

OWOSSO
Zoning Board of Appeals



Regular Meeting
9:30am, May 19, 2015
Owosso City Council Chambers



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ (989) 725-0599 ▪ FAX (989) 723-8854

DATE: May 11, 2015
TO: Chairman Horton and the Owosso ZBA
FROM: Susan Montenegro, Asst. City Manager/Dir. of Community Development
RE: Zoning Board of Appeals Meeting: Tuesday, May 19, 2015

The Zoning Board of Appeals shall convene in the city council chambers at 9:30 a.m. on Tuesday, May 19, 2015 to hear a petition for a parking variance. The property seeking the variance is located at 1218 N. Hickory Street, parcel number 050-541-000-060-00. The property is zoned R-1 for use in the single family residential zoning district.

Petitioner is seeking a dimensional variance of three (3) feet for a proposed pavilion. The pavilion will be 30' x 60' over an existing basketball pad. The height of the side beams will be 14' where the roof joists connect. Mid-peak height will be 17' which is over the allowed height for an accessory structure on the property. Petitioner wishes to use the structure for many events including basketball, which is why he is seeking the variance.

Section 38-379 (5). Accessory buildings.

No detached accessory building in R-1, R-2, RT-1, RM-1, RM-2, OS-1, B-1 and P-1 districts shall exceed one (1) story or fourteen (14) feet in height.

Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts, subject to board of appeals review and approval if the building exceeds one (1) story or fourteen (14) feet in height.

In accordance with the law, the ZBA has authority and is charged with the need to deliberate and rule on each of the following criteria; what follow are staff recommendations/interpretations:

- (3) *Variances.* The board shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, signs and off-street parking and loading space requirements, provided all of the basic conditions listed herein and any one (1) of the special conditions listed thereafter can be satisfied.
 - a. *Basic conditions.* In order to qualify for a variance, the applicant must show that a variance:
 1. Will not be contrary to the public interest or to the intent and purpose of this chapter; **Staff finds no issues, subject to ZBA review.**
 2. Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required; **Staff finds no conflicts or concerns.**
 3. Is one that is unique and not shared with other property owners; **No determination or finding by staff.**

Owosso Zoning Board of Appeals

4. Will relate only to property that is under control of the applicant; **Only relates to this specific property.**
 5. Is applicable whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; **Staff has no issue with request but this is subject to ZBA review.**
 6. Was not created by action of the applicant (i.e. that it was not self-created); **Petitioner is asking to build a pavilion that will exceed the maximum height allowance of an accessory building for the purpose of playing basketball. ZBA must determine if this is a self-created action.**
 7. Will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets or increase the danger of fire or endanger the public safety; **Staff finds no conflicts; subject to ZBA review.**
 8. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located; **Staff finds no indications of such, subject to ZBA review.**
 9. Is applicable whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the area, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; **Staff finds no issues; subject to ZBA review.**
- b. *Special conditions.* When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:
1. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land; **Petitioner states the full use of the pavilion area will be affected if the variance is denied; request is subject to ZBA review.**
 2. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district. **ZBA must deliberate on these points and issue findings.**
 3. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district. **No determination or finding by staff.**
- c. *Rules.* The following rules shall be applied in the granting of variances:
1. The board may specify, in writing, such conditions regarding the character, location, and other features that will, in its judgment, secure the objectives and purposes of this chapter. The breach of any such condition shall automatically invalidate the permit granted.
 2. Each variance granted under the provisions of this chapter shall become null and void unless:
 - i. The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance and proceeds to completion in accordance with the terms of the variance;
 - ii. The occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.
 3. No application for a variance which has been denied wholly or in part by the board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of

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newly-discovered evidence or proof of changed conditions found upon inspection by the board to be valid.

4. In granting or denying a variance the board shall state the findings of fact upon which it justifies the action.

Summarily, subject to deliberation and findings of the ZBA, as well as the public hearing, staff finding is to allow this petition.

That is all for now. Please go through the rest of your packet contents and **RSVP for the meeting**. Please contact me if you have any questions, comments, or other feedback at susan.montenegro@ci.owosso.mi.us or on my cell at 989.890.1394. I look forward to seeing you all on the 19th.

AGENDA
Owosso Zoning Board of Appeals

Tuesday, May 19, 2015 at 9:30 a.m.
Council Chambers – Owosso City Hall
Owosso, MI 48867

CALL MEETING TO ORDER:

ROLL CALL:

APPROVAL OF AGENDA: May 19, 2015

APPROVAL OF MINUTES: April 21, 2015

SITE INSPECTIONS: None

COMMUNICATIONS:

1. Staff memorandum
2. ZBA minutes from April 21, 2015
3. Variance request – 1218 N. Hickory
4. Affidavit of notice

COMMISSIONER/PUBLIC COMMENTS:

PUBLIC HEARINGS:

1. Variance - (resolution)

BUSINESS ITEMS:

COMMISSIONER/PUBLIC COMMENTS:

ADJOURNMENT: Next regular meeting will be on Tuesday, June 16, 2015 if any requests are received.

Commissioners, please call Marty at 725-0540 if you will be unable to attend the meeting on Tuesday, May 19, 2015

[The City of Owosso will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seventy-two (72) hours notice to the City of Owosso. Individuals with disabilities requiring auxiliary aids or services should contact the City of Owosso by writing or calling the following: Amy Kirkland, City Clerk, 301 W. Main St, Owosso, MI 48867 (989) 725-0500] . The City of Owosso website is: www.ci.owosso.mi.us

Affirmative Resolutions
Owosso Zoning Board of Appeals

Tuesday, May 19, 2015, 9:30 a.m.
Owosso City Council Chambers, 301 W Main St.,
Owosso, MI

Resolution 150421-01

Motion: _____
Support: _____

The Owosso Zoning Board of Appeals hereby approves the agenda of May 19, 2015 as presented.

Ayes: _____
Nays: _____

Approved:____ Denied:____

Resolution 150421-02

Motion: _____
Support: _____

The Owosso Zoning Board of Appeals hereby approves the minutes of April 21, 2015 as presented.

Ayes: _____
Nays: _____

Approved:____ Denied:____

Resolution 150421-03

Motion: _____
Support: _____

Whereas, the Owosso Zoning Board of Appeals, after reviewing the case for 1218 N. Hickory, parcel number 050-541-000-060-00, hereby makes the following findings:

- 1. _____
- 2. _____
- 3. _____

Based upon those findings, the Owosso ZBA hereby approves/denies the petition to permit the dimensional variance for an accessory building with a height variance of 3' as illustrated in the attached petition, conditioned on the following:

- 1. _____
- 2. _____
- 3. _____

Ayes: _____
Nays: _____

Approved:____

Denied:____

Resolution 1450421-04

Motion:_____

Support:_____

The Owosso Zoning Board of Appeals hereby adjourns the May 19, 2015 meeting, effective at _____a.m.

Ayes:_____

Nays:_____

Approved:____

Denied:____

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
APRIL 21, 2015 at 9:30 AM
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Chairman Randy Horton at 9:31a.m.

ROLL CALL: Was taken by Recording Secretary Marty Stinson.

MEMBERS PRESENT: Chairman Randy Horton, Vice-Chairman Christopher Eveleth, Secretary Daniel Jozwiak, Board Member William Wascher and Alternate John Horvath.

MEMBERS ABSENT: Board Member Kent Telesz; and Alternate Matt Grubb.

OTHERS PRESENT: Ms. Susan Montenegro, Assistant City Manager and Director of Community Development; Mr. Richard Merling, owner of 1302 W. Main Street.

MINUTES: IT WAS MOVED BY BOARD MEMBER EVELETH AND SUPPORTED BY BOARD MEMBER JOZWIAK TO APPROVE THE MINUTES OF FEBRUARY 17, 2015 AS PRESENTED. YEAS: ALL. MOTION CARRIED.

COMMUNICATIONS:

1. Staff memorandum
2. ZBA minutes from February 17, 2015
3. Class A Nonconforming Use Application & Materials – 1302 W. Main Street
4. Affidavit of notice

COMMISSIONER/PUBLIC COMMENTS: None.

PUBLIC HEARINGS:

1. CLASS A NONCONFORMING USE DESIGNATION – 1302 W. MAIN STREET

Ms. Susan Montenegro, Assistant City Manager and Director of Community Development, presented an aerial map of the designated property. She stated that Mr. Merling, property owner, presented a request for a variance so he could have a mini golf course at 1302 W. Main Street. He has a restaurant which also serves ice cream which is zoned B-1 at that address. It would need to be zoned B-4 for open air recreation space with a 400 foot setback from residential homes. Ms. Montenegro noted that in talking to Mr. Don Crawford, the City Manager, a Class A Non-conforming Use could be granted by this board instead of the variance.

Mr. Merling was introduced. He stated this request was made to accommodate open air recreation. There is a 34 x 50 cement pad which is uneven. It is currently used for storage, but is an eyesore. His hope is to create a small playscape area for a putt-putt golf. American Recycling makes a rubber-based product which would be applied to the cement pad and will correct the uneven surface and help with noise reduction. This will only be six to nine holes with no upper structures built on it. This won't draw people from wide areas, but hopefully will help to draw customers for a place to eat and a place for the kids to enjoy in the Westown area. This would be limited to about 15 customers at a time.

Chairman Horton asked about the hours. Mr. Merling commented about the current hours of 7A-3P. Because several other coffee stores have opened since we opened, we've expanded to a healthier menu and are now shifting our hours from 11A to the evening. He has talked with consultants and is trying to create a different niche in the Westown area.

Commissioner Wascher asked if this gets approved here, does this go to the Planning Commission for site plan review. Ms. Montenegro recommends that it would. Mr. Wascher asked about adding parking or lighting. Mr. Merling stated this would be used seasonally – only used with natural lighting. He would not be using it past dusk. Vic Holtz Associates were the original architects out of Monroe. His initial recommendations included the two handicap spaces next to the building and adequate parking currently.

Draft

The putt-putt is for food customers only and is not meant to draw in additional customers. Mr. Merling has consulted with his insurance company and they have adequate signage currently for the traffic flow.

Mr. Wascher asked about additional screening for neighbors. Mr. Merling stated that the residents that we've spoken with notice the M-21 traffic and the railroad train noise. There is no way the restaurant and putt-putt create more noise than those per the residents. The putt-putt will be shut down by 9 p.m.

It was asked about the gated area. Mr. Merling noted that there is a six foot gated fence surrounding the area; the front of the gates actually open. Sign will say that it is for restaurant patrons only. It will not be a congregating place for people to come. Gates will be locked every night. He has shared with his insurance company about liabilities. He already has stop signs, etc. in the parking lot. It is only one level – no climbing. It will be kid friendly and safe. The gate can be closed and locked even if the restaurant is open.

Ms. Montenegro asked if it would be possible to add slats into the chainlink fence to shield residents. Mr. Merling agreed it could if it was required. He stated that we believe it will be more appealing than a storage yard to the neighbors in the Westtown.

MOTION BY BOARD MEMBER EVELETH, SUPPORTED BY BOARD MEMBER HORVATH WHEREAS, THE OWOSSO ZONING BOARD OF APPEALS, AFTER REVIEWING THE CASE FOR THE CLASS A DESIGNATION FOR NONCONFORMING USE FOR 1302 W. MAIN STREET, PARCEL NUMBER 050-537-000-042-00 WITH THE FOLLOWING FINDINGS:

- 1. WILL NOT BE CONTRARY TO THE PUBLIC HEALTH, WELFARE, OR THE SPIRIT OF THE CHAPTER;**
- 2. THAT THE STRUCTURE OF THE PUTT-PUTT COURSE WILL NOT DECREASE THE VALUE OF NEARBY PROPERTIES;**
- 3. THAT THE STRUCTURE WAS LAWFUL AT THE TIME IT WAS BUILT;**
- 4. AND THAT NO USEFUL PURPOSE WOULD BE SERVED BY STRICT APPLICATION TO THE LETTER OF THE RESTRICTIONS.**

Chairman Horton noted the letters and petition of support received with approximately 12 to 15 surrounding residents and neighbors that are glad this business is a part of the neighborhood. The neighbor immediately to the west is also supportive. .

YEAS ALL. MOTION CARRIED.

COMMISSIONER/PUBLIC COMMENTS:

ZBA elections are in July per Chairman Horton.

Board Member Eveleth who is also a Councilmember brought the Zoning Board up to date on several issues including the code enforcement on the racks off of Corunna Avenue. His building will begin renovation this week; the building next to his is also under renovation. Discussion continued about the Matthews Building, Dollar General, and the Armory Building.

ADJOURNMENT:

MOTION BY BOARD MEMBER WASCHER, SUPPORTED BY BOARD MEMBER HORVATH TO ADJOURN AT 10:07 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, MAY 19, 2015, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

Dan Jozwiak, Secretary

m.m.s

CITY OF OWOSSO
ZONING BOARD OF APPEALS
REQUEST FOR HEARING

NOTE TO APPLICANTS:

1. All applications received by the 25th of the month will be heard on the 3rd Tuesday of the following month at 9:30 a.m., lower level of City Hall.
2. The applicant, or legal representative of the applicant, must be present at the Public Hearing for action to be taken.
3. In order that this application may be processed, the applicant must complete Page 1 of this form and make payment of \$300.00 to the City Treasurer's Office to cover costs the City incurs. Checks are to be made out to "City of Owosso".
4. Questions about this application may be directed to (989) 725-0540.

Request is hereby made to the City of Owosso for a hearing before the Zoning Board of Appeals for one or more of the following:

- Variance
- Administrative Interpretation
- Class A Non-Conforming Status or Expansion
- Appeal of Staff or "Board" Decision
- Exception/Special Approval

APPLICANT: Owosso SDA Church / Pastor ILKO Tchakarov
ADDRESS: 1218 N. Hickory Str. LOCATION OF APPEAL: Owosso
PHONE NO.: (989) 413 6731 DATE APPEAL FILED: 04-24-2015

APPEAL: (Indicate all data pertinent to this case, both present and proposed.)

Requesting a 3' height variance for a proposed pavilion.
The pavilion will be 30' by 60' over existing basketball pad. The walls will be 14', and 20' at the peak. The reason for this height is that we are hoping to be able to play basketball under the pavilion.

If this is a variance request, indicate how the strict enforcement of the Zoning Ordinance would result in practical difficulty to the property owner, and how this difficulty is peculiar to the property.

(Note: For a dimensional variance it is necessary to submit a site plan with this application.)

If it is enforced we would not be able to use the pavilion for playing basketball or volleyball, or other sports requiring greater heights.

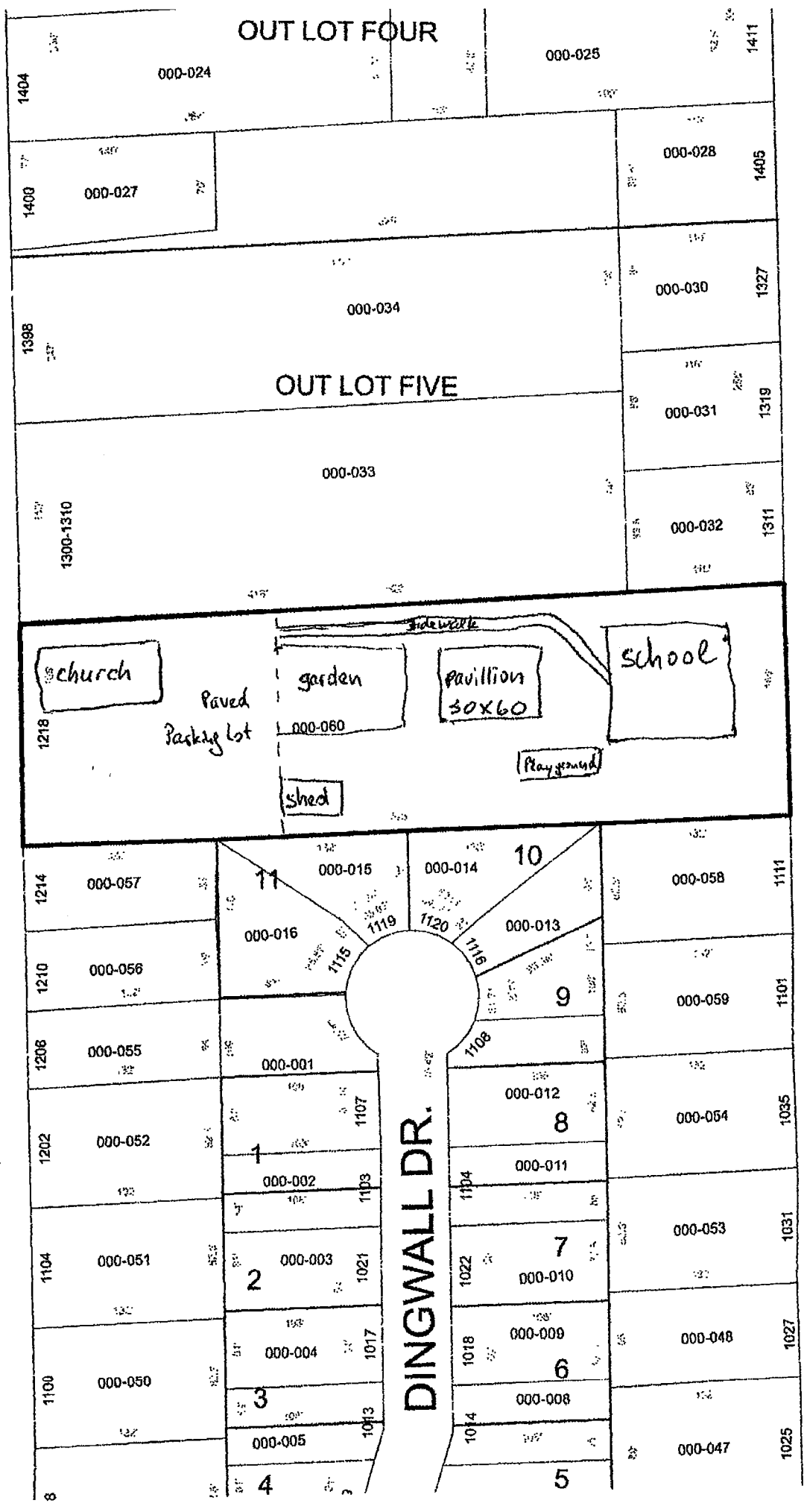
I hereby state that all above statements and any attached documents are true and correct to the best of my knowledge.

Ilko Tchakarov
Signature of Applicant

0-125	1401
	1309
	1307
000-108	1303
000-107	1301
000-105	1217
18 000-106	1215
000-103	1207
000-104	321
0-082	1105
0-081	1103
0-080	15

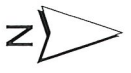
N. HICKORY ST.

66'



SUMMIT ST.

1412
1404
1400
1311
1319
1327
1405
1411
1206
1111
1101
1035
1031
1027
1025



N. HICKORY ST.

City of Owosso
Zoning Board of Appeals

1218 N. Hickory Street
April 30, 2015

SUMMIT



OFFICIAL NOTICE OF PROPOSED VARIANCE

The Zoning Board of Appeals of the City of Owosso will hold a Public Hearing in the Council Chambers of City Hall at 9:30 a.m. on Tuesday, May 19, 2015 to consider the following request:

APPLICANT: Owosso Seventh Day Adventist Church

Case # 2015-02 Parcel 050-541-000-060-00

LOCATION OF APPEAL: 1218 N Hickory Street, Owosso, MI 48867

APPEAL: The petitioner is seeking a dimensional variance of three (3) feet to construct a 30' X 60' pavilion that will have a 20' roof peak. Roof height measured at mid-peak will be 17'. Maximum height for accessory structures in an R-1 zoned parcel is 14'.

THE PROPOSAL IS CONTRARY TO THE ORDINANCE AS FOLLOWS:

The maximum height for an accessory building structure in a single family residential zone (R-1) is 14' measured at mid-peak.

APPLICABLE SECTION OF THE ZONING ORDINANCE: Section 38-379 (5). Accessory buildings.

No detached accessory building in R-1, R-2, RT-1, RM-1, RM-2, OS-1, B-1 and P-1 districts shall exceed one (1) story or fourteen (14) feet in height.

Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts, subject to board of appeals review and approval if the building exceeds one (1) story or fourteen (14) feet in height.

CURRENT ZONING: R-1 Single Family Residential

SIZE OF LOT: 165' X 528'

As an affected property owner, resident, business, or taxpayer, you are encouraged to acquaint yourself with this proposal and make your position on the request known to the Zoning Board of Appeals. You may do so by being present for the public hearing, writing a letter stating your position, email me at susan.montenegro@ci.owosso.mi.us or phoning 989-725-0544. Information on this case is on file in the Zoning Office at City Hall for your review.

Susan Montenegro, Assistant City Manager/Director of Community Development

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1218 N. Hickory Variance

Phone call received on May 6, 2015 from Chris Roth of 1107 Dingwald regarding the proposed variance for 1218 N. Hickory Street. Ms. Roth asked if a berm of some kind would be put in place to help stop the water that floods down into her property following a rain storm. She stated she is concerned the additional concrete needed for the pavilion will prevent the ground from absorbing rain water, which she feels is already an issue. Ms. Roth said she has experienced minor flooding on her property from the current basketball pad that is on the property. Ms. Roth stated she has no problem with the height of the pavilion but considers allowing the construction to take place would lead to a larger drainage issue.