

Agenda

City of Birmingham
Board of Zoning Appeals

Commission Room of the Municipal Building
151 Martin Street, Birmingham, Michigan
April 14, 2015
7:30 PM

1. Roll Call
2. Approval of the March, 2015 Minutes
3. Appeals:

	Address	Petitioner	Appeal	Type/Reason
1.	645 S ETON	ETON ASSOC.	15-06	LAND USE
2.	482 PARK	COHEN	15-08	DIMENSIONAL
3.	2483 W MAPLE	DCFU FINANCIAL	15-09	DIMENSIONAL

4. Correspondence
5. General Business

Title VI

Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing, or other assistance.

Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad auditiva) por lo menos un día antes de la reunión para solicitar ayuda a la movilidad, visual, auditiva, o de otras asistencias. (Title VI of the Civil Rights Act of 1964).

The public entrance during non-business hours is through the police department at the Pierce Street entrance only. Individuals requiring assistance entering the building should request aid via the intercom system at the parking lot entrance gate on Henrietta Street.

La entrada pública durante horas no hábiles es a través del Departamento de policía en la entrada de la calle Pierce solamente. Las personas que requieren asistencia entrando al edificio debe solicitar ayudan a través del sistema de intercomunicación en la puerta de entrada de estacionamiento en la calle de Henrietta.

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, MARCH 10, 2015**

City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, March 10, 2015. Chairman Charles Lillie convened the meeting at 7:30 p.m.

Present: Chairman Charles Lillie; Board Members Kevin Hart, Jeffery Jones, Peter Lyon, Alternate Board Members Cynthia Grove, Rachel Loughrin

Absent: Board Members Randolph Judd, Thomas Hughes, John Miller

Administration: Ken Cooper, Asst. Building Official
Bruce Johnson, Building Official
Scott Lenhart, Building Dept.
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. Four affirmative votes are required to reverse an interpretation or ruling. There are no interpretations on this evening's agenda.

T# 03-14-15

APPROVAL OF THE MINUTES OF THE BZA MEETING OF FEBRUARY 10, 2015

Motion by Mr. Jones

Seconded by Mr. Lyon to approve the Minutes of the BZA meeting of February 10, 2015 as written.

Motion carried, 6-0.

VOICE VOTE

Yeas: Jones, Lyon, Grove, Hart, Lillie, Loughrin

Nays: None

Absent: Hughes, Judd, Miller

T# 03-15-15

**370 PLEASANT
(Appeal 15-05)**

The owners of the property known as 370 Pleasant request the following variance two variances to allow for the construction of a new home with a detached garage:

- A. Article 2, Section 2.04 of the Zoning Ordinance requires a front yard setback of 60.64 ft. for this lot; with 41.58 ft. proposed. Therefore, a variance of 19.06 ft. is requested.
- B. Article 4, Section 4.30 C 1 of the Zoning Ordinance allows a front porch and steps to project 10.00 ft. into the required front open space for this lot; with 28.06 ft. proposed. Therefore, a variance of 18.06 ft. is requested.

This property is zoned R-1A Single-Family Residential.

Mr. Cooper explained the two lots immediately to the south of the subject property are roughly 400 ft. deep. Other lots in that area of Pleasant are about 150 ft. deep. The owners of the two lots to the south chose to set their houses back 90.70 ft. and 87.80 ft. respectively. Therefore, the applicant is proposing to take the average setback of the three homes within 200 ft. (41.58 ft.) less the two houses that were built much further back than the required setback.

The applicant is proposing a 9.00 ft. covered front porch and steps from the proposed 41.58 ft. front setback.

Mr. Hart established that the current house is existing non-conforming on both the front and side setbacks. This application actually decreases the non-conformity to the front and eliminates the north side non-conformity.

Mr. Justin Friedman, HM Homes, LLC, said the average lot depth along the street is 130 to 160 ft. going towards Maple Rd. Their proposed setback will be cohesive with the street. They are not maxing out the variance for the front setback, as it is pulled back about 1.50 to 2.00 ft. The granting of the variance will have a positive impact on the street. There will be no harm caused to the area and they will observe all Ordinances on the site.

No one from the audience wanted to comment on this petition at 7:45 p.m.

Motion by Mr. Lyon

Seconded by Mr. Jones in regard to Appeal 15-05, 370 Pleasant, to approve the variances as advertised. He believes that strict compliance with the Ordinance would be unduly burdensome in this case. The appellant is proposing to build a new house on an existing lot. The uniqueness of this situation is that there are two lots immediately to the south that are substantially set further back.

Mr. Lyon believes this is the least variance required, given that the appellant has averaged it with the existing houses that are similarly situated on similar lots in this location.

He believes it does substantial justice to both the appellant and the neighbors and he would tie the motion to the plans as presented and given to the City tonight.

Mr. Jones noted it is a unique circumstance driving down Pleasant, given the size of the lots and what people have done. Also, the applicant is improving the setback requirement. Therefore, he supports the motion.

Motion carried, 6-0.

ROLLCALL VOTE

Yeas: Lyon, Jones, Grove, Hart, Lillie, Loughrin

Nays: None

Absent: Hughes, Judd, Miller

T# 03-16-15

645 S. ETON

(Appeal 15-06) (Postponed by the petitioner to the meeting of April 14, 2015)

T# 03-17-15

1389 PILGRIM

(Appeal 15-07)

The owners of the property known as 1389 Pilgrim request the following variance to allow an existing second story deck to the rear of their home to remain as constructed.

A. Article 4, Section 4.30 C (5) of the Zoning Ordinance requires that the first floor of a deck projecting into a rear open space not be higher than the floor of the first

story. The floor of the deck as constructed in this case is 11 ft. above the first floor. Therefore, a variance of 11 ft. is requested to allow the existing deck to remain.

This property is zoned R-1 Single-Family Residential.

Mr. Johnson advised the applicant is nearing completion of a new home on the site with a two-story deck that is already constructed and was reviewed and approved two times by the City. While the Zoning Ordinance allows the deck to be in its current location, the deck should not have been approved to be higher than the first floor of the home. This came to the attention of the Building Dept. a month and a half ago when a resident came in inquiring if they could build a second-story deck just like their neighbor's deck, and were informed by staff that it is not permitted by the Zoning Ordinance. Mr. Johnson said he does not believe it was the intent of the applicant to circumvent the Ordinance.

Mr. Peter Arvant, Attorney for Mr. Neal Doshi the property owner, was present with Mr. Doshi. The home complies with Birmingham Zoning Ordinances in all other ways. Mr. Doshi did not try to do anything intentional to circumvent the Ordinance. The City Ordinance doesn't prohibit second story decks, but it doesn't allow them in the rear open space. Before the first brick was laid, Mr. Doshi could have made changes to comply with the Ordinance if the City had not approved his plans. In response to Chairman Lillie, Mr. Arvant agreed this lot is pretty similar to other lots in the subdivision; there is nothing unusual about it.

At 8:07 p.m. the chairman opened up the discussion to the audience.

Dr. Mara Geiger, 1363 Pilgrim, directly to the south of the subject property, said their privacy has been somewhat impeded as a result of the deck next door. Therefore, they applied to the City to build a similar deck to their neighbors but were told it is against the Zoning Ordinance. The neighbor's deck has second floor lights that go on every evening and illuminate her whole house and yard along with other properties. The lights go on at 6 p.m. and go off at 6 a.m. and that is certainly irritating. Chairman Lillie expressed the hope that she can work out something with her neighbor to handle the lighting.

Mr. Greg Geiger, 1363 Pilgrim, voiced his displeasure along with that of his neighbors.

Motion by Chairman Lillie

Seconded by Mr. Lyon regarding Appeal 15-07 to grant the variance as advertised. He makes this motion even though in his opinion the petitioner has failed to establish a practical difficulty. The driving force behind this appeal is an omission on the part of the City of Birmingham while reviewing

the proposed plans to note that the deck did not comply with the Zoning Ordinance.

One of the functions of this board is to act in a quasi-judicial capacity. In order for there to be a practical difficulty, the petitioner must establish four things. The first is that it would be unduly burdensome for the petitioner to comply with the Zoning Ordinance. In this case, had the City noted the issue with the deck at the beginning, the petitioner could have easily modified its plans to comply with the Zoning Ordinance.

Secondly, there is nothing unusual about this lot. The lot is semi-rectangular in shape and is fairly flat.

Third, the problem in part was created by the petitioner in that this is new construction. The petitioner prepared the plans, and the petitioner has an obligation to comply with the Zoning Ordinance unless there are extenuating circumstances. The problem was exacerbated by the City failing to catch the non compliance with the Zoning Ordinance.

The fourth criteria is that the variance does substantial justice to the petitioner as well as to the other property owners in the area.

Notwithstanding the fact that the petitioner has not met all of the criteria to establish a practical difficulty, Chairman Lillie would still grant the variance because he thinks at this point in time it would be unreasonable to require the petitioner to remove the finished deck because of an error by the City and there being no evidence that the petitioner intentionally tried to deceive the City. By granting this variance, we would be doing substantial justice to the petitioner. The motion is tied to the plans as presented.

Mr. Lyon said he would like to tie in some language indicating that the appellant either work with the City and/or neighbor to mitigate the lighting situation as a condition of granting the variance.

Mr. Arvant said they will be mindful of their neighbors and can turn down the lighting. It is reasonable that Mr. Johnson can be the mediator if there is there is a problem.

Mr. Hart said everyone needs to realize this is a full size structure projecting into the rear yard setback. He thought if this becomes a ballroom on the second floor the board should be concerned with life-safety issues such as lighting. If the board is going to allow this protrusion into the rear yard setback they should be careful about how the structure is going to be used. Also, the board is totally within its charge to find a way to make this deck less obtrusive to the neighbors.

Answering a question from Mr. Jones, Mr. Johnson specified the lighting standards are strict in the commercial zoned properties. That is not so in the residential neighborhoods. It is better left to the neighbors to resolve. The Building Dept. in the past has helped to mitigate complaints when they come in.

Mr. Arvant said they have heard the complaint now and they will address it. They have a good safety valve in place if necessary with Mr. Johnson.

Mr. Doshi said regarding the lighting that there have been a few break-ins across the street at a house that is under construction, so he has programmed the lights to be on for safety. He has no problems with turning the light down to an appropriate level.

Mr. Jones informed Mr. Geiger that he is not without recourse. He could have gone to the City with his concerns.

**Amended Chairman Lillie
And accepted**

To provide that the variance is contingent upon reasonable efforts being made by the petitioner to solve the lighting problem that was mentioned today, and if that can't be worked out with the neighbors then Mr. Johnson shall be the mediator of the problem.

Motion carried, 6-0.

ROLLCALL VOTE

Yeas: Lillie, Lyon, Grove, Hart, Jones, Loughrin

Nays: None

Absent: Hughes, Judd, Miller

T# 03-18-15

CORRESPONDENCE (none)

T# 03-19-15

GENERAL BUSINESS

Mr. Johnson passed out complete copies of the updated Zoning Ordinance along with copies of the Sign Ordinance.

Sadly, Mr. Cooper announced his intention to leave the City on March 26. He has a home in Harbor Springs and will relocate and work for Emmett County.

T# 03-20-15

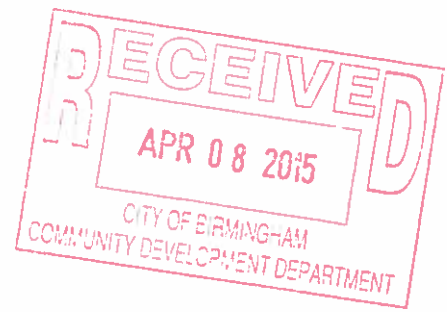
ADJOURNMENT

No further business being evident, the board members passed a motion to adjourn at 8:47 p.m.

Bruce R. Johnson, Building Official

March 6, 2015

Birmingham Zoning Board of Appeals
151 Martin St.
Birmingham, MI 48009



To whom it may concern:

I am writing this letter on behalf of two potential Birmingham business owners whom I know both personally and professionally for many years. It is my pleasure to assist them in writing this letter to support their business, Platinum Motor Cars in being submitted to the Birmingham Zoning Board for a usage variance at 645 S. Eton.

As a resident of Birmingham for the last 10 years, I feel very confident that the addition of Platinum Motor Cars to the Rail District would only improve and enhance our neighborhood. I am not only a long-time friend to Erica and Syed Ahmed, but I have also done business with them dozens of times since they have opened their doors; for either myself or someone I referred over to them. I have no doubt that they will continue to uphold a respectful and ethical business where ever they should choose to locate themselves. In addition, it is my belief that allowing a business of their nature can only be beneficial to the community as they are providing our residents additional options in luxury car sales.

If you should wish to contact me directly, please call or email me directly at the contact information provided below.

Sincerely,

A handwritten signature in black ink, appearing to read "D Hall".

David Hall
dhall@dhallventures.com
248.766.4929

Renal Redux | Kidney Specialists

Jerry A. Dancik, MD

Tavis A. Dancik, MD



Main Clinic & Contact
32121 N. Woodward Ave, Suite
200
Royal Oak, MI 48073
(248) 690-9946 phone
(248) 268-3661 fax
(248) 288-1811 answering service
renalredux.com

Monday Clinic
44344 Dequindre Rd, Suite 490
Sterling Heights, MI 48314

Thursday Clinic
1455 S. Lapeer Rd, Suite 207
Lake Orion, MI 48360

Tuesday, March 10, 2015

Birmingham Zoning Board of Appeals
151 Martin St.
Birmingham, MI 48009

To Whom It May Concern:

As a resident in Birmingham at 610 Lewis St, I support Platinum Motor Cars' request for variance to sell fine automobiles at 645 S. Eton. Their business would be a unique and welcome addition to the Rail District. I've had the pleasure of knowing Syed and Erica for the past dozen years, and the addition of this delightful couple's business to Birmingham would be an immeasurable asset. If I may be of further assistance, please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read 'T. Dancik' with a stylized flourish at the end.

Tavis A. Dancik, MD



575 S. ETON / BIRMINGHAM / MICHIGAN / 48009

March 9, 2015

Birmingham Zoning Board of Appeals
151 Martin St.
Birmingham, MI 48009

To whom it may concern:

I am writing this letter on behalf of Syed and Erica Ahmed. It is my pleasure to assist them in writing this letter to support their business, Platinum Motor Cars in being submitted to the Birmingham Zoning Board for a usage variance at 645 S. Eton.

As a resident and business owner in Birmingham, I feel very confident that the addition of Platinum Motor Cars to the Eton Street Corridor will be a perfect addition to the neighborhood. The niche market that they are targeting will be a welcome addition to the surrounding businesses as well. I have known Syed Ahmed for over a decade and have no doubt that he and his business will support the vision and growth that we all share for the Rail District.

If you should wish to contact me directly, please call or email me directly at the contact information provided below.

Sincerely,

Scott LePage

Scott LePage
slepage@griffinclawbrewingcompany.com

ATESIAN PROPERTIES, INC.

780 W MAPLE · TROY MI · 48084

March 24, 2015

Zoning Board Members,


As a property owner in the Rail District, I am writing this letter to affirm my support of Platinum Motor Cars receiving a zoning variance to relocate their business in the property located on Eton in the Rail District. A few points of why I am in favor of granting this variance are as follows:

1. Platinum Motors Cars is a successful business and will bring additional commerce to Birmingham.
2. Their business will have good synergies with neighboring businesses in the Rail District.
3. Most importantly, this is very good use for this particular location due to the properties inherent parking constraints. This use is one of few which will have a low impact for the properties parking and residence street parking, due to their businesses low volume parking ratio requirement. The building owners will have a difficult time renting this space without receiving a variance due to this constraint.
4. This property has been vacant for sometime now and it will benefit all the neighboring business to have this space filled.

Sincerely,



Ara Atesian

From: **William A. Roy** roy@rsmv.com 
Subject: **645 S. Eton St.**
Date: **March 4, 2015 at 12:24 PM**
To: **Erica@pmc-detroit.com**

WA

Dear Erica,

Thank you for your letter of February 20, 2015 regarding for application for variance.. We are neighbors at 707 S. Eton St.

We cannot attend the hearing on March 10, but you may indicate that we support your petition. It sounds like you have an interesting business which would be a nice addition to the neighborhood.

Best of Luck,

Bill Roy



ROY, SHECTER & VOCHT
ATTORNEYS & COUNSELORS

William A. Roy

707 S. Eton St. Birmingham, MI 48009
TEL. 248.540.7660 roy@rsmv.com FAX. 248.540.0321

Application Date: 2-16-15

Hearing Date: 3-10-15



Received By: BM

Appeal # 15-06

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>645 S. Eton</u>		Sidwell Number: _____	
Owners name: <u>ETON ASSOCIATES</u>		Phone #: <u>734 293 0055</u>	
Owners address: <u>14750 FARMINGTON #107</u>		Email: _____	
City: State: <u>LIVONIA MI</u>		Zip code: <u>48154</u>	
Contact person: <u>KAREN VALENTI/DON BROWN</u>		Phone #: <u>734 293 0055</u>	

Petitioner Information:

Petitioner name: <u>Erica P Syed Ahmad</u>		Phone #: <u>248-376-3302</u>	
Petitioner address: <u>1088 Riverdale</u>		Email: <u>erica.p.syr-detroit.com</u>	
City: <u>Birmingham</u> State: <u>MI</u>		Zip Code: <u>48009</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	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: [Signature]

Date: 3/11/15

CITY OF BIRMINGHAM
 Date 02/16/2015 7:06:44 PM
 Ref 00115355
 Print 248469
 Print #519.001

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

A. Appeals may be filed under the following conditions:

1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.

B. Procedures of the Board of Zoning Appeals (BZA) are as follows:

1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
2. All applications for appeal shall be submitted to the Community Development Department on or before the 15th day of the month preceding the next regular meeting. If the 15th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
9. An appeal stays all proceedings in accordance with Act #202, Public Acts of 1969, Section 5(c), which amended Section 5 of Article #207 of the Public Acts of 1921.

C. The order of hearings shall be:

1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
3. Interested parties' comments and view on the appeal.
4. Rebuttal by applicant.
5. The BZA may make a decision on the matter or request additional information.

ARTICLE II - Results of an Appeal

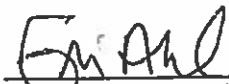
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.

- 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

ETON ASSOCIATES
14700 Farmington Road, Suite 107
Livonia, Michigan 48154-5462

March 9, 2015

Board of Zoning Appeals
City of Birmingham
151 Martin Street
Birmingham, MI 48012

Re: Petitioners: Erica & Syed Ahmed
Property Address: 645 S. Eton

Dear Board of Zoning Appeals Members:

We are the owners of 645 S. Eton. We are aware of the use variance request/appeal of Erica and Syed Ahmed. We confirm our consent to the use variance application and support the same.

I am an authorized Managing Partner of Eton Associates and empowered to execute and deliver this correspondence.

ETON ASSOCIATES

By: I. Aggarwal
I. Aggarwal
Its: Managing Partner



Dear Members of the Zoning Board,

My name is Erica Ahmed and I, along with my husband, Syed Ahmed, are the proud owners of Platinum Motor Cars, which is currently located in Troy. Several years ago, we purchased a home in Birmingham (in the Poppelton Park area) and we have since started a family there.

I write to explain our desire to now move our growing business to Birmingham. By way of background, Platinum Motor Cars, founded in 2011, is a family-owned business, which serves the niche market of high-end, pre-owned car sales. Our costumers are typically car enthusiasts with a passion for brands like Ferraris, Bentleys, Lamborghinis and other exotics.

Unfortunately, as it currently stands, there are very few locations within the Birmingham City limits that are zoned for our business. These locations have very little vacancy and square footage is limited.

Thus, after an exhaustive search, we have settled on what would be an ideal location for our business: 645 S. Eton. The location is an excellent fit for us due to its close proximity to several of the dealer groups with which we do business. For some tenants being next door to an auto repair facility might be a downside but it allows us to increase synergies between some of our current vendors. The only problem is that the space is not currently zoned for our business and we, thus, write to seek a zoning variance.

We believe our presence in the neighborhood would greatly benefit the surrounding neighborhood for several reasons. First, we have already come to terms with the owner of the space for a long-term lease agreement, which would include plans to undertake a significant renovation of the space, which is currently run-down and outdated. Our plans include dramatically opening-up the space, which would commensurately increase the value of the property and surrounding premises. Second, our presence would end what has been a two-year vacancy since Watch Hill Antiques left the space in 2013. Finally, we have already met with several of the other current tenants of the building who have expressed support for our plans.

Additionally, as residents of the City, we understand the importance of incorporating peacefully into the surrounding neighborhood. To that end, we would like to point out that our business will generate significantly less foot and auto traffic than other permitted uses, for example a convenience store. While a convenience store would involve cars pulling in and out all day long, our hours are limited to nine to six p.m, and our customers typically make appointments in advance to view the cars.

Moreover, although 645 S. Eton is not currently zoned for a car dealership, *it is presently zoned to accommodate a car rental business.* We would submit that a



car rental business is, in many respects, similar to our business, particularly from a space perspective. For example, our cars are stored indoors (for fear of weather-related damage) and all reconditioning occurs off-site. Similar to a car rental business we are a destination that people come to for a purpose. Selling high-end cars brings customers who want to be part of a transaction vs. tire kickers who come by just to look around.

In sum, and particularly as residents of the community, we believe that our growing business is deserving of a zone variance.

Thank you for taking the time to review our application. We hope that you can see that by approving this usage variance you will be bringing two earnest and enthusiastic entrepreneurs into the city to do great things.

Sincerely,

Erica Ahmed

Syed Ahmed

Platinum Motors

Interior Renovation

Platinum Motors

645 S. Eton St.

Birmingham, MI

Sheet Index

G.001 Tile Sheet
A.100 Proposed Floor Plan

Scope of Work (Building):

1. Interior renovation of existing space into new car dealership

Building Code Notes

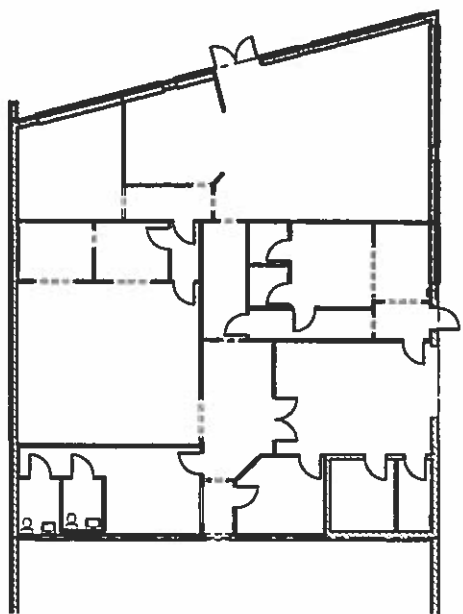
All work to comply with the following codes:

- 2011 Michigan Building Code
- 2011 Michigan Fire and Code
- 2011 Michigan Plumbing Code
- 2011 Michigan Electrical Code based on 2011 N.E.C. with
- Michigan Electrical Code based on 2011 N.E.C. with
- 2009 International Building Code (IBC) (01/15)
- 2009 International Fire Code
- 2009 International Fuel Gas Code
- 2009 International Mechanical Code
- 2011 Michigan Mechanical Code

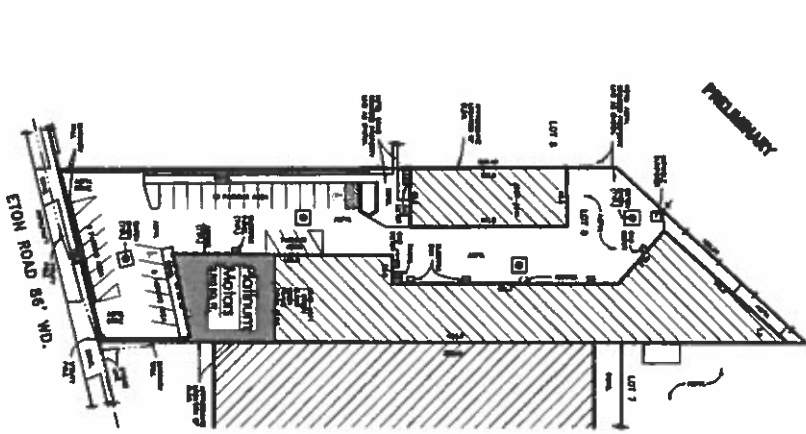
Project Area: 2,800 sq. ft.
Building Area: 2,800 sq. ft.
Use Group & Occupancy: S (Retail)
Jurisdiction City: Birmingham, MI



NORTH
Scale: N/A
Location Map



NORTH
Scale: 1/8" = 1'-0"
Existing Floor Plan



NORTH
Scale: 1/4" = 40'-0"
Site Plan and Survey prepared by Kern, Inc. See O&D documents for detailed survey.
Architectural Site Plan

krieger klatt
ARCHITECTS
architecture interiors consulting
1412 East Bayview Mile Road, Royal Oak, MI 48067
Phone 388.414.9200 Fax 388.414.9229 Web kriegerklatt.com

Client:
Platinum Motors
645 S. Eton
Birmingham, MI 48004

Project:
**Interior
Renovation**

Issued:
2.23.2011, B.M.

Scale:



Notes:
Our final scale drawings, like
this one, are to be used for
verification of construction only.
Verify details of construction in field.
North Arrow:

Sheet Title:

**Tile /
Architectural
Site Plan**

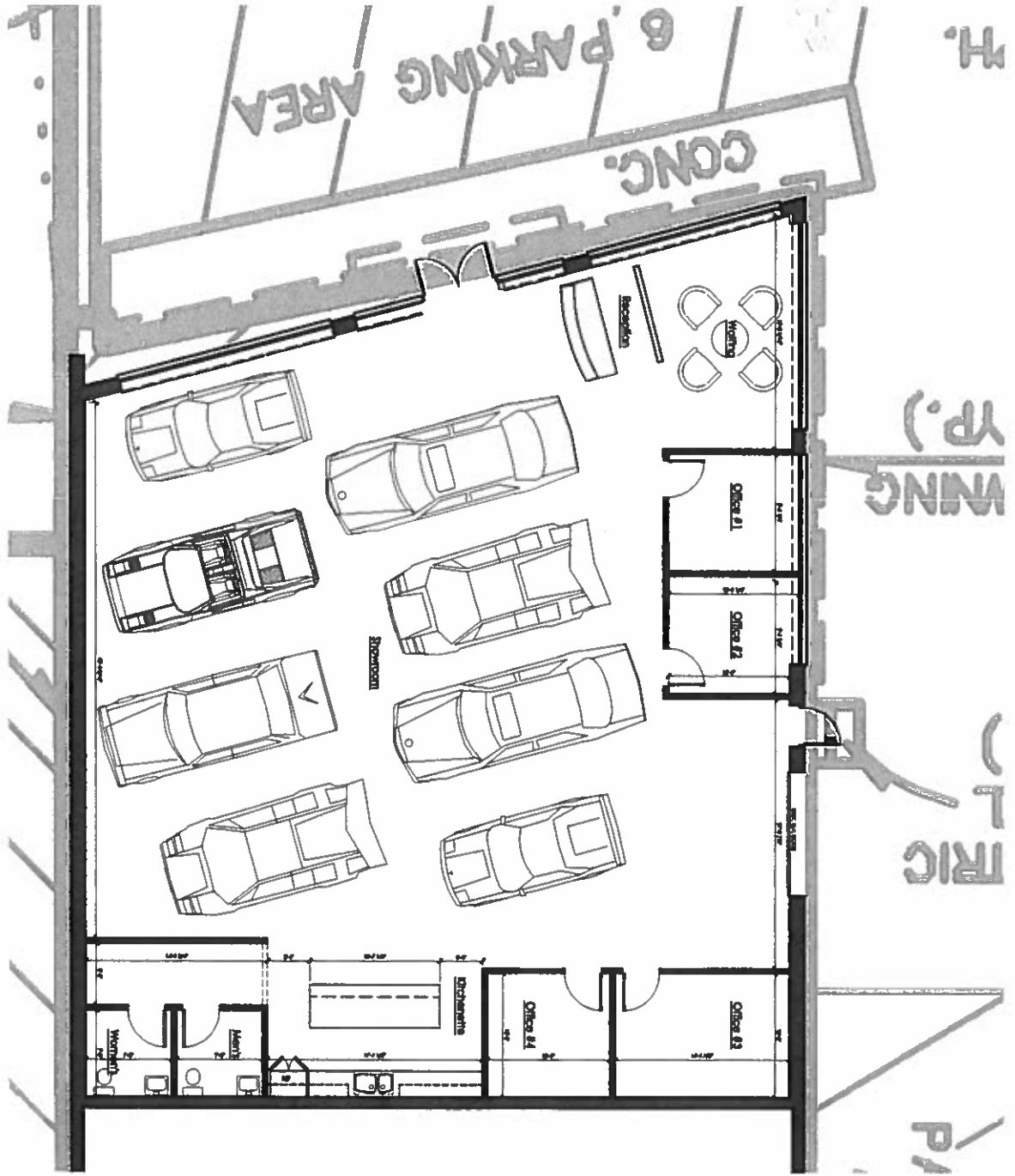
Scale:

As Noted

Project Number:
15045

Sheet Number:

G.001



krieger klatt
ARCHITECTS
architecture interiors consulting
1412 East Eleven Mile Road, Royal Oak, MI 48067
Phone: 248.414.9290 Fax: 248.414.9292 Web: kriegerklatt.com

Client:
Platinum Motors
645 S. Burt
Farmington, MI 48004

Project:
**Interior
Renovation**

Issued:
23.09.11 3A

Scale:
1/4" = 1'-0"



Note:
Do not scale drawings. Use
calculated dimensions only.
Verify existing conditions in field.
North Arrow:

Sheet Title:
**Proposed Floor
Plan**

Scale:
1/4" = 1'-0"

Project Number:
15-045

Sheet Number:
A.100

PLUNKETT  **COONEY**

March 3, 2015

Board of Zoning Appeals
City of Birmingham
151 Martin Street
Birmingham, MI 48012

Re: Petitioners: Erica & Syed Ahmed
Property Address: 645 S. Eton

Dear Board of Zoning Appeals Members:

Our letter is being sent in support of the appeal of our clients, Erica and Syed Ahmed, who are requesting a use variance at 645 S. Eton ("Property"). The Ahmeds intend to operate their business, Platinum Motor Cars, which sells high-end, previously enjoyed automobiles at the site.

Most recently, the Property housed the Watch Hill Antiques business. However, the Property has been vacant for nearly 18 months. With respect to the operations of Platinum Motor Cars, the following protocols are planned:

- All vehicles for sale will be displayed inside the building. There will be no outside storage or display.
- No off-street parking variance is required or sought.
- Vehicles will be "prepped" on-site, but no automotive repair, conversion or maintenance will take place at the Property.

The Ahmeds' proposed use meets and complies with the four determinations that need to be made by the Board of Zoning Appeals in order to grant the variance:

1. **Because of special conditions applicable to the property in question, the provisions of the Zoning Ordinance, if strictly applied, unreasonably prevent the owner from using the property for a permitted purpose.**

The Property is sandwiched between two very successful and active businesses being Griffin Claw Brewing Company and Auto Europe. As a result of being located between two very intense business operations, finding a "correct fit" for the Property has become extremely difficult. In addition, the lack of high visibility and walk-in traffic for the Property eliminates many of the commercial permitted uses in the MX District, particularly those of a retail nature. Finally, due to the

ATTORNEYS & COUNSELORS AT LAW

unique configuration of this long and narrow site where the Property is situated, there are only ten parking spaces available. Given parking requirements for many of the commercial permitted uses in the MX District, the Property is not a viable alternative.

Evidence of the effect of the special conditions is established in the failure to rent this Property for any use during the last 18 months. Clearly, these special conditions, when combined, unreasonably prevent the property owner from utilizing permitted uses.

2. Literal enforcement of this chapter will result in unnecessary hardship.

The aforementioned special conditions, especially the lack of parking to support many of the commercial permitted uses, will result in continued inability to lease or utilize the Property. While the Petitioner applauds and supports the success of the nearby businesses, as a result of their resulting intense activity, many potential tenants are simply not interested in the Property. Approval of the proposed use will provide relief to this unnecessary hardship.

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

Pursuant to Section 2.39 of the Zoning Ordinance, the MX District is established to:

- (a) Encourage and direct development within the boundaries of the Eton Road Mixed Use District and implement the Eton Road Corridor Plan.
- (b) Encourage residential and non-residential uses that are compatible in scale with the adjacent residential neighborhood.
- (c) Encourage the retention, improvement and expansion of existing uses that help define the Eton Road Corridor.

* * *

- (e) Minimize the adverse effects of non-residential traffic on the adjacent residential neighborhood.

The Petitioners proposed use is consistent with all of these goals and objectives.

Currently, automotive related uses are present in the Eton Road Corridor. The adjacent Auto Europe has been at the location for a number of years. Recently, the Board of Zoning Appeals approved variances that will allow a Mercedes-Benz dealership to utilize a nearby warehouse in the Corridor for high-end automobile storage. Consequently, the automotive sales agency proposed by the Petitioners will be consistent with existing and planned automotive related uses.

The Petitioners' business will minimize non-residential traffic on Eton Street. The premium automobiles to be brought for sale will almost uniformly be driven to the site and not transferred by large truck haulers. Visitors to the site will be infrequent and travel by automobile, not by commercial trucks. Unlike many other commercial permitted uses in the MX District, there will be very little, if any, deliveries to the business. The net effect will be a reduction in non-residential traffic.

In addition, the MX District does allow for auto rental agencies and automobile repair and conversion facilities, as permitted uses. A sales agency is extremely similar to the auto rental agency. Their operations are almost identical except that vehicles are not returned to the site. Clearly, the proposed use of an automobile sales agency is consistent with the MX District goals of expanding existing uses and is very similar to other permitted uses in the District.

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

The proposed use does assist in meeting the future land use goals, as stated in the Eton Road Corridor Plan, specifically:

- **Promote the continued use and redevelopment of the Corridor area.**
- **Insure that public and recreational uses and their accessory uses remain compatible with and accessible to the single family residential neighborhood.**

Board of Zoning Appeals
City of Birmingham
March 3, 2015
Page 4

- Discourage large scale commercial and industrial uses that are incompatible with the adjacent single family neighborhood.
- Encourage the retention and expansion of existing uses that help define the Corridor area.

The proposed auto sales agency is a low activity business. Currently, the adjacent neighborhood is faced with two highly intense business operations. The Petitioners' business will provide a "break in the action" with respect to adjacent businesses.

There is no likellhood that the Petitioners' business will cause additional strain on parking in the immediate vicinity. Parking for all visitors and employees is more than adequate. Further, operating hours will be from 9 a.m. to 6 p.m. on weekdays and 9 a.m. to 2 p.m. on Saturdays. Outside those hours is by appointment only. The business will be closed on Sundays.

The Ahmeds own a home in Birmingham, have started their family here and hope to locate their business in the City. They intend and our committed to being good neighbors. This intent is evidenced by the fact that they are hosting a meeting of neighboring businesses and residents on Thursday, March 5th before the upcoming Board of Zoning Appeals meeting. The Ahmeds are committed to cooperation with their neighbors in resolving any concerns.

Based upon the Petitioners' compliance with the Zoning Ordinance criteria to be considered by the Board of Zoning Appeals, we respectfully request your granting of the use variance for the proposed auto sales agency.

Sincerely,

PLUNKETT COONEY



Dennis G. Cowan
Direct Dial: (248) 901-4029
Email: dcowan@plunkettcooney.com

DGC/cmw

cc: Erica Ahmed
Syed Ahmed

Open.25062.50497.15158281-1

Application Date: _____



Hearing Date: 4-14-15

Received By: _____

Appeal # 15-08

Board of Zoning Appeals Application

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

Property Information:

Street address: 482 <u>481 PARK ST.</u>		Sidwell Number: <u>19.25.451.007</u>	
Owners name: <u>PARK STREET DEVELOPMENT LLC</u>		Phone #: <u>248.705.1690</u>	
Owners address: <u>1848 LONG LAKE SHORES DR.</u>		Email: <u>L COHEN HOMES C G-MAIL.COM</u>	
City: State: <u>Bloomfield Hills, MI</u>	Zip code: <u>48302</u>		
Contact person: <u>LARRY COHEN</u>	Phone #: <u>248.705.1690</u>		

Petitioner Information:

Petitioner name: <u>LARRY COHEN, TREMONT CONSTRUCTION</u>		Phone #: <u>248.705.1690</u>	
Petitioner address: <u>573 HARTFORD COURT</u>		Email: _____	
City: <u>Bloomfield Hills</u> State: <u>MI</u>	Zip Code: <u>48301</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	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: _____

Date: _____

3-9-15

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

- A. Appeals may be filed under the following conditions:
1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
 2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
 3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.
- B. Procedures of the Board of Zoning Appeals (BZA) are as follows:
1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
 2. All applications for appeal shall be submitted to the Community Development Department on or before the 15th day of the month preceding the next regular meeting. If the 15th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
 3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
 4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
 6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
 7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 9. An appeal stays all proceedings in accordance with Act #202, Public Acts of 1969, Section 5(c), which amended Section 5 of Article #207 of the Public Acts of 1921.
- C. The order of hearings shall be:
1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
 2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
 3. Interested parties' comments and view on the appeal.
 4. Rebuttal by applicant.
 5. The BZA may make a decision on the matter or request additional information.

ARTICLE II - Results of an Appeal

- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.


- 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 TREMONT CO-ST, LLC

RESOLUTIONS OF PARK STREET DEVELOPMENT, L.L.C.,

WHEREAS Park Street Development, L.L.C. ("Park Street") has purchased real property (the "Property") known as 482 Park Street in the City of Birmingham, County of Oakland and State of Michigan with the intention of building two homes on the Property (the "Project");

WHEREAS Park Street has two sole members, Richard D. Leebove and Valerie A. Leebove;

WHEREAS, in order to further the Project, it will be necessary for the two members of Park Street to consent and to authorize the execution of certain agreements, assignments, assumption agreements, other documents and other writings; and

WHEREAS the Park Street members desire to provide for the efficient execution of the Project,

NOW, THEREFORE, BE IT RESOLVED that **Larry Cohen of Tremont Construction L.L.C** (hereinafter referred to as an "Authorized Agent") is hereby authorized, empowered and directed to execute all zoning and building matters for the Property and to take such other actions as such Authorized Agent in his discretion deems necessary, reasonable or appropriate in connection with the Project; the execution of any Project Related Documents by an Authorized Agent, shall be deemed to be evidence of the approval of such document by such Authorized Agent.

FURTHER RESOLVED that all actions taken by Larry Cohen in connection with the Property are hereby ratified, adopted and approved.

FURTHER RESOLVED that the Authorized Agent may certify to the passage of the foregoing resolutions.

This resolution may be signed in multiple identical counterparts, all of which, taken together, shall constitute the document.

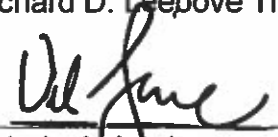
Dated: February 27, 2015

PARK STREET DEVELOPMENT, L.L.C.,
a Michigan limited liability company

By: _____


Richard D. Leebove, as Trustee of the
Richard D. Leebove Trust, Member

By: _____


Valerie A. Leebove, as Trustee of the
Valerie A. Leebove Trust, Member

Dimensional Variance Request – City of Birmingham, Michigan

Lot #78 Park Street (Currently part of 482 Park Street)

3-13-15

Special or unique conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures or buildings in the same district.

1. In this particular condition, the existing residences located at 476 and 490 Park Street present a special and unique circumstance that has direct impact on the proposed property/residence for Lot #78 (currently #482) Park Street. The existing residence at 476 is located 2.9' from the adjacent property line bordering lot #78 and the existing residence at 490 is located 5.0' from the adjacent property line bordering Lot #79. The ordinance minimum for a side yard setback is 5'. Although #490 is conforming, a situation is created where Lot #78 has two neighboring minimum or less than minimum setbacks. The building envelope for Lot #78 would be cut down to approximately 22' in width which would not be in keeping with the intent of the ordinance. The minimum combined side yard setbacks for a typical 40' lot are 14' leaving a building envelop of 26' in width. The existing structures at #476 and #490 create a condition not in context with similar properties in the district.

A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary.

2. With the existing house at #476 located just 2.9' off the property line and the existing house at #490 located just 5.0' off the property line the proposed building envelope for the proposed property would not be equal to what is permitted on a typical 40' lot within the district. The dimensional variances being requested are based on a 14' minimum distance between structures ordinance. In regards to the adjacent property at 476, the proposed variance request is the minimum necessary to maintain the ordinance to a typical house that would be constructed at #476 with a 5' minimum side yard setback. In regards to the minimum distance between structures on lots #78 and #79, the two proposed residences for these properties have been designed to allow as much space as possible between the two proposed properties without compromising the intent of the ordinance. By designing the main body of these two residences at 24' in width, the applicant has made a concerted effort to meet and follow the intent of the ordinance and minimize the variances requested.

The special conditions and circumstances do not result from the actions of the applicant.

3. In regards to the special conditions in this case, the practical difficulty was created when the residences at #476 and #490 Park were constructed. The existing residence at 476 was constructed in 1925 and the existing residence at 490 in 2001. The non-conforming circumstances established were in no way created by the applicant in this case.

The granting of the variance will be in harmony with the general purpose and intent of this ordinance.

4. If the proposed variances were to be granted, they would be in harmony with the intent of the ordinance. First and foremost, the setbacks for the proposed property would be in compliance with those set forth in the ordinance for a typical lot of that size and district. Secondly, in the event a new residence is ever constructed at 476 Park Street, a 5' minimum side yard setback would have to be observed which would eliminate the non-conforming (distance between structures) circumstance between 476 and Lot #78.

The variance will not be injurious to the neighborhood or otherwise detrimental to the general public.

5. If the proposed variances were to be granted, it would not have a negative impact on the health, safety and welfare of the neighboring properties, the community or the public in general. As described above, the proposed dimensional variances have been researched and designed to be at a minimum necessary for a functional and contextual home. The proposed design is in keeping with the standards and intent of the ordinance and would be a positive addition to the community.

The spirit of this ordinance shall be observed, public safety secured and substantial justice done.

6. As described above, it is the applicant's intent to use and enjoy the property just as anyone else with a property in this district. The requested variances would help to use and maintain the property as intended by the ordinance without compromising any other person or property. The public's safety is not compromised in any way and the design is done so that future construction at 476 Park will not be limited.

Application Date: 2-15-2015



Hearing Date: 4-14-15

Received By: MB

Appeal # 15-09

Board of Zoning Appeals Application

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

Property Information:

Street address: <u>2483 WEST MAPLE</u>	Sidwell Number:
Owners name: <u>SAM AND MARY KARANA</u>	Phone #:
Owners address: <u>2483 WEST MAPLE</u>	Email:
City: State: <u>BIRMINGHAM, MICHIGAN</u>	Zip code:
Contact person: <u>SAM</u>	Phone #:

Petitioner Information:

Petitioner name: <u>VINCENT PANGLE CO DFCU FINANCIAL</u>	Phone #: <u>(248) 312-7200</u>
Petitioner address: <u>5750 NEW KING ST - STE 375</u>	Email: <u>VPANGLE@STRATEGICPROP.COM</u>
City: <u>TROY</u> State: <u>MI</u>	Zip Code: <u>48098</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. \$560.00

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
<u>(SEE ATTACHED)</u>	25'	24'	24'	1'

By signing this application I agree to conform to all applicable laws of the City of Birmingham and 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: [Signature] Date: 2-12-2015

CITY OF BIRMINGHAM
 Date 03/16/2015 3:14 PM
 R 00116428
 Receipt 252648
 Amount \$560.00

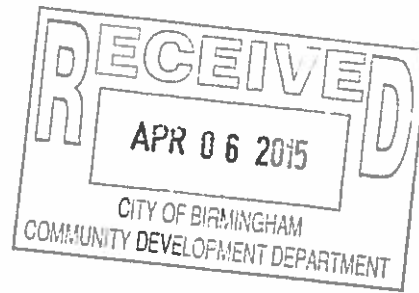
11628

5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.
 6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
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 8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 9. An appeal stays all proceedings in accordance with Act #202, Public Acts of 1969, Section 5(c), which amended Section 5 of Article #207 of the Public Acts of 1921.
- C. The order of hearings shall be:
1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
 2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
 3. Interested parties' comments and view on the appeal.
 4. Rebuttal by applicant.
 5. The BZA may make a decision on the matter or request additional information.

ARTICLE II - Results of an Appeal

- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.

April 6, 2015



City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48012

Attn: City of Birmingham Board of Zoning Appeals - DFCU Financial Credit Union

I - INTRODUCTION

This letter is in support of the Board of Zoning Appeals application requesting a 'Dimensional Variance' for the property commonly known as 2483 Maple Road, Birmingham, Michigan (Cranbrook Car Care).

The property is zoned B-1 Neighborhood Commercial. The adjacent properties are zoned Park and Residential to the east and south, and Commercial to the north and west. The proposed use is a Financial Institution/Bank, and will handle traditional functions found in this type of building.

The property has been occupied by a full-service gas station since January 1958. The Applicant (DFCU Financial) and land owners (Sam and Mary Karana) have entered into a long-term lease agreement which provides for the demolition and removal of all existing improvements, removal of the underground fuel system, contaminated soils and existing utilities. The Applicant's proposed use and redevelopment plan have received confirmation of Zoning, Preliminary S.L.U.P., and Preliminary Site Plan Recommendation from the Planning Board. These occurred on February 11, 2015. The remaining items that are required as a condition of final approval have been modified to meet the ordinance and no further variance, other than the Dimensional Variance outlined before you, will be required.

The Applicant and land owners have obtained unanimous support for the project from the adjacent residential property owners. (Please refer to the minutes of the public hearing and the letters of support on file, from the planning meeting January 28, 2015.) The Applicant has taken great care to design a compatible building and site improvements that complement the surrounding residential properties by incorporating many residential design components into the commercial building being proposed. For example, the windows in the building are a residential application manufactured by Andersen Windows; and the mechanical systems specified are residential type units with no roof top components as often used in commercial projects. The materials and design of the building have also been uniquely designed to fit into the surrounding neighborhood.

II - DIMENSIONAL VARIANCE

A. Explanation

Section 4.83 WN-01 of the code requires that any front façade facing a street, plaza, park or parking lot must contain not less than 70% of the storefront/ground floor façade shall be clear glass panels and doorways. Paragraph A-3 of this section requires window areas to be, pedestrian entrances, windows that allow views into retail space, working areas or lobbies.

The window/glazing standards required by ordinance are intended to create an interaction between pedestrians and storefronts in a downtown setting. Because of the unique shape of the subject property and its location at the edge of town on a high traffic road, surrounded primarily by suburban residential uses, additional windows will not provide the same benefit as they would in the downtown setting that is contemplated by the ordinance. Moreover, the manner in which the building will sit on the site dictates that the remaining linear planes (façade), front vehicular pathways, parking areas and Interior building uses, will not be substantially conducive to pedestrian interactions. These areas of the building and linear dimensions are outlined in the following table: The linear area of this portion of the building is +/- one third of the building footprint.

LINEAR TABLE

<i>Southwest corner:</i>	Occupied by two (2) Restrooms and an Electrical Room - 25'-2-1/2" linear ft.
<i>South facade:</i>	Occupied by Electrical Room, Work Room (currency counting area) Drive-through Teller Area, and Safe Room (highly secured). 25'-2" plus 36'-9-1/2" which does not include 8'-4-1/2" for the Drive-through window. Total for this façade is 61'-11-1/2".
<i>Southeast Corner:</i>	Occupied by Mechanical Room and Janitorial Closet – 9'-3" & 5'-8"

The remaining two-thirds of the building have been revised to accommodate the spirit of the ordinance for transparency. As demonstrated by the table, we have increased the glass in all areas common to the overall building, including the entrance and lobby area, as well as additional transparency for offices.

In order to determine the exact glazing calculation, we have applied the ordinance based assumption to determine the vertical plane of the building facade. The required vertical plane, for glazing calculation purposes, is based on the established finished floor elevation and the height to the bottom of the exterior tile accent band. This dimension is calculated at 12'-9" and validated on the elevations provided herein. The corresponding table of glazing percentages was calculated by multiplying 'Linear Feet, dimension x 'Vertical Height' dimension as defined.

For reference, the applicant's Preliminary Site plan and Building Elevations that received a Preliminary Recommendation from the Planning Board included the following glazing when submitted.

AS SUBMITTED AND PRELIMINARILY APPROVED:

FRONT ELEVATIONS 967.4 SQUARE FEET

As required by ordinance	967.4 s.f. x 70% = 677.20 s.f.
As submitted	4 @ 19.1 s.f. + (4) @ 21.5 s.f. + 139.4 = 301.8 s.f.
Glazing %	31%

LEFT ELEVATION 658.2 SQUARE FEET

As required by ordinance	658.2 s.f. x 70% = 460.7 s.f.
As submitted	5 @ 19.1 s.f. = 95.5 s.f.
Glazing %	15%

RIGHT ELEVATION 658.2 SQUARE FEET

As required by ordinance	658.2 s.f. x 70% = 460.7 s.f.
As submitted	3 @ 19.1 s.f. = 57.3 s.f.
Glazing %	9%

REAR ELEVATION 913.9 SQUARE FEET

As required by ordinance	913.9 s.f. x 70% = 639.7 s.f.
As submitted	10.1 + 25.1 s.f. = 35.1 s.f.
Glazing %	4%

OUR REQUEST FOR VARIANCE HAS THE FOLLOWING GLAZING:

FRONT ELEVATIONS 967.4 SQUARE FEET

As required by ordinance	967.4 s.f. x 70% = 677.20 s.f.
As submitted	4 @ 28 s.f. + (4) @ 32.6 s.f. + 139.4 = 381.4 s.f.
Glazing %	39%

LEFT ELEVATION 658.2 SQUARE FEET

As required by ordinance	658.2 s.f. x 70% = 460.7 s.f.
As submitted	6 @ 28 s.f. = 168 s.f.
Glazing %	26%

RIGHT ELEVATION 658.2 SQUARE FEET

As required by ordinance	658.2 s.f. x 70% = 460.7 s.f.
As submitted	4 @ 28 s.f. = 112 s.f.
Glazing %	17%

REAR ELEVATION 913.9 SQUARE FEET

As required by ordinance	913.9 s.f. x 70% = 639.7 s.f.
As submitted	10.1 + 25.1 s.f. = 35.1 s.f.
Glazing %	4%

B. Hardship

The applicant is requesting a Dimensional Variance under the following hardship:

There is a practical difficulty in exactly meeting the ordinance requirement in financial facility building design. In a financial institution, substantial areas of clear windows are not practical because of the types of transactions conducted, the need for confidentiality, the need for security, and the technical requirements of the security cameras. Financial transactions conducted at a teller window in a bank necessarily require privacy both for security and confidentiality. The facility will house sensitive member (client) information and currency and this information must be secure from the general public. Finally, the Applicant uses state of the art surveillance equipment and procedures that include constant monitoring of the interior premises. To function properly, the light level must be controlled. In short, providing too much of a view into the facility can create a health safety and welfare issue for its occupants and this is part of our reasoning supporting our request to reduce the transparency of the building. Functionally, to operate a facility as proposed, the Applicant must have an efficient interior layout that allows for service areas, mechanical rooms, bathrooms, secure rooms and maintenance areas. These functional areas limit the amount of glass that can be incorporated into the design. You can see examples of this practical difficulty in the design of the Chase and Charter One branded banks across the street.

Rather than eliminate glass altogether, the Applicant has demonstrated, through a revised building design, the ability to increase the amount of transparency without jeopardizing the building's integrity, design, or security. The revised design will enhance the street corner, visually improving one of the gateways to the city of Birmingham.

III – PRACTICAL DIFFICULTY

The existing property in its present configuration would unnecessarily burden the property and its proposed redevelopment due to its size and location. The applicant's intent is to provide the maximum pedestrian interface within the public area of the building to the public area adjacent to pedestrian walkways; these being focused at the corner of Cranbrook and Maple. The majority of the remaining building facades that are adjacent to parking areas and vehicular movements (drive through) are required to be screened from the roadways and sidewalk by masonry walls which conflicts with the spirit and intent of the ordinance.

This property presents a unique circumstance due to its zoning and location. This is the only commercially zoned parcel in this quadrant of the city. The remaining adjacent Birmingham properties are residential. Due to the property's unique configuration, private and public owners and zoning designations the proposed redevelopment has a practical difficulty in meeting the ordinance's intent. By applying an ordinance developed for a larger more dominate commercial area than what has been established and provided by this piece. The parcel in its present configuration with the corner and rear park and parking area owned by the City and leased to the land owner further dictates how the property may and can be developed. The proposed redevelopment represents the landowner's ability to enhance the surrounding properties and provide the community stability with a business that has established itself as a long-term viable user.

The granting of the variance will do substantial justice to the applicant and surrounding neighborhood as follows:

The proposed use will reduce the amount of vehicular traffic to and from the site because of its intended use allowing two curb cuts to be closed. The proposed use will reduce noise, hours of use and eliminate future environmental concerns. The proposed use will enhance the surrounding neighborhood through increased property values, aesthetics and providing a facility under commercial zoning that is less intrusive than additional uses allowed as defined in the city ordinance under B-1 neighborhood.

DFCU is putting forth a large investment into this facility, and intends to be a good steward of the location and valuable member of your community. We request that you look favorably upon our submission by granting your approval to this Dimensional Variance.