



**AGENDA**  
**KENTWOOD ZONING BOARD OF APPEALS**  
**KENTWOOD CITY HALL**  
**CITY COMMISSION CHAMBERS**  
**NOVEMBER 15, 2021, 7:00 P.M.**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes of October 18, 2021
5. Public Hearing

Appeal#V-21-14 (Tabled from October 18, 2021)

Applicant: J and C Tires  
Location: 5170 Division Avenue

Request: The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.

Appeal #V-21-15

Applicant: Andrew & Barbara Terrien  
Location: 1435 Bowdoin Street

Request: The applicant wishes to install a six (6) foot high privacy fence in the required front yard. Section 3.19.B.1 of the Kentwood Zoning Ordinance limits the height of the fence to three (3) feet. The requested variance is for a three (3) foot increase in height over the maximum allowed by ordinance.

6. Adjournment



**PROPOSED MINUTES OF THE REGULAR MEETING  
OF THE KENTWOOD ZONING BOARD OF APPEALS  
CITY COMMISSION CHAMBERS  
OCTOBER 18, 2021, 7:00 P.M.**

1. Chair Derusha called the meeting to order.
2. Pledge of Allegiance
3. Roll Call  
MEMBERS PRESENT: Lisha Berry-Ridge, Les Derusha, Robert Houtman, Alan Lipner, Mary VanNoord and Susan West  
MEMBERS ABSENT: Ricardo Rogers (absent with notification)  
OTHERS PRESENT: Planner Joe Pung, Planning Assistant Monique Collier, and the applicants.

**Motion by Houtman, supported by Lipner, to excuse Rogers from the meeting.**

- Motion Carried (6-0) –
- Rogers absent -

4. Approval of the Minutes and Findings of Fact

**Motion by Houtman, supported by VanNoord, to approve the minutes of September 20, 2021.**

- Motion Carried (6-0) –
- Rogers absent -

5. Acknowledge visitors and those wishing to speak to non-agenda items.

There was no public comment.

6. Public Hearing

Appeal #V-21-12 (tabled from September 20, 2021)

Applicant: Trent R. Wadsworth  
Location: 4553 Burton Street

Request: The applicant wishes to expand an existing detached accessory building to 1,300 square feet in area. Section 3.15.D.2.a of the Kentwood Zoning Ordinance limits the size of the detached accessory building to 960 square in area



The requested variance is for an increase in area of 340 square feet over the maximum permitted by ordinance.

Trent Wadsworth, 4553 Burton was present representing the request. He stated he would like to add 6 feet to the one side of his existing garage and 8 feet to the back side of it.

Houtman read letters from neighbors. Jeff and Carol Dills, 2265 Burton Pines; Jack and Kristen Dumez, 4583 Burton St. and Judith Willard Curtis, 4525 Burton Street submitted letters in support of the request.

Robin Van Dalson, 4511 Burton Forest Ct. submitted a letter in opposition of the request. She stated the forest is considered a conservation area. She stated she would like to keep the wildlife, natural beauty and a sense of privacy. She also stated he has had interaction with Mr. Wadsworth and none of the encounters have been pleasant.

Wadsworth stated he doesn't know who Robin Van Dalson and he doesn't remember communicating with anyone. Wadsworth stated as far as taking down more trees there will be no more trees taken down. He stated there is only one house who can see the proposed garage and that is Dills who wrote a letter in support.

VanNoord pointed out that he has the house, 3 stall garage, the building that he wants to add to, and then another building behind that, and then the pool in the back with a pool house. She stated he has quite a few buildings already on his property and questioned what his reason is for making the building bigger. Wadsworth stated he has worked for the last 30 years in the theater department running the performing arts center. He stated he has a huge shop to work in all the time and he enjoys woodworking a lot. He stated he would like to be able to continue that. He stated there isn't enough room; once you get equipment in there it is not enough room to do any work.

Houtman questioned if he would have an issue getting rid of the one storage building that is behind his garage. Wadsworth stated it is a useful building he built a vehicle and his grandkids drive it when they come visit. He stated on the other side he stores his tractor or another vehicle that he built for the theatre. He stated he wouldn't have any place to put those if he removed that building.

Wadsworth stated they live on almost 5 acres of land away from everybody. He stated they love the land and they love the house. What he is requesting shouldn't be an encroachment on anyone's viewing or property in the area because of the large amount of land that they have and the heavily wooded area.

Derusha questioned the conservation area that a resident bought up. Pung stated he thinks it is the adjacent Shiloh hills development to the north; due to some wetlands it is a wetland conservation area.



Lisha-Berry Ridge questioned what would be allowed if they had 5 acres. Pung stated 1,100 square feet for properties of 5 acres or more.

Derusha opened the public hearing.

There was no public comment.

**Motion by Houtman, supported by VanNoord, to close the public hearing.**

- Motion Carried (6-0) –
- Rogers absent –

Lipner stated point 1 is met based on the size of the lot and density of trees. Lipner stated point 2 is met there are a number of larger pieces of property in Kentwood but his property is well hidden from the road. Lipner stated point 3 is met. He already has 960 square feet but taking into account the actual nature of the property.

Houtman, West and Derusha concurred that points 1, 2 and 3 have been met

Berry Ridge stated point 1 has been met. Point 2 has not been met. Point 3 has been met if limited to 1.100 square feet since it is close to 5 acres in size.

VanNoord 1 has not been met. Point 2 has not been met as there are other similar properties. Point 3 has not been met.

Lipner stated point 4 is met there were neighbors that approved. Lipner stated 5 point is not met because the variance is written so specifically it will impair the intent. Lipner stated point 6 is not met, this is the applicant's own actions.

Berry Ridge stated that point 4 has been met and point 5 has been met and point 6 has not been met.

VanNoord stated point 4 has been met, point 5 has not been met and point 6 has been met.

Houtman, West and Derusha stated points 4, 5 and 6 have been met

**Motion by Lipner supported by VanNoord to deny V-21-12.**

- 5. Taken as a whole, the variance will impair the intent and purpose of the Zoning Ordinance.**
- 6. The exceptional conditions or circumstances result from the actions of the applicant.**

- Motion Failed (3-3) -
- Yeas - (Lipner, Berry-Ridge, VanNoord)
- Nays – (Derusha, West, Houtman) -



**Motion by Houtman, supported by Lipner, to approve V-21-12**

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property such as size of the lot the numbers of trees and setback from the road.**
- 2. The condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.**
- 3. The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.**
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.**
- 5. Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.**
- 6. The exceptional conditions or circumstances do not result from the actions of the applicant.**

- Motion Failed (3-3) -
- Nays - (Lipner, Berry-Ridge, VanNoord)
- Yeas – (Derusha, West, Houtman)

Appeal #V-21-13

Applicant: Leo T. Hendges  
Location: 2932 East Paris Avenue

Request: The applicant wishes to split an existing parcel into two separate parcels. One of the parcels would have an area of 14,668 square feet. Section 8.03.B.1 of the Kentwood Zoning Ordinance requires a minimum lot area of 15,000 square feet. The requested variance is for a reduction of 332 square feet from the minimum required lot area.

VanNoord removed herself from the variance request.

Leo T Hendges, 2932 East Paris was present representing the request. He stated they would like the office they use 2932 East Paris to be a stand alone lot at 14,668 square feet which would allow the wooded area that is also part of the same parcel to be established as a separate 15,000 square foot C4 lot. He stated it is a wooded area out back and he has to cut the vegetation off of the sidewalk. Hendges stated he didn't know the City had taken some of the parcel in 1996 as part of expanding East Paris. He stated East Paris was a 2 lane road they widened it into 4 lanes with a turn lane and as part of that they took 17 feet on each side. He stated he disagrees with staff's comment regarding it is not uncommon for the City to acquire rights to expand roads because 17 feet is a huge



expansion. He stated at the time it was a 31,000 square foot lot they took 1800 square off of it and that is why they are 332 square feet short of having enough space to have 2 separate lots. He stated this is why he thinks it is an exceptional circumstance. He stated out of all the variances that were denied in the past none were because the City came and took property as part of an expansion of the road. He stated his is the first in the last 36 years and this makes it exceptional.

Hendges stated it meets point 2 because nobody has had a similar circumstance where they had to come to the City and ask for a variance because their lot had been reduced as part of the expansion of the road

Hendges stated they meet point 3 because it is still listed as R2 but in 2006 it was rezoned to C4. 2921 and 2940 East Paris are zoned R2 and have use variances allowing for commercial use and he should have the same right

Hendges stated point 4 if they grant the variance it wouldn't change the makeup of the neighborhood because anyone who wants to build on the new lot would be building on a 15,000 square foot.

Hendges stated point 5 the time the ordinance was written his parcel was over the 30,000 sq. feet requirement. He stated and it wouldn't be a single change to the footprint that his office has.

Hendges stated point 6 is met because he had nothing to do with the City coming in to add 3 lanes.

Lipner questioned there is an open area and then a sidewalk who owns it. Pung stated that is part of the City right-of-way. Pung stated the City bought property from the school and they didn't need it all. Pung stated before the expansion and widening of East Paris Avenue they had over 30,000 square feet. Discussion ensued regarding the widening of East Paris and the ROW

Berry- Ridge questioned if the variance is granted what is the plan for the second parcel. Henges stated probably sell it and whoever wants to develop it to whatever would be an approved use.

Houtman questioned how short is he. Henges stated 332 square feet (2 ½ feet). Houtman questioned what has happened in the past if the City acquires property and this happens. Pung stated he isn't aware of this circumstance.

Derusha opened the public hearing.

There was no public comment.

**Motion by Houtman, supported by Lipner, to close the public hearing.**



- Motion Carried (5-0) –
- Roger absent –
- VanNoord recused -

Houtman stated points 1, 2 and 3 have been met because they involuntarily had property taken from them to expand East Paris Avenue

West, Berry-Ridge, Lipner, and Derusha concurred that points 1, 2 and 3 have been met.

Houtman stated points 4, 5 and 6 have been met.

West, Berry-Ridge, Lipner, , and Derusha concurred that points 4, 5 and 6 have been met.

**Motion by Houtman, supported by West, to approve V-21-13.**

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. The acquisition of 17 feet of property for the widening of East Paris is exceptional situation on the land, building or structure.**
- 2. Due to the acquisition of property by the City the condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.**
- 3. The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.**
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.**
- 5. Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.**
- 6. The exceptional conditions or circumstances do not result from the actions of the applicant. The City's acquisition of property was not created by the applicant.**

- Motion Carried (6-0) –
- Rogers absent –
- VanNoord recused -

Appeal#V-21-14

Applicant: J and C Tires  
Location: 5170 Division Avenue

Request: The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning



Administrator's determination prohibiting the display of tires along the edge of the parking lot.

Juan Buitron, 1930 Havana, Wyoming MI and Jose were present. He stated they would like to take the tires outside in front and bring them in and out daily. He stated they have one bay that is used for storage and they want to move some of those tires outside along the edge of the parking lot to free up that bay. He stated they would also like to avoid the people going through the grass and also use the tires for advertising, Jose displayed pictures of the site with the tires out in front of the business.

Houtman stated he visited the property and was told that they move the tires back in at night. Also they had some land or required somehow to expand the parkway which was past their parking lot. He stated that he was told the reason why they want the tires out front, besides needing room inside, is that they have cars that are their customers that back out and back on to that land that grass or if there are cars parked there they said they hit the cars. He stated so they have to go outside to keep people from backing into another customer's car. Juan stated that is correct that is what happens.

Houtman stated they also told him that they are going to put the tires in at night and during the day they are going to put one tire up on top of the tires they want to keep out front so it looks like a display of what they do. Juan stated where they put the tires they want to make a parking spot. He stated cars park in the front.

Houtman stated the tires out front accomplish two things. One it gives them space inside during the day and at night they move them back and secondly it keeps cars from parking there and therefore they have to park elsewhere on their property because cars back out and hit those other cars. He questioned if they have actually had that happen. Juan stated yes and also when people park right in front of the building they have to move them because when they pull the cars out they don't want any accidents there. He stated when people go into the grass and if it is wet they have to fix it.

VanNoord stated when she was out at the property people were parked in front of the tires also. She stated they have some sidewalk and some trees planted that is very nice she doesn't understand why people would go on that. She stated she had to park around the side of the building. She questioned if they ever put the tires on the side of that building. Juan stated no. VanNoord stated when she was there the tires were out front and there were a lot of cars. It was raining but she parked on the side and walked around. She stated she didn't see that the tires would help for the car situation. She questioned if they ever put a sign out there just saying no parking. Juan stated they will. VanNoord stated she understand that they need room for them to back out on for coming in, she understands there is not a lot of room right there.

Juan stated the City wants them to make it a parking spot otherwise he said to provide another parking area.



Houtman questioned if this were approved is it his plan to put signs there that direct people around to the sides or the back. He said yes because people are parking in the front.

Houtman questioned if he has enough parking for his customer flow if he prohibits parking in front and put the tires there does he have enough parking around the sides and the back. Juan stated yes.

Houtman stated a letter was submitted in support of the request and questioned who he was. Tim Denshin, PNP Operations manager submitted a letter in support of the request.

Lipner questioned if the building they were in is all their business. Juan stated yes. He stated one part of the building they do oil changes, brakes and alignments and the other part they do the tires. Lipner questioned if they have signs up advertising that. Juan stated they had a sign outside for over a month but not anymore. Juan stated they have a banner in front of the bays that advertise the alignments. Lipner questioned if there were any signs for the tires. Juan stated the pylon sign out front.

Houtman stated the grass strip between the sidewalk and the tires was that part of the parking lot at one point. Juan stated yes they took out the concrete and put grass.

Houtman questioned if that is part of the Form Based Code. Pung stated with the FBC there are some requirements for a greenbelt and even under a C2 district there would be required a 35 foot landscape frontyard. Houtman stated but this business has been there. Pung stated if it is vacant for 6 months and signs come down it is non-conforming. Pung stated in the FBC major vehicle repair is not allowed. Pung stated when they came in there was discussion to make some modifications to the site and let them bring that use over even though it was close to becoming not allowed. Pung stated if it is a nonconforming use and it is abandoned you can't go back in.

Pung stated under the FBC the intent would be if the building was not there and a new building being built it would be setback within 15 feet of the property line. FBC pushes the buildings up to the front. Pung stated there are some exceptions based on the type of FBC district it is in but generally the buildings are being pushed up to the street. Similar to the apartments to the north.

Houtman stated it would be impossible for him to have this business if that was the requirement because how would you get cars in there. Pung stated there is allowance for vehicle repair you do it in the back. There is allowance for coming in the building up front and you would have the garage doors in the back. One zone district allows for greater setback up to 50 feet but there are other restrictions. However there are other ways to make those work but you would probably be coming in from the back and that would be where the overhead doors would be and not the front facing the street.



VanNoord stated he has 11 stacks of tires are his plans to continue to make more stacks of tires and higher. Juan stated he would like 15 stacks of tires. VanNoord stated he could put the stacks of tires on the side of the building along 52<sup>nd</sup> Street because he needs room and then he would still have parking on that side as well. Juan stated it would be more work for them.

Houtman stated staff referenced those tires had to be under an awning or a tent. Pung stated in the C2 district there is no allowance for outdoor display within a required front yard. Pung stated staff made the interpretation that they will carry over the allowance for limited outdoor display in the C2 zoning district and make that allowance also available in the FBC. Generally if it is not specifically allowed in the ordinance it is not allowed. Therefore the interpretation was made to still allow for the limited outdoor display that is afforded businesses in the C2 zoning district. It would afford that same limited allowance under the FBC. It is still not allowed for display anywhere in the frontyard. Houtman questioned if this is a first time for an interpretation. Pung stated we have had a lot of interpretations. Right now the ordinance states you can't put anything in the front yard. There was an interpretation to allow for limited display against the building. If they met that there is allowance for them to do it against the building. It is only through the interpretation it is allowed against the building. Right now there isn't allowance for display in the front yard. Right now in the C2 zone you can't display product in the front yard.

Houtman questioned if they could have a limited display on either end of the building. Pung stated they would have to work with the Zoning Administrator to make sure it met with the intent and purpose of that interpretation. Pung stated you just can't have display outside of that interpretation because display in the front yard is not allowed. Staff made the interpretation and if it meets the interpretation they can do it on this site.

Lipner stated the Zoning Administrator is also stating that staff has interpreted an exception to the provision allowing for limited display of merchandise for commercial businesses to be restricted to a sidewalk area under the canopy or awning along the front of the building. Derusha noted that the Zoning administrator didn't say anything about the side of the building. Houtman stated nor did Zoning Administrator say anything about an awning on the side of the building.

Pung stated we can get a clarification on the interpretation of where they can put them against the building.

VanNoord stated she moves that we get a clarification. Derusha stated from his observation the Zoning Administrators interpretations have been seldom overridden he thinks about them pretty well.

What the applicant is asking for is that the interpretation is they can display the tires along the property. Whether the clarification says yes they can put them on the south side of the building or no they have to be under a covering will that make a difference



with respect to the interpretation that the tires can't be along the road. He stated if they wanted to table for clarification they can is it going to make a difference with regards to supporting or overturning the interpretation as it stands right now.

Berry-Ridge stated if the commissioners don't vote tonight and they start putting tires on the side do we just move on and not do anything. Pung stated we can check with Zoning Administrator to see if they can put the tires against the building that would still fall with the interpretation that was made for the C2 zone allowing display along the building. Lipner stated staffs comments are only out the front of the building not the side.

Derusha stated we want to make sure all the competitors don't start putting everything out in front of the building then that is a problem.

Lipner stated if you drive down Division there is no one else that has anything displayed in the front. There is another tire store a block away and they don't have anything out there either. The current zoning says we don't allow it.

**Motion by Houtman, supported by Lipner, to table V-21-14 to November 15, 2021.**

- Motion Carried (6-0) –
- Rogers absent -

**Motion by Houtman, supported by Lipner, to adjourn the meeting.**

- Motion Carried (6-0) –
- Rogers absent -

Meeting adjourned at 8:35p.m.

Respectfully submitted,

Robert Houtman, Secretary



STAFF REPORT: October 13, 2021  
PREPARED FOR: Kentwood Zoning Board of Appeals  
PREPARED BY: Joe Pung  
CASE NO.: V-21-14

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#### GENERAL INFORMATION

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APPLICANT: J and C Tires  
Attn: Juan Buitron  
5170 Division Avenue, SE  
Kentwood, MI 49548

STATUS OF  
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.

EXISTING ZONING OF  
SUBJECT PARCEL: FBC Form Based Code

GENERAL LOCATION: 5170 Division Avenue, SE

PARCEL SIZE: .38 acres (16,510 square feet)

EXISTING LAND USE  
ON THE PARCEL: Commercial Business

ADJACENT AREA  
LAND USES: N - Apartment Complex (under construction)  
S - 52<sup>nd</sup> Street ROW  
E - Commercial Building  
W - Division Avenue ROW

ZONING ON ADJOINING  
PARCELS: N - FBC Form Based Code  
S - FBC Form Based Code  
W - Form Based Code (City of Wyoming)  
E - FBC Form Based Code



Staff Comments:

1. The applicant wishes to display tires along the edge of their parking lot. The Zoning Administrator has made the determination that tires cannot be displayed along the edge of the parking lot. The applicant is appealing the Zoning Administrator's determination prohibiting the display of tires along the edge of the parking lot.
2. As indicated in the attached memo from the Community Development Director dated September 13, 2021; Section 8.03.B.1 of the Kentwood Zoning Ordinance requires principal activities of commercial businesses to be conducted within an enclosed building (except for specific special land uses such as open-air businesses). In the past, the Zoning Administrator had made an interpretation that allowed for limited outdoor display in a commercial district; the display was restricted to the sidewalk area under a canopy or awning along the front of a building, no display was permitted within the required front, side, or rear yards or in parking areas or traffic lanes. The Zoning Administrator has made the interpretation that the open-air display of merchandise by commercial businesses operated in the Form Based Code district also be restricted to the sidewalk under the canopy or awning along the front of the building.

The applicant wishes to display tires along the outer edge of their parking lot and is appealing the Zoning Administrator's determination that such display is not allowed.

3. Section 8.03.B.1 of the Kentwood Zoning Ordinance prohibits storage in the required front yard of a commercial or office property.
4. Since 1985, the Zoning Board of Appeals has heard approximately thirty-four (34) appeals to Zoning Administrator determinations and interpretations. Some of the more recent appeals are as follows:

Case #	Address	Sign Issue
V-21-09	5945 Christie Avenue	Denied (utility cabinet height)
V-21-08	426 Pine Vista Drive	Denied (utility cabinet height)
V-21-07	1539 Pickett Street	Denied (utility cabinet height)
V-17-20	3333 – 28 <sup>th</sup> Street	Withdrawn (interpretation that a mural on an exterior wall is an art display venue and not permitted)
V-16-07	241 – 44 <sup>th</sup> Street	Denied (residential parking addition exceeding what is allowed)
V-16-02	12 Daniel Street	Denied (appeal requirement to modify existing front yard fence to provide clear vision)
V-13-04	3017 – 52 <sup>nd</sup> Street	Withdrawn (number of permitted accessory buildings)
V-10-18	3110 – 28 <sup>th</sup> Street	Denied (upheld determination that the statue was considered a sign)
V-06-22	1950 – 44 <sup>th</sup> Street	Withdrawn (related to signage and



		determination of street frontage)
V-00-16		Denied (upheld determination that a cell tower be located on its own parcel)
V-00-07	4860 Broadmoor Avenue	Granted (reversed decision that drive-thru lanes are not permitted in industrial districts)
V-00-02	2757 Ridgemoor Drive	Denied (upheld the determination that a proposed business was a regulated use)
V-00-01	3160 – 28 <sup>th</sup> Street	Denied (upheld determination that wall graphics were considered signage)
V-99-24	2757 Ridgemoor Drive	Granted (reversed determination of minimum number of signatories required to permit a regulated use)
V-99-22		Dismissed (related to graphics as signage/the applicant failed to appear for two meetings)

5. The Zoning Board has the obligation to review alleged misinterpretations made by administrative officers. Rational review of the Zoning Ordinance provisions guides the Board's decision.
6. A majority vote by at least four members of the Zoning Board is necessary to reverse a determination by the Zoning Administrator.



**Exhibit 1: Location of Appeal**





**Exhibit 2: September 2019 Google Street View Image of Site**





## Updated Zoning Interpretation

FROM: Terry Schweitzer, Zoning Administrator

DATE: August 19, 2020 **October 20, 2020 Update**

RE: 5170 Division Avenue

The City building permit records relating to the property at 5170 Division Avenue reflect that there was a service station operated on the site as far back as the mid-1950's. In 1975 a rear yard dimensional variance was granted by the Zoning Board of Appeals to allow for an addition to the building to accommodate 3 service bays. It is unclear at what point the service station discontinued the retail sale of fuel, but it appears that automobile repair was the prominent use of the property from 1975 to at least 2014 by Bryce's Auto Repair and its successor, Affordable Auto Repair. On or about October 13, 2014 Hardcore Tire began operation at this site. According to their website they specialized in Tire Shops Services, Oil Changes Services and Brake Service.

On February 5, 2019 I interpreted that Hardcore Tire, then the most recent occupant of the building, was a minor vehicle repair operation, a use allowed by Special Land Use and site plan review under the Corridor Edge Form Based Code zoning of the site. Given the apparent ongoing use of the building for minor vehicle repair, it was to be considered an existing non-conforming use provided that the minor vehicle repair was re-established by August 5, 2019. Documentation has since been submitted to verify that minor vehicle repair services were re-established and continued on-site through at least September 25, 2019.

After further deliberation I find it reasonable to conditionally redefine the allowable extent of existing nonconforming vehicle repair as follows: any activity involving minor repair and maintenance of passenger vehicles and light trucks and vans, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, auto glass installation and repair. Given the most recent use of the property involving tire installation and repair, as well as muffler and brake services, these uses will also be permissible as legal non-conforming use.

On July 20, 2020 a business license application was filed by J and C Tires, LLC in quest of opening a new and used tire shop that also offered muffler and brake service. I have met with Juan Buitron and his partner several times at the site to discuss the required landscape and paving improvements. I have highlighted the agreed upon conditions:

The conditions associated with this interpretation are as follows:

1. All repair work shall be done within the building.
2. The hours of operation are limited to 8:00am-6:00pm, Monday through Saturday and closed on Sunday.
3. 6-foot-high stockade fence required along north lot line from the front face of the building east to the rear lot line. *This fence can connect back to the building and be equipped with a gate.*
4. No operator shall permit the outdoor storage/parking of automobiles, trucks or trailers within the parking lot. It is presumed that vehicles on the site for a period in excess of 72 hours would



represent a violation of this requirement. No other outside storage of vehicle parts, equipment or merchandise is allowed.

5. Accessory buildings shall not be permitted.
6. A dumpster enclosure is allowed, provided it is of a cinder block construction comparable to the existing main use building, six-foot in height and equipped with a wooden gate. Such enclosure shall not exceed 200 square feet in area, and it is to be located at the northeast corner of the site. *The operator elects not to install an outside dumpster, opting instead to remove all trash and debris daily.*
7. The entire Division Avenue frontage shall be landscaped to a *ten-foot* setback except for *up to a 30-foot-wide driveway*. The entire 52<sup>nd</sup> Street frontage shall be landscaped to a 10-foot setback except *for up to a 30-foot-wide driveway*. *The plans for the reconstruction of 52<sup>nd</sup> Street from Division to Kellogg Woods Drive will accommodate the relocation of the existing twenty-five-foot-wide 52<sup>nd</sup> Street driveway approximately 30 feet to the east. The landscaping of the 52<sup>nd</sup> Street frontage east of the new driveway will be deferred until the property to the east is redeveloped with a landscaped setback along 52<sup>nd</sup> Street.*
8. *At a minimum*, the area east of the building shall be paved *to accommodate the parking of one semi-trailer to store either new, used and/or discarded tires*. Pavement will also be required if parallel parking and a one way counterclockwise maneuvering lane is established along the east side of the building. There should be sufficient room to establish 4 parallel parking spaces just east of the *10-foot* landscaped setback along Division Avenue. Another three parking spaces can be established along the south side of the building. *The landscaped islands along the south side of the building can be reduced to 5'x5'.*
9. The plans for any new paving along the east side of the building must be submitted to the Kentwood Engineering and Planning Departments for approval.
10. No *overnight* parking north of the building.
11. *No more than one storage container can store your new and/or discarded tires. The storage container must not exceed 40 feet in length, 8 feet in width and 7 feet in height and shall be placed on a paved surface on the east side of the building. This paving shall be deferred to April 30, 2021.*
12. *The prospective vehicle repair operator, J and C Tires LLC, filed a business license application with City Clerk Dan Kasunic on July 20, 2020 indicating their desire to operate a new and used tire shop offering muffler and brake services. By signing this document, they are agreeing to limit their vehicle repair services accordingly as well as comply with the associated conditions of this interpretation.*
13. *Once the vehicle repair as defined and conditioned above is re-established, the installation of the landscape improvements along the Division Avenue and 52<sup>nd</sup> Street frontages and paving of at least the area east of the building, on which to park a semi-trailer, must be completed within sixty (60) days thereafter. See attached revised site plan dated 8-19-2020.*

Signatures

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CITY OF KENTWOOD  
ZONING BOARD OF APPEALS  
APPEALS OF ADMINISTRATIVE RULINGS APPLICATION

APPEAL # V-21-14  
HEARING DATE 10-18-21  
PHONE # 616 534-7182  
APPLICANT: J and C Tires  
ADDRESS: 5170 Division Ave S  
PROPERTY OWNER: Juan Buitron PHONE # 616 961-7353  
ADDRESS: \_\_\_\_\_  
LOCATION OF APPEAL (If applicable) \_\_\_\_\_  
ZONING DISTRICT OF PROPERTY: \_\_\_\_\_  
ZONING ORDINANCE SECTION (S) APPEALED: \_\_\_\_\_

NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit)

The City does not allow our business to display tires on the edge of our parking lot, Even though parking for customers is not affected.

JUSTIFICATION OF APPEAL: Briefly describe how you are affected or aggrieved by the administrative ruling.

Tires are displayed only during our work hours (9-6) not being able to display the tires outside creates the issue of not having enough space to work properly and comfortably

I hereby certify that all of the above statements and any attachments are correct and true to the best of my knowledge.

Authorization for city staff and board members to enter the property for evaluation (if applicable).

Yes ☒ No ☐

NAME OF APPLICANT: Juan Buitron  
(Please print)

SIGNATURE OF APPLICANT:  DATE: 9/17/21

NAME OF PROPERTY OWNER: Juan Buitron  
(Please print)

SIGNATURE OF PROPERTY OWNER:  DATE: 9/17/21

Return to Planning Department  
PHONE: 554-0707, FAX NO. 656-5292

JandCTiresLLC@gmail.com





September 3, 2021

J and C Tires  
5170 Division Avenue, SE  
Kentwood, MI 49548

RE: Outside Display/Storage at 5170 Division Avenue, SE

J and C Tires:

I recently visited your business to discuss the daytime storage/display of tires along your landscaped frontage on Division Avenue as well as the inoperable vehicles parked on your property. You indicated the inoperable vehicles would be removed from the site by the end of the week but you indicated your desire to continue displaying the tires along your landscaped frontage. I indicated you are not allowed to display tires along your frontage and you expressed a desire to seek permission from the Zoning Board of Appeals.

I have enclosed a copy of my interpretation. I have also enclosed the information necessary to file an appeal of an administrative ruling to the Kentwood Zoning Board of Appeals.

Given the nature of your request, it is important that you file your Zoning Board application by the September 25 deadline. Once you file the application, we will defer enforcement of the outside display of tires along the frontage pending the Zoning Board's decision.

Sincerely,

Terry Schweitzer  
Community Development Director  
Phone: (616) 554-0710  
[schweitzert@kentwood.us](mailto:schweitzert@kentwood.us)

cc Juan Carlos Buitron, 1930 Havana Ave, SW, Wyoming, MI 49509

Lewis Konor, 7660 East Paris Avenue, SE Caledonia, MI 49316





# Memorandum

MEMO TO FILE

FROM: Terry Schweitzer, Community Development Director

DATE: September 3, 2021

RE: Outside Display/Storage on Commercial Properties

## **Zoning Interpretation**

Section 8.03.B.1 of the Kentwood Zoning Ordinance requires the principal activities of commercial businesses to be conducted within an enclosed building except for specified Special Land Uses including Open air businesses which are operated substantially in the open air. As Zoning Administrator for the city, I have previously interpreted an exception to this provision allowing for limited display of merchandise for commercial businesses to be restricted to a sidewalk area under the canopy or awning along the front of the building. It is likewise my interpretation that open air display of merchandise by commercial businesses operated in the Form Based Code zoning district to be restricted to the sidewalk under the canopy or awning along the front of the building.



**Pung, Joe**


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**From:** Collier, Monique  
**Sent:** Monday, October 11, 2021 7:19 AM  
**To:** Schweitzer, Terry; Pung, Joe  
**Subject:** FW: [EXTERNAL]J&C Tires

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** Tim Densham [mailto:timdensham@gmail.com]  
**Sent:** Thursday, October 07, 2021 4:31 PM  
**To:** ePlanning <eplanning@kentwood.us>  
**Subject:** [EXTERNAL]J&C Tires

 **Stop.Think.Read.This is an external email. Please use caution when clicking on any links or opening attachments.**

To the planning commission:

I fully support J&C Tires' request to display tires on their parking lot.

Since Kentwood won't allow proper signage, this is likely the only way the business would be able to get attention of passing cars.

I would hope this appeal gets approved, and demonstrates that the planning commission truly supports the businesses within the city, and not bureaucrats.

Tim Densham

Tim Densham, PMP, MEP  
Operations Manager  
HV LLC  
616 706 9081



STAFF REPORT: November 9, 2021  
PREPARED FOR: Kentwood Zoning Board of Appeals  
PREPARED BY: Joe Pung  
CASE NO.: V-21-15

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#### GENERAL INFORMATION

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APPLICANT: Andrew & Barbara Terrien  
1435 Bowdoin Street, SE  
Kentwood, MI 49508

STATUS OF  
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to install a six (6) foot high privacy fence in the required front yard. Section 3.19.B.1 of the Kentwood Zoning Ordinance limits the height of the fence to three (3) feet. The requested variance is for a three (3) foot increase in height over the maximum allowed by ordinance.

EXISTING ZONING OF  
SUBJECT PARCEL: R1-C Single Family Residential

GENERAL LOCATION: 1435 Bowdoin Street, SE

PARCEL SIZE: 1.94 acres

EXISTING LAND USE  
ON THE PARCEL: Single Family Residence

ADJACENT AREA  
LAND USES: N: Single Family Residences  
S: Single Family Residence  
E: Elementary School  
W: Single Family Residence

ZONING ON ADJOINING  
PARCELS: N: R1-C Single Family Residential  
S: R1-C Single Family Residential  
E: R1-C Single Family Residential  
W: R1-C Single Family Residential



Staff Comments:

1. The applicant wishes to install a six (6) foot high privacy fence in the required front yard. Section 3.19.B.1 of the Kentwood Zoning Ordinance limits the height of the fence to three (3) feet. The requested variance is for a three (3) foot increase in height over the maximum allowed by ordinance.
2. The objectives of height limitations for fences include, but are not limited to, maintaining an open appearance along public streets and providing for clear visibility of oncoming vehicles, bicyclists, and pedestrians.
3. The existing home was constructed in 1950. The home is located at the end of a private road which serves four lots (3 with homes and one vacant).
4. The fence is proposed to be located along the west property line south of the home which places the fence in the front yard (see Exhibit 4). While the fence is in the front yard of this home, due to how the lots and homes situated, the proposed fence would be in the rear and side yards of the adjacent home to the west (see Exhibit 4). If the adjacent property owner were to construct a privacy fence in the same location, they could install a six (6) foot high fence.
5. Since 1985, the Zoning Board of Appeals has heard over forty (40) requests for variances to fence height. Of the requests, thirteen (13) have dealt with fence height in residential front yards. The requests were as follows:

Case #	Address	Action
V-17-12	2279 Forest Hill Avenue	Granted (6-foot-high solid fence)
V-16-08	1060 – 44 <sup>th</sup> Street	Granted (6-foot-high solid fence)
V-13-20	4479 Madison Avenue	Denied (6-foot-high solid fence)
V-10-14	4973 Kalamazoo Avenue	Granted (6 ft. solid fence/removed after 3 years)
V-08-20	4989 Kalamazoo Avenue	Granted (6-foot-high solid fence)
V-05-33	1949- 60 <sup>th</sup> Street	Denied (6-foot-high solid fence)
V-05-23	1949 – 60 <sup>th</sup> Street	Denied (8-foot-high solid fence)
V-98-21	4537 Eastern Avenue	Denied (6-foot-high solid fence)
V-93-30	4441 Potter Avenue	Granted (6-foot-high solid fence)
V-91-18	2829 – 60 <sup>th</sup> Street	Denied (6-foot-high wrought iron fence)
V-89-41	5466 Blaine Avenue	Denied (6-foot-high solid fence)
V-87-31	2560 – 32 <sup>nd</sup> Street	Granted (6-foot-high solid fence)
V-87-06	5700 Promise Drive	Withdrawn (5-foot-high solid fence)

Whether a variance was approved or denied depended on its ability to meet the non-variance standards of the City of Kentwood Zoning Ordinance.



6. A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is evidence of practical difficulty in the official record of the hearing and that **ALL** of the following conditions are met:

- 1) That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include by way of example:
  - a) Exceptional narrowness, shallowness or shape of the property on the effective date of this ordinance; or
  - b) Exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure.

**The property is located at the end of a private drive and this property's front yard abuts the rear and side yards of the adjacent property to the west. There are other circumstances where a residential front yard abuts the rear yard of an adjacent property, but it is not a common occurrence.**

- 2) That the condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.

**The situation for which the variance is requested is not a common occurrence and would not appear to make more practical the adoption of a new zoning provision.**

- 3) The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.

**Without the variance the applicant can still install a three (3) foot high privacy fence, but the adjacent property owner could install a six (6) foot high fence in the same location without a variance.**

- 4) The variance will not be detrimental to adjacent property and the surrounding neighborhood.

**It would not appear that the variance would be detrimental to adjacent property or the surrounding neighborhood. The adjacent property owner could install a six (6) foot privacy fence in the same location without a variance.**

- 5) Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.

**Based on the exceptional and extraordinary circumstances applying to the property, granting the variance would not appear to impair the intent and purpose of the ordinance to limit fence height within a required front yard.**

- 6) The exceptional conditions or circumstances do not result from the actions of the



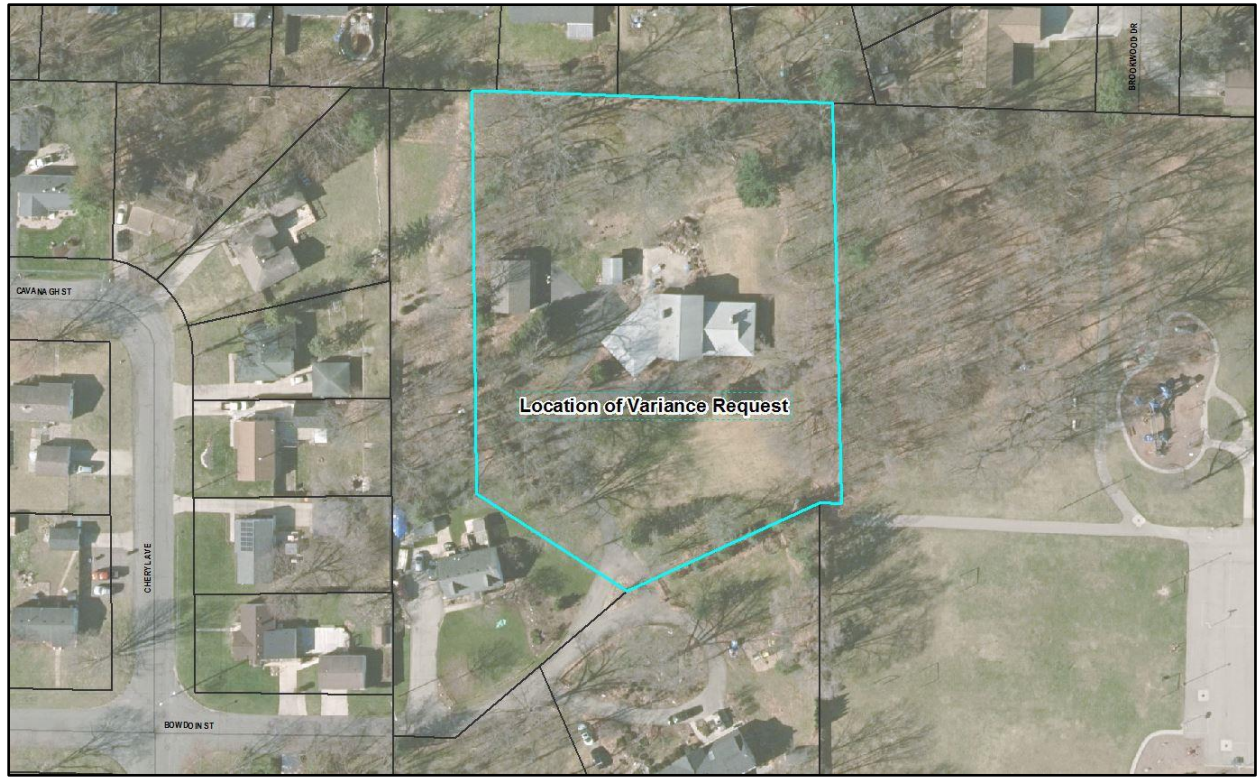
applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of the parcel.

**The exceptional conditions applying to the property were not created by the applicant.**

7. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in the Zoning Ordinance, attach other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of the Ordinance and the protection of the public interest or as otherwise permitted by law.
8. A majority vote by at least four members of the Zoning Board is necessary to approve the requested variance.



**Exhibit 1: Location of Variance Request (2020 Orthophotography Photo)**



**Exhibit 2: April 2020 Pictometry Image (View from the South)**

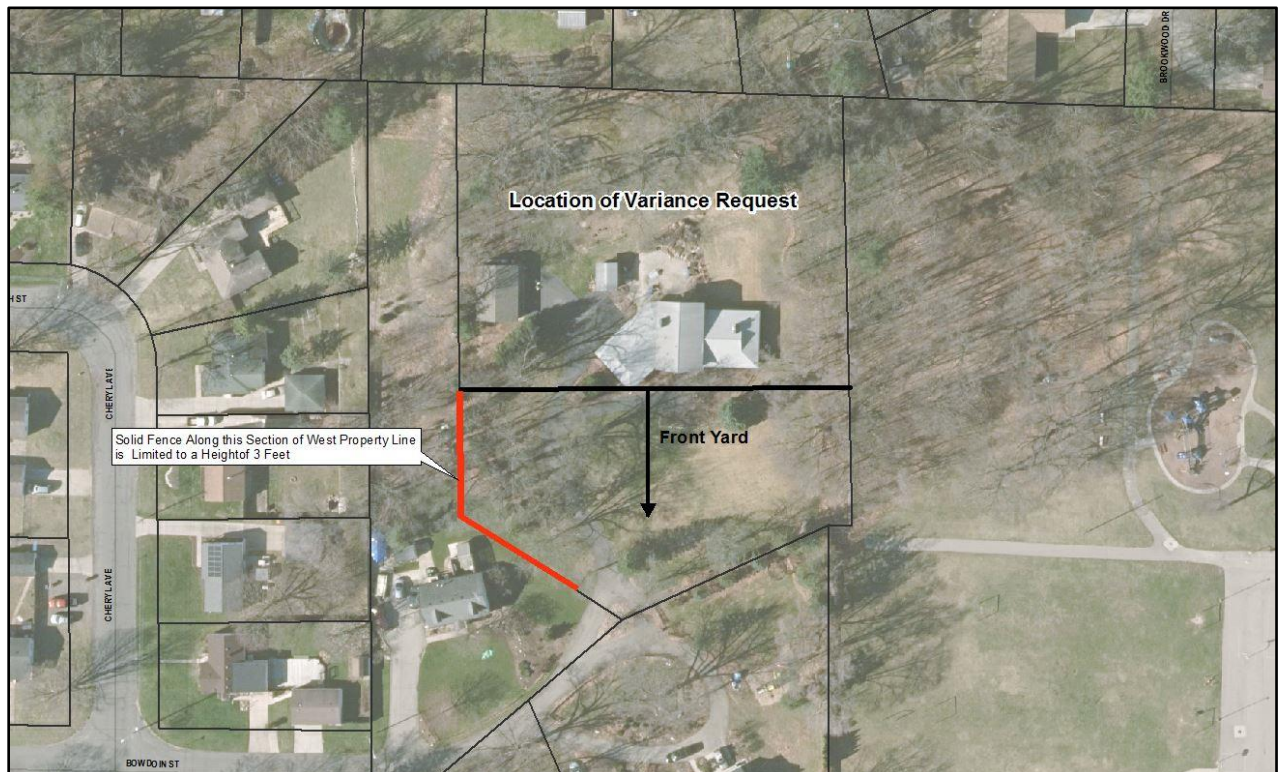




**Exhibit 3: April 2020 Pictometry Image (View from the West)**



**Exhibit 4: Front Yard Location and Fence Height Restriction**







CITY OF KENTWOOD  
ZONING BOARD OF APPEALS  
NON-USE VARIANCE APPLICATION

APPEAL # V-21-15  
HEARING DATE 11-15-21  
APPLICANT: Andrew + Barbara Terrien PHONE # 616-438-5046  
ADDRESS: 1435 Bowdoin SE Kentwood MI 49508  
PROPERTY OWNER: Andrew + Barbara Terrien PHONE # 616-438-5046  
ADDRESS: 1435 Bowdoin SE Kentwood MI 49508  
LOCATION OF VARIANCE (If applicable) 1435 Bowdoin SE Kentwood 49508  
ZONING DISTRICT OF PROPERTY: R1-C  
ZONING ORDINANCE SECTION (S) APPEALED: 3.19 B subsection 1

NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit)

The zoning ordinance does not permit a privacy fence on property line ~~where~~<sup>between</sup> the front yard of 1435 and the side/back yard of 1411 Bowdoin.

JUSTIFICATION OF APPEAL: Briefly describe how your appeal meets the Standards of Section 21.04B of the Kentwood Zoning Ordinance. Each standard must be met.

STANDARD (1): The exceptional condition is the size of the 1435 property which is 1.89 acres. The 1435 house location on the property is such that the front yard borders the 1411 side and back yard.

STANDARD (2): There are few comparable properties to 1435 Bowdoin in similarly zoned residential areas. A new zoning provision would not be applicable to the majority of other Kentwood properties.

STANDARD (3): We live on a private drive of 3 homes. Each is located differently within the property boundaries. The front of the home on 1435 is located further back on the property thus the front yard of 1435 borders the side and back yard of 1411.

STANDARD (4): 1435 Bowdoin is located on a private drive. This is the only shared property line that currently has no fence. A variance would provide 1411 and 1435 Bowdoin with clarification of property boundaries.

STANDARD (5): Each home on the private drive is located very differently within the property. The variance request would allow a fence on the shared property line located on the side and back yard of 1411. This would fall within the zoning ordinance.

STANDARD (6): The exceptional size (1.89 acres) of the 1435 Bowdoin property has remained the same since purchase in 1996. The size of the property has not been altered by us the current owners.



Zoning Board of Appeals  
Non-Use Variance Application  
Page 2

I hereby certify that all of the above statements and any attachments are correct and true to the best of my knowledge.

Authorization for city staff and board members to enter the property for evaluation.

Yes X No \_\_\_\_\_

NAME OF APPLICANT: Barbara L. Terrien  
(Please print)

SIGNATURE OF APPLICANT: Barbara L Terrien DATE: 10.20.21

NAME OF PROPERTY OWNER: Andrew/Barbara Terrien  
(Please print)

SIGNATURE OF PROPERTY OWNER: Barbara L Terrien DATE: 10.20.21

Return to Planning Department  
PHONE: 554-0707, FAX NO. 698-7118

Filing Fee \$ \_\_\_\_\_  
Escrow Fee (if applicable) \$ \_\_\_\_\_ Escrow fee to cover extraordinary fees directly attributable to the project review. Applicant will also be responsible for any other extraordinary fees in excess of the original escrow fee.













PRIVATE DRIVE  
NO  
TRESPASSING  
PRIVATE PROPERTY





