially impair the intent and purpose of this chapter.
 - f.h. An explanation how the facts support the conclusion.
 - ii. The conclusion or decision.
 - iii. Any conditions upon which a variance may be issued, if applicable. Conditions shall be listed in detail and based on regulations or standards already in the Owosso Zoning Ordinance.
 - iv. Reasons why the conditions are imposed.

- ~~B. Motions dealing with an ordinance interpretation, or any appeal of an administrative decision, shall be stated with the following parts, or stated as two motions:~~
- ~~1. The list of facts which is the information pertinent to making a decision on the matter.~~
 - ~~2. The conclusion or decision of the Appeals Board. This motion, or part of the motion, shall contain the following parts:~~
 - ~~i. The rationale, or reasons, to explain how the facts support the conclusion. (ii)~~
 - ~~The conclusion or decision.~~
- ~~C. Any other motion shall be stated in a prose or in the form of a resolution.~~

- B. Motions dealing with a Use variance shall be stated with the following parts:
1. The list of facts which is the information pertinent to making a decision on the matter, structured as a "finding of fact" on the case.
 2. The conclusion, decision, of the Board. This motion shall include the following parts:
 - (a) The property cannot be reasonably used for any purpose permitted in the zoning district without the variance. There must be financial proof of the applicant's inability to realize any reasonable return; speculation or a qualitative assessment is inadequate.
 - (b) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. In those situations where the difficulty is shared by others, the board may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.
 - (c) The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
 - (d) The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.

4.11 Voting. Voting shall be by roll call vote, and shall be recorded by yeas and nays. Members must be present to cast a vote.

SECTION 5.0 RECORDS

5.1 Preparation. A record of each meeting, including hearings and site inspections, shall be prepared by the Secretary, or his designate.

5.2 Content. The record of each meeting should include the following items:

- A. A copy of the meeting posting as required in Section 4.43.2 of these rules of procedure.
- B. A signed statement indicating that notices, as required in Section 3.2 of these rules of procedure, were sent out, with list of to whom, and an indication of by whom, and a copy of a newspaper notice, if one was published.
- C. A copy of the request for a variance or notice of appeal, whichever is applicable, including any maps, drawings, site plans, etc.
- D. The original of the minutes of the meeting (including the hearing and site inspection) which shall include, all action taken in chronological sequence of occurrence.
- E. The records of any action on a case by the zoning administrator.
- F. The records of all past records regarding the property involved in a case (previous permit, special use permit, variances, appeals).
- G. Any relevant maps, drawings, photographs, presented as evidence at a hearing.

- H. Copies of any correspondence received or sent out in regard to a case.
- I. A copy of relevant sections, or a list of citations of sections of the zoning ordinance.
- J. A copy of any follow-up correspondence to or from the petitioner regarding the decision.

5.3 Retention. The record of each meeting shall be permanently kept on file and spread in suitable volumes with a copy filed with the City Clerk. All the pertinent documents and minutes for each case before the Board of Appeals shall be copied and filed with the zoning administrator's office. Copies of the minutes shall be distributed to each member of the Appeals Board within ten days of the meeting. Copies of the minutes shall be available to the public no later than five days after a meeting.

SECTION 6.0 OTHER DUTIES

The Appeals Board may also formulate and provide advice and may advise policy to the planning commission or any committee thereof, on issues dealing with the administration, text, map and enforcement of the zoning ordinance.

SECTION 7.0 CONFLICT OF INTEREST

The members of the Appeals Board shall comply with Act No. 196 of the Public Acts of 1973, State of Michigan, as amended as it pertains to standards of conduct for public officers.

SECTION 8.0 ADOPTION AND REPEAL

Upon adoption of these rules of procedure of the Owosso Zoning Board of Appeals and the Owosso City Council, they shall become effective and all previous rules of procedure, as amended, shall be repealed.

SECTION 9.0 AMENDMENTS

These rules may be amended at any regular or special meeting by a majority vote of the total members of the Appeals Board, so long as such amendment does not result in a conflict with state law, zoning ordinance, or court decision.

Approved by City Council on February 7, 2011

Approved by City Council on July 1, 2024



ZONING BOARD OF APPEALS APPLICATION
 301 W. Main Street, Owosso, MI 48867
 Phone: (989) 725-0544 Fax: (989) 725-0526

Fee \$300

1. Project information

To the Owosso Zoning Board of Appeals;

I (we) Kateri Lehr of 804 W. Oliver St.
 (Applicant name) (Street number)
Owosso MI 48867
 (City) (State & zip code)

Applicant Phone Number: 989.319.4345 Applicant Fax Number: _____

I (we) HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FOR A:

Variance () Permit () Interpretation () or Review and Approval ()

Address/location of property: 804 W. Oliver St.

Parcel #: 78-050-670-002-018-00 Zoning district: R-1

2. Required attachments

- 1 hard copy of site plan and a digital copy (if applicable)
- 1 copy of the application (pages 2-5 only)
- Description of how the requested variance meets all of the nine (9) Facts of Findings
- Narrative demonstrating why a variance is being sought
- Required Fee

3. Description of case (fill out only the items that apply to your case)

a. Description of the property

- i. Size of lot 68' x 132' + 15' x 46'
- ii. Area of lot 8,844 ft² + 690 ft²
- iii. Lot is a corner or interior lot? Interior

b. Description of existing structures:

- i. Number of buildings now on premises 3
- ii. Size of each building now on premises House - 2029 ft² Carport - 20'x20' Garage - 12'x15'
- iii. Use of existing buildings on premises Residential

c. Description of proposed structures:

- i. Height of proposed structure 20'
- ii. Dimensions of proposed building or addition 24' x 24'
- iii. Area of proposed building 576 sq. ft.
- iv. Percentage of lot coverage of building or addition 6.5%

The engineer, architect, planner and/or designer retained to develop the site plan shall be responsible for securing a copy of the Owosso Zoning Ordinance and following all requirements therein. Further, these professionals shall make themselves aware of all Owosso Master Plan requirements, for example, major thoroughfares, land use, recreations and etc.

I certify that the above required information is shown on the site plan included with this form.

Shaterin Oehr
Signature of property owner

Date Aug. 20, 2018

Appeal Application Deadline Dates:

Deadline Date	Zoning Board of Appeals
December 19, 2017	January 16, 2018
January 23, 2018	February 20, 2018
February 20, 2018	March 20, 2018
March 20, 2018	April 17, 2018
April 17, 2018	May 15, 2018
May 22, 2018	June 19, 2018
June 19, 2018	July 17, 2018
July 24, 2018	August 21, 2018
August 21, 2018	September 18, 2018
September 18, 2018	October 16, 2018
October 23, 2018	November 20, 2018
November 20, 2018	December 18, 2018

- d. Yard setbacks after completion of building or addition:
- i. Front yard (measured from lot line) > 40'
 - ii. Side yard (measured from lot line) > 5'4"
 - iii. Rear yard (measured from lot line) > 13'2" (or 23'2" by Sec. 38-416)
- e. A sketch depicting the above information shall accompany this application. The sketch shall be on a sheet of paper 8 1/2" x 11" in size.
- f. Section number of zoning ordinance that is being appealed: 38-351 Minimum Yard Setback
- g. Clearly state your request: To remove existing rear porch, stairs, fence, and carport and replace them with an attached garage. The proposed structure would improve aesthetics, safety, and setbacks over existing structures.

4. Duties and powers. The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that ALL of the basic conditions described below, and as stated in Section 38-504(3)a. 1-9 can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.
- a. *Basic conditions.* In order to qualify for a variance, the applicant must show that a variance:
- 1) Will not be contrary to the public interest or to the intent and purpose of this chapter.
 - 2) Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
 - 3) Is unique and not shared with other property owners.
 - 4) Will relate only to property that is under control of the applicant.
 - 5) Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
 - 6) Was not created by action of the applicant (not self-created).
 - 7) Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety.
 - 8) Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
 - 9) Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

b. *Special conditions:* When all of the basic conditions can be satisfied a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

- 1) The board may specify, in writing, such conditions regarding the character, location, and other features that will, in its judgement, secure the objectives and purposes of this chapter. The breach of any such condition shall automatically invalidate the permit granted.
- 2) Each variance granted under the provisions of this chapter shall become null and void unless:
 - i. The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance and proceeds to completion in accordance with the terms of the variance;
 - ii. The occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.
- 3) No application for a variance which has been denied wholly or in part by the board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the board to be valid.
- 4) In granting or denying a variance the board shall state the findings of fact upon which it justifies the action.

Signature of owner: Kateri M. Lehr Date: Aug. 20, 2018

Print name: Kateri M. Lehr

Vehicle access for 804 W. Oliver is by way of an alley at the rear of the property. Currently, there is a 20'x20' carport located less than two feet from the edge of that alley and five feet from the neighboring property. The carport is enclosed on one side by a six foot high fence running from the house to the alley. Between the carport and the house there is a 12'x14' glass-enclosed porch with stairs leading up to it from the carport, as well a 5'x9' structure covering stairs leading to the basement. All of these additional structures have aged poorly compared to the rest of the house, so we propose removing them and replacing with a 24'x24' attached garage. This replacement would improve rear setback by almost 12 feet over the current carport, but still leave us approximately 12 feet shy of the required 35 foot setback (assuming Section 38-416 applies, allowing us to measure setback from the middle of the alley abutting the lot). Setback from the neighboring property line would also improve by a few inches, to be the same as the setback of the house itself.

The slab for the carport lacks proper footings and drainage, so it has cracked and heaved substantially. The porch and stairs have seen generations of shoddy repairs and modifications, and are in need of complete refurbishment. The concrete stairs to the basement are disintegrating and beginning to leak water, partially from the poor drainage of the carport. The vinyl fence is warped and unable to support itself. None of these structures are aesthetically consistent with the rest of the house, or to a standard consistent with the neighborhood. Rather than attempting to address all of these individual issues, it makes sense to replace them all with an attached two-car garage with a storage loft. The new garage could enclose new stairs to the basement as well as access to the rear entrance of the house, and be constructed to modern standards with exterior aesthetics consistent with the rest of the house.

In order for this to happen, we will need a setback variance for the new structure. Because of the unusual shape of the lot, as well as the location of the house and alley - which was relocated subsequent to the construction of the house - we have no placement options for a parking structure without a variance.

Basic conditions. In order to qualify for a variance, the applicant must show that a variance:

1. Will not be contrary to the public interest or to the intent and purpose of this chapter; Proposed construction will increase setbacks from property lines over existing structures and improve visibility down the the alleyway. Removing and replacing existing structures will also substantially improve aesthetics and safety.

2. Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required; Removal of a porch and carport and replacement with an enclosed garage will have no impact on use.

3. Is one that is unique and not shared with other property owners;

Based on survey and parcel records, there is no overlap with existing variances or properties.

4. Will relate only to property that is under control of the applicant;

Based on survey and parcel records, we are only requesting changes to property that falls within our designated lines. Changes proposed will have no direct impact on neighboring properties.

5. Is applicable whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;

The decrepitude and poor construction of the existing porch and carport structures necessitate their removal or complete refurbishment. Due to the lack of any lot access from Oliver Street, any parking structure must be constructed on the rear alley side of the property where, due to the narrowness of the lot and placement of the house, it is simply impossible to have the required setbacks. Removal of existing structures and construction of the proposed attached garage would significantly improve setbacks and density. All adjacent properties have two-car garages, in locations that would also not meet current setback requirements.

6. Was not created by action of the applicant (i.e. that it was not self-created);

Existing structures were constructed by various previous occupants over the years, to varying standards. Access to the lot was also changed by the city after the construction of the house, when the original north-south alley was closed and parcelled out, and replaced with the current east-west alley resulting in the now abnormal parcel layout.

7. Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety;

Removing the existing carport and attached fence will substantially improve visibility down the alleyway, and increasing the setback by replacing them with an attached garage will improve access for emergency vehicles through the alley. Removal of increasingly unstable existing structures will improve safety, and removal of obsolete wiring and fixtures will reduce risk of fire. Keeping existing parking capacity and access via the alley prevents parking and congestion on public streets.

8. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located;

Removal of existing haphazard additions and replacement with a quality attached garage with consistent style and finish to the house should have a positive effect upon property values. As several other residents in the immediate vicinity have recently undertaken substantial projects to refresh and improve their properties, we wish to contribute by doing the same.

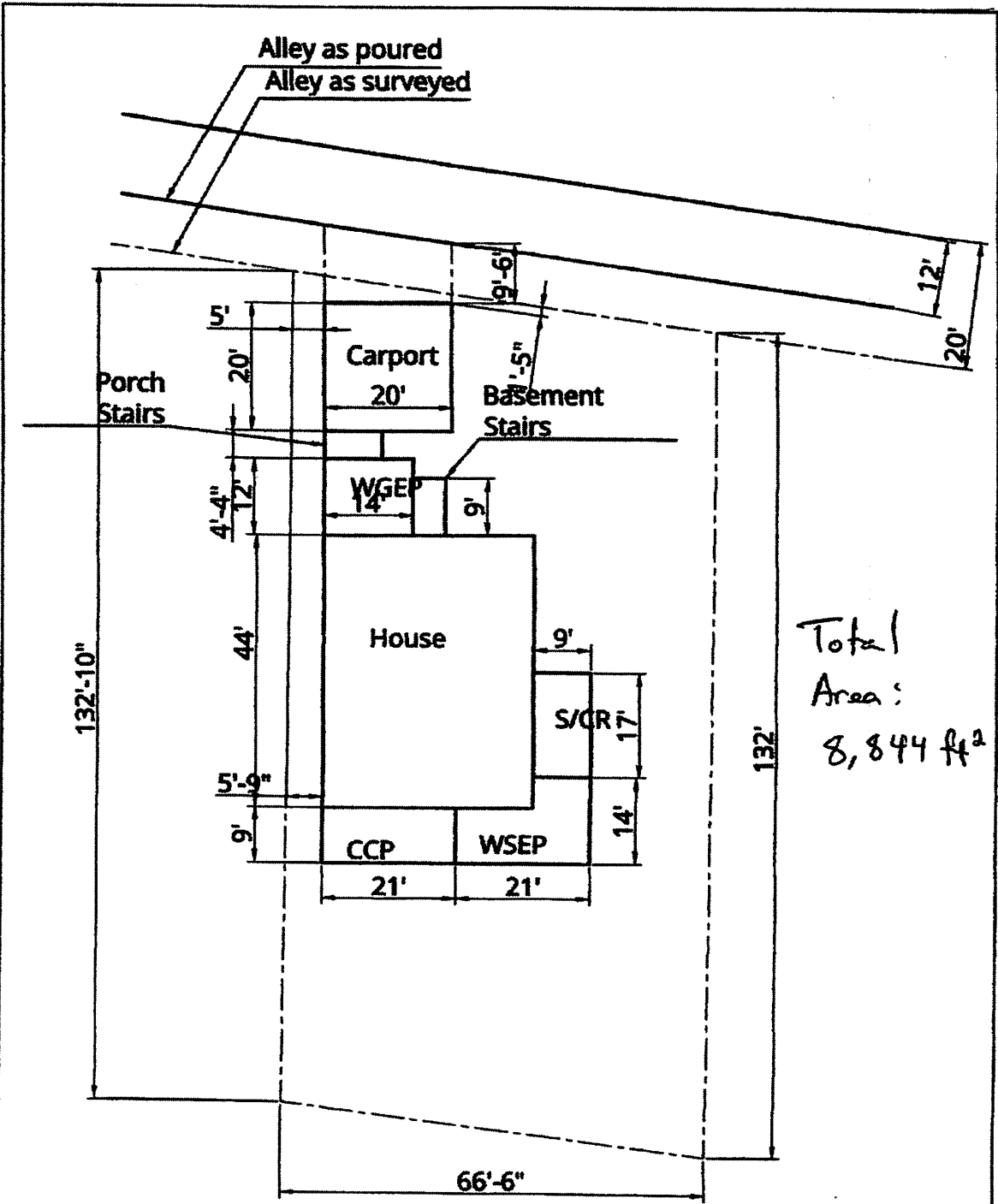
9. Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Every existing structure on adjacent properties would fail to meet requirements for setbacks. The age and unique history of these parcels certainly serve to complicate the situation. The proposed demolition and construction would substantially improve access, visibility, and safety for the property owner as well as other property owners in the area with no drawbacks over the present situation. No lesser relaxation would allow for these improvements without substantial loss of storage and parking space to the property owner.


Special conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

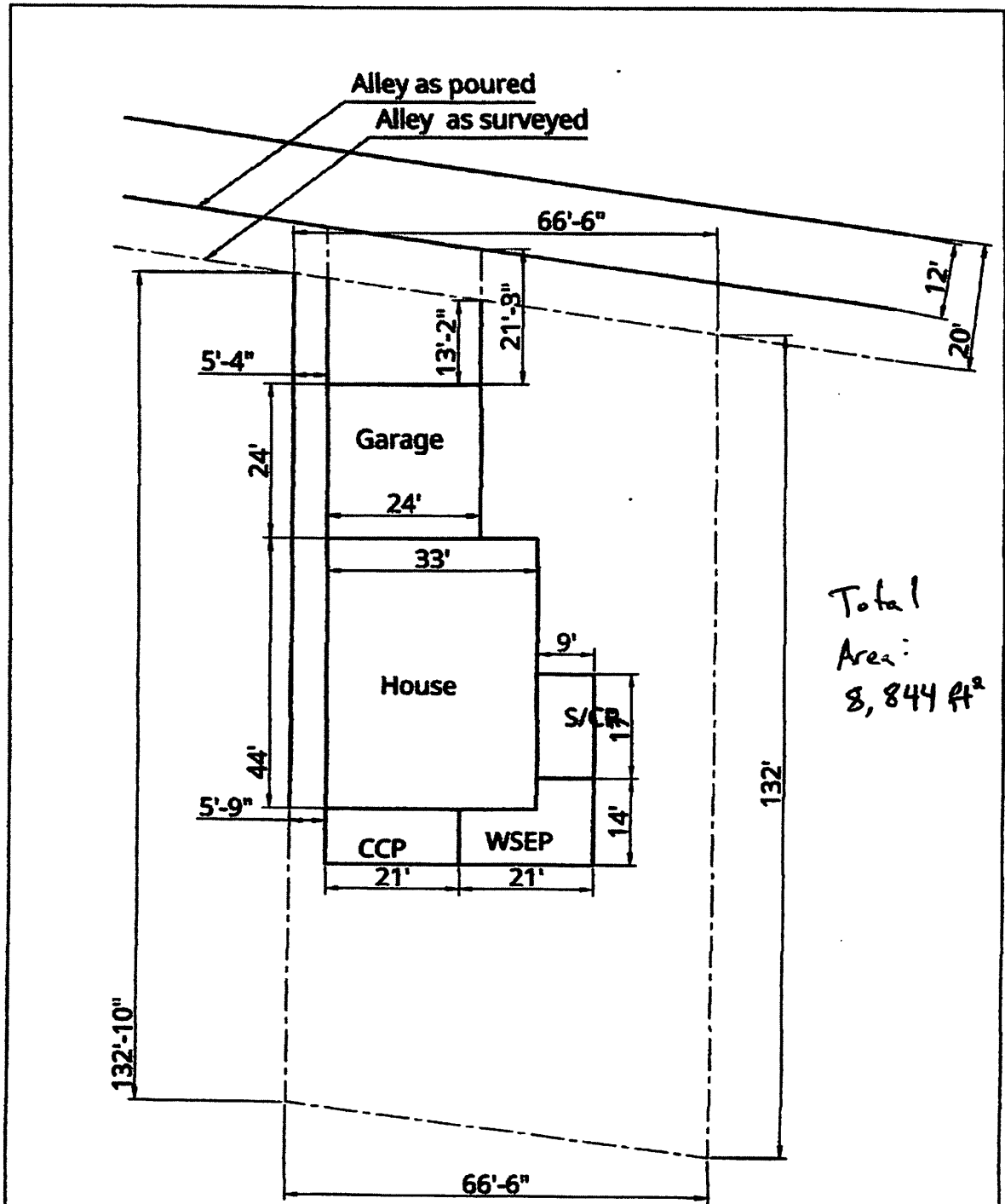
2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district;

The placement of the house, shallowness of the rear yard, and asymmetric shape of the lot make it impossible to place a garage anywhere on Lot 25 without impinging setbacks. Our options are also limited by the lack of driveway access to the property from Oliver Street. At some point, Lot 21 (on the other side of the alley) was divided between our property and the two neighboring properties for parking structures, creating an unusual situation. However, at less than 15 feet wide, our portion of the lot is insufficient to accommodate a two-car garage, unlike the two adjacent portions which are much wider.



1:250 Parcel # 79-050-670-002-018-00

UNLESS OTHERWISE SPECIFIED, DIMENSIONS ARE IN INCHES ANGULAR = "A" FRONTAL = "A" SURFACE FINISH: <input checked="" type="checkbox"/> DO NOT SCALE DRAWING BREAK ALL SHARP EDGES AND REMOVE BURRS FIRST ANGLE PROJECTION 	DRAWN CHECKED APPROVED	NAME CDDP/ELP/PT/EC	SIGNATURE 	DATE 2010-08-05	TITLE Current Carport and Porch 804 W Oliver
	MATCHLINE	FINISH	SIZE A4	SHEET NO. 	SHEET 1a
	SCALE 0.001:1	PROJECT	SHEET	1 of 1	



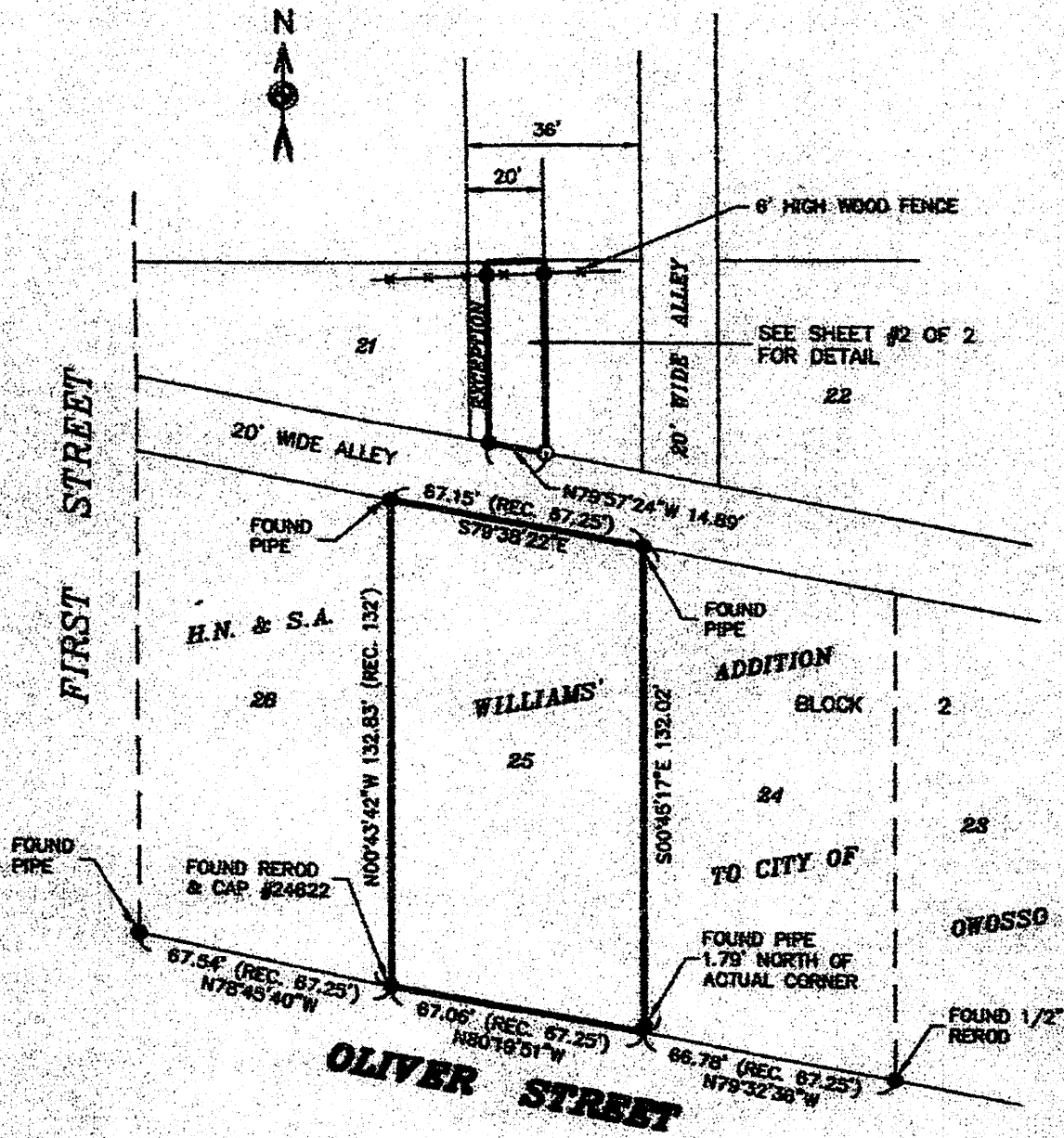
Total
Area:
8,844 ft²

1:250 Parcel # 79-050-670-002-018-00

UNLESS OTHERWISE SPECIFIED, DIMENSIONS ARE IN INCHES		NAME	SIGNATURE	DATE
DESIGN	CREW	REVISIONS		
CHECKED				
APPROVED				
SURFACE FINISH <input checked="" type="checkbox"/>		TITLE		
DO NOT SCALE DRAWING		Proposed Garage Addition		
SMOOTH ALL SHARP EDGES AND REMOVE BURRS		804 W Oliver		
FIRST ANGLE PROJECTION		MATERIAL	FINISH	
		A4		1a
		0.001:1		1 of 1

CERTIFICATE OF LAND SURVEY

SEE SHEET #2 OF 2 FOR DESCRIPTION AND DETAIL DRAWING.



CLIENT: Kateri Lehr
 DATE: September 25, 2012
 SCALE: 1" = 40' 25592

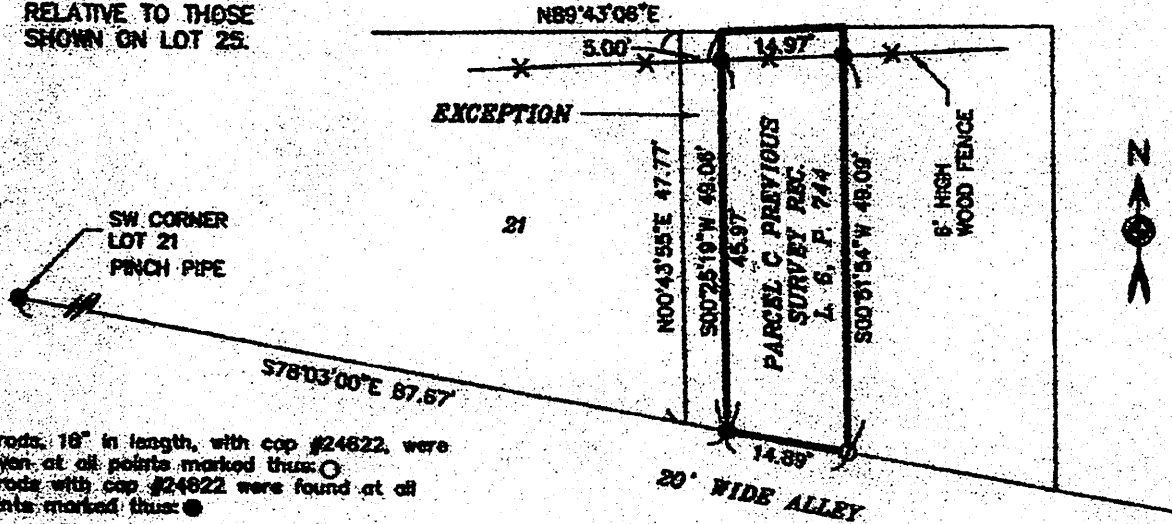
City of Owosso,
 Shiawassee County,
 Michigan

Sheet #1 of 2

CERTIFICATE OF LAND SURVEY

DETAIL

NOTE: BEARINGS SHOWN ON LOT 21 ARE NOT RELATIVE TO THOSE SHOWN ON LOT 25.



Rerods, 10" in length, with cap #24822, were driven at all points marked thus: ○
 Rerods with cap #24822 were found at all points marked thus: ●

DESCRIPTION (AS PROVIDED): Lot 25 and the West 20 feet of the East 36 feet of Lot 21, Block 2, H.H. & S.A. Williams' Addition, EXCEPT beginning at a point that is S78°03'00"E on the Southerly line of Lot 21 a distance of 87.67 feet from the Southwest corner of said Lot 21; thence N00°43'55"E 47.77 feet to the North line of Lot 21; thence N89°43'08"E on the North line of Lot 21 5.00 feet; thence S00°25'19"W 49.08 feet; thence N78°03'00"W 8.10 feet to the point of beginning.

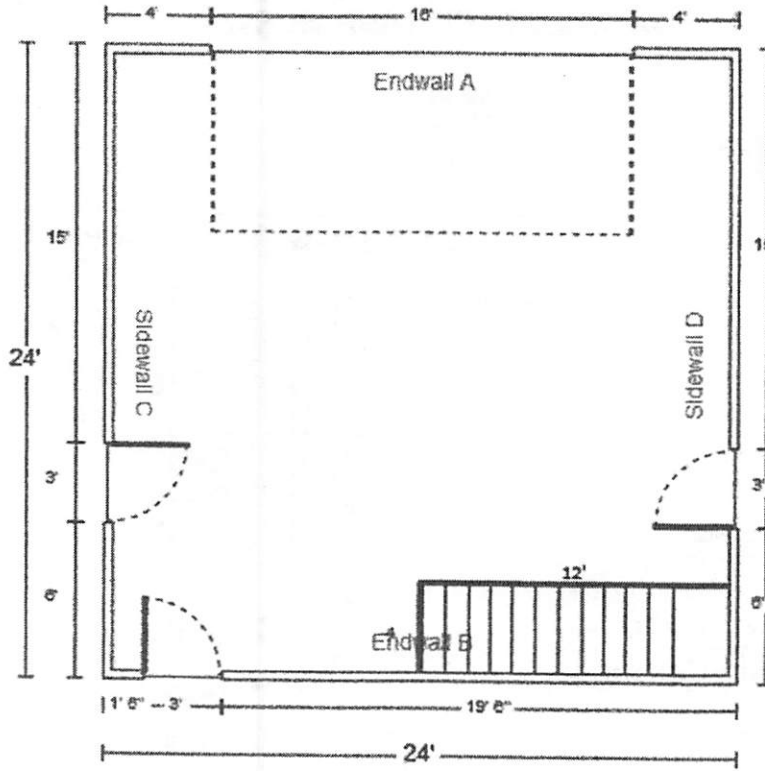
CLIENT: Kateri Lehr

DATE: September 25, 2012

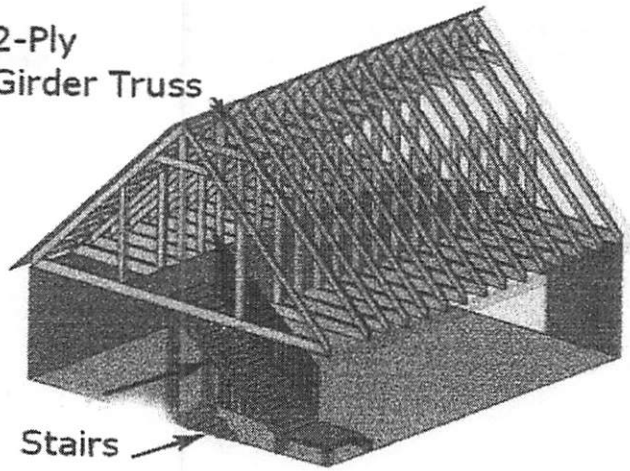
SCALE: 1" = 20' JOB NO. 25592

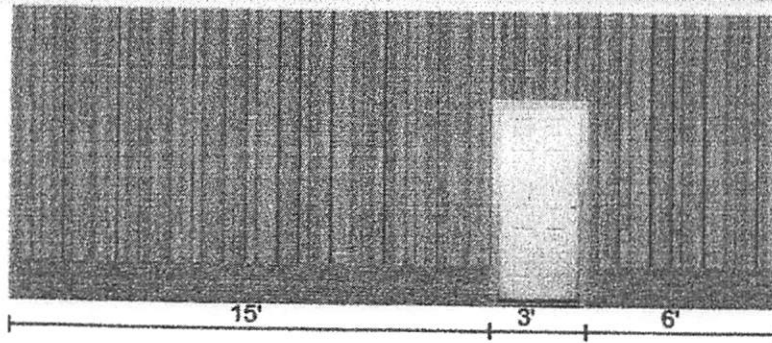
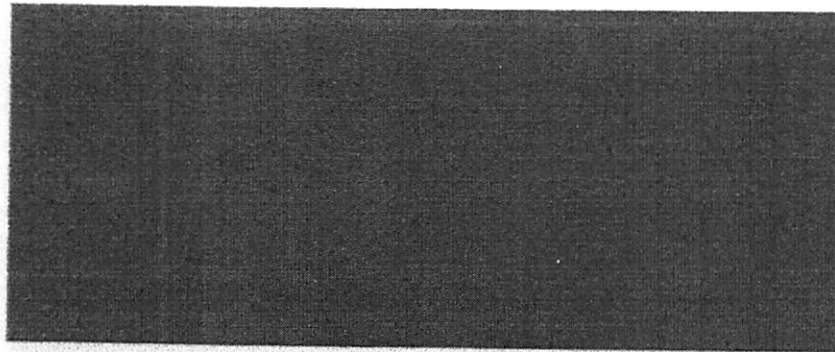
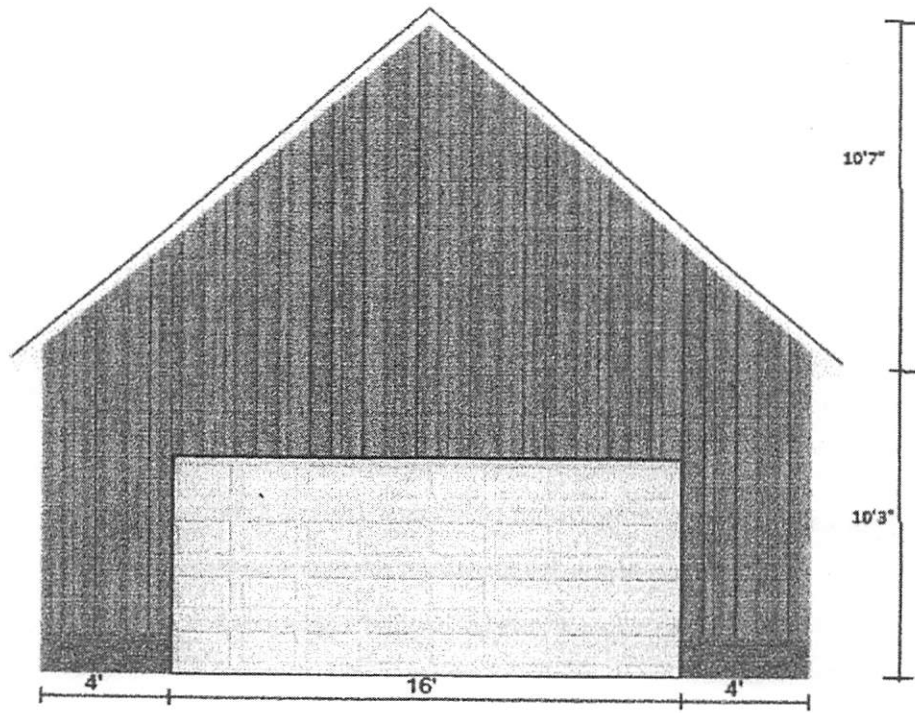
City of Owosso,
 Shiawassee County,
 Michigan

Sheet #2 of 2



2-Ply Girder Truss





**MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
SEPTEMBER 18, 2018 AT 9:30 A.M.
CITY COUNCIL CHAMBERS**

CALL TO ORDER: The meeting was called to order by Chairman Randy Horton at 9:30 a.m.

ROLL CALL: Was taken by Tanya Buckelew.

MEMBERS PRESENT: Chairman Randy Horton, Board Members Matthew Grubb, Kent Telesz and Alternate John Horvath

MEMBERS ABSENT: Vice-Chairman Christopher Eveleth, Board Member Tom Taylor

OTHERS PRESENT: Ms. Amy Cyphert, Assistant City Manager and Director of Community Development; Kateri Lehr, Stephanie Chapman, Julie Pinson

AGENDA:

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY ALTERNATE JOHN HORVATH TO APPROVE THE AGENDA FOR THE SEPTEMBER 18, 2018 REGULAR MEETING AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

MINUTES:

IT WAS MOVED BY BOARD MEMBER TELESZ AND SUPPORTED BY BOARD MEMBER GRUBB TO APPROVE THE MINUTES OF AUGUST 21, 2018 AS PRESENTED.

YEAS: ALL. MOTION CARRIED.

OLD BUSINESS: - None

NEW BUSINESS/PUBLIC HEARINGS:

- | | |
|----------------------------|--|
| 1. APPLICANT: | Kateri Lehr |
| CASE # 2018-06: | Parcel 050-670-002-018-00 |
| PROPERTY ZONING: | R-1, One-family Residential District |
| LOCATION OF APPEAL: | 804 W. Oliver Street, Owosso, MI 48867 |

The applicant is proposing to demolish the existing carport and construct a new attached garage. The existing home and carport are non-conforming.

Sec. 38-379 (1) where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.

Section 38-351 states that a structure within the R-1 zoning district shall have a minimum side yard setback of 8 feet, a minimum rear yard setback of 35 feet and maximum lot coverage of 25%.

A 2.7' foot side yard variance, an 11.83' rear yard variance and a 2.5% lot coverage variance are being requested.

**Resolution 180918-06
FINDINGS OF FACT AND CONCLUSIONS**

Record of Proceedings. The following documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, members of the public, and members of the Board:

1. Application with sketches of proposed attached garage.
2. Owners of the home stated their intent with this project and the improvement it will make to their home and the neighborhood.
3. Board discussed

Approved *minutes 09-18-2018*

4. Received an email from John Garrison, 802 W Oliver St. Chairman Horton read the email indicating Mr. Garrison's support.
5. No public was present in regards to this case.

Upon motion of Member Telesz, seconded by Member Grubb, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on the above variance. The applicant does meet all nine (9) facts of findings:

a. Basic Conditions 1-9 in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Factor 6: Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

Factor 7: Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

Factor 8: Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

Factor 9: Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. "Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land."
2. "Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district."

**The Board finds that Section 38-504(3) b.2 has been met for the following reasons:
shallowness of the rear yard area**

3. "Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district."

The request for a variance is approved for the above reasons.

The following are imposed as conditions upon grant of the variance:

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan.

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board." Sec. 38-504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: BOARD MEMBER GRUBB, ALTERNATE HORVATH, BOARD MEMBER TELESZ AND
CHAIRMAN HORTON

NAYS: NONE

2. **APPLICANT:** Troy & Stephanie Chapman
CASE # 2018-07: Parcel 050-580-000-093-00
PROPERTY ZONING: R-1, One-family Residential District
LOCATION OF APPEAL: 215 Oakwood Ave, Owosso, MI 48867

The applicant is requesting a variance to allow a 5-foot solid wood fence 1.6 feet from the property line along Grover Street.

Section 38-393 (3) states that fences and hedges in front yards that function as exterior side yards must follow front yard restrictions unless the fence or hedge is installed or planted at least nineteen (19) feet back from the right-of-way line or follows the building line of the nearest legal structure. All such fences and hedges must meet clear vision requirements for streets, driveways, and sidewalks and (2) states front yard fences or hedges must be less than fifty (50) percent solid, impervious, or of an obscuring nature above a height of thirty (30) inches above the curb or centerline of the street, and not exceed four (4) feet in total height.

A setback variance of 17.4 feet and variance of 1 foot is being requested in order to allow a 5-foot solid wood fence 1.6 feet from the public street right-of-way.

Resolution 180918-07 FINDINGS OF FACT AND CONCLUSIONS

Record of Proceedings. The following documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, members of the public, and members of the Board:

1. Application and photos of previous and new fence
2. Owner Stephanie Chapman stated the need for the fence is due to the water and flooding issues with the home. A gas powered pump is just outside the home and runs frequently. The fence is for security as this pump has been turned off by someone in the past or if it is stolen the basement would flood in about 15 minutes.
3. Dean Pennell, 208 Oakwood does not have a problem with the fence.
4. Judy Pennell, 208 Oakwood supports the fence.
5. Jeff Turner, 204 Oakwood supports the fence.
6. Lisa Frolka, 1316 Henry/204 Oakwood supports the fence.
7. Received 2 letters from Charles and Nancy Shepard, 713 Grover in support of the fence. Chairman Horton read these letters to the board and the public.
8. Board discussed the fence.

Upon motion of Member Grubb, seconded by Member Telesz, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on the above variance. The applicant does meet all nine (9) facts of findings:

a. Basic Conditions 1-9 in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Factor 6: Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

Factor 7: Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

Factor 8: Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

Factor 9: Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. "Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land."
2. "Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district."

The Board finds that Section 38-504(3) b.2. has been met for the following reasons: topography, flooding concern, requires constant pumping and fence is security to protect the outdoor pump. Also the property owner is bringing the fence into more conformance with the ordinance by replacing the old fence.

3. "Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district."

The request for a variance is approved for the above reasons.

The following are imposed as conditions upon grant of the variance:

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board." Sec. 38-504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: ALTERNATE HORVATH, BOARD MEMBER TELESZ AND GRUBB, CHAIRMAN
HORTON
NAYS: NONE

3. **APPLICANT:** Julie Pinson
CASE # 2018-08: Parcel 050-660-001-011-00
PROPERTY ZONING: R-1, One-family Residential District
LOCATION OF APPEAL: 620 Lee Street, Owosso, MI 48867

The applicant is proposing to construct a pergola and an addition to their garage. The existing home and shed are non-conforming.

Sec. 38-379 (4) states no detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than three (3) feet to any side or rear lot line.

A 3' foot rear yard variance and a 10 foot setback variance from the house are being requested for the pergola. A 3' side yard variance is being requested for the shed addition. A 2% lot coverage variance is being requested for the site.

**Resolution 180918-08
FINDINGS OF FACT AND CONCLUSIONS**

Record of Proceedings. The following documents were reviewed and considered by the Zoning Boards of Appeals in reaching its decision, in addition to the comments made by Applicant, members of the public, and members of the Board:

1. Application with photos of the back yard area.
2. Owners Julie and John Pinson stated their intent with the back yard area.
3. Jill Redmond, 624 Lee Street supports this variance request.
4. Assistant City Manager Amy Cyphert stated the property is non-conforming and always will be. This variance would make the property a legally non-conforming Class A.
5. Board discussed.

Upon motion of Member Grubb, seconded by Member Telesz, the following findings, conclusions, decisions, and conditions were adopted by the Board as its decision on the above variance. The applicant does meet all nine (9) facts of findings:

a. Basic Conditions 1-9 in order for the variance to be granted.

Factor 1: (Section 38-504(3) a.1.) "Will not be contrary to the public interest or to the intent and purpose of this chapter."

Factor 2: (Section 38-504(3) a.2.) "Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required."

Factor 3: (Section 38-504(3) a.3.) "Is one that is unique and not shared with other property owners."

Factor 4: (Section 38-504(3) a.4.) "Will relate only to property that is under control of the applicant."

Factor 5: (Section 38-504(3) a.5.) "Is applicable whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome."

Factor 6: Section 38-504(3) a.6.) "Was not created by action of the applicant (i.e., that it was not self-created.)"

Factor 7: Section 38-504(3) a.7.) "Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety."

Factor 8: Section 38-504(3) a.8.) "Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located."

Factor 9: Section 38-504(3) a.9.) "Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners."

Special Conditions. When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

1. "Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land."
2. "Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district."

The Board finds that Section 38-504(3) b.2. has been met for the following reasons: narrowness of the lot and the current structures are on the lot lines.

3. "Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district."

The request for a variance is approved for the above reasons.

The following are imposed as conditions upon grant of the variance:

The variance was approved based on all aspects of the plans and descriptions submitted. The structure, use or activity shall be constructed or carried on in accordance with the plans and/or description provided by the Applicant. All aspects of construction shall be in compliance with the plan submitted, regardless of whether a variance was sought or necessary for certain dimensional or other aspects of the plan.

Other conditions: Designate this parcel as Class A Non-conforming

Any variance granted by the Zoning Board of Appeals shall not be valid after a period of six (6) months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board." Sec. 38-504(c) 2. i. ii., Chapter 38, of the City of Owosso Zoning Ordinance.

The above findings, conclusions and decision were adopted by roll call vote as follows:

AYES: BOARD MEMBER TELESZ, GRUBB, ALTERNATE HORVATH AND CHAIRMAN
HORTON
NAYS: NONE

OTHER BOARD BUSINESS:

The sign ordinance request has gone to the Planning Commission. Draft amendments will be presented at the October Planning Commission meeting.

Alternate John Horvath will not be able to attend the October ZBA meeting.

PUBLIC COMMENTS AND COMMUNICATIONS
NONE

ADJOURNMENT:

MOTION BY BOARD MEMBER TELESZ AND SUPPORTED BY ALTERNATE HORVATH TO ADJOURN AT 10:55 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, OCTOBER 16, 2018, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

Matthew Grubb, Secretary

Approved minutes 09-18-2018