

**ZONING BOARD OF APPEALS
MEETING AGENDA**

Thursday, September 17, 2015

7:00 p.m. City Hall, Council Chambers, 323 W. Michigan Ave., Marshall, MI

CALL TO ORDER

ROLL CALL

CONSIDERATION OF MINUTES

Meeting minutes from August 20, 2015

APPROVAL OF AGENDA

PUBLIC COMMENTS FOR ITEMS ON THE AGENDA

There will be citizen comment time during each variance case being heard.

Citizens who wish to speak on *other matters on the agenda* may do so when called upon by the Chairman. Those people addressing the Board are required to give their name and address for the record and shall be limited to speaking for a maximum of five (5) minutes on a given matter.

NEW BUSINESS

1. **APPEAL #15.07** - filed by George Cargo at 1008 Fennimore for a Dimensional Variance from **§156.221 ACCESSORY STRUCTURES AND USES (G)** for relief from minimum of 75 feet setback from the front lot line to a 20 feet setback. Petitioner is requesting the variance in order to place a 40' x 20' in ground swimming pool in side yard with a setback of 20 feet from the west property line.

2. **APPEAL #15.08** - filed by Austin Kimball at 223 N Eagle for Dimensional Variances from **§156.181 MIXED-USE AND NON-RESIDENTIAL DISTRICTS** for relief from Minimum Front Yard Setback from 25' to 0' and Maximum Lot Coverage from 35% to 45%. Petitioner is requesting the variance in order to convert current living space into additional garage space.

OLD BUSINESS

None

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Citizens who wish to address the Board on items *not on the agenda* may do so at this time. When called upon by the Chairman, please state your name and address for the record. Members of the public shall be limited to speaking for a maximum of five (5) minutes.

REPORTS

Planning Commission: Current minutes can be found online at www.cityofmarshall.com

City Council Liaison

Board Members

Staff Reports

ADJOURN

MINUTES
MARSHALL CITY ZONING BOARD OF APPEALS
Regular Meeting Thursday, August 20, 2015
7:00 P.M. – COUNCIL CHAMBERS

CALL TO ORDER

This meeting was called to order by Chair Feneley at 7:02 p.m.

ROLL CALL

Members Present: Board Members Byrne, Feneley, Karns, Revore, Daily

Members Absent: Board Members DeGraw and Gerten

Staff Present: Lisa Huepenbecker, Community Services Project Coordinator

Motion by Karns, supported by Byrne, to excuse the absences of Board Member DeGraw. On a voice vote; **Motion Carried.**

APPROVAL OF MINUTES

Motion by Byrne, supported by Karns, to accept the minutes of the July 16, 2015 regular meeting as submitted. On a voice vote; **Motion Carried.**

APPROVAL OF AGENDA

Motion by Karns supported by Byrne, to approve the agenda of the August 20, 2015 meeting as submitted. On a voice vote; **Motion Carried.**

AUDIENCE PARTICIPATION

Charles Johnston, 214 High St., spoke in favor of Appeal 15.06 in regards to the proposed side yard set-back change in order to build a garage. Due to his professional experience in the casualty insurance industry, he expressed concerns in decreasing the separation between accessory structure and primary dwelling to five feet from ten feet, as it's intended to be a fire break.

NEW BUSINESS

Appeal #15.05 – Use Variance filed by Matthew Huggett, owner of 510 Warren from §156.221 ACCESSORY STRUCTURES AND USES (A) (1); §156.051 PRINCIPAL PERMITTED USES; §156.052 LAND USES SUBJECT TO SPECIAL CONDITIONS in order to build a storage shed for tools used for maintenance and upkeep of the property.

Staff reported that the petitioner is requesting a use variance to place a storage structure on vacant land. She reported that the ordinance states that storage is generally not a permitted or a special land use for the proposed zoning district, R-2. Staff stated that the petitioner is asking for a variance for up to 900 sq. feet of storage without a primary residential dwelling on the property. Staff noted that she did not receive any phone calls or emails either in support of or in opposition to this appeal.

(unofficial)

Brian Huggett, petitioner Matthew Huggett's brother, representative and co-owner of 510 Warren and resident of 319 North Mulberry, stated that his brother and himself were requesting a variance to construct a storage shed on the property in order to house tools and equipment. He stated that the need for the storage is due to necessary maintenance on the dozen apple trees they planted on their property.

Commissioners asked for clarification from the representative on the dimensions, the size and length of ownership of the parcel, and the intended use of the shed. The representative explained that the shed would be no greater than 30 feet by 30 feet and that the size of the property was about 1.5 acres that has been owned for about a year and a half. The representative also explained that the storage shed would be only used for storage of tools necessary for the upkeep of the apple trees. It was also noted that the storage shed would only be one story tall.

Commissioners asked whether or not the petitioner had any intention of building a primary residence on the property. Brian Huggett responded that he did not know of any intentions of his brother to build a house on the property.

Commissioners asked where the petitioner planned on putting the accessory structure on the property. The representative stated that the shed would be at the back of the property towards the middle. Staff explained that the setbacks for an accessory structure are five feet from the rear and sides and thirty feet from the front of the lot.

Commissioners then asked clarification from staff as to the allowance of accessory structures on properties without primary dwellings. Staff explained that the ordinance allowed for accessory structures to be no larger than the footprint of the primary structure, however, because there is no primary structure build on this lot, granting this appeal would allow the storage shed to be only used as an accessory structure. Staff also reported that if a house were to be built on this property, the minimum floor area would be 672 sq. feet or 1,000 sq. feet. She explained that if this appeal was granted and at a later time a house was to be built, it would be required to have at least the same size footprint as this accessory structure.

Commissioners asked if there was a certain shed size that would not need a variance, but staff explained that a variance would be needed for this property regardless of shed size due to there not being a primary residence on the property.

Motion by Byrne, supported by Daily, to approve Appeal #15.05 – Use Variance filed by Matthew Huggett, owner of 510 Warren from §156.221 ACCESSORY STRUCTURES AND USES (A) (1); §156.051 PRINCIPAL PERMITTED USES; §156.052 LAND USES SUBJECT TO SPECIAL CONDITIONS in order to build a storage shed for tools used for maintenance and upkeep of the property.

Using the Use Variance Worksheet, the board cited the following items pertaining to this variance:

- The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property. Under this standard, the ZBA must find the property (land, structures, and other improvements) is not suitable for uses permitted in the zoning district. ***Board Members discussed that there are in fact reasonable uses of this property available at this point, such as building a residence on it. The property in itself is currently underdeveloped, but it does restrict it from being developed with a permitted use. It was reported that putting an accessory structure on the property that is in fact accessory to no other primary building does not conform to this aforementioned point.***

- The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. Circumstances common to the larger neighborhood may reflect that unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative actions. **Board members remarked that the variance is in regards to the specific parcel and is not in reference to the zoning in comparison to surrounding parcels.**
- The use variance, if granted would not alter the essential character of the neighborhood. This standard requires consideration of whether the intent and purpose of the chapter and zoning district will be preserved, and the essential character of the area will be maintained. **Board members discussed that the lot could in fact be used in the future for residential use if the variance was granted. However, it does alter the essential character of the neighborhood by putting an accessory building on a vacant lot, something one would not find throughout the rest of the neighborhood. Board members also discussed safety concerns such as security and a homeowner not being there to watch over the structure, like there would be if there was a primary residential structure. Board members commented that this fact goes against the original intent of the ordinance.**
- The hardship is not the result of the applicant's actions. Under this standard, the ZBA must determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self-created hardship. Financial hardships that would prevent reasonable use of the property shall be considered, but shall not be only determining factor in granting a use variance. **Board Members commented that this hardship was self-created due to the applicant planting trees that would need significant upkeep and would require storage without any intent to build a primary structure on the parcel.**

On a roll-call vote-ayes: None; nays - Byrne, Feneley, Karns, Revore, and Daily. **Motion Denied.**

Appeal #15.06 – Dimensional Variance filed by Scott Harden, owner of 401 E. Mansion, from §156.221 ACCESSORY STRUCTURES AND USES (G) and (D) to build a two-car garage in required and non-required side yard.

Staff reported that the petitioner is requesting a variance to build a two-car garage in his side yard. The petitioner requested the dimensions of the space between the accessory structure and the primary structure be 5 feet instead of 10 feet that is written in the ordinance. He is also requesting 35 feet from the west property line instead of the 75 feet that is noted in the ordinance.

Scott Harnden, 401 E. Mansion, stated he is requesting a variance for a new garage because his previous garage was destroyed two winters ago due to the heavy weight of ice and snow on the roof. He stated that, because of a new zoning ordinance being enacted since he put up the first garage, he is losing six feet on the north side of the garage and five feet on the west side. The petitioner then explained that the proposed building plan will allow him to have an extra bonus space above the garage.

Commissioners inquired as to how the size of the original structure. Harnden replied that it was a three car garage that was built after the house was built in 1886. He explained that the new garage will be occupying the same footprint as before, however, it will be slightly smaller due to the new setback requirements. The old structure was about 20 to 22 feet deep and he is hoping to have the new structure be about 30 feet deep.

(unofficial)

Eddy Aiken, Scott Harnden's contractor, living at 6650 N 39th St., Augusta, explained that the new structure will have two doors on it, each approximately eight feet wide. The five foot setback they are requesting instead of the ten foot one written in the ordinance will allow them to reach about 24 feet wide. Without the modified setback, the garage will only be about 18 to 20 feet wide.

Motion by Karns, supported by Daily, to approve Appeal #15.06 – Dimensional Variance filed by Scott Harden, owner of 401 E. Mansion, from §156.221 ACCESSORY STRUCTURES AND USES (G) and (D) to build a two-car garage in required and non-required side yard.

Staff noted that she did not receive any phone calls or emails either in support of or in opposition to this appeal.

Using the Dimensional Variance Worksheet, the board cited the following items pertaining to this variance:

- Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose. ***Board Members discussed that if the current property was not a corner lot, the homeowner would only have to deal with side and rear setbacks. If the west property line was one without road frontage, they would only have to have five feet of setback from the property line.***
- The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners. ***Board Members discussed that a lesser variance could potentially appear out of place in the neighborhood and due to the house being a historical home, the same style of garage and house will do the neighborhood substantial justice to the applicant and neighborhood.***
- The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district. ***Board Members reported that due to the property being on a corner lot, unique circumstances apply. One must consider two of the four sides as front yards and the other two as side yards. Staff commented that accessory structures are generally permitted in rear yards, but corner lots do not have rear yards so the extended front yard setback (75 feet) is required in order to place on in the side yard. The property is only 66 feet wide, so any accessory structure would require a variance no matter the size to meet the 75 feet setback.***
- The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors. ***Board Members discussed that the need for the requested variances arises from unpredictable weather that came about two winters ago that caused the roof to cave in, thus not self-created by the applicant.***

(unofficial)

- The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals, or welfare. ***Board Members commented that the variance would not cause significant adverse impact. Staff also commented that due to the majority of their neighbors having two story homes, the petitioner would be permitted to build up to 25 feet which could exacerbate any nuisance.***
- The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return. ***Board Members reported that a financial return is not a factor in this variance.***

On a roll-call vote-ayes: Byrne, Feneley, Karns, Revore, and Daily; nays - None. **Motion Carried.**

OLD BUSINESS

None

PUBLIC COMMENT

None

REPORTS

Staff invited Board Members to the Zoning Ordinance Update Open House on September 16th, 2015 from 5:00 P.M. to 7:00 P.M. in the City Hall Training Room.

ADJOURN

Meeting adjourned at 8:09 pm.

Respectfully submitted,
Elizabeth Renaud

FROM THE ZBA RULES OF PROCEDURE:

6.4 PUBLIC PARTICIPATION

Members of the public, both residents of the City of Marshall and others, are invited to address the Board during two portions of the regular ZBA agenda. Prior to the Board's discussion of regular agenda items, members of the public are invited to provide comment of items on the agenda. Comments unrelated to items on the agenda will be welcomed during a second "public comment" time noted later on the agenda. The Chair will first recognize any member of the public wishing to address the Board. Individuals will speak from the podium or a hand held microphone, state their name and address and limit their comments to a total of five (5) minutes during each of these "public comment" times. Members of the public will not routinely be involved in the Board's discussion or deliberation upon agenda items unless called upon by the Chair.

CASE #15.07 STAFF REPORT

Location: 1008 Fennimore

Property Zoning: R-2

Owner: George Cargo

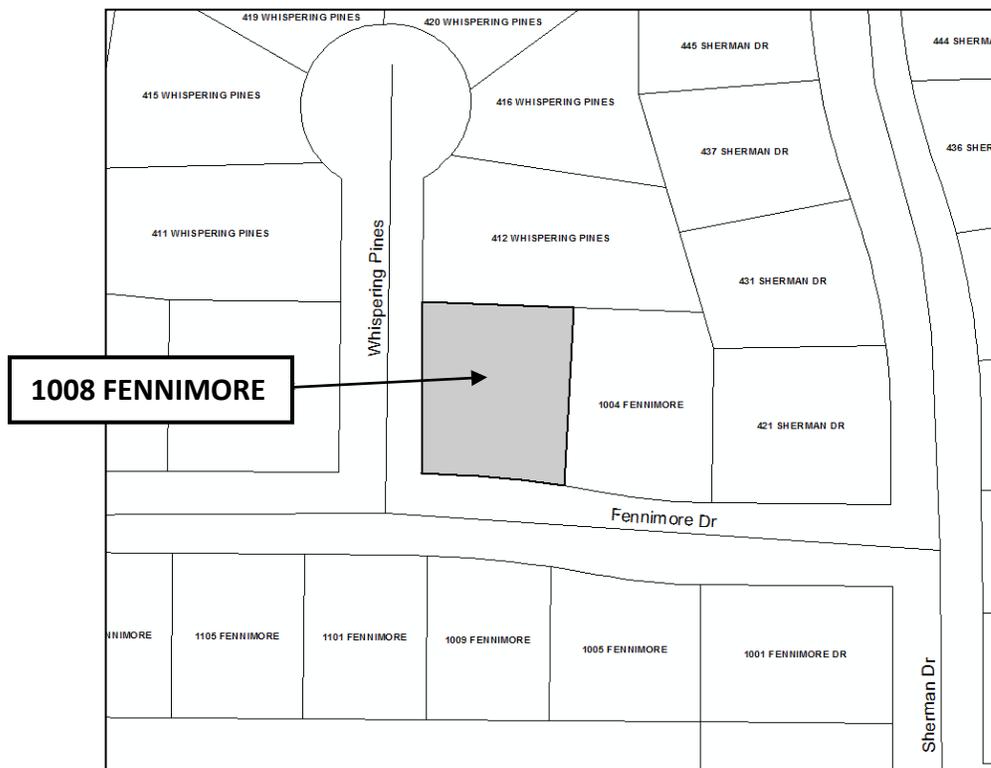
Setback Distances §156.181: 30' Front, 8'/15' Sides, 25' Rear

VARIANCE HISTORY

No variance history.

BACKGROUND

This case was noticed in accordance with the Michigan Zoning Enabling Act of 2006, section 125.3103: *Notice; publication; mail or personal delivery; requirements.* The newspaper published the notice on August 28, 2015; City Hall posted the notice on August 25, 2015; and notices were sent to all property owners within 300 feet on August 26, 2015.



The applicant, George Cargo, is requesting a Dimensional Variance from §156.221 ACCESSORY STRUCTURES AND USES (G) Accessory structures shall be erected in a rear yard, except an accessory structure may be allowed in a non-required side yard when setback a minimum of 75 feet from the front lot line and meets the side yard setback for the district in which it is located as specified in §156.180.

Petitioner is requesting the variance in order to place a 40' x 20' in ground swimming pool in side yard with a setback of 20 feet from the west property line.

CASE #15.07 STAFF REPORT

CASE ANALYSIS

Dimensional Variances are outlined in §156.406 (A) and state that the overwhelming reason for the variance should be a finding of unnecessary hardship, as stated below:

(1) Strict compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose.

Staff Comment: *Many of the neighboring properties have accessory structure including in-ground swimming pools. It is a common accessory use for residential properties throughout the city.*

(2) The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners.

Staff Comment: *The proposed variance will allow the petitioner an accessory use commonly enjoyed by properties in the same area and zoning district. A lesser variance would only change the placement of the pool. If the pool cannot be placed where it is being proposed, the property owner may have to remove an existing deck in order to place the pool. A variance would be needed in order to preserve the deck.*

(3) The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district.

Staff Comment: *Corner lots are required to adhere to a large setback for accessory structures to be placed in side yards. If the lot were an interior lot, this placement would be considered to be in a rear yard, and it would not require a variance.*

(4) The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.

Staff Comment: *Applicant's placement of the deck created limited options for placing an in ground pool, but the issue of being a corner lot would not be considered self-created.*

(5) The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the city, and will not create a public nuisance or materially impair public health, safety, comfort, morals or welfare.

CASE #15.07
STAFF REPORT

Staff Comment: *The in ground pool is unlikely to cause a public nuisance or impair public health and safety. Any nuisance would be comparable to any private recreational use such as kids playing outside in the yard.*

(6) The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return.

Staff Comment: *Financial returns would not be a factor in this case. Without the variance, it may create an inconvenience by restricting healthy, safe exercise options for family members.*

15.07

pd \$150
8-12-15
ck# 1736

Zoning Board of Appeals
Variance Application

32.3 West Michigan~ Marshall, MI ~ 49068
Residential \$50.00 Commercial \$100.00



Petitioner Name George Cargo

Address 1008 Fennimore DR. Phone 269-781-2167

Property address for which you are seeking a variance: 1008 Fennimore, Marshall, MI.

Are you the owner? Yes No (If not, please attach owners contact information)

Current Zoning R2 Current Use Residential

Zoning of abutting parcels R2

Plot Plan Attached

According to ordinance, you must include a plot plan of the site, drawn to scale, with a north-arrow, all lot lines shown, street right of ways, any easements, any structures, setback dimensions, any parking areas, driveways, sidewalks, and any other site improvements.

Dimensional Variance or Use Variance

Reasons for variance attached
Please see back of sheet for appropriate ZBA criteria.

Non-refundable Fees Paid

*The ZBA meets on the 3RD Thursday of each month.

Application must be received by the date listed on the back of this sheet to be heard on the next scheduled meeting.

I understand that I am expected to attend the ZBA Public Hearing pertaining to this matter. If I am unable to attend, I will send a representative in my place. I understand that the application fee is non-refundable and does not apply to any future permits. Furthermore, if the variance is granted, I agree to obtain a permit before commencing work.

Signature of Petitioner George Cargo Date 8/12/15

Signature of Owner George Cargo Date 8/12/15

CELL # 269-317-5490

Questions concerning these requirements should be directed to Natalie Dean, Director of Community Services, at: (269) 781-3985 x 1505

City of Marshall

323 West Michigan, Marshall, MI 49068

Zoning Board of Appeals – Variance Application

August 12, 2015

Attn: Ms. Lisa Huepenbecker, Community Service Project Coordinator

Ms. Huepenbecker:

This letter is addressed to the Zoning Board of Appeals requesting a Dimensional Variance for my residence, located at 1008 Fennimore Drive, Linden Hills #6, Lot 103, City of Marshall, Michigan (Zoning R2, Private Residence) in order to proceed with construction of a 40X20 in ground swimming pool in my back yard.

Attached please reference my to-scale plot plan of the property as required to indicate the dimensions of my front/back yard, driveway, garage, home, deck and all open areas. The proposed pool location and approximate dimensions are also shown in this diagram. Also attached are aerial photos of subject residence and surrounding neighborhood obtained from the Calhoun County internet mapping portal (courtesy of Woods Pools, Battle Creek, MI)

This specific request is for a zoning Variance from the current standard to allow for a total 30 foot easement from Whispering Pines (street directly West of my residence) to the proposed fence line of subject pool enclosure or to allow for a total 35 foot easement from Whispering Pines to the actual pool edge.

In accordance with the request for a Dimensional Variance to meet the required criteria, I have listed by step those topics I feel comply with granting of same:

1: I do feel that the current dimensional standards will deprive myself and my family of the rights typically enjoyed by other members of the community and prevent me from the normal and typical use of my property in an enjoyable fashion. I see many similar “corner lots” in the city with in ground pools similar to the one I have requested. Under the current dimensional standards, I am unable to construct any in ground pool of any size on my property.

I do not feel that I or my family should be penalized for the location of my property on a corner lot, in a cul-de-sac area, on a no outlet street. Approximately six other residences in my Linden Hills neighborhood currently have in ground pools.

2: I do not feel that this Variance Request will provide any substantial injustice to my surrounding neighbors. I feel that only my request as shown in the attached plot plan will provide for an acceptable pool and fencing location so as not to interfere with the esthetics or appearance of homes in the immediate area.

I have already asked all of my immediate neighbors concerning their feelings regarding my intent to construct a pool on the planned location and I have been met with no negatives. The pool plan as outlined calls for an attractive four foot aluminum or iron fence as a pool enclosure (not chain linked).

3: My corner lot property is unique in that my home faces Fennimore Drive whereas the homes to my immediate north face Whispering Pines. My home was built in 1991, before most of the existing homes on Whispering Pines. The location and positioning of my residence should not penalize me or my ability to enjoy my property – in which I take great pride in the appearance of the house, yards and surrounding landscaping. Planning of this proposed pool is designed to be in keeping with the pride I have established in my home and my neighborhood.

4: As stated in item 3, the layout of this property was adapted over twenty years ago. The design and location were chosen with the original intent of installing a swimming pool in my back yard when time and money permitted. With the requested Variance, time and money now allow me to provide enjoyment for my children and my grandchildren.

5: This Variance will not significantly cause any adverse impact on my neighbors, nor will it create any public nuisance. The pool and fence enclosure will be built to code and with prior permits and permission of the city. All construction will be done by Woods Pools, Battle Creek, MI as a respected and reputable contractor. Doug Woods has conducted a preliminary survey of the property and believes that there is adequate area for construction of a 40X20 foot pool, concrete pathways and fence line as indicated in the attached plot plan.

6: Failure to grant subject Variance will create a hardship to my quality of life. I am a 68 year old veteran and citizen of The City of Marshall. I have paid taxes to the city for over twenty years. I have raised two adult children in the Marshall public schools and a third special needs child – Cydney - in Calhoun County special education. Cydney loves to swim, and I can see no better use for my back yard than to provide for her a place for one of her few enjoyments. For her, along with my four grandchildren, I believe installation of the proposed pool will provide much more than any financial reward that might be realized in the sale of my home.

I hope that this letter, along with the accompanying required documents, meets with your approval. Please advise if I may provide you with any necessary additional information prior to the Zoning Board of Appeals meeting or prior to the September 17th hearing date. My wife and I will be available for this hearing and look forward to your review and approval of this Variance request.

Sincerely,

A handwritten signature in blue ink that reads "George Cargo & Adrienne Cargo". The signature is written in a cursive style.

George & Adrienne Cargo

1008 Fennimore Drive, Marshall, Michigan 49068

Home Phone: 269-781-2167 Mobile: 269-317-5490 gcargo@ameritech.net

125' INCLUSIVE OF EASEMENT

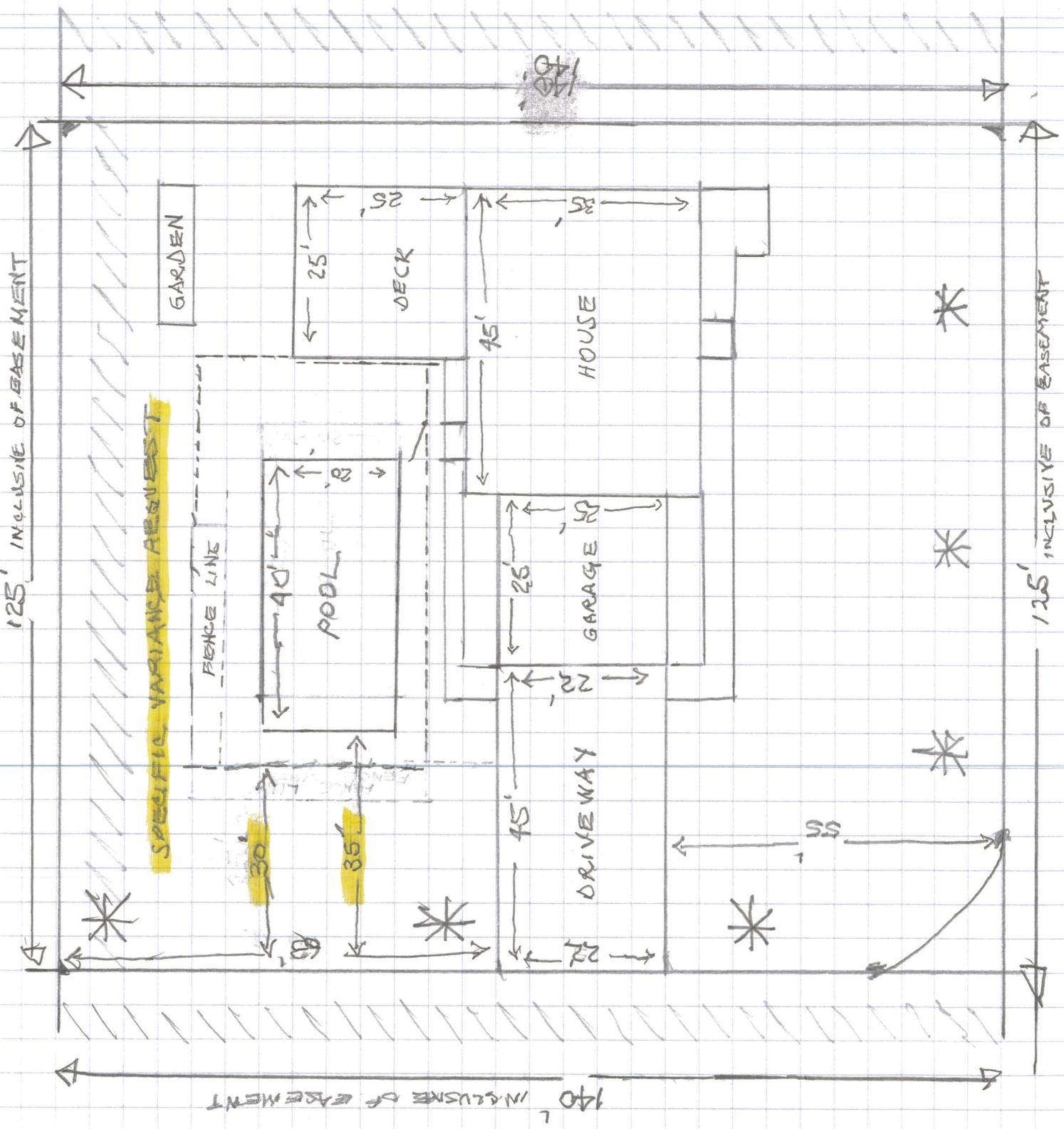
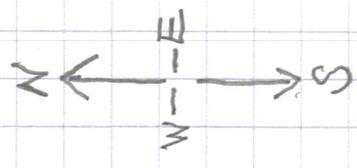
140' INCLUSIVE OF EASEMENT

125' INCLUSIVE OF EASEMENT

FENNIMORE DRIVE

SCALE
□ = 5' SQ.
* = TREES

RESIDENCE
GEORGE GARGO
1008 FENNIMORE
MARSHALL, MI
49068



SPECIFIC VARIANCE REQUEST

FENCE LINE

GARDEN

DECK

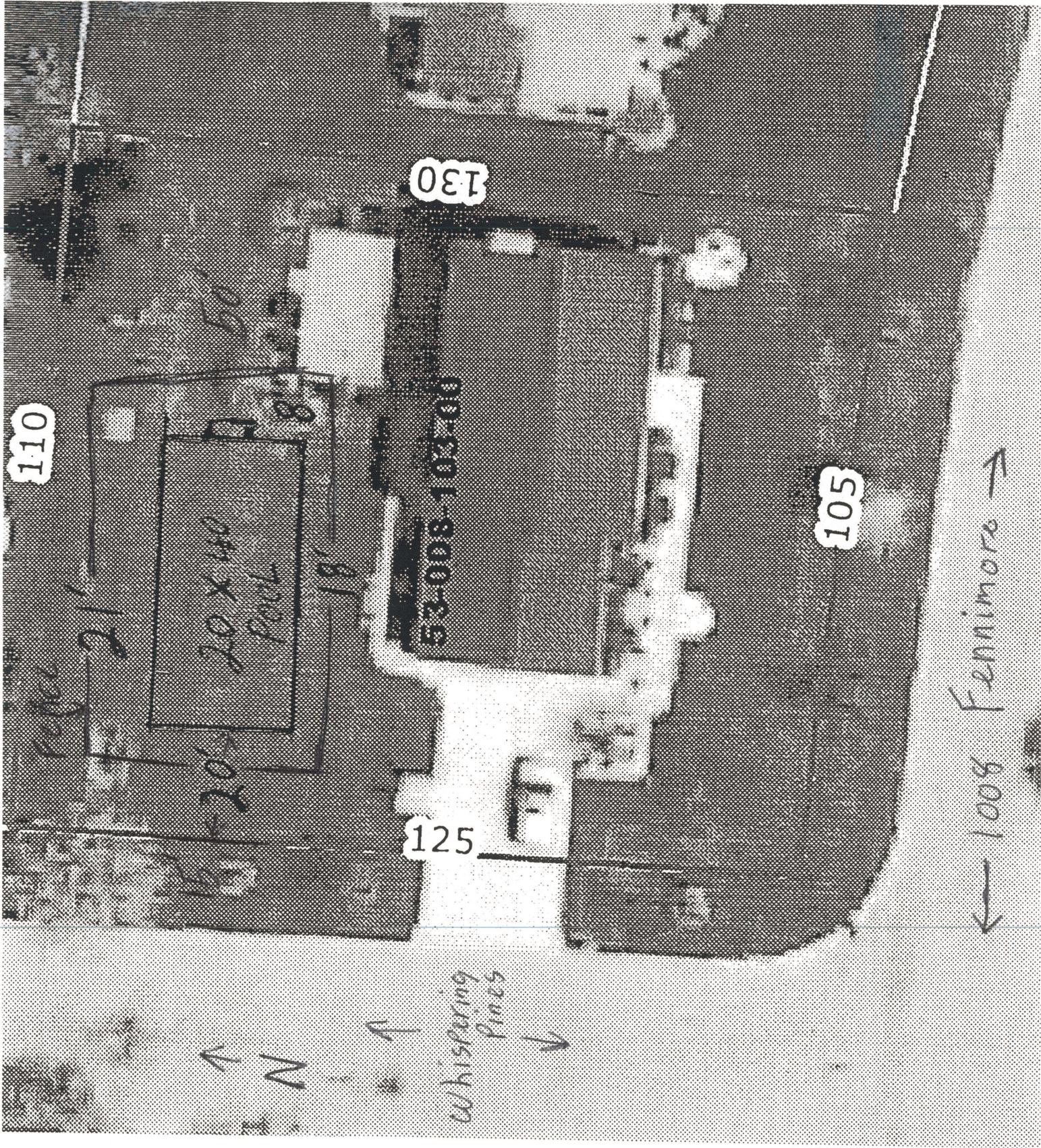
HOUSE

POOL

GARAGE

DRIVEWAY

---DISPERING PINES---



110

130

105

125

53-008-103-00

20 X 40
PAUL

50

8'

18'

20'

40'

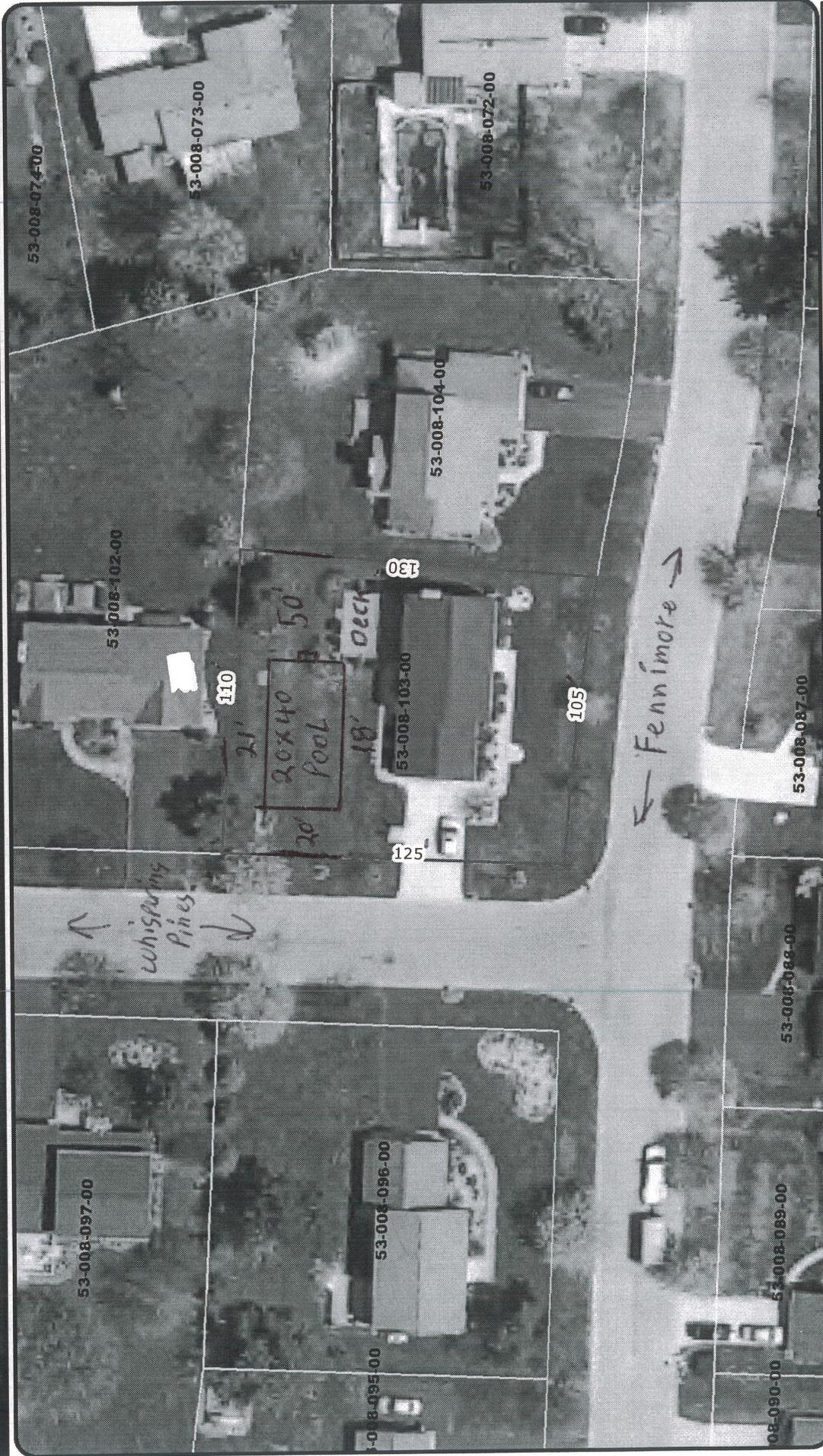
N

whispering
pines

← 1008 Fennimore →

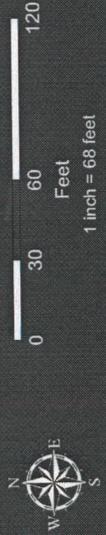
Calhoun County

George Cargo - 1008 Fennimore Marshall, MI. 49068



MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the Calhoun County. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended.



Map Produced Using the
Calhoun County, Michigan
Internet Mapping Portal



Job Title: Pool Install
Date: 8/6/2015

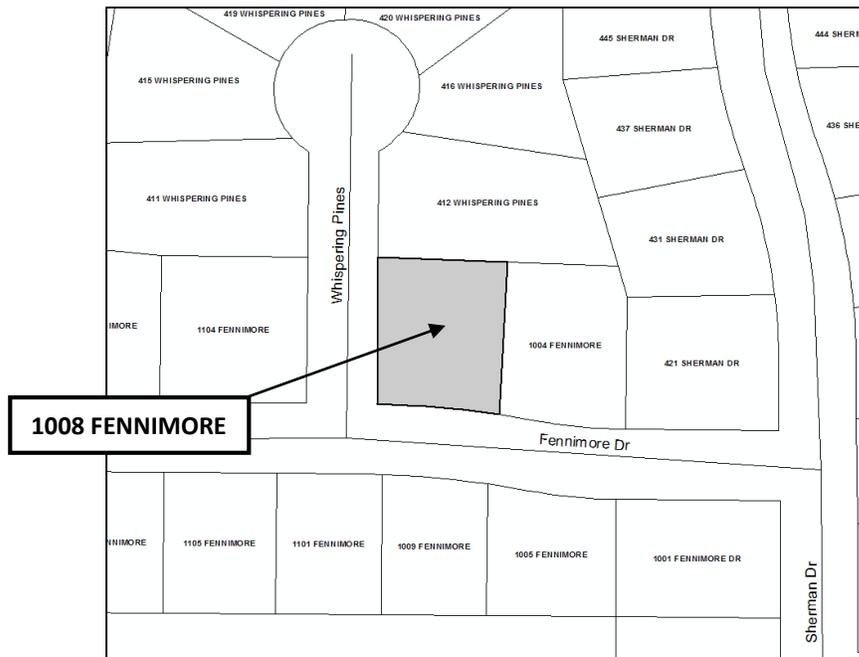


Dear Property Owner:

The City of Marshall Zoning Board of Appeals will hold a public hearing on Thursday – September 17, 2015, at 7:00 p.m. IN THE COUNCIL CHAMBERS OF TOWN HALL located at 323 West Michigan Avenue, Marshall, MI 49068, to hear public comments on APPEAL #15.07 - filed by George Cargo at 1008 Fennimore for a Dimensional Variance from:

§156.221 ACCESSORY STRUCTURES AND USES (G) Accessory structures shall be erected in a rear yard, except an accessory structure may be allowed in a non-required side yard when setback a minimum of 75 feet from the front lot line and meets the side yard setback for the district in which it is located as specified in §156.180.

Petitioner is requesting the variance in order to place a 40' x 20' in ground swimming pool in side yard with a setback of 20 feet from the west property line.



The Zoning Board of Appeals under certain circumstances may grant a variance to the Zoning Regulations upon presentation of sufficient evidence to support the variance request.

Any property owner, their representative, or any interested person is invited to attend the meeting to be held as noticed above. Written response can be sent to or hand delivered to the attention of the Zoning Board of Appeals, 323 W. Michigan Ave., Marshall, Michigan 49068.

Anyone who requires an auxiliary aid or service for effective communication or a modification of policies or procedures to participate in a City program, service, or activity should contact Natalie Dean at the City Hall located at 323 W Michigan Ave, by calling (269) 781-5183 x1505, or by emailing ndean@cityofmarshall.com, 3 days prior the scheduled meeting or event.

323 W. Michigan Ave.

Marshall, MI 49068

p 269.781.5183

f 269.781.3835

cityofmarshall.com

PCOMBINED	PROPERTYCI	OWNERNAME1	OWNERCITYS
413 BRANDI'S PLACE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
409 BRANDI'S PLACE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1007 DEERFIELD LN	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1001 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1004 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1005 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1008 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1009 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1101 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1104 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1105 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1109 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1110 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1113 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
1114 FENNIMORE	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
403 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
407 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
420 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
421 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
424 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
431 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
436 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
437 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
444 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
445 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
453 SHERMAN DR	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
411 WHISPERING PINES	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
412 WHISPERING PINES	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
415 WHISPERING PINES	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
416 WHISPERING PINES	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
419 WHISPERING PINES	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068
420 WHISPERING PINES	MARSHALL, MI 49068	OWNER/OCCUPANT	MARSHALL MI 49068

CASE #15.08 STAFF REPORT

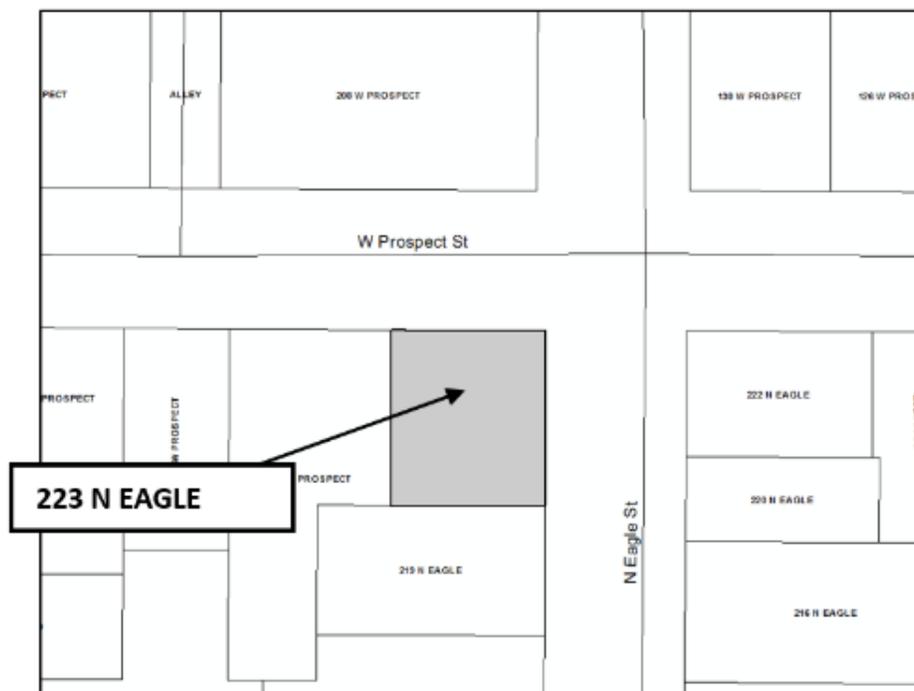
Location: 223 N Eagle
Property Zoning: R-3 (Traditional Residential)
Owner: Austin Kimball
Setback Distances §156.181: 25' Front, 5'/15' Sides, 15' Rear

VARIANCE HISTORY

No variance history.

BACKGROUND

This case was noticed in accordance with the Michigan Zoning Enabling Act of 2006, section 125.3103: *Notice; publication; mail or personal delivery; requirements.* The newspaper published the notice on August 28, 2015; City Hall posted the notice on August 25, 2015; and notices were sent to all property owners within 300 feet on August 26, 2015.



The applicant, Austin Kimball, is requesting a Dimensional Variance from from §156.181 MIXED-USE AND NON-RESIDENTIAL DISTRICTS for relief from Minimum Front Yard Setback from 25' to 0' and Maximum Lot Coverage from 35% to 45%.

Petitioner is requesting the variance in order to convert current living space into additional garage space.

CASE #15.08 STAFF REPORT

CASE ANALYSIS

Dimensional Variances are outlined in §156.406 (A) and state that the overwhelming reason for the variance should be a finding of unnecessary hardship, as stated below:

(1) Strict compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose.

Staff Comment: *Garages are commonly seen in all residential districts. While they do have garage space currently, the dimensions were to the standard for a much smaller era of vehicle. Modern vehicles do not fit well as it is not even as big as a standard parking space.*

(2) The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners.

Staff Comment: *there would be substantial justice to the applicant as parking a vehicle in a secure covered garage is much safer than in a driveway or at the curb. A lesser variance would not address the issue of the current garage space not being large enough to park a vehicle inside.*

(3) The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district.

Staff Comment: *The structure's original build date of 1845 creates a unique challenge of updating the structure for modern efficient uses. While many building in the City of Marshall were built in the 19th century, this is also a corner lot with two front yards, and the home was built closer to the property line than what would be allowed in the current ordinance.*

(4) The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.

Staff Comment: *None of the unique issues addressed in question #3 would be considered self created.*

(5) The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the city, and will not create a public nuisance or materially impair public health, safety, comfort, morals or welfare.

CASE #15.08
STAFF REPORT

Staff Comment: *A zero setback could cause line of sight issues not only for vehicular traffic, but also for pedestrians as there is a sidewalk. Any vehicles backing out of the proposed garage would not be able to see those walking until almost directly behind them.*

(6) The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return.

Staff Comment: *The variance would not be due to a financial return. While it is inconvenient to park anywhere other than a covered, enclosed garage, it would not be considered a significant hardship.*



Patricia Franke Williams
208 W. Prospect St.
Marshall

Dear Property Owner:

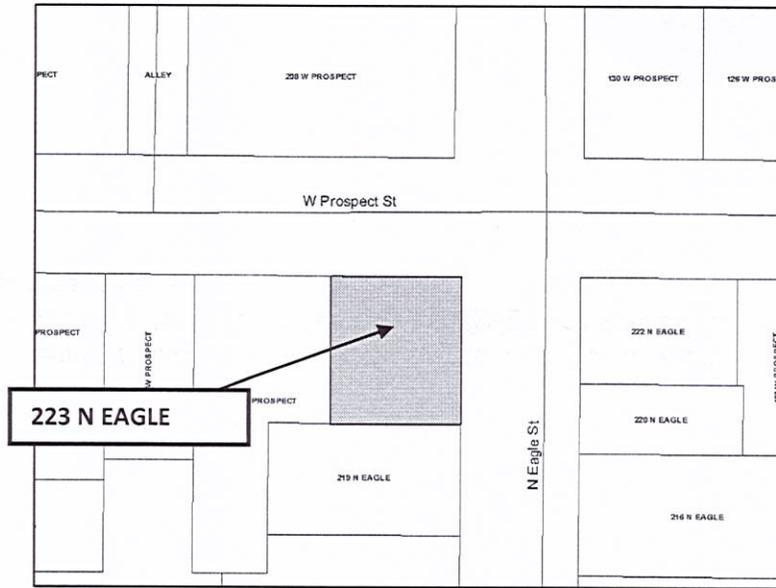
The City of Marshall Zoning Board of Appeals will hold a public hearing on Thursday – September 17, 2015, at 7:00 p.m. IN THE COUNCIL CHAMBERS OF TOWN HALL located at 323 West Michigan Avenue, Marshall, MI 49068, to hear public comments on APPEAL #15.08 - filed by Austin Kimball at 223 N Eagle for Dimensional Variances from §156.181 MIXED-USE AND NON-RESIDENTIAL DISTRICTS for relief from Minimum Front Yard Setback from 25' to 0' and Maximum Lot Coverage from 35% to 45%.

RECEIVED

SEP 09 2015

CITY OF MARSHALL

Petitioner is requesting the variance in order to convert current living space into additional garage space.



The Zoning Board of Appeals under certain circumstances may grant a variance to the Zoning Regulations upon presentation of sufficient evidence to support the variance request.

Any property owner, their representative, or any interested person is invited to attend the meeting to be held as noticed above. Written response can be sent to or hand delivered to the attention of the Zoning Board of Appeals, 323 W. Michigan Ave., Marshall, Michigan 49068.

Anyone who requires an auxiliary aid or service for effective communication or a modification of policies or procedures to participate in a City program, service, or activity should contact Natalie Dean at the City Hall located at 323 W Michigan Ave, by calling (269) 781-5183 x1505, or by emailing ndean@cityofmarshall.com, 3 days prior the scheduled meeting or event.

323 W. Michigan Ave.
Marshall, MI 49068
p 269.781.5183
f 269.781.3835
cityofmarshall.com

I am in support of the variance that has been requested by Austin Kimball at 223 N. Eagle. Thank you. Patricia Williams (Franke)
208 W. Prospect

15.08

Zoning Board of Appeals
Variance Application

32.3 West Michigan~ Marshall, MI ~ 49068
Residential \$50.00 Commercial \$100.00



Petitioner Name Austin Kimball

Address 223 N Eagle St. Phone (303) 999-6627

Property address for which you are seeking a variance: 223 N Eagle St.

Are you the owner? Yes No (If not, please attach owners contact information)

Current Zoning R3 Current Use Residential

Zoning of abutting parcels R3

Plot Plan Attached

According to ordinance, you must include a plot plan of the site, drawn to scale, with a north-arrow, all lot lines shown, street right of ways, any easements, any structures, setback dimensions, any parking areas, driveways, sidewalks, and any other site improvements.

Dimensional Variance or _____ Use Variance

Reasons for variance attached
Please see back of sheet for appropriate ZBA criteria.

Non-refundable Fees Paid

*The ZBA meets on the 3RD Thursday of each month.

Application must be received by the date listed on the back of this sheet to be heard on the next scheduled meeting.

I understand that I am expected to attend the ZBA Public Hearing pertaining to this matter. If I am unable to attend, I will send a representative in my place. I understand that the application fee is non-refundable and does not apply to any future permits. Furthermore, if the variance is granted, I agree to obtain a permit before commencing work.

Signature of Petitioner Austin Kimball Date 8/14/15

Signature of Owner Austin Kimball Date 8/14/15

Questions concerning these requirements should be directed to Natalie Dean, Director of Community Services, at: (269) 781-3985 x 1505

8/13/2015

Zoning Board of Appeals,

I am writing to request a dimensional variance for the home that we recently purchased at 223 N Eagle St. The original house was built in 1844 and has been evolving ever since. The current one car garage is almost unusable at 9' by 18 ½' and detracts from the home's value and functionality. My plan is to create a 2 car garage by incorporating the adjacent den into the garage. However, I need to extend the new space 6 feet towards Prospect St to give adequate depth to the garage for parking.

The proposed new construction will blend in very nicely with the surrounding neighborhood and increase the aesthetic appeal of this historic home. I plan to reuse the historic brick and to rebuild the hip roof so that it will look as if the garage has been the same for 100 years. The attached photo shows one of the many nearby houses that have structures closer to the road than my garage will be. This new construction will also eliminate the need for my families' second vehicle to be parked on Eagle St. I have talked to several of my neighbors and they have all been very excited about my planned improvement to this home.

If granted this variance will add value to the community. This home was on the market for almost 1 year and the price was reduced several times before we purchased it. The bank appraisal came in over 20% higher than the agreed purchase price. (See attached). Many people in Marshall are familiar with Crayton Sherman's old house and they all say things like "you purchased a great house but where are you going to park your cars?"

This addition is the only economical and aesthetically feasible option to create adequate parking for this property. The original home was built in 1844 and the second floor was added in 1870. This home has a grand parlor facing Eagle St that also overlooks a private garden area on the home's South side and it would be a disservice to the home to renovate this area for parking. The current garage and den are both part of an addition to the original home that will continue to add aesthetic value to the home/neighborhood as a two car garage.

Sincerely,



Austin Kimball



APPRAISAL OF



LOCATED AT:

223 N EAGLE ST.
MARSHALL, MI 49068-1101

FOR:

Wells Fargo Bank, N.A.
Des Moines
Des Moines, IA 50309

BORROWER:

AUSTIN & STEPHANIE KIMBALL

LLOYD J EATON GROUP
Serving Most of Michigan

www.ljeaton.com

appraisals@ljeaton.com

File No. a

06/03/2015

Reis Valuation
Wells Fargo Bank, N.A.
Des Moines
Des Moines, IA 50309

File Number: a

In accordance with your request, I have appraised the real property at:

223 N EAGLE ST.
MARSHALL, MI 49068-1101

The purpose of this appraisal is to develop an opinion of the market value of the subject property, as improved.
The property rights appraised are the fee simple interest in the site and improvements.

In my opinion, the market value of the property as of May 29, 2015 is:

\$205,500
Two Hundred Five Thousand Five Hundred Dollars

The attached report contains the description, analysis and supportive data for the conclusions, final opinion of value, descriptive photographs, limiting conditions and appropriate certifications.

Sincerely,



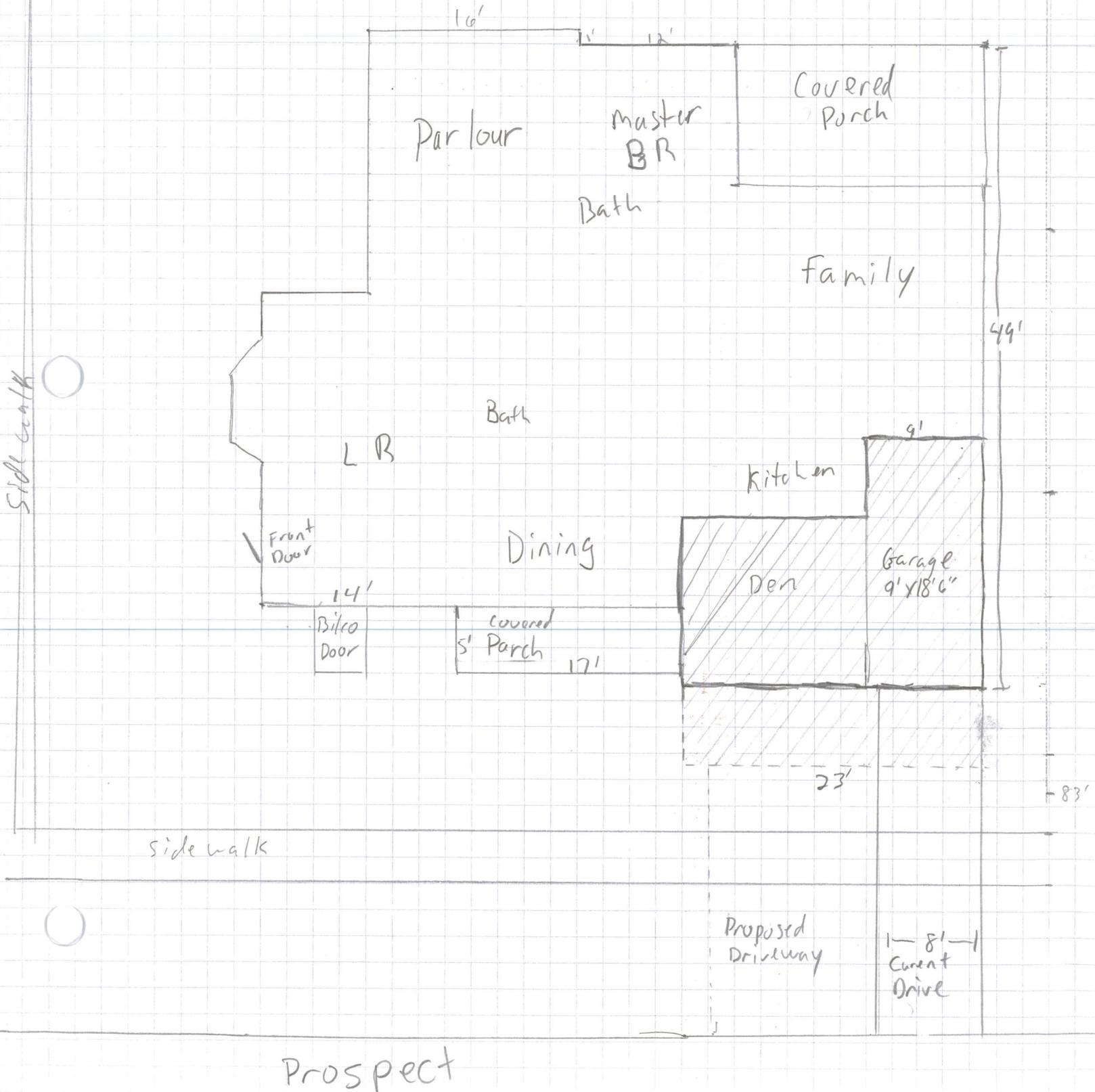
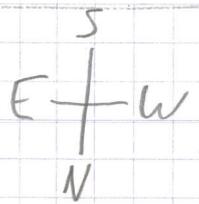
Lloyd James Eaton III (Jim)

BE SURE TO READ THE IMPORTANT INFORMATION SECTION OF THE REPORT ADDENDUM

223 N Eagle

1 Square = 2'

/// Shading = Proposed Garage

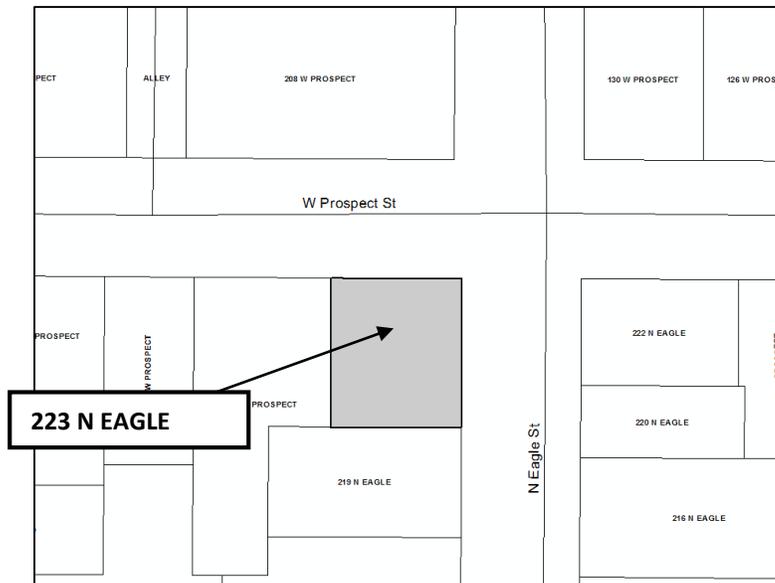




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323 W. Michigan Ave.

Marshall, MI 49068

p 269.781.5183

f 269.781.3835

cityofmarshall.com

PCOMBINED	PROPERTYCI	OWNERNAME1
212 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
216 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
219 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
220 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
222 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
223 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
311 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
312 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
315 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
316 N EAGLE	MARSHALL, MI 49068	OWNER/OCCUPANT
216 N GRAND	MARSHALL, MI 49068	OWNER/OCCUPANT
222 N GRAND	MARSHALL, MI 49068	OWNER/OCCUPANT
224 N GRAND	MARSHALL, MI 49068	OWNER/OCCUPANT
128 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
136 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
138 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
148 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
200 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
210 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
216 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
222 W MANSION	MARSHALL, MI 49068	OWNER/OCCUPANT
119 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
123 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
124 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
125 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
126 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
127 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
130 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
208 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
209 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
213 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
215 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT
224 W PROSPECT	MARSHALL, MI 49068	OWNER/OCCUPANT