

CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING AGENDA
5151 MARSH ROAD, OKEMOS, MI 48864-1198
(517) 853-4000
WEDNESDAY, JUNE 10, 2015 6:30 PM
TOWN HALL ROOM

A. CALL MEETING TO ORDER

B. APPROVAL OF AGENDA

C. CORRECTIONS, APPROVAL & RATIFICATION OF MINUTES

- o Wednesday May 27, 2015

D. UNFINISHED BUSINESS

E. NEW BUSINESS

1. ZBA CASE NO. 15-06-10-1 KYLE FOX/PALMER CONSTRUCTION, 1245 HARBOR CUT, OKEMOS, MI 48864

DESCRIPTION:	1245 Harbor Cut
TAX PARCEL:	26-327-049
ZONING DISTRICT:	RAA (Single Family-Low Density)

The applicant is requesting variances from the following section of the Code of Ordinances:

- Section 86-373(e)(5)(c) which states rear yards for lots up to 150 feet in depth, the rear yard shall not be less than 30 feet in depth.

The applicant is requesting variances to allow a pergola to be constructed upon a proposed concrete patio at 1245 Harbor Cut.

- ☞ Variance requests may be subject to change or alteration upon review of request during preparation of the staff memorandum. Therefore, Sections of the Code of Ordinances are subject to change. Changes will be noted during public hearing meeting.

F. OTHER BUSINESS

G. PUBLIC REMARKS

H. BOARD MEMBER COMMENTS

I. ADJOURNMENT

J. POST SCRIPT – ELIZABETH LEGOFF

Information regarding the request may be examined at the Department of Community Planning and Development, 5151 Marsh Road, Okemos, Michigan 48864-1198, between the hours of 8:00 am and 5:00 pm, Monday through Friday. Comments may be made in writing addressed to the Zoning Board of Appeals at 5151 Marsh Road, Okemos, MI 48864 or may be made at the hearing.

BRET DREYFUS
TOWNSHIP CLERK

ZONING BOARD OF APPEALS PUBLIC HEARING PROCEDURE

Persons wishing to address the topic of a scheduled public hearing are encouraged to present their remarks during the public hearing portion of the Zoning Board of Appeals meeting. **If you do intend to speak before the Zoning Board of Appeals please sign in at the door.** During a public hearing, the following order shall be used:

1. Township Staff Review
2. Comments by the applicant or applicant's designee(s)
3. Comments by other persons
4. Applicant rebuttal
5. ZBA members discuss the case. If necessary, the applicant may be asked to respond to questions from the ZBA members
6. Action by the ZBA

Persons wishing to appeal a decision of the Zoning Board of Appeals shall do so in accordance with Michigan Court Rules of Appeals to Circuit Court MCR 7.101.

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CHARTER TOWNSHIP OF MERIDIAN
ZONING BOARD OF APPEALS MEETING MINUTES ***DRAFT***
5151 MARSH ROAD, OKEMOS MI 48864-1198
517.853.4000
WEDNESDAY, MAY 27, 2015

PRESENT: Members, Hershiser, Jackson, LeGoff, Ohlrogge, Chair Beauchine
ABSENT: None
STAFF: Rick Brown, Associate Planner

A. CALL MEETING TO ORDER

Chair Beauchine called the meeting to order at 6:30 p.m.

B. APPROVAL OF AGENDA

MEMBER HERSHISER MOVED TO APPROVE THE AGENDA AS WRITTEN

SECONDED BY MEMBER JACKSON

VOICE VOTE: Motion carried unanimously.

C. CORRECTIONS, APPROVAL, & RATIFICATION OF MINUTES

Wednesday, May 13, 2015

MEMBER OHLROGGE MOVED TO APPROVE THE MINUTES AS AMENDED

SECONDED BY MEMBER HERSHISER

VOICE VOTE: Motion carried unanimously.

D. UNFINISHED BUSINESS

None

E. NEW BUSINESS

1. ZBA CASE NO. 15-05-27-1 JOSEPH THOMAS AND JENNIFER EVERHART, 2136 WOODFIELD ROAD, OKEMOS, MI 48864

DESCRIPTION:	2136 Woodfield Road
TAX PARCEL:	28-257-025
ZONING DISTRICT:	RA (Single Family-Medium Density)

The applicant is requesting a variance from the following Section of the Code of Ordinances:

- Section 86-373(e)(5)(c) which states rear yards for lots up to 150 feet in depth, the rear yard shall not be less than 30 feet in depth.

The applicant is requesting a variance to allow a screened porch to be constructed on the existing deck at 2136 Woodfield Road.

Chair Beauchine documented the address listed on the staff memo presented as 2156 Woodfield Road instead of 2136 Woodfield Road. The official legal notice and agenda both displayed the correct address of 2136 Woodfield Road.

Mr. Brown outlined the case for discussion.

Ms. Jennifer Everhart, 2136 Woodfield Road, Okemos, applicant, indicated the plan was to add a screened porch atop the existing deck to utilize the current deck footings.

Mr. Michael Bofysil, 6062 Limestone Lane, Dimondale, Bofysil Construction, the contractor for the project, reiterated the plan was to use the original deck structure and add a screened porch.

Member Jackson asked if the rear steps of the deck were included in the encroachment dimensions.

Mr. Bofysil replied when the deck was originally built, it encroached on the setback requirement by 1.6 feet. The rear steps of the deck encroached even further and would be removed as part of the renovation.

Member Hershiser asked the applicant if there was a six-foot fence surrounding the property.

Ms. Everhart confirmed the existence of a fence bordering the majority of the property with trellises and privacy trees filling the remaining area.

Member Ohlrogge stated photo #4 showed a clearing in the rear yard with a view into the neighbor's yard. The proposed screened porch encroaching into the 30 foot setback could hinder the neighbor's privacy.

Member Hershiser asked the applicant if the houses at the rear of their property were offset slightly so no house was directly behind them.

Ms. Everhart replied in the affirmative.

Member Hershiser noted the number of trees for privacy in the rear yard. He asked the applicant if she would consider planting an evergreen tree to fill in the clearing and screen the neighboring houses.

Ms. Everhart replied she could plant an evergreen, although noted there are two existing 50 foot deciduous trees which screen the property.

Chair Beauchine specified all neighbors within a 300 foot radius were notified in writing of the variance request and the Zoning Board of Appeals (ZBA) would have been informed if a neighbor had an issue.

Member Ohlrogge noted the ordinances address both current and future ownership of the homes.

Chair Beauchine remarked the existing small evergreen tree should be fully grown in the next several years naturally filling in the clearing to provide sufficient screening.

Chair Beauchine indicated proper justification must be specified to allow encroachment on an existing structure.

Chair Beauchine asked staff if a screened porch built on 4x4 foot posts would need to meet the same standard building code requirements as a principal residential structure.

Mr. Brown replied in the affirmative.

Member Jackson asked if a screened porch became part of the main structure once attached at the roofline.

Chair Beauchine specified from the ZBA viewpoint if there is a roof on the enclosure it is considered part of the main structure.

MEMBER HERSHISER MOVED TO APPROVE THE VARIANCE AS REQUESTED.

SECONDED BY CHAIR BEAUCHINE.

Member Hershiser outlined the review criteria (Section 86-221) to be considered for approval of the variance: The unique circumstances are particular to the structure, and are not self-created as the structure already existed; strict enforcement would result in practical difficulties and be unnecessarily burdensome, since any alternative would impose increased encroachment; is not contrary to public interest; will not affect the adjacent land and vicinity as evidenced by the photos provided; and granting this variance will be consistent with the public interest. He however understood that it may not be the minimum action necessary.

Member Ohlrogge clarified her concerns of the review criteria: The minimum action of the applicant would be to reduce the size of the screened porch by 1.6 feet to comply with the ordinance which should not produce practical difficulty or compromise functionality; encroaching into the 30 foot setback would infringe on the privacy of the neighboring homes which is contrary to the spirit of the zoning ordinance and would not be consistent with the public interest.

Member LeGoff suggested requesting written approval from the adjacent property owners.

Chair Beauchine responded the ordinance is related to the property not the property owners. The ZBA is primarily concerned with the public safety of its citizens. Cost is not a factor the ZBA considers. He agreed the minimum action does not meet the criteria for granting the variance.

Member Jackson indicated the visual assessment of the houses on Woodfield Road showed they were built parallel to each other. The home did not appear to be set back 1.3 feet further from the street as the applicant suggested. The circumstances were not unique under the review criteria.

Member Ohlrogge agreed with Member Jackson the circumstances were not unique to the structure and granting the variance could set precedence for neighboring property owners to also request encroachment variances.

Chair Beauchine asked the board members if the variance was denied would the members consider approving a 10.6 x 16 foot screened enclosure as large enough to be used for the permitted purpose.

Member Ohlrogge affirmed the slightly reduced size would allow a functional screened porch.

CHAIR BEAUCHINE CALLED FOR A VOICE VOTE.

VOICE VOTE: YES: Member Hershiser, LeGoff
NO: Member Jackson, Ohlrogge, Chair Beauchine
Motion failed 2-3.

Chair Beauchine asked the applicant the dimensions of the current deck and the proposed screened porch.

Mr. Bofysil replied the current deck was 12.6 feet and the proposed screened porch was reduced to 12 feet to work within the ordinance.

Member Jackson asked for clarification the deck configuration would be 12.6 feet and the screened enclosure would be 10.6 feet.

Mr. Brown noted the measurements were based on 12 feet which resulted in the 1.6 foot variance request.

Mr. Bofysil indicated the structure would have to be 10.6 feet and the building code allowed a roof overhang up to two feet beyond the structure. They are installing a minimal six inch roof overhang to try to comply with the ordinance.

Member Hershiser supported the efforts made by the applicant and contractor to keep the encroachment to a minimum and stay within the building code.

CHAIR BEAUCHINE CALLED FOR A VOICE VOTE.

VOICE VOTE: YES: Member Hershiser, Jackson, LeGoff, Ohlrogge, Chair Beauchine
NO: None
Motion carried 5-0.

F. OTHER BUSINESS

None

G. PUBLIC REMARKS

None

H. BOARD MEMBER COMMENTS

Member Ohlrogge remarked the importance of discussion and asking questions in order to arrive at a proper determination.

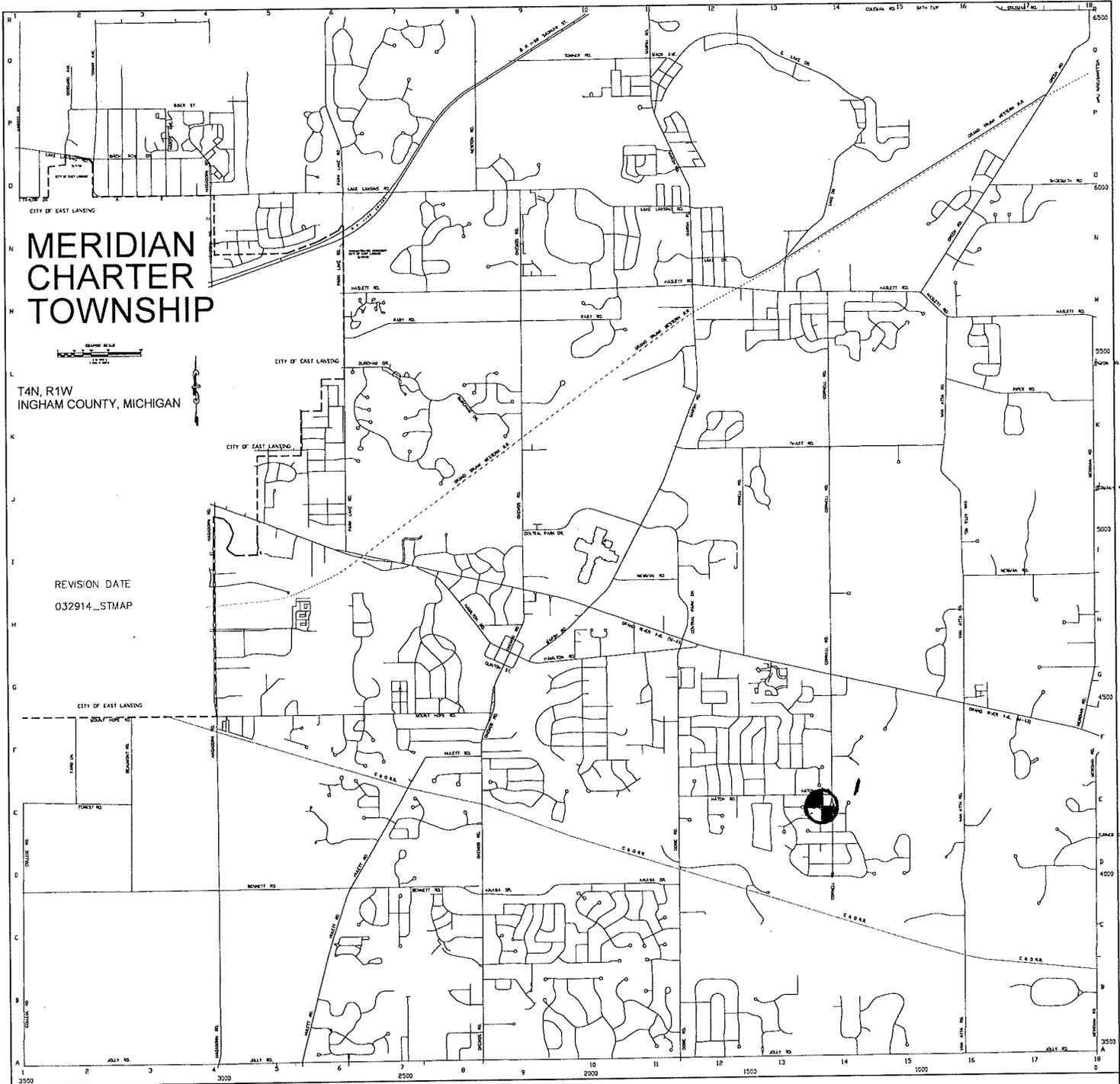
Chair Beauchine noted the Farmer's Market is now open on Saturday mornings and starting in June will also be open on Wednesday afternoons. He suggested parking in adjacent lots to avoid car damage.

I. ADJOURNMENT

Chair Beauchine adjourned the meeting at 7:13 p.m.

Respectfully Submitted,

Erin M. Bierly
Recording Secretary



1 ZBA CASE #15-06-10-1 (KYLE FOX/PALMER CONSTRUCTION)

VARIANCE APPLICATION SUPPLEMENT

A variance will be granted, if the following Review Criteria are met:

1. Unique circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district.
2. These special circumstances are not self-created.
3. Strict interpretation and enforcement of the literal terms and provisions of the Ordinance would result in practical difficulties.
4. The alleged practical difficulties, which will result from a failure to grant the variance, would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
5. Granting the variance is the minimum action that will make possible the use of the land or structure in a manner which is not contrary to the public interest and which would carry out the spirit of this zoning ordinance, secure public safety, and provide substantial justice.
6. Granting the variance will not adversely affect adjacent land or the essential character in the vicinity of the property.
7. The conditions pertaining to the land or structure are not so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable.
8. Granting the variance will be generally consistent with public interest, the purposes and intent of this Zoning Ordinance.

Effect of Variance Approval:

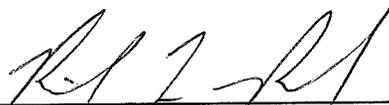
1. Granting a variance shall authorize only the purpose for which it was granted.
2. The effective date of a variance shall be the date of the Zoning Board of Appeals approves such variance.
3. A building permit must be applied for within 24 months of the date of the approval of the variance, and a Certificate of occupancy must be issued within 18 months of the date the building permit was issued, otherwise the variance shall be null and void.

Reapplication:

1. No application for a variance, which has been denied wholly or in part by the Zoning Board of appeals, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found by the Zoning Board of Appeals to be sufficient to justify consideration.

MEMORANDUM

TO: Zoning Board of Appeals

FROM: 
Richard F. Brown, Jr., AICP, CBSP
Associate Planner

DATE: June 5, 2015

RE: ZBA Case No. 15-06-10-1

ZBA CASE NO.: 15-06-10-1, KYLE FOX/PALMER CONSTRUCTION, 1245 HARBOR CUT, OKEMOS, MI 48864

DESCRIPTION: 1245 Harbor Cut
TAX PARCEL: 26-327-049
ZONING DISTRICT: RAA (Single Family-Low Density)

The applicant is requesting variance from the following section of the Code of Ordinances:

- Section 86-373(e)(5)(c) which states the rear yard for lots up to 150 feet in depth, the rear yard shall not be less than 30 feet in depth

The existing single-family dwelling was built in 1986 and contains 1,396 square feet of floor area. The dwelling is situated 29.8 feet from the rear property line pursuant to the submitted survey. The existing deck on the south side of the dwelling is proposed to be removed and replaced with a 240 square foot (20 x 12) concrete patio and a 160 square foot (20 x 8) pergola on top of the patio and connected to the dwelling. While the proposed concrete patio is consistent with the Code of Ordinances, according to the applicant's submitted drawing, the accompanying pergola will be located 23.5 feet from the rear property line.

During review of the request, staff felt the 29.8 foot setback was not enough of a difference from the code to deem the home as nonconforming. Should the Zoning Board of Appeals differ with this interpretation, a variance from Section 86-619(1), as a nonconforming single-family dwelling, would be necessary instead of from Section 86-373(e)(5)(c).

To summarize, the applicant is requesting the variance to allow construction of a 160 square foot pergola, which according to their submitted drawing would make the principal building (dwelling) including the proposed pergola 23.5 feet from the rear property line. Therefore a variance of 6.5 feet is requested from the Zoning Board of Appeals.

REQUIRED SETBACK	ACTUAL SETBACK	PROPOSED SETBACK	VARIANCE REQUESTED
30 feet	29.8 feet	23.5 feet	6.5 feet

Site History

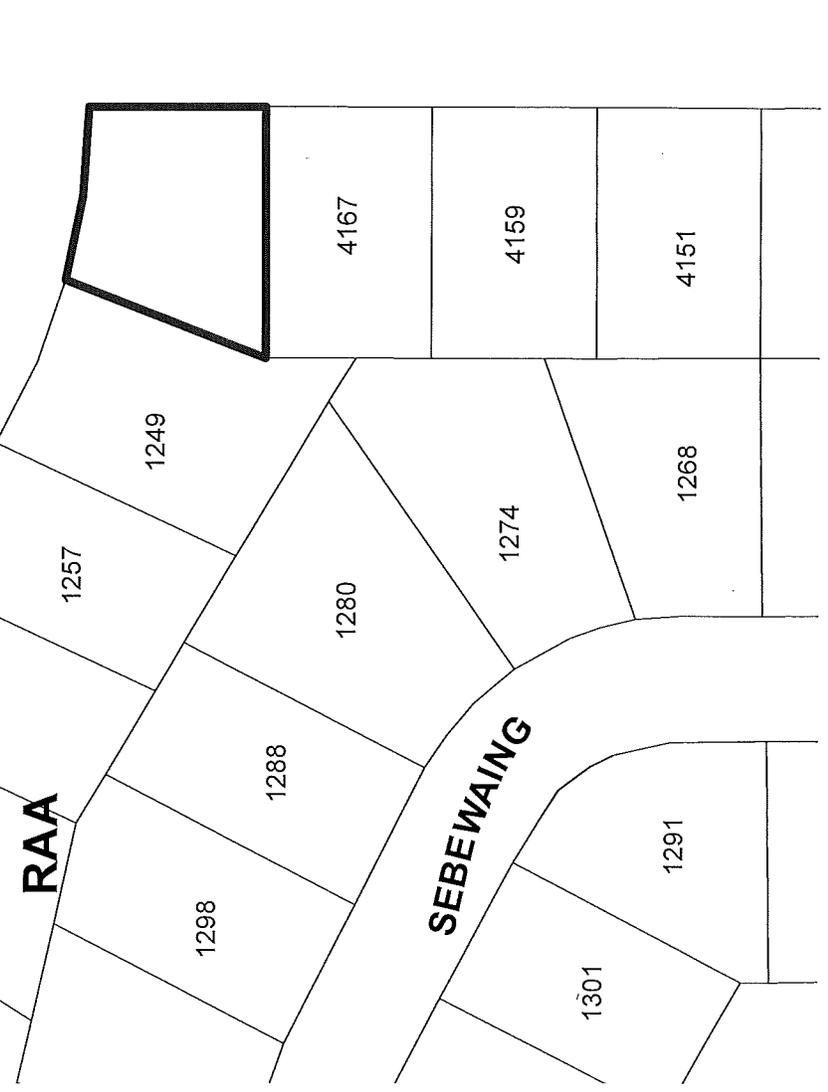
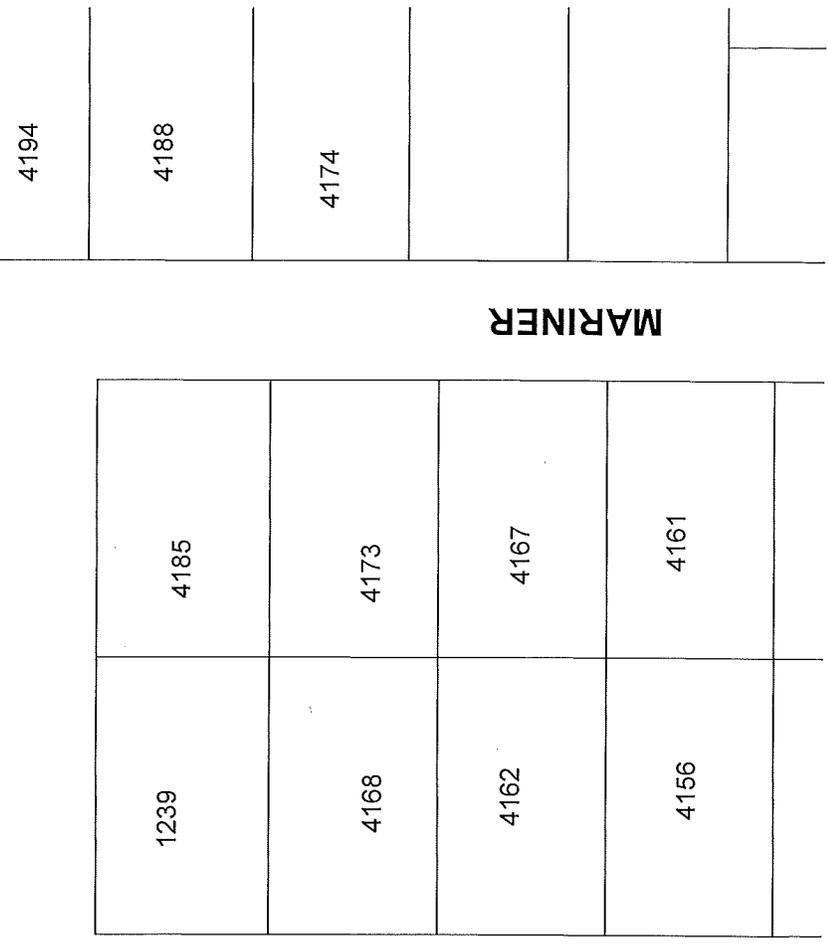
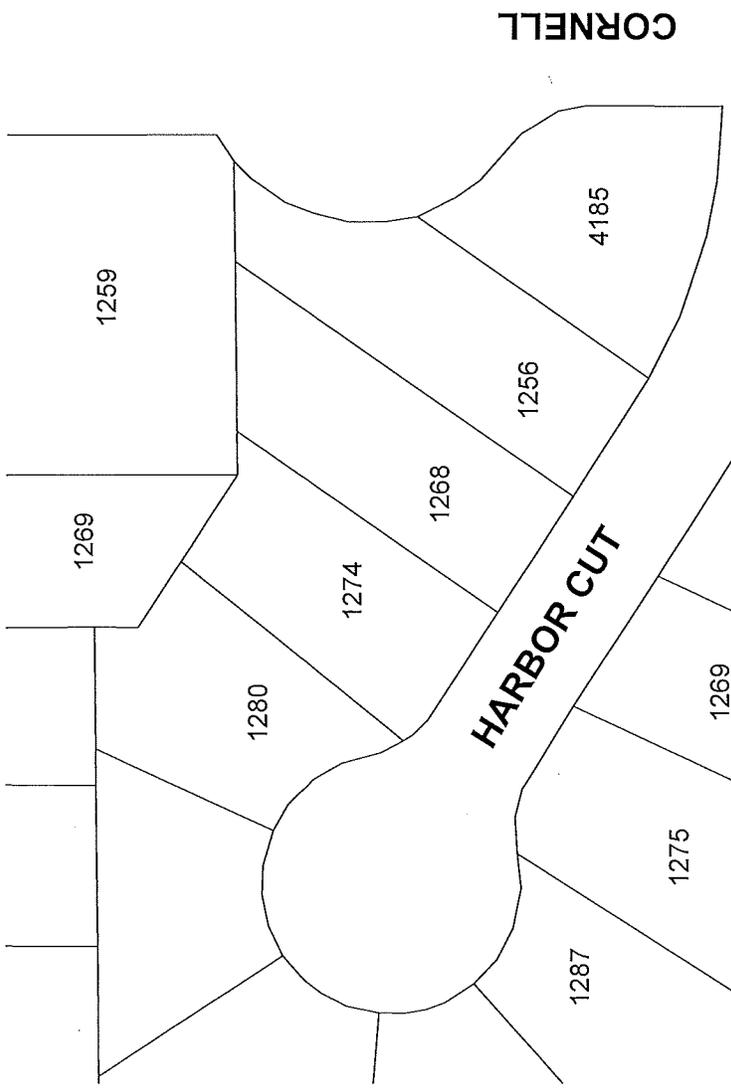
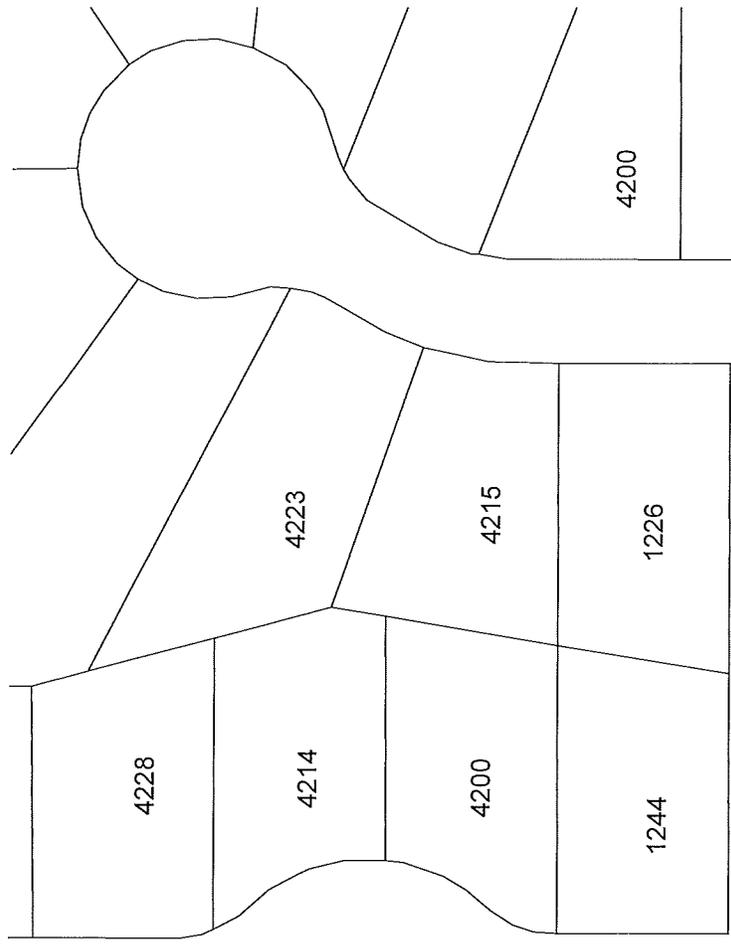
- The 0.31 acre subject site is zoned RAA (Single Family-Low Density).
- Staff could not locate evidence of a building permit having been obtained for the existing deck, nor the deck on the east side of the dwelling.
- There have been no previous variance requests for this property.

Attachments

1. Site location map and aerial photo
2. Application materials
3. Survey

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CHARTER TOWNSHIP OF MERIDIAN
PLANNING DIVISION
5151 MARSH ROAD, OKEMOS, MI 48864
(517) 853-4560

VARIANCE APPLICATION

- A. Applicant Kyle Fox
Address of Applicant 1245 HARBOR CUT
OKEMOS, MI
Telephone (Work) (517) 881-4597 Telephone (Home) _____
Fax _____ Email address: mckylefox@yahoo.com
Interest in property (circle one): Owner Tenant Option Other
- B. Site address/location 1245 HARBOR CUT, OKEMOS, MI
Zoning district _____ Parcel number 33-02-02-26-327-049
- C. Nature of request (Please check all that apply):
 Request for variance(s)
 Request for interpretation of provision(s) of the "Zoning Ordinance" of the Code of Ordinances
 Review an order, requirements, decision, or a determination of a Township official charged with interpreting or enforcing the provisions of the "Zoning Ordinance" of the Code of Ordinances

Zoning Ordinance section(s) _____

- D. Required Supporting Material Supporting Material if Applicable
- Property survey
 - Legal description
 - Proof of property ownership or approval letter from owner
 - Site plan to scale
 - Written statement, which demonstrates how all the review criteria will be met (See next page)
- Architectural sketches
 - Other

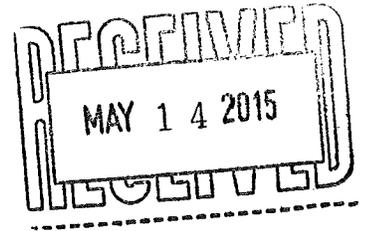
[Signature] Kyle Fox 5/11/15
Signature of Applicant Print Name Date

Fee: \$150.00 Received by/Date: [Signature] 5/15/15

I (we) hereby grant permission for members of the Charter Township of Meridian Zoning Board of Appeals, Township staff members and the Township's representatives or experts the right to enter onto the above described property (or as described in the attached information) in my (our) absence for the purposes of gathering information including but not limited to the taking and the use of photographs. (Note to Applicant(s): This is optional and will not affect any decision on your application.)

[Signature] 5/11/15
Signature of Applicant(s) Date

Signature of Applicant(s) Date



05/14/2015

Charter Township of Meridian
Planning Division
5151 Marsh Rd
Okemos, MI 48864

Re: Kyle Fox
1245 Harbor Cut
Okemos, MI 48864
517-881-4597
Variance Review Criteria

We propose to build a pergola over a rear patio for shading purposes that according to present interpretation does not fit within zoning ordinance. This statement is to prove that this meets the criteria for a variance.

(1)(7)The Property at 1245 Harbor Cut is a non-regular lot on the corner of Cornell and Harbor Cut. The house was built on an angle as shown by the survey affecting the rear setback. (2) The home was purchased by the existing homeowner in 2011. An existing patio door or deck is located on the rear (southernmost) point of the house. This Southernmost point of the house is at the minimum setback for a house of 30'.

(3)(5) We reduced the size of the proposed pergola to conform to the 22' set back required for decks and other accessories. We feel this should be an acceptable improvement as its purposes are shade and appeal and stays within the allotted 22' setback for similar structures.

(4) An existing patio door leads out to the proposed area making this area the only reasonable place for the patio section. The Southern exposure and lack of shade makes this area unusable. The homeowner would like to place a poured patio and build a pergola to provide shade so that the patio area can become usable.

(6)(8) Plans and design are included with this application showing a simple pergola design not unlike others within the neighborhood. The proposed pergola will create a usable space for the homeowner to have patio furniture and plants and utilizing the existing doorway while providing additional value to the home.



Please contact me if you need additional information and/or have any questions.

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

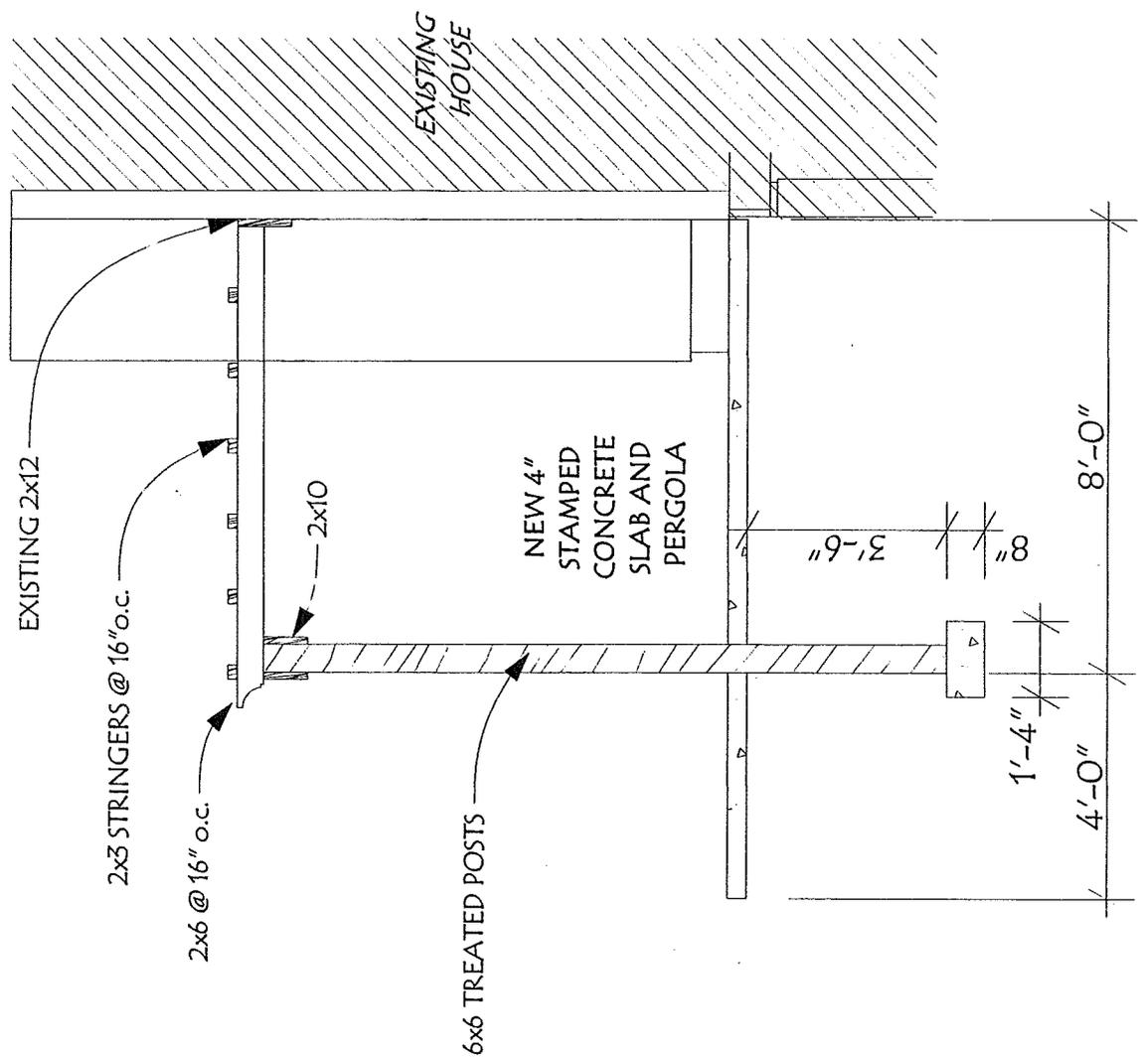
Dan Smeak
VP Construction
Palmer Construction
517-420-0404
dan@palmer-construction.com

Rick Brown

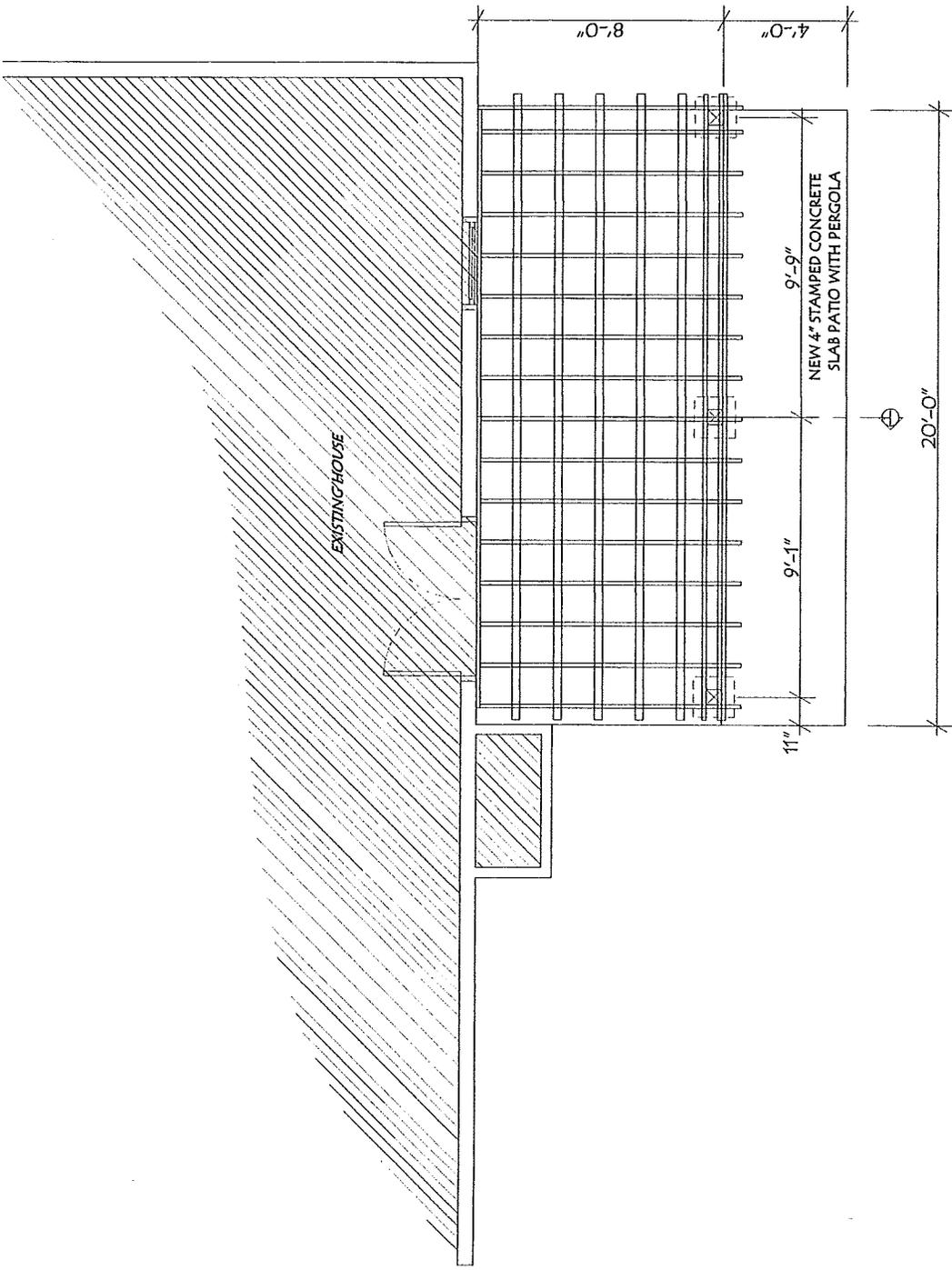
From: Kyle Fox <mrkylefox@yahoo.com>
Sent: Monday, May 18, 2015 11:57 AM
To: Rick Brown
Subject: Variance (Palmer Construction, Dan Smeak)

I Kyle Fox authorize Dan Smeak Of Palmer Construction permission to speak on my behalf at the meridian township meeting regarding the variance on our property. The address is 1245 Harbor Cut, Okemos MI 48864. Thank you, Kyle Fox

Palmer Construction
Re: Kyle Fox
1245 HARBOUR CT
OKemos, MI 48864



FALMER CONSTRUCTION
Re: Kyle Fox
1245 HARBOR CT
OKEMOS, MI 48864





Location of proposed pergola

LOT SURVEY

For:
 Kyle Fox
 1245 Harbor Cut
 Okemos, MI 48864

Legal Description (as provided): Lot 54, The Shoals, a subdivision on part of the South 1/2 of Section 26, T4N, R1W, Meridian Township, Ingham County, Michigan, according to the recorded plat thereof, as recorded in Liber 36 of Plats, Page 12, Ingham County Records.

NOTES:
 1. ALL EASEMENTS MAY NOT BE SHOWN.



1" = 30'

