

Agenda

City of Birmingham
Board of Zoning Appeals

Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan
July 8, 2014
7:30 PM

1. Roll Call
2. Approval of the June 2014 Minutes
3. Appeals:

	Address	Petitioner	Appeal	Type/Reason
1.	656 RUFFNER	Traficante	14-18	DIMENSIONAL
2.	2187 YORKSHIRE	Meloche	14-19	DIMENSIONAL

4. Correspondence
5. General Business
 - A) Rules of Procedure, Article 1, B (2)
 - Discuss application deadline
6. Adjournment

NOTICE: Individuals requiring accommodations, such as interpreter services, for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (Voice) or (248) 644-5115 (TDD) at least one day in advance of the public meeting to request mobility, visual, hearing or other assistance.

Aviso: Las personas que requieran alojamiento, como intérprete de servicios, para una participación efectiva en esta reunión deben comunicarse con oficina de la Secretaria Municipal al (248) 530-1880 (voz) o (248) 644-5115 (TDD) al menos un día antes de la reunión pública para solicitar audiencia visual, movilidad u otro tipo de asistencia. (Title VI of the Civil Rights Act of 1964).

NOTICE: Due to building security, public entrance during non-business hours is through the police department at the Pierce Street entrance only. Individual requiring assistance entering the building should request aid via the intercom system at the parking lot entrance gate on Henrietta Street.

Aviso: Debido a la seguridad del edificio, es a través del Departamento de policía en la entrada de la calle Pierce sólo entrada pública durante horas no hábiles. Individuo que requiere asistencia entra en el edificio debería pedir ayuda a través del sistema de intercomunicación en la puerta de entrada de estacionamiento en la calle de Henrietta. (Title VI of the Civil Rights Act of 1964).

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, JUNE 10, 2014**

Commission Room of the Municipal Building
151 Martin, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, June 10, 2014. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie; Board Members David Conlin, Kevin Hart, Thomas Hughes, Jeffery Jones, Peter Lyon, John Miller

Absent: Board Member Randolph Judd; Alternate Board Member Cynthia Grove

Administration: Ken Cooper, Asst. Building Official
Bruce Johnson, Building Official
Carole Salutes, Recording Secretary

The chairman welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. There are no land use variances called for this evening. Also, appeals are heard by the board as far as interpretations or rulings. There are no interpretations on this evening's agenda. Four affirmative votes are required to reverse an interpretation or ruling.

T# 06-27-14

APPROVAL OF THE MINUTES OF THE BZA MEETING OF APRIL 8, 2014

Motion by Mr. Jones

Seconded by Mr. Miller to approve the Minutes of the BZA meeting of April 8, 2014 as presented.

Motion carried,

VOICE VOTE

Yeas: Jones, Miller, Conlin, Hart, Hughes, Lillie, Lyon

Nays: None

Absent: Judd

T# 06-28-14

**1943 HENRIETTA
(Appeal 14-16)**

The owners of the property known as **1943 Henrietta** request the following variance to construct one emergency egress window well:

- A. Article 4, Section 4.30 (C.4) allows window wells to project into the required side yard setback a maximum of 3.0 ft. measured to the inside of the well opening. The lot's north side yard setback is required to be 5.0 ft., with 4.6 ft. existing; therefore a variance of 0.4 ft. is requested.

This property is zoned R-2 Single-Family Residential.

Mr. Cooper advised the home was built in 1943 with the existing 4.6 ft. north side yard setback. The owner currently has a permit to add a second-floor rear addition and a detached garage. Then they decided to finish the basement and the Residential Code requires that they install an egress window well which will need a variance of about 5 in.

Mr. Miller noticed that Sheet A-7 is marked north elevation but it is really the west elevation. Further, there is no indication of a window well shown on the elevation. Mr. Cooper indicated it will be located where the existing basement window is.

Mr. Joe Sladovich, the contractor, spoke on behalf of the petitioner. There are some arborvitaes on that side of the house which will hide the window well. He passed around pictures of what the finished product would look like.

He went through their practical difficulty:

With the house being where it is, it encroaches upon the amount of setback. The side setback is less than 5 ft. and the window well is required to be 3 ft. It cannot be placed on the opposite side because there is a driveway. Further, the back of the house is a crawl space so it cannot go in the rear.

Mr. Cooper added this window well meets Birmingham building standards. The majority of the builders have been using this pre-manufactured modular style on the 40 ft. lots at the south side of town. Mr. Lyon received confirmation that the top of the window well will be at ground level and will intrude as little as possible into the side open space. Any water that collects will tie into existing drain tiles and flow away through the house's foundation drain system.

The chairman took comments from the audience at 7:50 p.m.

Ms. Sharon Douglas Chung, 1919 Henrietta, received clarification about the location of the window well.

Motion by Mr. Lyon

Seconded by Mr. Jones with regard to Appeal 14-16, 1943 Henrietta, to grant the appeal as advertised. The appellant seeks a variance under Article 4, Section 4.30 (C.4) to allow a window well to project further into the side open space than the maximum of 3 ft. required.

Mr. Lyon believes that strict compliance would be unduly burdensome. It is not self-created and is unique because of the fact this house is existing non-conforming. To comply with the Code they have to project 3 ft. from the house which happens to be less than 5 ft. from the side yard setback.

He believes this does substantial justice to the appellant and the surrounding owners. This is an egress window, level with the ground essentially, and it won't be able to be seen. Mr. Lyon tied his motion to the sketches as presented tonight.

Motion carried, 7-0.

VOICE VOTE

Yeas: Lyon, Jones, Conlin, Hart, Hughes, Lillie, Miller

Nays: None

Absent: Judd

T# 06-29-14

**2851 MANCHESTER
(Appeal 14-17)**

The owners of the property known as **2851 Manchester** request the following variance to construct one emergency egress window well:

- A. Article 4, Section 4.30 (C.4) allows window wells to project into the required side yard setback a maximum of 3.0 ft. measured to the inside of the well opening. The lot's west side yard setback is required to be 5.0 ft., with 4.8 ft. existing; therefore a variance of 0.2 ft. is requested.

This property is zoned R-2 Single-Family Residential.

One objection to the variance has been received from the neighbor who lives next door to the construction site.

Mr. Cooper noted the home was built in 1951. The owner is renovating the home, adding a second floor and rear addition, and a detached garage. The basement is also being finished and the Code requires an egress window well. This will require a 2.5 in. variance.

Mr. Miller reiterated that as in the previous case he doesn't see an indication of the window on the elevations. Mr. Jones received clarification that if the property owner seeking the variance wanted to, they could request a permit and construct a privacy fence right along the property line.

Mr. Joe Sladovich, the contractor, spoke on behalf of the homeowner. Everything here is the same as the previous case on Henrietta, except that this is a little less of a variance. With respect to the objection that was received from the neighbor, Mr. Sladovich said that home is sale pending. There have been a number of complaints, and a lot of them stem from the previous contractor. They are the second contractor on this project and he doesn't think there will be any continuing issues.

Chairman Lillie called for comments from members of the public at 8:12 p.m.

Ms. Chung spoke once again. She noted that they have the same former contractor and the difference between the two contractors is like night and day. Within a couple of days after this contractor took over the place was cleaned up and everything was running smoother. She trusts this contractor in terms of their work.

Motion by Mr. Lyon

Seconded by Mr. Jones with regard to Appeal 14-17, 2851 Manchester, to grant the appeal as advertised. The appellant seeks a variance under Article 4, Section 4.30 (C.4) to allow a window well to project further into the side open space than the maximum of 3 ft. required.

Mr. Lyon believes that strict compliance would be unduly burdensome. It is not self-created and is unique because of the fact this house is existing non-conforming. To comply with the Code they have to project 3 ft. from the house which happens to be less than 5 ft. from the side yard setback.

He believes this does substantial justice to the appellant and the surrounding owners. This is an egress window, level with the ground essentially, and it won't be able to be seen. Mr. Lyon would tie his motion to the sketches as presented tonight.

Motion carried, 7-0.

Mr. Jones noted with his second that on this site there is an existing non-conforming setback that again is the basis of needing the variance.

VOICE VOTE

Yeas: Lyon, Jones, Conlin, Hart, Hughes, Lillie, Miller

Nays: None

Absent: Judd

T# 06-30-14

CORRESPONDENCE (none)

T# 06-31-14

GENERAL BUSINESS

Mr. Johnson said he sent an e-mail to the city attorney inquiring about the authenticity of electronic signatures in e-mails, but has not yet received a response.

Mr. Miller had a general concern about the quality of the documentation. He thought that this time it fell below a standard that would allow him a comfort level. Board members should be able to look at the plans beforehand and understand exactly what is happening.

Mr. Johnson said the applicant used the construction documents for their appeal, which is more than was needed for the build out of a small window well. Mr. Miller noted the documentation that was provided was inaccurate. In the future he will view this type of documentation as being too thin for his comfort level.

Mr. Hart commented that most elevations should have the foundation shown with a dotted line below grade. Consensus of the board members was that dimensions were lacking.

Mr. Jones said he would like to see some kind of balance as to the efficiency of time and effort of staff; the board's ability to comment on what they are seeing with an Ordinance tweak; and then the time and energy of everyone else involved. Mr. Johnson indicated that from staff's perspective these particular types of variances are consistently approved every time. They might want to review the Ordinance language.

Mr. Conlin noted that in the past a lot of people didn't know how to remodel and would tear a house down instead. However now the trades situation has become such that people are learning how to remodel. He doesn't know which direction this is going and whether the City will be inundated with these or not. Mr. Cooper commented the Building Dept. is not being swamped with problems like this but there are a number of them. The price point of the original house dictates whether it will be torn down or renovated.

Mr. Lyon asked if the board could formally request staff and the Planning Board to look at an Ordinance change to allow staff to administratively approve egress windows in non-conforming buildings. He certainly would support that.

Mr. Lyon went on to comment he thinks it does a great disservice to substantially destroy a building, leave a little bit of the foundation there, and then call it a remodel. The present assessor's interpretation of the law is different than that of the previous assessor, who had ruled that when a house was torn down and built back up the property tax would become uncapped and increase. The current interpretation is that if a building is torn down it is a loss, and if a new building is put up it is a gain. So, the capped value carries with it and the taxes come out about the same whether a house is torn down or remodeled.

T# 06-32-14

ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:34 p.m.

Bruce R. Johnson, Building Official

CASE DESCRIPTION

656 Ruffner (14-18)

Hearing date: July 8, 2014

The owners of the property known as **656 Ruffner** request the following variance to allow the construction of a new house and detached garage:

Article 4, Section 4.69, C of the Zoning Ordinance requires the distance between principal residential buildings be 14.00' for this lot; with 13.10' proposed. Therefore, a variance of 0.90' is requested.

Staff Notes: The owner is proposing to construct a new house with a detached garage on this lot. The proposed new house and garage will meet all setbacks, height, and lot coverage requirements except the distance between principle structures requirement. The existing house to the east of this lot was built in 1947 and was constructed 3.10' from the shared property line. The owner is proposing the new house be 25.00' in width to minimize the variance request. The house being removed from this lot is non-conforming with the distance between principle structures, each side yard setback is non-conforming, and the sum of side yard setbacks is also non-conforming. The current distance between structures is 9.90'.

This property is zoned R-3 single family residential.

108802

Application Date: 6-16-14



Hearing Date: 7/8/14

Received By: BM

Appeal # 14-18

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional + Land use _____ Sign _____ Admin review _____

Property Information:

Street address: <u>656 RUFFER AVE</u>	Sidwell Number: <u>1936428004</u>
Owners name: <u>TORINO QUALITY HOMES, LLC</u>	Phone #: <u>248-877-5600</u>
Owners address: <u>31500 NORTHWESTERN HWY STE 125</u>	Email: <u>JATRAFRICANTE@gmail.com</u>
City: State: <u>FARMINGTON HILLS, MI.</u>	Zip code: <u>48334</u>
Contact person: <u>JOE TRAFICANTE</u>	Phone #: _____

Petitioner Information:

Petitioner name: <u>JOE TRAFICANTE</u>	Phone #: <u>248-877-5600</u>
Petitioner address: <u>2633 S. LAPEER AVE STE E.</u>	Email: <u>JATRAFRICANTE@gmail.com</u>
City: <u>ORION</u> State: <u>MI.</u>	Zip Code: <u>48360</u>

Required Attachments:

- Original Certified Survey
- Original BZA application
- Letter of hardship or practical difficulty
- 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
- Set of plans and survey mounted on foam board
- If appealing a board decision, a written transcript from the meeting is required along with 10 copies of minutes from any previous Planning, HDC or DRB board.

General Information:

Prior to submitting for a Board of Zoning Appeals review, you must schedule an appointment with the Building Official or a City Planner for a preliminary discussion on your submittal. The deadline is the 15th of the previous month.

The BZA review fee is \$310.00 for single family residential; \$510.00 for all others; and \$50.00 for the public notice sign.

Location of all requested variances must be highlighted on plans and survey. All dimensions to be taken in feet to the first decimal point.

Variance chart example:	Required 25'	Existing 24'	Proposed 24'	Amount of Variance 1'
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By signing this application I agree to conform to all applicable laws of the City of Birmingham. The information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: Joe Traficante, member Date: 6/12/14
TORINO QUALITY HOMES, LLC

Joe has sign. 6-16-14

CITY OF BIRMINGHAM
 Date 06/16/2014 12:29:29 PM
 Ref 00108802
 REC-SP1 206045
 Amount: \$360.00
 Page

6/12/14

Torino Quality Homes, LLC
31500 Northwestern Hwy
Suite 175
Farmington Hills, MI. 48334

City of Birmingham
Board of Zoning Appeals

RE: 656 Ruffner

Dear Members of the Board:

We would like to construct a new home located at 656 Ruffner. Our lot is 40' x 120', which would under normal circumstance allow me to build a home 26' wide and still meet all the city side yard setback requirements.

The home to the East of us located at 692 Ruffner does not conform to the ~~current building codes~~ ^{ZONING ORDINANCE}. The home was constructed in 1947 and only sits 3.1' from their property line which causes us hardship with meeting the required 14' between structures.

If I were to maximize the allowable side yard setbacks I could build a home 26' wide but that would only leave 12.1' between the two structures.

We have shrunk down the home to 25' in an effort to make these plans work but would need a 10.8 inch variance from the board.

With the proposed plans we are improving the current non-conformity in three ways.

- 1) Currently our home is only 9.9' from the structure on the east, we will now be 13.1'.
- 2) Currently our home is only 6.8' from the property line and it will now be 10'.
- 3) Currently our home only sits 3.7' from the property line on the west side and would now be conforming. 5.1'

Our proposed plans meet all the city requirements with the exception of the distance between structures on the east side.

We ask that you please grant us a variance of 10.8" on the east side setback.

Sincerely,



Joe Traficante, member

CASE DESCRIPTION

2187 Yorkshire (14-19)

Hearing date: July 8, 2014

The owners of the property known as **2187 Yorkshire** request the following variance to allow the construction of an addition to the existing house:

Article 4, Section 4.03, D of the Zoning Ordinance requires the distance between principal residential buildings and accessory buildings be 10.00', with 3.50' existing and 3.50' proposed, therefore a variance of 6.50' is requested.

Staff Notes: The owners are proposing to construct a rear addition to their home. The home was constructed along with a detached garage in 1925, with alterations in 1942 and 1969. The detached garage is located 3.5 feet from the west side of the house. The proposed addition would extend the existing non-conformity of the distance between the principle building and the existing accessory structure. The proposed addition meets all other zoning setbacks, lot coverage, open space, and height requirements.

This property is zoned R-2 single family residential.

Application Date: 6-16-14



Hearing Date: 7/8/14

Received By: _____

Appeal # 14-19

Board of Zoning Appeals Application

Type of Variance: Interpretation _____ Dimensional _____ Land use _____ Sign _____ Admin review _____

Property Information:

Street address: 2187 Yorkshire Drive		Sidwell Number: 20-30-453-019	
Owners name: Harold Meloche		Phone #: 248-762-3024	
Owners address: 2187 Yorkshire Drive		Email:	
City: State: Birmingham Mi		Zip code: 48009	
Contact person: Harold Meloche		Phone #: 248-762-3024	

Petitioner Information:

Petitioner name: William J. Thomas		Phone #: 248-568-7842	
Petitioner address: 524 Seventh St.		Email: wjt@wjtstudios.com	
City: Rochester	State: Mi	Zip Code: 48307	

Required Attachments:

- Original Certified Survey
- Original BZA application
- Letter of hardship or practical difficulty
- 10 folded copies of the site plan and building plans (existing and proposed floor plans and elevations)
- Set of plans and survey mounted on foam board
- If appealing a board decision, a written transcript from the meeting is required along with 10 copies of minutes from any previous Planning, HDC or DRB board.

General Information:

Prior to submitting for a Board of Zoning Appeals review, you must schedule an appointment with the Building Official or a City Planner for a preliminary discussion on your submittal. The deadline is the 15th of the previous month.

The BZA review fee is \$310.00 for single family residential; \$510.00 for all others; and \$50.00 for the public notice sign.

Location of all requested variances must be highlighted on plans and survey. All dimensions to be taken in feet to the first decimal point.

Variance chart example:	Required	Existing	Proposed	Amount of Variance
	25'	24'	24'	1'

By signing this application I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: Harold J. Meloche Date: 6/14/14

- C. Whenever any variation or modification of the Zoning Ordinance is authorized by resolution of the BZA, a Certificate of Survey must be submitted to the Community Development Department with the building permit application. A building permit must be obtained within one year of the approval date.
- D. Failure of the appellant, or his representative, to appear for his appeal hearing will result in the appeal being adjourned to the next regular meeting. If, after notice, the appellant fails to appear for the second time, it will result in an automatic withdrawal of the appeal. The appellant may reapply to the BZA.
- E. Any applicant may, with the consent of the Board, withdraw his application at any time before final action.
- F. Any decision of the Board favorable to the applicant is tied to the plans submitted, including any modifications approved by the Board at the hearing and agreed to by the applicant, and shall remain valid only as long as the information or data provided by the applicant is found to be correct and the conditions upon which the resolution was based are maintained.

ARTICLE III - Rehearings

- A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.
- B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.



Signature of Applicant

Board of Zoning Appeals
City of Birmingham
151 Martin St.
Birmingham, Mi.
48012

Letter of Hardship and or Practical Difficulty

Board of Zoning Appeals,

The residence and garage at 2187 Yorkshire was originally constructed in 1925. When the home was built, the garage was built directly adjacent to the home 4.0' from the principal structure in the center of the lot unlike a majority of the homes along Yorkshire where the garages are located in the rear quarter of the sites. The existing garage also sits 3.14' from the west side property line. The close proximity of garage to the principal structure has created a hardship and practical difficulty in order to expand the house to the north and will, because of the location of the garage, require a variance for the proximity of an accessory structure to the primary structure which will be less than the required 10.00'.

Because of this close proximity, we are asking to extend an existing non-conformity of the existing principal structure that is less than 10.00' from an accessory structure, as noted in red on the submitted drawings, in order to construct a new addition onto the existing principal structure. Between the current garage and the principal structure, there is 4.0' between structures. The existing garage is set on a slight angle as compared to the principal structure. This will require a variance of 6.5' into the required distance of 10.0' per section 4.03 AS-02 "D" of the zoning ordinance in order to extend this non conformity to construct the new addition onto the principal structure. The area for the requested variance is highlighted in yellow on the submitted drawings. The current Michigan Residential Building Code (MRBC) does allow an accessory structure to be constructed with in 3.0' of a principal as long as the interior of the garage is dry walled per MRBC R302.6 and table R302.6 which will be done as part of this project.

4.03 AS-02

D. Setback from Principal Building: An accessory building or a swimming pool shall not be closer than 10 feet to the principal building located on the same lot.

The four points that a variance must meet are listed below:

- i. *Because of special conditions applicable to the property in question, the provisions of the zoning ordinance, if strictly applied, unreasonably prevent the property owner from using the property for a permitted use.*

Do to the existing nature of the garage as described in the introduction of this letter, the close proximity of the garage to the residence as it was constructed in 1925 will not allow for the addition to the residence without obtaining the requested variance.

- ii. *Literal enforcement of the chapter will result in unnecessary hardship*

Do to the existing nature of the garage as described in the introduction of this letter, the close proximity of the garage to the residence as it was constructed in 1925 will not allow for the addition to the residence without obtaining the requested variance.

- iii. *The granting of the variance will not be contrary of the spirit and purpose of the zoning ordinance nor contrary to the public health, safety and welfare*

As noted above and because the MBRC does allow the close proximity of an accessory structure or garage as long as the interior of the garage is drywall per MRBC R302.6 and table R302.6 And thus is not contrary to the public health, safety and welfare.

- iv. *The granting of the variance will result in substantial justice to the property owner, the owners of the property in the area and the general public.*

The location of the addition with the requested variance will barely visible to the neighbors, but the addition to and overall renovation of the existing residence will substantially improve the residence as well as improving the character of the neighborhood benefiting the surrounding neighbors.

After many discussions with the community development officials working through the number of existing non-conformities on the site in order to expand the kitchen and to resolve a continuing water issue with an exposed exterior set of stairs leading to the basement, we have arrived at the requested variance as noted above. Again, this is completely acceptable according to the MRBC as noted above in section R302.6 and Table R302.6. As well as the addition to the principal structure as noted above, the complete exterior of the home will be fully updated with new materials and a front porch will be added as part of this project to enhance the aesthetics of the home and to improve the character of the neighborhood.

Thank you for your consideration,



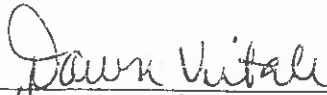
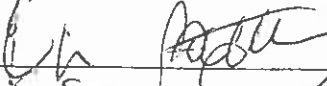
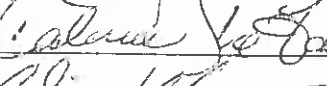

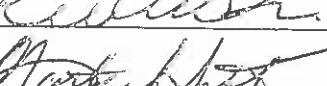
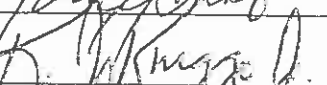
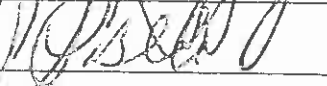

I am in favor of, and do not oppose, the following variance being requested Harold and Diane Meloche, at the 2187 Yorkshire, Birmingham, MI location:

Description of Request Variance

To extend an existing non-conformity of the existing primary structure that is less than 10'-0" from an accessory structure (the garage) in order to construct a new addition onto the existing residence. The current garage is 4'-0" from the existing residence and is set on a slight angle. This will require a variance of 6'-6" into the required distance of 10'-0" in order to extend this non conformity to construct the new addition onto the home. The current Michigan Building Code does allow an accessory structure to be constructed with in 10'-0" of a primary as long as the interior of the garage is dry walled which will be done as part of this project.

6/12/14

Signatures

	DAWN VITALE 2168 YORKSHIRE RD B'HAM MI
	ED BATTIER 2220 YORKSHIRE RD " "
	CATERINA DEFALCO 2219 YORKSHIRE RD
	CAIN WEARING 2251 YORKSHIRE
	RICK W. NEWSON 2279 YORKSHIRE RD.
	2266 DORCHESTER MARY SCHABATH
	2194 DORCHESTER ROBERT J. KINGGO JR.
	2165 YORKSHIRE RD VINCENT LABELLA SR
