



**AGENDA
CITY OF LAPEER
ZONING BOARD OF APPEALS
Monday, February 26, 2024
6:30 p.m.**

6:30 P.M. CALL TO ORDER

A. ROLL CALL

B. MINUTES

1. Regular meeting held on November 27, 2023

C. PUBLIC COMMENTS

D. PUBLIC HEARING SCHEDULED

1. Request for a variance to Section 7-16.04.B.(1) to permit a gravel drive and vehicle access area at a utility substation to be constructed at 3135 John Conley Drive South.

E. OTHER BUSINESS

F. CORRESPONDENCE

G. TRAINING REPORT

H. ADJOURNMENT

**** PLEASE NOTE:** *To assure a quorum, please contact the Planning Dept. Office at 664-4553 as soon as possible if you are unable to attend this meeting.*

**CITY OF LAPEER
MINUTES OF A REGULAR
ZONING BOARD OF APPEALS MEETING
NOVEMBER 27, 2023**

A regular meeting of the City of Lapeer Zoning Board of Appeals was held at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Monday, November 27, 2023 at 6:30 p.m.

Members Present: Chair Jeff Hogan, Vice Chair Catherine Bostick-Tullis, Paul Parsch, Dwyane Burda, Melissa Petrie and Alternate Ken Parker.

Members Absent: Lynne McCarthy.

Also Present: Paul O'Meara Rowe Professional Services Company Engineering Consultant and Recording Secretary Kimberly Hodge.

Chairman Hogan called the meeting to order at 6:30 p.m.

MINUTES

070 2023 11-27 MINUTES

Moved by Bostick-Tullius. Seconded by Burda.

To approve the minutes of the regular ZBA meeting held on October 23, 2023 as presented.

Yeas: Hogan, Bostick-Tullius, Parsch, Burda, Petrie and Parker.

Nays: None.

Absent: McCarthy.

MOTION CARRIED.

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARING SCHEDULED

Butrus / Syoufjy – 1428 Imlay City Rd. – Parking Space Variance

Consultant O'Meara reviewed the request from Calvin Butrus and Fadi Syoufjy for a variance of 9 spaces to the parking requirements of Section 7-16.02 in order to operate Farmboyz, a marihuana grow facility, at 1428 Imlay City Rd. O'Meara reviewed aerial and street level photos of the site location and surrounding area, the railroad right-of-way south of the site, the Imlay City Road right-of-way on the north side of the site and the areas currently used for vehicle parking located within the Imlay City Road right-of-way.

O'Meara reviewed the plot plan for the site showing the existing building and 6 parking spaces and reported the applicant has been unable to get a shared parking agreement with either of the adjacent property owners. O'Meara also reviewed the standards for approval and staff findings in support and opposition for each standard for the variance requested. Discussion was held on trash collection and loading areas, the location of the front property line and existing parking in the road right-of-way area.

Discussion was held on the unique situation of the parcel as related to Standard 3 of Section 7-22.04(e), the future possibility of constructing a shared service drive to eliminate some of the existing access drives in the area and installing "no parking" signs in front of the existing building.

Chair Hogan opened the public hearing at 6:48 p.m.

Calvin Butrus stated the business utilizes several machines in their operation with only 2 employees on site normally consisting of himself and his business partner, that they carpool, that the business does not involve any retail activity, that if 2 additional employees were hired only 3 parking spaces would be needed and that the Farmboyz operation is leasing the building.

Discussion was held on the number of employees, employee work hours, the loading area on the site, the location of the handicap parking space, the existing sidewalk on the site to remain, current parking on the site, removing the parking blocks in front of the building and installing "no parking" signs.

There being no further comments, the public hearing was closed at 6:59 p.m.

Additional discussion was held on the adjacent vacant lot to the west, standards for approval and whether landscaping can be installed on the north side of the building.

071 2023 11-27 1428 Imlay City Rd – Parking Space Variance

Moved by Bostick-Tullius. Seconded by Burda.

To approve the variance requested by Calvin Butrus and Fadi Syoufjy from Section 7-16.02 for relief of 9 required parking spaces to permit a total of 6 spaces for a marihuana grow facility at 1428 Imlay City Road because it meets all standards in Section 7-22.04(e) and to require 2 No Parking signs be installed on the north side of the building.

ON A ROLL CALL VOTE:

Yeas: Parsch, Parker, Hogan, Bostick-Tullius, Petrie and Burda.

Nays: None.

Absent: McCarthy.

MOTION CARRIED.

Election of Secretary

072 2023 11-27 Election of Secretary

Moved by Hogan. Seconded by Parsch.

To nominate and elect Dwayne Burda as Zoning Board of Appeals Secretary.

Yeas: Parsch, Parker, Hogan, Bostick-Tullius, Petrie and Burda.

Nays: None.

Absent: McCarthy.

MOTION CARRIED.

ADJOURNMENT

There being no further business, it was moved by Bostick-Tullius to adjourn the meeting at 7:12 p.m.

MEETING ADJOURNED.

Dwayne Burda, Secretary

Kimberly Hodge, Recording Secretary



PLANNING DEPARTMENT
576 Liberty Park, Lapeer, MI 48446
(810) 664-4553
ZONING BOARD OF APPEALS
VARIANCE APPLICATION

Fees: Varies See Below

All requests for a zoning variance are subject to a public hearing. ***Regular meetings of the Zoning Board of Appeals are held on the fourth (4th) Monday of each month at 6:30 p.m. at Lapeer City Hall.*** Upon receipt of your application and payment of the fee, this office will prepare all legal notifications required to hold a public hearing. In addition, the Planning Department shall publish notice of the public hearing in a newspaper of general circulation in the local unit of government, as well as provide notice of the public hearing to all property owners within a 300 foot radius of the subject property and utility companies, not less than fifteen (15) days before the date the application will be considered for approval.

A non-refundable filing fee made payable to the City of Lapeer must accompany your application. A variance application and associated fee should be filed for each variance request regarding a different section of the Zoning Ordinance.

Single Family Residential Zoning Districts: \$250.00

All Other Zoning Districts: \$450.00

- Pcl 2/6/2014

Applicant Information

Name: TERRY SPRYSZAK, DTE ENERGY

Address: ONE ENERGY PLAZA, DETROIT, MI 48226

Phone Number: 313-971-4536 Email Address: terrance.spryszak@dteenergy.com

Property Owner Name and Address (if different than above): _____

DTE ELECTRIC CO

Property Information

Property Address: 3135 JOHN CONLEY DR. SOUTH, LAPEER, MI 48446

Parcel Number (Tax ID Number): L20-83-358-080-30 Zoning District: I-2 (PLANNED INDUSTRIAL)

Action Requested

The applicant requests the Zoning Board of Appeals to grant a variance(s) to Section(s)

Gravel drives and vehicle access area per section 7-16.04 of the City of Lapeer Zoning Ordinance.

Please state the intended action and the reason the project cannot be accomplished within the requirements of the City of Lapeer Zoning Ordinance:

Hard surfaced driveways cannot be installed on site per section 7-16.04 B.1. Gravel drives are provided within the substations for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shocks to operators on site.

ZONING BOARD OF APPEALS VARIANCE APPLICATION

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In consideration of all variances (*non-signage*), the ZBA shall review each case individually as to its compliance with each of the following standards and may only approve variance requests which comply with all of the following:

- (1) The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others; and
- (3) The problem is due to circumstances unique to the property and not to general conditions in the area; and
- (4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.

Sign variances may be granted for any one of the following conditions:

- (1) The applicant has demonstrated a variance is needed due to a practical difficulty on the site, such as varied topography, horizontal or vertical road curvature, or presence of structures or desired trees that limits visibility of a sign on the premises compared to similar sites with conforming signs in the same zoning district; or
- (2) A variance is warranted due to the relatively large size of the site, frontage or building in comparison to other establishments in the same zoning district; or
- (3) A variance would significantly improve the conformity of an existing sign; or
- (4) The variance would permit a sign with historic significance to be retained.

To grant a sign variance all of the following standards must also be met:

- (1) The inability to conform with the regulations is due to a practical difficulty or unique condition that includes more than mere inconvenience or mere inability to attain a supposed higher financial return; and
- (2) That the alleged practical difficulties or unique condition, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City; and
- (3) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the regulations, the individual practical difficulties that will be suffered by a failure to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent of these regulations; and
- (4) The variance granted is the minimum necessary to allow the applicant to enjoy the same rights as other establishments in the same zoning district, have a reasonable outlet for free speech and meet the intent of the sign regulations; and
- (5) The variance will not adversely affect the health, safety and welfare of the public.

Plot Plan

Please provide a detailed, scaled plot plan and elevation drawings showing the nature of the variance request, including, but not limited to: property boundaries, existing and proposed buildings and structures with dimensions to property lines, the height of all proposed structures, and show and label abutting street(s). The requested variance(s) should also be noted on the plot plan.

The Zoning Board of Appeals may attach conditions to the granting of a variance.

I (we), the undersigned, acknowledge that approval of a zoning variance by the City of Lapeer constitutes an agreement with the City and, that if a variance is granted; any conditions imposed by the City of Lapeer relative to the variance will be complied with.

Applicant's Signature(s):



Print Applicant Name(s):

Terry Spryszak, DTE Corporate Permit Specialist

Date:

02/05/2024

Signature(s) of Property Owner(s):

(If different than applicant)

Print Property Owner(s) Name:

Date:

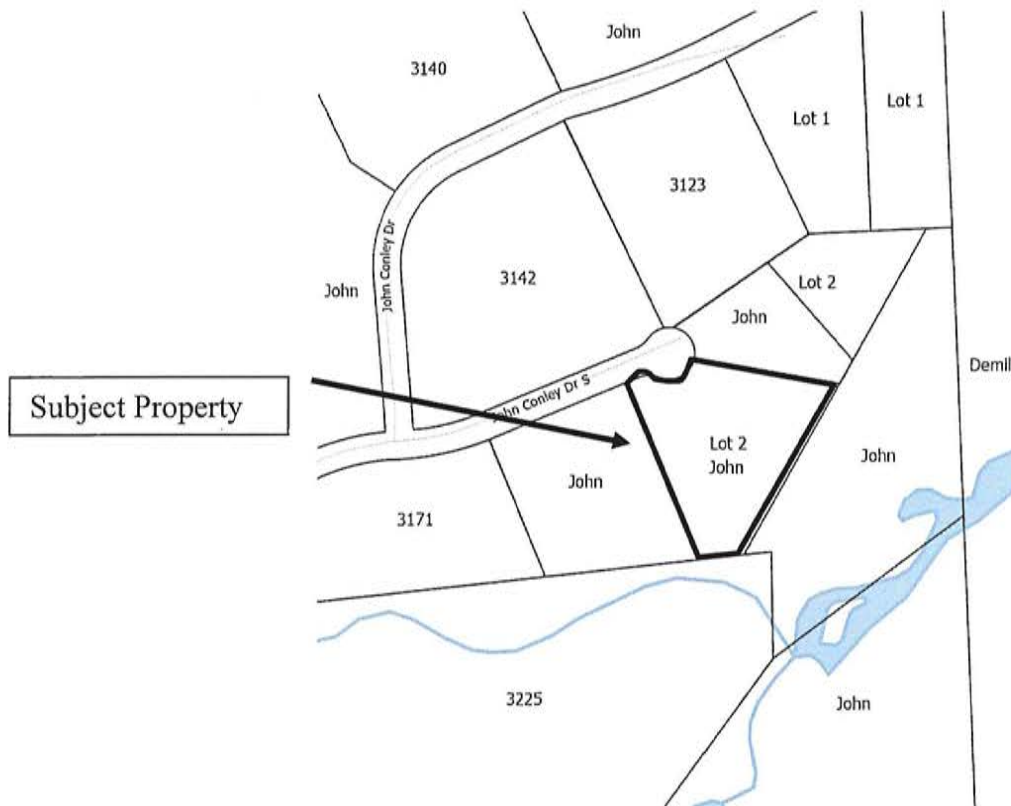
**CITY OF LAPEER
NOTICE OF PUBLIC HEARING
ZONING BOARD OF APPEALS**

Please take notice that a public hearing has been scheduled before the City of Lapeer Zoning Board of Appeals on Monday, February 26, 2024 at 6:30 p.m. in the Lapeer City Hall Commission Chambers, 576 Liberty Park, Lapeer, Michigan at the request of DTE to consider variance to the Zoning Ordinance to permit a gravel drive and vehicle access area at a utility substation. The subject property is located at 3135 John Conley Dr. South and known as parcel L20-83-358-080-30. The subject property are zoned I-2 Planned Industrial.

- Per Section 7-16.04.B.(1) Surfacing and Drainage. – Grading, surfacing, and drainage plans shall comply with City Construction Specifications and are subject to the review and approval of the City Department of Public Works. All driveways, parking lots, access lanes and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material in accordance with specifications of the City. [Amended 8-3-2020]

The City of Lapeer will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials at the meeting, upon five (5) days' notice to the City of Lapeer by writing or calling the City Manager's Office, Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan, 48446, or call (810) 664-5231. Persons with limited English proficiency requiring language translation assistance under Title VI of the Civil Rights Act of 1964 will be provided, free of charge, interpreter services upon seven (7) days' notice to the City of Lapeer by writing the City Manager's Office, Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan, 48446. Las personas con conocimientos limitados del inglés traducción en el idioma que requieren asistencia en virtud del Título VI de la Ley de Derechos Civiles de 1964 será proporcionado, a título gratuito, servicios de interpretación a siete (7) días de anticipación a la Ciudad de Lapeer con la redacción de la oficina del Gerente de la ciudad, Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan, 48446.

All interested persons are encouraged to attend the public hearing. Written comments will be received until 5:00 P.M. on Monday, February 26, 2024, and should be addressed to:
Lapeer City Hall Attn: Zoning Board of Appeals 576 Liberty Park Lapeer, Michigan



**CITY OF LAPEER
NOTICE OF PUBLIC HEARING
ZONING BOARD OF APPEALS**

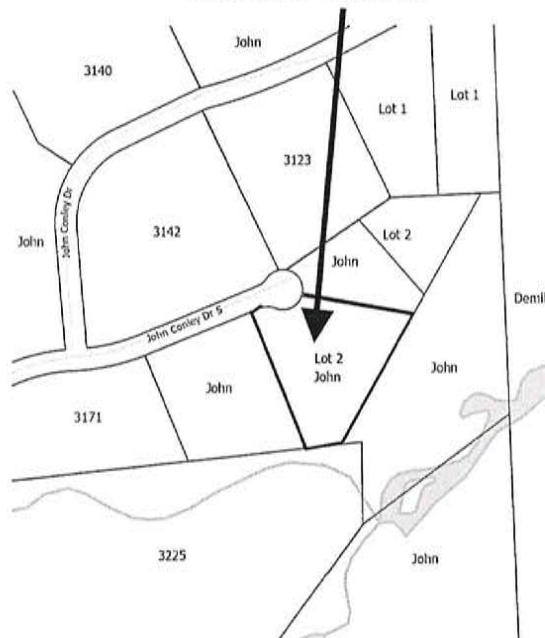
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- Per Section 7-16.04. B. (1) Surfacing and Drainage. – Grading, surfacing, and drainage plans shall comply with City Construction Specifications and are subject to the review and approval of the City Department of Public Works. All driveways, parking lots, access lanes and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material in accordance with specifications of the City. [Amended 8-3-2020]

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Lapeer, Michigan

Subject Property



County
Press
2/11/2024



Memorandum

To: City of Lapeer, Zoning Board of Appeals
From: Alex Hritcu, Planning Consultant
Date: February 13, 2024
RE: **Variance Request** – Proposed Parking Surface – 3135 John Conley Drive

DTE has requested a variance to allow for gravel surfaced parking and maneuvering area within a proposed substation facility, located at 3135 John Conely Drive. The applicant received Site Plan Approval for this site at the January 2024 Planning Commission meeting. Approval was issued with one condition, that the applicant apply for and receive a variance to permit a gravel parking and maneuvering area on site.

ACTION REQUESTED

The variance being requested is:

A variance from the requirements of Section 7-16.04.B(1) Surfacing and drainage: "Grading, surfacing, and drainage plans shall comply with City Construction Specifications and are subject to the review and approval of the City Department of Public Works. All driveways, parking lots, access lanes and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material in accordance with specifications of the City. [Amended 8-3-2020]"

STANDARDS

To grant a variance all of the following standards must be met per Section 7.22.04.E, Variances:

- (1) The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome; and
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others; and
- (3) The problem is due to circumstances unique to the property and not to general conditions in the area; and
- (4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property; and
- (5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

APPLICANT'S COMMENT

"Hard surfaced driveways cannot be installed on site per section 7-16.04.B.1. Gravel drives are provided within the substation for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltage, thus reducing risk of shocks to operators on site."

STAFF FINDINGS

Attached to this letter is a table showing the previously listed standards and findings in support and opposition associated with each. Please note, to approve a variance all five standards must be found in support. To deny a variance, the ZBA must find that just one specific standard has failed to be met and provide clear findings of fact to support its denial.

CONCLUSION

The applicant is requesting relief from required hard surfaced material, which must be utilized for all driveways, parking lots, access lanes, and other vehicle maneuvering areas within the City. The applicant is proposing a gravel surface for the parking and maneuvering area. DTE is requesting this variance in the interest of public health, safety, and welfare, for its employees and occupants of the City. Consequently, we recommend the ZBA approve the requested variance because it meets all five standards in Article 7-22.04.E

These are the opinions of the Staff and how they relate to the ZBA standards in the City of Lapeer Zoning Ordinance. If you have any questions or need clarification on this variance request, please contact the City of Lapeer Planning Department. Planning and Zoning Administrative services are provided by ROWE Professional Services Company. Office hours are held at the Lapeer City Hall, all day Tuesday and Thursday, from 9am-4pm. I can also be reached at our corporate office in Flint, Michigan, Monday through Thursday 8am-5pm at (810) 341-7500.



City of Lapeer
Terry Spryszak (DTE), 3135 John Conley Drive

Variance to allow for gravel surfaced parking and maneuvering areas.

Variance From Standards		
Standard	Required	Requested Variance
Article 7-16.04.B.1, Surfacing and Drainage	"All driveways, parking lots, access lanes and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material in accordance with specifications of the City."	Variance to allow for gravel surfaced parking and maneuvering areas.

Facts
<ol style="list-style-type: none">1. Site Plan Approval was issued for this site at the January 2024 PC meeting.2. The proposed use of land is, Public Utilities, an electrical substation with transformers on site.3. Site Plan Approval was conditioned upon, the applicant receiving a variance from the ZBA to permit a gravel parking and maneuvering areas.4. The subject parcel is zoned I-2, Planned Industrial.5. Surrounding the subject property, North: 3-Dimensional Services Manufacturing buildings. East: vacant, wooded land. South: Thumb Correctional Facility. West: Vidon Plastics, Manufacturing.6. The applicant is proposing an 8" thick, concrete surfaced, driveway, with 4" thick, gravel surfaced parking and maneuvering isles.7. The applicant stated in their site plan review process the following comments:<ol style="list-style-type: none">a. "Post construction, the substation will be operated and maintained once to twice a month by only one or two operators. There will only be one or two given DTE maintenance vehicles on site at any given time. Because of this, DTE does not provide dedicated parking spaces within their substations. Vehicles are parked within drive areas of the substation."b. "Hard surfaced drives cannot be provided within the interior of the substation. Gravel drives are provided for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shocks to operators on site."

**Standards for Approval of Variances
(Article 7-22.04.E)**

In consideration of all variances, the Zoning Board of Appeals shall review each case individually as to its compliance with each of the following standards and may only approve variance requests which comply with all of them:

Standards	Does Site Meet Requirements?		
	Yes	No	N/A
(1) The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome.			
PLANNING CONSULTANT FINDINGS IN SUPPORT: The applicants unique use of land, an electrical substation, would be unsafe with hard surface parking and maneuvering lanes. Gravel surfaced maneuvering areas, surrounding the transformer locations, is a DTE standard practice at their substations, because gravel is a high resistivity material, reducing risk of shock to operators on site.	PLANNING CONSULTANT FINDINGS IN OPPOSITION: N/A		
APPLICANT'S COMMENTS: <i>"Hard Surfaced driveways cannot be installed on site per section 7-16.04.B.1. Gravel drives are provided within the substations for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shock to operators on site."</i>			
PUBLIC/ZBA COMMENT IN SUPPORT:	PUBLIC/ZBA COMMENT IN OPPOSITION:		

Standards	Does Site Meet Requirements?		
	Yes	No	N/A
(2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others.			
PLANNING CONSULTANT FINDINGS IN SUPPORT: Granting the variance will allow the applicant to operate their proposed substation as safely as possible.	PLANNING CONSULTANT FINDINGS IN OPPOSITION: N/A.		
APPLICANT'S COMMENTS: <i>"Hard Surfaced driveways cannot be installed on site per section 7-16.04.B.1. Gravel drives are provided within the substations for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shock to operators on site."</i>			
PUBLIC/ZBA COMMENT IN SUPPORT:	PUBLIC/ZBA COMMENT IN OPPOSITION:		

Standards		Does Site Meet Requirements?		
		Yes	No	N/A
(3) The problem is due to circumstances unique to the property and not to general conditions in the area.				
PLANNING CONSULTANT FINDINGS IN SUPPORT: The need for this variance is due to circumstances unique to the proposed use of land. An electrical substation.	PLANNING CONSULTANT FINDINGS IN OPPOSITION: N/A			
APPLICANT'S COMMENTS: <i>"Hard Surfaced driveways cannot be installed on site per section 7-16.04.B.1. Gravel drives are provided within the substations for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shock to operators on site."</i>				
PUBLIC/ZBA COMMENT IN SUPPORT:		PUBLIC/ZBA COMMENT IN OPPOSITION:		

Standards		Does Site Meet Requirements?		
		Yes	No	N/A
(4) The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property.				
PLANNING CONSULTANT FINDINGS IN SUPPORT: The issue with this case was created by Article 7-16.04.B.1 of the Zoning Ordinance, not by the applicant or any previous owner of the property.	PLANNING CONSULTANT FINDINGS IN OPPOSITION: N/A			
APPLICANT'S COMMENTS: <i>"Hard Surfaced driveways cannot be installed on site per section 7-16.04.B.1. Gravel drives are provided within the substations for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shock to operators on site."</i>				
PUBLIC/ZBA COMMENT IN SUPPORT:		PUBLIC/ZBA COMMENT IN OPPOSITION:		

Standards		Does Site Meet Requirements?		
		Yes	No	N/A
(5) Issuance of the variance would still ensure that the spirit of the ordinance is observed, public safety secured and substantial justice done.				
PLANNING CONSULTANT FINDINGS IN SUPPORT: One portion of the Zoning Ordinance Purpose Statement, Article 7-1.02, states that an intent of the Ordinance is to promote public health, safety and welfare. The issuance of this variance is consistent with the spirit of this Ordinance and will ensure that public safety is secured, to the fullest extent possible.	PLANNING CONSULTANT FINDINGS IN OPPOSITION: N/A			
APPLICANT'S COMMENTS: <i>"Hard Surfaced driveways cannot be installed on site per section 7-16.04.B.1. Gravel drives are provided within the substations for safety during electrical fault currents. Gravel is a high resistivity material reducing step and touch voltages, thus reducing risk of shock to operators on site."</i>				
PUBLIC/ZBA COMMENT IN SUPPORT:	PUBLIC/ZBA COMMENT IN OPPOSITION:			

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