



City of Fraser

Building & Code Enforcement Department

AGENDA

CITY OF FRASER ZONING BOARD OF APPEALS
MUNICIPAL BUILDING ~ 33000 GARFIELD ~ PHONE: 586-293-3100
THURSDAY, NOVEMBER 3, 2022 at 7:00pm

- 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 #ZBA22-04: VARIANCE REQUEST / 33180 GROESBECK MASONRY WALL

BY REASON OF:

SECTION 32-44 OF THE FRASER ZONING ORDINANCE REGULATES FENCES IN OTHER THAN SINGLE FAMILY ZONING DISTRICTS AND SECTION 9-3 OF THE FRASER CODE REGULATES THE LOCATION OF FENCES; SECTION 9-31 PROVIDES AUTHORITY TO THE ZONING BOARD OF APPEALS TO GRANT VARIANCES FROM THE FENCE CODE UNDER CERTAIN CIRCUMSTANCES.

PURPOSE OF REQUEST:

TO OBTAIN A VARIANCE FROM ORDINANCE STANDARDS TO ERECT A STRUCTURE MEETING THE DEFINITION OF A FENCE (I.E., A MASONRY WALL) BETWEEN THE FRONT BUILDING LINE AND THE FRONT PROPERTY LINE.

PROPERTY IN QUESTION:

33180 GROESBECK HIGHWAY, 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:** October 6, 2022
- 12. Members' Comments and Items of Interest**
- 13. Adjournment**

6A. APPEAL #22-04

Contents:

1. Application Materials
2. Staff Memo



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 33180 GROESBECK HWY CROSS STREETS: _____

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

03-11-32-476-0355 03-11-32-476-018

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

SITE PLAN 6 FT CONCRETE WALL

SECTION OR ORDINANCE INVOLVED: _____

ZONING DISTRICT OF PROPERTY: _____

APPLICANT

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

APPLICANT: Gabara Holding LLC / KEVIN HANNA

ADDRESS: _____

PHONE: _____

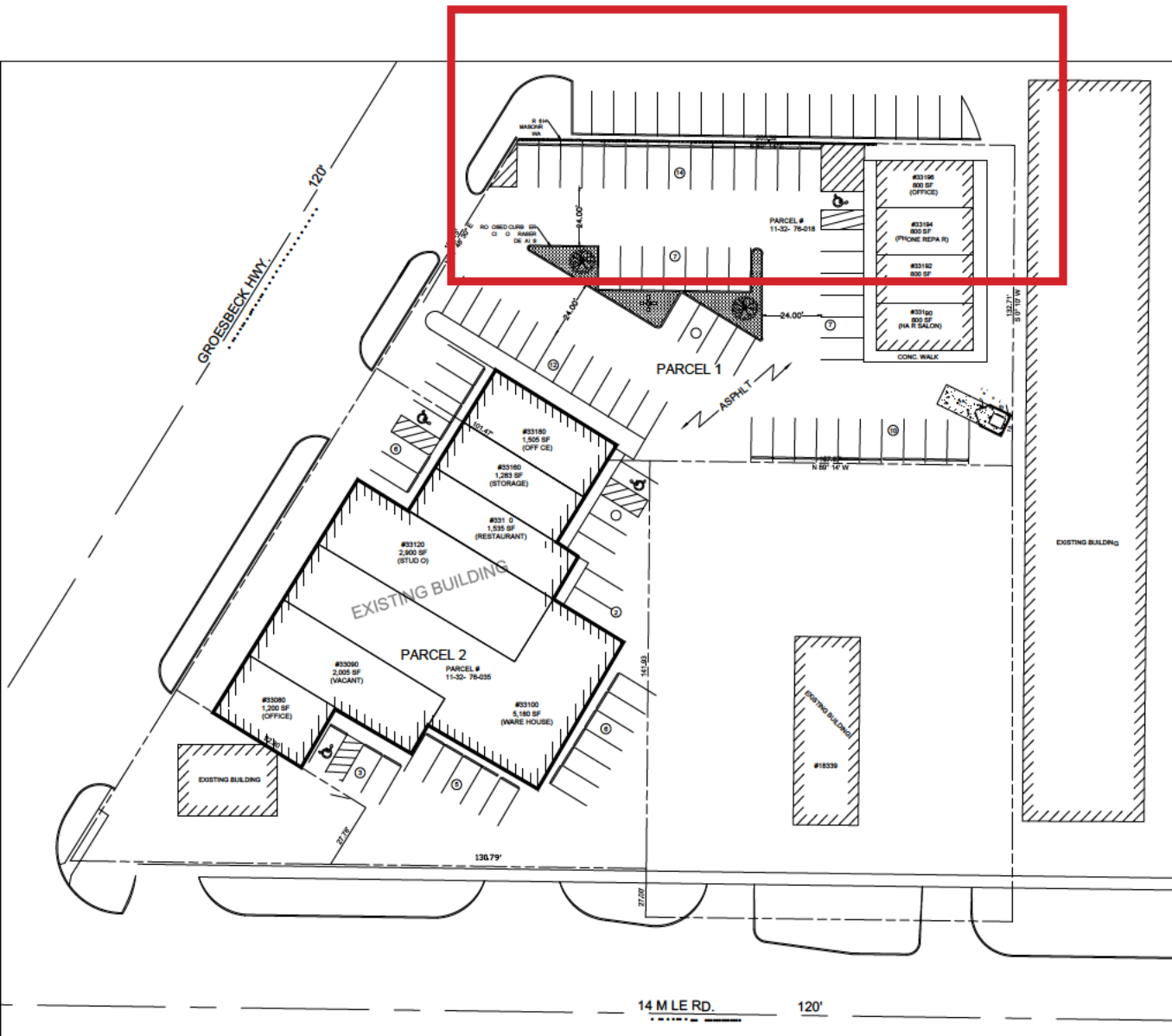
APPLICANT: _____

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: KEVIN HANNA Date: 9/13/2022

Signature of legal property owner (if not applicant): KEVIN HANNA Date: 9/13/2022



SITE PLAN
SCALE: 1"=20'

SITE INFORMATION:

ZONING: CO (COMMERCIAL GENERAL)

AREA:

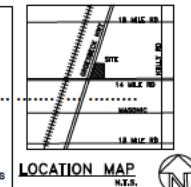
PROPERTY:

PARCEL 1 (11-32-75-018)
 PARCEL 2 (11-32-75-035)
 TOTAL
 1.35 AC

PARKING SPACES REQUIRED:

#33196-800 150-5.33 (OFFICE) 5 SPACES
 #33197-800 150-5.33 (PHONE REPAIR) 5 SPACES
 #33198-800 150-5.33 (VACANT) 5 SPACES
 #33199-2 CHAIRS (HAIR SALON) 3 SPACES
 #33199-1500 150-10 (OFFICE) 10 SPACES
 #33199-1200 150-8.85 (STORAGE) 1 SPACE
 #331-0-1530 150-15.3 (RESTAURANT) 15 SPACES
 #33120-2900 200-1.5 (STUDIO) 1 SPACE
 #33120-1100 150-3.5 (WARE HOUSE) 3 SPACES
 #33300-1000 200-10 (VACANT) 10 SPACES
 #33300-1200 150-8 (VACANT) 8 SPACES
 TOTAL 75 SPACES

PARKING SPACES PROVIDED:
 82 SPACES INCLUDING () HANDICAP



LEGAL DESCRIPTION:

PARCEL 1:
 PIPERS FACTORY SITES PART OF LOTS 16 AND 17 DEBIC AS
 FOLL: COMM AT NE COR LOT 16; TH 50°10' W 171.37 FT ALG E
 LINE LOT 16 TO PT OF BEG; TH 80°10' W 132.71 FT ALG E LINE
 LOT 16; TH 89°1' W 167.87 FT; TH 83°13'30" W 18.07 FT;
 TH 65° 53'0" W 101.7 FT; TH 83°1' 83°0 E 109.15 FT ALG SLY
 SIDE GROESBECK HWY OR M 97; 120 FT WIDE; TH 55°1' E
 205.32 FT TO PT OF BEG. CITY OF FRASER

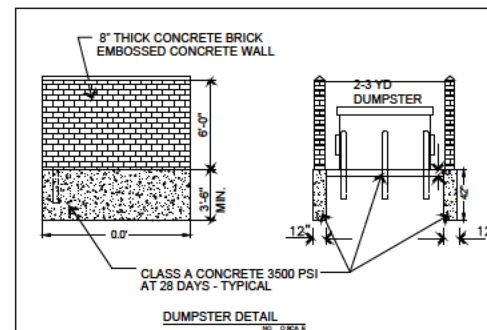
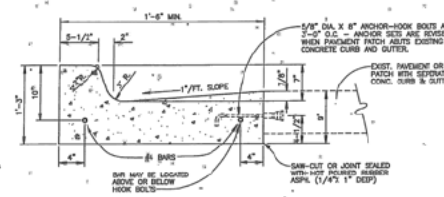
PARCEL 2:
 PIPERS FACTORY SITES LOT 17; EXC PART LYING ON LINE
 DEBIC AS FOLL: COMM AT NW COR LOT 16; TH 50°30' W 30.30
 FT TO PT OF BEG; TH 89°1' W 167.87 FT; TH 83°13'30" W 18.07
 FT; TH 65° 53'0" W 101.7 FT TO BE LINE M 97 R/W TO PT OF
 ENDING; ALSO EXC PART OF LOT 17 DEBIC AS FOLL: COMM
 AT SW COR SD LOT; TH 89°1' E 9.37 FT; TH 83°1' 83°0 E
 31.52 FT TO PT OF BEG; TH 83°1' 83°0 E 83.33 FT ALG E
 SIDE LINE M 97; 120 FT WIDE; TH 55°1'30" E 52.30 FT; TH
 53°1' 83°0 W 101.7 FT; TH 89°1' W 167.73 FT ALG LINE
 PAR 2 AND 27.0 FT N OF S LOT LINE TO PT OF BEG; ALSO EXC
 THAT PART TAKEN FOR HWY. CITY OF FRASER

GOVERNING CODES:

1. 2015 MICHIGAN BUILDING CODE
 2. 2015 MICHIGAN MECHANICAL CODE
 3. 2015 MICHIGAN PLUMBING CODE
 4. MICHIGAN ELECTRICAL CODE, 2011
 NEC
 5. ANSI A117-2009 AND MICHIGAN
 BARRIER FREE DESIGN LAW OF PUBL C
 ACT 1 OF 1996 AS AMENDED
 6. MICHIGAN UNIFORM ENERGY CODE
 RULES PART 10 WITH ANSI/ASHRAE/IESNA
 STANDARD 90.1-2007
 7. INTERNATIONAL FIRE CODE 2012
 8. CITY OF FRASER ZONING ORDINANCE.

APPROVED PLANS TO BE ON SITE AT
 ANY TIME

PERMIT MUST BE OBTAINED FROM THE
 CITY PRIOR TO ANY TYPE OF WORK



OWNER'S NAME
 Mr. KEVIN HANDA

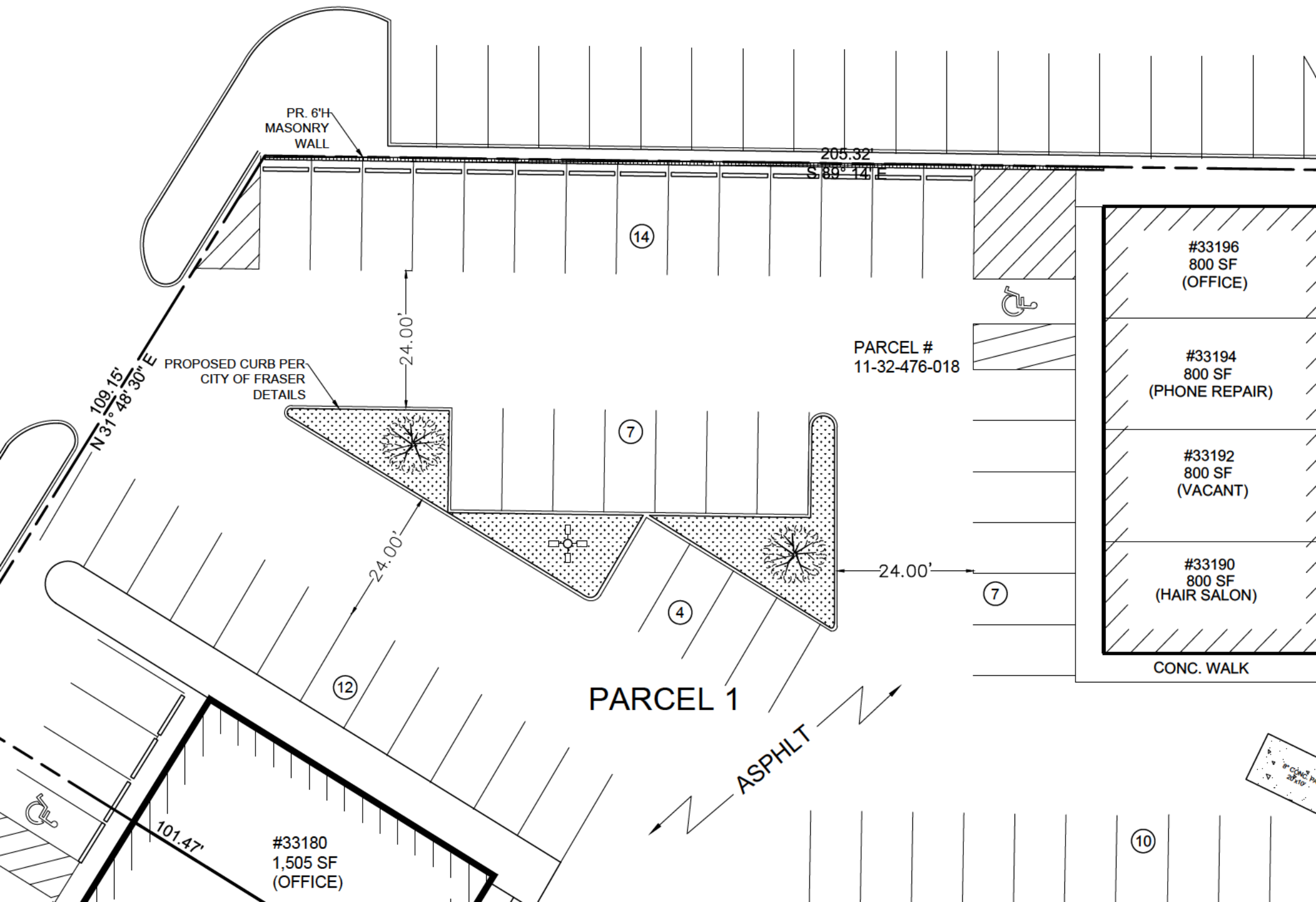
**33180 GROESBECK HWY.,
 FRASER, MI**

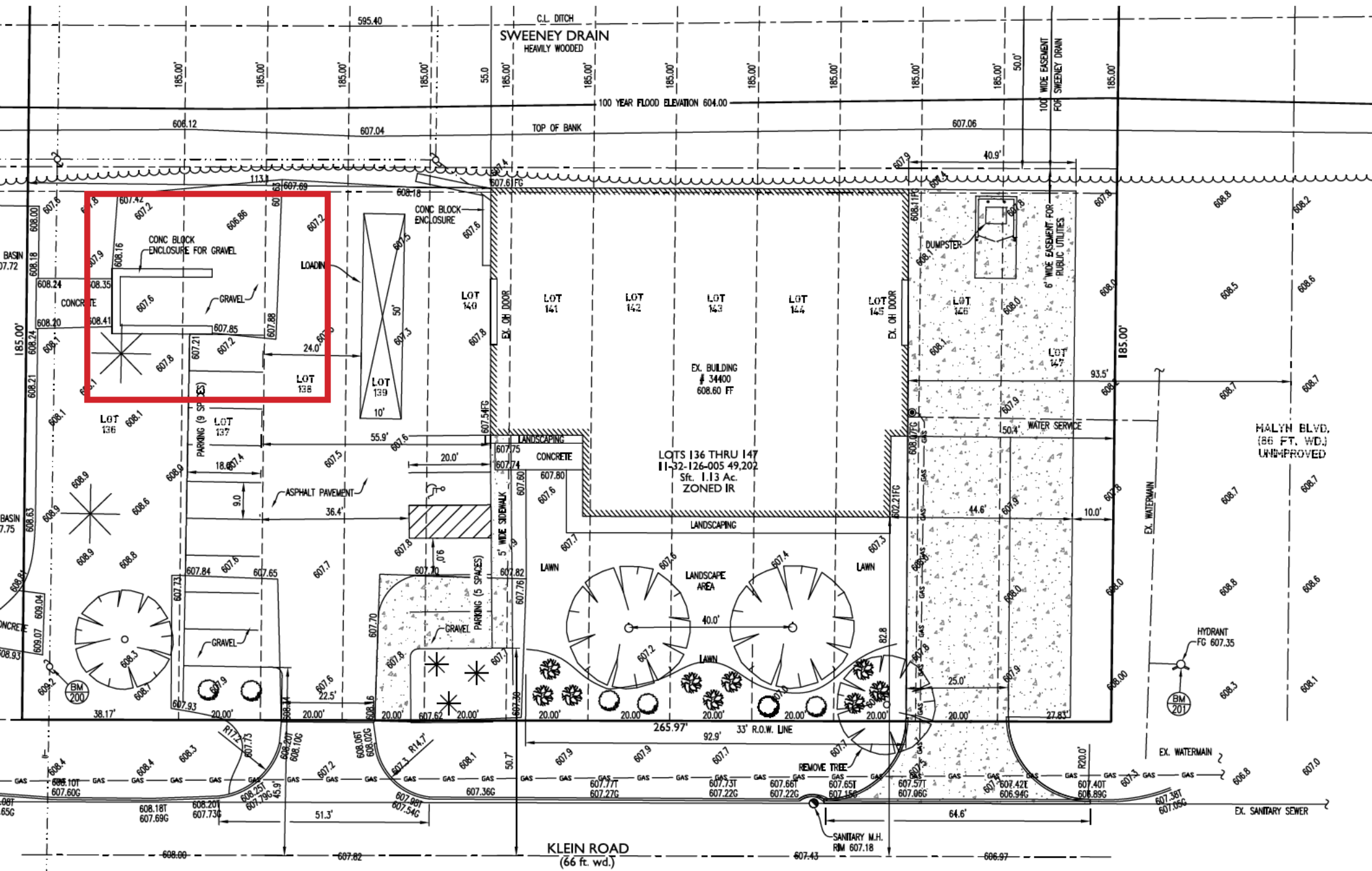


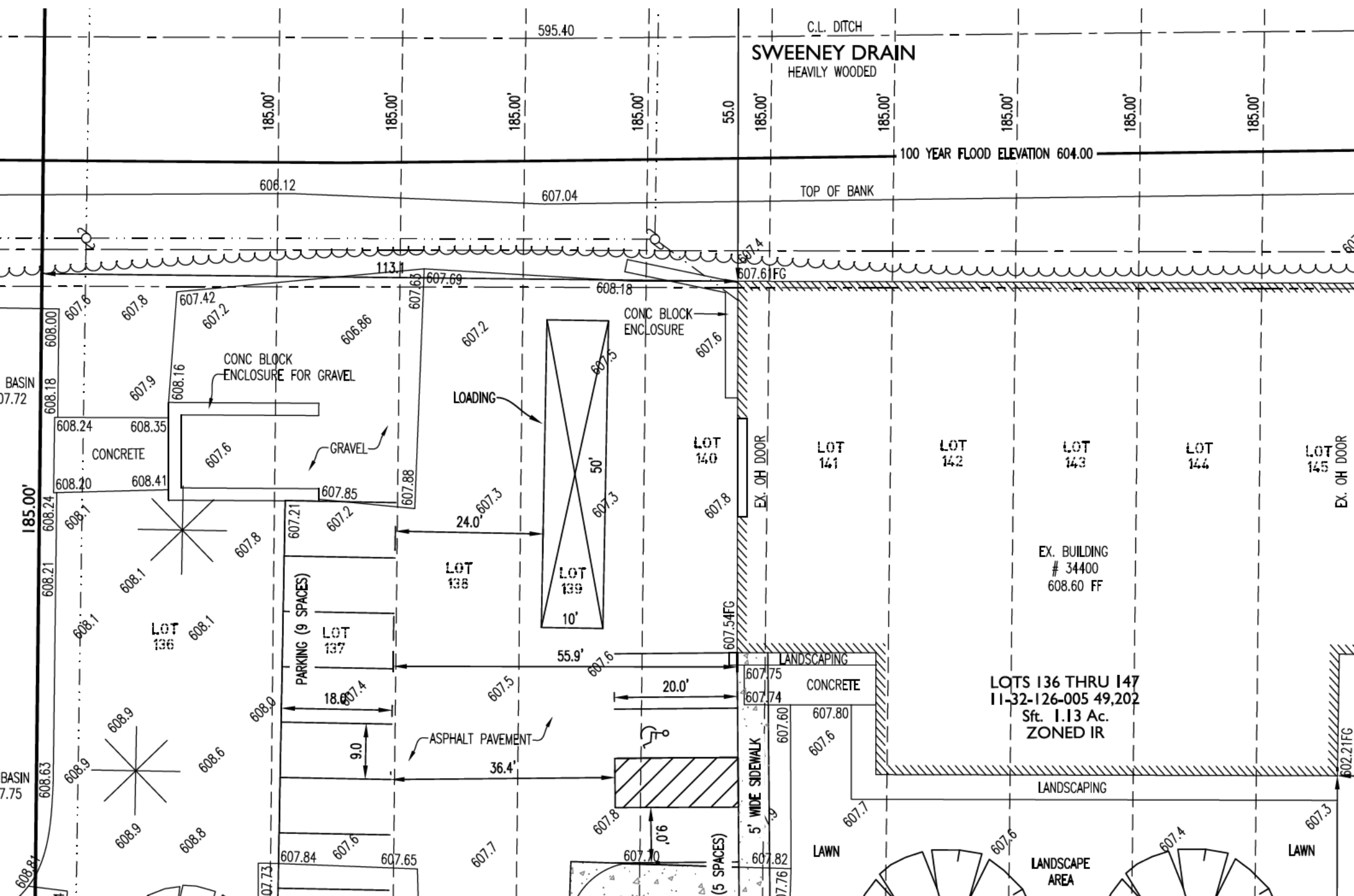
SHEET TITLE
 SITE PLAN

Project
 Date
 8/10/2022
 Scale
 AS NOTED

Sheet
 SP-1









MCKENNA

October 25, 2022

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

**SUBJECT: ZBA REPORT
#22-04 VARIANCE REQUEST / GABARA HOLDING, LLC**

APPLICANT: GABARA HOLDING, LLC

SECTION: SECTION 32-44 OF THE FRASER ZONING ORDINANCE REGULATES FENCES IN OTHER THAN SINGLE FAMILY ZONING DISTRICTS AND SECTION 9-3 OF THE FRASER CODE REGULATES THE LOCATION OF FENCES; SECTION 9-31 PROVIDES AUTHORITY TO THE ZONING BOARD OF APPEALS TO GRANT VARIANCES FROM THE FENCE CODE UNDER CERTAIN CIRCUMSTANCES.

LOCATION: 33180 GROESBECK, FRASER MICHIGAN, 48026

REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS INCLUDING:

- ERECT A STRUCTURE MEETING THE DEFINITION OF A FENCE (I.E., A MASONRY WALL) BETWEEN THE FRONT BUILDING LINE AND THE FRONT PROPERTY LINE.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application for the construction of a masonry wall, 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.

HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

O 248.596.0920
F 248.596.0930
MCKA.COM

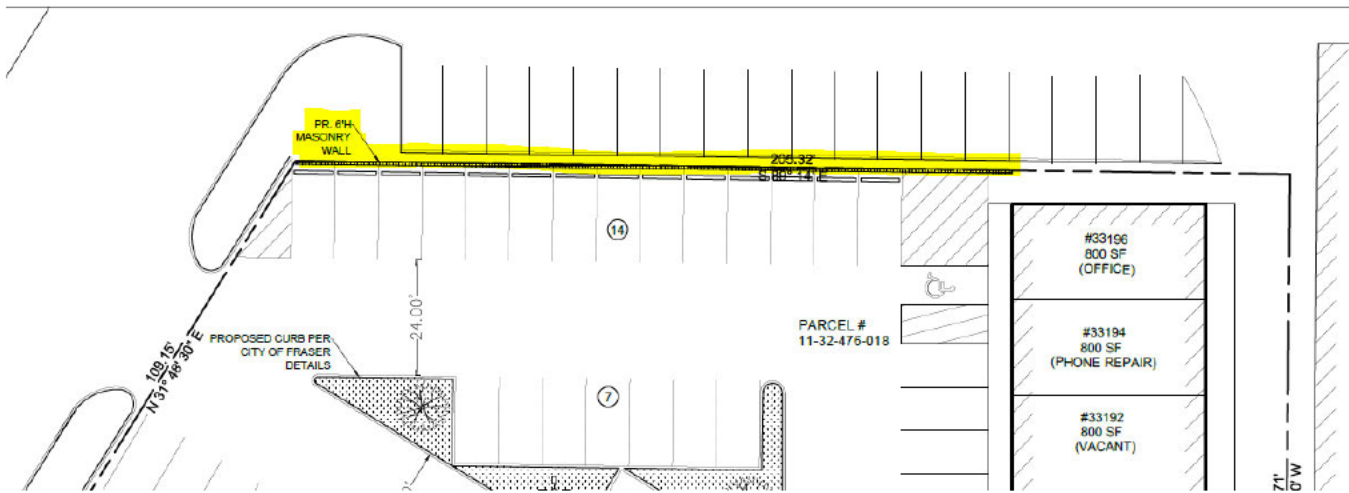
Communities for real life.



ADMINISTRATIVE STATEMENT OF FACTS

33180 Groesbeck is currently zoned CG, Commercial General. The applicant recently acquired the property and is renovating the existing buildings and existing site to attract new commercial tenants. The proposed renovation was considered by the Planning Commission at its September 7, 2022 meeting. The Commission did not fully approve the site plan, as part of the proposal is the construction of a six-foot high masonry wall along the north property line. This masonry wall is located forward of the established building line and occurs partially within the required front yard of the property and is not permitted by Ordinance standards.

The applicant stated to the Planning Commission and the Administration that the wall is necessary to stop customers from the adjacent business to the north from parking on the applicant's parking lot, as well as unauthorized use of the applicant's parking by trucks. We are sympathetic to the desire to enclose and demarcate the parking lot, and thus suggested a low landscaping element instead of the wall, which would meet Ordinance requirements. The applicant asserts that a masonry wall is necessary and thus has applied for a variance. Members of the Planning Commission suggested to the applicant that a wall that stepped down to a lower height forward of the building line would alleviate the Administration's concerns about compromised visibility and vehicular circulation that would occur if the applicant's proposal were constructed.



Section 32-44(c) of the Fraser Zoning Ordinance states :

Location. Such fences [in other than single-family zoning districts] shall not be located in the required front yard or enclose any required parking area.

Section 9-3 (b) of the Fraser Code of Ordinances states:

Setback limitation. No fence shall be erected between the front building line and the front property line of any premises; provided, however, such a fence may be erected on premises where there exists in the immediate area such fences, and upon a determination by the zoning board of appeals that the erection would not be deleterious to the health, safety or welfare of the citizens of the city.

The applicant is requesting a variance from these standards to construct a six-foot masonry wall as described in the site plan above.

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.

As described in §32-228(a)(2), the ZBA must find evidence of evidence that:

- all the facts and conditions of a. thru d. exists,
- or e. or f. exists independently,

to grant a variance.

Our comments related to the proposal follow each clause in **bold**.

- 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 applicant states an operational difficulty that exists that precipitated the need for this variance. We are not aware of any extraordinary circumstances that apply to the property.

- 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.*

Surrounding properties near the subject site within Fraser City limits do not have masonry walls located in the front yard. We are unaware of the circumstances of the few front-yard fences that do exist along Groesbeck, but are unaware of any fences in existence that are of the height and opacity as proposed here.

- 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 interpret the intent of regulations on front-yard fences as to preserve and improve the aesthetic character of required front yards and ensure that no unnecessary obstacles to visibility and safe circulation occur. The proposal would impair that purpose.

- d. *The authorizing of such variances will likely not be of substantial detriment to adjacent properties. Specifically, the Zoning Board of Appeals may consider light and visual impacts of the subject proposal. It is not likely that authorizing such variances would be of substantial detriment to adjacent properties in terms of light and visual impacts.*

Constructing a six-foot wall to the front property line has the potential to impair the usability of the vehicular ingress/egress of the property to the north (33210 Groesbeck), as it would impair the visibility of vehicles entering and exiting 33210 from northbound traffic on Groesbeck. We agree with the tenor of the discussion at the Planning Commission meeting that a lesser variance, for example for a stepped wall or a wall that otherwise does not exceed two feet in height in the required front setback, would mitigate this safety concern.

- e. *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.*

As noted above, surrounding properties within the City of Fraser limits do not appear to have been granted similar rights as the applicant is requesting (fencing or masonry walls in the front yard). It is not likely that these exceptions would become a general rule, but this case could be utilized as a precedent for future decisions.

OR

- f. *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 considered the proposed site plan, but did not sponsor the variance request, at the September 7, 2022 meeting. This provision does not apply.

OR

- g. *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 does not apply.



CONCLUSION

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.

Respectfully Submitted,

Paul Urbiel, AICP
Senior Principal Planner

Alicia Warren
Assistant Planner

Cc: Applicant
City Manager
Building Official
City Attorneys

11.

Approval of Minutes: October 6, 2022

**MINUTES
CITY OF FRASER
33000 GARFIELD, FRASER, MI 48026
ZONING BOARD OF APPEALS MEETING
OCTOBER 6, 2022 @ 7:00 P.M.**

A regular meeting of the City of Fraser Zoning Board of Appeals was held on Thursday, October 6, 2022 at 7:00 p.m. The meeting was held in City Council Chambers, 33000 Garfield, Fraser, MI 48026.

1. CALL MEETING TO ORDER

Chairman Mark Stimac called the meeting to order at 7:02 p.m. Chairman Stimac Led the Pledge of Allegiance.

2. ROLL CALL

Present: Burley, Chimenti, Lesich, Logan, Menendez, Stimac
Absent: Farina

3. APPROVAL OF AGENDA

Motion by Chimenti supported by Logan to approve the agenda with the correction of moving Item B before Item A.

All Ayes

Motion Carried

4. FORMAL STATEMENT BY THE CHAIR

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

None at this time.

6. PUBLIC HEARINGS

B. APPEAL #ZBA22-04: VARIANCE REQUEST / 33180 GROESBECK MASONRY WALL

Lina Asmar, representative of the property owner, asked for the variance request for 33180 Groesbeck be postponed to the November meeting.

Public hearing was not held for this agenda item.

Motion by Chair Stimac supported by Menendez to postpone variance request #ZBA 22-04 33180 Groesbeck Masonry Wall to the November meeting with a public hearing.

All Ayes

Motion Carried

A. APPEAL #ZBA22-03: VARIANCE REQUEST / 34400 KLEIN GRAVEL STORAGE

Planner Warren presented the variance request.

Dave Cadman, representative of the property owner, was present. Mr. Cadman explained the reasoning for the request.

Member Logan asked about how many employees they had and if there was enough parking on site. Mr. Cadman explained they had about 21 employees and as of now they do not have enough parking. If they get the approval of the new drive they will be close, however they do share a parking lot with another business who does not use all of their spots. Member Logan requested they get a signed agreement of this shared parking.

Member Menendez asked how large their enclosure will be, which will be approximately 20x20 feet. The block enclosure that is currently on site will be removed and replaced.

Chair Stimac asked about the pod that is on site and if it will be removed. Mr. Cadman did explain that it will be removed once the enclosure is in place. Chair Stimac also asked if it is believed that it will be difficult to move the gravel with the tightness of a large dump truck to turn around. Mr. Cadman stated that if needed the company could use their equipment to transfer the gravel to the enclosure.

Member Chimenti asked if there are any chemicals on site and Mr. Cadman explained chemical storage is very minimal and they are locked inside of the building in a fireproof safe.

There was no public participation on this hearing.

Motion by Chair Stimac supported by Logan to approve variance request #ZBA22-03 34400 Klein to allow outdoor storage of loose gravel on the site that is currently in the IR zoning district with condition that the enclosure and equipment be properly screened in a manner that is acceptable to the Planning Commission in review of the site plan approval.

Commissioner Burley asked that it be limited to 10 yards or less of loose materials. Commissioner Menendez added that the property owner provide a parking agreement approved by City Attorney and recorded with the city.

All Ayes

Motion Carried

7. NEW BUSINESS OF THE BOARD (NONE)

8. UNFINISHED BUSINESS OF THE BOARD (NONE)

9. PLANNING COMMISSION LIAISON MEMBER REPORT

Mr. Farina was absent tonight, no report given.

10. PUBLIC PARTICIPATION

No public participation.

11. APPROVAL OF MINUTES APRIL 7, 2022

Commissioner Chimenti stated that “St. Malacki” was spelt incorrectly, should be “St. Malachy”

Motion by Chimenti supported by Burley to approve the minutes of the April 7, 2022, Zoning Board of Appeals meeting with the proposed amendment.

All Ayes

Motion Carried

12. MEMBERS’ COMMENTS AND ITEMS OF INTEREST

Chair Stimac asked about Like Nu Carpet Cleaning sign variance expiration. The new sign has not been put in yet and many temporary signs are still on site. The site has one year to receive their sign permit from approval.

ZBA Member Chimenti shared that JFK Knights of Columbus on Kelly Road was having a Fish Fry this Friday from 4:00 p.m. to 7:00 p.m.

13. ADJOURNMENT

Motion by Lesich supported by Burley to adjourn the meeting at 8:03 p.m.

All Ayes

Motion Carried

Respectfully Submitted:

Cindi Greenia, Clerk
City of Fraser