



City of Fraser

Building & Code Enforcement Department

AGENDA

CITY OF FRASER ZONING BOARD OF APPEALS – (VIRTUAL MEETING)
MUNICIPAL BUILDING ~ 33000 GARFIELD ~ PHONE: 586-293-3100
THURSDAY SEPTEMBER 2, 2021 at 7:00pm via ZOOM

- 1. Call Meeting to Order/Pledge of Allegiance**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Formal Statement by the Chair**
- 5. Old Business (None)**
- 6. Public Hearings**

A. APPEAL #21-05: VARIANCE REQUEST / 17157 ANITA ACCESSORY STRUCTURE

BY REASON OF: SECTION 32-121 OF THE FRASER ZONING ORDINANCE, PROVISIONS APPLICABLE TO RESIDENTIAL DISTRICTS.

PURPOSE OF REQUEST: TO OBTAIN VARIANCES FROM ZONING ORDINANCE STANDARDS TO CONSTRUCT A TWO-STORY ACCESSORY BUILDING CONTAINING AN INDEPENDENT DWELLING UNIT THAT EXCEEDS THE ALLOWABLE HEIGHT (ONE DWELLING PER PARCEL ALLOWED; ONE STORY/15 FEET ACCESSORY BUILDING HEIGHT ALLOWED).

PROPERTY IN QUESTION: 17157 ANITA AVENUE, FRASER MICHIGAN, 48026

B. APPEAL #21-06: VARIANCE REQUEST / BELDEN BRICK FREESTANDING SIGN

BY REASON OF: SECTION 32-85 (3) OF THE FRASER ZONING ORDINANCE APPLIES TO FREESTANDING SIGNS IN THE IC INDUSTRIAL CONTROLLED ZONING DISTRICT.

PURPOSE OF REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO PLACE A FREESTANDING SIGN 48 FEET FROM THE UTICA ROAD CENTER LINE (70 FEET REQUIRED)

PROPERTY IN QUESTION: 31470 UTICA ROAD, FRASER, MICHIGAN, 48026

- 7. New Business of the Board (None)**
- 8. Unfinished Business of the Board (None)**
- 9. Planning Commission Liaison Member Report**
- 10. Public Participation**
- 11. Approval of Minutes: June 3, 2021**
- 12. Members' Comments and Items of Interest**
- 13. Adjournment**



City of Fraser

Building & Code Enforcement Department

NOTICE OF ELECTRONIC PUBLIC MEETING

To protect public health and in accordance with the City of Fraser's local state of emergency due to the ongoing COVID-19 pandemic, the Fraser Zoning Board of Appeals will meet electronically on **September 2, 2021 at 7:00pm**, in accordance with the Open Meetings Act, using Zoom for videoconferencing and public access.

This notice is required to ensure that those wishing to observe and/or participate in the meeting have the opportunity to do so. The public can participate via the Zoom application, internet access via the Zoom website, and/or via telephone using the Zoom telephone number and meeting ID. The public will be able to hear Zoning Board of Appeals members and will be permitted to speak for up to five minutes during the public participation portion(s) of the agenda. Please note that callers/viewers will automatically be muted, and must remain muted until called upon to speak by the Chair.

Written comments will be accepted prior to the date and time (no later than 4:30pm on the day of the meeting) by the Building Department at zoning@micityoffraser.com, which is the method by which members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting. Public Hearing comments will be heard during any Public Hearing that is conducted during the meeting, and other comments will be heard or reviewed during public participation. In the event of a change in the status of statewide or local states of emergency, the Zoning Board of Appeals meeting may be changed from a remote meeting to a live in-person meeting to be held at Fraser City Hall, 33000 Garfield Road, Fraser, MI 48026, on the same date and at the same time. The City will post notice of any change in method of conducting the meeting from a remote meeting to an in-person live meeting, and/or any change in the meeting place for this meeting, to the City's website at www.ci.fraser.mi.us. Interested parties should periodically check for such changes or contact the City Clerk's Office at (586) 293-3100.

Pertinent information relating to the proposed variance requests may be reviewed at the Fraser Building Department during regular business hours, which are 8:00 a.m. to 4:30 p.m., Monday through Friday at the Fraser City Hall, 33000 Garfield Road, Fraser, Michigan. Questions regarding the appeals can be directed to the Planner, c/o Building Department at 586-293-3100, extension 153. The City of Fraser thanks all of you for your understanding and support as we all attempt to navigate these challenging times together.

ZOOM MEETING DETAILS

Topic: Zoning Board of Appeals

Time: Sep 2, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83213709649>

Meeting ID: 832 1370 9649

Passcode: 342289

One tap mobile

+19292056099,,83213709649# US (New York)

+13017158592,,83213709649# US (Washington DC)

Dial by your location

+1 929 205 6099 US (New York)



City of Fraser

Building & Code Enforcement Department

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 832 1370 9649

Find your local number: <https://us02web.zoom.us/j/66dZvsf>

6.

A. APPEAL #21-05: VARIANCE REQUEST / 17157 ANITA ACCESSORY STRUCTURE

Contents:

1. Administration Memorandum
2. Application Materials



MCKENNA

August 25, 2021

Hon. Members of the Zoning Board of Appeals
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

SUBJECT: ZBA REPORT: #21-05 VARIANCE REQUEST / 17157 ANITA AVENUE
APPLICANT: RICHARD AND BEVERLY BABECKI
SECTION: SECTION 32-121 OF THE FRASER ZONING ORDINANCE, PROVISIONS APPLICABLE TO RESIDENTIAL DISTRICTS.
LOCATION: 17157 ANITA, FRASER MICHIGAN 48026

Members of the Zoning Board of Appeals:

We have reviewed the above referenced appeal and - as the proposal does not meet the requirements of the code - have prepared the following report, which identifies the relevant facts about the property and the proposal. The report also provides our professional opinion about how the relevant sections of the ordinance that guide the ZBA's decisions apply to this requested variance.

VARIANCE REQUEST SUMMARY

The applicant is requesting variances from zoning ordinance standards to construct a two-story accessory building containing an independent dwelling unit that exceeds the allowable height (one dwelling unit per parcel is allowed; one story/15 feet accessory building height allowed).

ADMINISTRATIVE STATEMENT OF FACTS

The applicants, owners of the subject property, are proposing to repurpose the approximate footprint of their existing garage to build a two-story accessory structure.

Section 32-121 of the Fraser Zoning Ordinance regulates accessory structures in residential districts. 32-121 a(3) states that *"accessory buildings and garages shall not exceed one (1) story of fifteen (15) feet in height, and shall not occupy more than thirty (30) percent of the area of any rear yard, and shall not be nearer than six (6) feet from the rear and three (3) feet from the side lot line; further, that in no instance shall the accessory buildings be so large as to dominate the neighborhood or principal use, nor shall it exceed two-thirds (2/3) of the total floor area of the principal building."*

The proposed structure is two stories, exceeding the allowable height. Each story has 8-foot ceilings, which in addition to the structural height of the floor and the roof, will exceed the allowable height of 15'.

The application states that the proposed accessory structure would have "the same size footprint as our existing garage". We note that the City's records identify the existing garage square footage as being 528 SF and the proposed garage has a footprint of 728 square feet. We recommend that the applicant clarify their intention and/or the size of the existing garage.

HEADQUARTERS

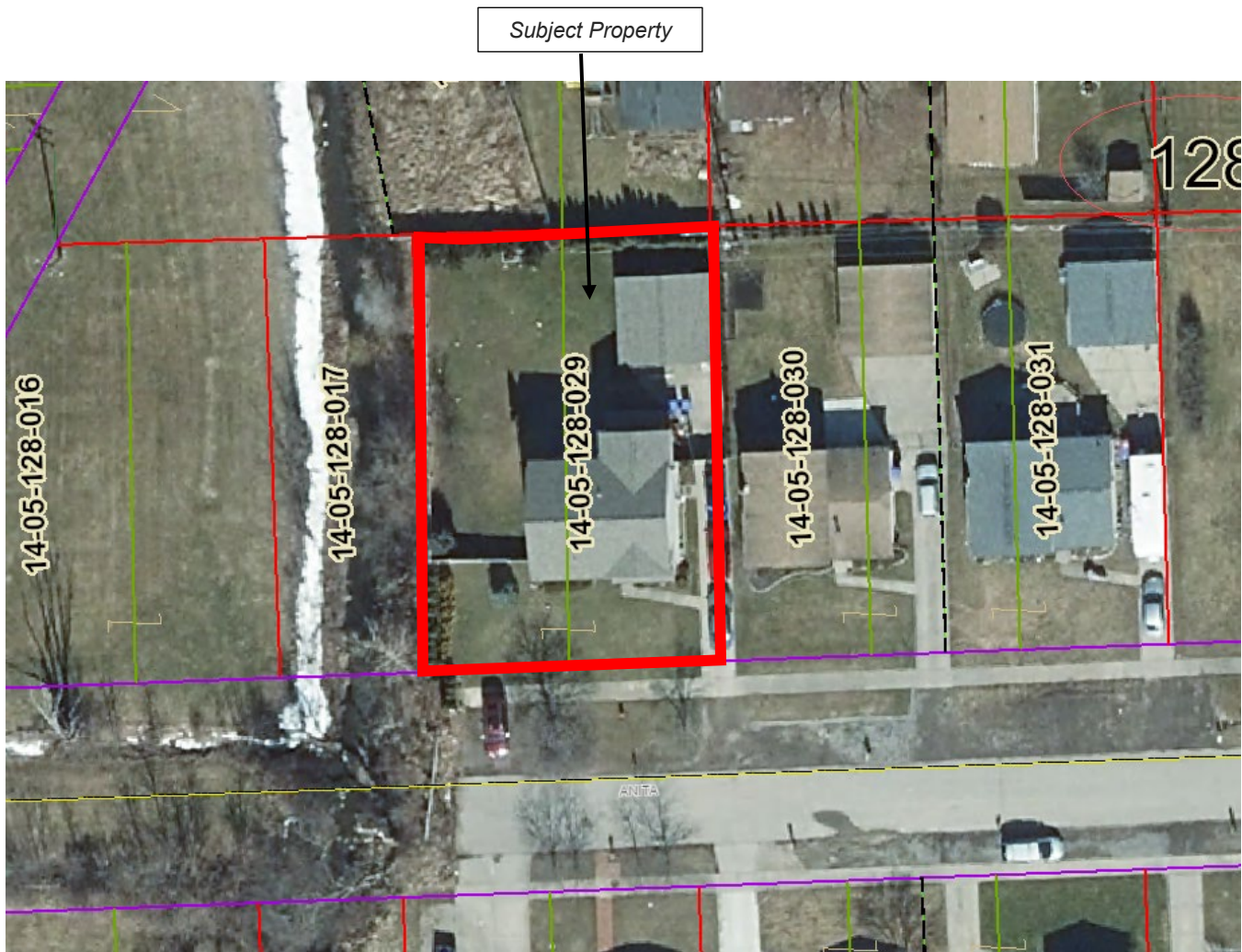
235 East Main Street
Suite 105
Northville, Michigan 48167

O 248.596.0920
F 248.596.0930
MCKA.COM

Communities for real life.



Section 32-12(b) states that in one-family districts, only one dwelling unit is allowed per parcel. A dwelling unit is defined by the Zoning Ordinance as *"A room or rooms connected together, constituting a separate, independent housekeeping establishment for one (1) family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms of dwelling units, and containing independent cooking and sleeping facilities."* The provided plans include cooking and sleeping facilities independent of those in the main house. The upper story of the proposed structure meets the definition of a dwelling unit – therefore, a variance would be required to construct the accessory building as proposed.



ZONING BOARD OF APPEALS VARIANCES AND BOARD ACTION RESTRICTIONS

The ZBA is a body of limited powers. §32-228 explains how Fraser administers variance requests. Where there are practical difficulties or unnecessary hardships in the way of strict enforcement of the zoning ordinance, the ZBA may grant appeals to vary or modify any zoning provisions that apply to dimensional standards like construction, structural changes in equipment, or alteration of buildings or structures. The ZBA's actions must uphold the zoning ordinance, secure public safety, and provide substantial justice for all property owners.

The ZBA must consider whether the property in question exhibits practical difficulty, like geographical or



topographical conditions that impair its improvements without the modifications requested.

The ZBA must find evidence of EACH of the following facts in §32-228(a)(2) to grant a variance. Our comments related to the proposal follow each clause in **bold**.

- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or as to the intended use of the property that do not apply generally to other properties in the same zoning district.

We are not aware of, nor has the applicant provided, evidence of any exceptional or extraordinary circumstances that apply to this property that do not generally apply to other properties in the same zoning district.

- b. That such variance is necessary for the preservation and enjoyment of a substantial property right like that possessed by other properties in the same vicinity. The possibility of increased financial return shall not of itself be deemed enough to warrant a variance.

We are not aware of any other properties that possess similar property rights as are being requested. From our site observations, the accessory structures in the same vicinity do not exceed the allowable height and do not appear to be constructed to accommodate a dwelling unit.

- c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.

We do not believe that there will be a substantial detriment to adjacent property as a result of this particular proposal. If the applicants are granted this variance and the property is used as proposed, there will not be an increase in traffic or parking demand on the street. Given the property's location on the end of a dead-end street, the accessory dwelling does not present any obvious privacy concerns. However, if an accessory dwelling is authorized, potential future property owners could use the accessory dwelling in a manner that is not consistent with this proposal, including in a manner that could be considered a detriment to surrounding properties.

As of this writing, no public comment has been received regarding this request that informs the consideration of whether or not this proposal would cause a detriment to adjacent property.

- d. That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation.

Based on the information received we believe that this variance, if granted, has the potential to create a precedent for this condition that is not currently supported by ordinance regulations. The hardship identified by the applicant is not a related to circumstances of the property itself.

- e. That the modification to setback, location, site or building requirements is sponsored by the Planning Commission for a specific proposal that benefits the City by providing better design or efficient use of the site or results in a more creative development (all fees to be paid by the applicant).

The Planning Commission did not sponsor this proposal as a part of a site plan and/or special land use approval.

- f. That phasing of required site plan improvements may be warranted because the cost of such improvements is relatively high in relation to the total cost of the applicant's development or addition. Planning Commission recommendations shall be required, together with a financial security in the amount of the deferred improvements.



The applicant cannot meet the zoning ordinance's standards through phasing or deferment; therefore, the scenario in subsection f. does not apply.

CONCLUSION

We believe that, properly regulated, accessory dwelling units have the potential to provide benefit to the community. Dwellings such as these increase housing diversity, contributing to a community's livability. However, the Zoning Ordinance does not consider this housing type specifically and sufficient regulations are not in place to regulate them.

We recommend the ZBA consider the applicant's justifications of hardship to determine if a variance is warranted. Additional information brought forward by the Board, the applicant, and/ or during the public hearing should be incorporated into the record prior to the Board making any determination.

Please let me know if you have any questions. We will attend the ZBA meeting on September 2, 2021.

Respectfully submitted,

McKENNA

Paul Urbiel, AICP

Senior Principal Planner

Cc: Applicant
Elaine Leven, City Manager
Bruce Eck, Building Official
Don Denault and Alyssa Albright, City Attorneys



CITY OF FRASER
APPLICATION FOR APPEAL
ZONING BOARD OF APPEALS

Office Use Only

APPEAL # _____
DATE OF MTG. _____
DATE REC'D _____
RECEIPT #: _____

CIRCLE ALL THAT APPLY:

VARIANCE

APPEAL

TEMPORARY

INTERPRETATION

GENERAL LOCATION OF PROPERTY:

ADDRESS: 17157 Anita CROSS STREETS: 14 Mile Rd & Garfield

LEGAL DESCRIPTION (Lot number, subdivision, metes/bounds or attach on a separate sheet):

Parcel Number: 03-14-05-128-029

BASIS FOR REQUEST: (Hardship or practical difficulty imposed by Ordinance):

Attached separately

SECTION OR ORDINANCE INVOLVED: _____

ZONING DISTRICT OF PROPERTY: RM RESIDENTIAL MEDIUM-ONE FAMILY

APPLICANT

NAME AND ADDRESSES OF PARTIES OF INTEREST AND/OR APPLICANT SETTING FORTH THE LEGAL INTEREST IN SAID PREMISES:

APPLICANT: RICHARD & BEVERLY BABECKI

ADDRESS: 17157 ANITA

PHONE: 586-296-3161

INTEREST: HOMEOWNER

APPLICANT: _____

ADDRESS: _____

I (We) hereby request a hearing on the above-mentioned matter before the City of Fraser Zoning board of Appeals. The undersigned swear(s) the foregoing statements and answers herein contained and accompanied information and data are in all respects true and complete. I (we) grant permission to Members of the Zoning Board of Appeals and to the City of Fraser Administration to enter the land in order to view the outside premises in preparation for hearing our case.

Signature of Applicant: Beverly Babechi & Richard Babec k Date: 8.12.21

Signature of legal property owner (if not applicant): _____ Date: _____

July 7, 2021

To Whom It May Concern:

The owners and occupants, Richard & Beverly Babecki, of 17157 Anita would like to request a review by the Zoning Board of Appeals. This request was necessitated by a change in Beverly's physical condition.

Beverly has a condition that requires her to ambulate by either using crutches or a transport chair. It is becoming necessary for her to rely more on the transport chair. Our home has six levels. However, the levels are split in such a way that the bathroom and kitchen are not on the same level. This setup negatively impacts the ease and efficiency of activities of daily living.

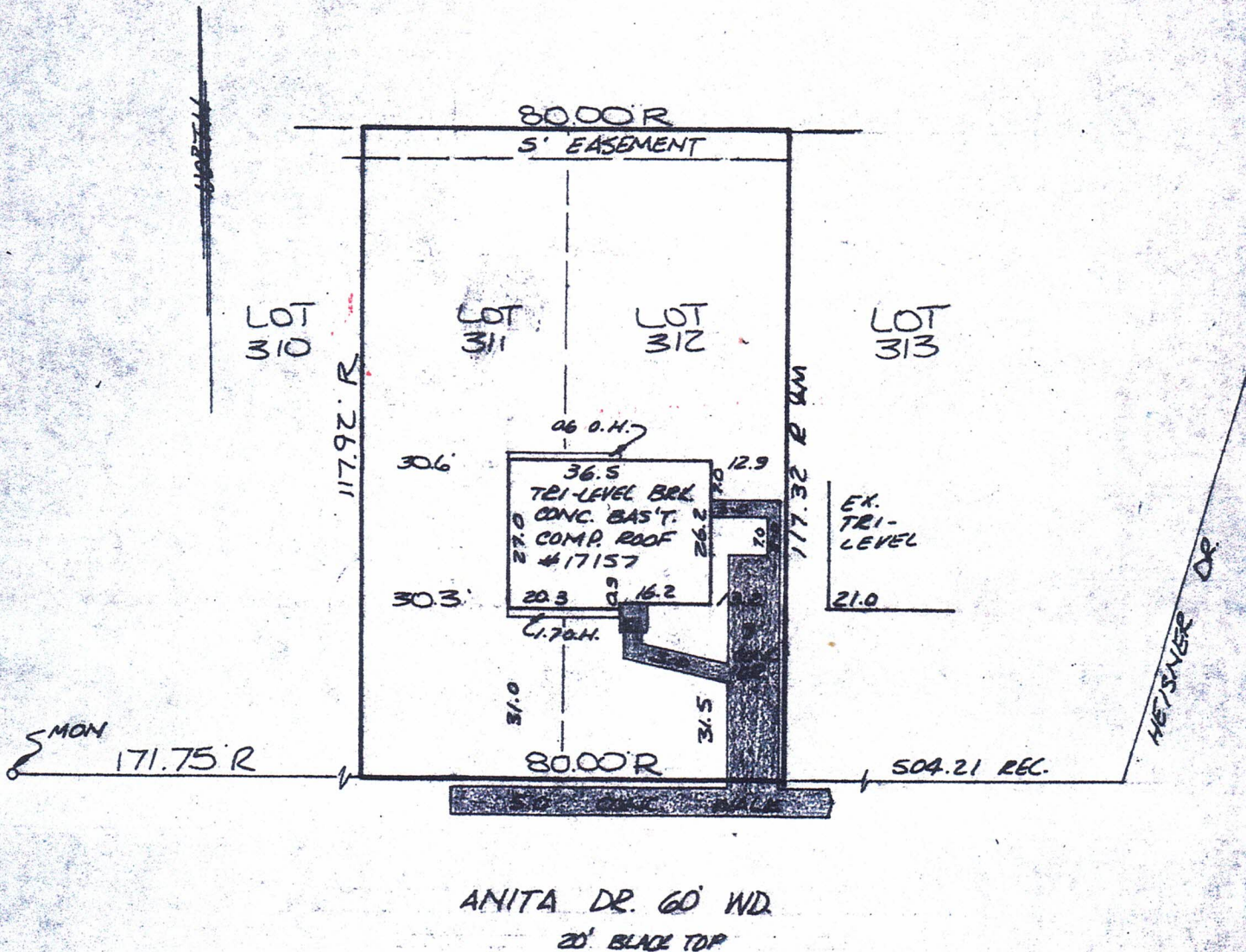
We would like to demo our existing garage and construct a new garage with an upper level. This upper level would contain a bathroom, kitchen, and living room. This arrangement would make it easier for Beverly to navigate with a transport chair during the day. She would be able to spend her daytime hours in this upper level. It would only require traversing the stairs two times for the day rather than the multiple times required now.

We would like to add that our home is located at the end of a dead-end street. Our property runs parallel to the Sweeney Drain. We do not feel that this type of structure would pose any type of an obstruction to the neighboring properties. This new garage would have the same size footprint as our current garage.

We thank you for your time and consideration.

Beverly & Richard Babecki

MORTGAGE SURVEY



LEGAL DESCRIPTION:

Lot 311 and Lot 312

"GARFIELD PARK SUB. NO. 1"
N.W. 1/4 of Section 5, T. 1 N., R. 13 E.
City of Fraser) Macomb County, Michigan.
on page 16 of the Macomb County Records.

being part of the
Village of Fraser (Now the
As recorded in Liber 12 of Plats

CERTIFIED TO: Graham Mortgage Corp.
21103 Gratiot



1. Type ✓ Single Family	10. Floor Support Joists "x" "o.c." ft.	14. Plumbing No. of Baths 1 1/2 Cer. Tile Walls Cer. Tile Floor Plastic Tile Walls ✓ Extra Shower LAV. Extra Wash Bowl
2. Frame Wood	11. Basement & Foundation Crawl Space s.f. Slab House s.f. Basement ✓ s.f. Height to Joists ft. Concrete Block " Concrete Walls " Concrete Floor Asphalt Tile s.f. Recreation Room s.f.	15. Built-in Items Oven Range \$ Disposal Hood & Fan Dishwasher Refrigerator Incinerator Vanities Cupboard Length Cupboard Quality
3. Exterior Wood ✓ Aluminum ✓ Brick Block	12. Heating & Air Conditioning ✓ Gas - Forced Warm Air Oil - Forced Warm Air Gas Oil Coal Wall Fur. Floor Fur. Stove or Space Heat Steam Radiators Forced Warm Water AIR CONDITIONER tons	16. Garage Year Built 1980 Attached Separate Cats Condition 24 Wide 24 Deep Walls Floor Doors Priced by Common Wall Date Other Walls Checked By Ceiling Date
4. Roof Hip Gable Front Overhang Other Overhang Eavesrough	13. Interior Trim & Decoration: Elab. Ord. Min. Complete Trim No Inside Trim Stains & Scr. Number of Closets: Large Ord. Small Many Ord. Few	17. Porches Wide Deep Type
5. Windows Many Few Large Small Wood Sash Metal Sash Double Hung Hor. Sliding Double Class Complete Trim No Inside Trim Stains & Scr.	6. Year Built: 1978	18. Year Remod.
7. Year Remod.	8. Number Rooms Basement 1st Floor 2nd Floor 3. Bath 822775. Hardware Qual.	9. Insulation Ceiling Entire None
CLASS C Size for Rates 1600 Typical Classes of Other Houses in this Neighborhood Neighborhood is ☐ Improving ☐ Stable ☐ Declining Condition for Age Effective Age		

ITEM OR NO. STORIES	SQUARE FEET	UNIT COST	BASE VALUE	DEPR. & OBSOL. % GOOD	DEPR. VALUE
TR1- LEVEL	1120	\$	\$		\$
1-STY	416				
B5MT.	416				
LAV.					
CPD	30				
GRK.	528				

Total Depr. Value \$

Econ. Cond. Factor x %

True Cash Value \$

PLAN

1x20 OH

27' LEVEL

1x20 OH

24' LEVEL

6 AR 24'

W/F 22'

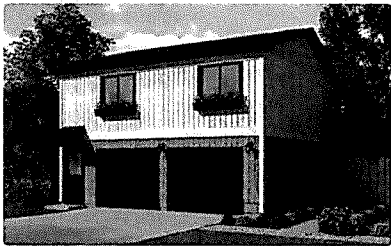
16' B5MT. 26' BRK.

CPD 5'

familyhomeplans

Plan Number 30040 | Order Code: 00WEB

FamilyHomePlans.com
800-482-0464



Plan Number: 30040

- ▶ 746 Total Living Area
- ▶ 746 Upper Level
- ▶ 2 Bedrooms
- ▶ 1 Full Bath(s)
- ▶ 2 Car Garage
- ▶ 28'4 Wide x 26'4 Deep

Available Foundation Types:

- ▶ Stem Wall Slab

Order Code: 00WEB

- ▶ PDF File: \$550.00
- ▶ 1 Set: \$350.00
- ▶ 5 Sets: \$450.00
- ▶ 5 Sets plus PDF File: \$650.00
- ▶ 8 Sets: \$550.00
- ▶ Reproducible Set: \$650.00
- ▶ CAD File: \$900.00
- ▶ Materials List: \$75.00
- ▶ Right Reading (True) Reverse: \$50.00
- ▶ All sets will be Readable Reverse copies. Turn around time is usually 3 to 5 business days.
- ▶ Additional Sets: \$25.00



Plan Number 30040 | Order Code: 00WEB | Elevation

↺ REVERSE PLAN

Hobart 2-Car Apartment Garage 26' x 28' x 8' Material List

Design America Plan # H002D-7510

Model Number: 002d-7510 | Menards® SKU: 1954710



Approximate Price

\$27,443.27

11% MAIL-IN REBATE Good Through 7/10/21

\$3,018.76

FINAL PRICE

\$24,424⁵¹each¹

You Save \$3,018.76 with Mail-In Rebate

Variation: Textured Plywood siding

* Mail-in Rebate is in the form of merchandise credit check, valid in-store only. Merchandise credit check is not valid towards purchases made on MENARDS.COM®.

Sold In Stores ^{*}

Stop by any Menards for information and to purchase.

Description & Documents

Hobart 2-Car Apartment Garage 26' x 28' x 8' Material List

Shipping Weight: 29269.0 lbs

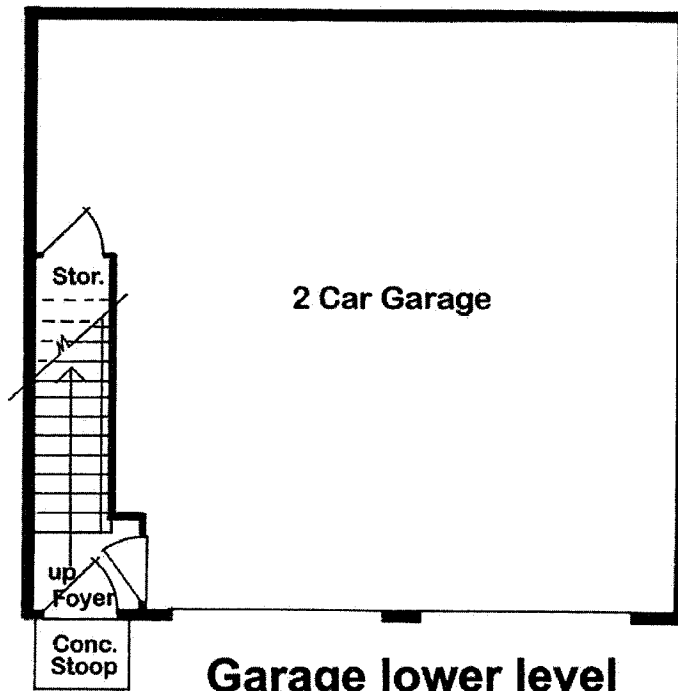
Brand Name: Menards

Features

- Cutting and assembly required
- 1/2" OSB roof sheathing
- Aluminum soffit and fascia included
- Includes roof edge, nails and hardware
- Building plans included

Specifications

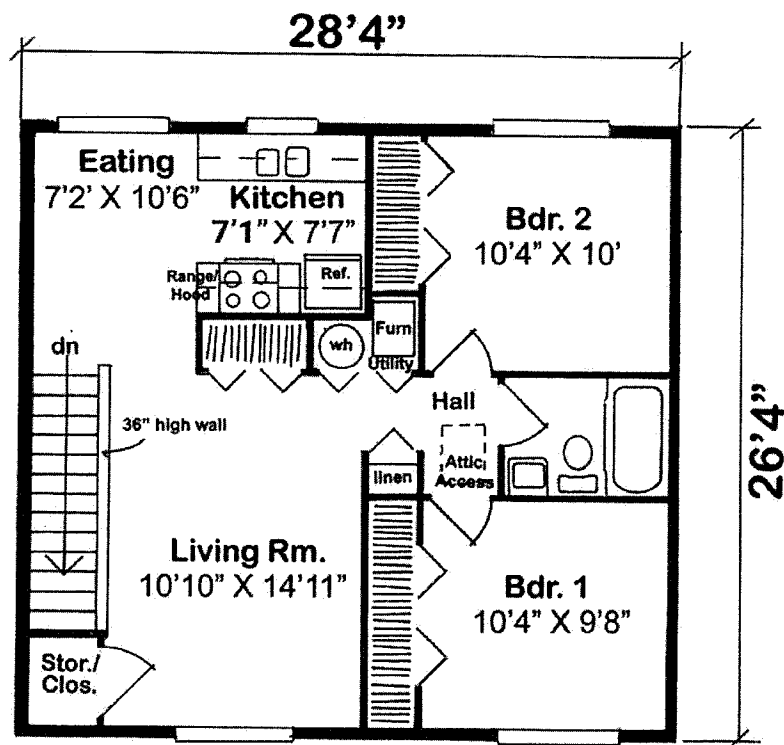
Product Type	Apartment Garage	Garage Type	2 Car
Foundation Type	Slab	Entry Style	Eave
Overall Width	26 foot	Overall Length	28 foot
Sidewall Height	8 foot	Square Footage	1456 square foot
Exterior Wall Framing	2x4 Stud	Roof Framing Type	Truss
Rafter/Truss Spacing	2 foot	Roof Pitch	4/12
Siding Type	Textured Plywood	Soffit Type	Aluminum
Overhead Door Quantity	2	Overhead Door Size	9 x 7
Service Door Quantity	1	Service Door Size	36 x 80
Window Quantity	4	Window Size	(3) 48 X 48, 36 X 36
Includes	Materials Include Framing, 24" On Center Trusses, Roofing, Siding, Soffit, Fascia, Two 9x7 Overhead Doors, One Service Door, Windows, and Plans	Return Policy	Regular Return (view Return Policy).



Garage lower level

Plan Number 30040 | Order Code: 00WEB | First Floor Plan

REVERSE PLAN



Apt. upper level

Plan Number 30040 | Order Code: 00WEB | Second Floor Plan

REVERSE PLAN

Plan Number 30040 Specifications:

- ▶ Total Living Area: 746
- ▶ Upper Living Area: 746

Plan Number 30040 Plan Pricing:

- ▶ PDF File: \$550.00
- ▶ 1 Set: \$350.00

- › Garage Area: 746
 - › Garage Type: Drive Under
 - › Garage Bays: 2
 - › House Width: 28'4
 - › House Depth: 26'4
 - › Number of Stories: 2
 - › Bedrooms: 2
 - › Full Baths: 1
 - › Primary Roof Pitch: 4:12
 - › Roof Framing: Truss
 - › Main Ceiling Height: 8'0
 - › Upper Ceiling Height: 8'0
 - › 5 Sets: \$450.00
 - › 8 Sets: \$550.00
 - › Reproducible Set: \$650.00
 - › 5 Sets plus PDF File: \$650.00
 - › CAD File: \$900.00
 - › Materials List: \$75.00
 - › Right Reading (True) Reverse: \$50.00
- All sets will be Readable Reverse copies. Turn around time is usually 3 to 5 business days.
- › Additional Sets: \$25.00
- Plans are not to be sold in New Jersey or Maryland.

Available Foundation Types:

- › Stem Wall Slab

Plan Number 30040 | Order Code: 00WEB | Specifications and Pricing
 FamilyHomePlans.com
 800-482-0464



Plan Modifications

Receive a FREE modification estimate in one of 3 ways. Our modification team is ready to help you adjust any plan to fit your needs. The ReDesign process is simple and estimates are free!

1. Complete this

ON-LINE REQUEST FORM

2. Print, complete and fax this

PDF FORM

to us at 1-800-675-4916.

3. Want to talk to an expert? **Call us at 913-938-8097** (Canadian customers, please call 800-361-7526) to discuss modifications.

Note: - a sketch of the changes or the website floor plan marked up to reflect changes is a great way to convey the modifications in addition to a written list.

We Work Fast!

When you submit your ReDesign request, a designer will contact you within 24 business hours with a quote. You can have your plan redesigned in as little as 14 - 21 days!

We look forward to hearing from you!

Start today planning for tomorrow!

Plan Number 30040 | Order Code: 00WEB | Specifications and Pricing
 FamilyHomePlans.com
 800-482-0464



COPYRIGHT NOTICE. It is illegal to build this plan without a legally obtained set of plans. It is illegal to copy or redraw these plans. Violation of U.S. copyright laws are punishable with fines of up to \$200,000. After the purchase of plans, changes may be made by a qualified professional.

6.

B. APPEAL #21-06: VARIANCE REQUEST / BELDEN BRICK FREESTANDING SIGN

Contents:

1. Administration Memorandum
2. Application Materials



MCKENNA

August 25, 2021

Hon. Members of the Zoning Board of Appeals
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

SUBJECT: ZBA REPORT: #21-06 VARIANCE REQUEST / BELDEN BRICK FREESTANDING SIGN
APPLICANT: THOMPSON PHELAN GROUP, INC. ON BEHALF OF BELDEN BRICK COMPANY
SECTION: SECTION 32-85 (3) OF THE FRASER ZONING ORDINANCE APPLIES TO FREESTANDING
SIGNS IN THE IC INDUSTRIAL CONTROLLED ZONING DISTRICT.
LOCATION: 31470 UTICA ROAD, FRASER MICHIGAN, 48026

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application for a sign permit, and – as it does not meet the requirements of the code – have prepared the following report, which identifies the relevant facts about the property and the proposal. The report also provides our professional opinion about how the relevant sections of the ordinance that guide the ZBA's decisions apply to this requested variance.

VARIANCE REQUEST SUMMARY

Sec 32-85(3) of the Fraser Zoning Ordinance regulates the allowable minimum distance between the public right of way and a freestanding sign in the Industrial Controlled (IC) district. The applicant is requesting a variance of 22 feet from the ordinance standard to place a freestanding sign 48 feet from the Utica Road centerline (70 feet required).

ADMINISTRATIVE STATEMENT OF FACTS

Belden Brick Company, located at 31470 Utica (west of the Grand Trunk Railroad), proposes to install a new, freestanding sign in the front yard of the subject property.

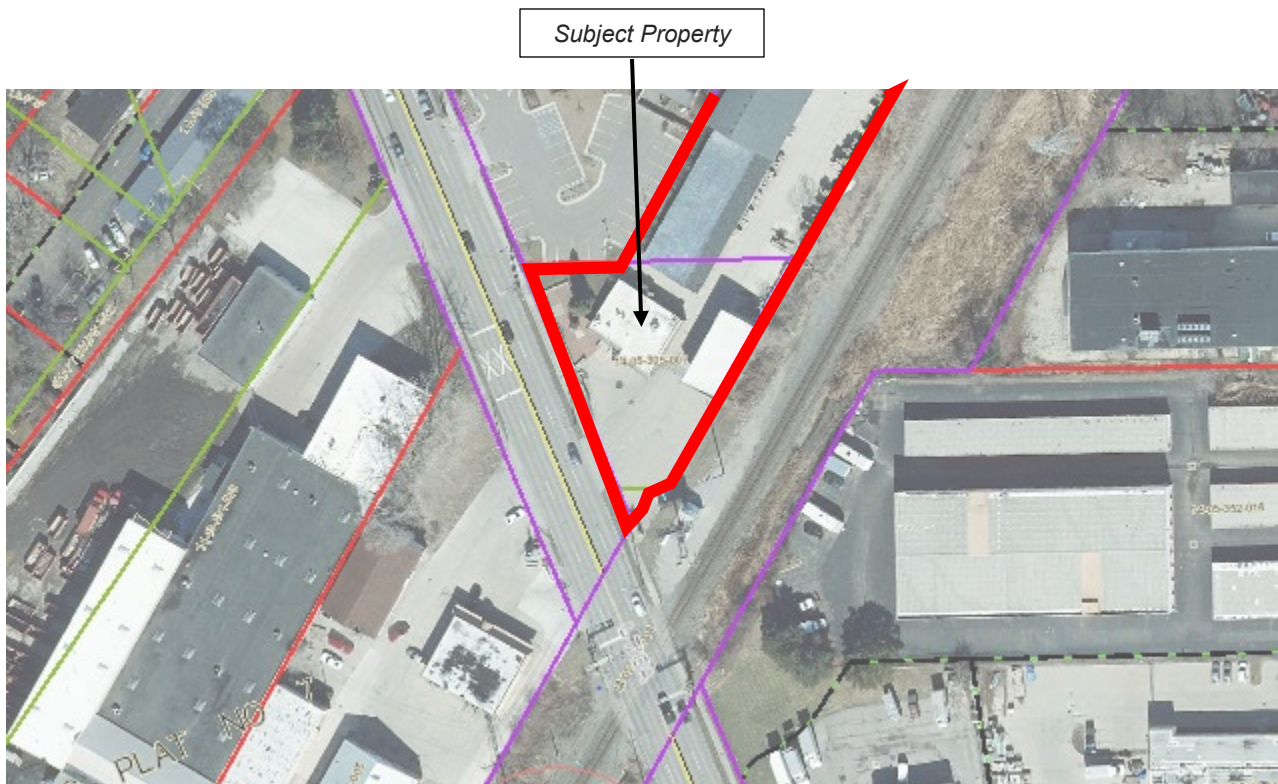
Section 32-85(3) of the Fraser Zoning Ordinance regulates the minimum distance of the lead edge of any freestanding or ground sign from the public right of way, measured from the road centerline in feet. Utica Road is designated as a 'major' road in the City's master plan, therefore the ordinance stipulates that the minimum distance between the leading edge of a freestanding sign and the road centerline on this parcel is 70'.

The proposed location of the sign is 48' from the centerline of Utica Road. The applicant is requesting a variance of 22' from the ordinance standard.

HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

O 248.596.0920
F 248.596.0930
MCKA.COM

Communities for real life.



ZONING BOARD OF APPEALS VARIANCES AND BOARD ACTION RESTRICTIONS

The ZBA is a body of limited powers. §32-228 explains how Fraser administers variance requests. Where there are practical difficulties or unnecessary hardships in the way of strict enforcement of the zoning ordinance, the ZBA may grant appeals to vary or modify any zoning provisions that apply to dimensional standards like construction, structural changes in equipment, or alteration of buildings or structures. The ZBA's actions must uphold the zoning ordinance, secure public safety, and provide substantial justice for all property owners.

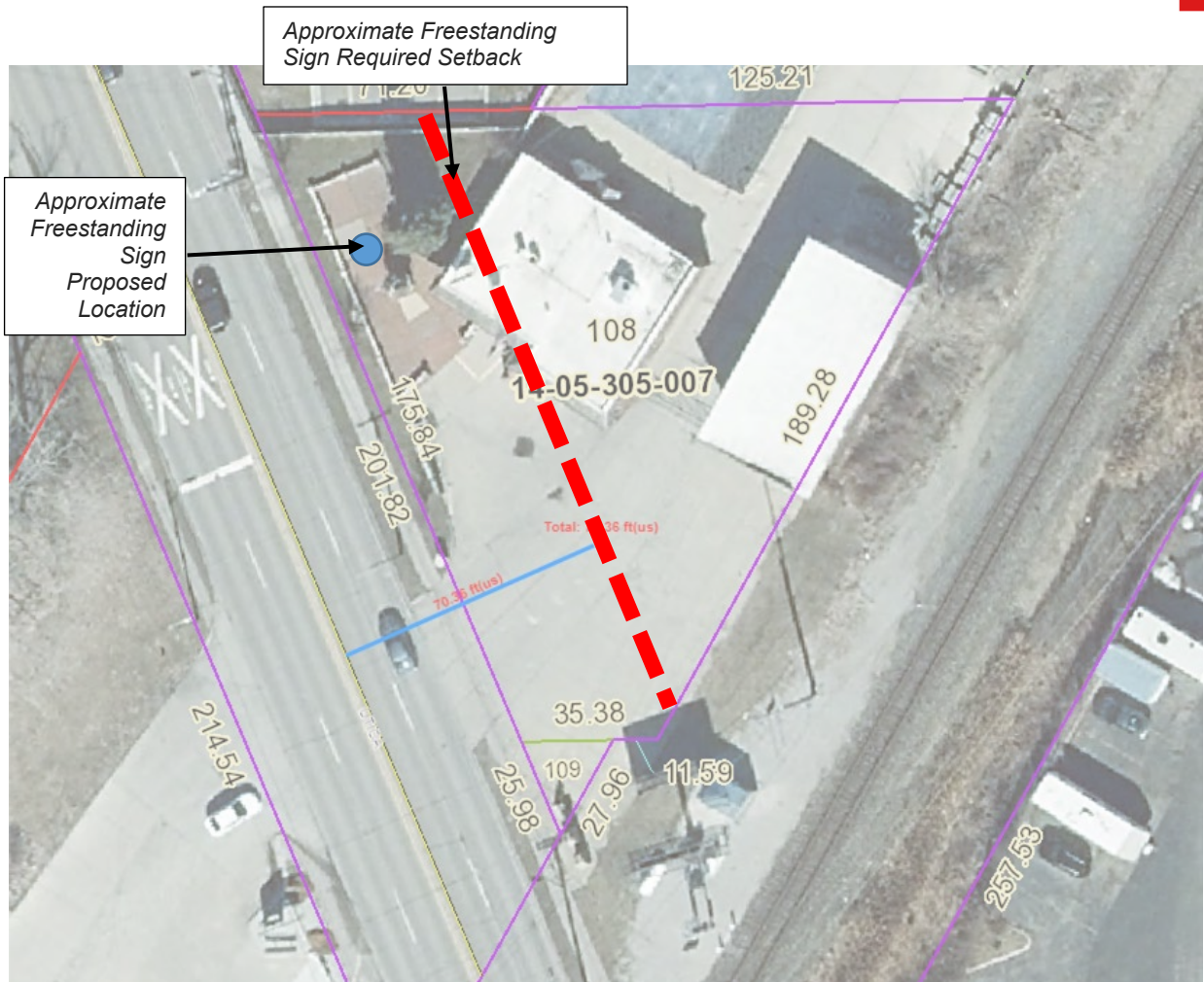
The ZBA must consider whether the property in question exhibits practical difficulty, like geographical or topographical conditions that impair its improvements without the modifications requested.

The ZBA must find evidence of EACH of the following facts in §32-228(a)(2) to grant a variance. Our comments related to the proposal follow each clause in **bold**.

- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or as to the intended use of the property that do not apply generally to other properties in the same zoning district.

The subject site is on a triangular parcel of land directly adjacent to the Grand Trunk Railroad. The geometry of the railroad and Utica Road reduces the 'usable' land available for site development. Though other IC parcels are affected by this geometry, this set of circumstances does not apply generally to other properties in the district.

The location of the structure on the property is nonconforming to the current setback requirements of the IC district – the existing structure also complicates the placement of a freestanding sign on the site.





- b. That such variance is necessary for the preservation and enjoyment of a substantial property right like that possessed by other properties in the same vicinity. The possibility of increased financial return shall not of itself be deemed enough to warrant a variance.

The variance could be argued as necessary for the preservation and enjoyment of a substantial property right like that possessed by other properties in the same vicinity (i.e., the right to install a freestanding sign), since other industrial properties are on parcels that more easily accommodate compliance with a 70' freestanding sign setback.

We note that the Zoning Ordinance does provide for the option of the installation of a wall sign instead of a freestanding sign and there appear to be opportunities for wall signage on the property.

- c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.

The authorizing of such variances will likely not be of substantial detriment to adjacent properties.

- d. That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation.

This situation may occur elsewhere on IC properties, but it is not so general or recurrent that the granting of a variance would create a general rule.

- e. That the modification to setback, location, site or building requirements is sponsored by the Planning Commission for a specific proposal that benefits the City by providing better design or efficient use of the site or results in a more creative development (all fees to be paid by the applicant).

The Planning Commission did not sponsor this proposal as a part of a site plan and/or special land use approval.

- f. That phasing of required site plan improvements may be warranted because the cost of such improvements is relatively high in relation to the total cost of the applicant's development or addition. Planning Commission recommendations shall be required, together with a financial security in the amount of the deferred improvements.

The applicant cannot meet the zoning ordinance's standards through phasing or deferment; therefore, the scenario in subsection f. does not apply.



CONCLUSION

We recommend the ZBA consider the applicant's justifications of practical difficulty to find whether a practical difficulty has been demonstrated, and thus a variance is warranted. Additional information brought forward by the Board, the applicant, and/ or during the public hearing should be incorporated into the record prior to the Board making any determination.

Please let me know if you have any questions. We will attend the ZBA meeting on September 2, 2021.

Respectfully submitted,

McKENNA

Paul Urbiel, AICP

Senior Principal Planner

Cc: Applicant
Elaine Leven, City Manager
Bruce Eck, Building Official
Don Denault and Alyssa Albright, City Attorneys

08-06-2021

Re: Belden Brick Sales Co.
New Freestanding Sign
31470 Utica Rd., Fraser, MI 48026
Job #219029

Fraser Zoning Board of Appeals,

The hardship imposed by the ordinance is the signage setback requirement. In order to place the proposed sign behind the 70' setback, this would put the sign within the existing parking area, the internal drive leading to the storage sheds/yard, or by the side of the building that would result in the sign being obstructed by the building or trees/fencing.

Sincerely,

THOMPSON-PHELAN GROUP

Rocco Hight
Architectural Project Manager



Thompson-Phelan Group, Inc.
9834 Dixie Highway
P.O. Box 105
Anchorville, MI 48004-0105

586 725 8402
586 725 9939 fax
www.thompsonphelan.com

explanation of hardship

*Where designing and
building come together*



CITY OF FRASER
APPLICATION FOR APPEAL
ZONING BOARD OF APPEALS

Office Use Only

APPEAL # _____

DATE OF MTG. _____

DATE REC'D _____

RECEIPT # _____

CIRCLE ALL THAT APPLY:

VARIANCE

APPEAL

TEMPORARY

INTERPRETATION

GENERAL LOCATION OF PROPERTY:

Address: 31470 Utica Rd. Cross Streets: Utica Rd. Between Groesbeck and Masonic

LEGAL DESCRIPTION (Lot number, subdivision, metes/bounds or attach on a separate sheet):

See attached Drawing

BASIS FOR REQUEST: (Hardship or practical difficulty imposed by Ordinance):

To place proposed sign behind 70' setback would put the sign within the existing parking area, the internal drive leading to the storage sheds/yard, or by the side of the building that would result in the sign being obstructed by the building or trees/fencing

SECTION OR ORDINANCE INVOLVED: Sec. 32-85. (3)(b)

ZONING DISTRICT OF PROPERTY: IC

APPLICANT (PARTIES OF INTEREST AND/OR APPLICANT SETTING FORTH THE LEGAL INTEREST IN SAID PREMISES):

Applicant: Thompson Phelan Group, Inc.

Address: 9834 Dixie Highway, P.O. Box 105, Anchorville, MI 48004

Phone: (586) 725-8402

Interest: _____

Applicant: _____

Address: _____

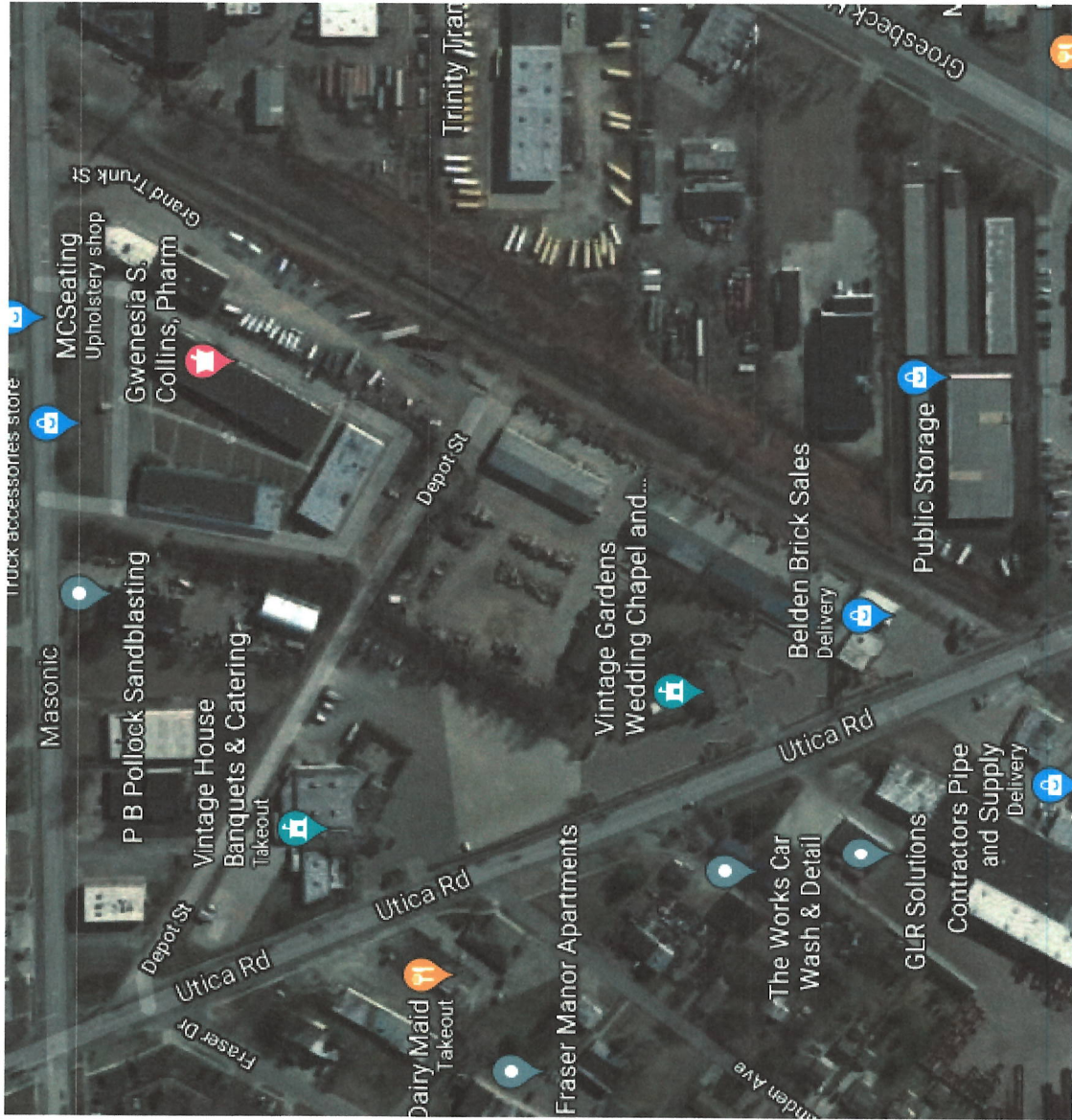
I (We) hereby request a hearing on the above-mentioned matter before the City of Fraser Zoning board of Appeals. The undersigned swear(s) the foregoing statements and answers herein contained and accompanied information and data are in all respects true and complete. I (we) grant permission to Members of the Zoning Board of Appeals and to the City of Fraser Administration to enter the land in order to view the outside premises in preparation for hearing our case.

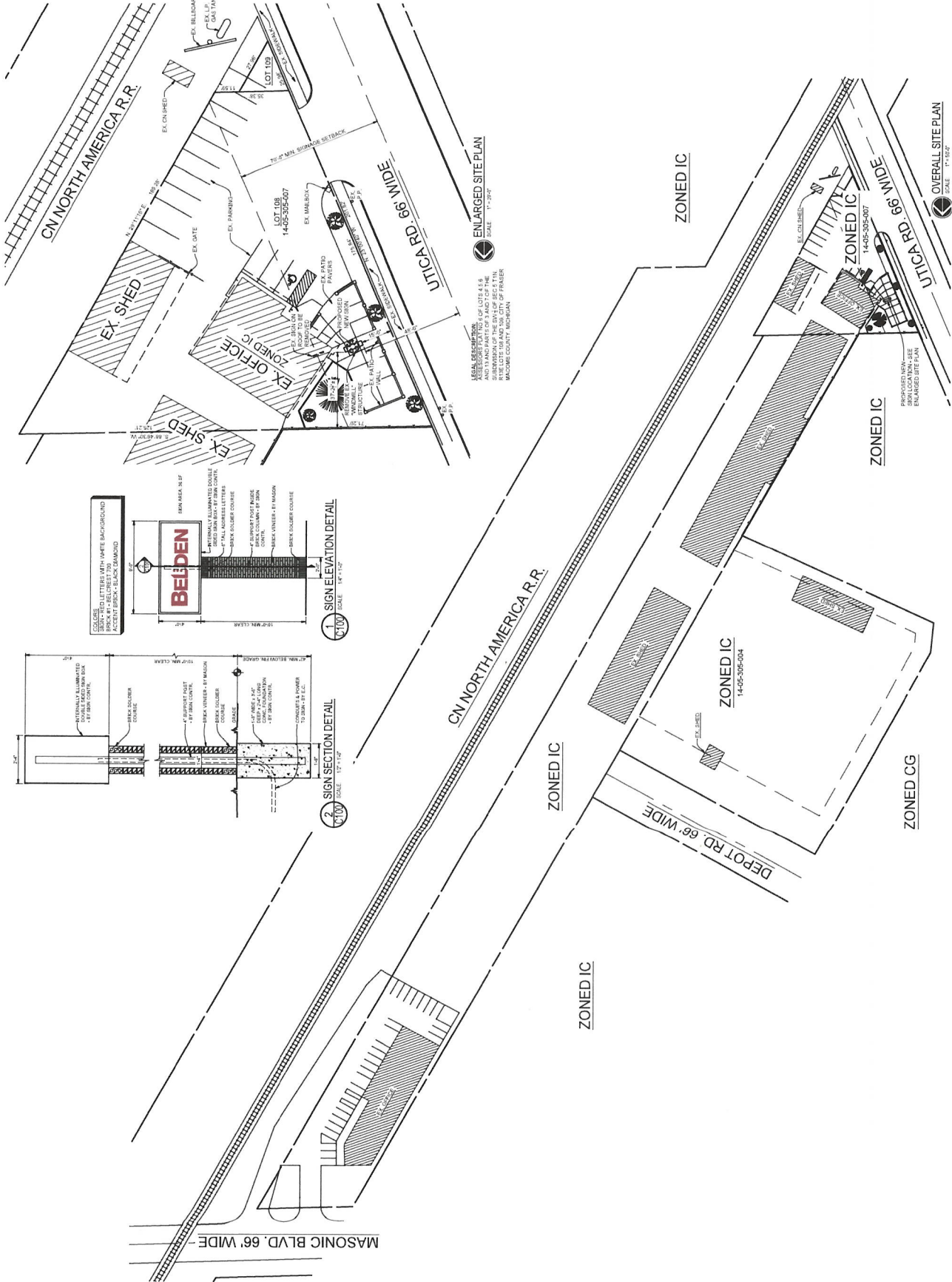
Signature of Applicant: *Russell P. Right*

Date: 8-4-21

Signature of legal property owner: *[Signature]*

Date: 8-4-21





11.

Approval of Minutes: June 3, 2021

**CITY OF FRASER, MICHIGAN
ZONING BOARD OF APPEALS
THURSDAY, June 3, 2021 – 7:00PM
MINUTES DRAFT**

Present: Chairman Stimac; Members: Burley, Chimenti, Farina, Logan, Menendez

Excused Absence: Hunt

Also Present: Donald DeNault, City Attorney (O'Reilly Rancilio)
Alyssa Albright, City Attorney (O'Reilly Rancilio)
Dylan Church, City Attorney (O'Reilly Rancilio)
Paul Urbiel, City Planner (McKenna)

1. Call Meeting to Order

Chairman Stimac called the meeting to order at 7:00 PM

2. Pledge of Allegiance

Roll Call Chairman, Stimac: Present (participating from Macomb County, City of Fraser, Michigan)
Member, Burley: Present (participating from Macomb County, City of Fraser, Michigan)
Member, Chimenti: Present (participating from Macomb County, City of Fraser, Michigan)
Member, Farina: Present (participating from Macomb County, City of Fraser, Michigan)
Member, Logan: Present (participating from Macomb County, City of Fraser, Michigan)
Member, Menendez: Present (participating from Macomb County, City of Fraser, Michigan)

3. Approval of Agenda as amended - Regular Meeting of Thursday June 3, 2021. Amendments include:

1. To amend appeal case number from #20-02 to #21-02 on Agenda Item 5A.

Motion by Member: MENENDEZ (TO APPROVE) **Support by Member:** FARINA

To: Approve the agenda of June 3, 2021 as amended.

AYES 6 (STIMAC, BURLEY, CHIMENTI, FARINA, LOGAN, MENENDEZ)

NAYS 0

MOTION CARRIED

4. Formal Statement: Chairman Stimac gave a formal statement relative to the powers of the Zoning Board of Appeals and the facts and conditions for granting appeals.

5. Old Business (Postponed Cases)

A. Appeal #21-02: Variance Request / Best Tires Wall Sign

By Reason of: Section 32-85.2.E of the Fraser Zoning Ordinance applies to wall signs in the IC, Industrial Controlled Zoning District

Purpose of Request: To obtain a variance from Zoning Ordinance standard to exceed the building wall sign allowable area by approximately 28 square feet (60 square feet requested; 32 square feet allowed)

Property in Question: 33733 Groesbeck Highway, Fraser Michigan, 48026

DISCUSSION: ALBRIGHT explained that the previous ZBA Meeting held on May 6, 2021 included a motion to deny Appeal #21-02 by LOGAN supported by BURLEY. ALBRIGHT explained that the motion should be addressed first and either acted upon or withdrawn. BURLEY withdrew support from that motion and no other member supported the motion to deny. The motion to deny Appeal #21-02 was withdrawn due to lack of support.

**CITY OF FRASER, MICHIGAN
ZONING BOARD OF APPEALS
THURSDAY, June 3, 2021 – 7:00PM
MINUTES DRAFT**

URBIEL explained that the ZBA Board Members voted to postpone Appeal #21-02 at the previous Meeting held on May 6, 2021. The reason for the postponement was to allow the applicant additional time to confirm the total sign package for the Best Tires site located at 33733 Groesbeck Highway. The applicant confirmed to the administration via written correspondence that the intent of the variance request was to exceed allowable sign area by approximately 28 square feet for the Best Tires sign only. The applicant provided administration with images of the proposed signage for the site.

STIMAC questioned if the Finishmaster sign (located adjacent to the subject site) has any impact on the allowable signage for the Best Tires site. URBIEL confirmed it does not.

STEVE RAYES, petitioner, noted that the client, Best Tires, agrees to remove the additional window and garage door signage located on the building, with exception of the wall signage requested as part of Appeal #21-02. FARINA requested the petitioner to explain the hardship related to the requested variance from signage standards. The petitioner explained that they were under the impression that the sign was approved by the City's Building Inspector. RAYES noted that the Best Tires site is setback further from Groesbeck Highway, making the storefront hard to see when traveling at the speed limit. Additionally, several trees located on the site fronting Groesbeck Highway make the storefront less visible from the road. Images were displayed to demonstrate this notion.

URBIEL stated that no written comments regarding Appeal #21-02 were received by the administration.

Motion by Member: FARINA (TO APPROVE)

Supported by Member: BURLEY

To: Approve Appeal #21-02: Variance Request / Best Tires Wall Sign for a variance from ordinance standards to exceed the building wall sign allowable area by approximately 28 square feet (60 square feet requested; 32 square feet allowed) with the following conditions:

1. The applicant removes all other signage located on the Best Tires tenant space facing Groesbeck Highway.

AYES: 6 (STIMAC, BURLEY, CHIMENTI, FARINA, LOGAN, MENENDEZ)

NAYS: 0

MOTION CARRIED

6. Public Hearing: None.

7. New Business: Discussion Regarding Transition Back To In-Person Meetings

DISCUSSION: URBIEL explained that the City passed a local state of emergency in light of the Covid-19 pandemic and restriction on indoor gatherings. With State regulations lessening, the City is discussing the schedule to begin returning to in-person meetings. URBIEL requested that the ZBA Members reach out either publicly during the meeting, or privately to note their comfort level with returning back in-person.

8. Unfinished Business of the Board: None.

9. Planning Commission Liaison: FARINA noted that the City of Fraser Planning Commission held a meeting on Wednesday, June 2, 2021. The development, located 34400 Utica Road, is planned for a new Big Boy restaurant. The Special Land Use and corresponding site plan was approved by the Planning Commission. The Planning Commission also discussed the new Taco Bell site and previous conditions of approval.

**CITY OF FRASER, MICHIGAN
ZONING BOARD OF APPEALS
THURSDAY, June 3, 2021 – 7:00PM
MINUTES DRAFT**

10. Public to be Heard: None.

11. Approval of Minutes – May 6, 2021

Motion by Member: MENENDEZ (TO APPROVE)

Support by Member: FARINA

To: Approve the May 6, 2021 Minutes as presented.

MOTION WAS NOT VOTED ON

Motion by Member: STIMAC (TO APPROVE) **Support by Member:** MENENDEZ

To: Approve the May 6, 2021 Minutes as amended. Amendments include:

1. Amend the Minutes under Item #6A to from “Appeal 21-021” to “Appeal 21-01.”
2. Amend the Minutes under Item #6B to “Section 32-85.2.E” from “Section 32-85.2.D.”

AYES 6 (STIMAC, BURLEY, CHIMENTI, FARINA, LOGAN, MENENDEZ)

NAYS 0

MOTION CARRIED

12. Members’ Comments and Items of Interest

FARINA	On the 3 rd Sunday of August St. Malachy is planning a one-day festival.
LOGAN	Hank Dolland passed away with a memorial on Saturday, June 5 th
MENENDEZ	Requested the status of the sign ordinance review
McKENNA	Planners are in the process of reviewing of the sign ordinance

13. Adjournment

Motion by Member: MENENDEZ (TO ADJOURN)

Support by Member: CHIMENTI

To: Adjourn the meeting on Thursday, June 3, 2021 at 8:01pm.

AYES 6 (STIMAC, MENENDEZ, BURLEY, CHIMENTO, FARINA, LOGAN)

NAYS 0

MOTION CARRIED

ZBA Secretary, Rosanne Menendez

Recording Secretary, Danielle Bouchard, Senior Planner, McKenna