

EXAMPLE ZBA REPORT

ZONING BOARD OF APPEALS

115 Main Street

The Applicant seeks a 25-foot variance from the required rear setback of 25' along the unopened portion of Maple Street to establish a zero lot line to construct an addition on the north side of the residence. However, the stakes that are on the ground at the property show the addition as being 5' from the north property line. If this case, a 20' variance would be needed from the north property line.

Also, because of the angled M-88 right of way, the lot has varied east-west widths at an infinite number of points along the east lot line from north to south. Using the widths of the north and south lot lines and a midpoint averaging method, I have calculated the east-west width of the lot at varying points from north to south. If the addition will be 5' from the Maple Street right-of-way, the setback from the east lot line will be 23.6, which will require a variance of 1.4' from the east. If the addition will directly abut the north lot line, a setback of 22.3' would be established and a variance of 2.7' from the east lot line will be required.

All of the above dimensions and plans will be confirmed by the applicant or his representative at the ZBA meeting.

FOLLOWING ARE SOME FACTS ABOUT THE PROPERTY:

- The property is currently zoned R-1 (Single-Family Residential) under the zoning ordinance.

ESTABLISHMENT OF FRONT AND REAR PROPERTY LINES:

- The property's south line abuts the Blue River.
- The lot line abutting the Blue River is the front lot line (Zoning Ordinance regulation).
- The lot line which is opposite and most distant from the front lot line is the rear lot line (Zoning Ordinance regulation).
- The north property line is the lot line which is opposite and most distant from the front lot line and is therefore the rear property line (which abuts the unopened portion of Maple Street).
- Section 5.0 (E) (1) of the zoning ordinance provides that structures shall have a rear yard of not less than 25 feet.

SIDE PROPERTY LINE (SEE DRAWING OF EAST LOT LINE DIMENSIONS):

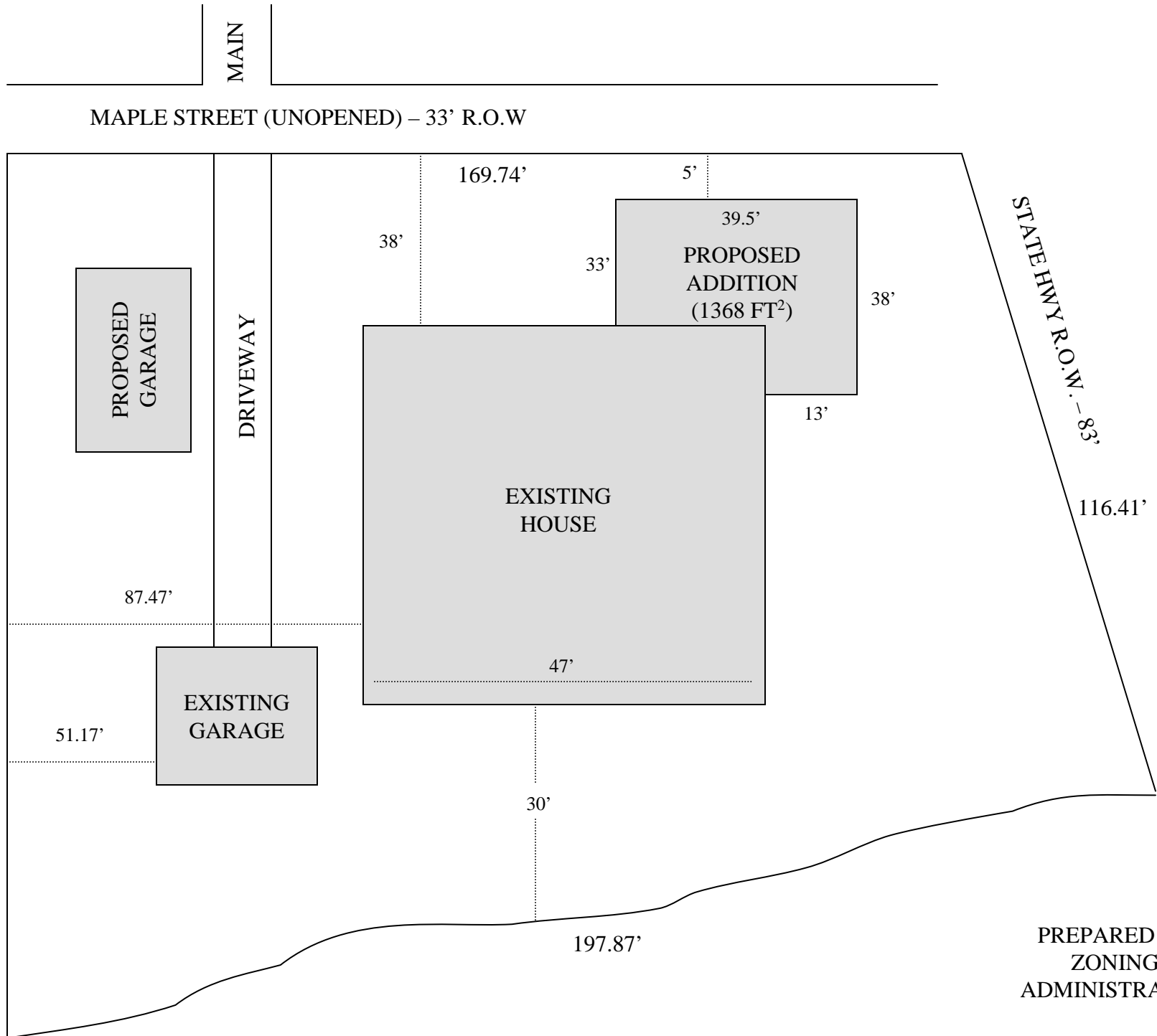
- The east property line abuts the M-88 state right-of-way.
- The lot abuts two (2) streets (M-88 and Maple Street) and is, therefore, a corner lot.
- The side setback on a corner lot is 25 feet.

GENERAL FACTS ABOUT THE PROPERTY:

- The lot measures 169.74 feet on the north, 184.10 feet on the west, 116.41 feet on the east, and 197.87 feet on the south.
- There is one 1660 ft² primary structure in existence on the lot and one accessory building.

- There is one additional accessory building proposed to be built in conformance with setbacks on the west side of the lot for which permit # 1170 has been granted.
- There is a driveway on the west side of the existing residence extending from Main Street.
- Main Street provides the only access to the property.
- There are trees inside the south boundary of the Maple Street right-of-way.
- The property is flat and located at a lower elevation than the surrounding properties.
- The property is an irregularly shaped parcel with an east property line depth of 116.41 feet.
- The portion of the lot on which the residence is constructed has less average depth than the portion on which the accessory building and driveway from Main Street are located.
- Riverfront lots in the vicinity located in the Riverbank Subdivision range from 184' - 388' deep.

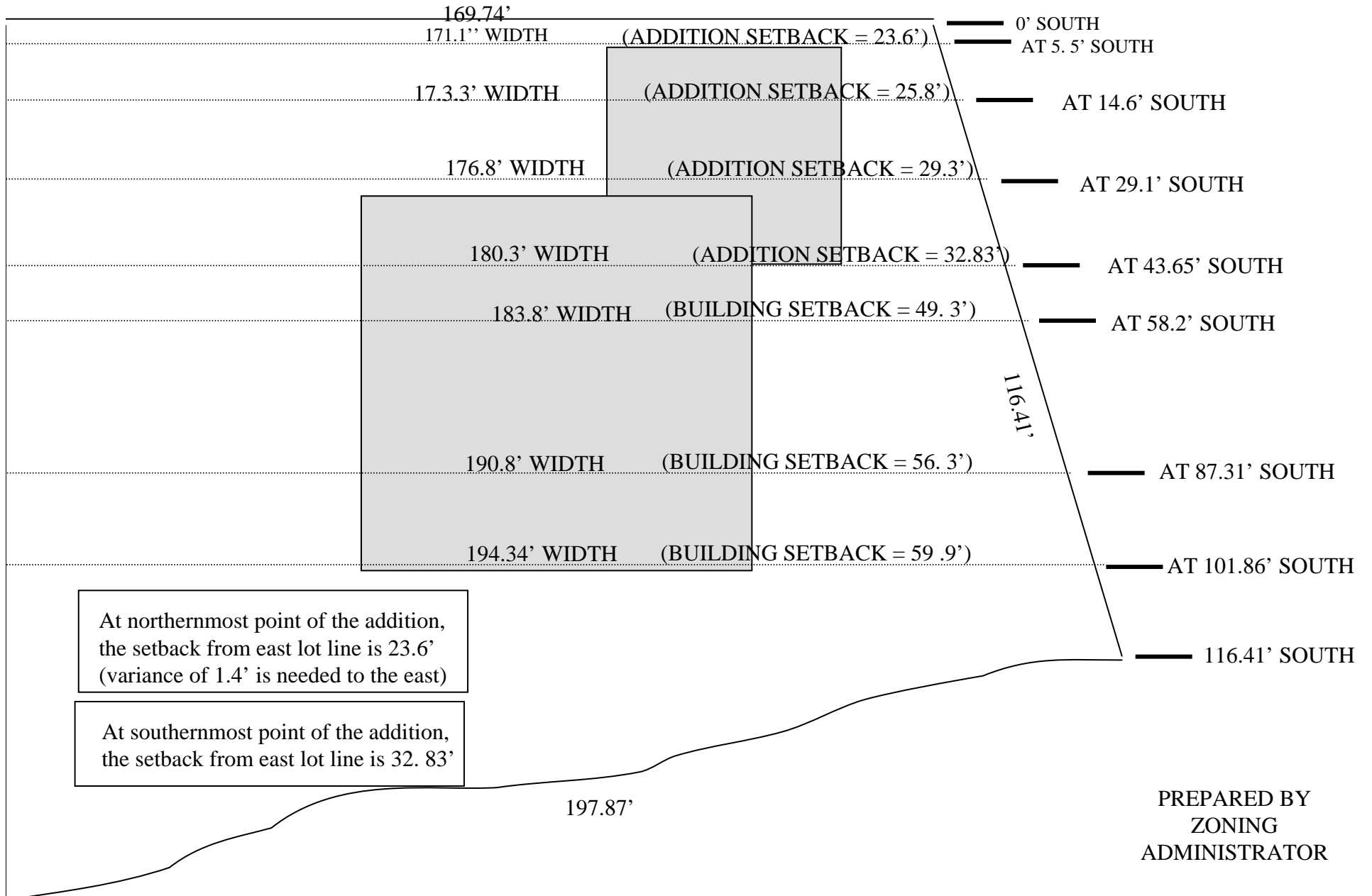
SUBMITTED BY: ZONING ADMINISTRATOR



PREPARED BY
 ZONING
 ADMINISTRATOR

EAST LOT LINE DIMENSIONS

EAST LOT LINE IS SHOWN FROM
0' AT THE NORTH TO 116.41' AT
THE SOUTH



EXAMPLE DECISION AND ORDER

ZONING BOARD OF APPEALS

DECISION AND ORDER

Applicant: XXXXX

Hearing Date: XXXXXX

PROPERTY DESCRIPTION

The property of Applicant, described as:

NE Corner of the S ½ of the SE ¼ of Section 24, TXXN, RXW; thence West 266 feet South to North Bank of River, thence Easterly along river to East Section Line of said Section 24, thence North to point of Beginning, except the portion taken by the State of Michigan, dated 12/3/31.

and commonly known as 115 Main Street, hereinafter referred to as the "property."

APPLICATION

The Applicant seeks the following variance: The Applicant seeks a 20-foot variance from the required rear setback of 25 feet along the unopened portion of Maple Street to establish a 5 foot setback in order to construct an addition on the north side of the residence. The Applicant also seeks a 1.4-foot variance from the required side setback of 25 feet on the east property line (M-88) to establish a setback of 23.6 feet from the north edge of the addition for 6.25 feet along east property line.

The Board having considered the Application, a public hearing having been held on May 23, 2002, after giving due notice as required by law, the Board having heard the statements of the Applicant, the Board having considered comments by members of the public, if any, the Board having considered 6 Exhibits, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The Board finds that the property is currently zoned R-1 (Single-Family Residential) under the zoning ordinance.
2. The Board finds that the property's south line abuts the Blue River.
3. The Board finds that the lot line abutting the Blue River is the front lot line.
4. The Board finds that the lot line which is opposite and most distant from the front lot line is the rear lot line.

5. The Board finds that the north property line is the lot line which is opposite and most distant from the front lot line.
6. The Board finds that the rear property line abuts the unopened portion of Maple Street.
7. The Board finds that the east property line abuts the state right-of-way.
8. The Board finds that the lot abuts two (2) streets and is, therefore, a corner lot.
9. The Board finds that Section 5.0 (E) (1) of the zoning ordinance provides that structures shall have a rear yard of not less than 25 feet.
10. The Board finds that Section 5.0 (E) (2) provides that structures on a corner lot shall have a side yard of not less than 25 feet.
11. The Board finds that the Applicant desires a 20-foot variance to establish a rear 5 foot setback along the unopened portion of Maple Street.
12. The Board finds that the Applicant desires a 20-foot variance to construct a 1368 ft² addition on the north side of the residence.
13. The Board finds that the Applicant desires a 1.4-foot variance from the required side setback of 25 feet on the east property line to establish a setback of 23.6 feet from the north edge of the addition for 6.25 feet along east property line.
14. The Board finds that the lot measures 169.74 feet on the north, 184.10 feet on the west, 116.41 feet on the east, and 197.87 feet on the south.
15. The Board finds that the east-west width of the lot varies infinitely due to the angled east lot line (EXHIBIT "C" ATTACHED).
16. The Board finds that there is one 1660 square foot primary structure in existence on the lot.
17. The Board finds that there is one accessory building on the lot.
18. The Board finds that there is one additional accessory building proposed to be built in conformance with setbacks on the west side of the lot for which permit # 1170 has been granted.
19. The Board finds that there is a driveway on the west side of the existing residence extending from Main Street.
20. The Board finds that Main Street provides the only access to the property.
21. The Board finds that there are trees inside the south boundary of the Maple Street right-of-way.

FINDINGS OF FACT UNDER SECTION 8.4 C OF THE ZONING ORDINANCE

The Board makes the following findings of fact as required by Section 8.4 C of the zoning ordinance for each of the following standards listed in that section:

1. **The requested variance will not be contrary to the public interest or to the spirit and intent of the zoning ordinance.**
 - a) The Board finds that Section 5.0 (A) of the zoning ordinance specifies the purpose of the Single-Family Residential District, which the Board incorporates as its finding by reference.
 - b) The Board finds that the Village Master Plan expresses the following goals for Planning & Community Development, Housing, and the Natural Environment:
 1. *Planning & Community Development: Maintain an ecologically sound balance between human activities and the environment.*
 2. *Housing: Provide for suitable housing opportunities for all income levels and age groups.*
 3. *Natural Environment: Protect and preserve the natural resources.*
 - c) The Board further finds that the relevant policies stated in the master plan to help achieve the above goal are:
 1. *(Planning & Community Development) Encourage creative design and planning techniques which produce visual harmony while preserving special features and protecting vital natural resources.*
 2. *(Housing) Encourage the maintenance of the existing housing stock and residential neighborhoods in good repair, appearance, usefulness, and safety.*
 3. *(Natural Environment) Evaluate the environmental impact of all new development.*
 4. *(Natural Environment) Protect lake and river shorelines.*
 - d) The Board finds that the requested variance, as are the nature of all variances, will be contrary to regulations contained within the Zoning Ordinance.
 - e) The Board finds that the requested variance will not be contrary to the Master Plan.
 - f) Based on the above, the Board finds that this standard has been met.

2. The requested variance will not cause any adverse effect to property in the vicinity or in the zoning district or the village.

- a) The Board finds that the property immediately north of the Maple Street right-of-way is also owned by the applicant.
- b) The Board finds that the nearest residence is west of and is located at a higher elevation than the property in question.
- c) The Board finds that the Maple Street right-of-way is under the control of the Village.
- d) Based on the above, the Board finds that this standard has been met.

3. The requested variance relates only to property that is under control of the applicant.

- a) The Board finds that the property for which the variance is requested is under the control of the Applicant.
- b) The Board finds that the requested variance does not relate to property other than the Applicant's property.
- c) Based on the above, the Board finds that this standard has been met.

4. The requested variance affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity and has not resulted from any act of the applicant.

- a) The Board finds that the property is flat.
- b) The Board finds that the property is located at a lower elevation than the surrounding properties north of the Blue River.
- c) The Board finds that the property is an irregularly shaped parcel.
- d) The Board finds that the east property line has a depth of 116.41 feet.
- e) The Board finds that the portion of the lot on which the residence is constructed has less average depth than the portion on which the accessory building and driveway from Main Street are located.
- f) The Board finds that riverfront lots in the vicinity located in the Riverbank Subdivision range from 184 feet deep to 388 feet deep.

- g) The Board finds that the decreased depth of the eastern half of the lot is an exceptional or extraordinary circumstance or condition that does not generally apply to other property in the vicinity.
- h) The Board finds that the decreased depth of the eastern half of the lot is an exceptional or extraordinary circumstance or condition that has not resulted from any act of the applicant.
- i) Based on the above, the Board finds that this standard has been met.

DECISION

Upon motion, seconded and passed, the Board granted the Applicant's requested variance.

TIME PERIOD FOR JUDICIAL REVIEW

MCLA 125.585(11); MSA 5.2935(11) provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Pursuant to MCR 7.101 any appeal must be filed within twenty-one (21) days after this Decision and Order is adopted by the Zoning Board of Appeals.

DATE DECISION AND ORDER ADOPTED

May 23, 2002

Chairperson

Village Manager