

PUBLIC NOTICE

City of Berkley, Michigan
Regular Meeting of the Zoning Board of Appeals
Monday, August 11, 2025
7:00 PM - City Hall
Council Chambers
Information: (248) 658-3320

Notice: Official Minutes of the Zoning Board of Appeals are stored and available for review at the Office of the City Clerk.

The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.

You can watch the meeting on Channel 10 for both Comcast and WOW, or <http://www.youtube.com/CityofBerkley>.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONFIRMATION OF A QUORUM

APPROVAL OF AGENDA

APPROVAL OF MINUTES – *Meeting Minutes of July 14, 2025*

OLD BUSINESS - None

NEW BUSINESS

1. Application Number PBA-06-25

DePorre Building, LLC, representing 3617 Buckingham Ave., Parcel 04-25-07-385-024, West side of Buckingham Ave., between Twelve Mile Rd. and Edwards Ave., is requesting a dimensional variance of 2.2' on the North side of the property on required distance between dwelling units.

OTHER BUSINESS:

1. Rules of Procedure

STAFF / BOARD MEMBER REPORT:

LIAISON REPORT

PUBLIC COMMENTS

ADJOURN

**THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS
CALLED TO ORDER AT 7:00 PM, MONDAY, July 14, 2025, 2025 BY CHAIR MCALPINE**

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen on-demand on the city's YouTube channel: <http://www.youtube.com/CityofBerkley>.

PRESENT:

Sue McAlpine
Andrew Creal
Joseph Krug
Eric McDonald

Joann Serr
Kevin Wilner
Jason Benedict, Alternate

ABSENT:

Steve Allen

ALSO, PRESENT:

Kim Anderson, Zoning Administrator
Dennis Hennen, Liaison
Lorene Branch, Alternate

CONFIRMATION OF QUORUM MET

APPROVAL OF AGENDA

Case PBA-02-25, 2285 Mortenson Blvd. was noticed but is not on the agenda. The City withdrew the dimensional variance request on the distance requirement for the exterior side yard for a corner lot because inadvertently in the new zoning ordinance, cross section 5.09.E to accessory structure setbacks for corner lots abutting rear yard to rear yard or rear yard to side yard was left out. As the new zoning ordinance is being used, we are making amendments to any discrepancies found.

Motion to approve the agenda as presented by Wilner, and supported by Krug.

Voice vote to approve the agenda.

AYES: 7

NAYS: 0

ABSENT: 1

MOTION CARRIED

* * * * *

APPROVAL OF MINUTES

Motion to approve the minutes of the January 13, 2025 regular meeting by Krug and supported by Creal.

Voice vote to approve minutes

AYES: 7

NAYS: 0

ASBENT: 1

MOTION CARRIED

* * * * *

OLD BUSINESS

None

NEW BUSINESS

1. Application Number PBA-03-25

Bradley DeVries on behalf of Damsel LLC, 3020 Coolidge Hwy., parcel 04-25-17-107-031, on the East side of Coolidge Highway, between Earlmont Road and Edgewood Blvd., is requesting a variance to waive on-site parking requirements.

Note: In the notice there was an inaccuracy on the cross roads for the property description. This inaccuracy does not affect the notice requirements per MEZA 125.3103, Section 103(4) as the address and parcel number are accurate.

The applicant is requesting a dimensional variance to waive on-site parking requirements for a first-floor Retail space and second-floor office space.

Per Berkley City Code, Zoning Ordinance, Chapter 138, Article 14, Sec. 14.04.Q.3.f, parking space requirements by use for general retail requires one per 500 square feet of usable floor area plus one per employee. Parking requirements by use for Offices per Sec. 14.04.Q.4.c requires one per 300 square feet of usable floor area. First floor retail space requires five (5) on-site parking spaces and Second floor office space requires four (4) on-site parking spaces. Per 14.04.M 3020 Coolidge Hwy., qualifies for one (1) On-street parking credit.

A total of 9 parking spaces are required for both businesses. The parcel qualifies for one (1) on-street parking credit and has a shared use for four (4) parking spaces with Bagger Dave's. A variance request is for four (4) parking spaces.

Zoning Administrator, Kim Anderson provided the Zoning Board of Appeals background on 3020 Coolidge Hwy. With the new parking standards and the shared parking agreement, the variance request for waiving 4 parking spaces allows for the operation of two businesses at this location that has been unoccupied for a few years now.

Chair McAlpine went through the five standards that must be met for a variance to be granted per 138 17.04 of the Zoning Ordinance.

APPLICANT PRESENTATION

Applicants Bradley DeVries, Christine and Zack Sheridan presented their case to the Zoning Board of Appeals and answered various questions regarding the parcel.

Christine Sheridan and husband Zack are long time residence and propose to bring a family focus retail shop with an office above to the community.

Bradley presented the practical difficulty of the property that is approximate 100 years old with little land area for parking. The request is the least intense amount needed along with having a shared parking agreement for four spaces as allowed up to 50% of required parking. Both proposed businesses are of the least parking calculation requirements in the Zoning Ordinance.

Board discussion:

Wilner asked for clarification on any existing parking and the previous variances granted for parking. Anderson explained that there is no parking on site. The previous parking variance was for a salon. A variance is carried on with the property unless there is a use change, which in this instance the proposed businesses are for retail and an office.

Serr asked about an expiration date of the Agreement – no expiration date.

Serr – asked about the number of staff – applicant indicated three are planned for the retail area and employees will park in municipal lot or Bagger Dave's parking lot. Office will be one employee.

Creal asked about the new Zoning Ordinance and parking Agreements – Anderson explained that Parking Agreements were permitted in the previous ordinance. The new Zoning Ordinance Parking requirements were reduced in many business qualifications and also street parking can now be counted. The applicant did point out that under the new ordinance a parking agreement can only constitute for 50% of the parking requirements.

Chair McAlpine asked when the building was purchase. Applicant provided September of 2024.

Chair McAlpine opened the floor for the public hearing at 7:18 p.m.

PUBLIC COMMENT

No public correspondence:

Chair McAlpine closed the floor for the public hearing at 7:18 p.m.

Zoning Board of Appeals discussion:

Zoning Board of Appeals members discussed; the shared parking agreement, the purchase date, surrounding parking on streets, the lot split/combination that occurred in 2014, conditions that could be incorporated and the five standards to be met.

Motion to approve a parking variance of four parking spaces with the condition for employees to park in either Bagger Dave's lot or Municipal lot by Creal and supported by Serr.

Approval

In the matter of PBA-03-25, 3020 Coolidge Hwy., parcel # 04-25-17-107-031, motion to approve the requested variance with conditions from Berkley City Code, Zoning Ordinance, Chapter 138, Article 14, Sec. 14.04 of the City of Berkeley City Codes to grant a parking variance for four (4) spaces, as required, that does not conform to the applicable City Code regulations, based on the following findings:

1. *The need for the variance is due to unique circumstances or physical conditions of the property.*
The property has unique circumstances and physical conditions that rendered even prior to the split unavailable parking to meet the parking requirements.
2. *The need for the variance is not the result of actions of the property owner or previous property owners.*
3. *Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.*
4. *The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners.*
The Shared Parking Agreement from Bagger Dave's has helped aid in making the variance request to be the minimum variance necessary.
5. *The requested variance will not adversely impact the surrounding properties.*

AYES: Members: Krug, McDonald, Serr, Benedict and Creal

NAYS: Wilner and Chair McAlpine

ABSENT: Allen

MOTION CARRIED

2. Application Number PBA-04-25

Salwan Shina, on behalf of Jamil Realty, LLC and Gevalin Gegaj for 4162 Twelve Mile Rd., 4150 Twelve Mile Rd., 4138 Twelve Mile Rd., Parcels 04-25-07-355-039, 04-25-07-355-038 and 04-25-07-355-040, North side of Twelve Mile Rd., between Greenfield Rd. and Ellwood Ave., is requesting a variance for the location of a trash enclosure.

The applicant is requesting a dimensional variance for the location of the Trash Enclosure as an accessory structure in the side yard.

Berkley City Code, Zoning Ordinance, Chapter 138-53 Yard Location: Accessory building or structures shall not be erected in any yard, except a rear yard.

Site Plan Review Application was submitted prior to the adoption of the new Zoning Ordinance. Plans have been reviewed against the old Zoning Ordinance provisions (pre-April 16, 2025). The variance request will be under the zoning requirements per the City's prior zoning ordinance.

Planning Commission approved the Site Plan Review with a condition that a variance be obtained from the Zoning Board of Appeals for the location of the trash enclosure

The trash enclosure proposed location is South of the Ellwood Ave entrance in the side yard. Section 138-53 requires accessory structures to be erected in the rear yard only, the proposed trash enclosure is located in the side yard.

APPLICANT PRESENTATION

Applicant Eric Williams of Stonefield Engineering & Design provided an overview of the development and presented their case to the Zoning Board of Appeals and answered and clarified various questions regarding the project and parcels.

Eric explained details of the location and material of the trash enclosure and pointed out that there is a number of trash enclosures currently. The development is to create one cohesive property rather than three buildings with the redevelopment. Proposed enclosure will be a six-foot masonry enclosure to match the building located just South of the Ellwood entry to minimize the impact to the residence and remain functional for operation. Eric went over the property explaining the challenges of locating the enclosure in other areas of the property due to easements, utilities, etc.

Property has three frontages; Greenfield, Twelve Mile and Ellwood.

Without the enclosure, dumpsters would be sitting out in the parking lot.

Enclosure will also be screened with evergreen trees.

Board Discussion:

Benedict and members clarified the location of gas pumps and utilities.

Chair McAlpine opened the floor for the public hearing at 7:54 p.m.

PUBLIC COMMENT

No public correspondence:

Chair McAlpine closed the floor for the public hearing at 7:54 p.m.

Zoning Board of Appeals discussion:

Zoning Board of Appeals members discussed; location of enclosure, any alternate locations, least impact on residents and the five standards to be met.

Motion to approve dimensional variance for a side yard trash enclosure by Serr and supported by Krug.

Approval

In the matter of PBA-04-25, 4162 Twelve Mile Rd., 4150 Twelve Mile Rd., 4138 Twelve Mile Rd., Parcels 04-25-07-355-039, 04-25-07-355-038 and 04-25-07-355-040, motion to approve the requested variance from Berkley City Code, Zoning Ordinance, (pre-April 16, 2025) Chapter 138, Sec.138-53 of the City of Berkley City Codes to grant a dimensional variance to allow an accessory structure in a side yard, that does not conform to the applicable City Code regulations, based on the following findings:

1. *The need for the variance is due to unique circumstances or physical conditions of the property.*
Property has unique physical conditions due to the location of the utilities.
2. *The need for the variance is not the result of actions of the property owner or previous property owners.*
The placement of the utilities and sewer are existing.
3. *Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.*
Strict compliance would be unnecessarily burdensome to have to relocate utilities.
4. *The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners.*
Request is the minimum variance to do substantial justice to the applicant and surrounding area.
5. *The requested variance will not adversely impact the surrounding properties.*

AYES: Members: McDonald, Serr, Wilner, Benedict, Creal, Krug and Chair McAlpine
NAYS: None
ABSENT: Allen

MOTION CARRIED

3. Application Number PBA-05-25

Salwan Shina, on behalf of Jamil Realty, LLC and Gevalin Gegaj for 4162 Twelve Mile Rd., 4150 Twelve Mile Rd., 4138 Twelve Mile Rd., Parcels 04-25-07-355-039, 04-25-07-355-038 and 04-25-07-355-040, North side of Twelve Mile Rd., between Greenfield Rd. and Ellwood Ave., is requesting a variance for the Southeastern driveway entrance.

The applicant is seeking a dimensional variance of 3.2 feet for the distance for the Southeastern driveway off Twelve Mile Rd from the intersection.

*Berkley City Code, Zoning Ordinance, Chapter 138-429(b)(4) Automobile Service Site Development Standards, **All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines proposed in the city's land use plan for those streets on which it fronts.***

Site Plan Review Application was submitted prior to the adoption of the new Zoning Ordinance. Plans have been reviewed against the old Zoning Ordinance provisions (pre-April 16, 2025). The variance request will be under the zoning requirements per the City's prior zoning ordinance.

Planning Commission approved the Special Land Use with a condition that a variance be obtained for the Southeastern driveway location.

Planning Commission approved the Site Plan Review with a condition that a variance be obtained from the Zoning Board of Appeals for the Southeastern driveway location.

APPLICANT PRESENTATION

Applicant Eric Williams of Stonefield Engineering & Design presented their case to the Zoning Board of Appeals and answered and clarified various questions regarding the driveway intersection.

Eric explained that there are four points for the ingress and egress on the property and the directional of movement. RCOC recommendations including a divider island to assure no left onto greenfield. Southeast corner Twelve Mile and Ellwood is an existing location. RCOC has no objection or safety concern. The need for the variance of 3.2 feet for the distance of the driveway to the intersection arises for access to and from the property for customers. The Eastern half of the building will be maintained – no deconstruction of that existing building and the driveway is existing. The property is unique with three frontages. Removal could restrict motorist to and from on Twelve Mile and could drive additional traffic down Ellwood.

Board discussion: No questions from the board.

Chair McAlpine opened the floor for the public hearing at 8:07 p.m.

PUBLIC COMMENT

No public correspondence:

Chair McAlpine closed the floor for the public hearing at 8:07 p.m.

Zoning Board of Appeals discussion:

Zoning Board of Appeals members discussed the five standards to be met.

Benedict brought up RCOC approval and the board discussed the email provided meets clarification needed for RCOC approval.

Motion to approve a dimensional variance of 3.2 feet for the distance for the Southeastern driveway by Serr and supported by Wilner.

In the matter of PBA-05-25, 4162 Twelve Mile Rd., 4150 Twelve Mile Rd., 4138 Twelve Mile Rd., Parcels 04-25-07-355-039, 04-25-07-355-038 and 04-25-07-355-040, motion to approve the requested variance from Berkley City Code, Zoning Ordinance, (pre-April 16, 2025) Chapter 138, Sec. 138-429(b)(4) of the City of Berkeley City Codes to grant a dimensional variance to allow a 26.8' distance from an intersection, that does not conform to the applicable City Code regulations, based on the following findings:

- 1. The need for the variance is due to unique circumstances or physical conditions of the property.*
- 2. The need for the variance is not the result of actions of the property owner or previous property owners.*
- 3. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.*
- 4. The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners.*
- 5. The requested variance will not adversely impact the surrounding properties.*

AYES: Members: Serr, Wilner, Benedict, Creal, Krug, McDonald and Chair McAlpine
NAYS: None
ABSENT: Allen

MOTION CARRIED

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OTHER BUSINESS

1. Rules of Procedure

Rules of Procedure was presented for yearly review.

Motion to approve the Rules of Procedure as presented by Wilner and supported by Creal.

AYES: Wilner, Benedict, Creal, Krug, McDonald, Serr and Chair McAlpine
NAYS: None
ABSENT: Allen

MOTION CARRIED

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2. Election of Officers:

Seat for Chair

Chair McAlpine stepped down from seat

McDonald nominated McAlpine for Chair, supported by Serr

McAlpine accepted nomination of position as Chair

AYES: Benedict, Creal, Krug, McDonald, Serr and Wilner
NAYS: None
ABSENT: Allen

MOTION CARRIED

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Seat for Vice-Chair

Vice-Chair Allen stepped down from seat via email with notification of absence for July 14, 2025 meeting and expressed interest in continuing as Vice-Chair or moving up to Chair.

Krug nominated Allen for Vice-Chair

AYES: Benedict, Krug, and McDonald
NAYS: Creal, Serr, Wilner and Chair McAlpine

ASBENT: Allen

MOTION NOT CARRIED

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Seat for Vice-Chair

Wilner nominated Creal for Vice-Chair

Creal accepted nomination of position for Vice-Chair

AYES: Benedict, Krug, McDonald, Serr, Wilner and Chair McAlpine

NAYS: None

ABSENT: Allen

MOTION CARRIED

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STAFF/BOARD MEMBER REPORT

Community Development Monthly Report for December 2024, January, February, March, April and May 2025

Zoning Ordinance Rewrite update: New Zoning Ordinance in effect as of April 16, 2025.

Alternates – Both Alternates; Branch and Benedict have received their certifications – Congratulation to them.

Next meeting – August 11, 2025 – one case.

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LIAISON REPORT

Dennis Hennen – Informed the Board of the fantastic tour of West 12 Mile with council members, staff, DDA members/several 12 Mile business owners and economic development and planning professionals from SEMCOG and MML that has cultivated some great ideas on what we can do to realize the full potential the corridor has to offer.

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PUBLIC COMMENT

Chair McAlpine opened the floor for public comment at 8:22 p.m.

NONE

* * * * *

Chair McAlpine closed the floor for public comment at 8:22 p.m.

With no further business, the meeting was adjourned at 8:23 p.m.

Motion by Wilner and support by Krug

Voice vote to adjourn

AYES: 7

NAYS: 0

ABSENT: 1

MOTION CARRIED

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CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

ZONING BOARD OF APPEALS APPLICATION

The Zoning Board of Appeals (ZBA) meets the second Monday of the month. The meetings are held in the Council Chambers at City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072.

The ZBA shall hear requests for use and dimensional variances, appeals of administrative decisions, interpretation of zoning map and text, and interpretations of commercial message for proposed murals.

****Please be advised:** The ZBA may grant a variance where undue hardship or practical difficulty for the property exist. A want or desire (bigger structure, more profit, etc.) is not sufficient grounds for a variance. The ZBA does not have the power to legislate or create new regulations. The Board's purpose is to provide some relief from the Zoning Ordinance depending on the unique circumstances of the property.

APPLICANT INFORMATION

Name: John DePore / DePore Building LLC Phone: 248-590-2940
Address: 4076 W. Maple Rd., Bloomfield 48301
Email: jenny@deporebuilding.com
Relationship to Property (current tenant, representative, future tenant, current owner, future owner):
current owner

PROPERTY OWNER INFORMATION (if different from Applicant)

Name: _____ Phone: _____
Address: _____
Email: _____

PROPERTY DESCRIPTION

Address: 3617 Buckingham Lane
Parcel #: 25-07-385-024 Zoning Classification: residential
Current Use of Property: residential

NATURE OF REQUEST

Check which applies:

- ☒ Variance from Zoning Ordinance (Section I)
- ☐ Interpretation of Zoning Ordinance (Section II)
- ☐ Administrative Review / Appeal of Decision (Section III)
- ☐ Determination of Commercial Message of Mural / Work of Art (Section IV)

Description of Request:

Setback variance along driveway due
to neighbor home being out of variance

Has the City denied a permit related to the proposed work?

☐ Yes

☒ No

Please fill out ONLY the section below that applies to your request.

I. VARIANCE FROM ZONING ORDINANCE

Please provide a written response to each question below that relates to the variance that is being requested. **DO NOT COMPLETE BOTH SECTIONS.**

A. Use Variance

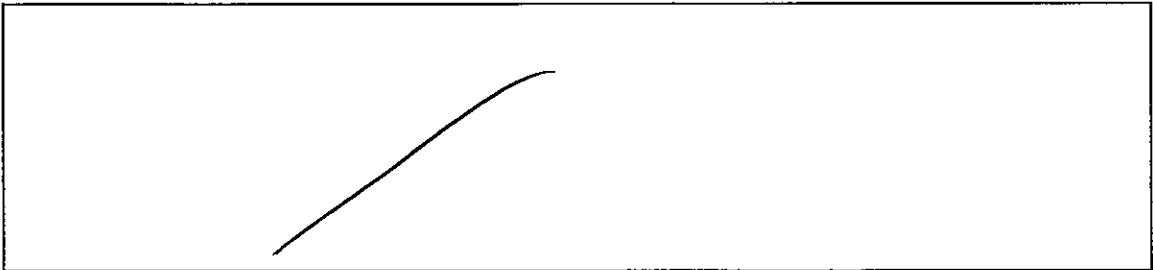
The Zoning Board of Appeals may grant a use variance (i.e. use of the land not permitted in a particular district) upon finding that an undue hardship exists.

Current Use of Property: _____

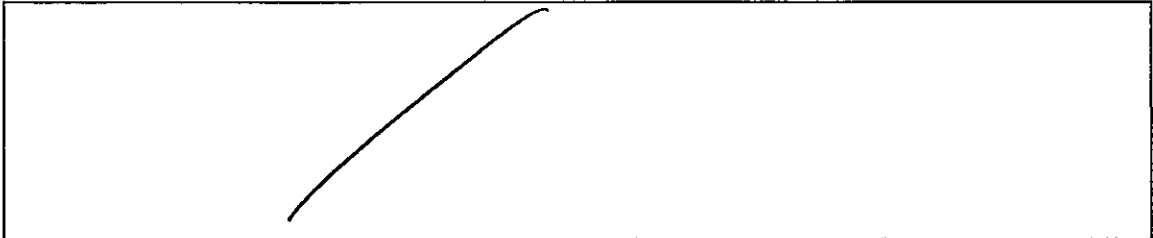
Requested Use of Property: _____

1. Explain how the building or land cannot be reasonably used for any of the uses permitted by right or by special land use permit in the current zoning district.

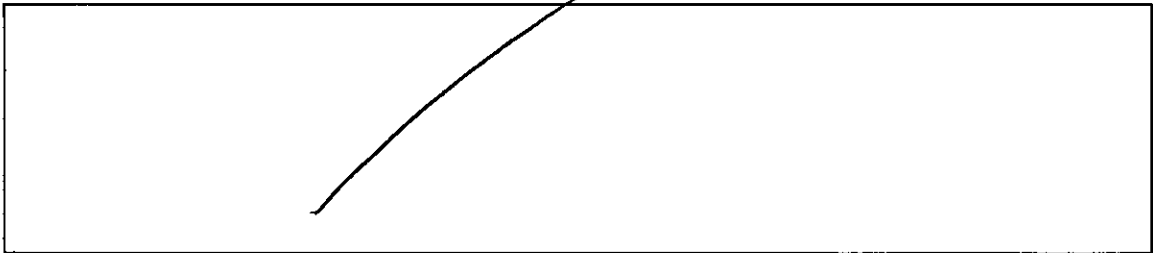
2. Explain how the need for the variance is due to unique circumstances or physical conditions of the property.



3. Explain how the proposed use will not alter the essential character of the neighborhood.



4. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.



B. Dimensional Variance (Non-Use Variance)

The Zoning Board of Appeals may grant a **dimensional variance** (i.e. height, setback, lot coverage, etc) upon finding that undue hardship or practical difficulty exists.

1. Explain how the need for the variance is due to unique circumstances of physical conditions of the property.

EXISTING HOME TO THE NORTH IS OUT OF COMPLIANCE.
THIS IS CAUSING A "HARDSHIP" FOR MY BUILDING
ENVELOPE. DECREASING THE WIDTH APPROX. 2.2'

2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

THE PROPERTY HAS NOT BEEN ADJUSTED RESULT IS
DUE TO EXISTING CONDITION

3. Explain how strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

IT WOULD NARROW MY HOME CAUSING A
NON MARKETABLE PLAN

4. Explain how the requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.

THE CURRENT LOT IS NOT IN VIOLATION OF
ORDINANCE. HOME TO NORTH IS IN VIOLATION.

5. Explain how the requested variance will not adversely impact the surrounding properties.

MAINTAINS THE CURRENT FOOTPRINT AS IS
CURRENTLY EXISTING

II. INTERPRETATION OF ZONING ORDINANCE

Provide Section numbers of Zoning Ordinance to be interpreted: _____

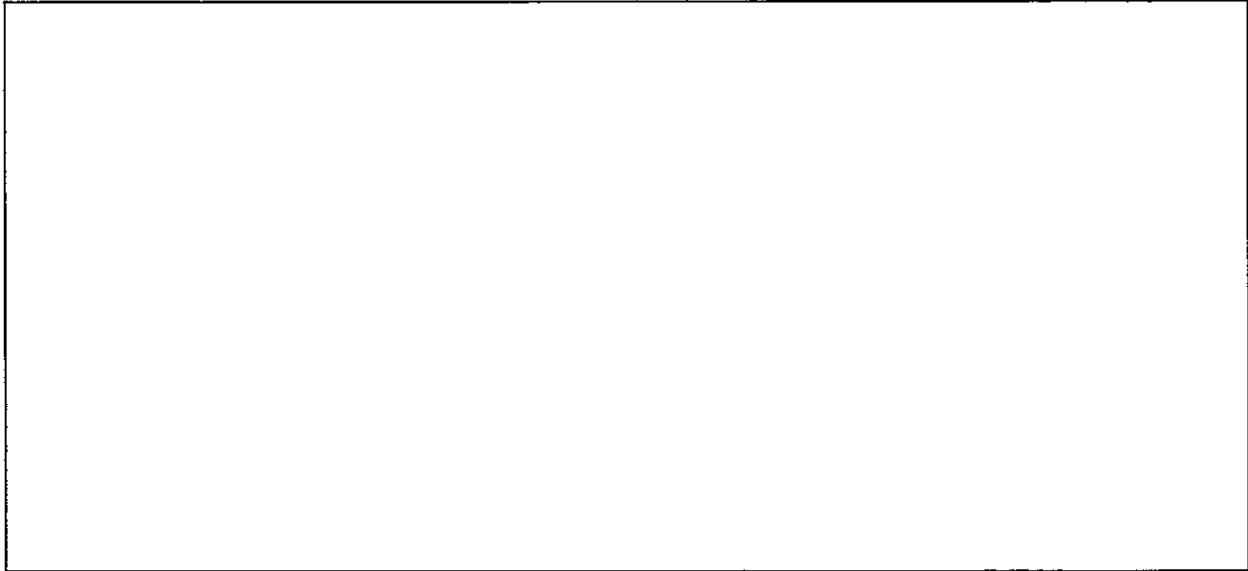
Please describe the request and what needs to be clarified or interpreted by the ZBA.

III. ADMINISTRATIVE REVIEW / APPEAL OF DECISION

Describe the circumstances of each case and provide the minutes of the public meeting noting the denial to be appealed.

X **IV. DETERMINATION OF COMMERCIAL MESSAGE (MURAL/WORK OF ART)**

Describe the proposed mural/work of art. Applicant should include renderings of the proposed design. The ZBA shall determine if the proposed work contains a commercial message.



**** Applicant and artist must provide signed *Mural Installation and Maintenance Agreement* prior to the public meeting.**

SUBMIT THE FOLLOWING:

A PDF file of the application and two 11" x 17" copies of the supporting documents must be submitted at the time of application, including; a copy of survey, plot plan or site plan with this application that shows the subject property complete with boundary lines and dimensions, existing building locations, all proposed buildings, easements, utilities, and any site improvements/changes. Setbacks, height of structures, lot coverage, etc. should also be included, if applicable.

PLEASE NOTE: The applicant, or a designated representative, **MUST BE PRESENT** at the meeting in which the case is being reviewed or the request may be postponed due to lack of representation.

We encourage applicants to make a presentation of the proposed request to the Zoning Board of Appeals, if applicable. To assist this effort, we have available for your use a projector, laptop computer and screen. ZBA meetings are recorded and televised.

PROPERTY OWNER'S APPROVAL (Initial each line)

[Signature] I hereby authorize and give permission for the City of Berkley to install one or more temporary signs on my property, in order to notify the public of the required public hearing related to the above request(s) before the ZBA.

[Signature] I hereby authorize the employees and representatives of the City of Berkley to enter upon and conduct an inspection and investigation of the above referenced property in relation to the above request.

APPLICANT'S ENDORSEMENT: (Initial each line)

[Signature] All information contained herein is true and accurate to the best of my knowledge.

[Signature] I acknowledge that the ZBA will not review my request unless all information in the application has been submitted to the satisfaction of the Zoning Administrator.

[Signature] I acknowledge that the City and its employees shall not be held liable for any claims that may arise as a result of acceptance, processing or review of this application.

If an application is withdrawn more than three (3) weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than three (3) weeks prior to the meeting, no refund will be given.

John DeLore
Applicant Name (print)

[Signature]
Applicant Signature

6/12/25
Date

Applicant Name (print)

Applicant Signature

Date

John DeLore
Property Owner Name (print)

[Signature]
Property Owner Signature

6/12/25
Date

Office Use Only

Received 7/11/25 Receipt # _____ Meeting Date 8-11-25 Case # PBA-06-25

Fee: Residential \$400
Commercial \$600
Mural \$300



CITY OF BERKLEY

COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Kim Anderson; Zoning Administrator

Subject: **PBA-06-25 3617 Buckingham Ave., Dimensional variance request of 2.2 feet on the North side of the property on required distance between dwelling units.**

Date: August 4, 2025

APPLICANT: DePorre Building LLC

LOCATION: 3617 Buckingham Ave.

PARCEL ID: 04-25-07-385-024

REQUEST: The applicant is requesting a dimensional variance on the North side of the property of 2.2 feet on the required distance between dwelling units.

REQUIRED: *Berkley City Code*, Chapter 138 *Zoning*, Section 5.02.D, Minimum distance between dwelling units: 15 feet.

ZONING AND LAND USE

| Property | Zoning District | Land Use |
|--------------|-----------------|--------------------------------------|
| Subject Site | R-1CD | Residential – Single family dwelling |
| West | R-1CD | Residential – Single family dwelling |
| East | R-1CD | Residential – Single family dwelling |
| North | R-1CD | Residential – Single family dwelling |
| South | R-1CD | Residential – Single family dwelling |

BACKGROUND

3617 Buckingham Ave., parcel 25-07-385-024 was built in 1961. The North side yard setback of the existing structure is 12.2 feet.

Dwelling to the North, 3621 Buckingham, parcel 25-07-385-023 was built in 1927. The South side yard setback of the existing structure is 2.8 feet not meeting the minimum side yard setback requirement of 5 feet.

Currently there is 15 feet distance between the dwellings of 3617 Buckingham and 3621 Buckingham. 3617 Buckingham has a total of two side yards of 17 feet, where 15 is required, with the Southeastern side at 4.8 feet when 5 feet is the minimum.



Source: Oakland County Property Gateway



Source: Google map

SCOPE OF PROJECT

The applicant is requesting a dimensional variance of 2.2 feet on the North side of the property where the setback requirement for the minimum distance between dwelling units is 15 feet is required, to allow for a demolition of an existing single-family dwelling and construct a new single-family dwelling not meeting the setback requirement for the minimum distance between dwelling units of 15 feet per Chapter 138, Article 5, Section 5.02.D. Proposed dwelling does meet the side yard setback requirements for the parcel of two side yard total of 15 feet with minimum side yard setback of 5 feet. All other setbacks are met on the parcel for the proposed development.

SUMMARY OF REQUEST

The applicant, DePorre Building LLC representing 3617 Buckingham Ave, Parcel # 04-25-07-385-024 is requesting a non-use dimensional variance of 2.2 feet on the North side of the property per Berkley City Code, Chapter 138, Article 5, Section 5.02.D to allow for demolition and construction of a new single-family dwelling where the distance between the dwellings to the North is 12.8 feet where 15 feet is required.

STANDARDS FOR REVIEW

Per Section 138-17.04 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a non-use variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-17.04, unless it shall make findings based upon the evidence presented to it in each specific case that:

A. *The need for the variance is due to unique circumstances or physical conditions of the property.*

Dwelling to the North is non-conforming with less than the minimum 5' setback requirement creating the property to the south to increase the side yard setback total.

B. *The need for the variance is not the result of actions of the property owner or previous property owners.*

The need for a variance is the result of the property owners to construct a new structure but is due to the adjacent properties non-conformity.

C. *Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.*

Strict compliance would not unreasonable prevent the property owner from using the property for a permitted purpose but strict compliance to render conformity with the distance between dwellings regulation could be unnecessarily burdensome of then having to reduce the dwelling size.

D. *The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.*

The variance request is the minimum variance necessary with meeting the setback requirements for the parcel.

E. *The requested variance will not adversely impact the surrounding properties.*

SUMMARY

For a variance to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-17.04 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to determine if there are unique characteristics of the property and the requested variance should be granted. Motions for approval and denial are included below for the convenience of the board.

Sample Motions:

Approval

In the matter of PBA-06-25, 3617 Buckingham Ave., parcel # 04-25-07-385-024, motion to approve the requested variance from Berkley City Code, Zoning Ordinance, Chapter 138, Article 5, Sec.5.02.D to grant a variance of 2.2 feet at the North side yard, where 15 feet between dwellings is required, that does not conform to applicable Zoning Ordinance Berkey City Codes based on the following findings:

- 1. The need for the variance is due to unique circumstances or physical conditions of the property.*
- 2. The need for the variance is not the result of actions of the property owner or previous property owners.*
- 3. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.*
- 4. The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners.*
- 5. The requested variance will not adversely impact the surrounding properties.*

Denial (only choose item(s) pertaining to denial)

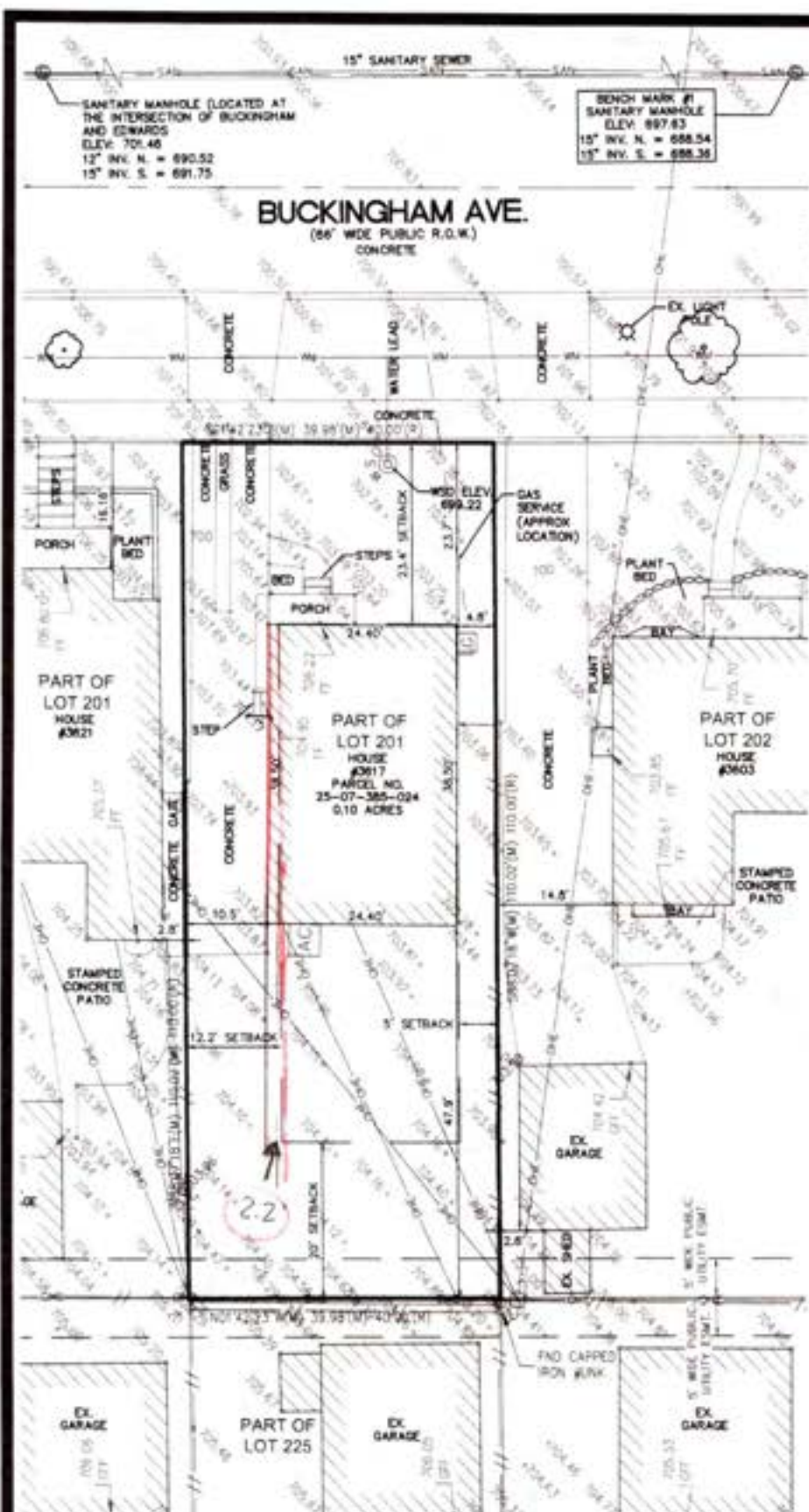
In the matter of PBA-06-25, 3617 Buckingham Ave., parcel # 04-25-07-385-024, motion to deny the requested variance from Berkley City Code, Zoning Ordinance, Chapter 138, Article 5, Sec.5.02.D to grant a variance of 2.2 feet at the North side yard, where 15 feet between dwellings is required, that does not conform to applicable Zoning Ordinance Berkey City Codes based on the following findings:

- 1. The need for the variance is not due to unique circumstances or physical conditions of the property.*
- 2. The need for the variance is the result of actions of the property owner or previous property owners.*
- 3. Strict compliance with the ordinance will not unreasonably prevent the property owner from using the property for a permitted purpose or will not render conformity with those regulations unnecessarily burdensome.*
- 4. The requested variance is not the minimum variance necessary to do substantial justice to the application as well as other property owners.*
- 5. The requested variance will adversely impact the surrounding properties.*

If you have any questions regarding this case, please do not hesitate to contact me.

Thank you.

Cc: Crystal VanVleck, City Manager
Victoria Mitchell, City Clerk
Daniel Christ, City Attorney
Kristen Kapelanski, Community Development Director



(N.A.D. 83)
MICHIGAN SOUTH

LEGEND

| | |
|-------|----------------------|
| (R) | RECORD |
| (M) | MEASURED |
| --- | EX. FENCE LINE |
| --- | EX. GAS MAIN |
| --- | EX. OVERHEAD LINES |
| --- | EX. SANITARY SEWER |
| --- | EX. WATER MAIN |
| --- | EX. ROW |
| --- | EX. CENTERLINE |
| ○ FIP | FD. IRON PIPE |
| ○ FIB | FD. IRON BAR |
| □ | EX. CATCH BASIN |
| ⊙ | EX. SANITARY MANHOLE |
| ⊙ | EX. HYDRANT |
| ⊙ | EX. UTILITY POLE |
| ⊙ | EX. GAS METER |
| ⊙ | EX. ELECTRIC METER |
| ⊙ | EX. LIGHT POLE |
| ⊙ | EX. AIR CONDITIONER |
| ⊙ | EX. WATER SHUT OFF |
| ⊙ | EX. DECIDUOUS TREE |

NOTE:
THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AS DISCLOSED BY AVAILABLE UTILITY COMPANY RECORDS AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE COMPANY. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES. THE CONTRACTOR SHALL NOTIFY THE DESIGN ENGINEER IMMEDIATELY IF A CONFLICT IS APPARENT.

ZONING:
R-1CD
SINGLE FAMILY RESIDENTIAL
(COMPREHENSIVE DEVELOPMENT)

BENCHMARK BM#1:
SANITARY MANHOLE IN FRONT OF HOUSE #3578 ELEVATION: 697.63 CITY DATUM.

FRONT SETBACK CALC:

| | |
|----------------|--------------|
| #3665 | 22.3' |
| #3629 | 26.3' |
| #3621 | 16.2' |
| #3617 | SITE |
| #3617 | 25.1' |
| #3603 | 25.4' |
| #3589 | 24.9' |
| AVERAGE | 23.4' |

SCALE 1" = 20' 0"

LEGAL DESCRIPTION:
PARCEL NO. 25-07-385-024 : **SETBACKS**
SOUTH 40 FEET OF LOT 201, "COTTAGE HOMES SUBDIVISION", A PART OF THE SOUTH 1/2 OF SECTION 7, TOWN 1 NORTH, RANGE 11 EAST, CITY OF BERKLEY, (FORMERLY ROYAL OAK TOWNSHIP), OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 21 OF PLATS, PAGE 27, OAKLAND COUNTY RECORDS.

SURVEY NOTES:
TITLE WORK WAS NOT PROVIDED. ALL EXISTING EASEMENTS MAY NOT BE SHOWN.

FRONT: 23.4'
REAR: 20.0'
SIDES: 15' TOTAL
5' MIN.
15' MIN. BETWEEN BLDG'S.



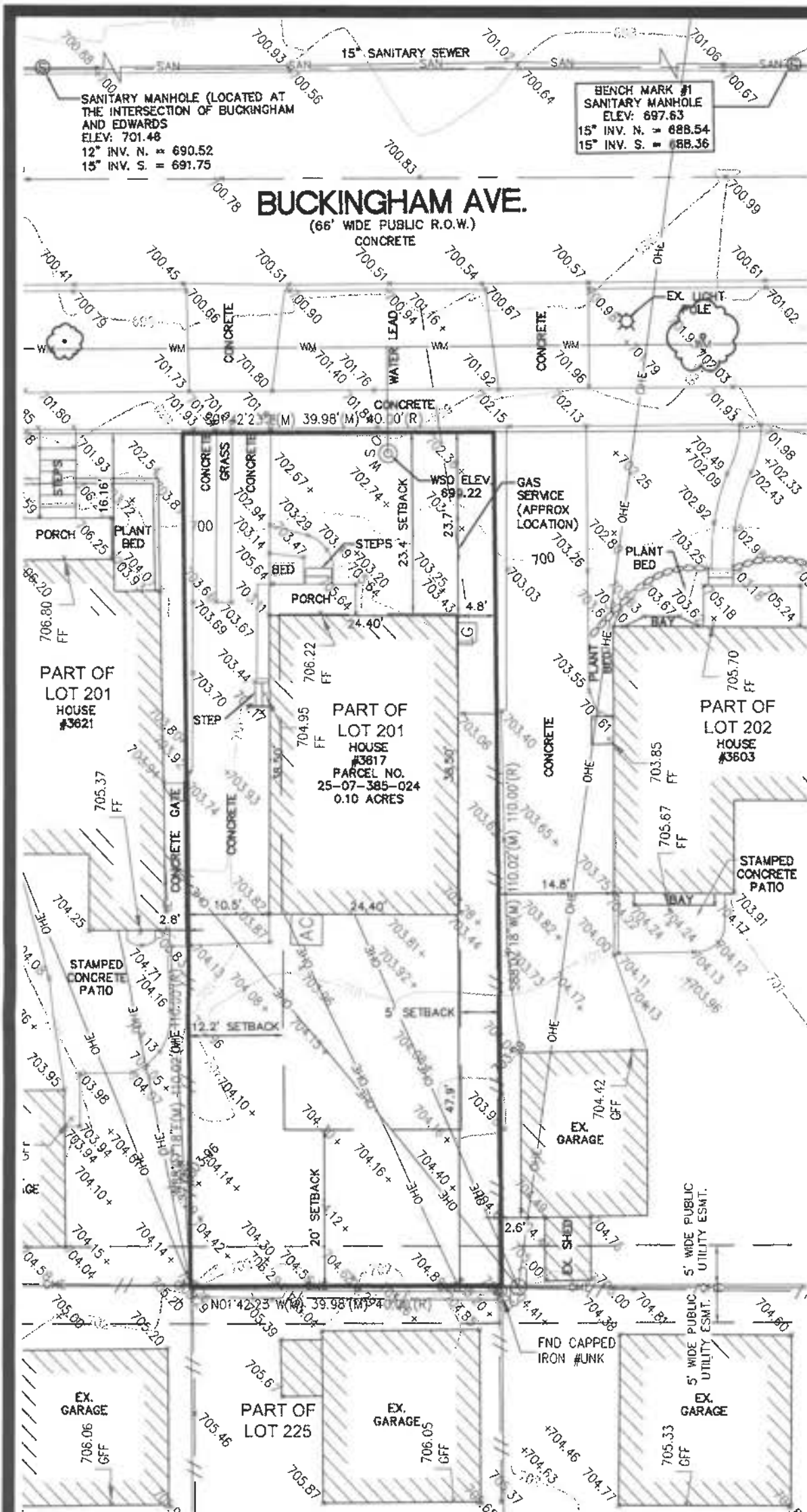
49287 WEST ROAD, WIXOM, MI 48393
PH: (248) 773-7656, FAX: (866) 690-4307



HOUSE #3617
TOPO/PLOT PLAN
3617 BUCKINGHAM AVE.
SIDWELL #25-07-385-024
COTTAGE HOMES SUB.

SECTION 7, TOWN 1 NORTH
RANGE 11 EAST
CITY OF BERKLEY
OAKLAND COUNTY, MICHIGAN

Date: 6-09-35
Project No.: 250583



(N.A.D. 83
MICHIGAN SOUTH)

LEGEND

| | |
|-------|----------------------|
| (R) | RECORD |
| (M) | MEASURED |
| --- | EX. FENCE LINE |
| --- | EX. GAS MAIN |
| --- | EX. OVERHEAD LINES |
| --- | EX. SANITARY SEWER |
| --- | EX. WATER MAIN |
| --- | EX. ROW |
| --- | EX. CENTERLINE |
| ○ FIP | FD. IRON PIPE |
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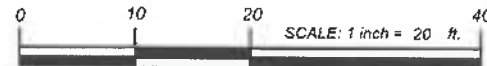
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R-1CD
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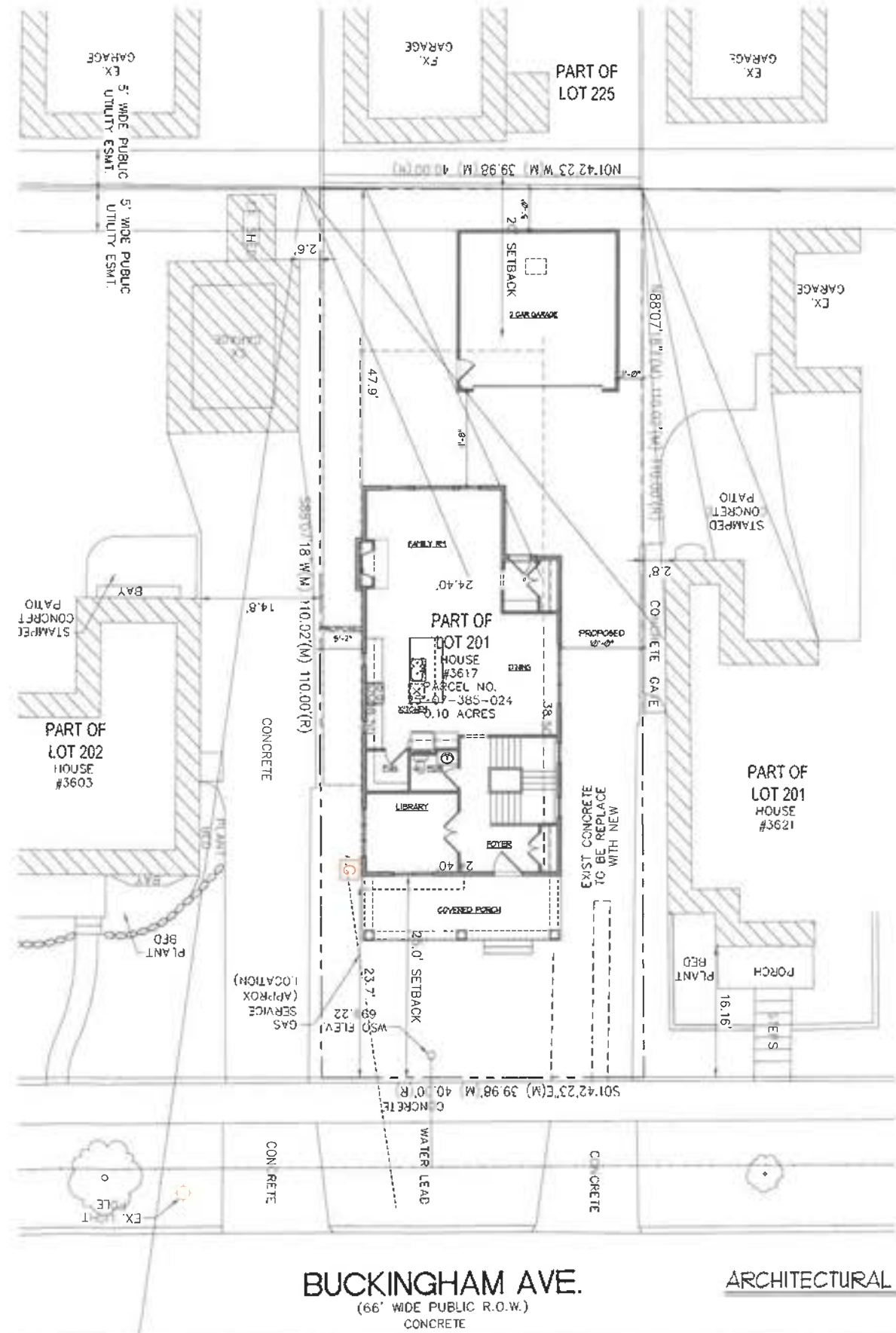
SECTION 7, TOWN 1 NORTH
RANGE 11 EAST
CITY OF BERKLEY
OAKLAND COUNTY, MICHIGAN

Date: 6-09-35
Project No.: 250583

Existing

LOT COVERAGE CALCULATION:
- LOT AREA = 4,400 #
- LOT COVERAGE = 4,400 # X .35 = 1,540 # ALLOWED

PROPOSED
+ NEW HOUSE SQ. FT. = 1,139 #
+ NEW DETACHED GARAGE = 400 #
+ TOTAL PROPOSED COVERAGE = 1,539 #



Proposed
FOR REVIEW ONLY



620 EAST LONG LAKE RD.
SUITE 200
TROY MI 48065
P. 248.524.8445
F. 248.524.6447

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ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT
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OR BY ANY MEANS, ELECTRONIC OR MECHANICAL,
INCLUDING PHOTOCOPYING, RECORDING, OR BY
ANY INFORMATION STORAGE AND RETRIEVAL
SYSTEM, WITHOUT PERMISSION IN WRITING FROM
MARTINI SAMARTINO DESIGN GROUP, LLC.

DEPORRE BUILDING

PROPOSED HOUSE AND
GARAGE
3617 BUCKINGHAM AVE.
BIRMINGHAM, MI

Review Set: 07.09.25
Permit Set:
Final Set:
Revisions:
Drawn By: LM
Checked By: O.O.

Job No:
25-XXX
Sheet No:
1 OF 1

BUCKINGHAM AVE.
(66' WIDE PUBLIC R.O.W.)
CONCRETE

ARCHITECTURAL SITE PLAN
NOT TO SCALE

15' INV. N. = 688.54
15' INV. S. = 688.36

15' INV. S. = 691.75
12' INV. N. = 690.52
ELEV. 701.46

THE CITY OF BERKLEY
Community Development Department
3338 Coolidge, Berkley, Michigan 48072
(248) 658-3320

**Notice
Meeting of the Berkley
Zoning Board of Appeals**

Notice is hereby given, that there will be a meeting of the Zoning Board of Appeals to be held at the City of Berkley in the Council Chambers, 3338 Coolidge, Berkley, Michigan on Monday, August 11, 2025 at 7:00 pm or as near thereto as the matter may be reached.

Application Number PBA-06-25

DePorre Building, LLC, representing 3617 Buckingham Ave., Parcel 04-25-07-385-024, West side of Buckingham Ave., between Twelve Mile Rd. and Edwards Ave., is requesting a dimensional variance of 2.2' on the North side of the property.

Berkley City Code

Berkley City Code, Chapter 138 *Zoning*, Section 5.02.D, Minimum distance between dwelling units: 15 feet.

Complete application information is available for review at www.berkleymi.gov/community-development/development-projects.

Comments on the granting of the above variance may be made in person on the night of the meeting or in writing. All written comments must be submitted to the Berkley Community Development Department or email to planning@berkleymich.net before 4:00 p.m. on the date of the Public Hearing.

KIM ANDERSON
ZONING ADMINISTRATOR

Publish Once:

Royal Oak Tribune
Friday, July 25, 2025

THE CITY OF BERKLEY
Community Development Department
3338 Coolidge, Berkley, Michigan 48072
(248) 658-3320

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KIM ANDERSON
ZONING ADMINISTRATOR



Edwards Ave

Oakshire Ave

Royal Ave

Buckingham Ave

Twyler Ave

25-07-383-037

075-074984-049

25.07.385.043

COTTAGE HOMES SUB

25-07-385-042

25-07-384-047

18-127203

25-18-129-002

25-18-201-036

25-18-204-000

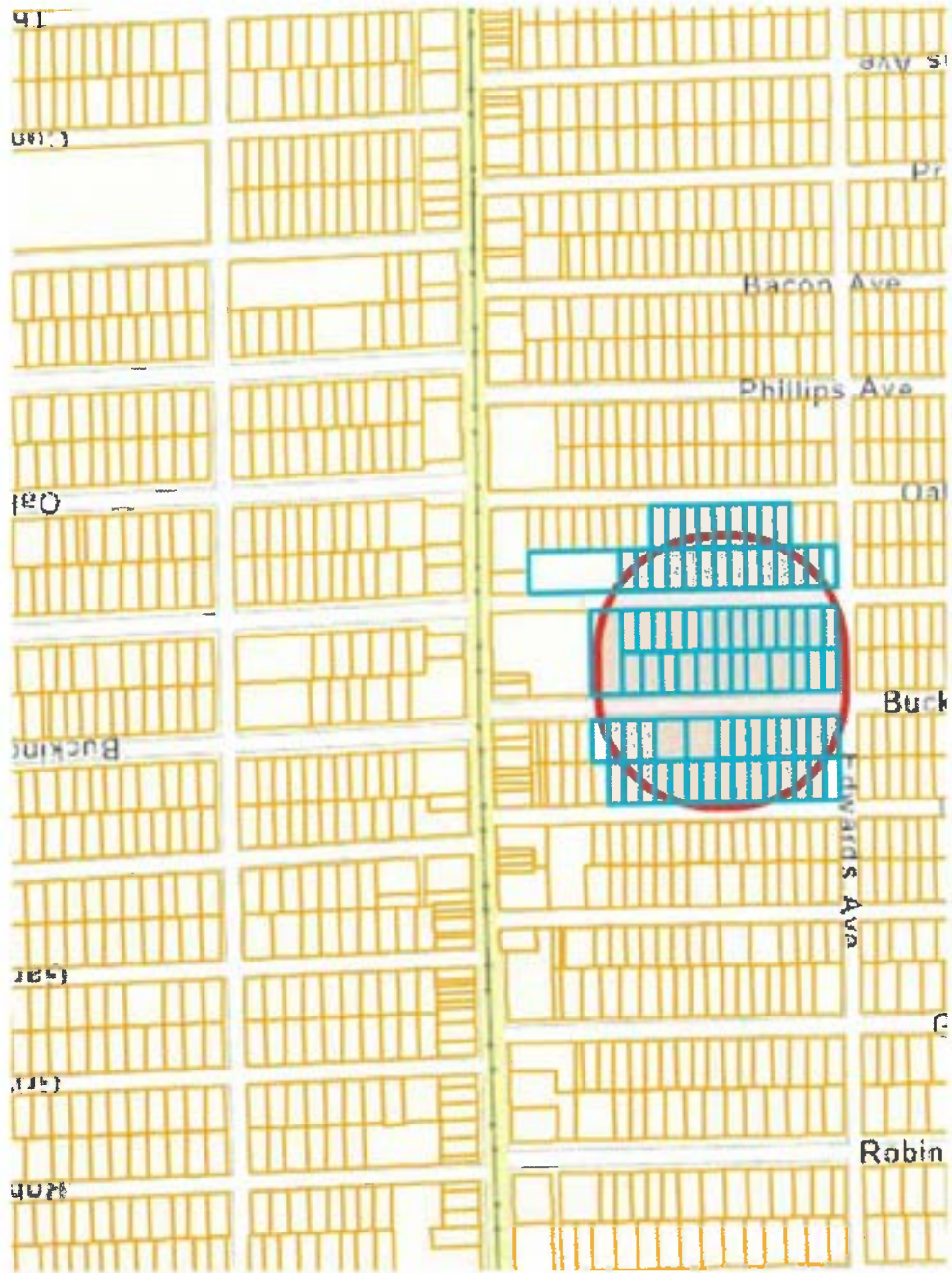
-83.194 42.505 Degrees

25-18-128-013

25-10128-003

25 18 129 00

25:18-128



DOLORES RICE
3607 TYLER AVE
BERKLEY MI 48072 3444

DEPORRE BUILDING LLC
4076 B W MAPLE RD STE B
BLOOMFIELD HILLS MI 48301 3213

MIRIAN RODRIQUEZ ROMERO
OVIDU BUZDUGAN-ROMCEA
3572 OAKSHIRE AVE
BERKLEY MI 48072 3411

WAYNE ATFIELD
3618 ROYAL AVE
BERKLEY MI 48072 3433

Occupant
3599 ROYAL AVE
BERKLEY MI 48072 1454

DANNY PRIEUR
3579 TYLER AVE
BERKLEY MI 48072 3443

JOSHUA COHEN
3571 BUCKINGHAM AVE
BERKLEY MI 48072 1462

AUGUSTUS HOMES DE LLC
PO BOX 8
OXFORD MI 48371 0008

HARTFIELD REALTY & LEASING
3490 12 MILE RD
BERKLEY MI 48072 1346

MEGAN PICKENS
JULIE SWEENEY
3566 BUCKINGHAM AVE
BERKLEY MI 48072 1460

JAMES R DUDEK
PATRICIA L DUDEK
3578 BUCKINGHAM AVE
BERKLEY MI 48072 1460

ELIZABETH MOORE
LAUREN VIDAK
3563 ROYAL AVE
BERKLEY MI 48072 1454

Occupant
3566 ROYAL AVE
BERKLEY MI 48072 1455

ELIZABETH A TOFFEY TRUST
3603 BUCKINGHAM AVE
BERKLEY MI 48072 1464

JOHN T CUDDOHY
KATHLEEN M CUDDOHY
3566 OAKSHIRE AVE
BERKLEY MI 48072 3411

ALEXANDER PROPERTIES LLC
PO BOX 38
UNION LAKE MI 48387 0038

ROBERT T SCOTT
3589 ROYAL AVE
BERKLEY MI 48072 1454

MATTHEW C CAMPBELL
CHRISTINA M BUCCHARE
3542 BUCKINGHAM AVE
BERKLEY MI 48072 1460

HEATHER BELL
3571 ROYAL AVE
BERKLEY MI 48072 1454

ERIK R MORSE
STEPHANI MORERA-MORSE
3595 ROYAL AVE
BERKLEY MI 48072 1454

ROBERT JOHN VALENTIC
3695 TYLER AVE
BERKLEY MI 48072 3444

CATHERINE KING
3555 TYLER AVE
BERKLEY MI 48072 3443

ALLAN H WARNER
3551 ROYAL AVE
BERKLEY MI 48072 1454

Occupant
3565 TYLER AVE
BERKLEY MI 48072 3443

JAN K HANSEN
3551 TYLER AVE
BERKLEY MI 48072 3443

KEVIN KISTULENETZ
3541 BUCKINGHAM AVE
BERKLEY MI 48072 1462

JAMES KOSTESICH
200 W COLUMBIA ST
FAIRBURY IL 61739 1155

Occupant
3617 BUCKINGHAM AVE
BERKLEY MI 48072 1464

BRITTANY A ROSS
3536 ROYAL AVE
BERKLEY MI 48072 1455

JOHN JOSHUA DUTTON
3589 TYLER AVE
BERKLEY MI 48072 3443

Occupant
3542 ROYAL AVE
BERKLEY MI 48072 1455

AUGUSTUS PROPERTY INVESTORS ALPHA
PO BOX 8
OXFORD MI 48371 0008

ERIN WOOLFORD
EVAN WOOLFORD
3580 OAKSHIRE AVE
BERKLEY MI 48072

WALLY GOODMAN
35138 OLD TIMBER RD
FARMINGTON MI 48331 1439

CARLEN B MILLER
3627 TYLER AVE
BERKLEY MI 48072 3444

KATHRYN FRANCES JACKSON
BRADLEY WILLIAM JACKSON
3592 OAKSHIRE AVE
BERKLEY MI 48072

AUDREY A NARDONE
3541 ROYAL AVE
BERKLEY MI 48072 1454

HARTFIELD REALTY & LEASING
3490 12 MILE RD
BERKLEY MI 48072 1346

SAIMIR MUCA
ANTONELA MUCA
3689 ROYAL AVE
BERKLEY MI 48072 3434

SALVATORE VENTIMIGLIA JR
3515 TYLER AVE
BERKLEY MI 48072 3443

KELLY R QUINLAN
3665 ROYAL AVE
BERKLEY MI 48072 3434

KEVIN D PAREE
TAYLOR PAREE
3679 ROYAL AVE
BERKLEY MI 48072

JOANNE HANKINS
3666 OAKSHIRE AVE
BERKLEY MI 48072 3412

Occupant
3648 BUCKINGHAM AVE
BERKLEY MI 48072 1461

JANICE DECORMIER
NINA DECORMIER
3638 BUCKINGHAM AVE
BERKLEY MI 48072 1461

ROCKY HUDDLESTON
3651 ROYAL AVE
BERKLEY MI 48072 3434

ANNE E YAMIN
5532 LAKEVIEW DR
BLOOMFIELD HILLS MI 48302 2728

NATALIE GIBSON
3629 TYLER AVE
BERKLEY MI 48072 3444

THOMAS LENHARD
3622 BUCKINGHAM AVE
BERKLEY MI 48072 1461

Occupant
3622 OAKSHIRE AVE
BERKLEY MI 48072 3412

SARA R WORSHAM
3589 BUCKINGHAM AVE
BERKLEY MI 48072 1462

ROBERT HAMILTON
VALERIE WEST
3642 OAKSHIRE AVE
BERKLEY MI 48072 3412

JAMES C HAYES
JESSICA G HAYES
2140 LAKESHIRE DR
WEST BLOOMFIELD MI 48323 3836

ZACHARY J STEWART
3618 BUCKINGHAM AVE
BERKLEY MI 48072 1461

ATHENA MARQUEZ
EVELYN MARQUEZ
3641 ROYAL AVE
BERKLEY MI 48072 3434

CAMERON CHAUNCEY
PAIGE MCELROY
3653 TYLER AVE
BERKLEY MI 48072 3444

PAUL J GUNNELS
BETHANY GUNNELS
3600 OAKSHIRE AVE
BERKLEY MI 48072 3412

Occupant
3617 ROYAL AVE
BERKLEY MI 48072 3434

ERICA CONKLIN
ANDRE ROGERS
3675 TYLER AVE
BERKLEY MI 48072 3444

TRICIA KRUEGER
3600 ROYAL AVE
BERKLEY MI 48072 3433

Occupant
 3690 BUCKINGHAM AVE
 BERKLEY MI 48072 1461

NICOLE SMITH
 3666 ROYAL AVE
 BERKLEY MI 48072 3433

JOSEPH ZILLI
 3536 BUCKINGHAM AVE
 BERKLEY MI 48072 1460

WEI ZHU
 2529 BRILLIANCE
 ROCHESTER HILLS MI 48309

KIMBERLY WEST
 3665 BUCKINGHAM AVE
 BERKLEY MI 48072 1464

DONNA NOREN
 3528 BUCKINGHAM AVE
 BERKLEY MI 48072 1460

ERIKA GUTSCHER
 3684 ROYAL AVE
 BERKLEY MI 48072 3433

JONATHAN R MCNURLIN
 LAUREN MCNURLIN
 3640 ROYAL AVE
 BERKLEY MI 48072 3433

BRYAN STOWINSKY
 CATHERINE STOWINSKY
 3690 ROYAL AVE
 BERKLEY MI 48072 3433

THOMAS C WAGNER
 3684 BUCKINGHAM AVE
 BERKLEY MI 48072 1461

ALEXANDRIA IRENE CHRUMKA
 3621 BUCKINGHAM AVE
 BERKLEY MI 48072 1464

JASON HOUCK
 JENIFER MACFARLAND
 3679 BUCKINGHAM AVE
 BERKLEY MI 48072 1464

JANICE M SZALAY
 3675 ROYAL AVE
 BERKLEY MI 48072 3434

Occupant
 3689 BUCKINGHAM AVE
 BERKLEY MI 48072 1464

ALAN COWIE
 3678 ROYAL AVE
 BERKLEY MI 48072 3433

FRANK C IRONS
 3629 BUCKINGHAM AVE
 BERKLEY MI 48072 1464

BICH THAO LE NGUYEN
 DANG DUONG
 1713 PINE ST
 BIRMINGHAM MI 48009 1123

JAMIE WEST
 3658 BUCKINGHAM AVE
 BERKLEY MI 48072 1461

CYNTHIA C DAUGHERTY
 BRAD T DAUGHERTY
 3630 ROYAL AVE
 BERKLEY MI 48072 3433

KAREN M ADRAGNA
 3666 BUCKINGHAM AVE
 BERKLEY MI 48072 1461

Occupant
 3565 BUCKINGHAM AVE
 BERKLEY MI 48072 1462

JEFFREY HANCE
 3622 ROYAL AVE
 BERKLEY MI 48072 3433

TAYLOR TRAVNIK
 3541 TYLER AVE
 BERKLEY MI 48072 3443

DAVID T FAVRET
 DANIELLE FAVRET
 6390 MONTCLAIR
 TROY MI 48065

Occupant
 3671 BUCKINGHAM AVE
 BERKLEY MI 48072 1464

ROBERT GARVIN
 JOAN GARVIN
 3641 TYLER AVE
 BERKLEY MI 48072 3444

MARY BETH BLACK
 3689 TYLER AVE
 BERKLEY MI 48072 3444

CRYSTAL HOMES LEASING LLC
 51820 STONERIDGE DR
 SHELBY TOWNSHIP MI 48316 3884

DELWYN GRAY
 3650 OAKSHIRE AVE
 BERKLEY MI 48072 3412

JULIE M PALMER
 ANDREW SCALA
 3516 BUCKINGHAM AVE
 BERKLEY MI 48072 1460

JAMES NORRIS
KARA NORRIS
3578 ROYAL AVE
BERKLEY MI 48072 1455

JANET KAY WATKINS SEARIGHT TRUST
3560 ROYAL AVE
BERKLEY MI 48072 1455

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

SECTION ONE – AUTHORITY

The City of Berkley Zoning Board of Appeals (hereinafter referred to as the ZBA) adopts these rules of procedure pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended and the ordinances of the City of Berkley (as amended).

SECTION TWO - MEMBERSHIP

(1) **Membership.** Members shall be appointed according to the procedure as established by Berkley ordinances. The ZBA shall consist of seven regular members and two alternate members all to be appointed by City Council. An alternate member may be called as specified in the zoning ordinance to serve and vote as a member of the ZBA in the absence of a regular member. An alternate member may also be called to serve as a member for purposes of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. Alternate members called upon to serve in instances of vacancy or conflict of interest shall do so on a rotational basis, starting with the most senior alternate.

- a) **Continued Education.** Each member shall commit to 5-6 hours of continued education within each fiscal year. New appointees to the Commission shall not be required to complete the hours of continued education within the first fiscal year of appointment.
- b) **Materials.** Upon taking office for the first time, each member shall be sent via email a package of materials to assist them in their role, including but not limited to:
 - A copy of the Zoning Board of Appeals-Rules of Procedure.
 - Chapter 2 - Section 40 (Ethics), ~~Chapter 94 (Signs)~~ and Chapter 138 (Zoning) of the Berkley ordinances. Ordinance updates will be provided on the City's website.
 - The Michigan Zoning Enabling Act.
 - Any other materials deemed necessary by the Community Development ~~Director~~ [Zoning Administrator](#) and approved by the Chair of the ZBA to familiarize a new member with the appeals process and the duties of the ZBA.
 - The Berkley Zoning Map.
- c) **Resignation.** Members seat is resigned upon receipt of a letter or email of resignation to the City Clerk Office.

(2) **Duties.**

- a) **Attendance.** Each regular and alternate member has a duty to attend all meetings except for good cause.
- b) **Absences.** Members who are unable to attend a regularly scheduled meeting must contact the Zoning Administrator prior to the meeting to alert to the cause of the absence. The Zoning Board of Appeals shall ~~approve the excused~~ [acknowledge the](#) absence as part of the regular meeting and it shall be noted in the meeting minutes.

- c) Arrive prepared for the business at hand, having reviewed written materials and completed site visits as necessary to be educated on the agenda issues.
- d) *Ex Parte* Contact. Members shall avoid *Ex Parte* contact concerning questions or matters pending before the ZBA.
- e) *Ex Parte* Contact shall include discussions among members, applicants, or the public outside of a ZBA meeting, including emails, about matters pending before the ZBA.

SECTION THREE - MEETINGS

- (1) **Notices.** Notice of meetings shall be provided in accordance with the Open Meetings Act. Prior to the scheduled meeting date, the Zoning Administrator shall provide the agenda for the meeting and all documentation relevant to agenda items as well as any other information requested by the ZBA.
- (2) **Regular Meetings.** Regular meetings of the ZBA shall be held monthly in the City Hall on the second Monday of every month at 7:00 p.m.
 - a) If there are no appeals, requests for variances or requests for interpretation of the zoning ordinance to consider, a regular meeting shall be postponed to the next (otherwise) regular meeting date when there are such requests to consider. All other business shall be held over to the agenda for the next regular meeting.
 - b) When a regular meeting date falls on or near a legal holiday or a regular City Council meeting, the ZBA shall select a suitable alternate date in the same month, if possible, in accordance with the Open Meetings Act.
- (3) **Other Meetings.** A special meeting can also be called by the Zoning Administrator, the Chair of the ZBA, or, in the Chair's absence, the Vice-Chair.
- (4) **Membership.** Any changes in Board membership will be announced prior to roll call.
- (5) **Quorum.** In order for the ZBA to conduct business or take any official action, a quorum consisting of 4 voting members of the ZBA must be present unless a use variance is under consideration, in which case, a quorum shall be 5 voting members present. When a quorum is not present, no official action, except for closing of the meeting may take place. All items scheduled to be heard, shall be rescheduled for the next regular meeting. No additional public notice shall be required provided the date, time and place are announced at the meeting.
- (6) **Hearings.** Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and ordinance cited in Section 1.

Public hearings conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

- Introduction of case by staff.
- The Chair confirms that the applicant is present and receives an opportunity to present the case.
- The Chair opens discussion. The ZBA may ask the applicant or staff questions.
- The Chair opens the public hearing. Each person must state his/her name and address for the record and may address the ZBA regarding the case not to exceed three minutes, to be modified at the discretion of the Chair. The Chair may invite people to speak row by row to eliminate lines at the microphone.

- The Chair closes the public hearing.
 - Discussion. The ZBA may ask staff or the applicant questions.
 - The Chair shall call for a motion.
 - After a motion has been made and supported, there may be additional discussion.
 - The Chair will call for a roll call vote.
- (7) **Motions.** The Chair shall restate motions before a vote is taken. The name of the maker and supporters shall be recorded. The motion shall state whether or not a practical difficulty or undue hardship has been found. The reasons for such a finding shall also be stated.
- (8) **Voting.** The concurring vote of 2/3's of the ZBA members shall be required for the approval of a use variance. The concurring vote of a simple majority of the ZBA members shall be required to reverse an order, requirement, decision, or determination of the zoning officer to approve a non-use variance, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the zoning ordinance, and for all other business. Voting shall be by roll call unless the Chair decides another method of voting would be appropriate. All members of the ZBA, including the Chair shall vote on all matters except as provided below. The order of the voting members shall be varied.
- a) No member shall abstain from voting on any matter except in the case of a conflict of interest as provided below in Section 3 (12) of these rules.
- (9) **Conditions.** The ZBA may modify a request or impose reasonable conditions designed to maintain the public health, safety and welfare.
- (10) **Withdrawals.** In the event that an applicant withdraws an application after the notices have been sent and the meeting posted, the ZBA shall introduce the case and advise that the item has been withdrawn. A motion to accept the withdrawal will be entered. In the event that an applicant withdraws an application before the notices have been sent and the meeting posted, the ZBA shall receive a copy of the withdrawal, but no motion to accept the withdrawal shall be necessary.
- (11) **Dismissals.** When the petitioner fails to appear at a properly scheduled meeting of the ZBA, the Chair may entertain a motion to dismiss the case for want of prosecution. In the absence of a motion, the Chair shall rule. In such cases, the petitioner will be furnished written notice of the action.
- (12) **Conflict of Interest.** A ZBA member shall declare a possible conflict of interest and reasons for such, after the introduction of a case. The ZBA shall discuss and determine if such a conflict exists. Fellow ZBA members shall make and support a motion to excuse the ZBA member from deliberating. The excused member shall leave the meeting room during deliberation of the case. An alternate member may be called to serve as a member for the purpose of reaching a decision on the case. The excused ZBA member shall be called back prior to the introduction of the next case. In the event that the ZBA member is the applicant, then they shall be allowed to remain in the meeting to present their case.
- a) Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- (13) **Order of Business.** A written agenda for all regular meetings shall be prepared as follows. The order of business shall be:
- Open the meeting – call meeting to order, confirm recorder, if any, is on
 - Pledge of Allegiance
 - Roll Call

- Confirmation of a Quorum
 - Approval of Agenda
 - Approval of Minutes – Each set of minutes shall be approved individually
 - Old Business – Items that have been postponed or referred to staff
 - New Business
 - Other Business – Administration or ZBA members may discuss upcoming items or interpretation concerns unrelated to agenda items
 - Liaison Reports
 - Public Comments
 - Adjourn
- (14) **Rules of Order.** All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by the most current edition of “Robert’s Rules of Order.”
- (15) **Notice of Decision.**
- a) Upon determination of the Zoning Board of Appeals case a documentation of decision will be signed by the Chair or acting Chair and Zoning Administrator of the determination consisting of finding of facts, reason for decision, the decision, and conditions, if any to complete the approval of record process.
 - b) The City shall send a copy of the approved minutes containing the ZBA decision and any conditions to the petitioner within five days of the minutes being approved.

SECTION FOUR – OFFICERS

- (1) **Selection.** Annually, at the July meeting, the ZBA shall select by majority vote from its membership, a Chair and Vice-Chair. Officers shall be eligible for re-election. If there is no July meeting, then the officers shall be elected no later than a September meeting or the next regularly held meeting after September.
- (2) **Duties.** The Chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. If the Chair is not able to chair a meeting or portion of a meeting, the Vice-Chair shall act in place of the Chair for that meeting or portion of meeting.
- a) The Vice-Chair shall act in the capacity of the Chair and shall succeed to the office of Chair in the event of a vacancy in that office.
 - b) If there is a vacancy in the office of Vice-Chair for whatever reason, the ZBA shall select a successor to the office of Vice-Chair at the earliest practicable time.
 - c) The Zoning Administrator shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, petitions, reports and related items of business of the ZBA, issuing notices of public hearings and performing related administrative duties to assure efficient and informed ZBA operations.
- (3) **Tenure.** The officers shall take office at the next meeting after their election. They shall hold their offices until their successors are elected and assume office.

SECTION FIVE – MINUTES

The minutes shall contain a synopsis of the meeting including a complete restatement of all motions and recording of votes; a complete statement of the conditions or recommendations made on any action; and recording attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with the City Clerk.

SECTION SIX – OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- (1) All meetings of the ZBA shall be opened to the public and held in a place available to the general public.
- (2) All deliberations and decisions of the ZBA shall be made at a meeting open to the public.
- (3) A person shall be permitted to address a hearing of the ZBA under the rules established in section 3 (6) and to address the ZBA concerning non-hearing matters under the rules established under section 3 (13) to the extent that they are applicable.
- (4) A person shall not be excluded from a meeting of the ZBA except for breach of the peace committed at the meeting.
- (5) All records, files, publications, correspondence, and other materials are available to the public for reading, copying and other purposes as governed by the Freedom of Information Act.

SECTION SEVEN – ANNUAL REVIEW

These rules of procedures shall be reviewed annually, at the July meeting, or if there is no July meeting, no later than the September meeting or the next regularly held meeting after September.

Care shall be taken to insure that these rules shall not conflict with any federal or state law or City of Berkley ordinance; however, if any such conflict exists, then the federal or state law or city ordinance shall override these rules, but only to the extent of such conflict.

SECTION EIGHT – AMENDMENTS

These rules may be amended by the ZBA by a concurring vote pursuant to section 3 (8) during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.

Community Development Monthly Newsletter



Here's what has happened in the last month and what's to come!

Welcome to the Community Development Department's monthly newsletter. We are excited to share with you the latest developments as we work toward completion of department and city-wide projects and the work of the Planning Commission and Zoning Board of Appeals.

Community Development was happy to pitch in with the planning and implementation of the Dorthea Pocket Park pilot. We're looking forward to reviewing the survey data and feedback to see how the community feels about the creation of a permanent park in this space.

As you'll see later in this report, building permits have approximately doubled when compared to this month last year. Staff and consultants have been out completing inspections, processing permits and fielding lot of questions as they keep up with increased activity.

In last month's report, the improvements proposed as 4162 Twelve Mile were highlighted and include a gas station, expansion of the existing retail and an accessory restaurant. The required special land use permit for the gas station use was approved by the City Council in June. The applicant will be appearing before the Zoning Board of Appeals in July as the final step in their board and commission approval process.

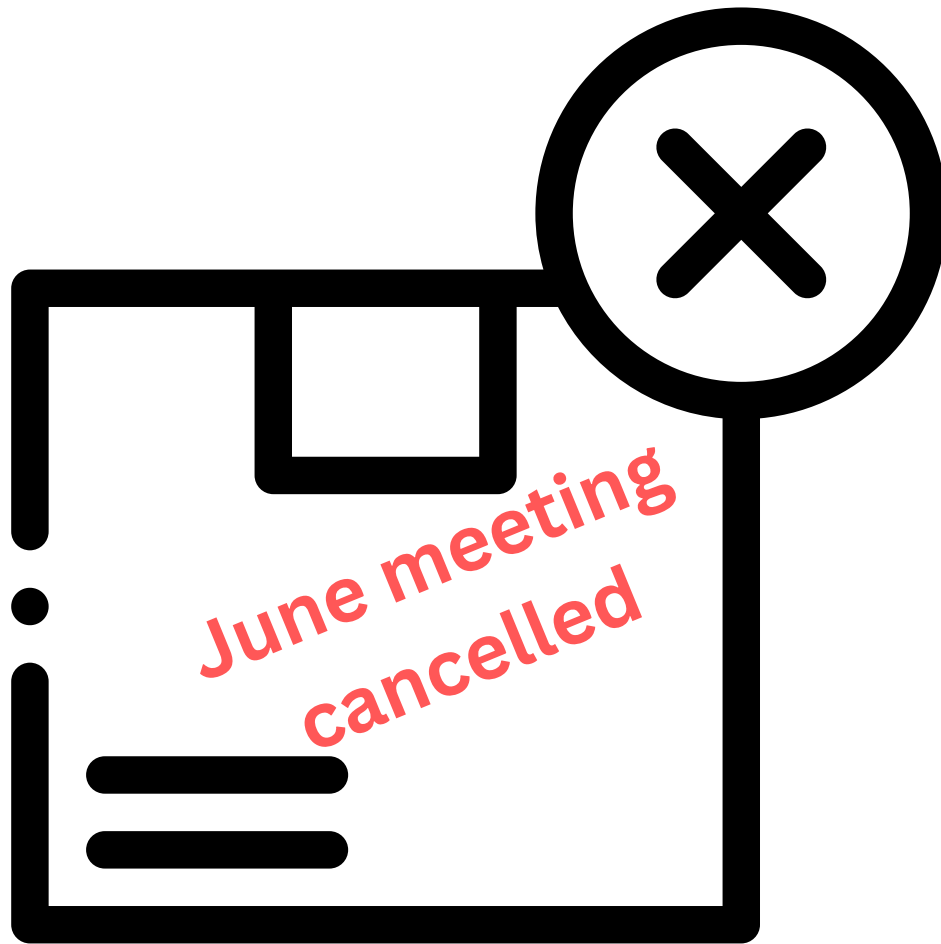
Monthly Highlights

Dorthea Pocket Park

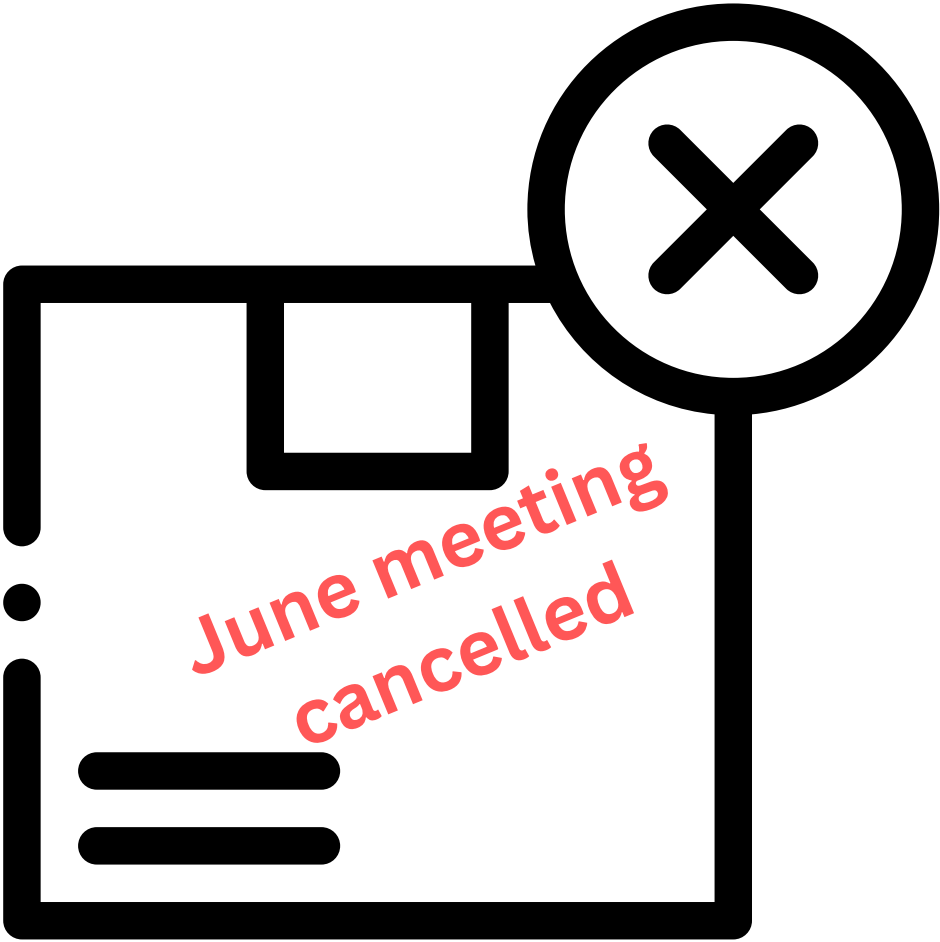
Building Permits Way Up

4162 Twelve Mile

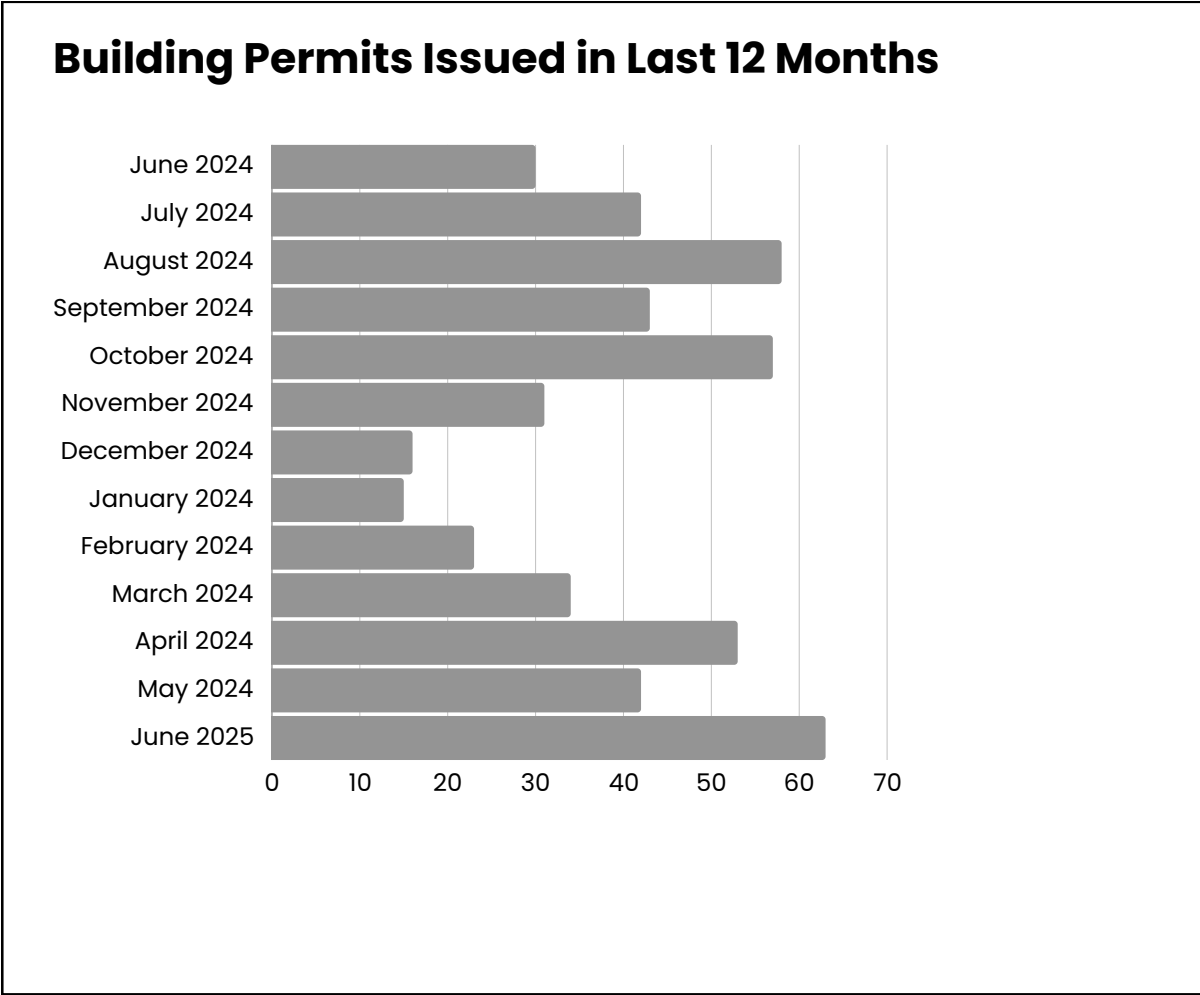
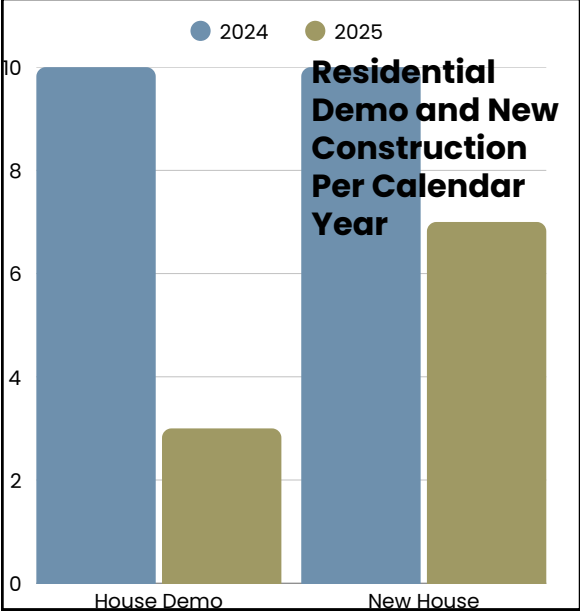
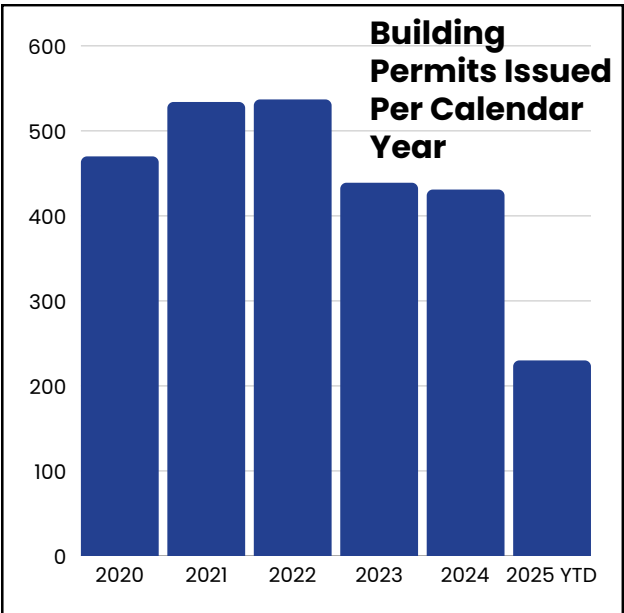
Planning Commission Activities



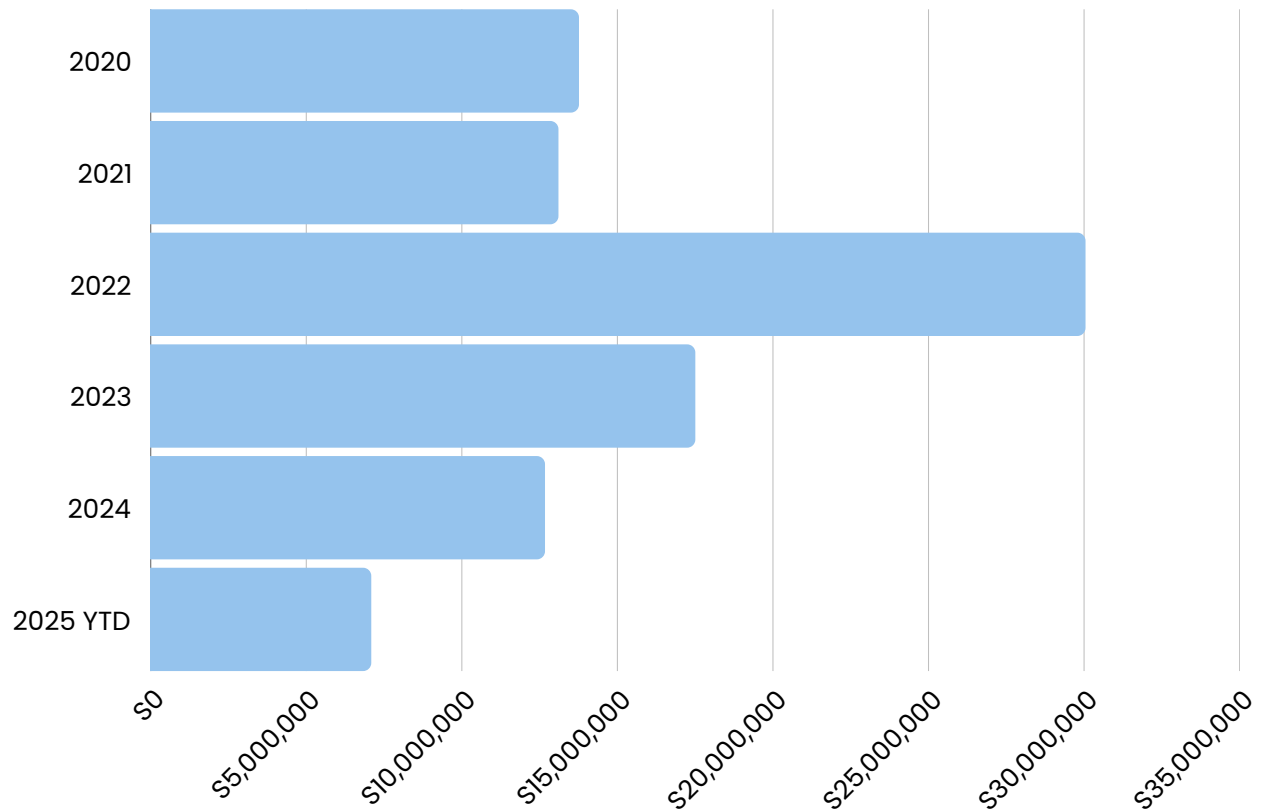
Zoning Board of Appeals Activities



Construction and New Business



Year over Year Construction Value



WELCOME TO THE NEIGHBORHOOD!
Business Licenses Issued in June

**No new business
licenses issued
this month**
