



CITY OF BATTLE CREEK  
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**MEETING NOTICE OF THE  
ZONING BOARD OF APPEALS**

**DATE:** Tuesday, May 14, 2019  
**TIME:** 4:00 p.m.  
**PLACE:** Room 301, City Hall (Commission Chambers)

1. **CALL TO ORDER:**
2. **ATTENDANCE:**
3. **ADDITIONS OR DELETIONS TO AGENDA:**
4. **CORRESPONDENCE:**
5. **OLD BUSINESS:**
6. **NEW BUSINESS:**

**A. Z-09-19 (RE: 83 HICKORY LANE.):**

Petition to erect a 40' by 30' detached garage on the south east corner of the property versus the south west corner which was previously approved.

7. **APPROVAL OF MINUTES: April 9, 2019**
8. **COMMENTS BY THE PUBLIC:**
9. **COMMENTS BY THE MEMBERS:**
10. **ADJOURNMENT:**

The City of Battle Creek will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered in the meeting upon notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services should contact the City of Battle Creek by writing or calling the following: Office of the City Clerk, P. O. Box 1717 / 10 North Division - Suite 111, Battle Creek, MI 49016 / Phone: (269) 966-3348 (Voice) / (269) 966-3348 (TDD)

**ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**April 9, 2019**  
**4:00 P.M.**

**CALL TO ORDER:**

Mr. James Moreno, Chairperson called meeting to order at 4:00 P.M.

**ATTENDANCE:**

**Members Present:**

Deland Davis	Barbara Hibiske
Bill Hanner	Mark Jones
James Moreno	Michael Delaware

**Staff Present:**

Marcel Stoetzel, Deputy City Attorney  
Glenn Perian, Senior Planner, Planning Dept.  
Eric Feldt, Planner, Planning Dept.  
Michele K. Jayakar, Customer Service Rep., Planning Dept.

**ADDITIONS OR DELETIONS TO THE AGENDA:** An updated map was submitted by Staff, Glenn Perian to replace the map on page 2 of the staff report for **Z-07-19** (56 E. Michigan).

**CORRESPONDENCE:** City of Battle Creek Planning Dept. received three letters in opposition of **Z-06-19** (103 Grove St). and one letter in opposition for **Z-07-19** (56 E. Michigan).

**OPENING COMMENTS:** *Mr. James Moreno, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be read and then open the public hearing. At the public hearing, persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. If a petition has been denied the petitioner has the right to appeal to Circuit Court.*

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**A. Z-06-19 (RE: 103 Grove St.):**

Petition from Carlos Fiol and 103 Grove Holding LLC, 103 Grove St., Battle Creek, MI 49037, requesting a dimensional variance to allow a Medical Marijuana Growing and Provisioning Facility in an "I-2 Heavy Industrial" zone to be 300 ft. from an "R-1C Single Family Residential" zone where a 1,000 ft. distance is required. The permit application is requested pursuant to Planning and Zoning Code, Chapter 1274.03(a)(5) & 1290.01(c)(6&7).

**Chair Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance.**

- Glenn Perian gave staff report

**Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance.**

CARLOS FIOL of 9704 Mystic Dunes Dr., McKinney, Texas 75072 spoke **for** the variance.

PAUL GRANDFIELD of 9109 Valley Chapel Lane, Dallas, Texas 75220 spoke **for** the variance.

AHMAD SHAFAMRI of 5668 Montreaux Dr., Frisco, Texas 75034 spoke **for** the variance.

RUTH CARR of Upton Church of God, 270 Upton Ave., Battle Creek, MI 49016 spoke **against** the variance.

**MOTION WAS MADE BY MR. DELAND DAVIS AND SECONDED BY MR. BILL HANNER TO APPROVE PETITION #Z-06-19 FOR A DIMENSIONAL VARIANCE.**

**MR. JAMES MORENO ASKED FOR ANY ADDITIONAL COMMENTS, THERE WAS DISCUSSION AMONGST THE BOARD IN SUPPORT OF THE STAFF REPORT FINDINGS, INCLUDING THAT PRACTICAL DIFFICULTY DOES NOT EXIST. A VOTE WAS TAKEN; ALL OPPOSED (DELAND DAVIS, BILL HANNER, CHAIRPERSON MORENO, MARK JONES, JOHN STETLER AND BARBARA HIBISKE); MOTION DENIED. SIX OPPOSED, ZERO IN FAVOR.**

**B. Z-07-19 (56 E. Michigan Ave):**

Petition from Brandon Dabish and William Morris, requesting a dimensional variance for property located at 56 E. Michigan Ave. Request is hereby made for permission for a Dimensional Variance to allow a Medical Marihuana Provisioning Center within the required 1000' buffer zone from a library pursuant to Chapter 1266.02. Property is zoned C4 Central Business District. Property is 984 feet from Willard Library. Request to reduce 1,000 foot buffer by 16 feet. Code, Chapter 1271.04(a)(40).

**Chair Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance.**

- Glenn Perian gave staff report

**Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance.**

BRANDON DABISH of 418 N. Main St., 2<sup>nd</sup> floor, Royal Oak, MI 48067 spoke **for** the variance.

RUTH CARR of Upton Church of God, 270 Upton Ave., Battle Creek, MI 49016 spoke **against** the variance.

**COMMENTS BY THE MEMBERS / STAFF:**

- Discussion on how the 1000 ft. buffer is measured.
- Discussion on alcohol or drinking establishments not having a buffer.

- Discussion on properties being available within the 1000 ft buffer.
- Discussion of other cities buffers, being 500 ft,

*Chair Mr. James Moreno asked if there was any further discussion; after some further discussion, he would close the Public Hearing and entertain a motion.*

**MOTION WAS MADE BY DELAND DAVIS AND SECONDED BY MR. JOHN STETLER TO APPROVE PETITION #Z-06-19 FOR A DIMENSIONAL VARIANCE.**

**MR. JAMES MORENO ASKED FOR ANY ADDITIONAL COMMENTS, THERE WAS DISCUSSION AMONGST THE BOARD IN SUPPORT OF THE STAFF REPORT FINDINGS, INCLUDING THAT PRACTICAL DIFFICULTY DOES NOT EXIST. THERE WAS DISCUSSION AMONGST THE BOARD REGARDING HOW THE 1000 FT BUFFER IS MEASURED. A VOTE WAS TAKEN; THREE APPROVED (JOHN STETLER, MARK JONES AND BILL HANNER) THREE OPPOSED (CHAIR JAMES MORENO, BARB HIBISKE AND DELAND DAVIS); MOTION DENIED.**

**MINUTES:**

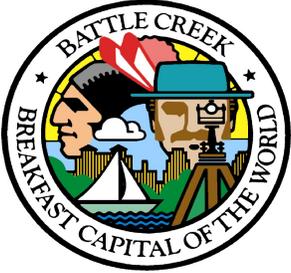
**Chair James Moreno asked for motion on March 12, 2019 meeting minutes.**

**MOTION MADE BY MR. BILL HANNER ON THE MARCH 12, 2019 ZONING BOARD OF APPEALS MINUTES, SECONDED BY MR. DELAND DAVIS. ALL IN FAVOR; NONE OPPOSED; MINUTES APPROVED.**

**COMMENTS BY THE PUBLIC:** None

**ADJOURNMENT:** Chair James Moreno made a motion for the meeting to be adjourned; all stated in favor, meeting was adjourned at 5:42 P.M.

Submitted by: Michele K. Jayakar, Customer Service Representative, Planning Department



## Battle Creek Zoning Board of Appeals Staff report for the May 14, 2019 Meeting

**To:** Zoning Board of Appeals  
**From:** Glenn Perian, Senior Planner  
**Date:** May 1, 2019  
**Subject:** Variance Request  
Z-08-19, Michael & Hollie Oursler, 83 Hickory Lane, are requesting a dimensional variance from the yard placement requirements for accessory buildings in a residentially zoned property located at 83 Hickory Lane, Battle Creek, MI, Property ID # 0073-00-450-0.

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### Summary

A petition from Michael and Hollie Oursler, requesting a variance from Chapter 1286.01(b) to allow an accessory building to be placed in a front yard in an R-1B "Single-Family Residential" zoning district on property located at 83 Hickory Lane with the property ID # 0073-00-450-0.

### Background/Project Information

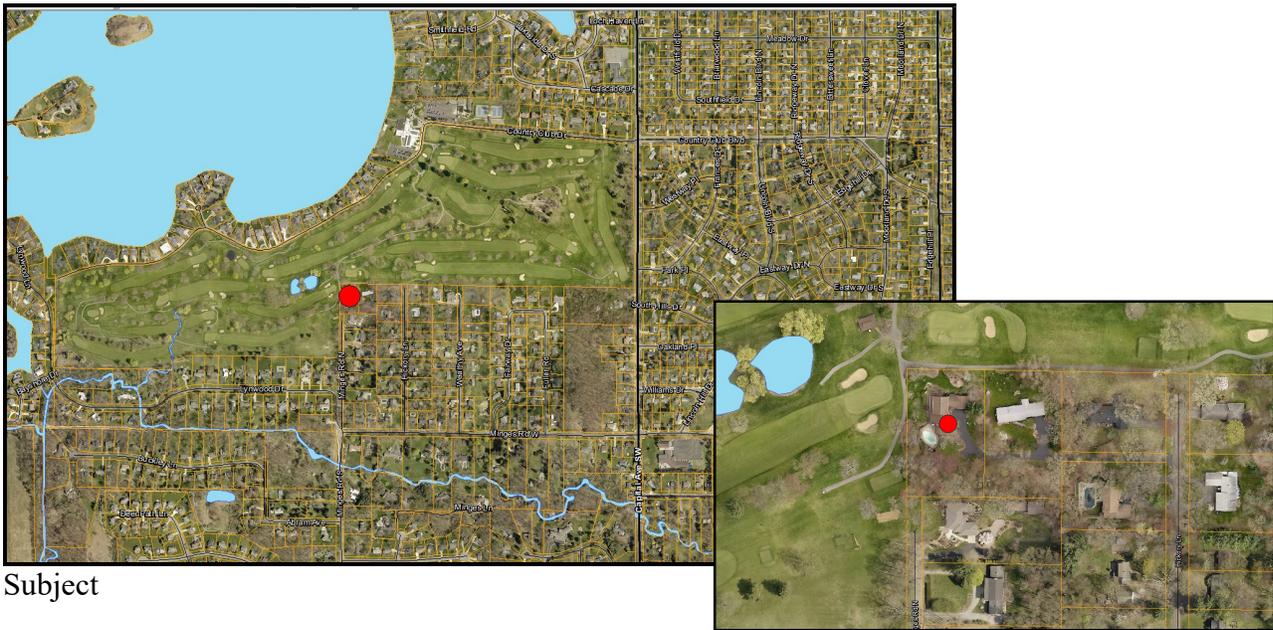
The subject property is located at the end of N. Minges Rd, north of W. Minges Rd, west of Capital Ave SW and abutting the Battle Creek Country Club on its west and north property lines. The property is essentially land-locked and is rectangular in shape. The property is approximately 165' x 270' with a total land area of approximately 1.02 acres. The property is accessed from Hickory Lane to the east via private drive extending across the property at 81 Hickory Lane. By definition staff is making the case that the front lot line is the south lot line which touches the N. Minges Rd. right-of-way, the rear lot line is the north lot line and the side lot lines are the east and west property lot lines. The request is to place the accessory structure in the southeast corner of the property, in what we believe to be a front yard, 5' from the property lines. Staff also is taking the position that the building should be placed at least 8' from the property line to maintain the spirit of Chapter 1286.05(e) which says in part "Whenever a required rear yard abuts the required side yard of an adjacent lot (in this case 95 N. Minges), accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot" (8' in an R-1B zoning district).

The Appellant has provided a site plan, two letters supporting the location of the proposed accessory building (one from BCC, and one from the property owner at 81 Hickory Lane) and supplemental information and pictures related to the requests and we expect the appellant to be at the meeting to answer any questions you may have related to the request.

## **Public Hearing and Notice Requirements**

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, April 25, 2019, not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail to property owners and occupants located within 300' of the subject parcel. As of the writing of this report, we have received one email from the property owner at 95 N. Minges Rd. relating to this request. It is included as part of the packet of material.



## **Variance Requested**

The Appellant is seeking a variance in anticipation of constructing an accessory building in the front yard on property located at 83 Hickory Lane. The property has no direct access to a City street and abuts the Battle Creek Country Club on two sides. The proposed location of the accessory building is the furthest point on the lot from the golf course and we believe, would be in a location that would least impact the country club and its patrons and neighboring property owners. This request is to allow the construction of an accessory building in a front yard on a residentially zoned property.

## **Applicable Zoning Ordinance Provisions**

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional

requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

**Analysis**

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting to build an accessory building in a front yard on property located at 83 Hickory Lane. The Appellant has supplied reasons supporting the request for appeal and they are included with the application and part of this report.

**Findings and Recommendation**

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth

below and the Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Variances (Z-08-19) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to approve the variance in this case. The subject parcel is rectangular in shape, is essentially landlocked and is accessed through a private driveway crossing through 81 Hickory Lane. The property shares the north and west property lines with the Battle Creek Country Club and staff believes that the least impact on surrounding properties for the placement of an accessory building would be in the southeast corner of the lot, in this particular case.
  
- B) Staff believes that the practical difficulty is exceptional and peculiar to the subject parcel and the conditions associated with the property generally do not exist throughout the City. For the reasons stated in the previous paragraph, staff believes the Zoning Board is justified in approving the requested variance.
  
- C) Staff believes that if the variance is granted that the intent of the Ordinance will not be altered. The parcel is unique in that access is gained through a private driveway from the east and is located on the Battle Creek Country Club golf course. Staff is identifying the south lot line as the front. Locating the building adjacent to the golf course could potentially affect the enjoyment of the golfing patrons and we think that locating it in the southeast portion of the property will have the least impact to neighboring property owners. We also believe that the Applicant has made a reasonable case as to why the requested variance to place the proposed accessory structure in the chosen location and the variance should be granted in this particular case.
  
- D) Staff would like to remind the Board that any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant. We think that placing the building 8' from the property lines rather than the proposed 5' should be considered to maintain the spirit of the ordinance as stated earlier in this report [see Ch. 1286.05)].

### **Attachments**

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-08-19) and supplemental materials
2. Email dated 4/30/19 from neighboring property owner at 95 N. Minges Rd.

## Zoning Dimensional Variance Appeal z-08-19

Durkee <bndurkee@sbcglobal.net>

Tue 4/30/2019 12:36 PM

To: Glenn F. Perian <GFPerian@battlecreekmi.gov>

**Email sent from outside of the City of Battle Creek. Use caution before clicking links/attachments.**  
Glen,

Thank you for your time this morning to learn more about the appeal, building size (30x40), and setbacks to the south and east of 5 feet from lot line, if I understood you correctly.

Please confirm receipt to ensure I used the correct Email address.

I would like the Appeal committee to take into consideration **1296.05 (e)**, as cut and pasted into this document below, to increase the setback from 5 ft on the south side to the residential standard for side yards which I had to follow when building my home in 2006/2007. The positioning of the new structure will actually be street side (front side) of the existing requestors residential Hickory home and in proximity to a my side adjoining residential property (95 Minges Road N, Battle Creek MI).

In our discussion this morning I asked about the location of my Well for drinking water which is located in close proximity to the identified location for the new building. The well head is closer to the lot line than my house on Minges. Placement of the well was determined by the city/county to ensure quality drinking water away from any golf course boundary and next to a then forested area. Please validate the distance of a well from a proposed structure with the county, if needed. We just want to ensure we continue to have quality drinking water as the City will not provide city water to Minges N residential houses, to date.

At this time I do plan to attend the appeal meeting.

Thank you again for spending the time to talk with me about the Appeal.

Brian Durkee  
95 Minges Rd N, Battle Creek MI

Code reference from Battle Creek Site.

### **1286.05 LOCATION.**

(a) Accessory buildings shall not be erected in the front yard of a lot or parcel, unless otherwise provided herein. In accordance with Section [1278.03](#) of this zoning code, front yards are located adjacent to all street frontages for parcels having frontage on two or more streets. Parcels having frontage on a lake, brook, stream, river or other watercourse shall be allowed an accessory building in the waterfront front yard provided it observes front and side yard setbacks required for the main residential building.

(b) Accessory buildings may be erected in the side or rear yard, as regulated herein:

(1) Where the main residential building contains an attached area for the storage of vehicles, personal property, or other accessory uses, the lot or parcel shall be permitted to have accessory buildings in the rear yard, as defined by Ch. [1230.06](#)(57)(c).

(2) Where the main residential building does not contain an attached area for the storage of vehicles, personal property, or other accessory uses, the lot or parcel shall be permitted to have

accessory buildings in the side and/or rear yard, as defined by Section 1230.06(57)(b) and (c).

(c) Accessory buildings shall not be closer than three feet from all side and rear lot lines, including the roof overhang.

(d) Accessory buildings may not be closer than ten feet to the main building or another accessory building unless otherwise permitted under building code provisions.

(e) Wherever a required rear yard abuts the required side yard of an adjacent lot, accessory buildings shall maintain a distance from the common lot line of not less than the required side yard of the adjacent lot.

(f) Swimming pools shall not be nearer than six feet from the side or rear lot line or from any house, building or residence. No swimming pool shall be in any front yard.

(g) In no instance shall an accessory building be located within a dedicated easement right-of-way. (Ord. 11-2010. Passed 8-17-10.)



# City of Battle Creek

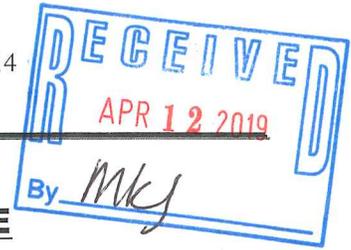
Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov

Appeal No. \_\_\_\_\_

Date: \_\_\_\_\_



## APPLICATION FOR A VARIANCE ZONING BOARD OF APPEALS

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Michael & Hollie Oursler

Address: 83 Hickory Lane Phone: (269) 830-9283

Name of Owner (if different from Appellant): \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:

(Choose One) Extend  Erect Appeal Use Convert Enclose

Description: 40x32' Detached garage on property in SE corner  
versus S.W.

Contrary to the requirements of Section(s) 12-86.05 Sub Sec. B of the Planning and Zoning Code, upon the premises known as 83 Hickory Lane Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

Asking to erect structure in a different location on property than  
city originally would/did approve (rules/laws). Property unique

Property/Tax I.D. # No. 0073 - 00 - 450 - 0 Size of the Lot: Width (Survey attached) Depth \_\_\_\_\_

Size of Proposed Building: Width 40' Depth 32' Height 14' to min pitched Δ

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

the structure would be close proximity to BCCC golf course, obstruct neighbor view, require increase amount of native trees removal.  
property is unique &

(b.) This problem is due to a unique situation not shared in common with nearby property owners because:

the house sits on corner of golf courses (only house that does this on course!). I'm asking for variance not just for me, but for 300+ BCCC, tax paying residents. BCCC is city landmark (25<sup>TH</sup> in Michigan '18).

(c.) Granting the variance would not alter the essential character of the area because:

Building garage w/ fewest trees removed, maximum hidden from view from course side, to built to city code w/ exact same materials as home / attached garage (photo attached).

(d.) The problem is not self-created because:

location was granted, but location of structure in existing woods would be better suited if variance considered/granted for all. Appreciate your consideration.  
• no Adequate Building space in BACK. maintaining Aesthetics of property.

(e.) USE VARIANCES ONLY It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

Michael Oyster  
(Print Appellant Name)

  
(Signature of Appellant)

93 Hickory Lane BC, MI 49015  
(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

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*This **is not intended** to discourage you from filing an application for a variance. That is your right and prerogative. This **is intended** to provide you with information and direction learned from the experiences of others who have requested variances through the Zoning Board of Appeals.*

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## **City of Battle Creek**

### **Zoning Board of Appeals Tip Sheet**

**TIP # 1      Before Filing a Variance---Do You Really Need One?**

- Understand why your permit was rejected.
- Can you live within the Ordinance?
- Do you really “need” a variance—or just want one?
- Can you wait? (A variance application can take 30 days or more)

**TIP # 2      Before Filing a Variance---Do Your Homework.**

- Talk to the Inspections and Planning Departments.
- Talk to your neighbors.
- Look to see if similar variances or situations exist.
- Understand what the legal test is for Board relief.
- Burden of proof rests with YOU. You must submit sufficient testimony and evidence to meet the legal test for relief.

**TIP # 3      When You File Your Variance**

- Write legibly or type your application.
- Complete the application fully.
- State specifically why you need the variance, what your unnecessary hardship or practical difficulty is, and why strict application of the Planning and Zoning Code unfairly affects you.
- Attach all relevant documentation to your application.

**TIP # 4      After Filing, but Before the Hearing**

- Individual members of the Board will probably inspect the site before the Hearing.
- Talk to your neighbors about your variance/get their support and answer any questions that they might have.
- If you get neighbor support, have them make a brief, concise statement at the meeting or in writing.
- If time permits, attend your Neighborhood Planning Council meeting and seek their support. (For more information, contact the Planning Department).

**TIP # 5      After Filing, but Before the Hearing**

- If you expect opposition, contact the Planning Department a day or two before the Hearing to review any written opposition on file.
- Be prepared to deal with any written objections at the Hearing.
- Consider modifying your variance request to meet objections.

**TIP # 6      At the Variance Hearing**

- Examine the agenda. If there are similar cases to yours, listen to how the Board responds to those cases.
- Look around you. If you see neighbors, try to determine if they are opposed and if so, why? Can you enlist their support because they don't understand what you are trying to do?
- Listen to the Board. Both their discussion and questions may be an attempt to steer you to a compromise. We wouldn't suggest taking an all or nothing position.

**TIP # 7      During your Variance Presentation**

- Once your case has been opened for "anyone wishing to speak in favor of this appeal", you should rise and present your case.
- Be concise and to the point. The Board has read your appeal, examined your documents, read the staff report, and probably inspected the property or variance site.
- Never be rude, threatening, or confrontational with the Board.
- Never read your application word-for-word to the Board---summarize it.
- Convincingly communicate that your request meets the requirements necessary to grant a variance (see TIP # 2).



# City of Battle Creek

Community Services – Planning and Zoning Division

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## **ZONING BOARD OF APPEALS** **INFORMATION AND APPLICATION PACKET**

### **BEFORE SUBMITTING AN APPLICATION**

Applications submitted to the Zoning Board of Appeals are not automatically approved. Each appeal is individually reviewed. The Zoning Board of Appeals is required by law to support its decisions with evidence of “Practical Difficulty” or “Unnecessary Hardship”. If the evidence is not shown, the Board may not grant or approve the variance.

In order to substantiate your request for a variance, you should be prepared to show how your property meets the five conditions listed below. However, in particular situations there may be other conditions, so you may want to consult with staff prior to completing the application form.

1. The property cannot be put to a **REASONABLE USE** without the variance; and
2. The difficulty must be **UNIQUE** to your property and not generally shared by others in the same zoning district; and
3. There must be **NO REASONABLE, LEGAL ALTERNATIVE** that would accomplish your purpose; and
4. The difficulty is **NOT SELF-CREATED**, i.e. you or previous property owners did not create the present difficulty or problem; and
5. The variance will not adversely affect the **PUBLIC HEALTH, SAFETY AND WELFARE**.

The burden of demonstrating that the above conditions exist on your property is placed on the applicant. Therefore, it is necessary for the applicant, or his designated representative, to be present at the Zoning Board of Appeals meeting. Neither the Zoning Board of Appeals nor staff will argue or present your case for you.

### **ZONING BOARD OF APPEALS MEETINGS, FEES AND APPLICATION DEADLINE**

The Zoning Board of Appeals' meetings are held on the second Tuesday of each month at 4:00 p.m. The meetings are held in the City Commission Chambers, Room 301 in City Hall, 10 North Division Street.

The current application fee for zoning variances is **\$100.00** for residential properties and **\$200.00** for office/commercial/industrial properties. These fees are **NONREFUNDABLE**. Please make checks payable to “City of Battle Creek”.

The deadline for submitting a zoning variance application is **approximately three (3) weeks** prior to the meeting date (please check with Department Staff for exact dates).

## ADDITIONAL REQUIRED MATERIALS

The following information must be submitted with **all** applications for a zoning variance:

- **Plot Plan.** This is a drawing to scale of the lot, indicating the size of the lot, the location of all buildings on the site and the size of all buildings. In addition, the drawing should indicate the setbacks for the front, side and rear yards and parking areas.
- **Project Description.** The application must describe in detail the project to be undertaken.

In addition, the following information must be submitted with **residential property** applications, as applicable:

- **Front Elevation.** This required only for new construction or extensive remodeling of a residential property. This drawing should show the building as it would appear looking at it from the front or side of the building.
- **Floor Plan.** This is only required when the project involves the *conversion* of a building to apartments or an *increase* in the number of units or square footage.

In addition, the following information must be provided with **commercial/industrial** applications:

- **Architectural Drawings.** Architectural drawings are required for all commercial/industrial projects.

## PROPERTY OWNER'S DESIGNATED REPRESENTATIVE

The Zoning Board of Appeals will not act upon a variance if no one is present to explain the variance request and/or answer questions about the project.

The property owner may designate a representative to represent them for this zoning variance request. This representative may complete the application and appear before the Zoning Board of Appeals on the owner's behalf. However, the **owner** must prepare a letter authorizing this person to represent his/her interest for this zoning variance.

## FILING AN APPLICATION

Please complete the attached application and include any additional required materials as indicated above. You must return the **APPLICATION, ANY ADDITIONAL MATERIALS REQUIRED, OWNER'S DESIGNATION AUTHORIZATION LETTER (if applicable) AND THE APPLICATION FEE TO:**

City of Battle Creek  
Planning Department  
10 N. Division Street, Ste. #117  
Battle Creek, MI 49014

**Incomplete Applications will NOT be heard by the Zoning Board of Appeals.** If information is incomplete, the applicant will be required to complete and resubmit the application before it is scheduled before the Zoning Board of Appeals.

*While it is not required, it is always helpful if an applicant for a variance meets and discusses their request with their neighbors. This can often alleviate any concerns prior to the meeting. The City of Battle Creek is required by law to notify all property owners within 300 feet of your property of a variance request.*

**83 HICKORY LN BATTLE CREEK, MI 49015-7908 (Property Address)**

Parcel Number: 0073-00-450-0



Item 1 of 2 1 Image / 1 Sketch

**Property Owner: OURSLER, MICHAEL D**

**Summary Information**

- > Residential Building Summary
  - Year Built: 1977
  - Full Baths: 2
  - Sq. Feet: 3,689
  - Bedrooms: 4
  - Half Baths: 1
  - Acres: 1.022
- > Assessed Value: \$190,312 | Taxable Value: \$161,084
- > Property Tax information found
- > 6 Building Department records found

**Owner and Taxpayer Information**

<b>Owner</b>	OURSLER, MICHAEL D OURSLER, HOLLIE	<b>Taxpayer</b>	OURSLER, MICHAEL D OURSLER, HOLLIE 83 HICKORY LN BATTLE CREEK, MI 49015-7908
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**General Information for Tax Year 2018**

<b>Property Class</b>	RESIDENTIAL	<b>Unit</b>	52 CITY OF BATTLE CREEK
<b>School District</b>	LAKEVIEW SCHOOLS	<b>Assessed Value</b>	\$190,312
<b>MAP NO.</b>	623SE	<b>Taxable Value</b>	\$161,084
<b># UNITS</b>	Not Available	<b>State Equalized Value</b>	\$190,312
<b>NEZ DISTRICT</b>	Not Available	<b>Date of Last Name Change</b>	04/17/2015
<b>USE/SPLITS</b>	Not Available	<b>Notes</b>	Not Available
<b>Historical District</b>	Not Available	<b>Census Block Group</b>	Not Available
<b>ELEMENTARY SCH</b>	Not Available	<b>Exemption</b>	No Data to Display

**Principal Residence Exemption Information**

Homestead Date 04/13/2015

Principal Residence Exemption	June 1st	Final
2019	100.0000 %	-
2018	100.0000 %	100.0000 %

**Previous Year Information**

Year	MBOR Assessed	Final SEV	Final Taxable
2017	\$165,696	\$165,696	\$157,771
2016	\$156,364	\$156,364	\$156,364
2015	\$148,843	\$148,843	\$148,843

**Land Information**

<b>Zoning Code</b>	R1B	<b>Total Acres</b>	1.022
<b>Land Value</b>	\$45,810	<b>Land Improvements</b>	\$13,701
<b>Renaissance Zone</b>	No	<b>Renaissance Zone Expiration Date</b>	No Data to Display
<b>ECF Neighborhood</b>	90400 LV S	<b>Mortgage Code</b>	Not Available
<b>Lot Dimensions/Comments</b>	44,513.77 SF GOLF COURSE	<b>Neighborhood Enterprise Zone</b>	No

Lot(s)	Frontage	Depth
Lot 1	165.00 ft	269.78 ft
<b>Total Frontage: 165.00 ft</b>		<b>Average Depth: 269.78 ft</b>

**Legal Description**

PART OF W 552.75 FT OF SE ¼ OF SEC 23, T2S R8W: COMM AT PT ON E LI OF E 222.75 FT OF SD W 552.75 OF SE ¼ DIST 1155 FT FROM S LI OF SD SEC - WLY PAR WITH SD S LI DIST OF 387.75 FT TO TRUE POB - SLY PAR WITH N & S ¼ LI OF SD SEC DIST OF 99.28 FT - WLY PAR WITH SD S LI DIST OF 165 FT - NLY ALG SD N & S ¼ LI 270 FT M/L TO N LI OF S ½ OF SD SE ¼ - ELY ALG SD N LI DIST OF 165 FT - SLY 170 FT M/L TO POB, CONT 1.02 AC, INCL EASE FOR INGRESS & EGRESS BET SD PARCEL & HICKORY LN ((SLY 165', EXC 5' X 13' PARCEL ASSESSED WITH PARCEL #0073-00-460-0 IN 2002))

**Land Division Act Information**

Date of Last Split/Combine	No Data to Display	Number of Splits Left	0
Date Form Filed	No Data to Display	Unallocated Div.s of Parent	0
Date Created	No Data to Display	Unallocated Div.s Transferred	0
Acreege of Parent	0.00	Rights Were Transferred	Not Available
Split Number	0	Courtesy Split	Not Available
Parent Parcel	No Data to Display		

**Sale History**

Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms of Sale	Liber/Page
04/13/2015	\$380,000.00	WD	COUGHLIN,WILLIAM F & BARBARA	OURSRLER,MICHAEL D & HOLLIE	05 WAR DEED	3965/0720
08/07/2002	\$42,000.00	05	HIXSON,MICHAEL R & SHERI D	COUGHLIN,WILLIAM F & BARBARA	30 VACANT LAND SALES	2519/0412
11/19/1998	\$325,000.00	05	MILLER	COUGHLIN	05 WAR DEED	2081/0745
02/11/1998	\$400,333.00	04	MILLER,RANDY	PINNACLE GROUP ASSOCIATES INC	04 P T A	
04/06/1995	\$370,000.00	05	HIXSON	MILLER	18 SPLIT	1796/0253

**Building Information - 3689 sq ft 2 STY (Residential)**

**General**

Floor Area	3,689 sq ft	Estimated TCV	Not Available
Garage Area	912 sq ft	Basement Area	759 sq ft
Foundation Size	2,293 sq ft		
Year Built	1977	Year Remodeled	Not Available
Occupancy	Single Family	Class	B
Effective Age	20 yrs	Tri-Level	No
Percent Complete	100%	Heat	Forced Heat & Cool
AC w/Separate Ducts	No	Wood Stove Add-on	No
Basement Rooms	1	Water	Not Available
1st Floor Rooms	6	Sewer	Not Available
2nd Floor Rooms	0	Style	2 STY
Bedrooms	4		

**Area Detail - Basic Building Areas**

Height	Foundation	Exterior	Area	Heated
2 Story	Basement	Siding	460 sq ft	2 Story
1 Story	Slab	Siding	92 sq ft	1 Story
1 Story	Basement	Siding	299 sq ft	1 Story
2 Story	Slab	Siding	804 sq ft	2 Story
1 Story	Crawl Space	Siding	150 sq ft	1 Story
1 Story	Crawl Space	Siding	320 sq ft	1 Story
1 Story	Crawl Space	Siding	168 sq ft	1 Story

**Area Detail - Overhangs**

Area	Story Height	Exterior	Included in Size for Rates
132 sq ft	1 Story	Siding	0

**Basement Finish**

Recreation	0 sq ft	Recreation % Good	0%
Living Area	759 sq ft	Living Area % Good	0%
Walk Out Doors	0	No Concrete Floor Area	0 sq ft

**Plumbing Information**

3 Fixture Bath	2	2 Fixture Bath	1
Extra Sink	2	Ceramic Tile Floor	3
Ceramic Tub Alcove	1	Vent Fan	1

**Built-In Information**

Cook Top	1	Dishwasher	1
Garbage Disposal	1	Oven	2
Microwave	1		

**Fireplace Information**

Exterior 1 Story	1
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**Garage Information**

Area	912 sq ft	Exterior	Siding
Foundation	42 Inch	Common Wall	1 Wall
Year Built	1977	Finished	No
Auto Doors	0	Mech Doors	0

**Porch Information**

CCP (1 Story)	60 sq ft	Foundation	Standard
WCP (1 Story)	111 sq ft	Foundation	Standard

**Deck Information**

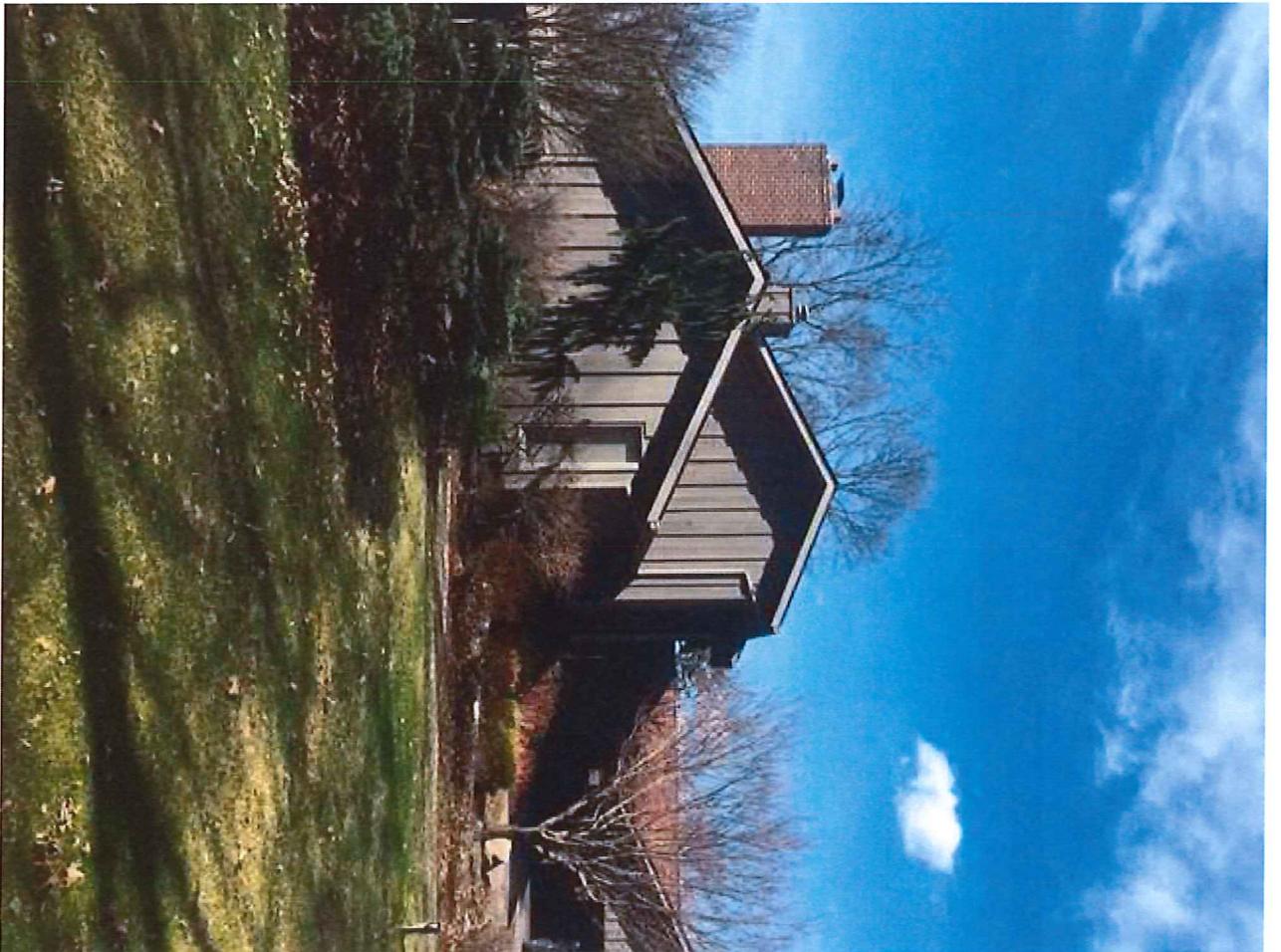
Treated Wood	1,151 sq ft
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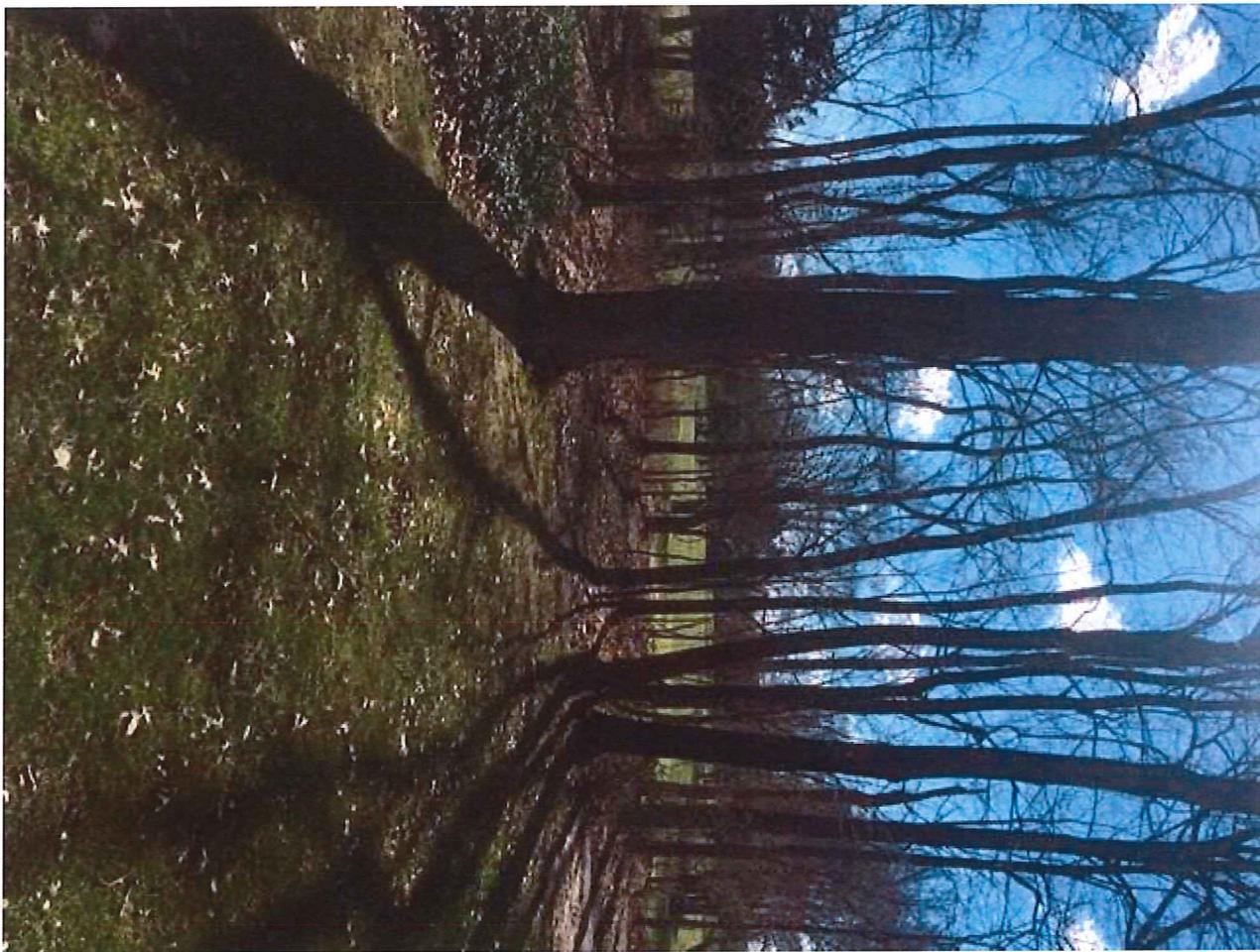
new garage/pullbox will look exactly like attached garage in structure, materials, color, shingles, style.  
All building codes will be followed: location, height, etc.



From South - Eddy relayed I  
could build it aligned w/ ROOF line

Oursler, Michael

**From:** Mike Oursler <mike.oursler13@gmail.com>  
**Sent:** Wednesday, April 10, 2019 9:07 AM  
**To:** Oursler, Michael  
**Subject:** House



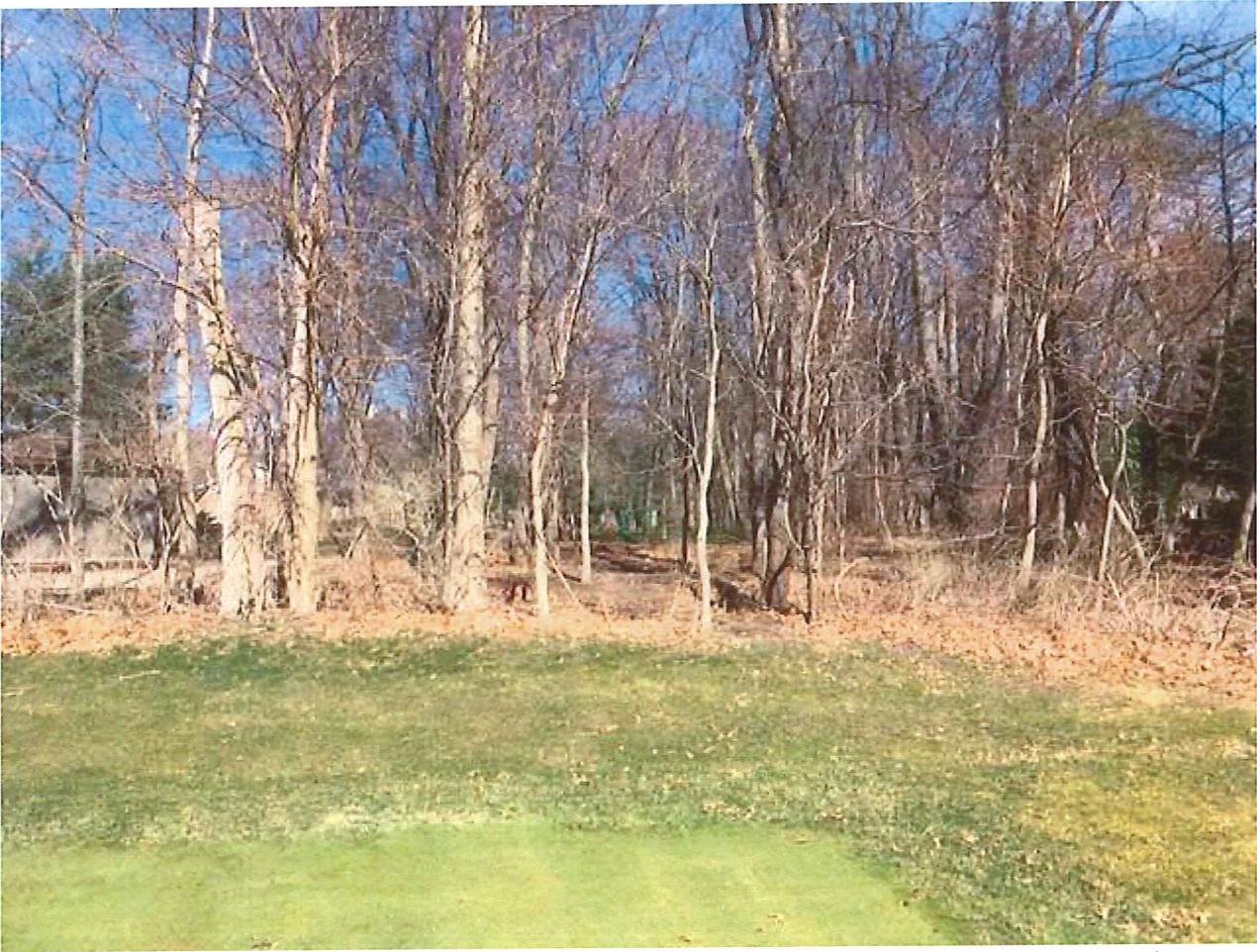
City Relayed when I could  
Build - Facing west



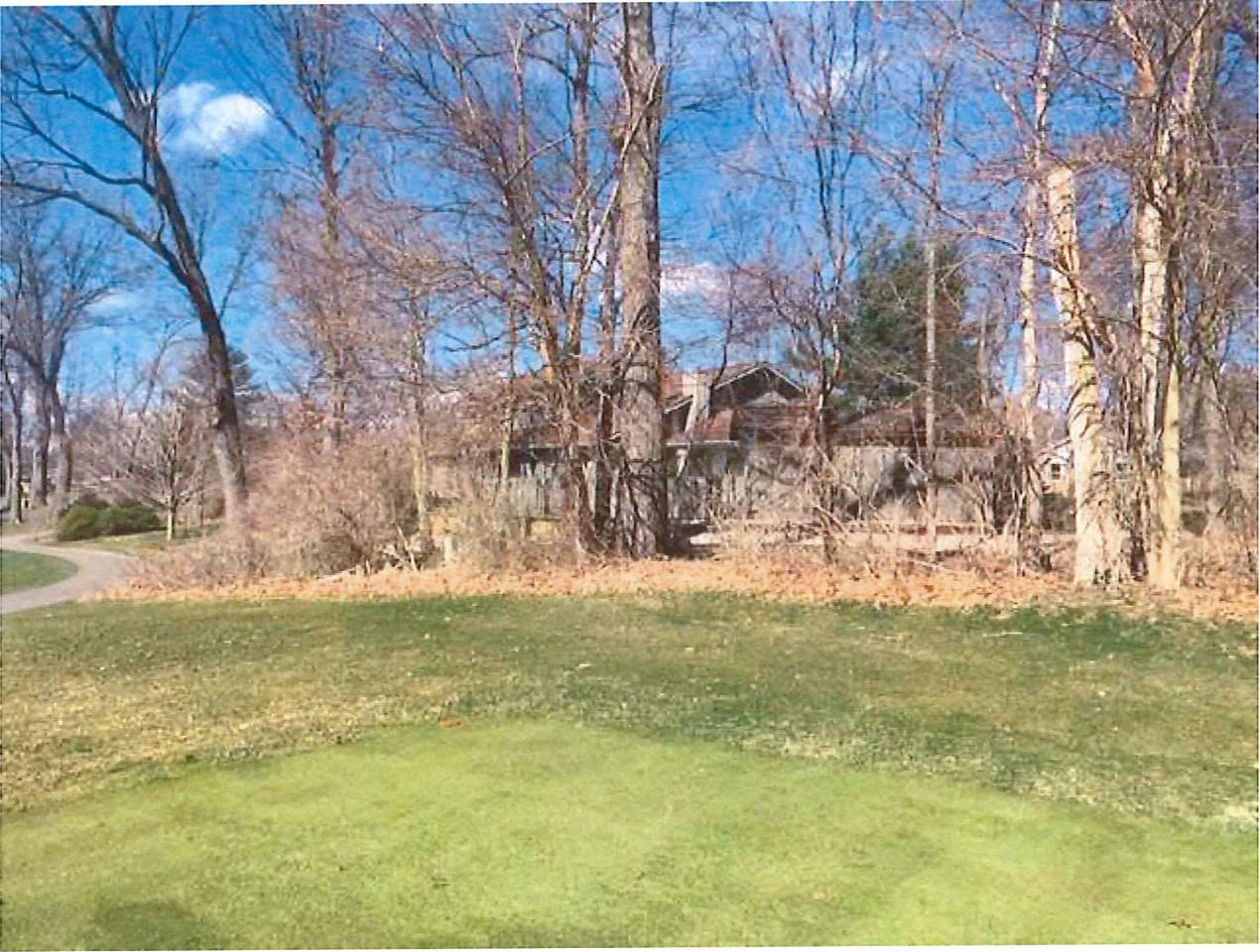
another West facing photo. extended driveway would  
be needed to access the new garage if put here  
(not desired) More mature trees required for removal.



closeup of west view - where new garage allowed  
(not desired)



view from BCCC, East view. New garage, where they  
approved (not desired), would be visually close to  
course, it's neighbors. noise could be issue too.  
Tee box #5 should be yards away. BCCC  
wrote / signed letter adamantly opposing this location at  
SW corner



Another view from course.



~Mike Oursler

last view from course : world block course view  
of neighbor to south. Again, more tree removal,  
course issues, neighbor impacted, etc.



area inferred to build. Facing South (survey drawing)

Desired SE corner

More logical parking, less tree removal, less concrete/  
driveway need, & less neighbor impact (to EAST as  
Flees' wrote / signed letter approval of structure).

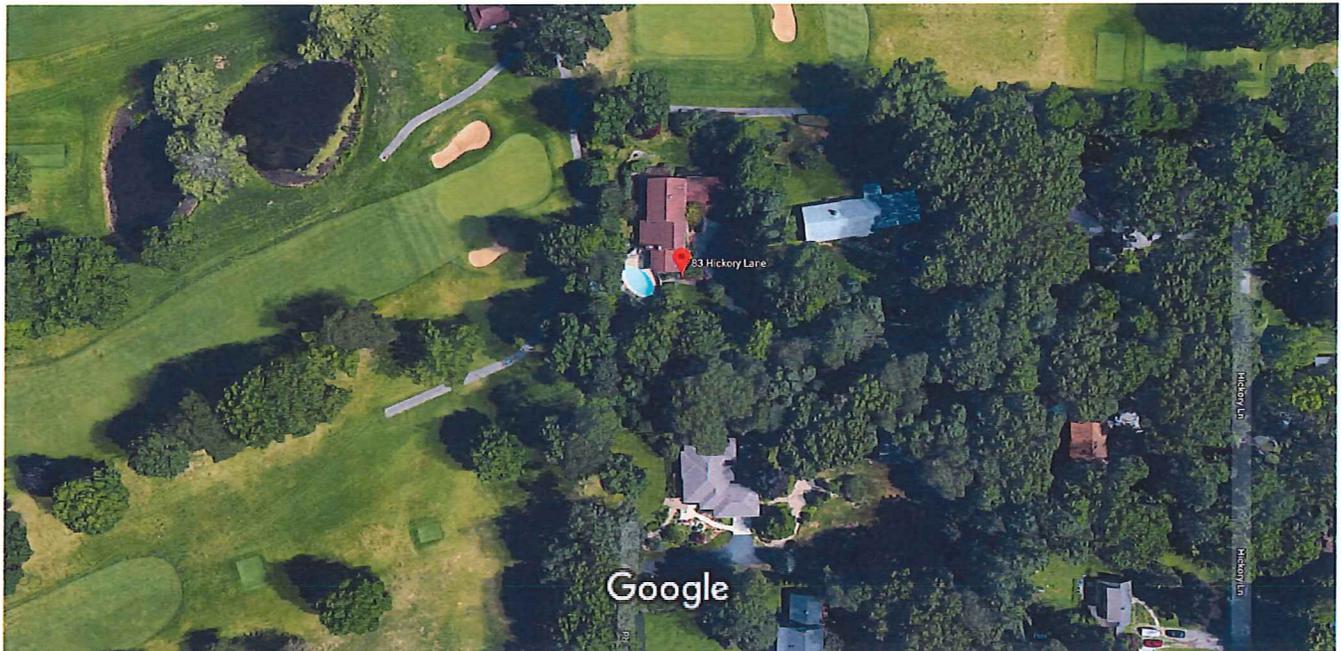


Area to prefer build. (in survey drawing)

facing S.E.

- more logical for parking too.

Google Maps 83 Hickory Ln



Map data ©2018 Google 50 ft

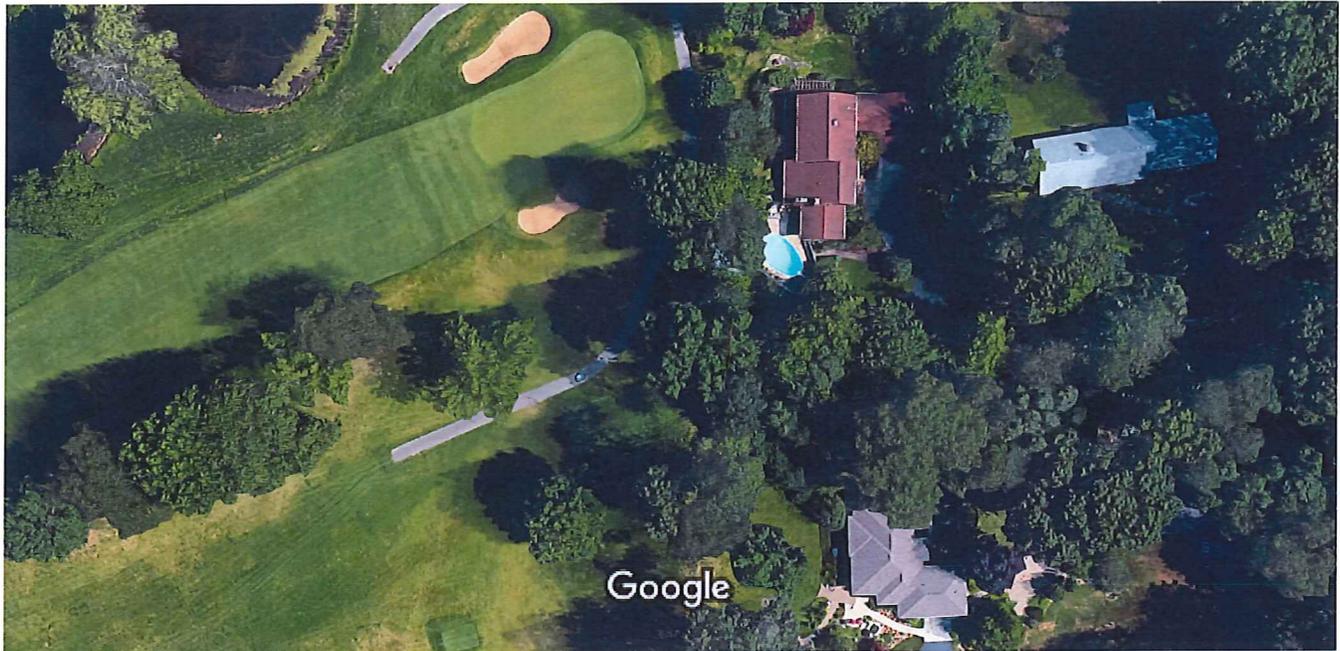


83 Hickory Ln  
Battle Creek, MI 49015

7QHR+GJ Battle Creek, Michigan

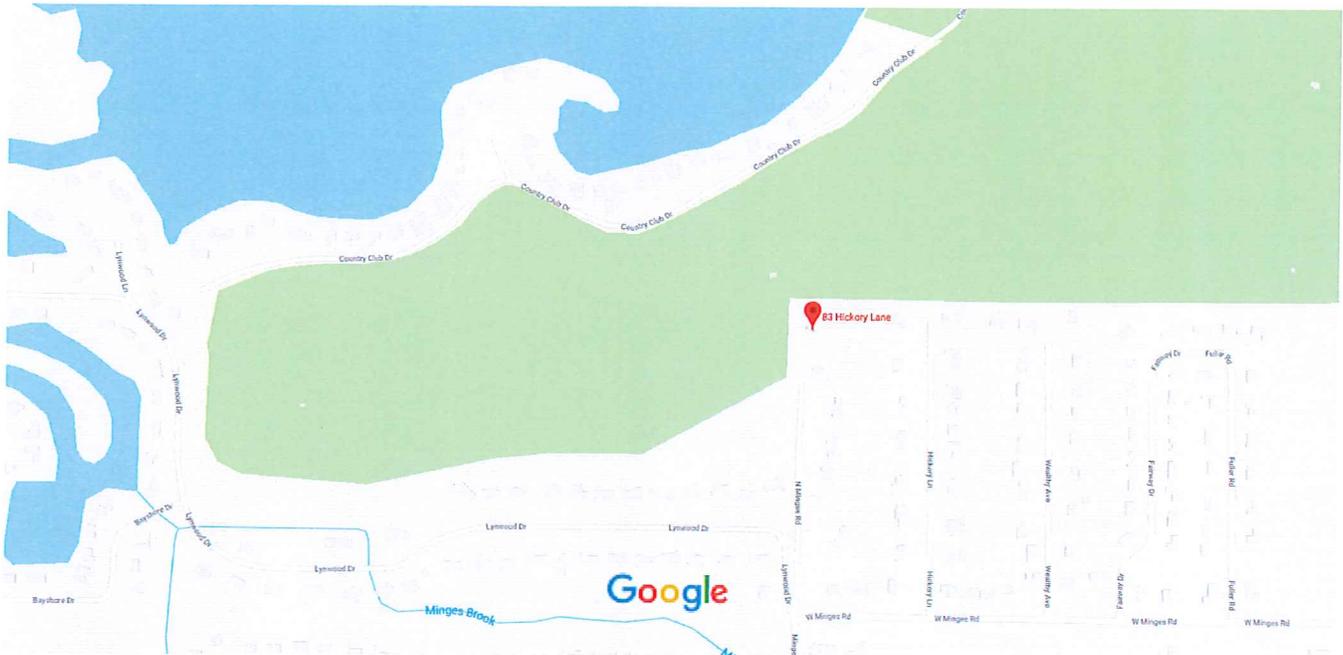


Google Maps 83 Hickory Ln



Imagery ©2018 Google, Map data ©2018 Google 20 ft

Google Maps 83 Hickory Ln



Map data ©2018 Google 200 ft



83 Hickory Ln  
Battle Creek, MI 49015

7QHR+GJ Battle Creek, Michigan

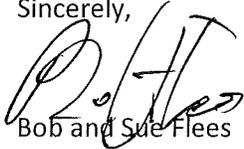


4/10/2019

Dear City of Battle Creek-

I am writing in support of Mike and Hollie Oursler's decision to build a detached structure on 83 Hickory Lane. As a neighbor (81 hickory lane), they have relayed their plans and I am perfectly ok with their wishes, knowing they are asking to have t built on a different area of the property (via Variance). They are trying to keep the integrity of the unique property, while keeping members of Battle Creek CC in mind as well.

Sincerely,



Bob and Sue Flees

81 Hickory Lane



*Battle Creek Country Club*

318 COUNTRY CLUB DRIVE • BATTLE CREEK, MICHIGAN 49015

October 23, 2018

RE: 83 Hickory Lane

Dear City of Battle Creek Zoning Board-

This letter is in response to my conversation with Mike Oursler, a Battle Creek Country Club neighbor, about the construction of a two car, detached garage on his property @ 83 Hickory Lane.

It is my understanding the city would allow Mr. Oursler to build (restrictions withstanding) on the southwest corner of his property. This property borders the golf course and is directly behind our tee box number five and green number 14. We have always had a great working and personal relationship with the residents who live on the course. Mr. Oursler has one on the most visible properties on our course (bordering two holes) and we feel a structure in this location would dramatically dilute the aesthetics of the course. As the former Superintendent of BCCC, and now the Club Manager, I am well versed of this property. Mr. Oursler relayed that he is attempting to gain variance approval to build on the Southeast corner of his property (for various reasons) and we support him getting that approval. The Southeast corner would not detract from the courses beauty and our board feels our 300+ members would have no issue(s).

Sincerely,

Steve Rebhan  
General Manager