



**Board of Appeals  
Meeting Agenda  
November 2, 2016, at 6:00 p.m.**

*Jon Liss, Chairperson  
Open, Vice-Chairperson  
William DeHaan, Member  
Joe Klem, Member  
Brian Thorsen, Member*

*Dennis Renken, Member  
Mark Hannemann, Member  
Blaine DeGrave, Code Official  
Dr. Ralph Blaiser, City Council Liaison*

Escanaba City Hall, Council Chambers, 410 Ludington Street, Escanaba, MI 49829  
Wednesday November 2, 2016, at 6:00 p.m.

CALL TO ORDER  
ROLL CALL  
APPROVAL/CORRECTION(S) TO MINUTES – June 14, 2016  
APPROVAL/ADJUSTMENTS TO THE AGENDA  
CONFLICT OF INTEREST DECLARATION

**UNFINISHED BUSINESS:**

- 1. Election of chairperson and Vice Chairperson**

**PUBLIC HEARING(S)**

- 1. Public Hearing – 316 South 3<sup>rd</sup> Street – Dimensional Variance – Zoning Ordinance.**  
**Explanation:** A hearing on a request from Edwin and Crystal Dwyer of 316 South 3<sup>rd</sup> Street, Escanaba MI 49829, for a dimensional variance to Section 505.2.1 Minimum Side Yard and 505.3.1 Minimum Rear Yard Requirements. The appellant is requesting a rear yard and side yard setback dimensional variance which would allow them to enlarge the existing garage by 110 sq. ft. for the installation of a wider garage door.

GENERAL PUBLIC COMMENT  
COMMISSION/STAFF COMMENT AND ANNOUNCEMENTS  
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 City Hall at (906) 786-9402.

Respectfully Submitted,

Jon Liss, Chairperson  
Board of Appeals

**ESCANABA ZONING BOARD OF APPEALS  
ROOM C101, CITY HALL, ESCANABA, MI  
TUESDAY, JUNE 14, 2016**

A meeting of the Escanaba Zoning Board of Appeals was held on Tuesday, June 14, 2016, at 6:00 p.m. at the City Hall, 410 Ludington Street, Escanaba, MI 49829.

**PRESENT:** Chairman Jon Liss, Members Dennis Renken, Mark Hannemann, Judi LaCosse, William (Bill) DeHaan, Code Official Blaine DeGrave, and Executive Assistant Buffy Smith

**ABSENT:** Member Joe Klem

Meeting called to order at 6:00 p.m. by Chairman Jon Liss

**ROLL CALL**

Executive Assistant Buffy Smith conducted the roll call.

**APPROVAL/CORRECTION OF THE SEPTEMBER 1, 2015 BOARD OF APPEALS MINUTES**

A motion was made by Member LaCosse, seconded by Member Hanneman, to approve the September 1, 2015 meeting minutes as submitted. Ayes were unanimous.

**APPROVAL/ADJUSTMENTS TO THE AGENDA**

None.

**CONFLICT OF INTEREST DECLARATIONS**

None.

**UNFINISHED BUSINESS**

None.

**PUBLIC HEARING**

Blaine DeGrave stated a request has been made from Beverly and Claude Kobasic for a hearing for a use variance from Zoning Ordinance requirements in accordance with Chapter 5 Residence "A" Districts, Sections 501.1 and 504 of the City's Zoning Ordinance. The Kobasic's are requesting a use variance be granted for property located at 3086 Lake Shore Drive, which would allow them to build a detached garage at the property without first constructing a primary permitted use (i.e. single-family dwelling) on the premises.

Blaine DeGrave stated the staff overview of the request.

The City of Escanaba Zoning Ordinance, Section 502.1 and 504 requires that a "Principle Use" structure be established before the development of an "Accessory Use", as defined in Chapter 1 General Provisions, Section 111, and General Definitions under "Principal Use", "Accessory Use" and "Yard – Rear". In this case, a "Principle Use" structure within a designated "Residential A" zoning district would be a single-family dwelling.

In accordance with Section 501.1. Purpose of the Escanaba Zoning Ordinance, the single-family dwelling district is for the purpose of primarily accommodating conventional single-family dwellings, which are constructed in accordance with applicable County and State building code requirements as adopted by the State of Michigan and Delta County under the "Michigan Residential Code". A single-family dwelling is also allowed to have an accessory use, such as the proposed detached garage, only when the primary use is in existence. An accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

In the application for the Board of Appeals, the appellant is requesting a variance be granted which would allow them to construct a 70'x42'x12' detached garage on the rear portion of the property located at 3086 Lakeshore Drive without having first built a primary use structure such as a single-family home. The applicant has stated their intent is to build a single family home in the future.

Blaine DeGrave stated the proposed findings:

1. Claude and Beverly Kobasic is the owner of record for the property located at 3086 Lakeshore Drive.
2. In accordance with Section 304.1.4 Advertisements of the Zoning Ordinance, all fee and notification requirements of the Zoning Ordinance have been accommodated for. Meeting notices were placed in the Escanaba Daily Press on Tuesday, June 7, 2016 indicating the nature of the appeal and the date of the hearing between seven (7) and twenty (20) days before the hearing date.
3. Letter notices were sent out to all property owners within 400 feet of the property indicating the nature of the appeal and the date of the hearing on June 14, 2016. A meeting notice was also placed on the City website and on the City Facebook page on Friday, June 3, 2016.
4. On May 5, 2016 Beverly and Claude Kobasic filed an application to appear before the Board of Appeals. In the application the appellants were asked to answer the following questions.

(a) (Question) PLEASE DESCRIBE THE REASON(S) FOR REQUESTING A VARIANCE FROM ZONING ORDINANCE REQUIREMENTS:

**(Answer) Would like to build a detached garage at the rear property area prior to building the house to work out of while building and to house tools and equipment as our present home will be sold.**

(b) (Question) DESCRIBE WHY THIS PROBLEM IS NOT SELF-CREATED:

**(Answer) Left blank by the appellant.**

(c) (Question) DESCRIBE ANY NEGATIVE IMPACT TO THE ADJACENT PARCELS(S) THAT MAY RESULT FROM GRANTING OF THIS VARIANCE:

**(Answer) Appellant answered "None".**

(d) DOES THE PROPERTY POSSESS UNIQUE CHARACTERISTICS (NOT COMMON TO THE GENERAL AREA):

**(Answer) Left blank by the appellant.**

Blaine DeGrave stated the powers and duties of the Board of Appeals.

In accordance with Chapter 3, Board of 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 matter.

If there are practical difficulties or unnecessary hardships 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 presence of four (4) members is 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 the Zoning Ordinance.

The Board shall have the power to authorize specific variances or departures from this zoning code, if all of the basic conditions are satisfied as defined in Section 305.4 Basic Conditions of the Zoning Ordinance, 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 use requirements of this 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.

The basic conditions are as follows, along with staff opinion (in bold):

- 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. **Staff Comment: If a single-family structure is not constructed, the presence of a large commercial type garage could have an adverse effect upon property values.**
- 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. **Staff Comment: Staff believes this would be the only residentially zoned property within 300 feet that would not have a primary use such as a single-family home located on the lot before an accessory structure is built.**
- 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 Ordinance. **Staff Comment: Staff believes the only unnecessary hardship that could be claimed is one of financial which is not specific to the land.**
- G. The alleged hardship or difficulty is not solely economic and is based on the reasonable use of a particular parcel of land. **Staff Comment: Based on comments made by the applicant, the alleged hardship or difficulty is solely economic and based on their ability to sell their existing home located outside the City limits.**
- 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. **Staff Comment: Staff believes passage of a variance would be the allowance of a special privilege not available to all residents.**

The Board of Appeals needs to determine if there is a practical difficulty or unnecessary hardship prior to granting any variance. The granting of a variance should be in harmony with the general purpose and intent of such documents as the Zoning Ordinance. The Board of Appeals should determine if a literal interpretation of the provisions of these documents could deprive the property owner of rights commonly enjoyed by other properties in the same district.

Blaine DeGrave stated the staff summary.

The Board of Appeals does not have the authority to alter or change the requirements of the Zoning Ordinance without first establishing that a hardship exists. The Board of Appeals must determine if there is a hardship or difficulty, which is not a result of an act, created by the owner and is not solely economic in nature. Variances are not intended to relieve requirements of the Zoning Ordinance that are preventing the owner from doing what they wish. Instead the Board of Appeals is intended to serve as a safety valve in those cases where the application of the zoning requirements results in a practical difficulty or unnecessary hardship. 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 before the Board of Appeals, it is believed that relating to the basic conditions, that the spirit of the zoning code would not be properly served and that there is no clear showing of a substantial difficulty or hardship relating to the property, which is not a result of an act created by the owner and is solely economic in nature. The property was also recently purchased by the applicant with the knowledge that the property was zoned as a Single-Family Residence District and that a primary use would have to be built before an accessory use could be built.

In accordance with the Escanaba Zoning Ordinance and State law, a decision of the Board of Appeals shall be final. However, any party having a substantial interest affected by an order, determination, or decision of the Board of Appeals, may appeal to the Circuit Court if such appeal is made to the court within twenty-eight (28) days after rendering of the final Board decision.

Jon Liss opened the floor for discussion from Claude and Beverly Kobasic as to where they would like to head with this project.

Claude Kobasic stated his current residence is 4764 11.5 Road in Ford River. The current house is 5,000 square feet for only two (2) people. This property has 25 acres of land/yard which isn't needed anymore. In speaking with the realtors, they feel it will take some time to sell the property. Claude said since August of last year, he has suffered health issues and believes his

current property is too much work to maintain for him and his wife. He would like to sell the property and would like to have a place to store a lot of his equipment (motorcycle, boat, etc.). He said, if needed, they will rent a house for a year. He would like to first build a garage on the property located at 3086 Lake Shore Drive and then once complete, begin building a house. He's retiring in August of this year and wants to be around when the house is getting built. He stated there will not be any business activity from the garage. They own other property and can use it for business if needed. The Lake Shore Drive property will be for personal use only. Claude said he just wants to live in town with the lifestyle that City living would allow (city garbage, city lights, bike path etc.). He offered to sell the lot back to the Board if the variance request is denied this evening.

Judi LaCosse said the names on the address listing within 300 feet of the property show businesses, except four (4) residential uses. She stated that the four (4) residential people are not present so they must not have any issues with this variance request. She also stated she doesn't understand how this area is considered residential when there are businesses within this area.

Jon Liss stated it looks like a mixed use for the surrounding property.

Claude Kobasic stated there are a lot of commercial businesses in the area. He said when he bought the property, he believed the realtor who said, in discussion before the property purchase, that he would be able to do what he planned. He doesn't understand why there is a problem with his plans when there is commercial business in the area.

Dennis Renken questioned Claude Kobasic on the location of the garage. Claude replied it will be toward the back of the property. He will build the garage 12 to 15 feet, or whatever the required amount of space is needed, from the property line.

Blaine DeGrave stated to the Board that the back yard space definition is hard to determine in this case without knowing the location of the back yard because a house doesn't exist on the property. He stated only 50% of the backyard space can be used for a garage.

Claude Kobasic replied that once the garage is constructed he would meet the requirements necessary there after based on the location of the garage. Blaine DeGrave added that the house would have to be built in accordance with the setback requirements, size requirements (only 35% of the lot can be used), etc. thereafter.

Jon Liss stated that if a variance was granted, he questioned if both a garage and house would fit on the property. He said it does show on the sketch plan as submitted that both buildings would fit.

Claude Kobasic stated he wants to build a double story house between 2,800 – 3,000 square feet, with one bedroom on the first floor, and two bedrooms on the second floor so the house is attractive to sell down the road, if his children do not want it when he is deceased. He passed around three (3) house design examples for the Board to review. In the end, he feels the value of the property will be around \$300,000-\$400,000. He would also like a porch, concrete driveway, etc.

Jon Liss opened discussion up to the Board.

Bill DeHaan stated he believes if a variance is granted it will affect the integrity of the Zoning Ordinance. He doesn't believe there is no real compelling hardship. He said if a garage is built,

but not a house (due to health issues or any other reason), then a non-conforming property use will be in effect, which is never a good thing.

Judi LaCosse stated the area shouldn't be zoned Residential A and she doesn't know if this can be changed. She stated she is in favor of the request.

Mark Hanneman agrees with Bill DeHaan and questioned why a house and garage cannot be built at the same time.

Dennis Renken stated he didn't realize all the equipment the Kobasic's owned. He was thinking a van could be used to store the equipment until he realized the amount of space needed. He also agrees with Bill DeHaan that changing the Zoning Ordinance is not good. He said he would have difficulty granting the request.

Jon Liss agrees that the zoning should be considered light commercial due to what is located in this area, but the Zoning Ordinance is as stated. With that being said, if the Board was to consider granting this request, a stipulation could be included where a house has to be built and the garage has to have residential siding such as stone, cedar, etc.; not steel, which is considered commercial.

Jon Liss questioned the time frame on the project.

Claude Kobasic stated he would build the garage this summer. His current property has been looked at by appraisers; and if the house does sell quickly, he wants to be all set before then. He believes the garage will take about a year to build. He will not be doing the building himself but will oversee the project. He wants the garage to have heat, concrete, etc. He wants the garage at a lower level than the future house. He doesn't want the garage seen well from the road. He also suggested putting a house in the garage (on a 2<sup>nd</sup> story) if the variance request as presented is denied.

Jon Liss replied to Claude Kobasic that it would become a whole different situation if he goes this route, since this would be considered building a house with an attached garage.

Jon Liss stated a timeline needs to be followed, as to what gets built and when, if the variance request is granted.

Blaine DeGrave stated a house has to be built within eighteen (18) months on a piece of property.

Blaine DeGrave stated that Zoning Ordinances are in place for a reason, to keep the integrity of the Escanaba system and the State requirements. He said making a change to the Zoning Ordinance in this particular case opens the door for possible problems in the future.

Bill DeHaan questioned what the recovery plan would be if the house wasn't built as agreed to. He also stated that if you make an exception for one (1) person, an exception has, or should be, considered for the next person; otherwise it shows favoritism, and this wouldn't look good in court (if a case went this far). He said if there is no real hardship, the integrity of the Zoning Ordinance needs to be considered first.

Claude Kobasic asked if he can build a garage with a house on the second story. He said he will build the 2<sup>nd</sup> house (the original house) down the road.

Jon Liss stated the new arrangements, a house with an attached garage, will need to be brought to Mr. O'Toole for review and approval.

Mark Hanneman questioned if a house on top of the garage and a second house on the property is allowable. Jon Liss replied that Mr. O'Toole would be the person who would review the new proposed plans.

Jon Liss asked the Board for a motion, if a variance is going to be granted.

**A motion was made by Member DeHaan, seconded by Member Hanneman, to deny the use variance from the zoning requirements request, which would allow Claude and Beverly Kobasic to install a detached garage at 3086 Lake Shore Drive, which is zoned as Residential A Single Family District, without having a primary permitted use, such as a single family dwelling. Ayes were unanimous with the exception of Member LaCosse.**

Blaine DeGrave stated a zoning permit application for the new plans will need to be submitted to Mr. O'Toole for review and approval.

No other comments were made.

### **ADJOURNMENT**

**A motion was made by Member Hanneman, seconded by Member LaCosse, to adjourn the meeting. Ayes were unanimous.**

The meeting adjourned at 6:52 p.m.

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Jon Liss, Chairperson  
Escanaba Zoning Board of Appeals

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Blaine DeGrave, Ex-Officio  
City of Escanaba

**CITY OF ESCANABA  
BOARD OF APPEALS  
November 2, 2016**

**CASE:** EBA110216-01

**APPLICANT:** Edward and Crystal Dwyer  
316 South 3<sup>rd</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 Edward and Crystal Dwyer, owners of 316 South 3<sup>rd</sup> Street, Escanaba, for a variance to Section 505.3.1 Minimum Rear Yard Requirements and 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 enlarge an attached garage which would encroach into the minimum rear and side yard space.

**LOCATION:** 316 South 3<sup>rd</sup> Street, Escanaba, MI 49829

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

**STAFF COMMENT:**

In accordance with the City of Escanaba Zoning Ordinance, Section 505.3.1 Minimum Rear Yard Requirements, a minimum 20' is required in depth as measured at right angles from the rear lot line to the nearest part of the principle building on each lot upon which a one (1) story principal building is located and Section 505.2.1 Minimum Side Yard Requirements, 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 the required rear yard and side yard setback requirements cannot be met, as 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. Edwin and Crystal Dwyer 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.

## **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**

Edwin and Crystal Dwyer 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 privity 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. 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.

In the case of the application it is believed that the granting of a variance would be in line with the basic conditions required for a variance request and that such installation would not have a detrimental impact to the surrounding neighborhood.

## **ENFORCEMENT HISTORY:**

None.

## **BACK-UP INFORMATION:**

- 1. Property Owner/Occupant Letter Within 400' Radius.
- 2. 400' Radius Labels.
- 3. EBA Application.
- 4. Assessor Information.

# CITY OF ESCANABA BOARD OF APPEALS APPLICATION

Pd #1002  
✓ \$250.00  
ums

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

**PROPERTY OWNER(S):**

Name(s): EDWIN T & CRYSTAL J DWYER  
Address: 316 S 3RD ST ESCANABA State: MI Zip: 49829  
City: \_\_\_\_\_ Phone: 906.241.3358 Fax: \_\_\_\_\_  
E-Mail Address: updwyer@gmail.com

**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: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

**SUBJECT PROPERTY:**

Street Address: 316 S 3rd Street  
Subdivision Name: Tilden Lot Number(s): 2  
Property Identification Number(s): 051-010-2929-338-008  
Zoning District(s): \_\_\_\_\_

**FEE:**

The application fee is \$250.00. 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). Please state below:

Five (up to) reduction of the rear yard setback.  
✓ ft.

**WIRELESS NETWORK TEST RESULTS**

**DESCRIBE THE REASON(S) FOR REQUESTING A VARIANCE FROM ZONING ORDINANCE REQUIREMENTS:**

Increase the width of garage to ease access. To allow for wider garage door.

**DESCRIBE WHY THIS PROBLEM IS NOT SELF-CREATED:**

Small lot does not allow for expansion. New physical limitations of owner and closeness to alley make garage parking difficult, especially in winter.

**DESCRIBE ANY NEGATIVE IMPACT TO THE ADJACENT PARCEL(S) THAT MAY RESULT FROM GRANTING OF THIS VARIANCE:**

None.

**DOES THE PROPERTY POSSESS UNIQUE CHARACTERISTICS (NOT COMMON TO THE GENERAL AREA):**

lots are small compared to neighborhood.

*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.*

*Brian J. Dwyer*  
Signature

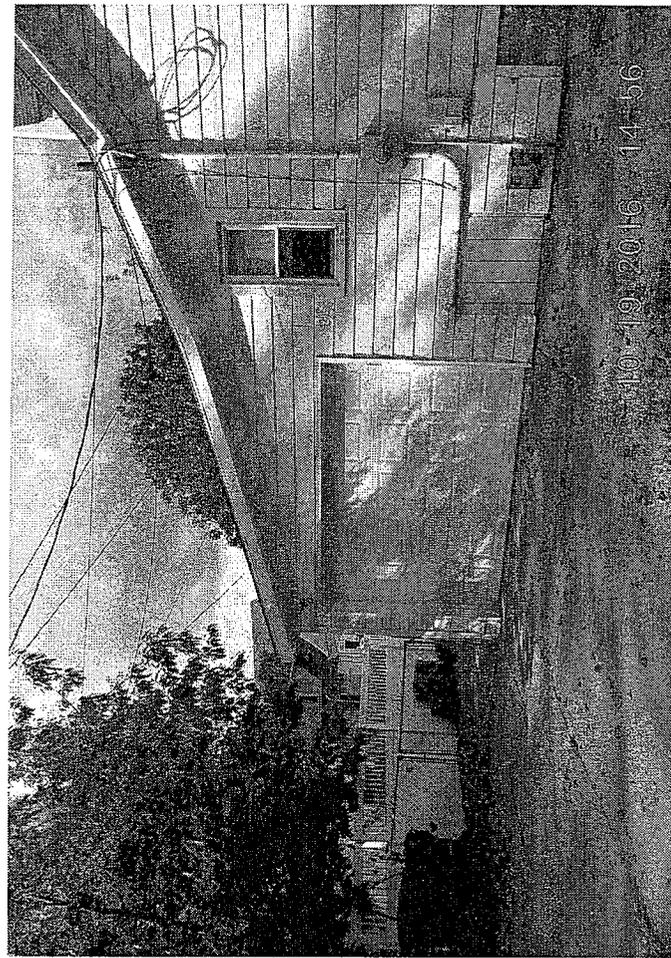
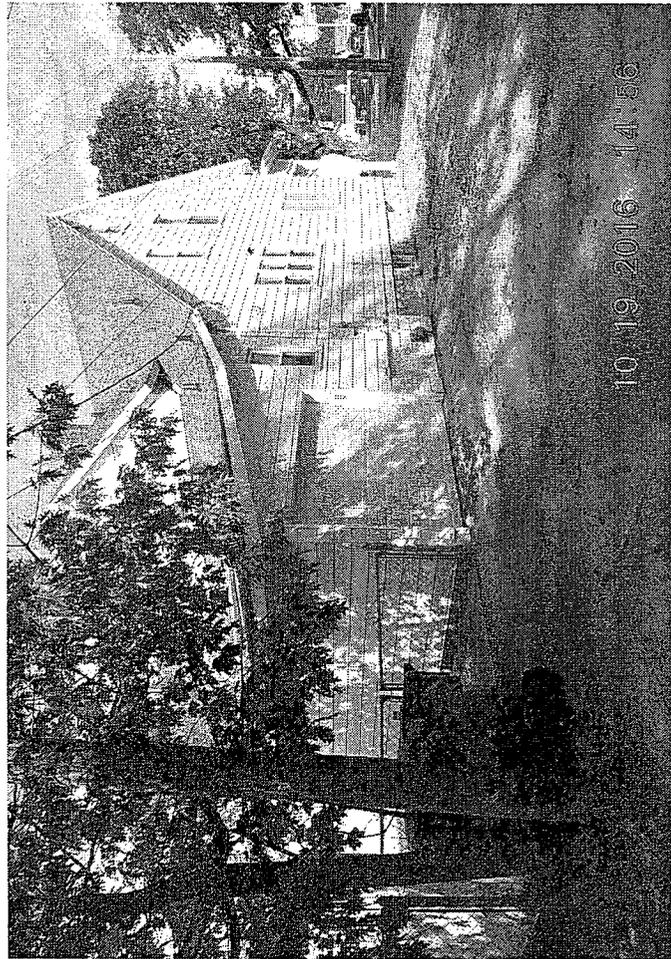
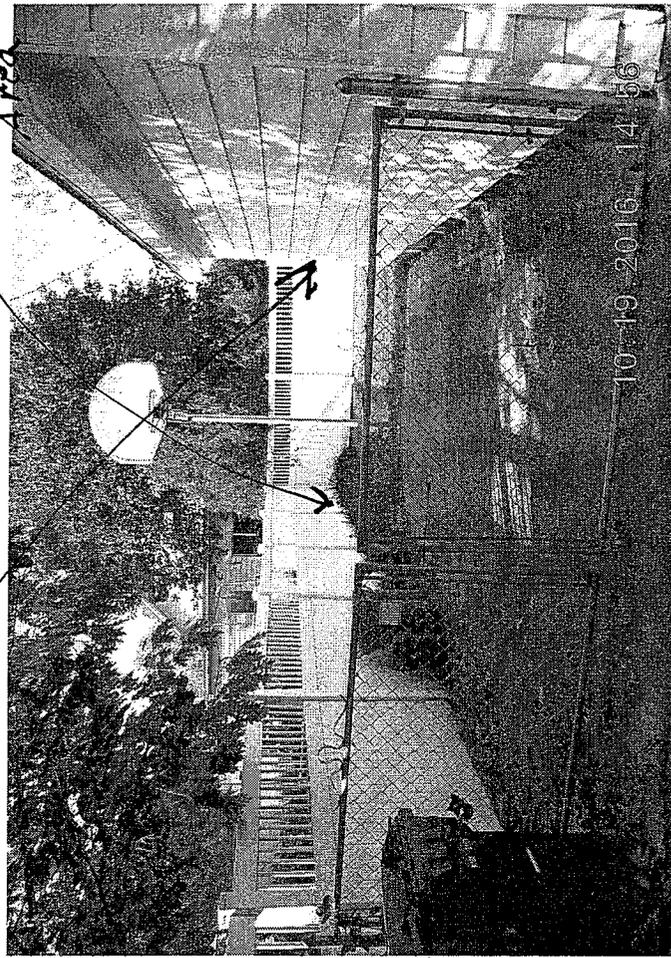
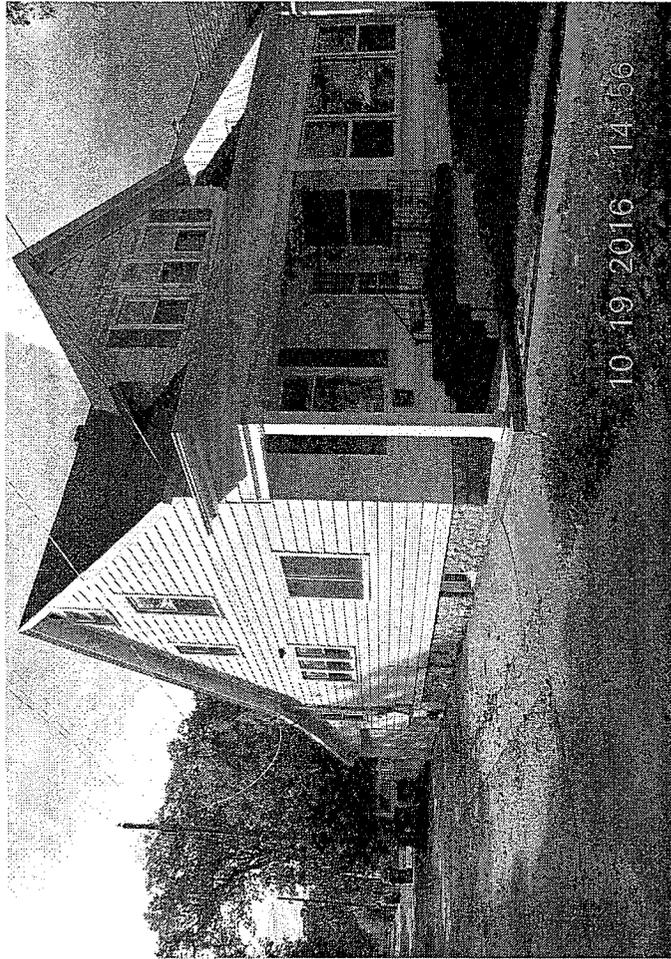
18 Oct 2016  
Date

**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 \$250.00 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 Board of Appeals, 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 Board of Appeals. All neighbors within 400 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.

Addition Here

Rear yard Area





October 5, 2016

Mr. Edwin and Crystal Dwyer  
316 South 3<sup>rd</sup> Street  
Escanaba, MI 49829

RE: 316 South 3<sup>rd</sup> Street, Escanaba, MI 49829

Dear Mr. & Mrs. Dwyer:

I have reviewed your recently submitted Zoning Approval Form for approval to construct an addition to your attached garage. Your request for zoning approval as submitted for the use is hereby denied for the following reason(s):

1. **Zoning Ordinance Requirement. 505.2.1. Minimum Side Yard.** The minimum side yard for residential structures shall be ten percent 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 and this shall be increased by four (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 fifteen (15) feet nor shall the total side yards be required to exceed forty-five (45) feet.

**A minimum side yard of 6 feet is required. A less than 6 foot side yard is proposed on the alley side of the building.**

2. **Zoning Ordinance Requirement. 505.3.1. Minimum Rear Yard.** The minimum rear yard shall be twenty (20) feet in depth as measured at right angles from the rear lot line to the nearest part of the principle building on each lot upon which a one (1) story principal building is located. On lots occupied by other than one story principal buildings, the minimum depth of the required rear yard shall be increased by four (4) feet for each additional story. The depth of a rear yard abutting upon a street shall be not less than the depth of the front yard required for a building of the same size and kind on an adjoining lot fronting on such rear street.

**A minimum rear yard setback of 20 feet is required. A 13'.5" rear yard setback is proposed.**

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 code requirements, please complete the enclosed form and return to City Hall with the applicable filing fee (\$250.00). 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

Enc: Zoning Board of Appeals Application/Chapter 3 Zoning Board of Appeals

**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.*

\$30.00 Fee

CITY OF ESCANABA

APPLICATION FOR ZONING LAND USE APPROVAL - SMALL/GENERAL SCALE PROJECT

We, the undersigned, owner(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: S45' Lot 1 & S45' of E20' of Lot 2 BK 9 Tilden Sub

Assessor (Parcel) Number: 057-010-2929-338-008

LOT INFORMATION

Property Owner(s): Edwin T & Crystal J Dwyer

Phone Number: 906.241.3358

E-mail Address: updwyr@gmail.com

Property Address: 316 S 3rd St Escanaba MI 49829

Type of Lot: (check one)  Corner Lot  Interior Lot  Other:

Size of Lot\*: 0.12 A Length of Lot\*: 96' Width of Lot\*: 87.75'

Irregular Lot Dimensions\*: \* Please Note all Dimensions on your Site Plan as well

Property Zoned: Residential

BUILDING INFORMATION

Type of Building: (check one)

Construction, alteration or addition of/to a single-family, two-family or multiple-family dwelling with three (3) or 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 Parking Lot addition containing five (5) or more spaces

A Mobile Home Park

A garage or accessory structure over 100 square feet in size

Other: Garage expansion 110 sq ft

Size of Building: 17' x 22'

Existing Floor Area: 12' x 22'

Proposed Percentage of Lot Coverage by Structure(s):

Proposed Use: With garage without

Number of Stories: 1

Height of Building: (feet and stories)

Garage: (check one)  Attached  Detached

Roof Type: (check one)  Gambrel  Mansard  Flat  Gable  Hip

Setbacks: (from property line) Front: 5.5' Sides: 5.5' and 5.5' Rear: 5.5'

Is the Property in a 100 year Flood Plain?  No  Yes Panel #: Panel Date:

Estimated Value of Construction: \$0 \$100000 Approval 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.

Company Name/Applicant: (please print) Edwin T Dwyer

Date: 04 Oct 2016

Submitted By: Edwin T Dwyer

Signature: Edwin T Dwyer

Phone: 906.241.3358

OFFICE USE ONLY

Date Received: 10/4/16

Approval: \_\_\_\_\_

Disapproval: 10/5/16

If Application is Denied, Reason for Denial:

Special Requirements of Approval: See ATTACHED

Signature of Reviewer: [Signature]

Date: 10/5/16

JOB: DWYER  
BY: 316 S. 3RD ST.  
DATE: 9/28/14  
SCALE:  
OTHER: REVISED - 10/6/14

ATTACHED  
GARAGE  
ADDITION

ZONING DISTRICT - Residential "A" Single-Family  
USE - ATTACHED GARAGE ADDITION  
LOT - 90 X 88 = 7920 X .35% = 2,772 S.F. BUILDABLE AREA  
EXISTING FOOTPRINT = 1011 S.F.  
PROPOSED ADDITION = 5 X 22 = 110 S.F. > 1121 S.F. PROPOSED AREA

SETBACKS	REQUIRED	PROPOSED
FRONT YARD	N/A	N/A
REAR YARD - See ATTACHED DRAWINGS	20'	13.5'
SIDE YARD - See ATTACHED DRAWINGS	6'	4.6'
		REAR YARD INSTALL

Comments - ① REAR YARD SETBACK REQUIREMENTS CANNOT BE MET. 505.3 20 FEET REQUIRED

② SIDE YARD SETBACK REQUIREMENTS FOR THE ADDITION CANNOT BE MET. 505.2.1 6 FEET REQUIRED

③ See CHAPTER 5 OF ZONING ORD (ATTACHED)

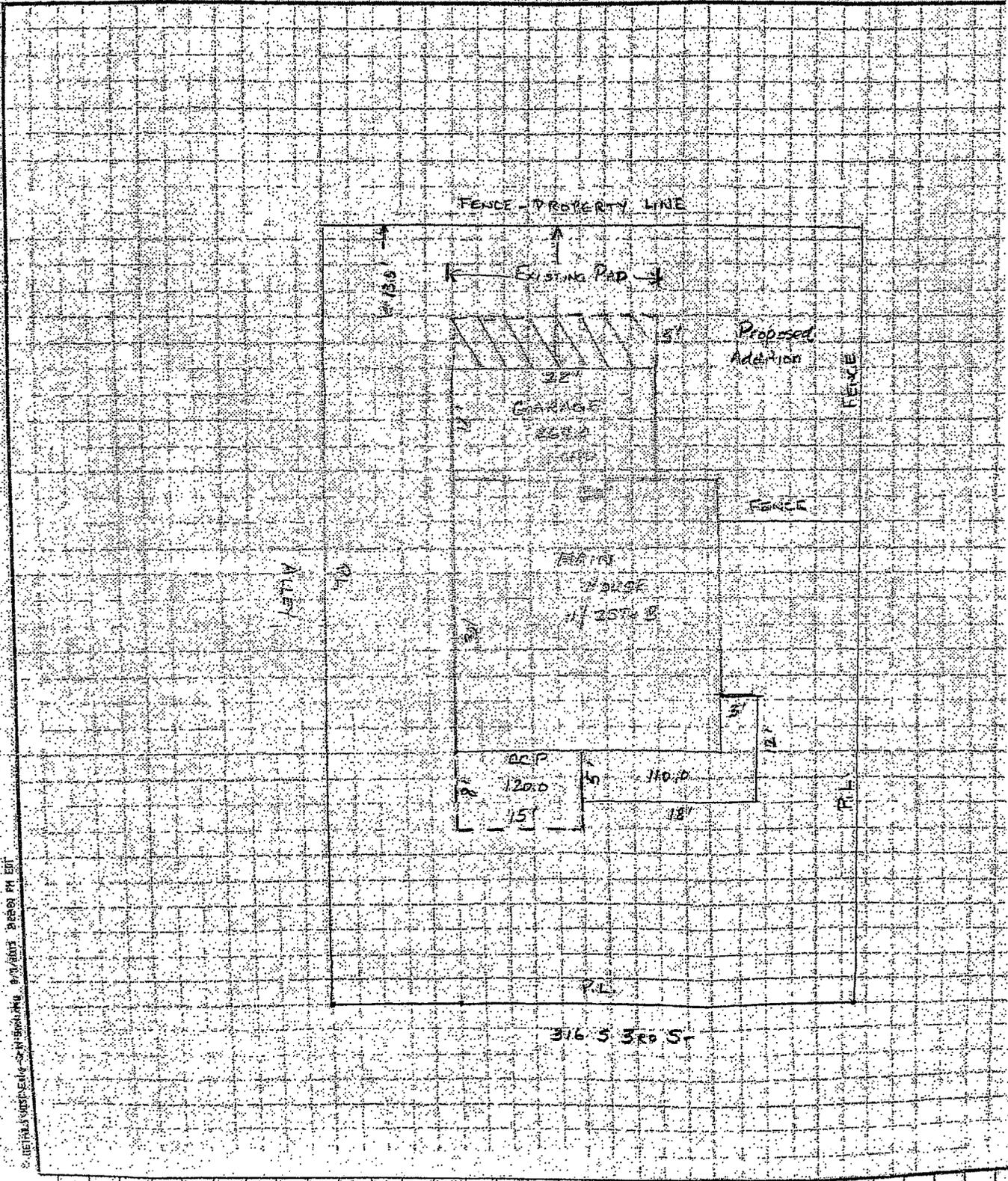
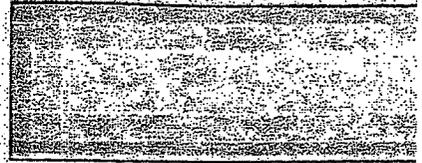
④ See CHAPTER 3 OF ZONING ORD (ATTACHED)

DENIED

Neerink

505.3 REAR YARD SETBACK  
505.2.1 SIDE YARD SETBACK

PROJECT \_\_\_\_\_  
 JOB \_\_\_\_\_  
 IN \_\_\_\_\_  
 DATE \_\_\_\_\_  
 SCALE 1" = 14' \_\_\_\_\_  
 OTHER \_\_\_\_\_



S. DETAIL, ESCANABA, MICHIGAN, 2014, BY [illegible]

Building Type		(3) Roof (cont.)			(11) Heating/Cooling			(15) Built-ins			(16) Porches/Decks			(17) Garage		
X	Single Family Mobile Home Town Home Duplex A-Frame	Eavestrough Insulation 0 Front Overhang 0 Other Overhang	Gas Wood	Oil Coal	Elec. Steam	Appliance Allow. Dishwasher Garbage Disposal Bath Heater Vent Fan Hot Tub Unvented Hood Vented Hood Intercom Jacuzzi Tub Jacuzzi repl. Tub Oven	Interior 1 Story Interior 2 Story 2nd/Same Stack Two Sided Exterior 1 Story Exterior 2 Story Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Ga	Area Type 120 CCP (1 Story)	Year Built: 1900 Car Capacity: Class: C Exterior: Siding Brick Ven.: 0 Stone Ven.: 0 Common Wall: 1 Wall Foundation: 42 Inch Finished?: Yes Auto. Doors: 1 Mech. Doors: 0 Area: 264 % Good: 0 Storage Area: 0 No Conc. Floor: 0							
X	Wood Frame	Drywall Paneled Trim & Decoration	Forced Air w/o Ducts Forced Hot Water Electric Baseboard Elec. Ceil. Radiant Radiant (in-floor) Electric Wall Heat Space Heater Wall/Floor Furnace Forced Heat & Cool Heat Pump			Class: C +5 Effec. Age: 32 Floor Area: 1461 Total Base Cost: 106,240 Total Base New: 121,113 Total Depr Cost: 102,946 Estimated T.C.V: 91,918										
	Building Style: MXED	Ex X Ord Size of Closets														
	Yr Built 1900	Lg X Ord Doors														
	Condition for Age: Good	Solid X H.C. (5) Floors														
	Room List	Kitchen: Other:														
	1 Basement 3 1st Floor 3 2nd Floor 2 Bedrooms	Other:														
	(1) Exterior	(6) Ceilings	No./Qual. of Fixtures													
X	Wood/Shingle Aluminum/Vinyl Brick	Excavation	X Ex. Ord. Min No. of Elec. Outlets													
X	Insulation	Basement: 900 S.F. Crawl: 111 S.F. Slab: 0 S.F. Height to Joists: 0.0	Many X Ave. Few (13) Plumbing													
X	Many Avg. Few Large Avg. Small	(8) Basement Conc. Block Poured Conc. Stone Treated Wood Concrete Floor														
	Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement	(9) Basement Finish Recreation SF Living SF Walkout Doors SF NO Floor SF														
	Double Glass Patio Doors Storms & Screens	(10) Floor Support Joists: Unsupported Len: Cntr. Sup:														
X	Gable Hip Flat X Asphalt Shingle Chimney: Brick	Public Water Public Sewer Water Well 2000 Gal Septic Lump Sum Items:														

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

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prct. Trans.
	DWYER	0	04/09/1987	WD	WD	304/58		0.0
Property Address	Class: Residential, 401		Zoning: 201	Building Permit(s)		Date	Number	Status
316 SOUTH 3RD STREET	School: DISTRICT 21010							
Owner's Name/Address	P.R.E.: 100% 04/19/1994		Map #:		2013 Est TCV Tentative			
DWYER EDWIN & CRYSTAL 316 SOUTH 3RD STREET ESCANABA MI 49829	X Improved		Vacant		Land Value Estimates for Land Table 8. Res 8			

Taxpayer's Name/Address	Public		* Factors *		Description		Frontage	Depth	Rate	Adj. Reason	Value	
DELTA COUNTY CREDIT UNION ESCROW DEPARTMENT PO BOX 756 ESCANABA MI 49829	X		X		RES8EFA		90.00	87.75	1.0000	245 100 X 87.75	22,050	
Tax Description	X		X		90 Actual Front Feet, 0.18 Total Acres		Total Est. Land Value =		22,050			
S 45 FT LOT 1 BLK 9 & S 45 FT E 20 FT LOT 2 BLK 9 TILDEN SUB ORIG FLAT 316 SOUTH 3RD STREET	X		X		Street Lights		Standard Utilities		Underground Utills.			
Comments/Influences	Topography of Site		Level		Rolling		High		Landscaped		Swamp	
	X		X		Wooded		Pond		Waterfront		Ravine	
	X		X		Wetland		Flood Plain		Who		When	
	X		X		What		Inspected		KD		06/25/2009	
	X		X		Data Enter		KD		06/30/2008		Data Enter	

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value
	Tentative	Tentative	Tentative			Tentative
2013	11,025	45,854	56,879			49,476C
2012	12,375	46,307	58,682			48,176C
2011	0	59,425	59,425			47,371C

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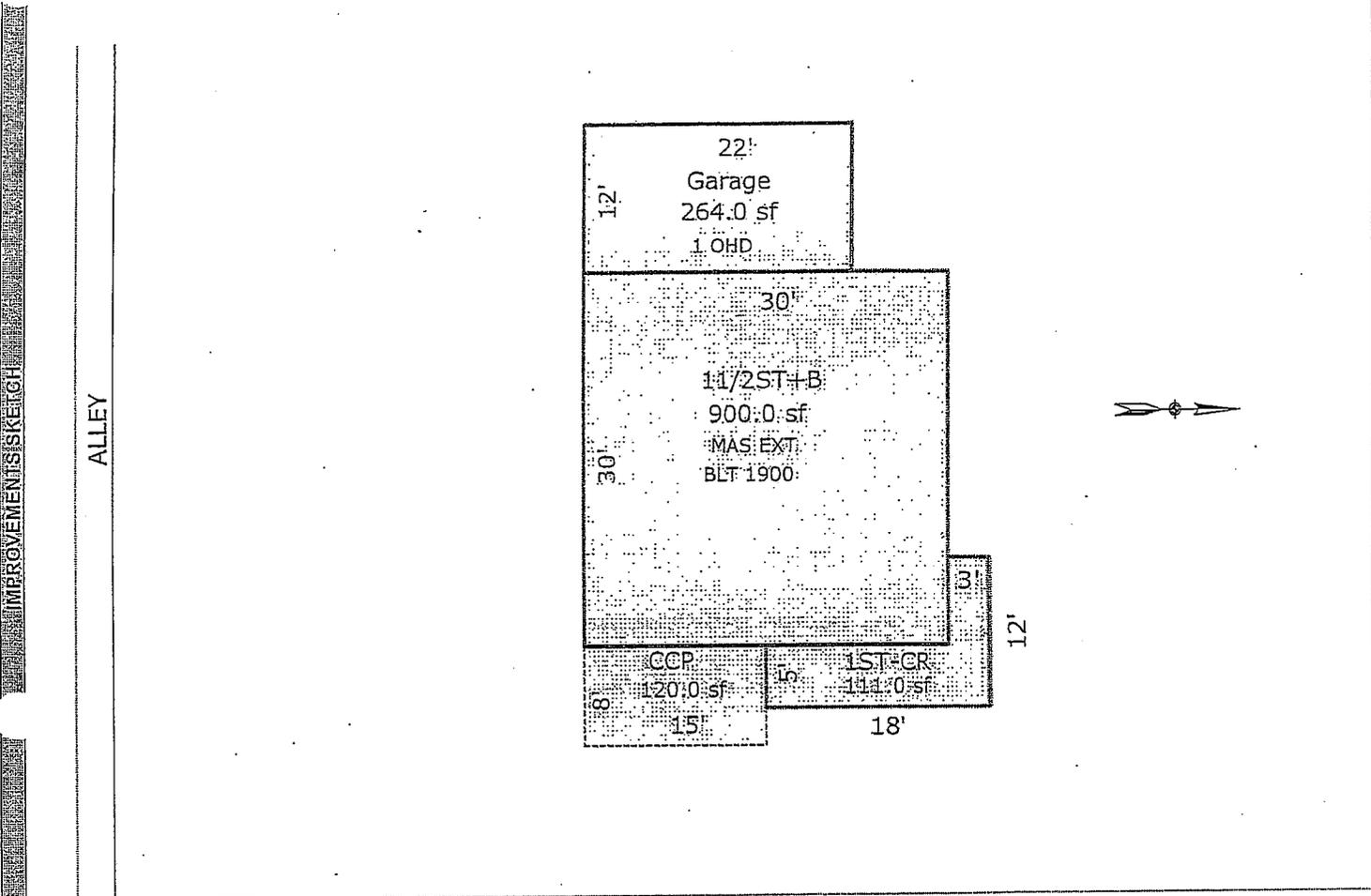
\*\*\* Information herein deemed reliable but not guaranteed\*\*\*

# SKETCH/AREA TABLE ADDENDUM

Parcel No 316S3ST

File No 051-010-2929-338-008

SUBJECT	Property Address 316 SOUTH 3RD STREET		
	City	State	Zip
	Owner		
	Client		
	Appraiser Name KEVIN DUBORD		Inspection Date DRAWN 6-25-09



316 SOUTH 3RD STREET

Scale: 1 = 14

AREA CALCULATIONS SUMMARY						Comment Table 1	
Code	Description	Factor	Net Size	Perimeter	Net Totals		
GLA1	1 1/2 ST+B	1.00	900.0	120.0			
	1ST-CR	1.00	111.0	60.0	1011.0		
GAR	Garage	1.00	264.0	68.0	264.0		
P/P	Porch	1.00	120.0	46.0	120.0		
Net LIVABLE Area (rounded w/ factors)					1011	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.

**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.

**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.

**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.



October 21, 2016

BOARD OF APPEALS  
ESCANABA MICHIGAN 49829

«Property\_Owner»  
«Owner\_Address»  
«City\_State\_Zip»

RE: Board of Appeals Meeting – November 2, 2016

Dear Property Owner/Occupant of «Prop\_Address»:

A special meeting of the Board of Appeals has been scheduled for **Wednesday, November 2, 2016, at 6:00 p.m. in Room C101 at the Escanaba City Hall, 410 Ludington Street.** The following item will be on the agenda:

A hearing on a request from Edwin and Crystal Dwyer of 316 South 3<sup>rd</sup> Street Escanaba, for a dimensional variance to Section 505.2.1 Minimum Side Yard and 505.3.1 Minimum Rear Yard Requirements of the City of Escanaba’s Zoning Ordinance which would allow the enlargement of the existing garage by 110 sq. ft. for the installation of a wider garage door.

You are cordially invited to attend this meeting should you have any interest in this project, questions, or comments. If you have comments, but are unable to attend this meeting, please submit your written comments to my attention prior to November 2, 2016. All written and signed comments will be read into the public 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 by writing or calling the City of Escanaba at (906) 786-9402. A copy of the various referenced plans can be viewed at City Hall, Second Floor, 410 Ludington Street, Escanaba, MI, Monday through Friday, 7:30 a.m. to 4:00 p.m.

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): Assessed Property Owner/Occupant  
400’ Radius of 316 South 3<sup>rd</sup> Street

Mailing Date: October 21, 2016

**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.*

**PROPERTY OWNER ADDRESSES 400' RADIUS FROM 316 South 3rd Street**

Prop Address	Property Owner	Owner Address	City State Zip
311 1st Avenue South	Fred Sundstrom	311 1st Avenue South	Escanaba, MI 49829
307 1st Avenue South	Lucas & Stacy Simon	307 1st Avenue South	Escanaba, MI 49829
202 South 3rd Street	Daniel & Judith Possi	202 South 3rd Street	Escanaba, MI 49829
213 South 4th Street	Thomas & Samantha White	213 South 4th Street	Escanaba, MI 49829
322 2nd Avenue South	Zachary Ericksen	322 2nd Avenue South	Escanaba, MI 49829
318 2nd Avenue South	Raymond F Tschohl, Jr.	318 2nd Avenue South	Escanaba, MI 49829
316 2nd Avenue South	Andrew & Jo Cappella	3200 Todds Road, Apt 1110	Lexington, KY 40509
310 2nd Avenue South	Andrew & Jo Cappella	3200 Todds Road, Apt 1110	Lexington, KY 40509
308 2nd Avenue South	Patrick & Cynthia Wakefield	308 2nd Avenue South	Escanaba, MI 49829
306 2nd Avenue South	Anthony Sorby & Krista Mattson	306 2nd Avenue South	Escanaba, MI 49829
222 South 3rd Street	Jane Cook	222 South 3rd Street	Escanaba, MI 49829
201 South 3rd Street	Russell & Jamie Beaver	201 South 3rd Street	Escanaba, MI 49829
220 Ogden Avenue	Delore Myers	220 Ogden Avenue	Escanaba, MI 49829
230 Ogden Avenue	Marilyn Booker	230 Ogden Avenue	Escanaba, MI 49829
307 South 3rd Street	Paula Dehaan	307 South 3rd Street	Escanaba, MI 49829
309 South 3rd Street	Daniel & Marlene McNamee	309 South 3rd Street	Escanaba, MI 49829
231 Ogden Avenue	Lewis & Virginia Howard	231 Ogden Avenue	Escanaba, MI 49829
227 Ogden Avenue	Michael Bintner	227 Ogden Avenue	Escanaba, MI 49829
225 Ogden Avenue	Todd Maki & Karen Lafond	225 Ogden Avenue	Escanaba, MI 49829
217 Ogden Avenue	Elizabeth Miller	217 Ogden Avenue	Escanaba, MI 49829
215 Ogden Avenue	Edward Reynolds	215 Ogden Avenue	Escanaba, MI 49829
315 South 3rd Street	Don Aronson	315 South 3rd Street	Escanaba, MI 49829
319 South 3rd Street	Aarne & Salome Holmio	319 South 3rd Street	Escanaba, MI 49829
260 Lake Shore Drive	Robert Bowman & Mary Lou Trust	260 Lake Shore Drive	Escanaba, MI 49829
254 Lake Shore Drive	Chris Anderson	254 Lake Shore Drive	Escanaba, MI 49829
250 Lake Shore Drive	Federal Home Loan Mortgage Corp	1410 Spring Hill Road	McLean, VA 22102
248 Lake Shore Drive	Joseph & Sharon Pascoe	248 Lake Shore Drive	Escanaba, MI 49829
Ogden Avenue	City of Escanaba	PO Box 948	Escanaba, MI 49829
323 Ogden Avenue	Lynn Sherwin	323 Ogden Avenue	Escanaba, MI 49829
317 Ogden Avenue	Dayid & Rene Schwalbach	317 Ogden Avenue	Escanaba, MI 49829
315 Ogden Avenue	Nancy Pearson	315 Ogden Avenue	Escanaba, MI 49829
311 Ogden Avenue	Mary Henslee Living Trust	311 Ogden Avenue	Escanaba, MI 49829
317 1st Avenue South	Douglas & Fred Sundstrom	317 1st Avenue South	Escanaba, MI 49829
307 Ogden Avenue	Christopher & Jane Lamb	307 Ogden Avenue	Escanaba, MI 49829
303 Ogden Avenue	Patrick & Susan Gannon	303 Ogden Avenue	Escanaba, MI 49829
314 South 3rd Street	Elizabeth Keller	314 South 3rd Street	Escanaba, MI 49829
316 South 3rd Street	Edwin & Crystal Dwyer	1603 Orchard Drive	Mount Pleasant, MI 48858
322 Lake Shore Drive	Brian & Paris Wartick	322 Lake Shore Drive	Escanaba, MI 49829
318 Lake Shore Drive	Daniel & Karin Flynn	318 Lake Shore Drive	Escanaba, MI 49829
314 Lake Shore Drive	Richard Growdon	314 Lake Shore Drive	Escanaba, MI 49829
310 Lake Shore Drive	Jessica Cooper	310 Lake Shore Drive	Escanaba, MI 49829
306 Lake Shore Drive	Paul & Ann Bissell	306 Lake Shore Drive	Escanaba, MI 49829
320 South 3rd Street	Sandra McCluskey	320 South 3rd Street	Escanaba, MI 49829
302 Lake Shore Drive	Paul & Dixie Paulson	302 Lake Shore Drive	Escanaba, MI 49829
407 Ogden Avenue	Alex & Barbara Chenier	1900 23rd Avenue South	Escanaba, MI 49829
408 South 4th Street	John & Nancy Winneroski	408 South 4th Street	Escanaba, MI 49829
404 Lake Shore Drive	James & Laurell Meinken	404 Lake Shore Drive	Escanaba, MI 49829
406 South 4th Street	James & Ruth O'Toole	406 South 4th Street	Escanaba, MI 49829
Lake Shore Drive	City of Escanaba	PO Box 948	Escanaba, MI 49829
17 Beaumier Way Marina	City of Escanaba	PO Box 948	Escanaba, MI 49829

## **CITY OF ESCANABA BOARD OF APPEALS**

At a Special meeting of the Escanaba Board of Appeals on November 2, 2016, at 6:00 p.m. at the Escanaba City Hall, 410 Ludington Street, Escanaba, MI 49829, the following matter will be on the agenda:

### **Public Hearing – 316 South 3<sup>rd</sup> Street-Variance Request-Zoning Ordinance.**

A hearing on a request from Edwin and Crystal Dwyer for a variance to Section 505.3.1 Minimum Rear Yard Requirements and 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 November 2, 2016. All written correspondence will be read into the public record.

Blaine R. DeGrave, Code Official  
Board of Appeals