

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

ZONING BOARD OF APPEALS MEETING – 2ND FLOOR TRAINING ROOM Wednesday, August 8, 2012

5:30 p.m.

Agenda (revised)

1. Call to Order
2. Roll Call
3. Approval of Minutes: April 25, 2012
4. Unfinished Business
5. People from the Floor
6. Announcements
7. Public Hearing
 - A. 235 East Maple Street – Variance – Front Yard Setback

Resolution No. 2012-02 – A Resolution Approving A 16 Foot 9 Inch Front Yard Setback Variance To Allow The Construction Of A Front Porch Structure On Property Located At 235 East Maple Street
8. Presentations
9. Regular Business
10. Unfinished Business
11. New Business
12. Correspondence
 - Chris Davis, Michigan Protection & Advocacy Service, Inc. – July 13, 2012
 - Response Letter to Michigan Protection & Advocacy Service, Inc. – July 18, 2012
 - Chris Davis, Email Dropping Request for Reconsideration – August 7, 2012
13. Administrator Report
14. Adjournment

**CITY OF MASON
ZONING BOARD OF APPEALS SPECIAL MEETING
MINUTES OF APRIL 25, 2012**

Haywood called the meeting to order at 5:34 p.m. in the 2nd Floor Training Room at 201 W. Ash Street, Mason, Michigan.

Board Member(s) Present: *Crips, Curtis, Jakeway, **Jenkins, Maddix, McCormick, Sabbadin (alternate)
Board Member(s) Absent: Richards
Also present: David Haywood, Zoning and Development Director

* Crips arrived at 5:36

** Jenkins arrived at 5:35

APPROVAL OF MINUTES: October 12, 2011

The minutes of the October 12, 2011 meeting were approved as presented.

ELECTION OF CHAIR AND VICE-CHAIR

Haywood opened the floor for nominations for Chairperson.

Nomination by Crips,
to elect Jon Jenkins as Chairperson.

Nomination by Jakeway
to elect Doug Crips as Chairperson.

As there were no other nominations for Chairperson, Haywood closed the nominations.

JON JENKINS ELECTED CHAIRPERSON UNANIMOUSLY

Haywood opened the floor for nominations for Vice-Chairperson.

Nomination by Curtis,
to elect Doug Crips as Vice-Chairperson.

As there were no other nominations for Vice-Chairperson, Haywood closed the nominations.

DOUG CRIPS ELECTED VICE-CHAIRPERSON UNANIMOUSLY

PEOPLE FROM THE FLOOR

None.

REGULAR BUSINESS

Variance – 955 S. Eugenia Dr. – Front Yard Setback

Jenkins opened the public hearing at 5:39pm. Jenkins invited comments from the applicant and asked that he present information relative to the request and to address the standards of approval.

Robert McCartney, owner of 955 S. Eugenia Dr., introduced himself and his daughter Zelda to the Board and provided the following comments:

- Zelda is a special needs child and needs a wheelchair ramp to get in and out of the house
- They currently have to pull a stroller and equipment up the side door stairs into the house and doing so is physically hard on his and his wife's back
- There are currently two stairs that the stroller and equipment must be pulled up and over, which are located adjacent to the kitchen
- A ramp would alleviate this situation
- The ramp will not cause an inconvenience or hazard to the surrounding neighborhood
- They do not use the front door because there are three steps
- They would prefer to use the front entrance with a ramp
- Mr. McCartney has physical limitations and won't be able to continue pulling the stroller and equipment up the stairs
- The wall facing the drive is not the interior space, it is a carport
- They have considered alternate locations for the ramp and chose the front entrance as their preferred location
- Two trees will need to be removed to accommodate the ramp
- They considered a side ramp, but they will be expanding the house into this area to accommodate Zelda's needs and thereby eliminating this option
- They purchased the house in April 2011
- Zelda has a brain injury, cerebral palsy, microcephaly
- Zelda is not ambulatory, she cannot walk

Shane Haywood, Rick Carr Builders, introduced himself and provided the following comments:

- There are two options provided on the site plan labeled "A" and "B"
- In option "A" the wheelchair ramp is eight feet from the sidewalk
- In option "B" the wheelchair ramp is 16 feet from the sidewalk
- Incorporating the ramp into the existing deck would require rebuilding the entire deck
- The carport needs space for vehicles, lift, equipment, etc. for Zelda
- ADA requires that there be a primary and secondary ramp
- The curb cut is wide enough for both driveway lanes

Les Bruno, 1019 S. Eugenia Dr., introduced himself and stated that he is not in favor of the proposed variance, that other options are available, and does not see that a practical difficulty exists. He further stated that the property was already granted a front yard variance in 1991 for a front porch/deck.

Mr. McCartney stated that they did consider a side entry ramp, but that future planned modifications prohibit this option.

No other public answered Mr. Jenkins offer to speak on the matter. Jenkins closed the public hearing at 6:17pm.

MOTION by Jakeway, second by Sabbadin,
to introduce and consider Resolution 2012-01 as read.
MOTION APPROVED UNANIMOUSLY

Jenkins read the letter from Shirley Richards, 938 Eugenia Dr., in opposition to the request.

The Board discussed the issue and made the following points:

- The owner can rebuild the existing deck without needing a new variance as long as they don't encroach the prior setback variance approved in 1991
- Administrator Haywood distributed the staff report from 1991
- There is room with the existing variance to make the request work
- The applicant does not need the variance if they work in the confines of the prior variance setback
- The Board agreed that the prior variance spans the entire width of the lot, excluding side yard

MOTION by Sabbadin, second by Crips,
to approve Resolution 2012-01.
MOTION FAILED, VARIANCE DENIED

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

CORRESPONDENCE

None.

ADMINISTRATOR'S REPORT

Haywood gave a brief report of Zoning and Development business.

ADJOURNMENT

By consensus, the meeting adjourned at 6:50 p.m.

Deborah J. Cwierniewicz, City Clerk

City of Mason

201 W. Ash St.
P.O. Box 370
Mason, MI 48854-0370
www.mason.mi.us



City Hall 517 676-9155
Police 517 676-2458
Fax 517 676-1330
TDD 1-800-649-3777

MEMORANDUM

TO: Zoning Board of Appeals

FROM: David E. Haywood, Zoning & Development Director 

SUBJECT: Variance Request – 235 E. Maple St. (front porch)

DATE: August 3, 2012

REQUESTED ACTION:

The applicant is requesting approval for a front yard variance to be allowed to construct a front porch on the south side of the existing structure. The porch would be 16 feet 9 inches from the road right-of-way line (property line).

The applicant has submitted two options. Option #1 shows the proposed porch 8 feet three inches from the property line/right-of-way line. Option #2 shows the proposed porch to match the front edge (south edge) of the existing stoop. Mr. Tibbals has indicated that

Required Front Yard Setback: 25 feet per Section 94-121(c)(1) and Table 100

OPTION #1: Variance Request– Porch: 16 feet 9 inches
OPTION #2: Variance Request– Porch: 11 feet 5 inches

LAND USE AND ZONING PATTERN:

The subject property is zoned O-1 (Office). The surrounding land use and zoning are as follows:

	Current Land Use	Zoning
North	Residential	RM Multiple Family Residential
South	Undeveloped	O-1 Office
East	Residential	R2F Two Family Residential
West	Residential	O-1 Office

INTENT:

Section 94-121(a) of the Zoning Ordinance indicates that the general intent and purpose of zoning district regulations is to "...accommodate permitted uses and structures in a manner that minimizes negative impacts on abutting properties and complements the unique character and identity of the city through appropriate architectural design including building size, building height, building materials, building location, signage, landscaping, buffering, safe circulation of vehicular and pedestrian traffic, and other pertinent development features".

NOTIFICATION:

Sixty-four letters were sent out notifying the public of this request. As of the writing of this report, no responses have been received.

ANALYSIS:

Table 100-1 requires a 25 foot front yard setback for uses located in the O-1 Office zoning district. If approved, the proposed porch will encroach the required front yard 16 feet 9 inches. The applicant is, therefore, seeking a variance from the front yard setback standard listed in Section 94-121(c)(1) and Table 100-1. The attached site plan shows the dimensions of the proposed porch.

The applicant's site plan does not label the property or right-of-way line. Staff, therefore, assumes all dimensions were relative to the property/right-of-way line. Mr. Tibbals was advised that setback standards apply to the property/right-of-way line in conversations prior to his application submittal.

It does appear that the original porch of the structure was converted to interior space.

VARIANCE STANDARDS:

Section 94-365 gives the Zoning Board of Appeals the authority to grant variances to structures. Subsection 365(c) states that, "A variance may be granted only when the variance application and other factual evidence demonstrate all of the following:"

- 1. The variance must be granted in order to avoid practical difficulties not created by the applicant that would result from strict application of the letter of this chapter.*
- 2. A variance will not permit the establishment within a zoning district of any use not permitted within the district.*
- 3. A variance will not cause a substantial adverse effect to property or improvements in the zoning district and the immediately surrounding neighborhood.*

4. *A variance will not be contrary to the public interest and will insure that the spirit and intent of this chapter will be observed, public safety secured, and substantial justice done.*
 5. *There is no lesser variance than that applied for which would give substantial relief to the applicant.*
-

Attachments:

1. Resolution 2012-02
2. Application
3. Site Plan (Option #1 and #2)
4. Elevations drawings (20
5. Photo of front porch area

Introduced:
Seconded:

**CITY OF MASON
ZONING BOARD OF APPEALS RESOLUTION NO. 2012-02**

**A Resolution Approving a 16 Foot 9 Inch Front Yard Setback Variance to Allow
the Construction of a Front Porch Structure on Property Located at 235 East
Maple Street**

August 8, 2012

WHEREAS, a request has been received from Richard Tibbals, the owner of record of parcel 33-19-10-09-105-010, for a variance to the front yard setback requirement for permission to construct a front porch at 235 East Maple Street; and

WHEREAS, the subject property is located in the O-1 Office zoning district; and

WHEREAS, Section 94-121(c)(1)a and Table 100-1 of the Mason Code lists the front yard setback for the O-1 Office zoning district as 25 feet; and

WHEREAS, the variance request does comply with the basic conditions of approval listed in Section 94-365(c) of the Mason Code; and

WHEREAS, a public hearing on the request was noticed and held at the Zoning Board of Appeal's special meeting of August 8, 2012, with testimony given and public comment solicited in accordance with Section 94-101 of the Mason Code.

NOW THEREFORE BE IT RESOLVED, that the City of Mason Zoning Board of Appeals does hereby approve the request for 16 foot 9 inch variance to allow the construction of a front porch on property located at 235 East Maple Street based on the plans received by the Zoning & Development Department on July 6, 2012.

Yes ()

No ()

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Zoning Board of Appeals at its special meeting held Wednesday, August 8, 2012, the original of which is part of the Zoning Board of Appeals minutes.

Deborah J. Cwierniewicz, Clerk
City of Mason
Ingham County, Michigan

APPLICATION – ZONING BOARD OF APPEALS

City of Mason

Planning Department • 201 W. Ash Street • Mason, MI 48854

Phone: 517/676-9155 • Fax: 517/676-1330

www.mason.mi.us

Applicant– Please check one of the following:	
<input checked="" type="checkbox"/>	Variance
<input type="checkbox"/>	Appeal of Administrative Decision
<input type="checkbox"/>	Interpretation of Ordinance Text
<input type="checkbox"/>	Zoning District Boundary Interpretation
<input type="checkbox"/>	Temporary Permit

PLANNING DEPARTMENT USE ONLY	
Application Received:	<u>July 6, 2012</u>
Tax ID:	<u>09-105-010</u>
Fee:	<u>\$ 250.00</u>
Receipt #:	<u>100129784</u>

I. APPLICANT INFORMATION

Name RICHARD C. TIBBALS

Organization PROPERTY OWNER

Address 235 E. MAPLE ST.

Telephone Number 517-676-9626 Facsimile Number _____

Interest in Property (owner, tenant, option, etc.) OWNER

Note: If applicant is anyone other than owner, request must be accompanied by a signed letter of authorization from the owner

II. PROPERTY INFORMATION

Owner RICHARD C AND JAMI M TIBBALS Telephone Number 517-676-9626

Property Address 235 E. MAPLE ST.

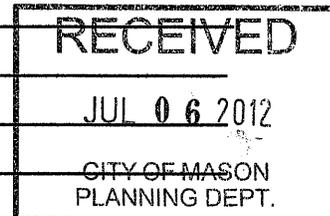
Legal Description: If in a Subdivision: Subdivision Name _____ Lot Number _____

If Metes and Bounds (can be provided on separate sheet): _____

Per owner M. Tibbals via phone 7/9/12:

Lot 12, block 9, Sec. 9 T2N R1W.

DA



APPLICANT CERTIFICATION

By execution of this application, the person signing represents that the information provided and the accompanying documentation is, to the best of his/her knowledge, true and accurate. In addition, the person signing represents that he or she is authorized and does hereby grant to City officials a right of entry for the purpose of inspecting the premises to verify compliance with conditions precedent to issuing Zoning Board of Appeals approval.

Signature *Richard C. Tibbals* Date 7-5-12

III. REQUEST DESCRIPTION

Please use this section to describe your request. Feel free to include additional pages and/or drawings, maps, photographs, and other documentation that might aid the Zoning Board of Appeals in its determination.

- **Variiances:** fill in the appropriate boxes in the following table, as shown in the EXAMPLE, and use the blank lines that follow the table to provide a detailed description and reasons for the variance. The Board of Appeals will review a request for variance subject to the standards listed in Sections 94-365(c) and (d) of the Mason Code. Your written response should address these standards.
- **All other requests:** please describe your request in complete detail using the blank lines. Requests are reviewed under the standards listed in Article XI of Chapter 94, Zoning, of the Mason Code. Your written response should address the appropriate standards.

A. Variance Table

	Variance Type	Ordinance Requirement	Applicant Proposal*
X	Rear Setback - EXAMPLE -	45 feet	43 feet
X	Front Setback	25 FEET	8' 3"
	Side Setback		
	Rear Setback		
	Height		
	Lot Coverage		
	Lot Size		
	Parking Spaces		
	Other (describe):		

* Example: If the ordinance requires a rear yard setback of 45 feet, and you propose an addition that would be 43 feet from the rear property line, you would write or type "43 feet" under "Applicant Proposal."

B. Written Description (Attach additional pages, if necessary)

OPTION # 1 -

APPLICANT PROPOSES TO RECONSTRUCT FRONT PORCH TO WITHIN 8' 3" OF PUBLIC SIDEWALK, (EXISTING SETBACK IS 11' 5")

OPTION # 2 -

APPLICANT PROPOSES TO RECONSTRUCT FRONT PORCH TO EXTEND WIDTH ONLY, AND PRESERVING EXISTING (HISTORICAL) SETBACK DIMENSION,

David Haywood

From: rtibbals@gmail.com on behalf of Rich Tibbals [tibbals@msu.edu]
Sent: Tuesday, July 10, 2012 6:38 PM
To: David Haywood
Subject: 235 E Maple Revised Site Plan
Attachments: 235 Maple St Site Plan rev3.graffle.pdf

Hi David,

Here is the revised site plan for my variance request. I measured from the centerline of Rogers street to determine the property line, and then measured the East set-back for the proposed porch as you directed. The mortgage document I mentioned earlier today is not an accurate drawing, as stated on the document, for any purpose other than for determining whether the main structure is encroaching beyond the property limits.

Thanks,

Rich

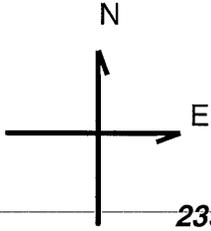
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Richard C. Tibbals
Director of Technology and Facilities
College of Communication Arts & Sciences

MICHIGAN STATE
UNIVERSITY

404 Wilson Road
Room 296
East Lansing, MI 48824-1212
Office: 517-432-5674
infotech.cas.msu.edu

RECEIVED
JUL 10 2012
CITY OF MASON
PLANNING DEPT.

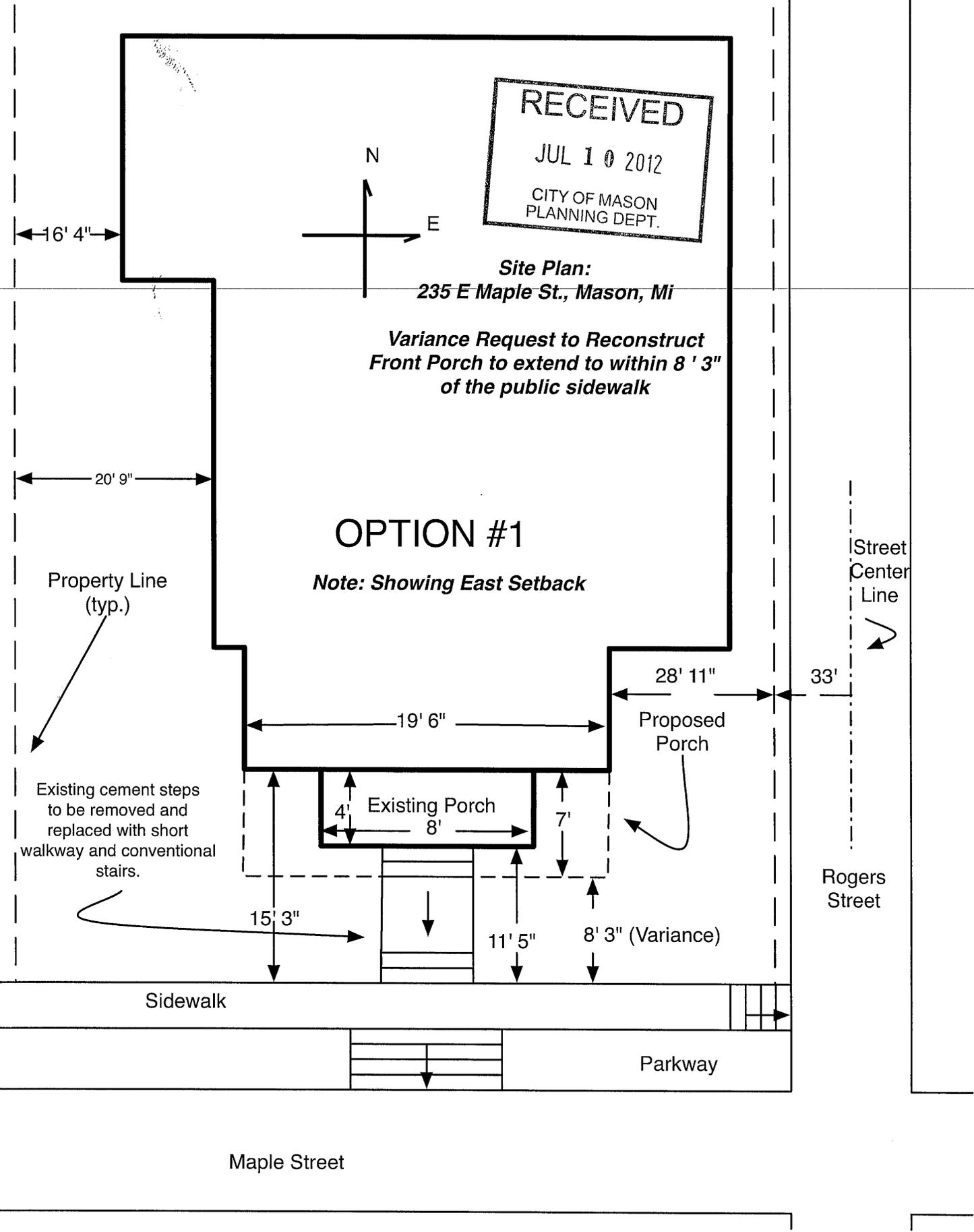


Site Plan:
235 E Maple St., Mason, Mi

**Variance Request to Reconstruct
Front Porch to extend to within 8' 3"**
of the public sidewalk

OPTION #1

Note: Showing East Setback



Property Line
(typ.)

Existing cement steps
to be removed and
replaced with short
walkway and conventional
stairs.

Street
Center
Line

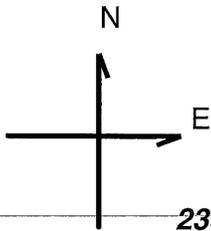
Rogers
Street

Sidewalk

Parkway

Maple Street

RECEIVED
JUL 10 2012
CITY OF MASON
PLANNING DEPT.



Site Plan:
235 E Maple St., Mason, Mi

Variance Request to Reconstruct
Front Porch and extend width, only.

OPTION #2

16' 4"

20' 9"

Property Line
(typ.)

19' 6"

Proposed Porch

Existing cement steps
to be removed and
replaced with short
walkway and conventional
stairs.

Existing Porch

8'

4'

Variance request
for width revision

15' 10"

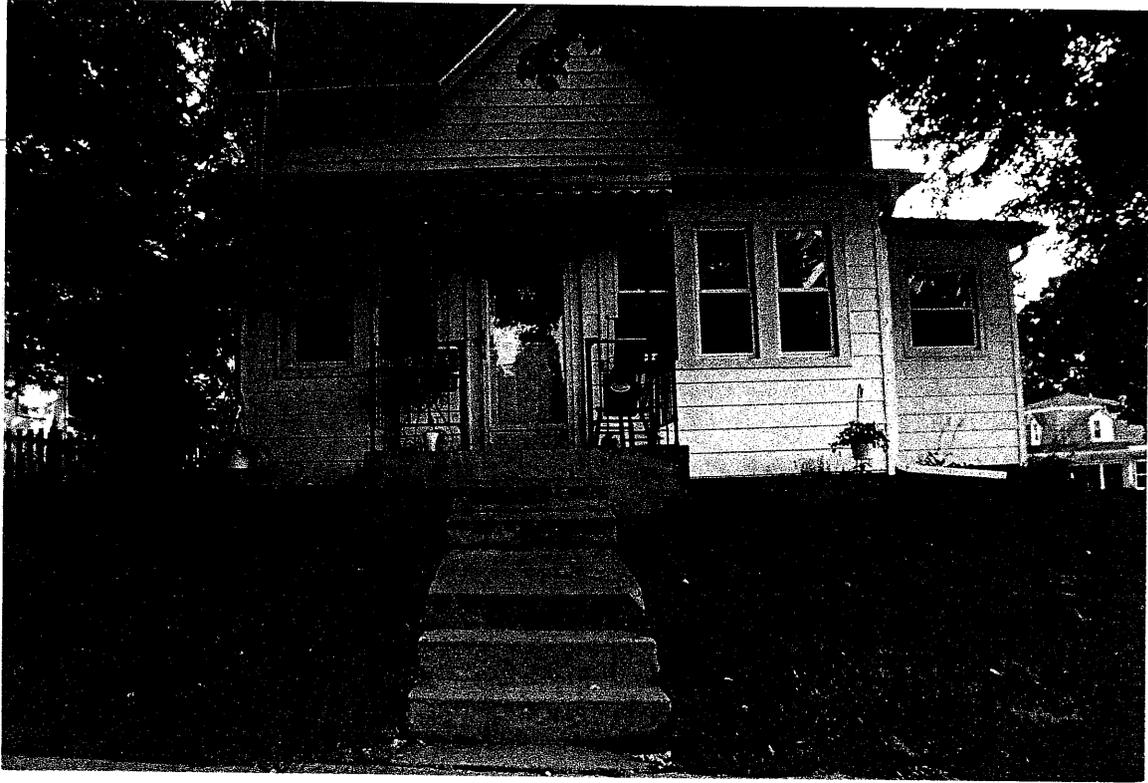
11' 5"

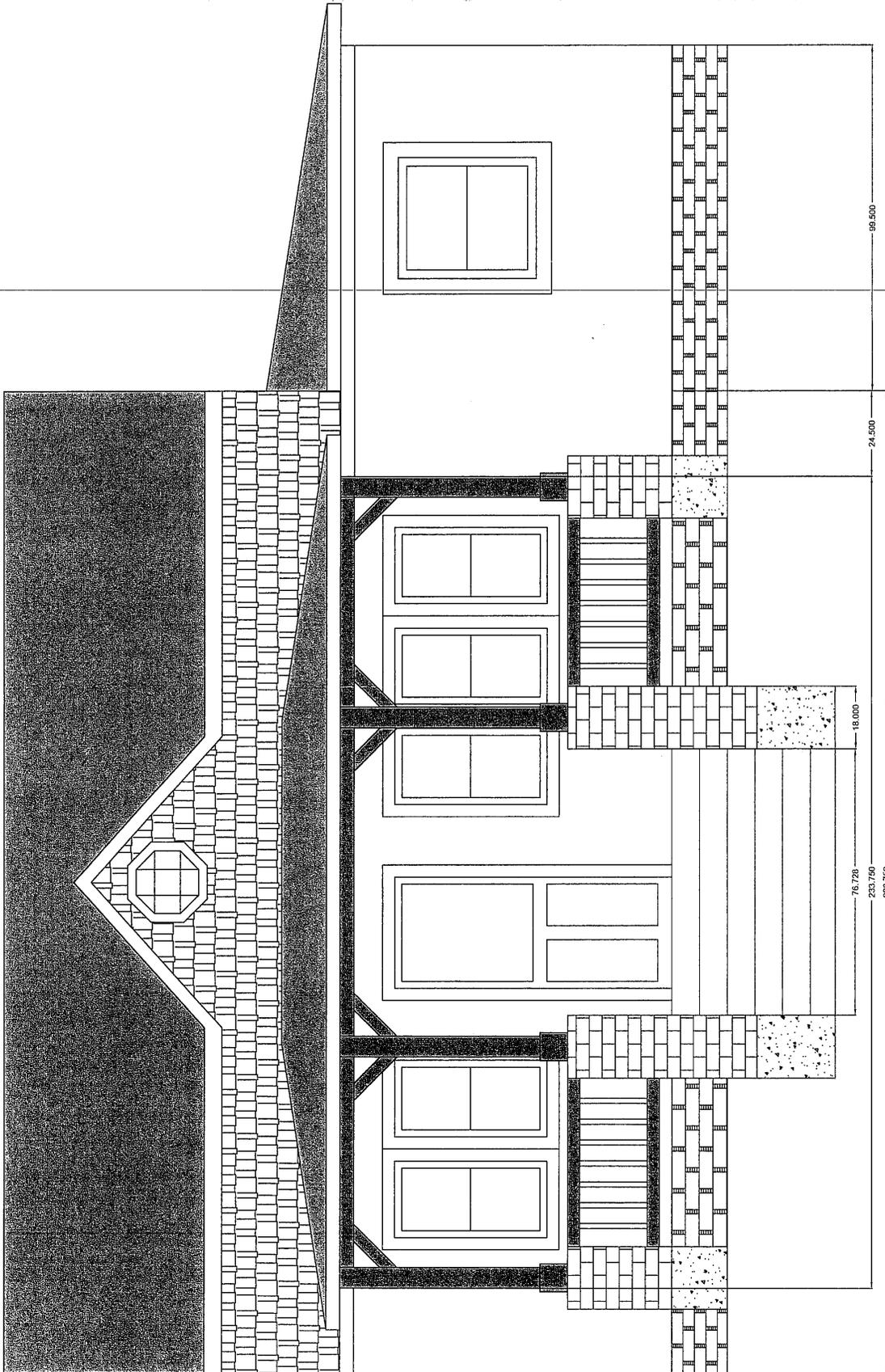
Sidewalk

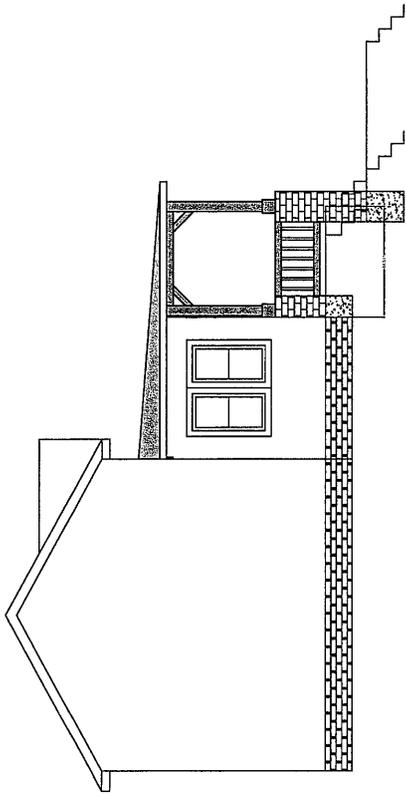
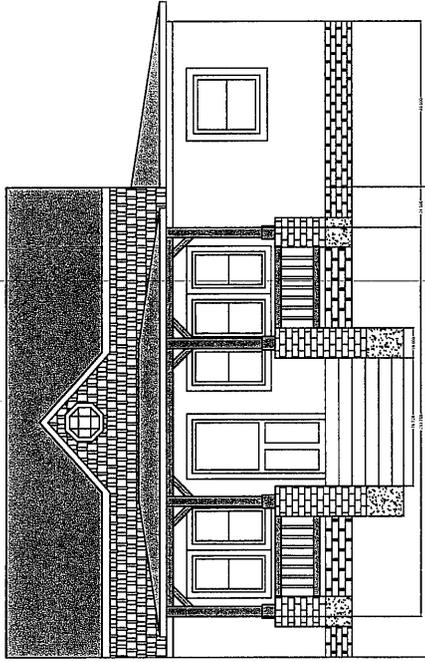
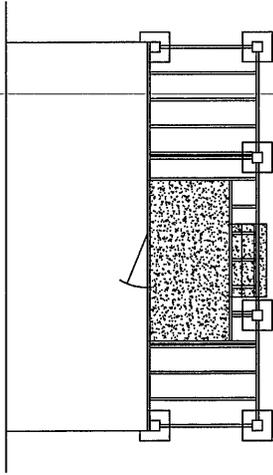
Parkway

Maple Street

Rogers Street







MICHIGAN



"PROTECTING THE RIGHTS OF
PERSONS WITH DISABILITIES"

Elmer L. Cerano, *Executive Director*

**PROTECTION & ADVOCACY
SERVICE, INC.**

Michelle Huerta, Esq.
President
Livonia

July 13, 2012

Kate Pew Wolters
1st Vice President
Grand Rapids

David E. Haywood
Zoning & Development Director
201 W Ash St
PO Box 370
Mason MI 48854-0370

Thomas H. Landry
2nd Vice President
Highland

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Clarkston

Kathy McGeathy
Flint

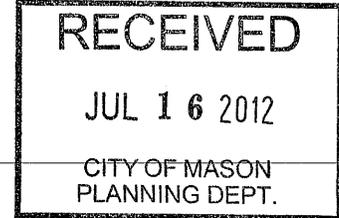
Susan L. Odgers
Traverse City

Stoney Polman, LPC
St. Johns

Jane Shank, MSW
Interlochen

Frederick F. (Rick) Swegles, Esq.
Port Huron

Frank Turnage, MLM, MSA
Roscommon



Sent via fax (517) 676-1330 and First Class Mail

RE: Variance Request and Reasonable Accommodation Request
Property: 955 S Eugenia

Dear Mr. Haywood:

I am an attorney with Michigan Protection and Advocacy Service, Inc. (MPAS), a non-profit agency. The Governor of Michigan has designated MPAS as the state's protection and advocacy agency with the authority to carry out and enforce the mandates under the federal protection and advocacy acts. In addition, we provide information, advocacy and legal representation to persons with disabilities on disability civil rights related issues.

Recently we were contacted by the McCartney family concerning the denial of their request for a 17 foot front yard variance that would allow them to install a ramp, which is absolutely necessary for their daughter Zelda's safety and for her ability to live independently. I hope once the zoning board is provided with the additional information below and are fully informed of the situation, it will reconsider its previous decision. I am therefore asking on their behalf that the Zoning Board of Mason reconsider their decision and as reasonable accommodation pursuant to the Americans with Disabilities Act, Rehabilitation Act and Michigan's Persons with Disabilities Civil Rights Act grant the McCartney family's request for a variance.

Zelda is 4 years old and was born prematurely as result of an automobile accident.

Main Office:

4095 Legacy Parkway, Suite 500 Lansing, MI 48911-4263
517.487.1755 (Voice or TTY)
800.288.5923 (Information and Referral)
517.487.0827 (Fax)

Marquette Office:

129 W. Baraga Ave., Suite A Marquette, MI 49855-4644
906.228.5910
866.928.5910 (Toll Free)
906.228.9148 (Fax)

MPAS Web site: www.mpas.org

She has been diagnosed with cerebral palsy and traumatic brain injury. As a result, she needs a wheelchair to get around. Up until now, her parents have been able to carry her to and from the car and to get in and out of the home. But, as she gets older and bigger, this is not a realistic option. Zelda is going to need a ramp to get into and out of the property. Additionally, as a safety measure, in case of a fire, the home needs to have at least two accessible exits to the property.

I know it has been suggested that the ramp could be built on to the side door exit of the property. There are a number of reasons why this would not work:

1. The side entry would still provide only one exit;
2. Secondly, the stairs to the basement come right up to the landing by the side door exit, creating a very narrow entry way creating a risk that Zelda may fall down the stairs and it is therefore unsafe;
3. Finally, the family is working with their insurance company on plans to build an addition on the home that will allow the bathroom and the kitchen to be accessible to Zelda. It would also include a ramp for a rear exit (She will still need a front exit to and from the home, again for safety issues.).

This is a family that wants to improve their property and make it accessible. Having an accessible property would increase not decrease the value of their home and the surrounding home values. This is a young family that wants to build their future in your community. Granting this request will help them do that. Granting the request would not cost the city anything nor create any administrative burden on the city. I therefore ask again that you grant the variance.

If you need any additional information, or would like to discuss possible solutions, please let me know. I can be reached at our Lansing office, though I will be out of the office the week of July 16th. Please let us know your decision no later than July 31, 2012.

Sincerely



Chris Davis
Attorney

CD/lmm

cc: Robert McCartney

City of Mason

201 W. Ash St.
P.O. Box 370
Mason, MI 48854-0370
www.mason.mi.us



City Hall 517 676-9155
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TDD 1-800-649-3777

July 18, 2012

Mr. Chris Davis
Michigan Protection & Advocacy Service, Inc.
4095 Legacy Parkway, Suite 500
Lansing, MI 48911-4263

Re: 955 S. Eugenia Drive – request for reconsideration of variance denial

Dear Mr. Davis:

We are in receipt of your request for the Mason Zoning Board of Appeals (ZBA) to reconsider their decision to deny Robert McCartney's request for a front yard variance. We are very sympathetic of this issue and wish to assist your organization, as well as the McCartney family, to find a workable solution that will satisfy all concerned parties. To further this goal, I have forwarded contact information to Mr. McCartney of an area agency that assists families with a variety needs, including wheelchair ramp construction. The contact is Mr. Donald Jacot of the Kiwanis Club of Mason Golden K at (517) 676-5358. We are also currently processing Mr. McCartney's request for a temporary ramp.

Your request, as stated in your letter of July 13, 2012, for the ZBA to reconsider their decision is noted and your correspondence will be forwarded to them at their next regularly scheduled meeting on August 8, 2012. Meetings are held in the second floor training room at 6:30 p.m. at City Hall, 201 West Ash Street, Mason, MI 48854. For your information, all of the "additional information" you mention in your letter was considered, in one way or another, at the April 25, 2012, ZBA meeting.

I hope this is responsive to your inquiry. Should you have any questions or concerns, please feel free to call or write again.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Haywood", written over a white background.

David E. Haywood
Zoning & Development Director

cc: Martin Colburn, City Administrator
Mason Zoning Board of Appeals

David Haywood

From: CHRIS DAVIS [CDAVIS@mpas.org]
Sent: Tuesday, August 07, 2012 1:51 PM
To: David Haywood
Cc: Robert McCartney
Subject: Re: Request for Reconsideration on 955 S. Eugenia Dr.

Mr. Haywood,

I am letting you know that we are dropping the request for a reconsideration regarding the denial of a variance for 955 South Eugenia Drive. Mr. McCartney is working with his builder and insurer on completing plans for a ramp that will be within the existing variance. Thank You and if you have any questions please feel free to call me.

Chris E. Davis, Attorney
Michigan Protection & Advocacy Service, Inc.
4095 Legacy Parkway, Suite 500
Lansing, MI 48911-4263
(Voice or TTY) 517-487-1755
(Fax) 517-487-0827

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