

	<p style="text-align: center;"><b>Board of Appeals Regular Meeting October 22, 2014, at 6:30 p.m. (please note the time change)</b></p>
Jon Liss, Board Member	James V. O'Toole, City Manager
Judi LaCosse, Board Member	Ralph Blasier, City Council Liaison
Nathan Gauss, Board Member	Blaine R. DeGrave, Ex-Officio
Joe Klem, Board Member	
Philip Strom, Board Member	
Dennis Renken, Board Member	

Dear Board of Appeals Member:

A Regular Meeting of the Escanaba Board of Appeals has been scheduled for **Wednesday, October 22, 2014, at 6:30 p.m.** at the Escanaba City Hall, 410 Ludington Street, Escanaba, Michigan. The following items will be on the agenda:

- Call to order
- Roll call
- Approval of the February 27, 2013, Meeting Minutes
- Approval/adjustments to the agenda
- Conflict of Interest Declarations

**UNFINISHED BUSINESS**

None.

**Election of Chairperson and Vice Chairperson**

Nominations for Chairperson and Vice Chairperson of the Escanaba Board of Appeals will take place.

**PUBLIC HEARING(S)**

1. **Public Hearing - 1300 South 15<sup>th</sup> Street - Variance Request - Zoning Ordinance.**  
A hearing on a request from Ray and Shirley Gollach for a variance to Section 505.2.1. Minimum Side Yard Requirements of the Escanaba Zoning Ordinance.

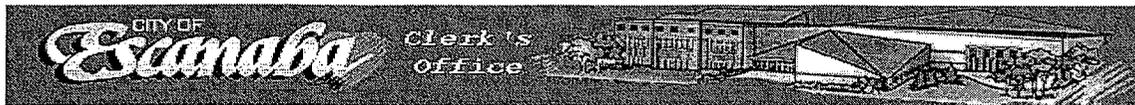
**NEW BUSINESS**

1. **Public Comment**
2. **Member/Staff Comment and Announcement**
3. **Adjournment**

The City of Escanaba will provide all necessary, reasonable aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting to individuals with disabilities at the meeting/hearing upon five days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba by writing or calling the City of Escanaba at (906) 786-9402.

Sincerely,

Blaine R. DeGrave, Ex-Officio  
Board of Appeals



COUNTY OF DELTA

STATE OF MICHIGAN

# NOTICE IN CHANGE OF MEETING TIME OF THE BOARD OF APPEALS

PLEASE TAKE NOTICE that the regular meeting scheduled for October 22, 2014 meeting has been rescheduled to take place at 6:30 p.m. in order to accommodate a quorum.

**DATE: October 22, 2014; 6:30 pm, Room C101**

This notice is given in accordance with Act 267 of the 1976 Public Acts of the State of Michigan and Chapter II, Section 5, of the Escanaba City Charter. The City of Escanaba 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/hearing upon five (5) days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba by writing or calling the below named City Clerk. Public notice will be given regarding any changes of the above meeting.

Robert Richards, City Clerk  
(906) 786-1194  
P. O. Box 948, 410 Ludington Street  
Escanaba, MI 49829

or Blaine DeGrave @ (906) 786-9402  
(906) 786-9402  
P.O. Box 948, 410 Ludington Street  
Escanaba, MI 49829

TAW/bms

printed 10/7/2014 8:47 AM



**ESCANABA ZONING BOARD OF APPEALS  
ROOM C101, CITY HALL, ESCANABA, MI  
FEBRUARY 27, 2013**

A regular scheduled meeting of the Escanaba Zoning Board of Appeals was held on Wednesday, February 27, 2013, at 6:00 p.m. in Room C101, City Hall, 410 Ludington Street, Escanaba, MI 49829.

**PRESENT:** Chairperson Brian Black, Vice Chairperson Ralph Blasier, Boardmembers James Hellerman, Jon Liss, and Philip Strom.

**ALSO PRESENT:** City Council Member Liaison Brady Nelson, Blaine DeGrave, Ex-Officio, and Kim Peterson, Executive Secretary.

The meeting was called to order at 6:00 p.m. by Chairperson Brian Black.

**ROLL CALL:**

Kim Peterson conducted the roll call. Vice Chairperson Blasier was not present for roll call, however, he came in at 6:04 p.m.

**Approval/Corrections to the August 29, 2012, meeting minutes**

A motion was made by Boardmember Strom, seconded by Boardmember Liss, to approve the August 29, 2012, meeting minutes.

Ayes were unanimous.

**Approval/Adjustments to the Agenda**

None.

**Conflicts of Interest Declaration**

None.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

**Election of Officers**

A motion was made by Boardmember Hellerman, seconded by Vice Chairperson Blasier, to table the Election of Officers until City Administration could review term limits. Ayes were unanimous.

## **PUBLIC HEARING**

### **Public Hearing – Auto Zone, Inc. 405 North Lincoln Road – Variance Request – Zoning Ordinance**

Ex-Officio Blaine DeGrave stated AutoZone, Inc. is requesting a variance to Section 1907.1.A Building Orientation, as the front door will not face North Lincoln Road.

Wes Berlin, Senior Project Engineer for Professional Engineer Associates for AutoZone Inc. appeared before the Board. Mr. Berlin stated with exhibits and discussion he will demonstrate a valid hardship with development of the site. Reasons for the request are due to the orientation of US2 running at south-west in an easterly direction and pinches the width of the site down. The lot is 124' wide on the south edge and the site pinches approximately 40' from the north to south. This pinching effect of the site, in conjunction with the other requirements of the Zoning Ordinance for building setbacks and parking, limit the feasible layout options for this development. The main hardship is the orientation for US2 and is not a self-created situation. The issue is specific to this site and not common to the area or the corridor as a whole. Mr. Berlin drove the corridor from 3<sup>rd</sup> Avenue North to 6<sup>th</sup> Avenue North and looked at the door locations for all the current businesses in the area. Out of eleven businesses in the area, eight businesses have doors on the north or south building wall, meaning they don't face the roadway. If this variance is granted, it wouldn't be a situation where one would have a single building door not facing a roadway.

The current site plan layout was reviewed.

Mr. Berlin stated the building door is orientated facing south and a row of parking to the south of the building with a two-way drive aisle south of that. A second row of parking would also be located to the south. The building cannot be moved any further west, as there is a two-way north-south drive aisle which is the main drive aisle to the shopping complex. The proposed building would line up with the landscape island of Pizza Hut and with the existing striping in the area.

Vice Chairperson Blasier questioned what businesses don't have their main entrance facing Lincoln Road. Mr. Berlin showed a layout of where the businesses were located to include: McDonalds, Pizza Hut, Hardees, Wells Fargo Bank, Burger King, and Culvers.

Chairperson Black questioned the intent of the Zoning Ordinance for granting so many variances related to entrances facing the main roadway. City Administration was not aware of any variances that were requested for the current businesses and their history. Discussed history of businesses that don't have their main entrances facing Lincoln Road and why this was. Discussed having the Planning Commission look at the Zoning Ordinance language as a majority of businesses in this area don't have their main entrances facing North Lincoln Road.

Ex-Officio DeGrave reviewed the rules for the Board of Appeals:

#### **Powers and Duties of the Zoning Board of Appeals – Section 305.1 General**

The Zoning Board of Appeals shall have the power to hear and decide on appeals where it is alleged that there is an error in any order, requirement, decision, determination or interpretation by the Code Official. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of appeal from and shall make an

order, requirement, decision, or determination as in the Board's opinion ought to be made. If there are practical difficulties or an unnecessary hardship in carrying out the strict letter of the ordinance, the Zoning Board of Appeals may, in passing on appeals, grant a variance in any of the provisions relating to the construction, or structural changes in equipment or alteration of buildings or structures, or the use of land, buildings or structures so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done. The Zoning Board of Appeals shall not have the power to vary a standard for a Planned Unit Development or a Special Land Use Permit.

#### Variance Review Criteria – Section 305.4

The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Zoning Code. A variance from the dimensional requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.

#### Basic Conditions – Sections 305.5

Any variance granted from this Zoning Code shall meet the following basic conditions:

- A. The spirit of the Zoning Code shall be observed, public safety secured and substantial justice done.
- B. There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- C. The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
- D. The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.
- E. It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- F. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
- G. The alleged hardship or difficulty is not solely economic and is based on the reasonable use of a particular parcel of land.
- H. It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.

#### Practical Difficulties and Unnecessary Hardships - 305.6

In order to determine if there are practical difficulties or unnecessary hardships that prevent carrying out the strict letter of this Zoning Code, the following shall apply:

### Dimensional Variance – Section 305.6.1

A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other properties or uses in the same zoning district.

Boardmember Hellerman questioned the Zoning Ordinance language for the entrance door facing the main road and whether it was for shady operations/back door businesses at the time or for a uniform appearance on the road. In every illustration the square footage of the buildings is identical and by the laws the Board of Appeals has to follow is for the variance not to be self-created. In his opinion, if the building could be shrunk, the probability of seeking a variance could be eliminated. It is not the City's nor the Board's concern on what size the building is required to be, because it could still be economically used in the area with a smaller building with the door facing the front.

Mr. Berlin stated the proposed site plan is the smallest prototype that can be built by the client. The proposed project would be seven spots under the required parking. AutoZone Inc. has had discussions with the neighboring property owner to share seven parking spots. Vice Chairperson Blasier stated he knows the stalls are far from the central store and they are rarely full.

Boardmember Hellerman questioned whether this lot was partitioned off and if it was always a parking lot. It was believed to always have been a parking lot and Dial Properties split the property.

Mr. DeGrave stated City Administration has no concerns with granting this variance. The complete site plan to include parking will be reviewed at the 03/14/13 Planning Commission Meeting.

Boardmember Strom questioned whether there was a public safety benefit by not having the entrance on the side facing North Lincoln Road and whether there was a concern with placing an entrance that close to a major roadway.

Chairperson Black stated one of the reasons a variance can be granted is the proposed site plan protects the public better than what would be required under the Zoning Ordinance.

Boardmember Strom stated he is referring to Basic Conditions – Section 305.5.A. which states, "The spirit of the Zoning Code shall be observed, public safety secured and substantial justice done". He believes the safety of the public would be better served with an entrance not being right off of Lincoln Road.

Vice Chairperson Blasier stated in reviewing the site plan it looks like 40' from the curb with sidewalk going through it from the front of the building.

Discussed having the façade facing Lincoln Road being aesthetically pleasing to match the attractive thoroughfare. Mr. Berlin stated he was willing to do so with windows, signs, canopies, landscaping, etc. Ex-Officio DeGrave stated this will be reviewed by the Planning Commission with the site plan review. Boardmember Hellerman stated the City does not want a warehouse on Lincoln Road. Mr. Berlin stated they could add architectural features to all four sides to include windows, signage, canopy, varying heights, etc. to look more like an entrance along the wall facing North Lincoln Road.

Boardmember Strom stated he sees a rather restrictive part of the conditions to follow in Basic Conditions 305.5.C. which states, "The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable". When he reads this and applies it to other buildings, the fact that a majority of other buildings on Lincoln Road may have their doors on the north or south entrance seems to require a general regulation as opposed to granting individual variances. He questioned if the Board of Appeals should defer to the Planning Commission to do away with the door facing the main roadway requirement in this area. The code requirement to have entrance doors facing the main roadway makes sense for Ludington Street, not for Lincoln Road as it could be an exception in the general policy as opposed to having to come before the Board of Appeals. He would be interested to know why other buildings in the surrounding areas have their entrance doors facing either south or north. He believes it is worth exploring the dimensional variance portion of this, based on the unique dimensional lot that is essentially cut off by Lincoln Road through no fault of the developers. This lot is odd shaped, and considering this, believes the shape of the lot does potentially fall under Section 305.6.1. Dimensional Variance. He would also take in account Section 305.5.C. Basic Conditions, if every lot along Lincoln Road is similarly shaped.

Ex-Officio DeGrave stated he could bring the information back to City Administration for their review. Vice Chairperson Blasier questioned how long it would take to make a change to the Zoning Ordinance. Chairperson Black stated a change was just made to the Zoning Ordinance and took a few months.

Rich Meyer, employee at Advanced Auto Parts, appeared before the Board and stated the proposed development's front door would be facing south, directly looking towards Advanced Auto Parts, which is his major concern. This development will be a neighbor of Advanced Auto Parts to the south and a major competitor. Mr. Meyer has concerns with the dumpster placement, which would be directly in front of Pizza Hut's front door and 180 degrees from the proposed development's front door. Further concerns are about semi access to the loading area on the north side and trying to get a semi into an 18.5' x 80' loading area and having to come through the parking spots directly to the west. This would be blocking off the two-way roadway. Snow removal is another concern, with currently having Super One piling their extra snow in the proposed construction area, and would then have to make Super One truck their snow out. If Super One didn't lose their snow bank spots, there are seven extra spots that they are going to share from a leasing company will not be there any more when there is an 18' snow bank there. They are sharing spots from a property management company, Dial Company, that they purchased the property from. AutoZone bought an odd shaped piece of property and now they want a variance to not point their door towards Lincoln Road. The traffic that comes into the divided entrance north of 3<sup>rd</sup> Avenue North already has problems with people cutting the light through the parking lot and will get worse with another building. There are accidents with people trying to turn into the parking lot coming northbound, when they come through the light and try to get into the turn lane and turn into the parking lot area, which will be more traffic in that area also. Semis frequently break off the sign that is outside North Lincoln Road. Two businesses will be displaced with the Christmas Tree sales and Fourth of July sales who rent rooms in town and bring money to the area. The question of the door location and safety concerns would place the door between the bike route and sidewalk that are currently on North Lincoln Road and their building, and if it is not safe for people to walk into the front door, why would it be safe for people to use the sidewalk and bike route. The businesses that were mentioned that don't have doors that face North Lincoln Road all have windows or seating areas

that are on the front of their buildings facing North Lincoln Road that they use as backdrop as something nice to look at. These buildings are aesthetically pleasing.

Boardmember Hellerman stated these comments would be heard at the Planning Commission Meeting. Mr. Meyer replied that the Planning Commission does not have their agenda for March printed yet. The next Planning Commission Meeting will be 03/14/13. Mr. Meyer stated if the proposed project were turned 90 degrees, there would be no concerns that he mentioned.

Mr. Berlin stated the Planning Commission will review the dumpster placement, screening, snow removal, and parking. Ex-Officio DeGrave stated the Board of Appeals is hearing a request for a variance on the door orientation.

Boardmember Strom stated they have to consider the spirit of the Zoning Ordinance and consider issues, such as public safety and the substantial adverse effect on other property values. The points that Mr. Meyer brought forward are all important considerations. He further stated that a representative from Pizza Hut was not present and questioned whether a big brick wall with a dumpster was going to have a substantial adverse effect on Pizza Hut.

Boardmember Hellerman stated the building could be built with the door facing Lincoln Road, but they choose to build the building with so many parking spots because of the size of the development.

Vice Chairperson Blasier stated Mr. Meyer pointed out two things, with one being a nice façade facing the street versus a blank wall and parking. If a semi was on the north side of the building, parking spots would have to be blocked off hours before the truck is due. One would have to give up a minimum of six spots just to get a delivery truck in.

Boardmember Strom questioned what type of variance would be sought in order to place the entrance on the east side of the proposed lot. Boardmember Hellerman stated by building a big building he is creating his own adverse effect.

Chairperson Black stated one of the challenges is the minimum square footage of the building and if it is a condition created by the owner and whether it is the source of a substantial hardship.

Vice Chairperson Blasier stated there is more than likely a formula set by AutoZone Inc., that to succeed, they have to have a certain number of square feet. He agrees that this is the creation of the AutoZone corporation or franchise.

Boardmember Hellerman stated the lot was purchased knowing that it wasn't big enough.

Ex-Officio DeGrave stated City Administration conducted a pre-site plan meeting, and no concerns or issues were brought up.

Vice Chairperson Blasier stated AutoZone could compromise with placing the door on the east side and get a variance for insufficient parking.

Discussed some of the overflow parking taking Super One's designated parking spots. Discussed whether there was a requirement to have parking spots directly in front of the entrance and where the handicap parking spots need to be located.

Boardmember Strom questioned why the door couldn't be located facing North Lincoln Road. Mr. Berlin stated to get the parking closer to the entrance. Vice Chairperson Blasier questioned whether this was crippling. Mr. Berlin stated it would be in this case, as it would be for most developers on this lot.

Bryan Marenger, owner of Red Line Motor Sports and Performance, appeared before the Board and stated he is a citizen and consumer. He said it didn't matter to him that Advanced Auto would be located next to AutoZone Inc. as AutoZone Inc. would bring prices down either way. He stated as a public person's standpoint driving down Lincoln Road and a building has four sides with an access point to the front and usually stocking is from the rear or side. He understands with architectural aesthetics put to this building you will have a semi and loading dock aspect if you are driving south or north. CarQuest has an eyesore to the left of their front door. Most commercial part stores don't make their money from someone coming to the store for a few items, they make money from companies ordering a large amount of parts in the course of a week. It wouldn't matter to him if he needed to walk around the building to gain access, as he is going to shop where it is cheaper. A part store is a box, and windows are only on so many sides, as inventory has to be protected just like a bank, and a bank is not made out of glass.

**A motion was made by Vice Chairperson Blasier, seconded by Boardmember Hellerman, to deny the variance request to AutoZone Inc. to Section 1907.1.A. Building Orientation, as the front door will not face North Lincoln Road.**

**Upon a roll call vote:**

**AYES: Vice Chairperson Blasier, Boardmember Hellerman, Boardmember Liss, Boardmember Strom and Chairperson Black.**

**NAYES: None.**

**Motion passed unanimously.**

Ex-Officio DeGrave stated AutoZone Inc. can appeal the Board of Appeals' decision to Circuit Court. Chairperson Black stated AutoZone Inc. can appeal back to the Board of Appeals if there is new information.

**NEW BUSINESS**

Adoption of the 2013 Meeting Date Schedule.

**A motion was made by Boardmember Strom, seconded by Vic Chairperson Blasier, to approve the 2013 Meeting Date Schedule as presented. Ayes were unanimous.**

Public Comment

There were no public comments.

Member/Staff Comments and Announcements

There were no member/staff comments or announcements.

**Adjournment**

**A motion was made by Boardmember Hellerman, seconded by Boardmember Liss, to adjourn the meeting with the time being 7:28 p.m. Ayes were unanimous.**

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Brian Black, Chairperson  
Escanaba Zoning Board of Appeals

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Blaine DeGrave, Ex-Officio  
City of Escanaba

**CITY OF ESCANABA  
BOARD OF APPEALS  
October 22, 2014**

**CASE:** EBA102214-01

**APPLICANT:** Ray and Shirley Gollach  
1300 South 15<sup>th</sup> Street  
Escanaba, MI 49829

**STAFF CONTACT:** Blaine R. DeGrave  
Code Official, City of Escanaba  
410 Ludington Street, Escanaba, MI 49829  
(906) 786-9402  
Email: bdegrave@escanaba.org

**REQUEST:** A hearing on a request from the Ray and Shirley Gollach, 1300 South 15<sup>th</sup> Street, Escanaba, MI 49829, for a variance to Section 505.2.1 Minimum Side Yard Requirements of the Escanaba Zoning Ordinance. The appellants are requesting a variance be granted which would allow them to construct an attached garage onto the main structure which would encroach into the minimum side yard space.

**LOCATION:** 1300 South 15<sup>th</sup> Street, Escanaba, MI 49829

**PRESENT ZONING:** Single Family Residential District "A"

**STAFF COMMENT:**

In accordance with the City of Escanaba Zoning Ordinance, Section 505.2.1 the minimum side yard for residential structures is required to be 10% of the width of the lot with a total of 25% of the lot required for both side yards; provided, however, that no side yard shall have a width of less than 4 feet and this shall be increased by 4 feet for each story by which a building erected on a lot exceeds 2 stories in height. And, provided however that no minimum interior side yard shall be required to exceed 15 feet nor shall the total side yards be required to exceed 45 feet.

Because a minimum side yard on the 12th Avenue South side of the dwelling must be at least 14" from the building edge to property line and only 8.6 feet is being proposed, a variance would be required.

## **PROPOSED FINDING OF FACT:**

1. All fee and notification requirements of the Zoning Ordinance have been accommodated.
2. Ray and Shirley Gollach are the owners of the property for the record.
3. The parcel in which the variance is being requested is zoned Residential "A" – Single Family.
4. Rear yard calculations indicate that a detached garage could be constructed on the property without the need for a variance.

## **BOARD ROLE AND RESPONSIBILITIES**

In accordance with Chapter 3, Board of Zoning Appeals, the ordinance allows the Board of Appeals the power to hear and decide on appeals where it is alleged that there is an error in any order, requirement, decision, determination or interpretation of the code by the Code Official. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the appeal and shall make an order, requirement, decision, or determination as in the Board's opinion ought to be made on the premises. If there are practical difficulties or unnecessary hardship in carrying out the strict letter of the Ordinance, the Board of Appeals may, in passing appeals, grant a variance in any of the provisions relating to the construction, or structural changes in equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done.

The Board of Appeals has the power to authorize specific variances or departures from the Zoning Ordinance, if all the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the law. A variance from the Zoning Ordinance may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.

In accordance to the Michigan Association of Planning: Excerpted from the presentation "Practical Difficulty and Unnecessary Hardship," Academy 202 Workshop, a Practical Difficulty and Unnecessary Hardship are defined to be:

1. The property cannot be reasonably used as zoned.
2. There are unique circumstances related to the property.
3. Proposed use would not alter the essential character of the area.
4. Not a self created hardship.
5. Not impair the intent and purpose of the Ordinance or the Master Plan.
6. Results when the character of a lot or parcel prevent the use (or reasonable use) of said lot or parcel as currently zoned. Unnecessary hardship is demonstrated through a series of applied standards.
7. Zoning is expected to support a reasonable rate of return on one's investment, but not necessarily the highest.

## **OWNER/APPLICANT DEMONSTRATION OF A HARDSHIP**

Ray and Shirley Gollach will be required to demonstrate that the following basic conditions have been addressed/met/demonstrated before a variance can be considered:

- A. The spirit of the Zoning Ordinance shall be observed, public safety secured and substantial justice done.
- B. There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- C. The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
- D. The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.
- E. It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- F. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
- G. The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.
- H. It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privy to or in concert with the applicant.

## **STAFF RECOMMENDATIONS:**

The Board of Appeals does not have the authority to alter or change the requirements of the Zoning Ordinance without first establishing that the aforementioned demonstrations of hardship exists and that the situation is not self-created. Provided, however, that in interpreting and applying the provisions of the Ordinance, the requirements shall be deemed to be the spirit and intent of the Ordinance and would not constitute the granting of a special privilege. In the case of the application it is believed that a detached garage could be constructed without the need for a variance in the rear yard. The Board of Appeals must determine if there is a hardship or difficulty which is not a result of an act, created or inherited by the owner and is not solely economic in nature.

## **ENFORCEMENT HISTORY:**

None.

## **BACK-UP INFORMATION:**

- 1. Property Owner/Occupant Letter Within 300' Radius.
- 2. 300' Radius Labels.
- 3. EBA Application.
- 4. Assessor Information.

City of Escanaba

ZONING BOARD OF APPEALS APPLICATION

Contact Person: James V. O'Toole (906) 786-9402

Ad  
ch #  
2559  
9/26/14

All information must be completed in full before this application will be processed and scheduled for a Zoning Board of Appeals (ZBA) hearing.

1) Property Owner(s)

received  
9/26/14

Name(s): Ray + Shirley Gollach  
Address: 1300 S. 15<sup>th</sup> St.  
City, State, Zip: Escanaba, MI 49829  
Telephone: (906) 789-9306 Fax: \_\_\_\_\_  
E-mail Address: gollachs@baycollege.edu

2) Agent (if not property owner)

If the property owner(s) will have an agent serve on his or her behalf, the owner(s) must complete the attached Letter of Authorization.

Name(s): \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

3) Subject Property

Street Address: 1300 S. 15<sup>th</sup> St.  
Subdivision Name: \_\_\_\_\_ Lot Number (s): \_\_\_\_\_  
Property Identification Number (s): \_\_\_\_\_  
Zoning District(s): \_\_\_\_\_

4) Fee

The application fee is \$200. Make checks payable to the City of Escanaba.

Check all that apply:

To appeal an order, requirement, decision or determination of the Zoning Administrator when an error is alleged. You must attach a copy of the written determination of the Zoning Administrator that you are appealing. An appeal must be filed no later than thirty (30) days after the determination was rendered by the Zoning Administrator. The appeal must be filed with the Zoning Administrator.

To request a variance. Identify the type and amount of variance(s) below. Example: Five foot (5') reduction of the twenty-five (25') rear yard setback (use additional paper, if necessary).

1. Describe the reason (s) for requesting a variance from zoning ordinance requirements: We are requesting a variance of the side yard setback from 14' to 8'6" so that we can add an addition to our existing garage.

2. Describe why the problem is not self-created: We purchased the existing home 3 yrs ago & are working within the constraints of the existing footprint.

3. Describe any negative impact to the adjacent parcel(s) that may result from granting of the variance: No negative impact, as it would not interfere with street visibility or with the city easement for a sidewalk.

4. Does the property possess unique characteristics (not common to the general area)? It is a cul-de-sac ending at the ECC. There is no sidewalk and likely never will be.

*By signing below I certify that the information contained in this application is true and correct to the best of my knowledge and belief at the time of the application. I acknowledge that I understand and have complied with all of the submittal requirements and procedures, and that this application is a complete applicable submittal. I further understand that an incomplete application submittal may cause my application to be deferred to the next posted deadline meeting date.*

Signature: *Shirley Kellach*

Date: 9/26/14

#### **INSTRUCTIONS:**

1. Have your completed Application turned into the Zoning Administrator's Office located at 410 Ludington Street, 2nd Floor by the first Tuesday of the month with the \$200 fee paid.
2. Clearly state in your request exactly what you are asking the Board for (e.g. time extension, use variance, set-back variance, over-turnment, etc.)
3. If you are requesting a time extension from the Board, have a completion date in mind.
4. When you appear before the Zoning Board, have all evidence and documentation concerning your appeal with you (e.g. any drawings or plans of any proposed change. If requesting a variance from yard set-back requirements, submit a plot plan indicating all set-backs).
5. Keep in contact with the Community Development and Planning Department so you can minimize any possible oversights or errors.
6. The complete appeal process will consist of an administrative review and an appearance before the Zoning Board. All neighbors within 300 feet of your property will be notified of the public hearing and may appear before the Board to voice any objections, support, or to further inquire.

We purchased the home for which we are asking the variance three years ago after living in Ford River for the previous 25 years. The primary attraction of this particular piece of property was the yard, which is a corner lot with a rear yard that borders on the Escanaba Country Club.

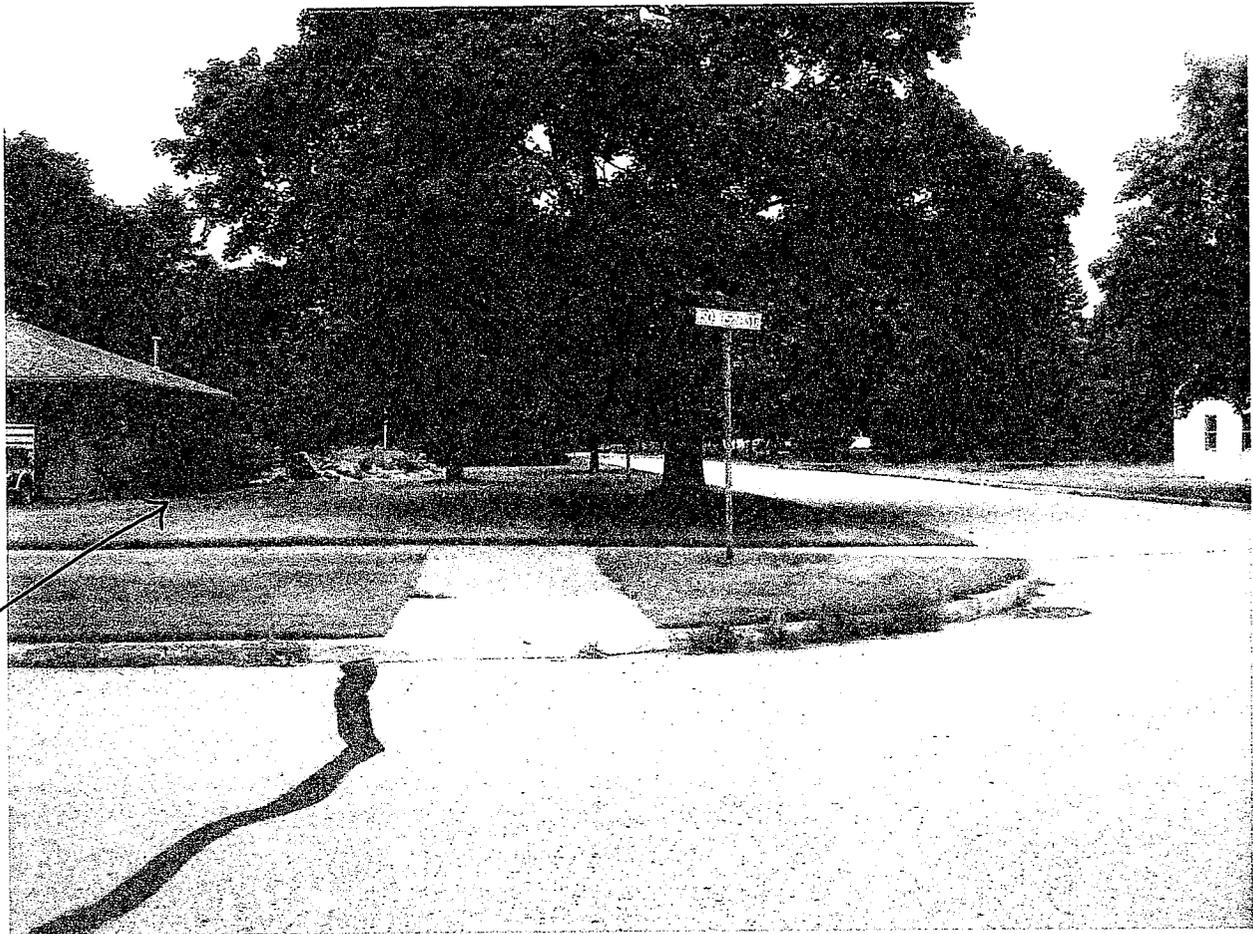
The house was built more than 50 years ago at a time when most families did not have multiple cars, nor did they need to house and store things such as riding lawnmowers, snow blowers, rolling garbage cans and recycle bins or—for someone living on the golf course—golf carts. Although technically a two car garage, it has very little space beyond the width of the door, and therefore, very little room for other storage.

We feel the need for additional space in order to prevent our yard and the street around us from being overrun with vehicles, trailers, and the like. We have considered other alternatives, including the addition of a storage shed in the backyard. Although this would help to resolve at least a portion of the problem inexpensively, it would also block much of the view in the backyard and would be visible from the street given that this is a corner lot. Since we also have a 20' utility easement on the back of the property, anything built there would essentially be in the middle of the yard. Although more costly, we feel that the addition to the garage would be more aesthetically appropriate both to this particular property and to the neighborhood.

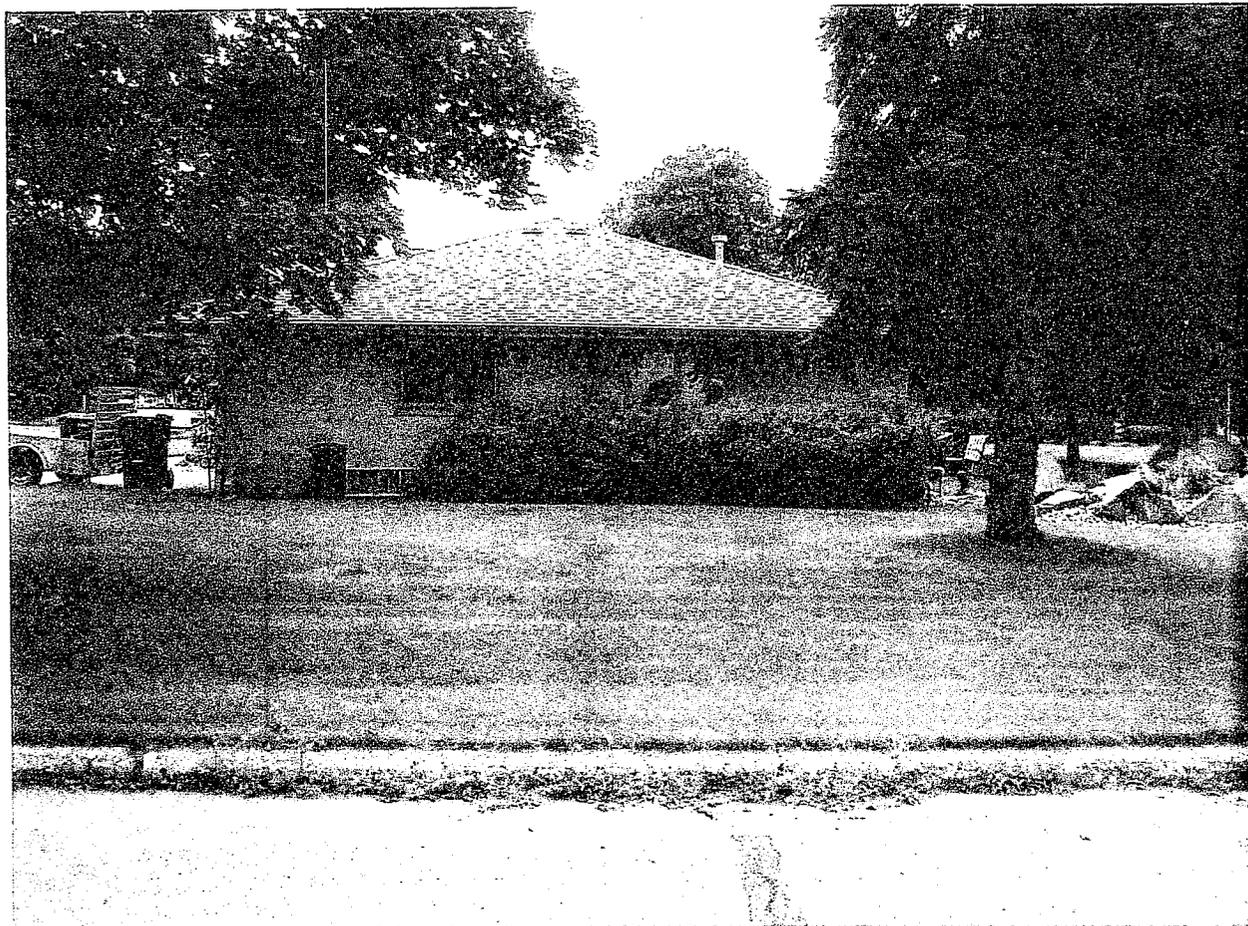
The property is unique in that it is a corner lot with neither a side yard sidewalk nor an alley. The side yard where the addition would be built borders on 12<sup>th</sup> Avenue South, which is a cul-de-sac ending at the Escanaba Country Club. It is highly unlikely that a sidewalk would ever be put in on the side of the house, given that this is the only house on this block of 12<sup>th</sup> Avenue and the fact that it would necessitate the removal of several mature trees.

The variance, if granted, would still leave a setback of 8'6" to the property line and another 25' to the edge of the street, leaving plenty of room for walkers and for traffic visibility. A home directly across 12<sup>th</sup> Avenue from this property has a setback of almost nothing, with the home's front steps being only a foot or so from the sidewalk. The utility pole is located in the rear of the property near the alley easement, so no city utilities or services would be affected.

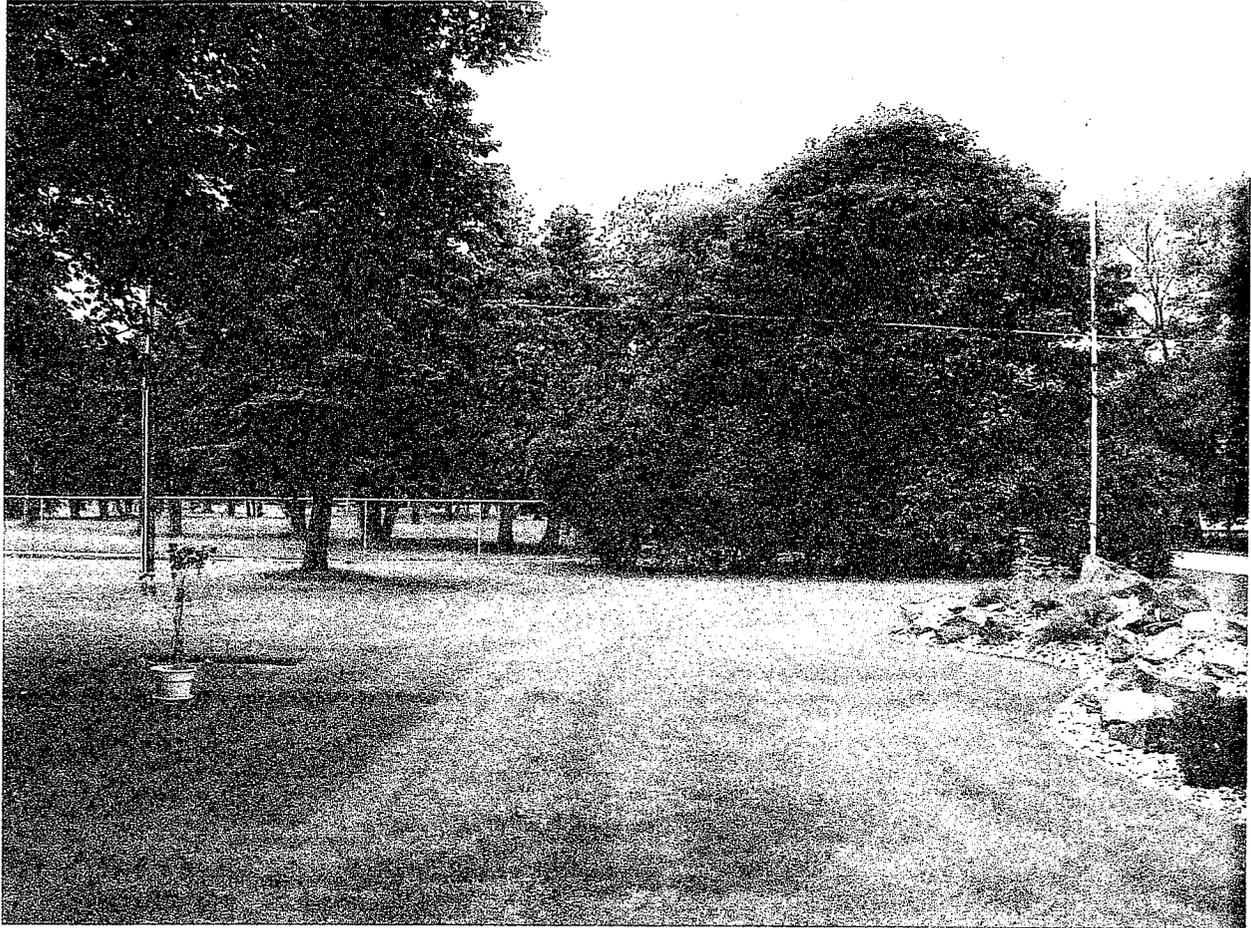
In summary, we feel that the requested variance would have no negative impact but a significant positive one by allowing us to improve the appearance of both our property and the neighborhood as a whole.



Addition  
here



side yard



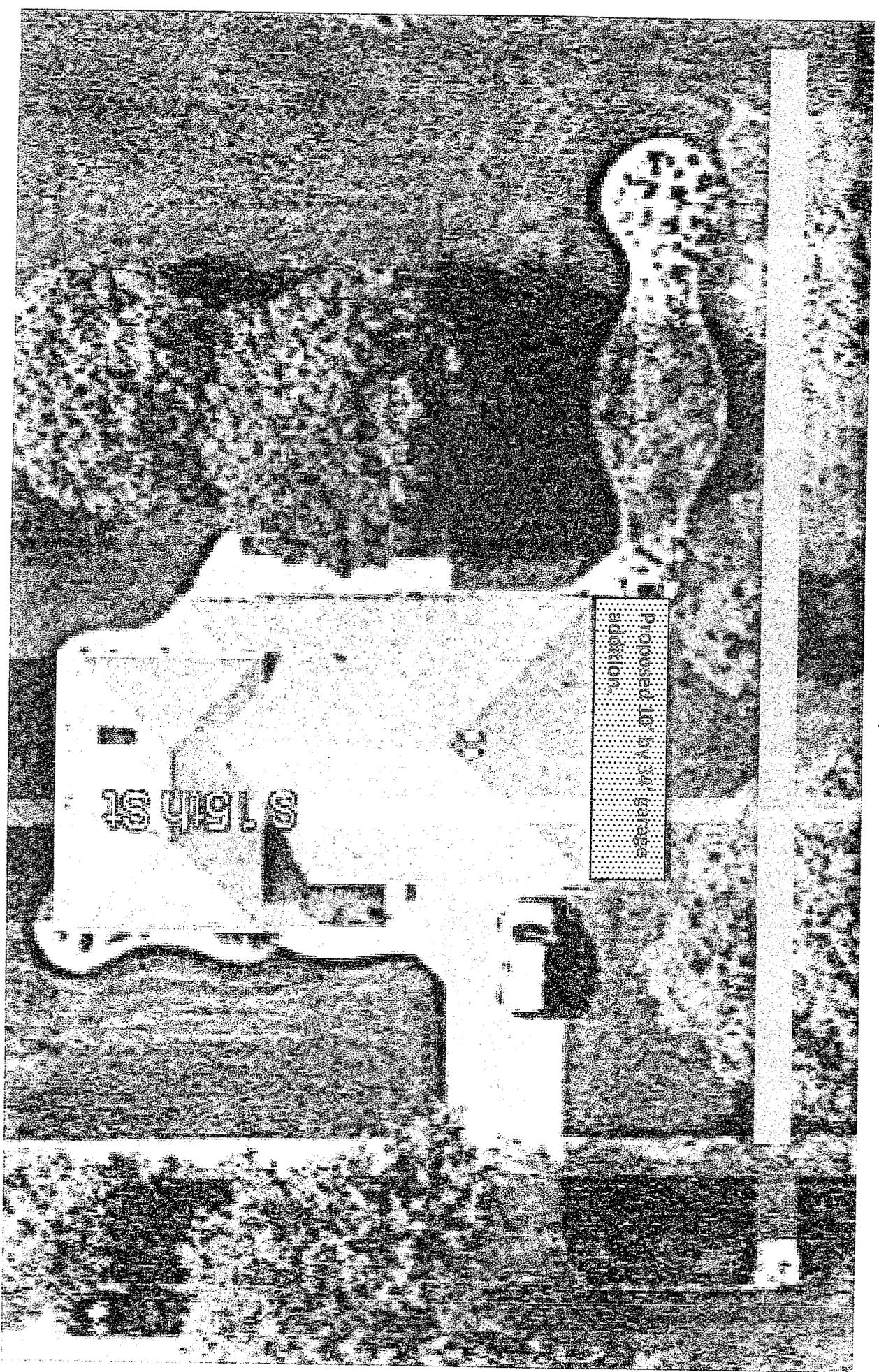
Rear  
yard





Property directly across 12<sup>th</sup> Avenue.

This satellite image shows the proposed addition.  
The red area indicates where a sidewalk would be if it  
~~cont~~ continued from across the street.





September 15, 2014

Mr. and Mrs. Raymond Gollach  
1300 South 15<sup>th</sup> Street  
Escanaba, MI 49829

RE: 1300 South 15<sup>th</sup> Street, Escanaba, MI 49829

Dear Mr. and Mrs. Gollach:

I have reviewed your recently submitted Zoning Approval Form for the construction of an addition to your single-family dwelling located at 1300 South 15<sup>th</sup> Street. Your request for zoning approval as submitted for the addition has been denied for the following reason

**Ordinance Requirement**

**505.2.1. Minimum Side Yard.** The minimum side yard for residential structures shall be ten percent (10%) of the width of the lot with a total of twenty-five percent (25%) of the lot required for both side yards; provided, however, that no side yard shall have a width of less than four feet (4') and this shall be increased by four feet (4') for each story by which a building erected on a lot exceeds two (2) stories in height. And provided however that no minimum interior side yard shall be required to exceed fifteen feet (15') nor shall the total side yards be required to exceed forty-five feet (45').

**A minimum side yard on the 12<sup>th</sup> Avenue South side of the dwelling must be at least 14 feet (14') from building edge to property line.**

In accordance with Chapter 3. Board of Zoning Appeals of Escanaba's Zoning Ordinance, I would like to advise you of your right to appeal my findings to the City of Escanaba Zoning Board of Appeals. Should you wish to apply for a variance because you feel there was an error in my interpretation of the code requirements, please complete the enclosed form and return to City Hall with the applicable filing fee (\$200.00). Please be advised that the Zoning Board of Appeals does not have the authority to alter or change the requirements of the ordinance to allow a use which would be inconsistent with the requirements of the Zoning Ordinance. For your information and review, I have enclosed the Zoning Ordinance Chapter pertaining to the Board of Zoning Appeals.

Please feel free to contact me with questions or further assistance. I can be reached at 786-9402 or e-mail me at [citymanager@escanaba.org](mailto:citymanager@escanaba.org).

Sincerely,

James V. O'Toole  
City Manager  
(906) 786-9402

Enc: Chapter 3 – Zoning Ordinance  
Zoning Board of Appeals Application

**Mission Statement:**



Enhancing the enjoyment and livability of our community by providing quality municipal services to our citizens.  
*The City of Escanaba is an equal opportunity employer and provider.*

APPLICATION FOR ZONING LAND USE APPROVAL  
CITY OF ESCANABA, ESCANABA, MI 49829

We, the undersigned, owner(s)/agent(s) of the following described property hereby apply to you for a Zoning Land Use Permit with a sketch drawn to scale, showing actual dimensions and shape of the lot, exact sizes and locations of existing buildings on the lot, and locations and dimensions of the proposed buildings or alterations. The property owner(s) shall verify any existing easement(s) and/or right-of-way(s). The applicant certifies the information submitted is accurate. The applicant states that he/she has the property owner's authority to execute this agreement and permit. Any certificate issued upon a false statement of any fact which is material to the issuance hereof, shall be void. All questions must be answered.

LEGAL DESCRIPTION OF PROPERTY: SEC @ INT 1/4 COR SEC 31 T39N R22W T4S DD 31M E 92.75 FT THE 189.94 FT TO W L. N 15TH ST TH N 94.8 FT S 86 D 08M W 132.4 FT TO ROB CITY ADD NO 1 Bk ASSESSOR #: 1 1300 S 15TH STREET

LOT INFORMATION:

PROPERTY OWNER(S): Raymond & Shirley Gollach

PHONE NUMBER: 906 789-9306 E-MAIL ADDRESS: raygollach@ho+mail.com

PROPERTY ADDRESS: 1300 SOUTH 15TH STREET

TYPE OF LOT: (circle one) Corner Lot Interior Lot Other: \_\_\_\_\_

\*Please note the dimensions on your site plan as well

SIZE OF LOT: .40 ACRES LENGTH OF LOT: 184' WIDTH OF LOT: 95'

IRREGULAR LOT: \_\_\_\_\_ PROPERTY ZONED: RESIDENTIAL

BUILDING INFORMATION:

TYPE OF BUILDING: (please check one)

Construction, alteration or addition of/to a single-family, two-family or multiple-family dwelling with three (3) to four (4) residential dwellings or accessory structures

A building addition of 20% or less of an existing building not to exceed 5,000 square feet

A building addition up to 5,000 square feet that does not modify any other site characteristics such as parking, traffic circulation and drainage

A mobile home park  A parking lot or addition containing five (5) or more spaces

A garage or accessory structure over 100 square feet in size  Other: \_\_\_\_\_

SIZE OF BUILDING: 10' x 30' EXISTING FLOOR AREA: \_\_\_\_\_

PROPOSED PERCENTAGE OF LOT COVERED BY STRUCTURE(S) 14%

PROPOSED USE: STORAGE

# OF STORIES: 1 STORY HEIGHT OF BUILDING: (feet and stories) 8' - 1 STORY

GARAGE: (circle one) Attached Detached

ROOF TYPE: (circle one) Gambrel Mansard Flat Gable Hip

SETBACKS: (from property line) FRONT: 28' SIDES: 8-0 and 12-6" REAR: 88'

IS THE PROPERTY IN A 100 YEAR FLOOD PLAIN? NO \_\_\_\_\_ YES \_\_\_\_\_ PANEL # \_\_\_\_\_ PANEL DATE \_\_\_\_\_

ESTIMATED VALUE OF CONSTRUCTION: \$12,000

APPROVED VARIANCES:

\*\*\*\*\*

\*In Residence "A", "B", and "C" no buildings or structures can occupy more than 35% of the area of the lot. \*All building lots must be buildable as defined by the State of Michigan Subdivision Control Act and City of Escanaba Zoning Ordinance.

\*The Escanaba Zoning Code requires a six (6) foot wide public sidewalk be installed along streets/avenues adjacent to the property on which a building is erected or moved. A Certificate of Occupancy will not be issued by the Delta County Building and Zoning Department until sidewalks are installed.

(Please print)

COMPANY NAME/APPLICANT: Raymond Gollach DATE: 9/12/14

SUBMITTED BY: \_\_\_\_\_

SIGNATURE: Raymond Gollach PHONE: 906 789-9306

\*\*\*\*\*

OFFICE USE ONLY:

DATE RECEIVED: 9/12/14 APPROVED: \_\_\_\_\_ DISAPPROVED: 9/15/14

IF APPLICATION IS DENIED, REASON FOR DENIAL: \_\_\_\_\_

SPECIAL REQUIREMENTS OF APPROVAL: See ATTACHED.

SIGNATURE OF REVIEWER: J. J. [Signature] DATE: 9/15/14

JOB: Golfcart  
1300 S. 15TH ST  
BY: OITOTG  
DATE: 9/15/14  
SCALE: \_\_\_\_\_  
OTHER: \_\_\_\_\_

ADDITION -  
Single-Family  
Dwelling

Zoning - A.  
USE - ADDITION TO DWELLING

Lot -  $95 \times 184 = 17,480$        $95 \times 140 = 13,300$   
 $\begin{array}{r} \times .35 \\ \hline 6.118 \end{array}$        $\begin{array}{r} \times .35 \\ \hline 4.655 \end{array}$

EXISTING FOOTPRINT = 1334 SF.  
 PROPOSED ADDITION = 300 SF.  
1364 SF. AREA (24)

SETBACKS.

	N/A	PROPOSED	
FRONT	28'	N/A	
SIDE (10/14)	12'	10' (24)	$95 \times 25 = 23.75$
SIDE	14'	8.6' (24)	(24)
REAR	20'	28' (24)	10/14

COMMENT

1. SIDEYARD LOCATED OFF 12TH AVE SO SIDE OF DWELLING MUST BE AT LEAST 14' FROM EDGE OF EYE TO PROPERTY LINE.

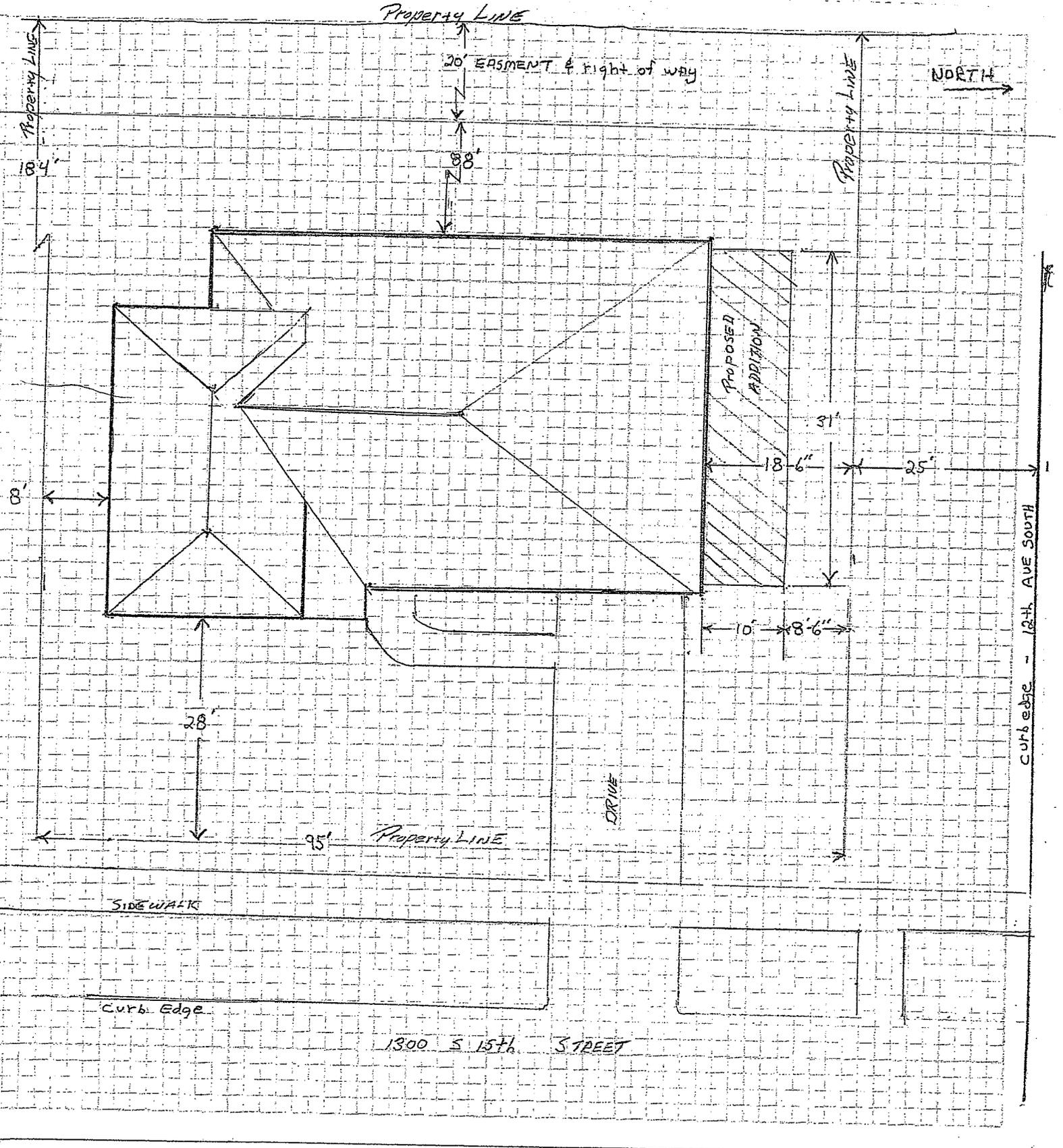
2. REAR YARD CALCULATIONS       $95 \times 108 = 10,260$   
 $\begin{array}{r} \times .50 \\ \hline 5130 \text{ SF. REAR YARD AREA} \end{array}$

REMOVED - 9/15/14

Mark  
9/15/14

OWNER: RAY & SHIRLEY GOLLACH  
CONTRACTOR: G.A. SAYERS CONSTRUCTION

DATE: 9/11/14  
SCALE: AS SHOWN



Grantor	GOLLAACH RAYMOND & SHIRLEY TAYLOR	Sale Price	169,000	Sale Date	08/01/2011	Inst. Type	WD	Terms of Sale	ARMS-LENGTH	Liber & Page	1020/488	Verified By		Prct. Trans.	100.0
Property Address	1300 SOUTH 15TH STREET		0		06/30/1993	QCD			QCD	403/309				0.0	
Owner's Name/Address	GOLLAACH RAYMOND & SHIRLEY 2790 SPATE HIGHWAY M-35 BARK RIVER MI 49807														
Tax Description	BEG @ INT 1/4 COR SEC 31 T39N R22W TH S 0D 31M E 93.75 FT TH E 184.94 FT TO W LN S 15TH ST TH N 94.8 FT TH S 88D 08M W 182.8 FT TO POB CITY ADD NO 1 BLK 1 1300 SOUTH 15TH STREET														

Class: Residential, 401	Zoning: 204	Building Permit(s)	Date	Number	Status
School: DISTRICT 21010					
P.R.E. 0%					
Map #:					
	2012 Est TCV Tentative				
X Improved	Vacant				
Public					
Improvements					
Dirt Road					
Gravel Road					
Paved Road					
Storm Sewer					
Sidewalk					
Water					
Sewer					
Electric					
Gas					
Curb					
Street Lights					
Standard Utilities					
Underground Utils.					
Topography of Site					
X Level					
Rolling					
Low					
High					
Landscaped					
Swamp					
Wooded					
Pond					
Waterfront					
Ravine					
Wetland					
Flood Plain					

Frontage	95.00	Depth	184.00	%Adj.	100	Reason	95 X 184	Value	26,125
Front Feet	95	Total Acres	0.40	Total	Est.	Land Value	=	26,125	

Year	2012	Land Value	Tentative	13,063	Building Value	Tentative	70,664	Assessed Value	Tentative	83,727	Board of Review	Tentative	Taxable Value	Tentative	73,139C
	2011														71,917C
	2010														72,134C
	2009														

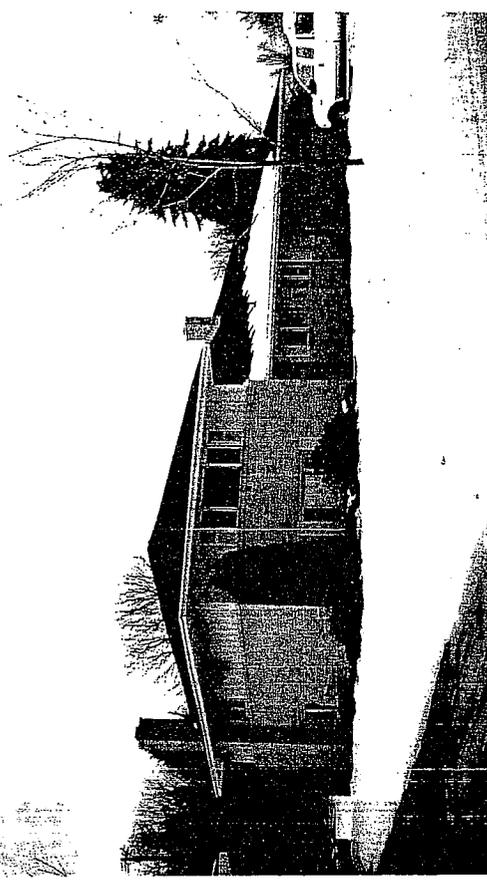
Who      When      What

KD 11/16/2009 Inspected

KD 02/03/2010 Data Enter

The Equalizer. Copyright (c) 1999 - 2009.  
Licensed To: City of Escanaba, County of Delta

\*\*\* Information herein deemed reliable but not guaranteed\*\*\*



Building Type		(3) Roof (cont.)		(11) Heating/Cooling			(15) Built-ins		(16) Porches/Decks		(17) Garage	
X Single Family	Eavestrough	X Gas	Oil	Wood	Coal	Steam	Appliance Allow.	Interior 1 Story	Area Type	Year Built:	Car Capacity:	
Mobile Home	Insulation	Forced Air w/o Ducts		Forced Air w/ Ducts			Cook Top	Interior 2 Story	49 CCP		Class: BC	
Town Home	0 Front Overhang	Forced Air w/ Ducts		Forced Air w/ Ducts			Dishwasher	2nd/Same Stack	124 CCP		Exterior: Siding	
Duplex	0 Other Overhang	Forced Hot Water		Forced Hot Water			Bath Heater	Two Sided	37 CCP		Brick Ven.: 0	
A-Frame	(4) Interior	Electric Baseboard		Electric Baseboard			Vent Fan	Exterior 1 Story			Stone Ven.: 0	
X Wood Frame	Drywall	Elec. Ceil. Radiant		Elec. Ceil. Radiant			Hot Tub	Exterior 2 Story			Common Wall: 1 Wall	
	Paneled	Radiant (in-floor)		Radiant (in-floor)			Unvented Hood	Prefab 2 Story			Foundation: 42 Inch	
	Trim & Decoration	Electric Wall Heat		Electric Wall Heat			Vented Hood	Heat Circulator			Finished?: Yes	
Building Style:	Ex X Ord	Space Heater		Space Heater			Intercom	Raised Hearth			Auto. Doors: 0	
DEFAULT STYLE	Size of Closets	Wall/Floor Furnace		Wall/Floor Furnace			Jacuzzi Tub	Wood Stove			Mech. Doors: 0	
Yr Built	Lg X Ord	Forced Heat & Cool		Forced Heat & Cool			Jacuzzi repl. Tub	Direct-Vented Ga			Area: 628	
1967 BI	Small	Heat Pump		Heat Pump			Oven				% Good: 0	
0	Doors	No Heating/Cooling		No Heating/Cooling			Microwave				Storage Area: 0	
Condition for Age:	Solid X H.C.	Central Air		Central Air			Standard Range				No Conc. Floor: 0	
Good	(5) Floors	Wood Furnace		Wood Furnace			Self Clean Range				Bsmnt Garage:	
Room List	Kitchen:	(12) Electric		(12) Electric			Sauna				Carport Area:	
3 Basement	Other:	0 Amps Service		0 Amps Service			Trash Compactor				Roof:	
4 1st Floor	Other:	No./Qual. of Fixtures		No./Qual. of Fixtures			Central Vacuum					
3 2nd Floor	(6) Ceilings	X Ex.	Ord.	Min			Security System					
3 Bedrooms	(7) Excavation	No. of Elec. Outlets		No. of Elec. Outlets								
(1) Exterior	Basement: 1334 S.F.	Many X Ave.		Many X Ave.								
X Wood/Shingle	Crawl: 0 S.F.	(13) Plumbing		(13) Plumbing								
Aluminum/Vinyl	Slab: 0 S.F.	Average Fixture(s)		Average Fixture(s)								
Brick	Height to Joists: 0.0	2		2								
X Insulation	(8) Basement	3 Fixture Bath		3 Fixture Bath								
(2) Windows	Conc. Block	2 Fixture Bath		2 Fixture Bath								
Many	Poured Conc.	Softener, Auto		Softener, Auto								
Ave.	Stone	Solar Water Heat		Solar Water Heat								
X	Treated Wood	NO Plumbing		NO Plumbing								
Few	Concrete Floor	Extra Toilet		Extra Toilet								
Wood Sash	(9) Basement Finish	Extra Sink		Extra Sink								
Metal Sash	Recreation SF	Separate Shower		Separate Shower								
Vinyl Sash	Living SF	Ceramic Tile Floor		Ceramic Tile Floor								
Double Hung	Walkout Doors	Ceramic Tile Wains		Ceramic Tile Wains								
Horiz. Slide	NO Floor SF	Ceramic Tub Alcove		Ceramic Tub Alcove								
Casement	(10) Floor Support	Vent Fan		Vent Fan								
Double Glass	Joists:	(14) Water/Sewer		(14) Water/Sewer								
Patio Doors	Unsupported Len:	Public Water		Public Water								
Storms & Screens	Cntr. Sup:	Public Sewer		Public Sewer								
(3) Roof	Chimney: Brick	Water Well		Water Well								
X Gable		1000 Gal Septic		1000 Gal Septic								
Hip		2000 Gal Septic		2000 Gal Septic								
Flat		Lump Sum Items:		Lump Sum Items:								
X Asphalt Shingle												

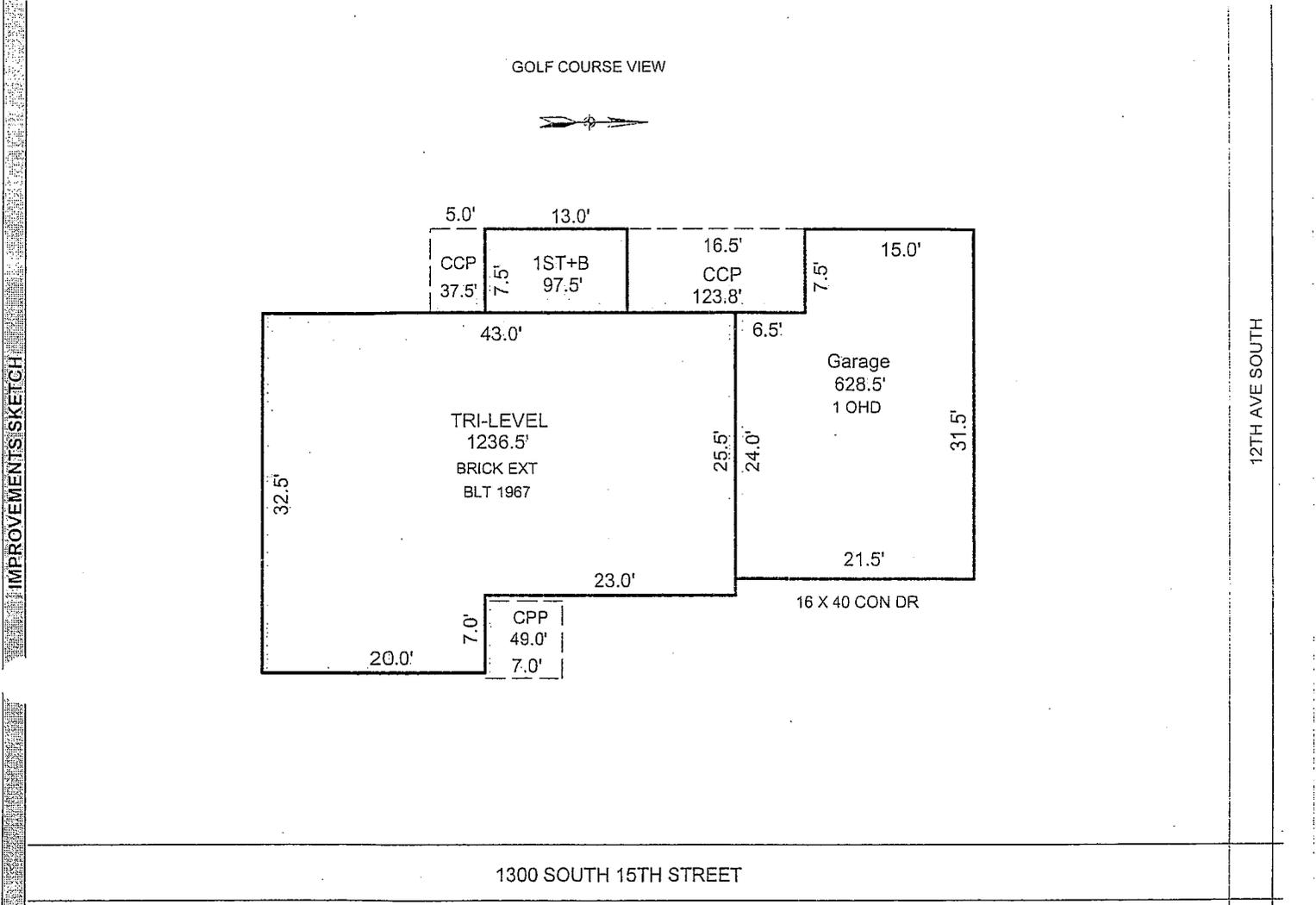
\*\*\* Information herein deemed reliable but not guaranteed\*\*\*

# SKETCH/AREA TABLE ADDENDUM

Parcel No 1300S15S

File No 051-110-2931-401-001

SUBJECT	Property Address 1300 SOUTH 15TH STREET	State	Zip
	City		
	Owner		
	Client		
	Appraiser Name KEVIN DUBORD	Inspection Date DRAWN 5-20-10	



Scale: 1 = 15

AREA CALCULATIONS SUMMARY						Comment Table 1	
Code	Description	Factor	Net Size	Perimeter	Net Totals		
GLA1	TRI-LEVEL	1.00	1236.5	151.0			
	1ST+B	1.00	97.5	41.0	1334.0		
GAR	Garage	1.00	628.5	106.0	628.5		
P/P	Porch	1.00	123.8	48.0			
	Porch	1.00	37.5	25.0			
	Porch	1.00	49.0	28.0	210.3		
Net LIVABLE Area (rounded w/ factors)					1334	Comment Table 2    Comment Table 3	

**CHAPTER 3  
BOARD OF ZONING APPEALS**

**SECTION 301  
GENERAL**

**301.1. Purpose.** This section addresses the duties and responsibilities of the Board of Zoning Appeals, hereafter referred to as "the Board" and other officials and agencies, with respect to the administration of this chapter.

**301.2. Cross References, as amended.**

- A. Board of Zoning Appeals - MCL 125.555
- B. Meetings of the Board; freedom of information - MCLA 125.585a
- C. Review by Circuit Courts; appeals to Supreme Court; procedure - MCLA 125.590
- D. Actions for review; proper and necessary parties; notice; failure to appear - MCL 125.591
- E. Authority for nonconforming uses - Zoning Ordinance Section 206 Non-Conforming Uses

**301.3. Establishment of the Board.** The Zoning Board of Appeals is established in accordance with Act 207 of the Public Acts of 1921, as amended (MCL 125.581 et seq; MSA 5.2931, et seq). The Board shall perform its duties and exercise its powers as provided by state law and this Zoning Code such that the intent of this Zoning Code is observed and the health, safety and welfare of the public is secured.

**301.4. Filing for Appeal.** Any person with standing, aggrieved or affected by any decision of the Code Official shall be permitted to appeal to the Zoning Board of Appeals by written request with the Code Official. Upon furnishing the proper information, the Code Official shall transmit to the Zoning Board of Appeals all papers and pertinent data related to the appeal.

**301.5. Time Limit.** An appeal shall only be considered if filed within ten working days after the cause arises or the appeal shall not be considered. If such an appeal is not made, the decision of the Code Official shall be considered final.

**301.6. Stays of Proceedings.** An appeal stays all proceedings from further action unless there is immediate danger to public health and safety.

**SECTION 302  
ZONING BOARD OF APPEALS; COMPOSITION; TERMS OF OFFICE.**

**302.1. Membership.** The Zoning Board of Appeals shall consist of six (6) members appointed by the City Council for terms of three (3) years. Terms shall be overlapping to provide for the appointment of an equal number of members each year.

**302.2. Alternate Members.** The City Council may appoint two (2) alternate members for terms of three (3) years each. An alternate member may be called by the Chairperson of the Board or the Code Official to sit as a regular member of the Board in the absence of a regular member if:

**302.2.1. Attendance.** A regular member is unable to attend a regularly scheduled meeting; or

**302.2.2. Conflict of Interest.** A regular member has abstained from a decision for reason of a conflict of interest.

**302.2.3. Duration.** The alternate member having been appointed shall serve on an appeal until a final decision has been made. Such alternate member shall have the same voting rights as a regular member of the Board. Absence, inability to attend or abstention because of a conflict of interest may be established by communication of a Board member at least twenty-four (24) hours prior to the regularly scheduled Board meeting.

### **SECTION 303 HEARINGS**

**303.1. General.** The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within three hundred (300) feet of the premises in question is accessed, and to the occupants of single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the latest assessment role, at least five (5) days before the hearing of an appeal. If a tenant's name is not known, the term occupant will be used. Upon the hearing, a party may appear in person or by agent or by attorney. Meetings of the Zoning Board of Appeals shall be held at the call of the Code Official and at such other times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall follow rules of procedure and keep a public record of its proceedings showing the action of the Board and the vote of each member upon each questions considered. The presence of four (4) members shall be necessary to constitute a quorum and a majority vote of the members of the Board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or to decide in favor of the applicant in the case of a variance, exception or interpretation, except that the concurring vote of four (4) of the members shall be necessary to grant a variance from uses of land permitted by this Zoning Code.

### **SECTION 304 RULES OF PROCEDURE**

**304.1. General.** The Zoning Board of Appeals shall follow such procedures as are established by statute, Ordinance and resolution of the Board. These procedures shall include:

**304.1.1. Appeals Generally.** For purposes of these rules of procedure, an appeal shall include applications for appeals, interpretations, variances, exceptions and matters involving nonconforming uses.

**304.1.2. Initiating Appeals.** Appeals shall be filed with the Code Official within ten (10) working days after written notice is given of the action being appealed. An appeal must be submitted at least fifteen (15) business days before the Board meeting at which it will be considered. An appeal may be taken by a person aggrieved, or by the

Code Official. A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

**304.1.3. Filing Fees.** The filing fee for appeals shall be established by resolution of the City Council.

**304.1.4. Advertisements.** One (1) advertisement in a local newspaper of general circulation indicating the nature of the appeal and the date of the hearing will be placed between seven (7) and twenty (20) days before the hearing. A minor deviation in the notice published in the newspaper or in the time of appearance of such notice in the newspaper shall not affect the validity of the proceedings of the Board unless there is a clear demonstration of prejudice as a result of such minor deviation.

**304.1.5. Regular Meetings.** The Board shall annually certify their meeting dates and times of each month. If the regular meeting date falls on a holiday, or if the regular meeting date falls on a Tuesday immediately following a Monday holiday, the meeting date shall be moved to the next working day. Meetings shall be held in the City Council Chambers of City Hall, unless otherwise indicated.

**304.1.6. Exceptions to Regular Meeting Dates.** If a quorum of the members is not present or anticipated, then the regular meeting may be canceled and rescheduled to the next regularly scheduled meeting or to the earliest possible date determined by the Chairperson of the Board. If no requests have been received fifteen (15) days before the date of a regularly scheduled meeting, the meeting may be canceled by the Code Official.

**304.1.7. Application Contents.** In addition to all other requirements of statute and Ordinance, applications shall be in a form determined by the Code Official and shall contain such information as the Code Official shall direct. Such applications shall also include the following:

- A. A site plan or site diagram reflecting accurate dimensions of the property, the location of structures on the property and the location of buildings on adjacent properties. If requested by the Board or the Code Official, such drawing shall be a survey performed by a registered land surveyor.
- B. The name, address and telephone number of the applicant and the authorized agents of the applicant.
- C. The application must be signed by the owner or someone acting upon written consent of the owner, which written consent must be submitted with the application.
- D. All previous appeals involving the property noted on the application as to the subject, date and outcome of the appeal.

**304.1.8. Conflict of Interest.** Members shall disqualify themselves from deliberating and voting on any matter in which a member has any personal, professional, or financial interest (direct or indirect). Before deliberating any appeal, the Chairperson shall ask if any member has such a conflict. Any member must clearly state the conflict for the record.

**304.1.9. Representation at Hearing.** The applicant or the applicant's authorized agent must be present at the public hearing to properly answer questions concerning the appeal. If the applicant or agent is not present, the appeal may be deferred until the next meeting or dismissed, at the direction of the Board.

**304.1.10. Reconsideration.** An applicant may re-appeal a decision after twelve (12) months from the decision of the Board. The Board will not reconsider any appeal within twelve (12) months from the date of the decision unless it can be shown by the applicant that there has been substantially changed circumstances affecting the appeal, which circumstances were not known to the Board at the previous hearing. The substantial change in circumstances shall be described, in writing, by the applicant at the time of the application.

**304.1.11. Instructions.** The Code Official shall prepare a written description of the procedures of the Board and instructions to all potential applicants. Such written instruction shall be submitted to the Board for its approval prior to the public distribution.

**304.1.12. Other Rules.** The Board may adopt such other rules to govern its procedure as it deems advisable, provided such rules are not in conflict with statute or Ordinance.

## **SECTION 305 POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS**

**305.1. General.** The Board shall have the power to hear and decide on appeals where it is alleged that there is an error in any order, requirement, decision, determination or interpretation by the Code Official. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of appeal from and shall make an order, requirement, decision, or determination as in the Board's opinion ought to be made in the premises. If there are practical difficulties or unnecessary hardship in carrying out the strict letter of the ordinance, the Zoning Board of Appeals may, in passing on appeals, grant a variance in any of the provisions relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done. The Zoning Board of Appeals shall not have the power to vary a standard for a Planned Unit Development or a Special Land Use Permit.

**305.2. Appeals** The Board shall hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or determination made by the Code Official or body charged with the enforcement of this Zoning Code.

**305.3. Interpretations.** Upon application by the Code Official or person interested in a specific affected parcel of land, when other administrative appeals have been exhausted, the Board shall have the power to:

- A. Interpret the Zoning Code in such a way as to carry out its intent and purpose;
- B. Determine the precise location of a zoning district and special area boundaries;

- C. Classify a use which is not specifically mentioned, determine the district within which the use is permitted and determine the necessary parking to support the use; and
- D. Determine the off-street parking and loading space requirements of this Zoning Code.

**305.4. Variance Review Criteria.** The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Code. A variance from the dimensional requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.

**305.4. Basic Conditions.** Any variance granted from this Zoning Code shall meet the following basic conditions:

- A. The spirit of the Zoning Code shall be observed, public safety secured and substantial justice done.
- B. There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- C. The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
- D. The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.
- E. It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- F. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
- G. The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.
- H. It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.

**305.6. Practical difficulties and unnecessary hardships.** In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Zoning Code the following shall apply:

**305.6.1. Dimensional Variance.** A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same zoning district.

**305.6.2. Use Variance.** The Board shall not grant a variance to allow the establishment of a use in a Zoning District when such use is prohibited by the provisions of this chapter. An unnecessary hardship shall exist where the lot

considered in combination with other land owned by the applicant adjacent thereto has no reasonable value as zoned.

**305.7. Other Powers.** In specific cases, the Zoning Board of Appeals may vary or nullify the regulations herein established, in harmony with the general purpose and intent, as follows:

- A. Permit in any district, such modification of the requirements of these regulations as said Board may deem necessary to secure an appropriate development of a lot where adjacent to such lot on two (2) or more sides there are buildings that do not conform to these regulations.
- B. Extend the period of time during which reconstruction must be started when restoring damage brought about by fire, explosion, act of God, or act of a public enemy as provided in Section 207.4 Restoration and Repairs of this Ordinance.
- C. Where the street layout actually on the ground varies from the street layout shown on the Zoning Map, apply the designations shown on the mapped street in such a way as to carry out the intent and purpose of the Ordinance for the particular area in question.

**305.8. Decisions.** The Board shall not have the authority to alter or change this Ordinance or zoning map to allow a use which would be inconsistent with the requirements of this Ordinance. Provided, however, that in interpreting and applying the provisions of this Ordinance, the requirements shall be deemed to be the spirit and intent of the Ordinance and does not constitute the granting of a special privilege.

## SECTION 306 TIME LIMITATIONS OF ORDERS

**306.1. Miscellaneous.** An order of the Zoning Board of Appeals permitting the erection or alteration of a building is valid for no longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

**306.2. Uses.** An order of the Board permitting the use of a building or premises is valid for no longer than one (1) year unless such use is established within such period. However, where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and if such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

**306.3. Modifications.** Time limits established by this Chapter may be lengthened or shortened by the Board as a condition imposed under the standards for conditions set forth in this Zoning Code.

**306.4. Expiration.** In addition to any expiration provision contained in an order itself, an order of the Zoning Board of Appeals may be declared by the Code Official to be expired where there has been change in a material circumstance or fact upon which the order was issued, such as, but not limited to, destruction of a building or natural feature, vacation of a street or a change in topography.

## SECTION 307 COURT REVIEW

**307.1. Circuit Court Review.** A decision of the Zoning Board of Appeals shall be final. However, any party having a substantial interest affected by an order, determination or decision of the Zoning Board of Appeals may appeal to the Circuit Court if such appeal is made to the Court within twenty-eight (28) days after rendering the final decision.

**307.2. Standards for Review.** The Circuit Court shall review the record and decision of the Zoning Board of Appeals to ensure that the decision:

- A. Complies with the constitution and the laws of the State;
- B. Is based upon proper procedure;
- C. Is supported by competent, material, and substantial evidence on the record;  
and
- D. Represents the reasonable exercise of discretion granted to the Zoning Board of Appeals.

**307.3. Inadequate Record.** If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Zoning Board of Appeals, the Court shall order further proceedings before the Zoning Board of Appeals on considers which the Court considered proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision.

*Ordinance No. 1089 - Chapter 3, Board of Zoning Appeals – as amended by City Council on 11/06/08.*



October 6, 2014

BOARD OF APPEALS  
ESCANABA, MI 49829

Dear Property Owner/Occupant:

A regular meeting of the Board of Appeals has been scheduled for **Wednesday, October 22, 2014, at 6:30 p.m. in Room C101 at the Escanaba City Hall, 410 Ludington Street, Escanaba, MI 49829.** The following item will be on the agenda:

**Public Hearing – 1300 South 15<sup>th</sup> Street – Variance Request – Zoning Ordinance**

A hearing on a request from Ray and Shirley Gollach for a variance to Section 505.2.1. Minimum Side Yard of the Escanaba Zoning Ordinance.

You are cordially invited to attend this meeting should you have any comment concerning this agenda item. If you have concerns, but are unable to attend this meeting, please submit your written concerns to my attention prior to October 22, 2014. All written concerns will be read into the record.

The City of Escanaba will provide all necessary, reasonable 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/hearing upon five (5) days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba at (906) 786-9402. A copy of the full application and background paperwork for the referenced case can be viewed at City Hall, Second Floor, 410 Ludington Street, Escanaba, MI.

Sincerely,

Blaine DeGrave, Ex-Officio  
Escanaba Board of Appeals  
(906) 786-9402

**PROOF OF SERVICE – MAILING**  
This document was enclosed in sealed envelope, first class postage fully prepaid, and deposited in the U.S. Government Mail.

Addressee (s): tenant + property owner w/in  
300'

Mailing Date: 10/7/14

Attested To By: K.P.

**Mission Statement:**



Enhancing the enjoyment and livability of our community by providing quality municipal services to our citizens.  
The City of Escanaba is an equal opportunity employer and provider.

BUTRYN ROBERT L & ALICE  
1401 SOUTH 15TH STREET  
ESCANABA, MI 49829

PERRY MICHAEL J  
1513 11TH AVENUE SOUTH  
ESCANABA, MI 49829

HEIDEN JEFFREY/TINA M  
1208 SOUTH 14TH STREET  
ESCANABA, MI 49829

SACHASCHIK JOSEPH & CLARINDA D  
1405 SOUTH 15TH STREET  
ESCANABA, MI 49829

DELAIRE PATRICK & DELAIRE STEVEN  
1501 11TH AVENUE SOUTH  
ESCANABA, MI 49829

LAFLEUR LUCILLE  
1214 SOUTH 14TH STREET  
ESCANABA, MI 49829

RAMSPECK JOYCE T LIFE ESTATE  
1400 SOUTH 14TH STREET  
ESCANABA, MI 49829

MONTGOMERY DONALD & KRIS T  
1208 SOUTH 15TH STREET  
ESCANABA, MI 49829

DANIELS GARY J  
1230 SOUTH 14TH STREET  
ESCANABA, MI 49829

ANDERSON TRACY  
1606 12TH AVENUE SOUTH  
ESCANABA, MI 49829

BULLEN SCOTT P & HEIDI M  
1214 SOUTH 15TH STREET  
ESCANABA, MI 49829

GOLLACH RAYMOND & SHIRLEY  
1300 SOUTH 15TH STREET  
ESCANABA, MI 49829

HAMELIN JUDY, AMBEAU ANDREW A &  
1601 11TH AVENUE SOUTH  
ESCANABA, MI 49829

ZELLAR-MARGULES DIANE V  
PO BOX 123  
WELLS, MI 49894

PEARSON GLADYS M LE  
423 SOUTH 32ND STREET  
ESCANABA, MI 49829

HAMELIN JUDY, AMBEAU ANDREW A &  
1601 11TH AVENUE SOUTH  
ESCANABA, MI 49829

NOEL CHARLENE R  
C/O HANSON CHARLENE R  
11019 BONEY FALLS H ROAD  
ESCANABA, MI 49829

CURTIN GARY/MARY TRUST  
1310 SOUTH 15TH STREET  
ESCANABA, MI 49829

NEVEAU AIMEE C  
1210 SOUTH 16TH STREET  
ESCANABA, MI 49829

WINKOWSKI JARRETT  
1205 SOUTH 15TH STREET  
ESCANABA, MI 49829

LAPORTE PHILLIP A & HIRN ASHLEY  
1314 SOUTH 15TH STREET  
ESCANABA, MI 49829

GAGNON BRANDON J & LISA B  
1600 12TH AVENUE SOUTH  
ESCANABA, MI 49829

WILSON DAVID & RUTH  
1209 SOUTH 15TH STREET  
ESCANABA, MI 49829

NORKOLI DEREK R & AMANDA L  
1421 12TH AVENUE SOUTH  
ESCANABA, MI 49829

FUNKE TRACY A  
1523 11TH AVENUE SOUTH  
ESCANABA, MI 49829

ERICKSON JESSICA  
1211 SOUTH 15TH STREET  
ESCANABA, MI 49829

JENSHAK GARY & THERESE A  
1307 SOUTH 15TH STREET  
ESCANABA, MI 49829

BRUCE JIMMY R & SALLY  
1215 SOUTH 16TH STREET  
ESCANABA, MI 49829

BOUCHER KIM M  
1420 12TH AVENUE SOUTH  
ESCANABA, MI 49829

ARNTZEN NORMAN G TRUST  
1311 SOUTH 15TH STREET  
ESCANABA, MI 49829

NELSON PATRICIA E  
1315 SOUTH 15TH STREET  
ESCANABA, MI 49829

Tenant  
1306 So. 15th Street  
ESC

JOHNSON JOANNE  
1411 12TH AVENUE SOUTH  
ESCANABA, MI 49829

Tenant  
1421 11th Ave. So.  
ESC

CAVADEAS ANGELA  
1300 SOUTH 14TH STREET  
ESCANABA, MI 49829

HENDERSON JEFFERY J. & CHERYLE L  
1306 SOUTH 14TH STREET  
ESCANABA, MI 49829

Tenant  
1220 So. 15th St.  
ESC

BOSILOVATZ KATHLEEN  
1310 SOUTH 14TH STREET  
ESCANABA, MI 49829

WILES JERRY & KAREN  
1314 SOUTH 14TH STREET  
ESCANABA, MI 49829

WILES JERRY P  
1314 SOUTH 14TH ST  
ESCANABA, MI 49829

NELSON RICHARD E & ELAINE J  
1400 SOUTH 15TH STREET  
ESCANABA, MI 49829

ESCANABA COUNTRY CLUB % SEC  
P O BOX 296  
ESCANABA, MI 49829

## CITY OF ESCANABA BOARD OF APPEALS

At a regularly scheduled meeting of the Escanaba Board of Appeals on October 22, 2014, at 6:30 p.m. at the Escanaba City Hall, 410 Ludington Street, Escanaba, MI 49829, the following matter will be on the agenda:

### **Public Hearing – 1300 South 15<sup>th</sup> Street – Variance Request – Zoning Ordinance.**

A hearing on a request from Ray and Shirley Gollach for a variance to Section 505.2.1. Minimum Side Yard Requirements of the Escanaba Zoning Ordinance.

The public is invited to attend this meeting. If any member of the public has concerns, but is unable to attend this meeting, please submit your written concerns to the City Manager's Office, P. O. Box 948, Escanaba, MI 49829, prior to October 22, 2014. All written correspondence will be read into the public record.

Blaine DeGrave, Code Official  
Board of Appeals