# Agenda
# Zoning Board of Appeals
# Council Chambers
# Wednesday, August 24, 2016 - 7:00 P.M.

## I. Call to Order

## II. Roll Call

| | | |
|---|---|---|
| John Bailey, Chair | P | A |
| Jake Albers, Vice Chair | P | A |
| Tom Roach | P | A |
| Jared Talaga | P | A |

## III. Approval of Minutes

- June 22, 2016

## IV. Purpose of Meeting

## V. Old Business

- None

## VI. New Business

- Zoning Interpretation, 908 Pleasant Dr lot lines

## VII. Adjournment

**ZONING BOARD OF APPEALS**
**MEETING MINUTES**
**June 22, 2016**
**CITY COUNCIL CHAMBER**
**7:00 P.M.**

## 1. CALL TO ORDER

The meeting was called to order at 7:05 pm.

## II. ROLL CALL

**Present:** J. Bailey, T. Roach, J. Albers, E. Seymour,

**Absent:** J. Talaga (excused)

**Staff:** B. Wessler, Planner II
N. Schuette, Executive Secretary
C. Kochanek, Planner I

## III. APPROVAL OF MINUTES

Commissioner Albers moved to approve the minutes of January 27, 2016 (Support: E. Seymour) and the motion carried unanimously.

## IV. PURPOSE OF MEETING

Chairman Bailey stated the purpose of the meeting

## V. OLD BUSINESS

None

## VI. NEW BUSINESS

1. Variance – 575 S. Mansfield

Ms. Kochanek stated that this is a request for a variance at 575 S. Mansfield for a digital billboard from Sec122-866(d)(1)(C)(2). This parcel is an 8.7 acre lot on S. Mansfield just west of Paint Creek. The southern portion of the lot borders I-94. A 24,000 sq. ft. single story commercial building currently exists. There are two existing static billboard structures, each with two faces, adjacent to I-94, as well as a cell tower, for which a height variance was approved in 1996. The billboard structure in question is the

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westernmost one on this property, south of the existing building. Billboards are regulated under Sec122-866(d)(1).

The applicant is requesting to replace the existing back-to-back static billboard signs with back-to-back digital billboard signs on the billboard on the west of the property. The applicant is requesting a variance from the requirement that two non-conforming billboard faces be removed for each new digital face. The applicant does not have any non-conforming billboards within the city limits and in fact, owns only one billboard structure within the City.

Ms. Kochanek stated that it is currently zoned PMD. Staff recommended approval with various findings.

Chairman Bailey asked the size of the sign, to which, Ms. Kochanek responded it was 672 sq. ft. in billboard space. Ms. Wessler added that they do not own any other signs in the city.

Commissioner Roach moved to open the public portion of the hearing (Support: J. Albers) and the motion carried unanimously.

**James Walsh, Attorney for the applicant –** stated that the applicant is willing to comply with everything as stated in the staff report dated June 16, 2016. It is his opinion that the sign will be more enhanced. Commissioner Roach asked if they will be advertising for anyone that is willing to pay. Mr. Walsh that they will also be doing public service advertising, i.e. amber alerts, traffic issues, weather issues, working with the State Police and FEMA but for the most part, it will be commercial advertising.

Commissioner Albers moved to close the public portion of the hearing (Support: E. Seymour) and the motion carried unanimously.

Commissioner Roach moved to approve staff recommendation of approval of the variance from Sec122-866(d)(1)(c)(2) to permut the conversion of static billboard faces to digital faces on the western billboard at 575 S. Mansfield without removing two non-conforming billboards, as submitted on May 5, 2016, with the following findings:

1. The applicant has shown sufficient practical difficulty under Sec122-94(b)(1).
2. Such a variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the PMD district under the terms of the zoning ordinance, per the standards of Sec122-94(2)
3. The practical difficulty being proposed is not self-created, per Sec122-94(3).
4. The granting of this variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, per Sec122-94(4).
5. The allowance of the variance will result in substantial justice being done, given the conditions spelled out in Sec122-94(b)(5).
6. the allowance of the variance will be the minimum that makes possible a reasonable use by this owner, under Sec122-94(6).

The motion was supported by Commissioner Albers and a voice vote was carried unanimously.

2. Commissioner Seymour stated that he would be resigning from the board effective July, since he will be moving out of the City.

3. Elections

   Commissioner Roach moved to re-appoint John Bailey as Chair (Support: J. Albers) and the motion carried unanimously.

   Chairman Bailey moved to appoint Jake Albers as Vice-Chair (Support: T. Roach) and the motion carried unanimously.

4. Ms. Wessler informed the board members of the Regional Transportation Authority meeting on Monday, June 27 at 6 p.m. at the Washtenaw County Learning Resource Center in Ann Arbor to view and comment on the new Master Plan for Public Transportation that will connect our entire region.

## VII. ADJOURNMENT

Since there was no further business, Commissioner Albers moved to adjourn the meeting (Support: E. Seymour) and the motion carried unanimously. The meeting adjourned at 7:30 p.m.

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**City of Ypsilanti**
Planning and Development Department

**19 August 2016**

**Staff Review of Zoning Interpretation Application**
**908 Pleasant Drive**

## GENERAL INFORMATION

| | |
|---|---|
| **Applicant:** | Evan Dority<br>908 Pleasant Drive<br>Ypsilanti, MI 48197 |
| **Project:** | 908 Pleasant Dr. front yard |
| **Application Date:** | July 25, 2016 |
| **Location:** | Northwest corner of the eastern curve of Pleasant Drive |
| **Zoning:** | R-1, Single Family Residential |
| **Action Requested:** | Interpretation of the western portion of the lot to be a “side” |
| **Staff Recommendation:** | Split |

## ISSUE AND SITE DESCRIPTION

Parcel # 11-11-40-460-013 is a corner lot located northwest of the eastern curve of Pleasant Drive. The parcel is 0.12 acres. There is an existing ~1,000 square foot residential building, constructed in 1932, with an attached garage. This parcel is zoned R-1-Single Family Residential.

The applicant is seeking a determination for which of the lot lines at the 908 Pleasant property is considered “front,” “rear,” or “side,” due to the unusual condition of being fronted on two sides by the same street.

According to §122-753, for corner lots in the R-1 and MD districts that were platted or of record prior to August 8, 1984 the front yard regulations apply only along the front lot line as designated in the plat and/or in the request for a building permit. The yard along the second street must meet the requirements for side yards on corner lots as specified in the district regulations. There is no specific designation of a front lot line for this property in the plat map (1925) or on a building department permit, hence the need for the Zoning Board of Appeals interpretation.

It is the owners wish that the west side of the lot be interpreted as a side lot. With the lack of designation of a front lot line for this property on a plat map or on a building department permit perhaps it is necessary to look at the clues provided by the house. The address is on the east side of the house. A walkway runs up to a recessed entryway door on the east side as well. There is no door on the south end of the structure.

**Figure 1: Subject Site Location**

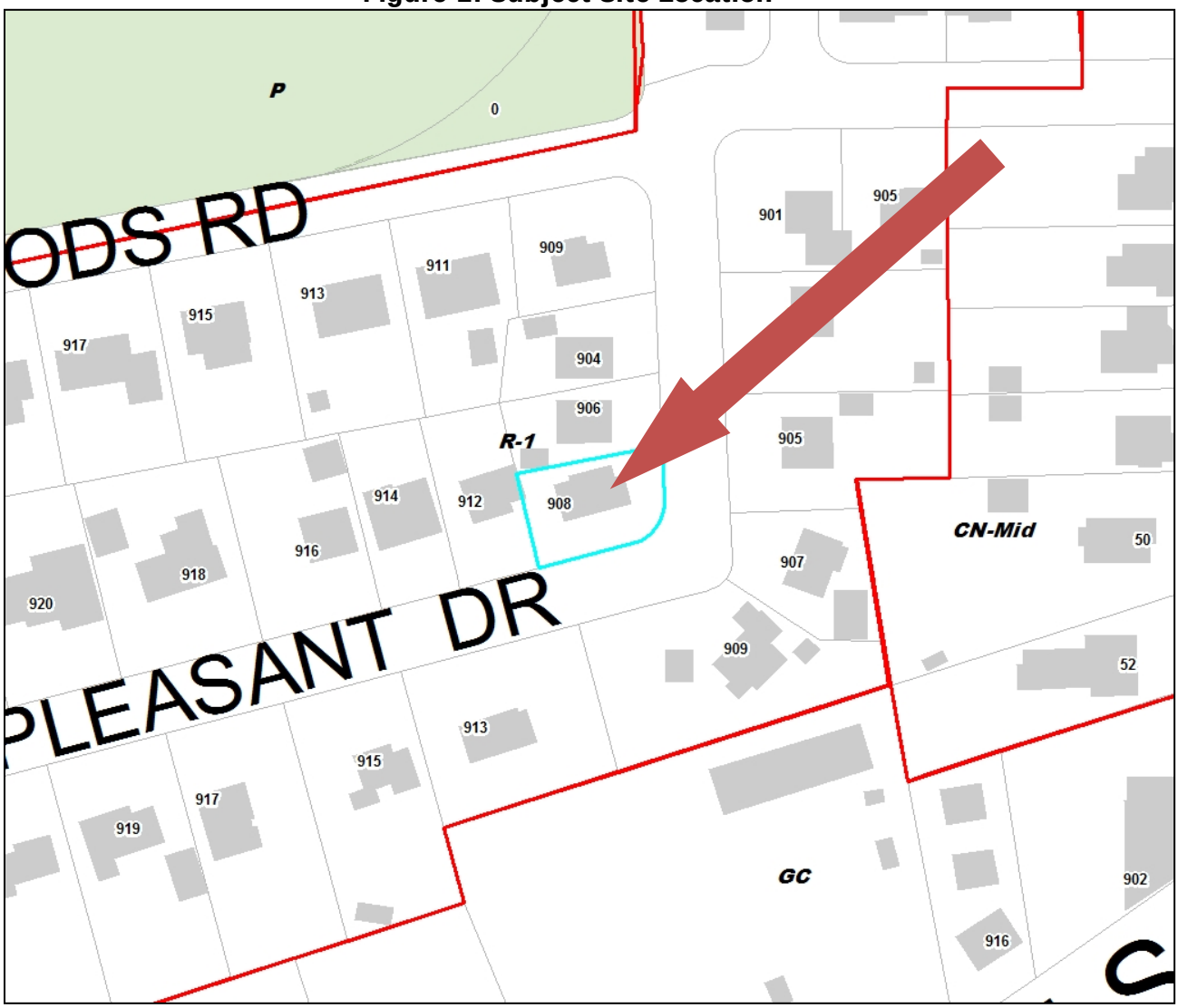


**Figure 2: Site Close-up**

**Figure 3: photograph of site**

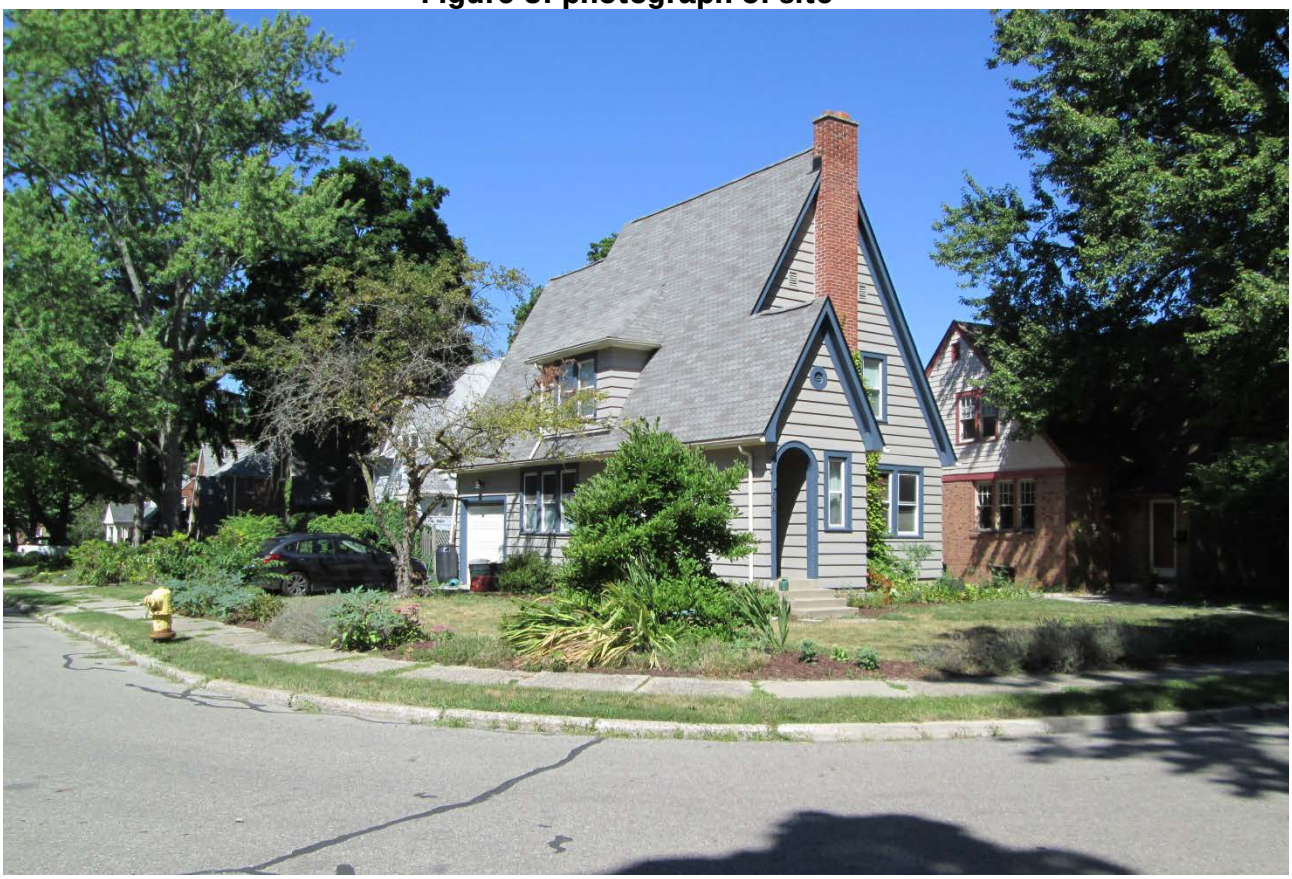


**Figure 4: Plat of Woods Subdivision**

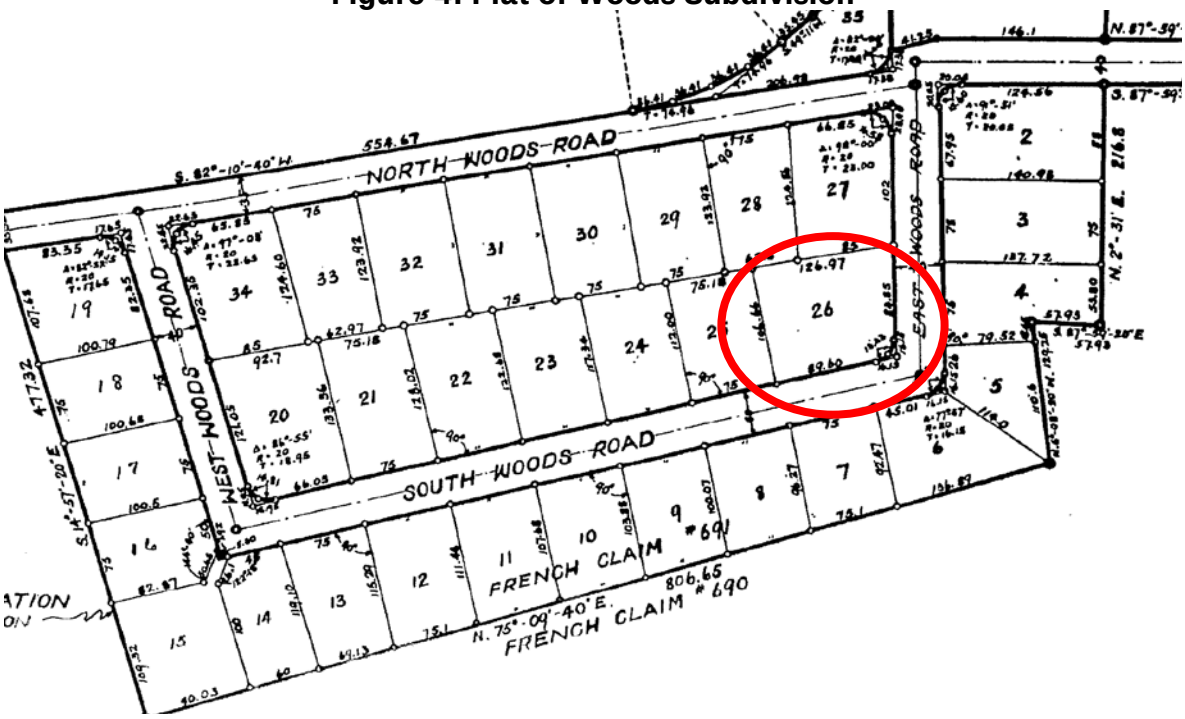



**Figure 5: Land Use and Zoning of Surrounding Area**

| | LAND USE | ZONING |
|---|---|---|
| **NORTH** | Single family residential | R-1- Single-family residential |
| **EAST** | Single family residential | R-1- Single-family residential |
| **SOUTH** | Single family residential | R-1- Single-family residential |
| **WEST** | Single family residential | R-1- Single-family residential |

## ZONING BOARD OF APPEALS AUTHORITY §122-92

Section 122-92 of the Zoning Ordinance states that the Zoning Board of Appeals shall hear questions relating to whether Zoning Ordinance language is unclear.

> **Sec. 122-92. Powers and duties.**
> (a) The board of appeals shall hear and decide all questions and decisions regarding the following:
>
> (2) The interpretation of the language of this chapter when its meaning is unclear, or when there is uncertainty as to whether the language applies to a particular situation.

## DEFINITIONS

**CURRENT ORDINANCE:**

*Lot, corner* means a lot of which at least two adjacent sides abut their full length upon a street, provided that such two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an

interior angle of not more than 135 degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. Tangents are straight lines extended from the outer edges of a curve which intersect to form a corner.

(1) *Yard, front* means a yard extending across the front of a lot and being the minimum horizontal distance between the street line and the principal building or any projections thereof other than projection of uncovered steps, unenclosed balconies or unenclosed porches.
(2) *Yard, rear* means a yard extending across the full width of the lot between the rear lot line and the nearest point of the principal building. On all lots, the rear yard shall be opposite the front yard.
(3) *Yard, side* means a yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.
(4) *Yard, street side* means a yard between the principal building and the street side lot line on a corner lot, extending from the front yard rearward to the rear lot line, the width of which shall be the horizontal distance of the side lot line to the nearest point on the principal building.

**Figure 7 of Chapter 122, illustrative of corner lot:**

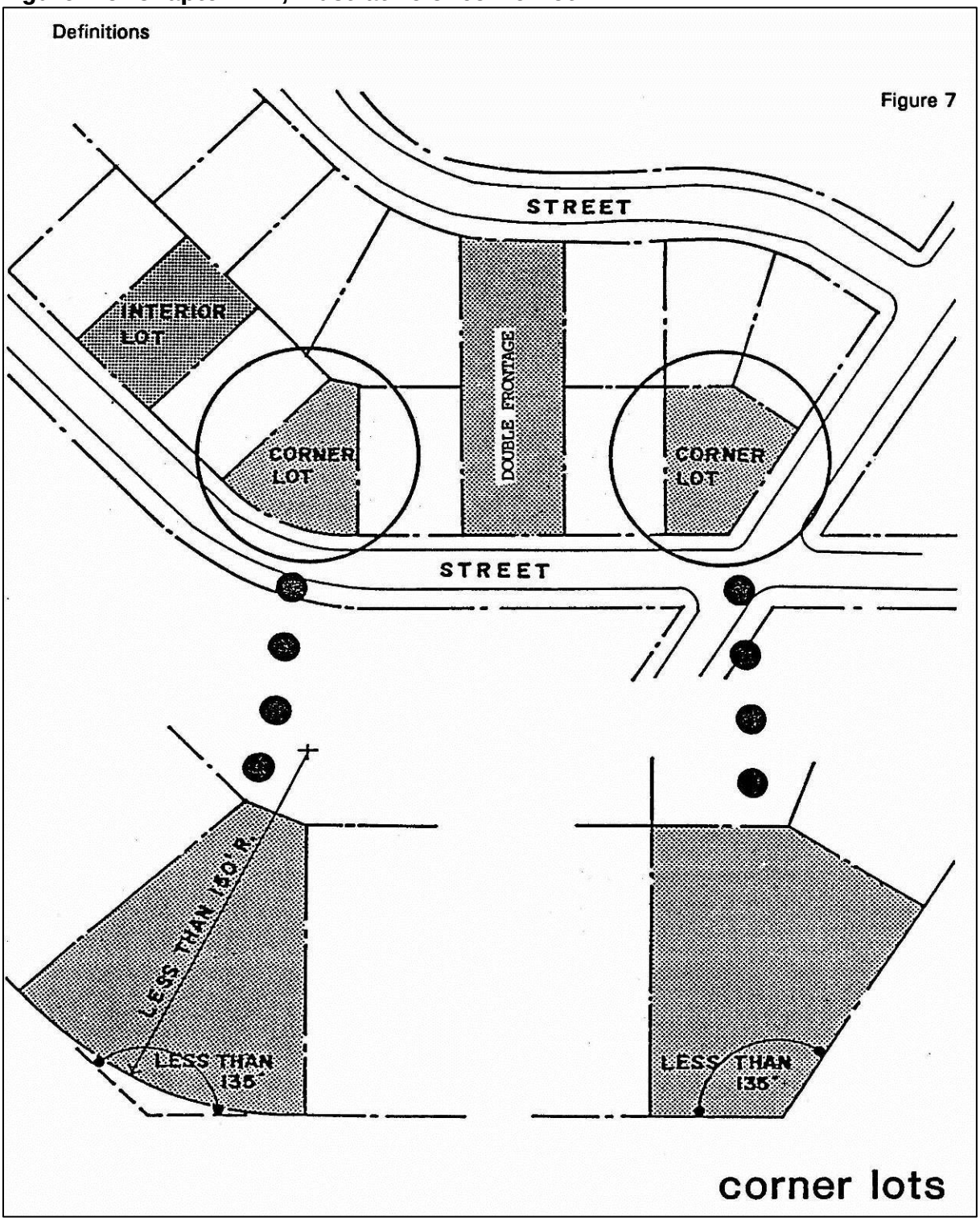
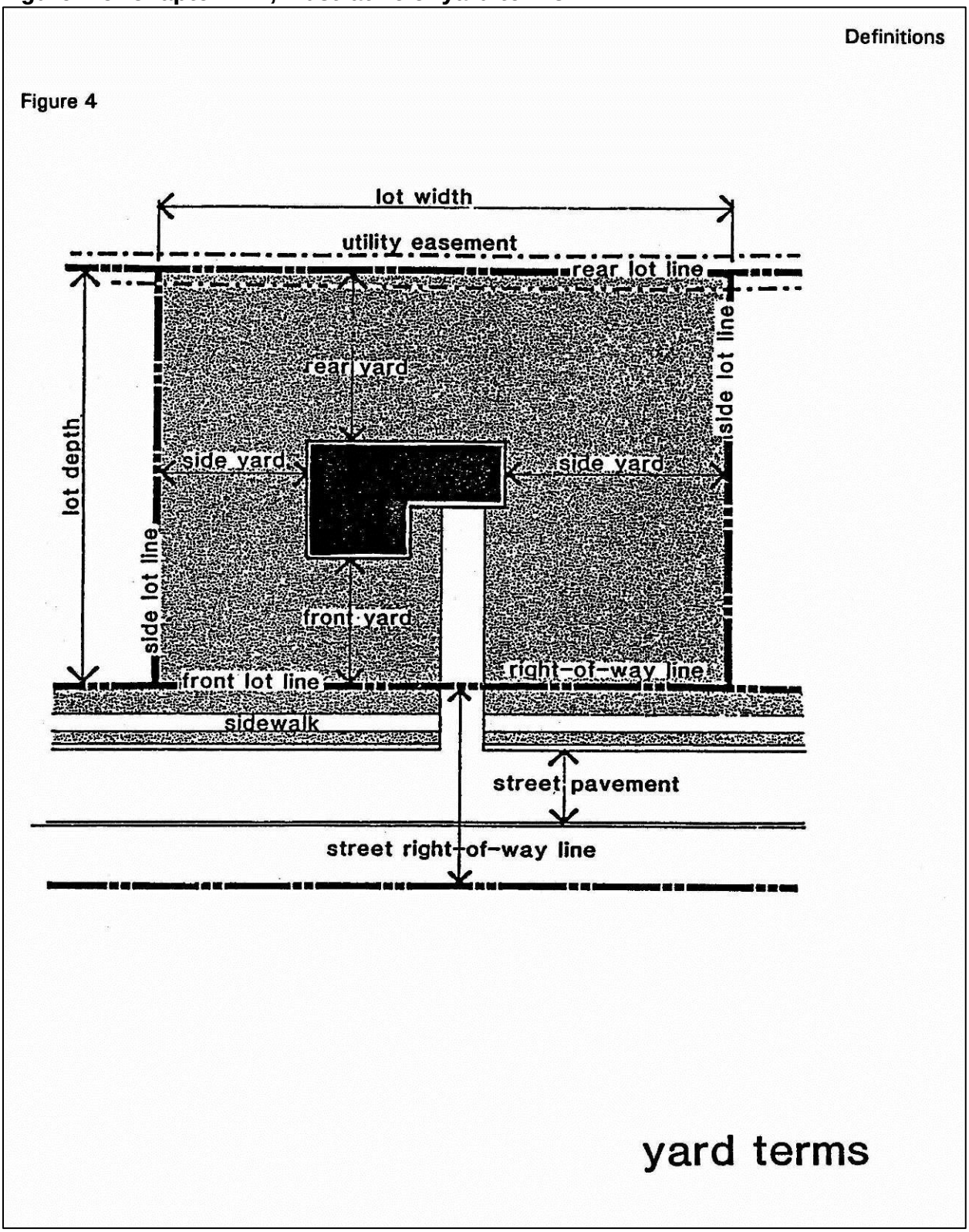


**Figure 4 of Chapter 122, illustrative of yard terms:**



**1925-1936 ORDINANCE:**
LOT, CORNER: A parcel of land in a single ownership at the intersection of two or more streets, provided the angle at which the streets intersect does not exceed 135 degrees.

LOT, FRONT, REAR, AND DEPTH OF: The front of a lot is that boundary line which borders on the street. In case of a corner lot the owner may elect by statement on his plans either street boundary line as the front. The rear of the lot is the side opposite the front. In the case of a triangular or gore lot the rear is the boundary line not bordering on the street. The depth of a lot is the dimension measured from the front of the lot to the extreme rear line of the lot. In the case of irregular shaped lots the mean depth shall be taken.

No illustrations included.

## APPLICATION

The applicant is seeking a determination for which of the lot lines at the 908 Pleasant property is considered "front," "rear," or "side," due to the unusual condition of being fronted on two sides by the same street.

> "The owners are asking to have the Zoning Board of Appeals interpret the lot lines, specifically of the west of 908 Pleasant Drive, ultimately to allow for the request of a permit for a small addition. The owners have been in contact with the City Planner, Bonnie Wessler, who deferred to the Zoning Board of Appeals due to a lack of available information on the property, leading to an uncertainty as to the sub-definitions of the lot lines. Because the property is on a corner with essentially two fronts (south and east) both on Pleasant Drive, it is not immediately clear how the north and west of the lot should be defined. The structure of 908 does not have the rear of either of the two nearest properties. The west of 908 faces the side lot line of the next property (912 Pleasant Drive). The north of 908 also faces the side lot line of the next property (906 Pleasant Drive). Due to the peculiarities of the placement of 908, being on a corner facing two side lot lines from nearest properties, and the amount of footage between the west of the structure of 908 and the nearest side lot line (and structure) to the west, the owners hope that the west lot line at 908 will be viewed as a "side."

## DISCUSSION

The ordinance states that when a corner lot was platted before 1984, we must use either designations on the original plat or designations on the original building permit to determine which side of the lot is the "front" side, and which the "side" and "rear" yard. It further states that lots platted after this date consider each street-facing yard subject to "front" yard setbacks, but the one that is truly considered the "front" is the one as designated in the plat and/or request for building permit. In this case, the lot was platted in 1925 and the home constructed in or around 1932; no documentation regarding "front" yards was found in City records.

In 1932, this property appears to have been in the "Class B Residence District." Dimensional regulations were as follows:

> REAR YARDS: On interior lots there shall be a rear yard having a minimum depth of 20 feet which shall be increased by four feet for each additional story of the building

above one story. On corner lots the above rear yard depth may be decreased by not more than six feet.

SIDE YARDS: There shall be a side yard on each side of every building other than an accessory building. Minimum width of side yard shall be 3 feet which shall be increased one foot for each additional story of the building above one story and shall be further increase one foot for every ten feet or fraction thereof that the length of the side yard exceeds 35 feet.

SET BACK: There shall be a set back of 15 or more feet on each lot provided that when 25 per cent of the frontage in any one block between two adjacent streets has been built upon, the minimum set back distance for that block shall be established by taking the average of the set backs of the lots built upon, each lot being taken as a unit, provided that this regulation shall not be interpreted to reduce the buildable width of a corner lot to less than 22 feet.

The current ordinance does not appear to specify that a lot must have one each of a side, front, or rear yards. It only specifies that if a rear yard exists, it must be located opposite the front yard. The 1925-36 ordinance states more clearly that "the rear of the lot is the side opposite the front."

The applicant has provided a mortgage survey, which shows the south setback to be 27.3 feet and the west setback to be 17.8 feet; north and east setbacks are not shown. On the city's aerial, which has a significant margin of error, they appear to be 24 feet to the east and 8 feet to the north, at the narrowest points. Per the zoning ordinance in effect at the time of construction,

- the proscribed rear yard would have been 24 feet, as the building has two stories (20+4=24);
- the side yard (if north) would have been 6 feet, as the building has two stories and that side is 90 feet long ((3+1+((90-35)/35)=5.57) ;
- the side yard (if west) would have been 5, as the building has two stories and that side is 60 feet long (3+1+((60-35)/35)=4.7)
- the front setback (referred to above as "set back") would have been about 30 feet, if the front is to the east; or 15 feet, if to the south (only two of six homes were built by 1932).

These calculations do not illuminate the subject overall, but indicate that the north is not nor was the rear yard.

As the applicant states, both the north and the west lot lines are interior lot lines; the adjoining yard belonging to each neighbor is a "side" yard. This would suggest that both the north and the west yards could be considered side yards.

The south frontage of the house consists of garage access; there is no man door. The east frontage of the house contains a man door and the mailbox. Address numbers were not visible from the street on the day the photographs were taken. This would suggest that the east side is the front side.

There are two potential conclusions that staff sees as supported under the current ordinance:

1. The east side is the front side, the south is the “street side” side, the north is the side, and the west is the rear.
   - This is due to the north clearly being the side per ordinance at the time of construction, the presence of the “front door” on the east side designating it as the front, and the west being opposite the front yard.

OR

2. The east side is the front side, the south is the “street side” side, the north is the side, and the west is another side.
   - This is due to the north clearly being the side per ordinance at the time of construction, the presence of the “front door” on the east side designating it as the front, and the west side being an interior lot line facing a side yard.

The first option is more aligned with the 1925-1936 zoning ordinance definitions. Both options preserve the form of the neighborhood.

## STAFF RECOMMENDATION

Staff recommends that the Zoning Board of Appeals find that in the case of 908 Pleasant Drive, the east side is the front side, the south is the “street side” side, the north is the side, and the west is the rear, with the findings that:

- the north is clearly considered the side per ordinance at the time of construction due to its small size,
- the presence of the “front door” on the east side, facing the street, strongly indicates that it is the front,
- and the west side, being opposite the front side, was considered a rear yard under the zoning ordinance at the time of construction.

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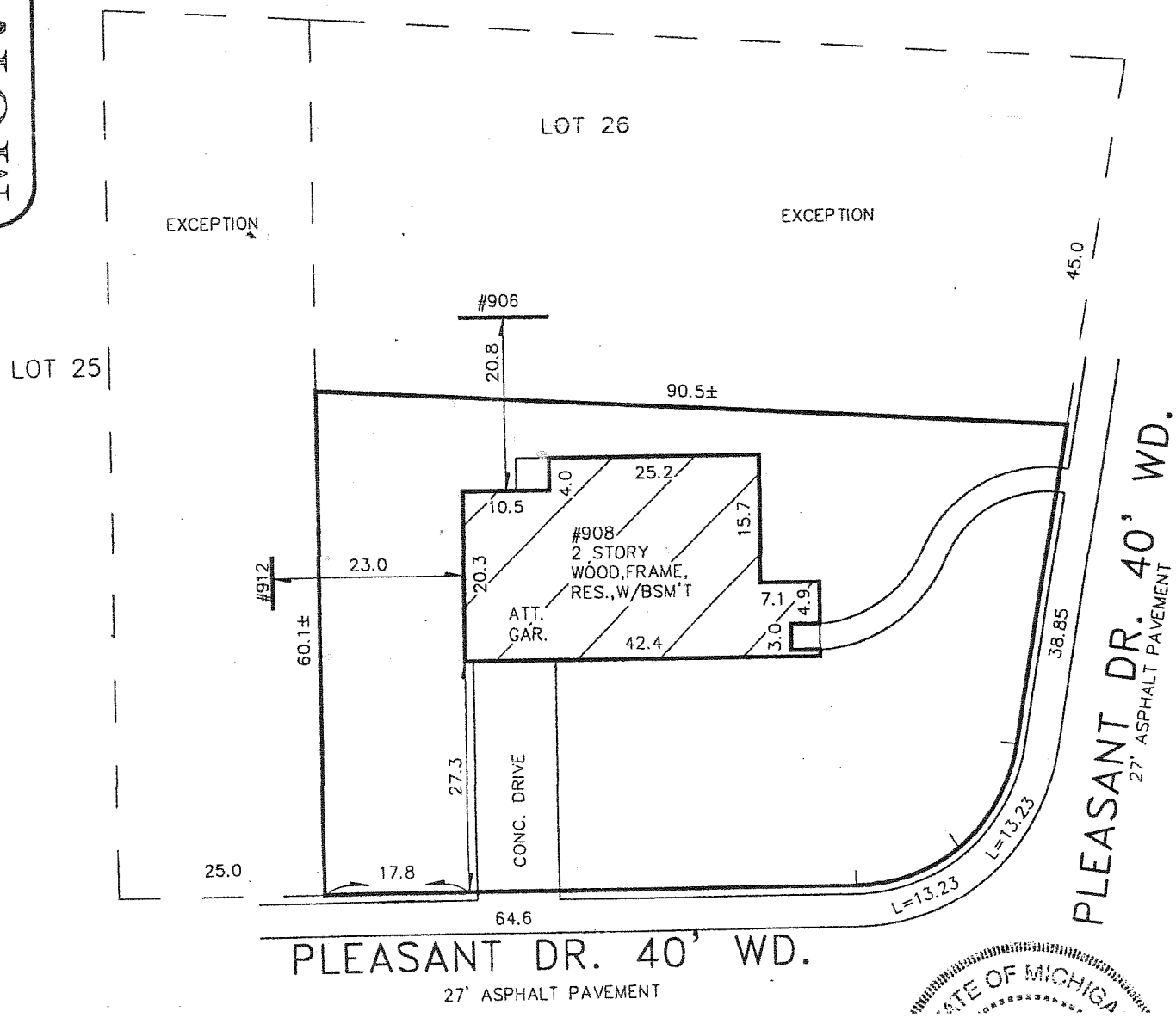
Bonnie Wessler
City Planner, Community & Economic Development Division

c.c. File
Applicant

MORTGAGE SURVE

Certified to: WELLS FARGO HOME MORTGAGE

Applicant: EVAN AND NELL DORITY

## Property Description

Lot 26; WOODS SUBDIVISION, of part of the French Claim Number 691 in the City of Ypsilanti, Washtenaw County, Michigan. Recorded in Liber 6, Page 48 of Plats, Washtenaw County Records.