

CITY OF PORTAGE ZONING BOARD OF APPEALS

AGENDA

**Monday, October 14, 2024
7:00 PM**

**Portage City Hall
Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

1. September 9, 2024 draft minutes

OLD BUSINESS:

NEW BUSINESS:

1. ZBA #24-05; 9230 Shaver Road

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

Star (*) indicates printed material within the agenda packet.

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – September 9, 2024

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Eichstaedt at 7:00 p.m. two people were in the audience.

MEMBERS PRESENT: Jay Eichstaedt, Michael Reedy, Linda Fry, Aimee Potts, John Sloan, Michael Stempihar, Ken Seybold.

MEMBERS ABSENT: Lena Jomaa

MEMBERS EXCUSED: David Bergher

A motion was made by Seybold, and seconded by Reedy, to excuse Mr. Bergher. Upon voice vote, the motion passed 7-0.

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator.

APPROVAL OF THE MINUTES:

A motion was made by Reedy, and seconded by Fry, to approve the August 12, 2024 minutes as submitted. Upon voice vote, motion passed 7-0.

NEW BUSINESS:

ZBA #24-04; 224 South Shore Drive: Mais summarized the request for: a) a variance to retain an existing 1,200 square-foot accessory building that exceeds the living area of the dwelling by 363 square feet; and b) a variance to construct a 384 square-foot attached garage, which would result in 1,563 square feet of accessory building where a maximum 837 square feet of accessory building is permitted. The applicant, Larry Pierce, stated last year they found that some trees in their yard were in danger of falling potentially on neighboring property and consequently were cut down. When the stumps were removed in the spring, they found the roots were intertwined with the old retaining wall and stairs making the ground near the southeast of the dwelling less stable. The applicant also noted the street was at a higher elevation than his property after road construction a few years ago and storm water tended to run down his driveway contributing to washouts. He spoke to several builders and one solution they suggested was to construct an attached garage with a shared roofline to help ensure the ground remains stabilized. The applicant stated he was aware of staff's suggestion to construct a retaining wall and repair the stairs in the rear but felt that solution was a temporary fix and would probably have to be redone in a few years. The Board briefly discussed what structures were considered living areas versus accessory building areas. Seybold observed he could find no practical difficulty, as the applicant had conforming alternatives available at a lower cost, such as constructing a retaining wall and to change grading to redirect stormwater runoff, which would not result in increasing the degree of nonconformity as an attached garage would.

A public hearing was opened. A letter of support from John Kasiorek, 304 South Shore Drive was read into the record. The public hearing was closed.

After additional discussion by the Board, a motion was made by Reedy, seconded by Potts to grant: a) a variance to retain an existing 1,200 square-foot accessory building that exceeds the living area of the dwelling by 363 square feet for the following reasons: There are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include the erroneous issuance of a building permit without a variance in 1977. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to have an accessory building which is similar to that possessed by other properties in the vicinity; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Eichstaedt-Yes, Reedy-Yes, Seybold-Yes, Fry-Yes, Sloan-Yes, Stempihar-Yes, Potts-Yes. The motion passed 7-0.

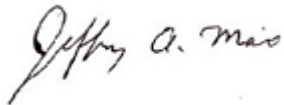
A motion was made by Seybold, seconded by Fry to deny b) a variance to construct a 384 square-foot attached garage, which would result in 1,563 square feet of accessory building where a maximum 837 square feet of accessory building is permitted for the following reasons: the variance is not necessary for the preservation of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as constructing a retaining wall and regrading; and the immediate practical difficulty causing the need for the variance request was created by the applicant. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that the action of the Board be final and effective immediately. Upon roll call vote: Eichstaedt-Yes, Reedy-Yes, Seybold-Yes, Fry-Yes, Sloan-Yes, Stempihar-Yes, Potts-Yes. The motion passed 7-0.

OTHER BUSINESS: None

STATEMENT OF CITIZENS: None.

ADJOURNMENT: Motion by Potts, seconded by Reedy to close the meeting The meeting was adjourned at 7:38 pm.

Respectfully submitted,



Jeff Mais
Zoning & Codes Administrator

TO: Zoning Board of Appeals

DATE: October 14, 2024

FROM: Peter Dame, Chief Development Officer

SUBJECT: Requesting a variance to place accessory buildings within 30 feet from the (north and east) front property lines where minimum 75 foot front yard setbacks are required.

CODE SECTION: 42-350; Schedule of Regulations
42-572(A); Parking lot and building landscaping

APPEAL: Requesting a) a variance to place accessory buildings within 30 feet from the (north and east) front property lines where minimum 75 foot front yard setbacks are required; and b) a variance from the parking lot landscaping requirements along the east property line.

STAFF

RECOMMENDATION: The applicant requests the variance per the enclosed application, letter of explanation and site sketches. The subject 0.6 acre property is zoned I-1, Light Industrial and is adjacent to other industrial zoned properties to the north, east, and south, and abuts B-3 zoned property to the west.

As background, the property was improved with an industrial building and off-street parking area originally constructed in 1963. In 1989, the property was rezoned from B-3, General Business to its current I-1, Light Industry zoning. Over time, the building fell into disrepair and was demolished in 2014. All that remains of the original development is the existing concrete off-street parking area. The applicant recently acquired the subject property and proposes to operate an accessory building display site where potential customers can view various models of accessory buildings such as sheds, and then contact the business to order the desired model and have that model shipped from its manufacturing location (not the display site) directly to the customers' homes. The site would be unmanned and operate much like the Meyer Wood Products display site at 7518 S. Westnedge Avenue. The applicant proposes to create a display area utilizing much of the concrete off-street parking surface while maintaining the required rear and side yard setbacks, but would limit the front area of the display to within 30 feet of the front (north and east) property lines. Because 75-foot front setbacks are required in I-1 zones, variance a) is requested. While landscaping plans have yet to be reviewed, the applicant requests a variance from the landscaping requirements to create a 10-foot greenstrip and plant trees and hedges around the parking lot along the east front property line. Consequently, variance b) is requested.

The expanded right-of-way width along Shaver Road and the small size of this industrial zoned property prohibits 90% of the parcel from being used

Requesting a variance to place accessory buildings within 30 feet from the (north and east) front property lines where minimum 75 foot front yard setbacks are required.

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when the required setbacks are imposed (see applicant's plan labeled 'existing conditions'). With regard to request a) there are exceptional or extraordinary circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the expanded right-of-way width and small size of the parcel. The number of viable industrial uses that could conceivably operate from a 0.6 acre parcel are very limited and the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop the property with a permitted industrial use which is similar to that possessed by other properties in the same zoning district and in the vicinity. The immediate practical difficulty causing the need for the variance was not caused by the applicant. The variance will not be detrimental to adjacent properties and the surrounding neighborhood, and will not materially impair the intent of the zoning ordinance. For these reasons, the variance is recommended.

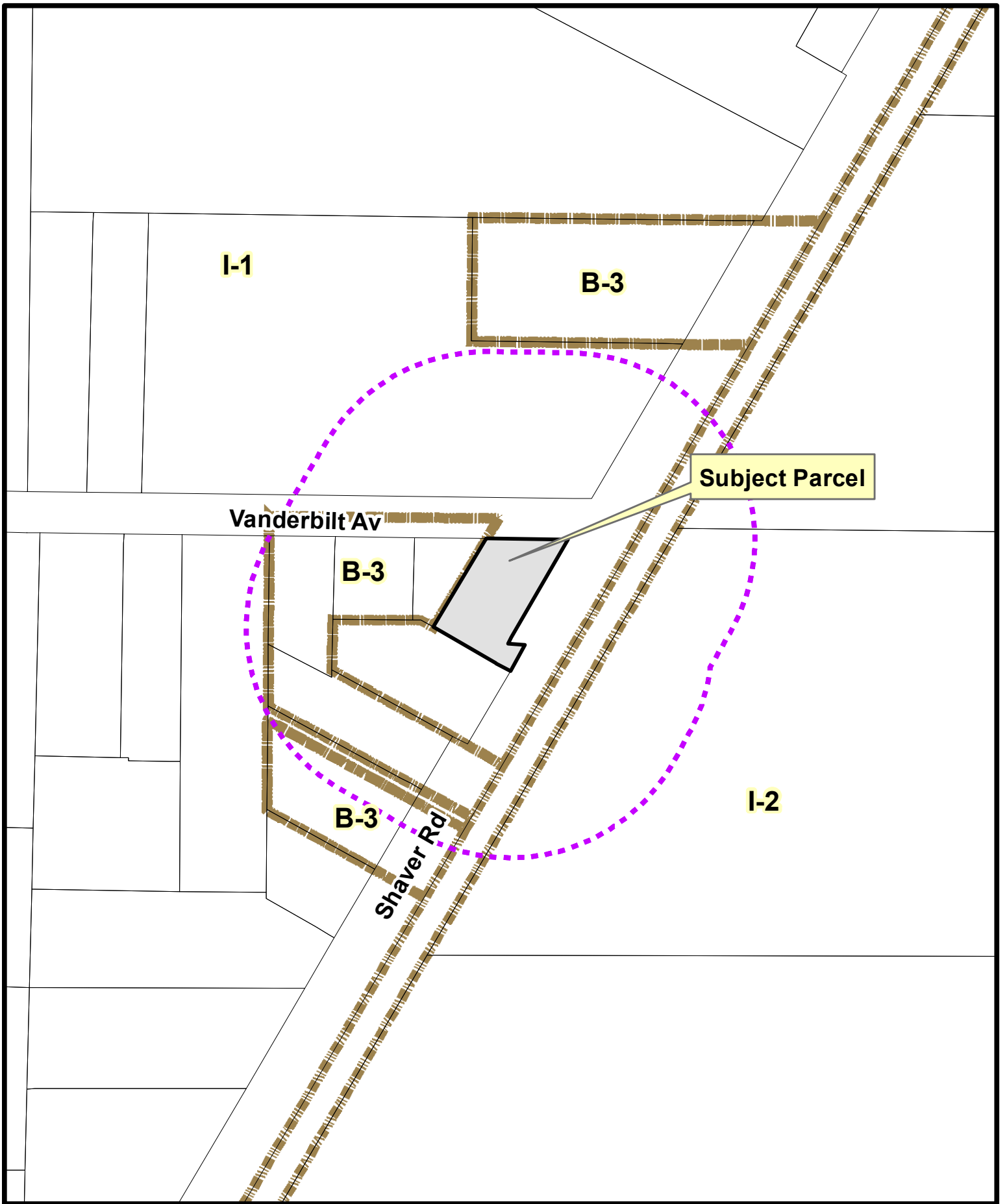
Concerning request b), there are exceptional circumstances applying to the property that do not apply generally to other properties. Shaver Road and Vanderbilt Avenue intersect at a roughly 66 degree angle as opposed to the standard 90 degree intersection. Under the best of conditions, this fact alone creates a challenge where traffic visibility is concerned. The addition of required parking lot screening trees and bushes along the parcel's east front property line would only risk occluding the view of northbound traffic on Shaver Road for motorists turning left off Vanderbilt Avenue. A conforming alternative would be to remove 10 feet of concrete at the front property line, however, doing so would encroach into the required maneuvering lane and is therefore not advised. The variance is necessary for the preservation of the substantial property right, the right to have safe vehicular access. The practical difficulty was not caused by the applicant, the variance will not be detrimental to adjacent property, and the variance will not impair the intent of the zoning ordinance. For these reasons, the City Traffic Engineer and Department of Community Development both recommend the variance be granted.




**PRACTICAL
DIFFICULTY:**

Regarding a) small industrial lot size and narrow width. Regarding b), large right-of-way width, acute angle of street intersection, safe access and maintaining traffic visibility.

Attachments:

1. 24-05 9205 Shaver Rd map
2. 24-05 9205 Shaver Rd aerial
3. 9230 Shaver Rd Variance Exhibit 1
4. 9230 Shaver Rd Variance Exhibit 2
5. Shaver Road Project Narrative 09132024
6. Zoning Board of Appeals Application ARE 09162024



-  Subject Property
-  300' Notification Area
-  Zoning Boundary

ZBA #24-05
9230 Shaver Road



1 inch = 200 feet
(6)



Subject Parcel

Vanderbilt Av

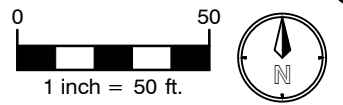
Shaver Rd

 Subject Property

Aerial Photography 9230 Shaver Road



1 inch = 100 feet
(7)



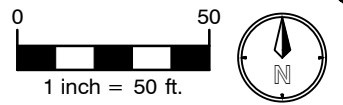
VARIANCE EXHIBIT
9/11/2024



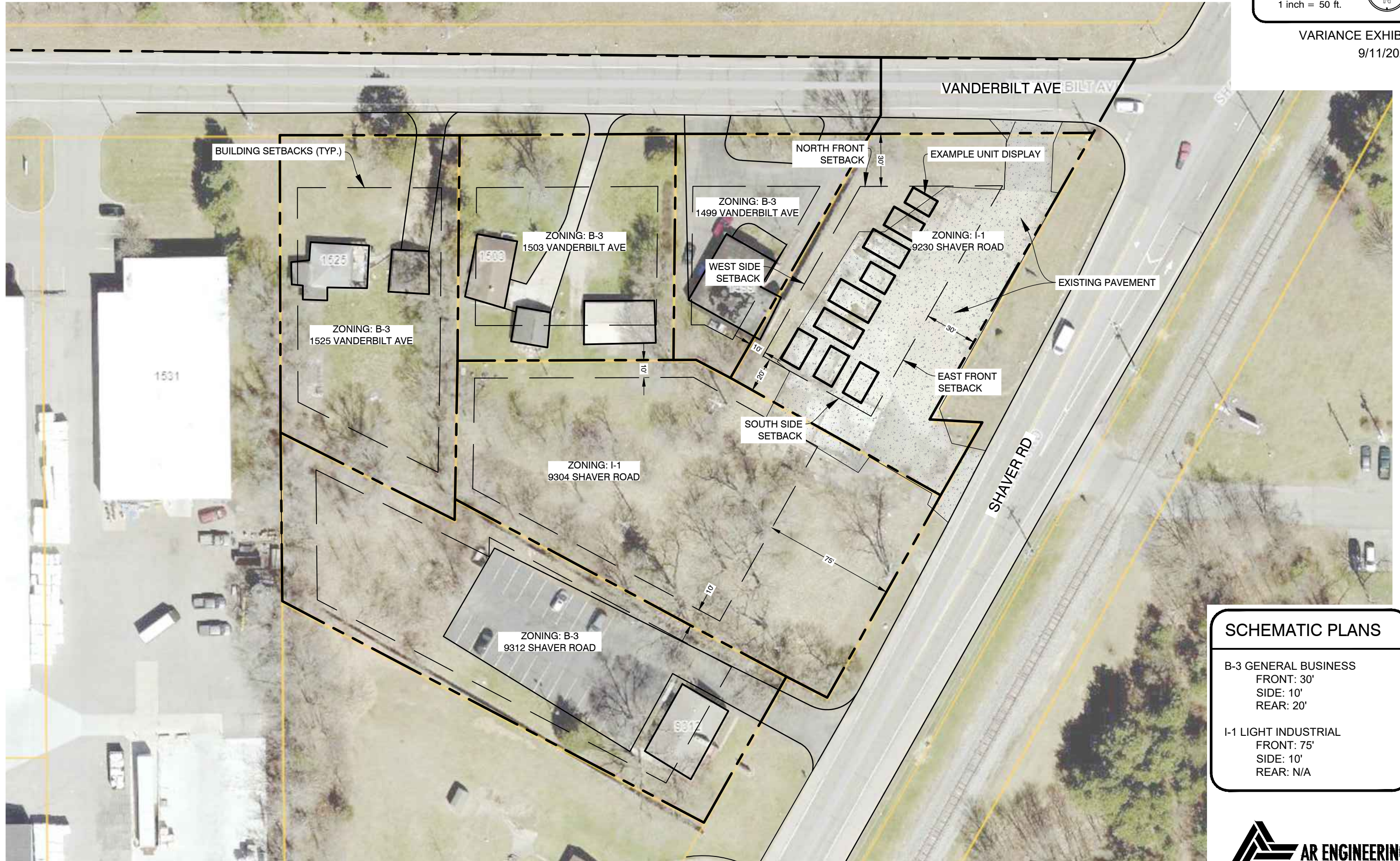
EXISTING CONDITIONS

- B-3 GENERAL BUSINESS
FRONT: 30'
SIDE: 10'
REAR: 20'
- I-1 LIGHT INDUSTRIAL
FRONT: 75'
SIDE: 10'
REAR: N/A





VARIANCE EXHIBIT
9/11/2024



SCHEMATIC PLANS

- B-3 GENERAL BUSINESS**
FRONT: 30'
SIDE: 10'
REAR: 20'
- I-1 LIGHT INDUSTRIAL**
FRONT: 75'
SIDE: 10'
REAR: N/A





Project Narrative

Parcel Number: 00028-070-0

Address: 9230 Shaver Road

Portage, Mi. 49024

Owner: Sunrise Structures

Attn: Lawrence Shirk

4920 E. St Rd 110

Rochester, IN 46975

Legan Description:

A parcel of land situated in the Southwest 1/4 of the Northwest 1/4 of Section 28, Township 3 South, Range 11 West, more particularly described as follows: Commencing at the North 1/8 post on the West line of Section 28, Township 3 South, Range 11 West; thence South 89 degrees 31 minutes East 726.37 feet along the North line of the Southwest 1/4 of the Northwest 1/4 of Section 28, Township 3 South, Range 11 West to the Place of Beginning; thence continuing South 89 degrees 31 minutes East 145.36 feet along said North line to the Westerly right of way line of Highway U.S. 131; thence South 29 degrees 44 minutes West 236.96 feet along said Westerly line; thence South 86 degrees 50 minutes East 30.19 feet along said Westerly line; thence South 29 degrees 44 minutes West 48.01 feet along said Westerly line; thence North 60 degrees 16 minutes West 137.5 feet at right angles to said Westerly line; thence North 29 degrees 44 minutes East 171.76 feet parallel to said Westerly line to the Southerly right of way line of Vanderbilt Road; thence North 00 degrees 05 minutes 30 seconds East 33.00 feet parallel to the West line of said Section to the Place of Beginning.

Existing Conditions:

This 0.55 acre parcel is situated on the corner of Vanderbilt Avenue and Shaver Road. The parcel is currently vacant with an existing drive entrance to Vanderbilt and an existing drive to Shaver Road. There is existing concrete drive and parking on the parcel. The parcel is currently zoned I-1 Light Industrial.

Our intended use for the property is to display private customized storage sheds for sale. We intend to clean up and utilize the existing features of the property.

Variance Requested:

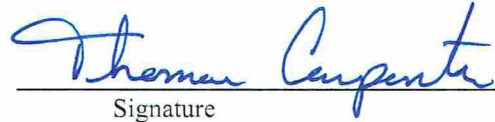
Our application requests a setback variance from the existing I-1 Light Industrial setbacks to the setbacks required in Zoning B-3. This variance provides relief to this small parcel by creating a larger useable area. This variance will be consistent with the adjacent parcels on this corner.

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 9/16/2024

Name of Applicant Thomas Carpenter
Print


Signature

Applicant's Address 5725 Venture Park Drive, Ste A

Phone No. 269-250-5991

Name of Property Owner (if different from Applicant) Lawrence Shirk - Shirk's Wood Products, LLC

Address 4920 E. St Rd 110 Rochester, IN 46975 Phone No. 574-900-7433 Ext. 302

Address of the Property that is the subject of this Application:

Street Address 9230 Shaver Road Portage, MI 49024

For Platted Property: Lot _____ of See Attached Plat _____

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]

Applicant's interest in Property that is the subject of this Application: Design consultant

Application Fee _____ (Residential Uses) _____ (All Other Uses)

Type of Appeal (Please check one of the following **bold choices** and provide the requested information):

Variance from Zoning Ordinance: Article _____ Section _____ Paragraph _____
 Regarding: Use _____ Area _____ Yards _____
 Setbacks _____ Parking _____ Other _____

Reason for Request (Also complete page 2 of application): Current front yard set backs of 75' on small parcel.

Appeal of Administrative Decision: Article _____ Section _____ Paragraph _____

Reason for Request: _____

Interpretation of the Zoning Ordinance: Article _____ Section _____ Paragraph _____

Reason for Request: _____

A Temporary Permit for: Building _____ Use _____ Other Approval _____

Article _____ Section _____ Paragraph _____

Reason for Request: _____

FOR STAFF USE

Application Number:	Filing Date:	Tentative Hearing Date:
Previous Application Filed Regarding This Property:		

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)

This existing parcel is approximately 0.55 acres in size and narrow with two road frontages.

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

This parcel is adjacent to similar small parcels but those parcels are zoned B-3.

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)

Few I-1 uses would fit on this parcel with the required 75' front yard setbacks.

4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)

Our request is for the same setbacks as required on the adjacent parcels that are zoned B-3.

5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)

The requested variance would put the same requirements on this parcel as the adjacent parcels and provide consistency to the character of the area.

6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)

The requested change to the setback requirements does not affect the permitted uses of the parcel and does not permit a more intense use than those already permitted in the area.

7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)

Not to our knowledge.

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

The requested variance maintains the setbacks of the existing structures in the area and does not change the permitted uses or density of the area.

Thomas Carpenter
Signature of Applicant

9/16/2024
Date