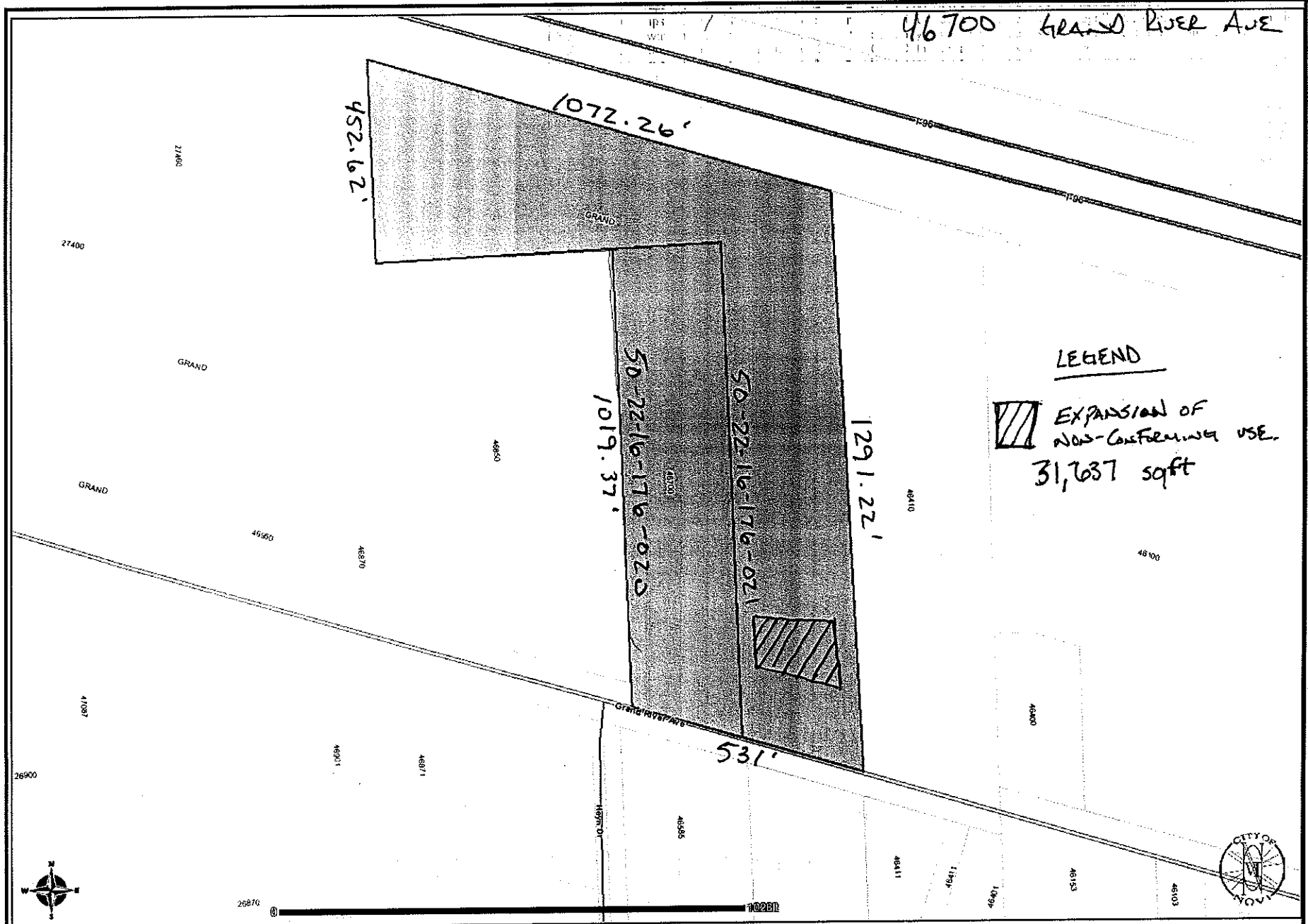



46700 GRAND RIVER AVE



LEGEND

 EXPANSION OF NON-CONFORMING USE
31,637 sqft

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SOURCES: City of Novi, Oakland County, Plansight LLC; October 2006 for County Data; October 2006 for City Data; Aerial Imagery as specified

J.B. ANGLIN COMPANY
42750 Grand River
Novi, Michigan 48375
(313) 349-8500

March 22, 1996

Mr. Greg Capote
Staff Planner
City of Novi
45175 West Ten Mile Rd.
Novi, MI 48375

RE: Confirmation of Continued Use

Dear Mr. Capote:

In regards to parcels 22-16-176-020 and 22-16-176-021 located @ Grand River in Novi, we are in the process of a site selection for our Construction division and we feel this site would work well for our business. We have been a member of the Novi Community since 1956 and prefer to stay within our established boundaries to continue our growth and be an asset in the growth and support of Novi.

The Jack B. Anglin Construction Company would utilize the front facility as an office for its daily business activities as well as house our security personnel. The east outbuilding will be a maintenance and repair facility for our varied pieces of equipment, and the westerly building would be used for small equipment storage. The placement of our heavy equipment would be behind the east and west buildings and would be positioned in a "neat and tidy" manner while they are awaiting their next assignment.

We, are not planning any structural changes to the existing buildings, simply maintenance and general spruce up of the property.

Finally, in order to make a decision, we need an interpretation with regards to Jack B. Anglin Construction Company, being a continuation of legal non-conforming use status on this property which would be consistent with Section 2502.8 of the ordinance.



CITY OF NOVI

175 west ten mile road / novi, michigan 48375-3024 / (810) 347-0460 general information

April 9, 1996

Mr. Doug Anglin
Jack B. Anglin Company
42750 Grand River
Novi, MI 48375

Subject: Outside Storage a Legal Non-Conforming Use on Parcels (22-16-176-020 & 22-16-176-021)

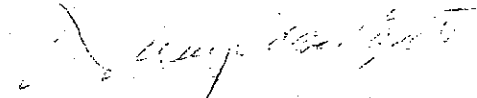
Dear Mr. Anglin:

Pursuant to your letter dated March 22 and my visit to the subject site, it is my opinion that the presence of stocked cars parked at the rear of the building and earthmoving machinery constitutes outside storage and may continue within the same areas under the confines of Sec. 2502 of the Ordinance. Therefore, if you were to purchase the properties, you would be able to use these areas in the same manner.

The question that needs to be further defined is the specifics of the areas that currently contain the outside storage element since there was no clear line delineating this. The ordinance will not permit an expansion of a legal non-conform use, I recommend that you pursue this matter with Mr. Terry Morrone Deputy Building Department Official to clarify this issue.

If you should have any additional questions, please do not hesitate to contact me.

Sincerely,



Gregory A. Capote, Staff Planner











Sea Breeze

Anglin Property 22-16-176-020/021

2006 AERIAL



AERIAL SUBMITTED BY PETITIONER



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2006

Anglin Property 22-16-176-020/021
2005 AERIAL



Aerial Submitted by Petitioner



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2005

Anglin Property 22-16-176-020/021

2002 AERIAL



Aerial Submitted by Petitioner



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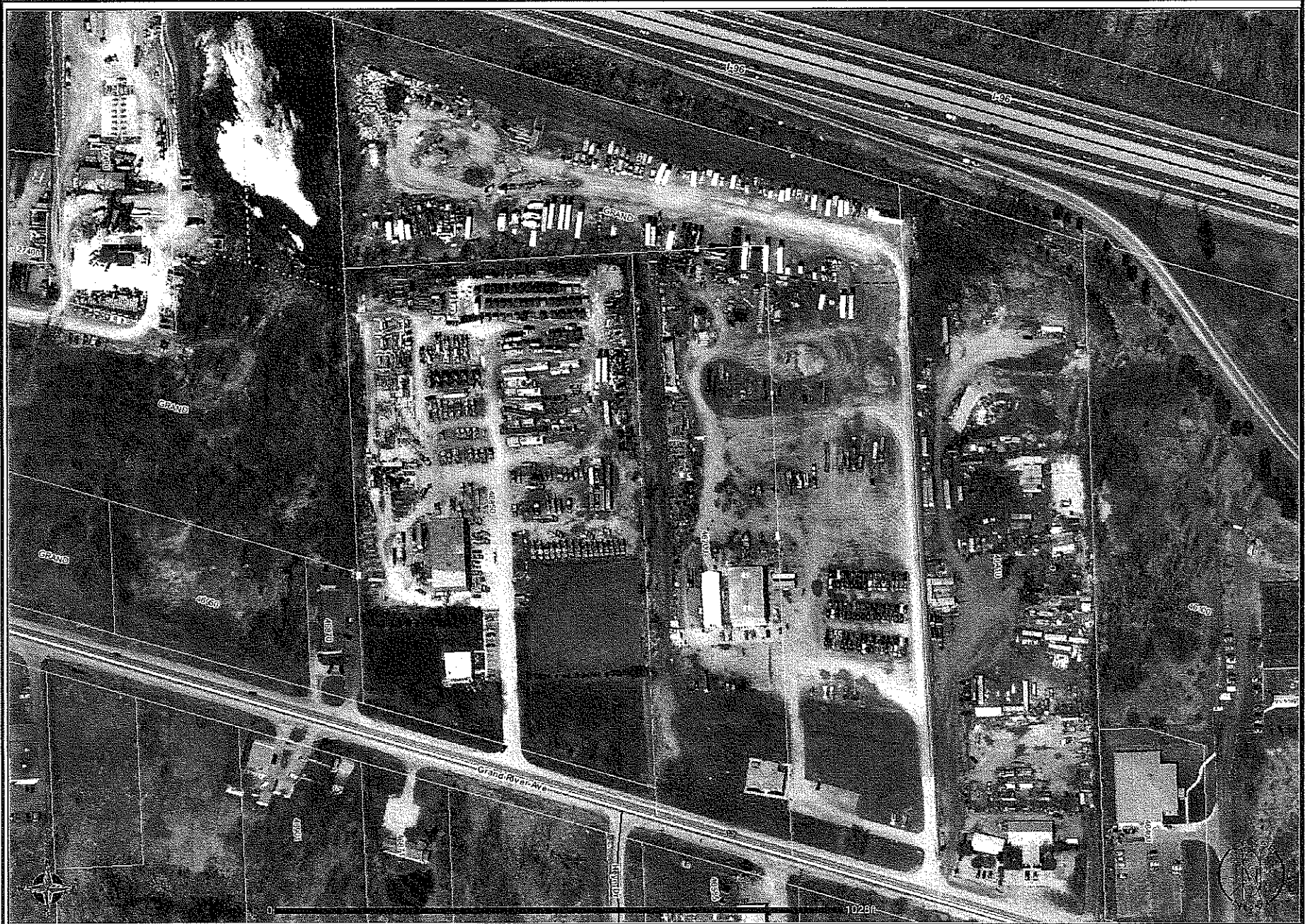
SOURCES: City of Novi, Oakland County, Plansight LLC; October 2006 for County Data; October 2006 for City Data; Aerial Imagery as specified

2002

Anglin Property 22-16-176-020/021
2000 AERIAL



Aerial Submitted by Petitioner

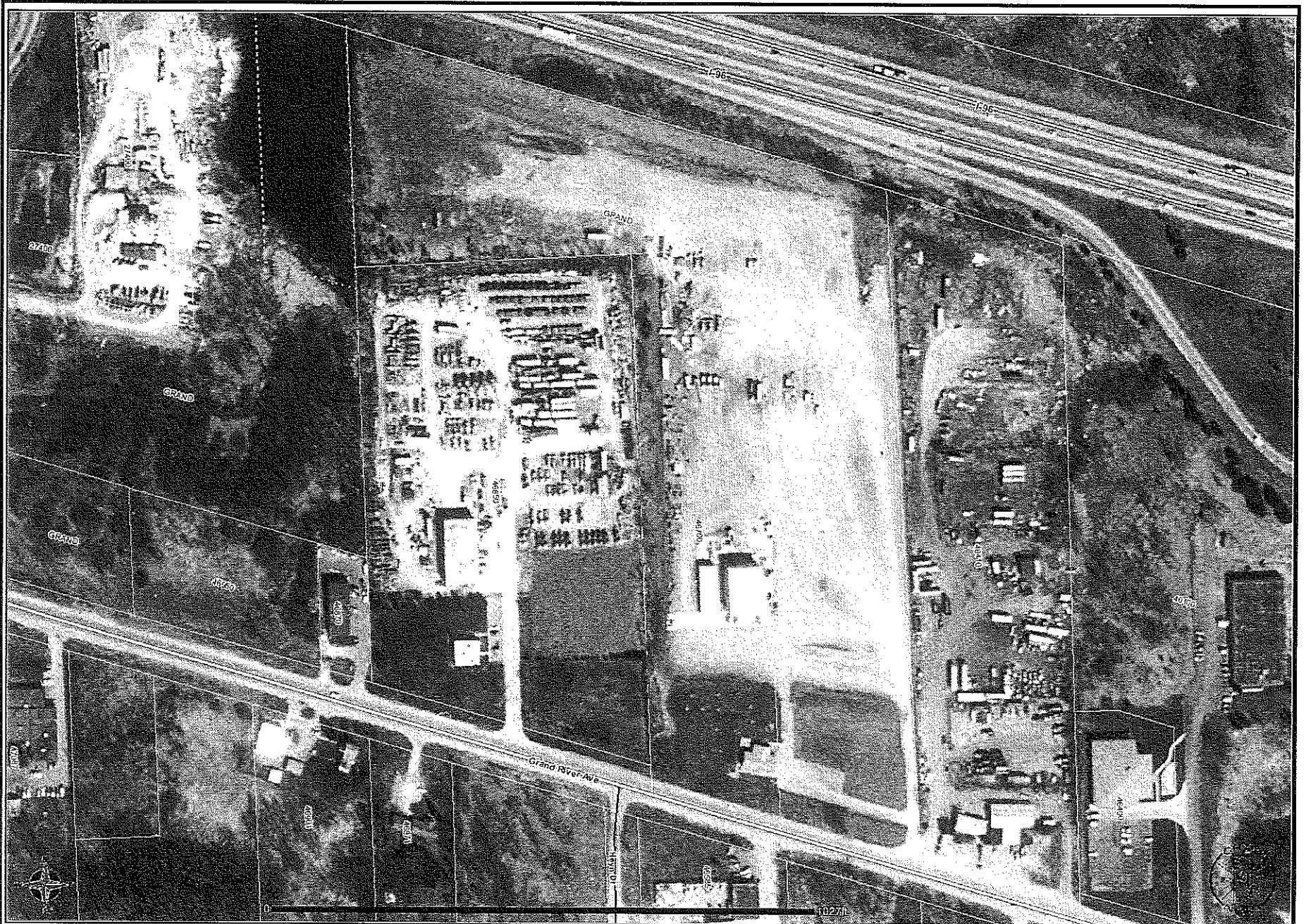


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Anglin Property 22-16-176-020/021
1997 AERIAL



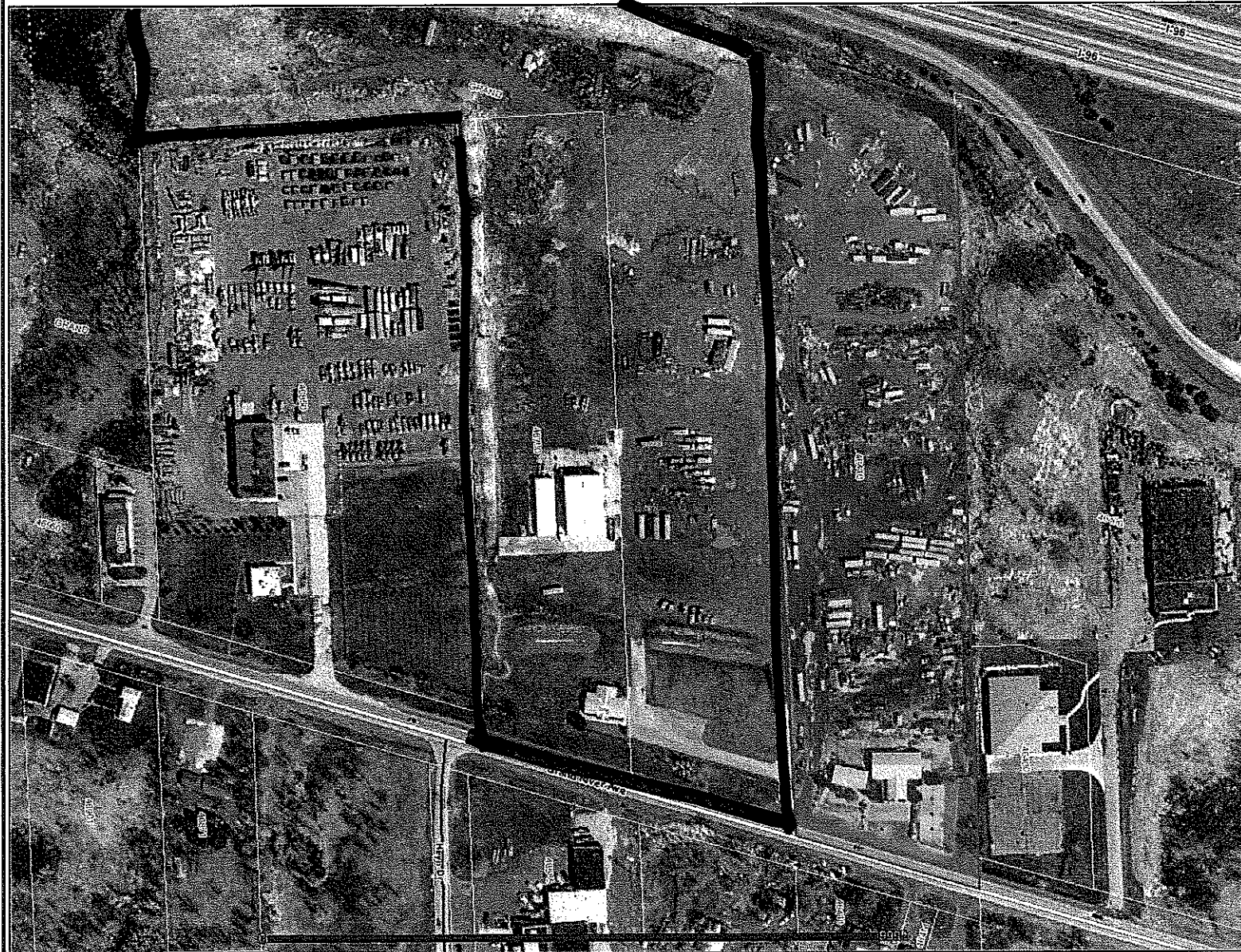
Aerial Submitted by Petitioner



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SOURCES: City of Novi, Oakland County, Plansight LLC, October 2006 for County Data; October 2006 for City Data; Aerial Imagery as specified

Anglin Property 22-16-176-021 &022

1990 AERIAL



- Selected Features
- City Boundary
- Landmarks
- Civic Center
- Rock Financial Showplace
- Court
- DPW
- Fire Station
- Hospital
- Ice Arena
- Library
- Parks & Rec Field Office
- Police Station
- Post Office
- Recycling
- School
- Senior Center
- Railroad
- Roads
- Freeway
- Arterials
- Collectors
- Scenic Drive Road
- Local Roads
- Water - Lakes
- Water - Rivers
- Parcels
- Lots
- Parks
- 1990 Aerial Photos

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Anglin Property 22-16-176-020/021
1974 AERIAL





April 13, 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Jack B. Anglin Company
42750 Grand River Avenue
Novi, Michigan 48375

KRISTIN BRICKER KOLB
Direct: 248-539-2837
kkolb@secretwardle.com

RE: Notice of Zoning Violation
Our File No. 55142.NOV

To Whom It May Concern:

Please be advised that this office represents the City of Novi. We have been asked by the City to inform you that you are in violation of Sections 2502(1) and (3) of the City of Novi Zoning Ordinance, for an unlawful expansion of a non-conforming use. Section 2502 provides as follows:

1. *Intent.* It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a
structure and land shall not be extended or

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Specifically, the non-conforming use in question is the outdoor storage of vehicles. Outdoor storage of vehicles is explicitly prohibited under Section 2303 of the Zoning Ordinance for property zoned OS-2 (Planned Office Service Districts).

When Anglin acquired the property at 46700 Grand River from Kensington Corporation in 1996, Anglin was permitted to continue Kensington's non-conforming use of outdoor storage of vehicles, as such use had pre-dated the adoption of the City's Zoning Ordinance. However, as Anglin put on notice, an expansion of such use is prohibited, as provided in Section 2502(3):

Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;

In a letter to Doug Anglin dated April 9, 1996, from City Planner Gregory Capote, you were specifically notified that "the presence of stocked cars parked at the rear of the building and earthmoving machinery constitutes outside storage and may continue within the same areas under the confines of Section 2502 of the Ordinance...The ordinance will not permit an expansion of a legal non-conform [sic] use."

Subsequent to that date, there has been a significant expansion in both the amount of stored vehicles and the areas of your property on which are contained stored vehicles. Aerial photographs from the City's Geographic Information System clearly shows this unlawful expansion.

You are hereby notified that you are in violation of the City's Zoning Ordinance. Under Section 3801 of the Zoning Ordinance, such violation is a public nuisance *per se*. Failure to abate this nuisance within 30 days following receipt of this letter by eliminating the illegal non-conformity will result in the City seeking relief in the circuit court.

If you have any questions about this matter, please feel free to contact me.

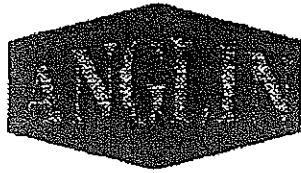
Very truly yours,



Kristin Bricker Kolb

KBK/eam

cc: Clay Pearson, City Manager
Pam Antil, Assistant City Manager
Barb McBeth, Planning Director
Alan Amolsch, Code Enforcement
Maryanne Cornelius, Clerk



CIVIL CONSTRUCTORS, LTD.

Kristin Bricker Kolb
Secret Wardle
30903 Northwestern Highway
P.O Box 3040
Farmington Hills, MI

Friday, May 11, 2007

Kristin,

I need to apologize for the lack of information regarding this matter. The untimely death of my father has produced an overload of unknown unresolved issues. Unfortunately I do not have any paper work or knowledge of the boundaries that were set and defined.

I respectfully request a time extension while I attempt to gather the paper work and a working knowledge of this issue. I would also request the aerial photos, the letter written by Doug Anglin, zoning ordinances, and any other pertaining information.

Sincerely,

L. Doug Anglin II

SECRET
SW
WARDLE

May 16, 2007

3093 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

KRISTIN BRICKER KOLB
Direct: 248-539-2837
kkolb@secretwardle.com

Jack B. Anglin Company
c/o L. Doug Anglin II
42750 Grand River Avenue
Novi, Michigan 48375

RE: Notice of Zoning Violation
Our File No. 5142.NOV

Dear Mr. Anglin:

Thank you for your letter dated May 11, 2007, which I received via e-mail. On behalf of the City of Novi, we have no objection to granting an extension of time in order for you to respond to our initial correspondence concerning the expansion of a non-conforming use on the property referenced in that April 13, 2007, letter. We would ask that you provide a response on or before July 1, 2007.

In addition, we acknowledge your request for various information related to the property. I will forward your request to the City, which will handle your document request in accordance with the Freedom of Information Act.

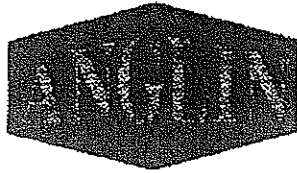
In the meantime, if you have questions, please feel free to contact me.

Very truly yours,



Kristin Bricker Kolb

KPK:lw



CIVIL CONSTRUCTORS, LTD.

Monday, August 06, 2007

Kristin Bricker Kolb
Secrest Wardle
30903 Northwestern Highway
P.O Box 3040
Farmington Hills, MI

Kristin,

We have attained and reviewed all the documents from the City of Novi regarding the Zoning violation. Because of the nature of the business we respectfully request an 18 month extension to comply with the zoning regulations. This time extension will allow use to terminate leases and physically move the items that have encroached on the existing zoning. We appreciated your help in this matter as we are working diligently to grasp all the areas that have identified since the passing of our president.

Thank You,

Doug Anglin II
Anglin Civil Constructors, Ltd.

SECRET
SW
WARDLE

September 12, 2007

RECEIVED

SEP 14 2007

CITY OF NOVI
ORDINANCE ENFORCEMENT

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Jack B. Anglin Company
c/o L. Doug Anglin II
42750 Grand River Avenue
Novi, Michigan 48375

KRISTIN BRICKER KOLB
Direct: 248-539-2837
kkolb@secretwardle.com

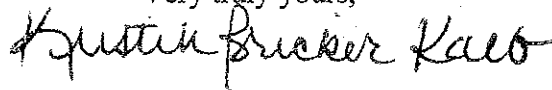
*Re: Notice of Zoning Violation
Our File No. 55142.NOV*

Dear Mr. Anglin:

In response to your letter dated August 28, 2007, I have met with City representatives to discuss your request for an 18 month extension to terminate the illegal non-conforming use on your property. Unfortunately, that is not a decision that can be made administratively. However, you do have an option to petition the City Zoning Board of Appeals and request a temporary use permit to allow you the necessary time to terminate your existing leases and terminate the prohibited use. We would request that, should you decide to pursue this option, that it be done so at your earliest convenience. Otherwise, the City will have no choice but to pursue legal action.

Kindly contact the City directly for all questions related to use permit applications.

Very truly yours,



Kristin Bricker Kolb

KBK:jw

cc: Pamela W. Antil, Assistant City Manager
Barbara McBeth, Deputy Community Development Director
✓ Alan Amlosch, Code Enforcement
Thomas P. Schultz, Eng



October 8, 2007

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

KRISTIN BRICKER KOLD
Direct: 248-539-2837
kbrkb@secretwardle.com

Robin A. Working
ZBA Recording Secretary
City of Novi
45175 West Ten Mile Road
Novi, MI 48375

*Re: Jack B. Anglin Company, 42750 Grand River
Our File No. 55142.NOV*

Dear Ms. Working:

Following your e-mail of last Wednesday, I have reviewed the relevant provisions of the Zoning Ordinance and discussed this matter with Tom Schultz. It is our opinion that Anglin has two options with respect to the illegal non-conforming use at the property listed above: Apply to the Zoning Board of Appeals for a use variance, or apply to the Building Official for a temporary special land use permit under Section 3004(2)(b) of the Zoning Ordinance. The standard for granting a use variance is quite high, and as a result, it is rare that such exceptions are granted. One of the components of the test for granting a use variance is that the applicant must establish that the property cannot be used as currently zoned. As it is our understanding that Anglin operates its primary business on the property, it is possible they will not be able to meet this standard.

A temporary special exception permit also has stringent conditions that must be met, including the requirement that the "temporary exception or use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary exception or use is permitted." As you pointed out, the Anglin Company is engaging in a use that is not permitted under the Zoning Ordinance, and so it may be difficult to get the relief they are seeking.

That having been said, it is up to the applicant to make its case whether

Robin A. Working, ZBA Recording Secretary
October 8, 2007
Page 2

If you need anything further from us on this matter, please feel free to contact me or Tom.

Very truly yours,


Kristin Bricker Kolb

KBK:jw

cc: Pamela W. Antil, Assistant City Manager
John Hines, Building Director
Alan Amolsch, Code Enforcement
Thomas R. Schultz, Esq.
The Jack B. Anglin Company

986160_1

published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

(6) At the hearing, a party may appear in person or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as is otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

(9) The authority to grant variances from uses of land is limited to the following:

- (a) Cities and villages.
- (b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.
- (c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

whether to allow collision shop in district where the use was not permitted.

- b. Non-use, area or dimensional -- variances that are not use variances.

EXAMPLE: Setbacks, areas, heights, number of parking spaces. Case where ZBA had to determine whether to allow a second sign.

5. "Unnecessary Hardship" has been held by Michigan courts to be the standard that a proponent must demonstrate before the Zoning Board of Appeals can grant a use variance.

a. Elements of unnecessary hardship are set forth in *Puritan-Greenfield Association v Leo*, 7 Mich App 659 (1977):

- i. That the property can not be reasonably used for the purposes permitted in the zoning district (i.e., property will not yield a reasonable return).
- ii. That the plight of the property owner is due to unique circumstances peculiar to his or her property and not to general neighborhood conditions.
- iii. That the use variance will not alter the essential character of the area.
- iv. That the proponent's problem is not self created.

b. In granting a use variance, the Zoning Board of Appeals must ensure that spirit of the Zoning Ordinance is observed, public safety is secured and substantial justice done.

c. The proponent must establish all of the requirements set forth above before the Zoning Board of Appeals can grant a use variance.

6 "Practical difficulty" has been held by Michigan courts to be the standard