

**Zoning Board of Appeals  
December 19, 2012 Regular Meeting**

**STAFF REPORT**

**Subject: ZBA12-021, 1619 South University Avenue**

**Summary:** Administrative Holdings LLC, represented by Scott Klaassen, is requesting one variance from Chapter 55 Section 5:86 (Use Nonconformance) in order to expand the existing non-conforming use (rooming house) by adding a bedroom to the existing structure. Residential occupancy will not be increased from a maximum of 10 people.

**Chapter 55, ARTICLE VII. NONCONFORMANCE**

*5:85 - Statement of intent.-*

*(1) It is the intent of this Chapter to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this Chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Chapter. It is also the intent of this Chapter that any elimination of nonconforming uses or nonconforming structures shall be effected so as to avoid any unreasonable invasion of established private property rights.*

*5:86 Use Nonconformance (1) – A non-conforming use may be continued and shall be maintained in good condition, but it shall not be:*

*(c) Expanded or increased in intensity of use (for example, such as by the addition of 1 or more dwelling units, by providing additional manufacturing or selling area, or the addition of facilities which would allow the establishment of another use or other uses).*

**Description and Discussion:**

The subject parcel is located on South University Avenue, south of Geddes Avenue and just east of Oxford Road. The parcel is 9,000 square feet in size and zoned R2B (Two-Family Residential District). The structure was built in 1908 and is 2,887 square feet. The rear of the site contains a paved parking area of less than 1,200 square feet that can accommodate four vehicles.

### **History:**

Records indicate that the structure was used as a rooming house dating back to at least 1958, and a Certificate of Occupancy from that time listed it as a single-family with 11 roomers. In 1984, at the direction of the Building Official the occupancy was reduced to comply with zoning occupancy limits of 4 unrelated people in the R2B zone.

In 1988, a new owner of the property appealed to the Zoning Board of Appeals (ZBA) in order to permit a maximum of 10 unrelated people to occupy the building. Citing affidavits from previous owners and historical occupancy records, the petitioner claimed that the use of the building by 10 unrelated people was a legal non-conforming use and was established before the occupancy limits in the R2B zone. Presenting at the ZBA, the petitioner said the previous owner did not reduce occupancy to four people voluntarily, but was misinformed by City staff, and therefore the occupancy should be restored to the historical limit of 10.

In conclusion, the ZBA determined that the occupancy limit of 10 people was permitted and the use constituted a legal non-conforming use.

### **Description:**

The existing structure is a registered rental unit with 9 bedrooms and a maximum of 10 occupants. It is zoned R2B, which only permits a maximum of 4 unrelated people or boarding houses as a special exception use approved by the Planning Commission. The petitioner would like to continue to use the building as a rooming house and provide each resident with a private room and allow use of a basement room for sleeping. This will result in the expansion of floor area being used for occupancy. The petitioner has indicated there will be no increase in the building occupancy of 10 people. As noted above, Chapter 55, Section 5:86 (1)(c) states that a nonconforming use cannot be, "expanded or increased in the intensity of use". With the addition of a room in the basement, it is expanding the floor area fit for occupancy.

City records indicate that the room was been repeatedly used and cited by City housing inspectors as an illegal bedroom in the past. The petitioner submitted a building permit application to correct this in September 2012, which prompted this zoning review. If the variance is approved, the basement bedroom will be inspected and will be required to meet all housing and building codes for health and safety, including an egress window. If the variance is not approved, the petitioner will be required to remove the bedroom.

The property owner was also recently issued a violation for clearing the vegetation in the rear yard and expansion of the parking area without permits. City staff issued a violation letter indicating that this area must be restored. The violation was corrected and the cleared area has been reseeded.

## **Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

- (a). ***That the alleged hardships or practical difficulties, 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.***

The subject parcel is conforming for lot size (9,000 sf). As determined by the ZBA in 1988, the rooming house use was legally established before the city code and occupancy limits were adopted..

- (b). ***That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***

The variance is being requested to allow the addition of one bedroom to the basement. Permitting a legal sleeping room in the basement will not allow the structure to be rented to more than 10 people. If the variance is not granted, the occupancy will remain at 10 with 9 sleeping rooms.

- (c). ***That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.***

The footprint of the existing house will not be increased, however approval of the variance will allow the expansion of habitable space in the basement. The house currently is permitted to have 10 occupants and that limit will remain if the variance is granted or denied. The addition of the egress window will not have affect on adjacent neighbors and other modifications will be interior only.

- (d). ***That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.***

The house has been certified to have 10 occupants in a maximum of 9 bedrooms since 1988. There are no records of any room in the basement being used as a legal bedroom. The variance is the result of the petitioner's interest to provide a private bedroom for each resident.

- (e). ***A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure***

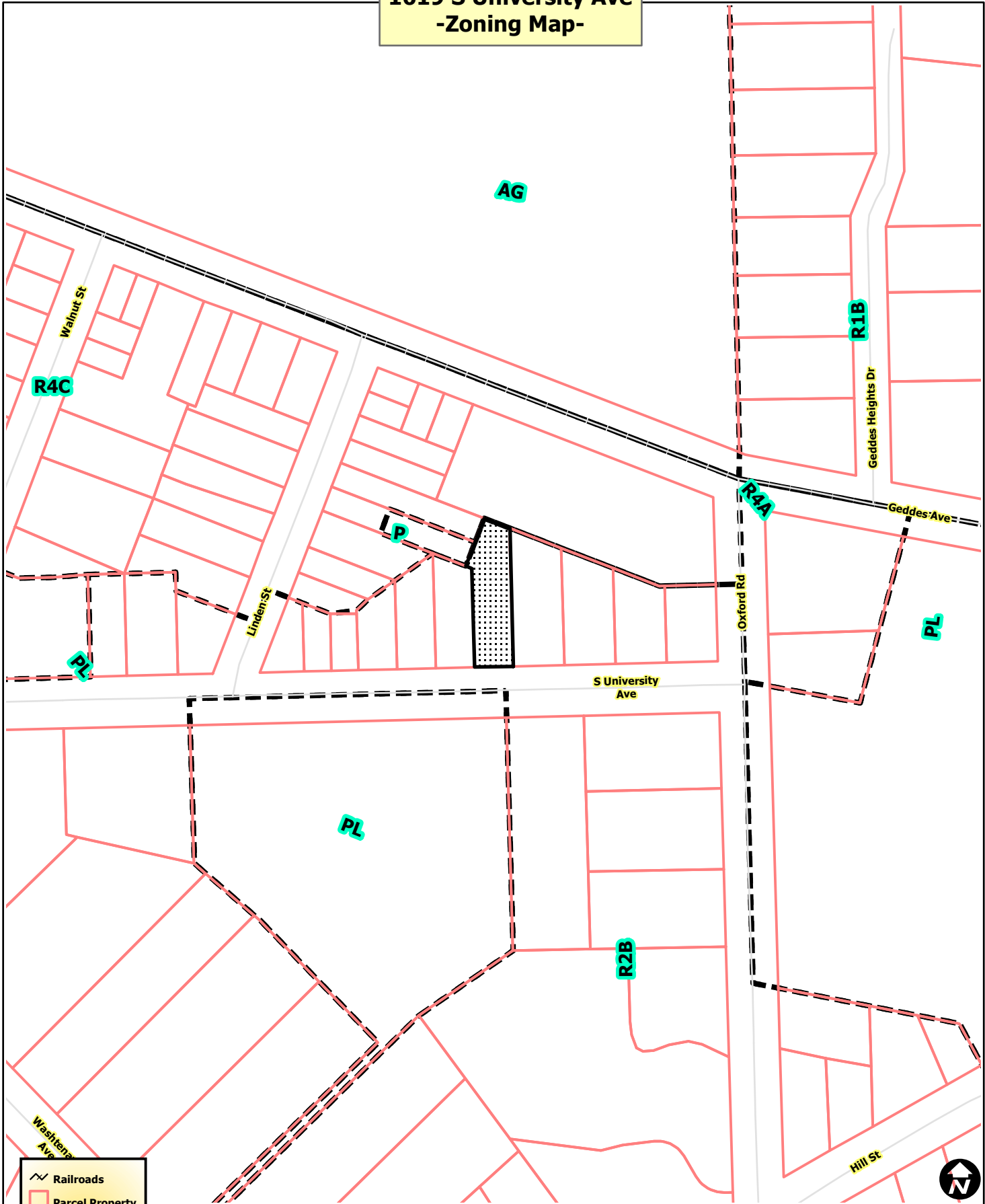
A room does already exist in the basement and rental inspection records indicate that it has been used as a bedroom in the past. However, there are 9 legal bedrooms existing, many of which can legally be occupied by two people (greater than 130 square feet) under the Housing Code regulations. Granting the variance will not increase occupancy of the structure, but will permit the owner to add an egress window and consider the room a legal bedroom. Other than the outside appearance of the egress window there will be no change in outside appearance or function of the structure. The parking requirement of four parking space can be met in the existing parking area behind the building.





Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. J. Kowalski', written in a cursive style.

**Matthew J. Kowalski, AICP**  
**City Planner**

# 1619 S University Ave -Zoning Map-

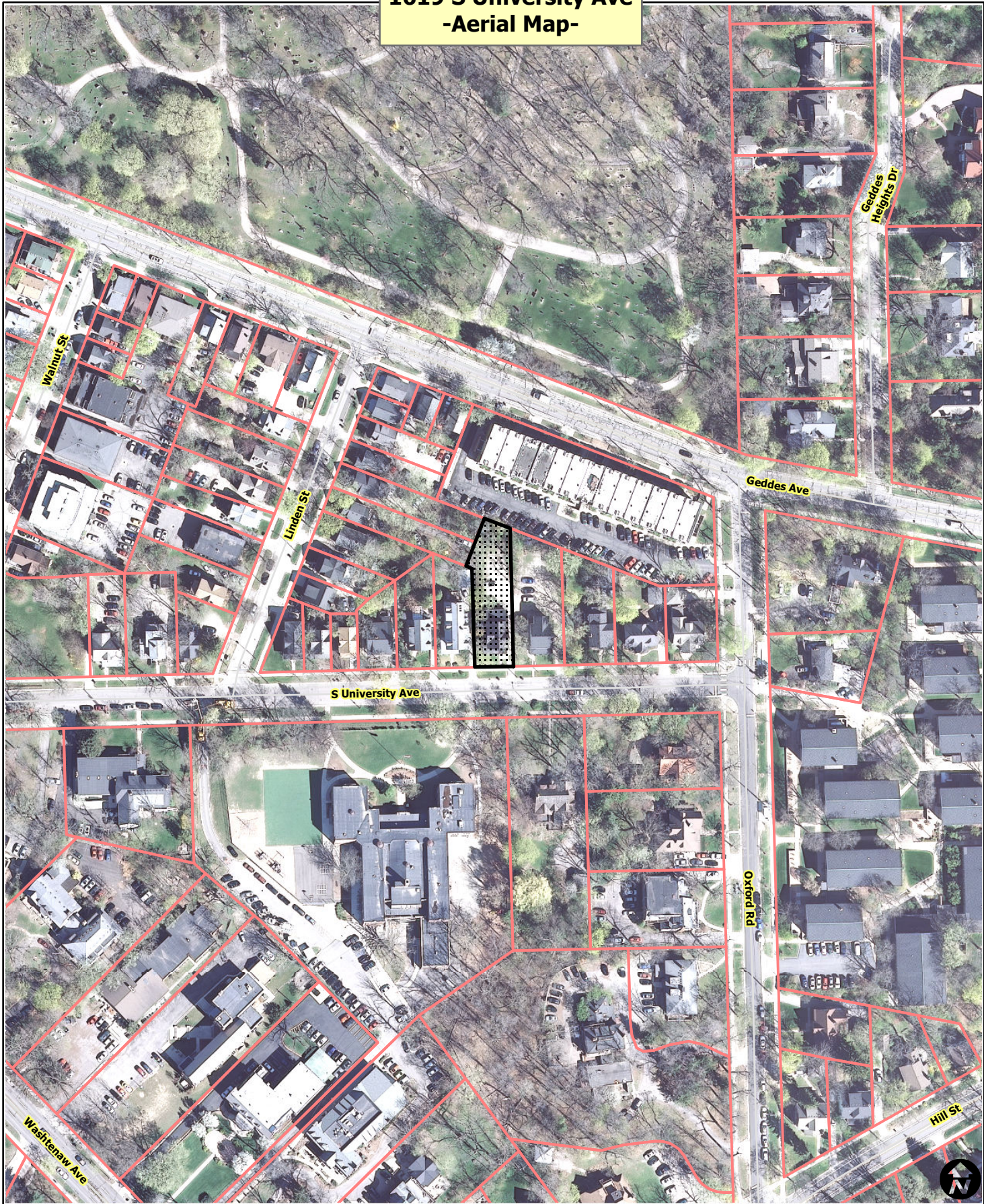


	Railroads
	Parcel Property
<b>Zoning</b>	
	Township
	Zoning



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Map Created: 11/28/2012

# 1619 S University Ave -Aerial Map-

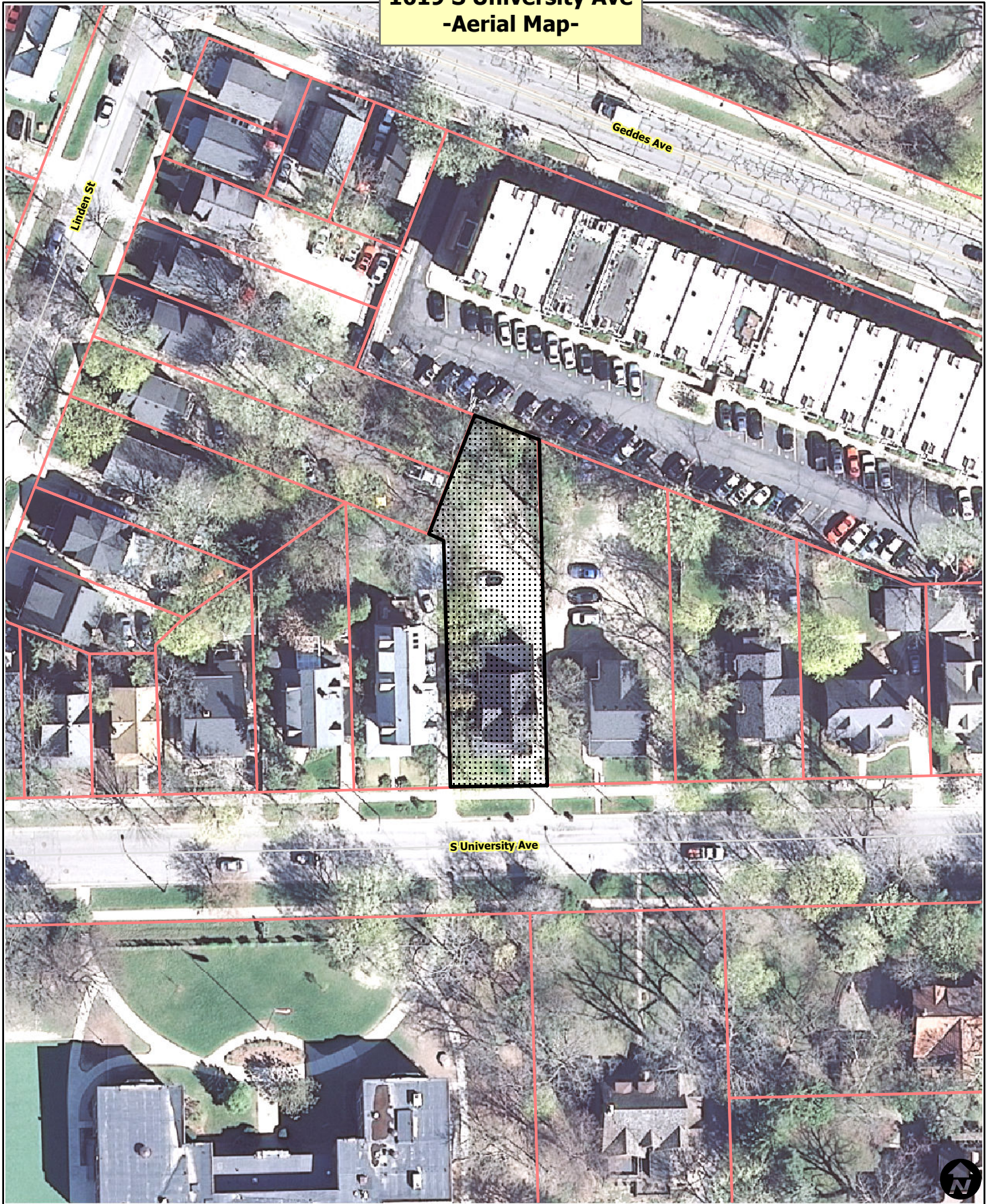


-  Railroads
-  Parcel Property



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 Map Created: 11/28/2012

# 1619 S University Ave -Aerial Map-



-  Railroads
-  Parcel Property



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Map Created: 11/28/2012

ZBA#-021

**APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE  
ZONING BOARD OF APPEALS**

**Section 1: Applicant Information**

Name of Applicant: Scott Klaassen  
Address of Applicant: 3003 Washtenaw Ave IE  
Daytime Phone: 734 677 2222  
Fax: 734 434 2310  
Email: scott@doneriteco.com  
Applicant's Relationship to Property: agent

**Section 2: Property Information**

Address of Property: 1619 S. University  
Zoning Classification: R2B  
Tax ID# (if known): 09-09-28-413-016  
\*Name of Property Owner: Administrative Holdings III, LLC

*\*If different than applicant, a letter of authorization from the property owner must be provided.*

**Section 3: Request Information**

Variance

Chapter(s) and Section(s) from which a variance is requested:

5:86(1)(c)

Required dimension:

N/A

PROPOSED dimension:

N/A

*Example: Chapter 55, Section 5:26*

*Example: 40' front setback*

*Example: 32'*

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

see attached sheet

**Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)**

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when ALL of the following is found TRUE. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)



1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?

This house is approved for 10 occupants which create a non-conforming use. Because it is non-conforming a building permit will not be issued without ZBA approval

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain) NO. House is

currently approved for 10 occupants

3. What effect will granting the variance have on the neighboring properties? \_\_\_\_\_

will have no effect

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?

property is currently non-conforming

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

The home has been non-conforming since 1958 and prior and has maintained the same use

#### Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property single family 10 occupant allowed

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

(1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:

- a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
- b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1,R2, R3, or R4 district.
- c. The structure is considered non-conforming due to the following reasons

(continued .. ....)

Existing Condition

Code Requirement

Lot area 9,000 sq ft (approx.)  
Lot width 50'  
Floor area ratio \_\_\_\_\_  
Open space ratio \_\_\_\_\_  
Setbacks \_\_\_\_\_  
Parking \_\_\_\_\_  
Landscaping \_\_\_\_\_  
Other \_\_\_\_\_

Describe the proposed alterations and state why you are requesting this approval:

add an egress window to an existing room located  
in the basement. The house is approved for 10 occupants  
and currently has 9 sleeping room. The change would  
allow for each occupant to have their own room

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

no physical floor area will be added.  
occupant load will remain the same.

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit \_\_\_\_\_

an egress window to be installed in the basement  
and for that room to be used as a  
sleeping room

**Section 6: Required Materials**

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on **8 1/2" by 11" sheets.** (Continued.....)

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

**Section 7: Acknowledgement**

**SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734 677 2222  
Phone Number

[Signature]  
Signature

\_\_\_\_\_  
Email Address

Scott Klaassen  
Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

[Signature]  
Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

[Signature]  
Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**

[Signature]  
Signature

On this 28<sup>th</sup> day of November, 2012, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

[Signature]  
Notary Public Signature

8-18-2017  
Notary Commission Expiration Date

Chelys A Poljan  
Print Name

CHELYN A. POLJAN  
 Notary Public, Livingston County, MI  
 My Commission Expires August 18, 2017  
 Acting in the County of Washtenaw

**Staff Use Only**

Date Submitted: \_\_\_\_\_ Fee Paid: \_\_\_\_\_  
 File No.: \_\_\_\_\_ Date of Public Hearing: \_\_\_\_\_  
 Pre-filing Staff Reviewer & Date: \_\_\_\_\_ ZBA Action: \_\_\_\_\_  
 Pre-Filing Review: \_\_\_\_\_  
 Staff Reviewer & Date: \_\_\_\_\_

MORTGAGE SURVEY

Certified to:



Applicant: BLT VENTURES, INC.

Property Description:

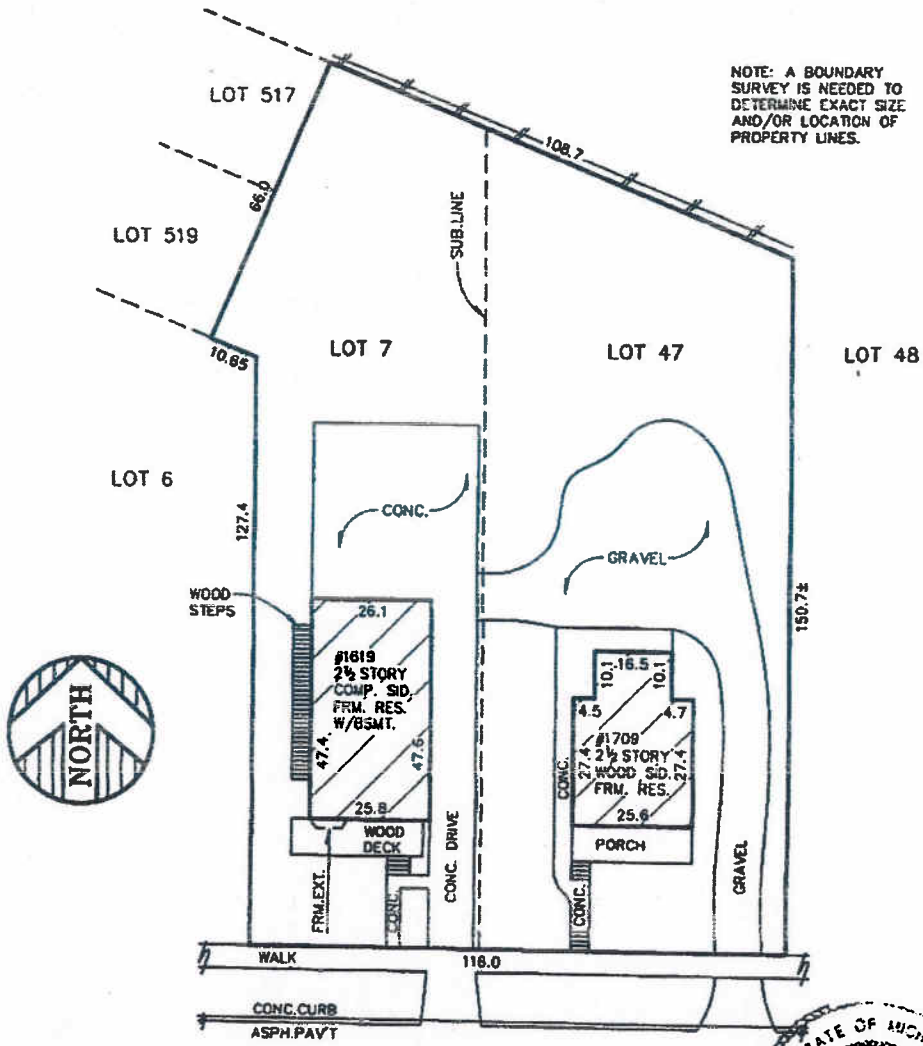
Land located in the City of Ann Arbor, County of Washtenaw, State of Michigan, described as follows:

PARCEL 3:

Lot 7, WAGNER'S SUBDIVISION, of a part of A. TEN BROOK'S ADDITION TO THE CITY OF ANN ARBOR, according to the recorded plat thereof as recorded in Liber 2, Page 16 of Washtenaw County Records.

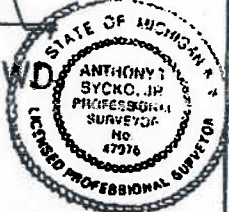
PARCEL 4:

Lot 47, MAP OF A. TENBROOKS ADDITION to the City of Ann Arbor, according to the plat thereof as recorded in Liber 78 of Plats, Page 190 of Washtenaw County Records.



SOUTH UNIVERSITY AVE. 66'

CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.



THIS SURVEY DRAWING IS VOID IF THE PROFESSIONAL SEAL IS NOT IN BLUE INK.

*[Signature]*

JOB NO: 06-26454 SCALE: 1" = 30'  
DATE: 10/09/06 DR BY: SAN

**KEM-TEC**  
LAND SURVEYORS

22550 Grand Avenue  
Eastpointe, MI 48021-2312  
(888) 773-2222  
FAX: (888) 773-6048



**KEM-TEC WEST**  
LAND SURVEYORS

600 E. STRATFORD  
Ann Arbor, MI 48104-1412  
(734) 994-0688 • (800) 433-8133  
FAX: (734) 994-0687

**Application for Variance or Non-Conforming Structure  
Zoning Board of Appeals**

**1619 S. University  
additional sheet**

Description of work and why it will require a variance.

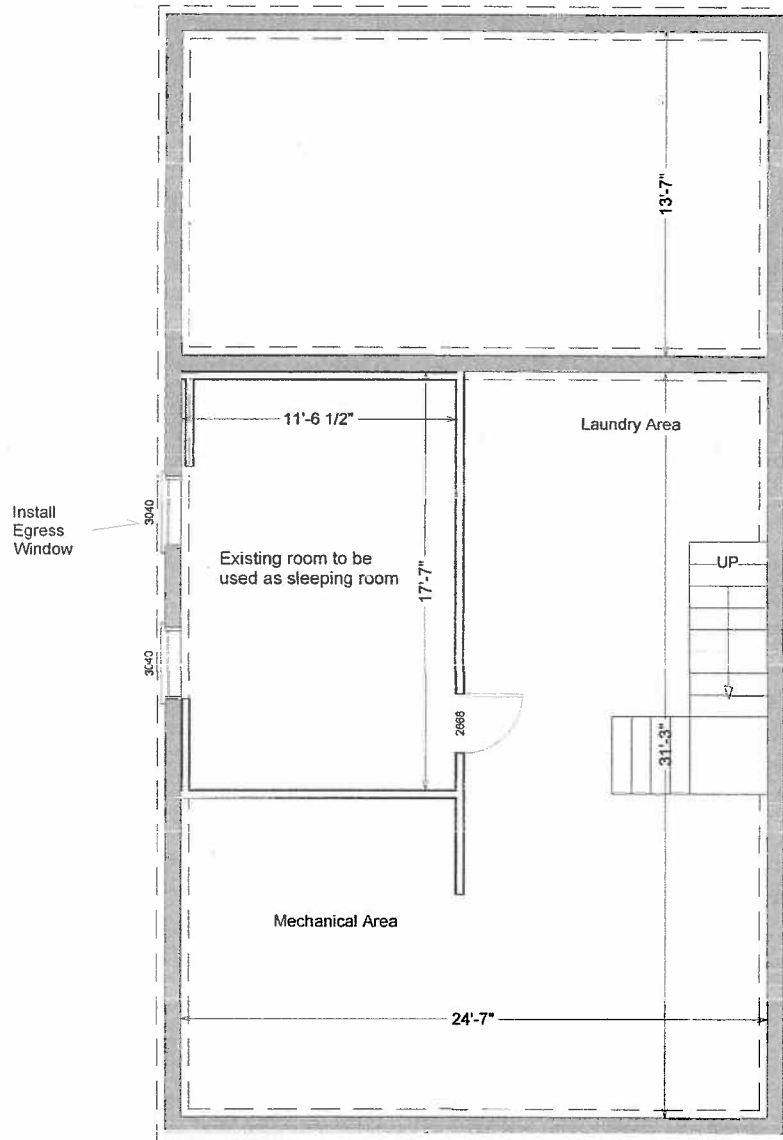
We are requesting a variance from Chapter 55, Article VII – Nonconformance 5:86 (1)(c).

“ 1. A non-conforming use may be continued and shall be maintained in good condition, but it shall not be:

(c) Expanded or increased in intensity of use (for example, such as by the addition of 1 or more dwelling units, by providing additional manufacturing or selling area, or the addition of facilities which would allow the establishment of another use or other uses).”

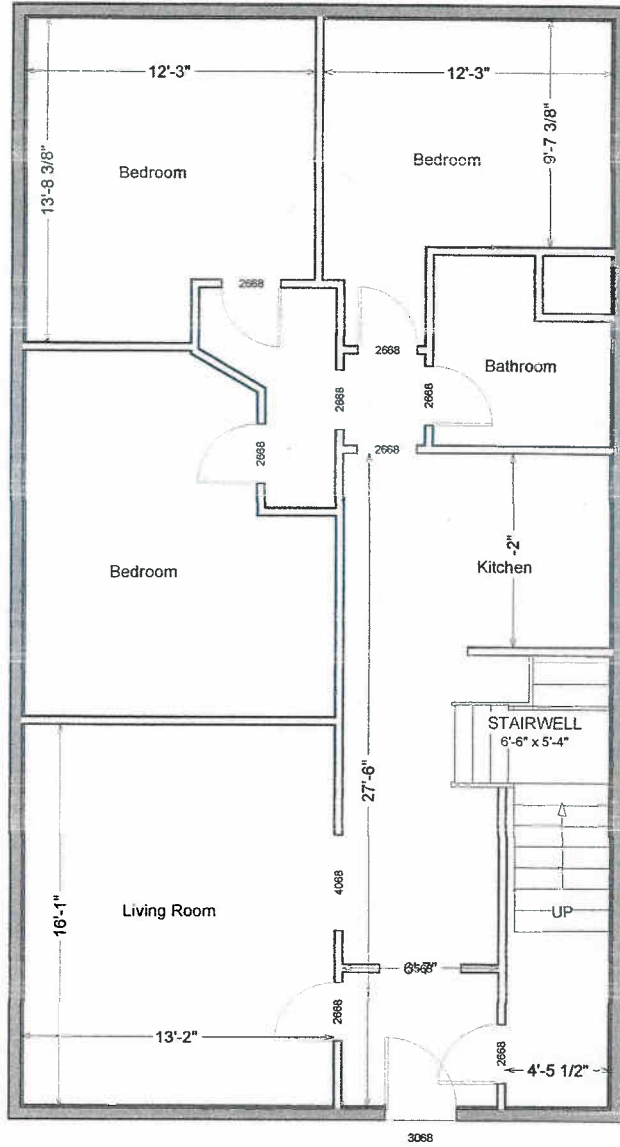
We propose to install an egress window in an existing finished room located in the basement of the structure. Installing an egress window in the current window location would allow for the room to be used as a sleeping room. This structure is approved for 10 occupants. There are currently nine sleeping rooms in the house and ten residents. This improvement would allow for each resident to have their own sleeping room. Although adding an egress window to the basement will by definition add living space to the house, no additional floor space will be added.

Scope: existing room in basement to be used for sleeping room  
This house is approved for 10 occupants, the room in the basement will be the 10th sleeping room.



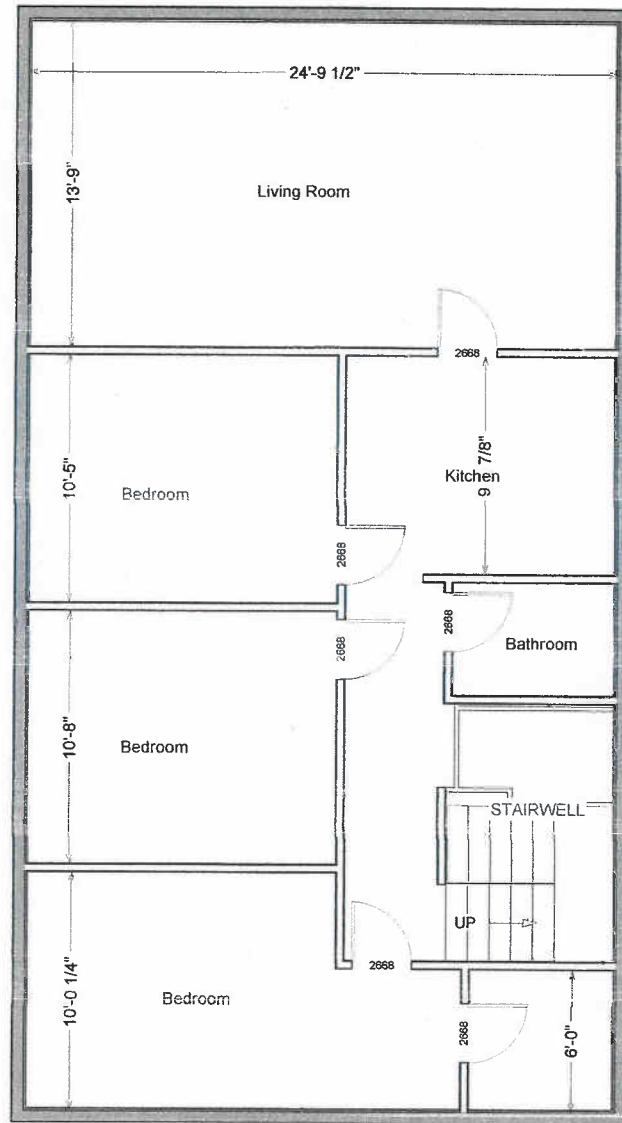
1619 S University  
Basement





1619 S University  
1st floor

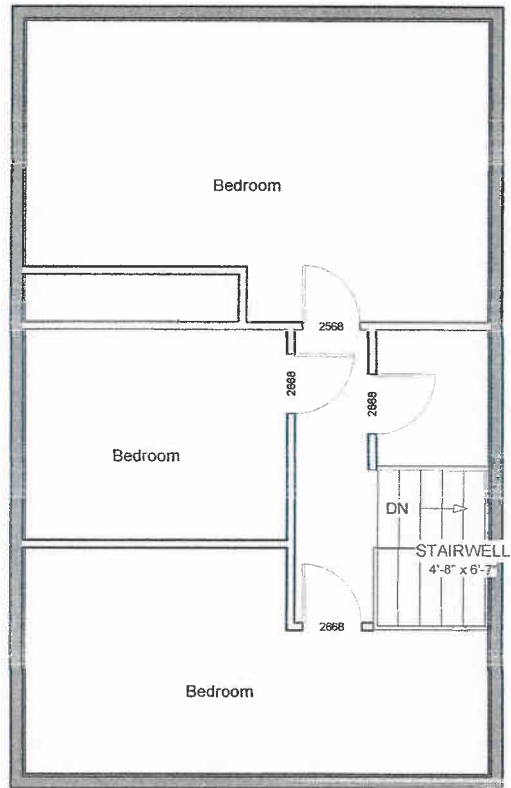




1619 S University  
2nd floor



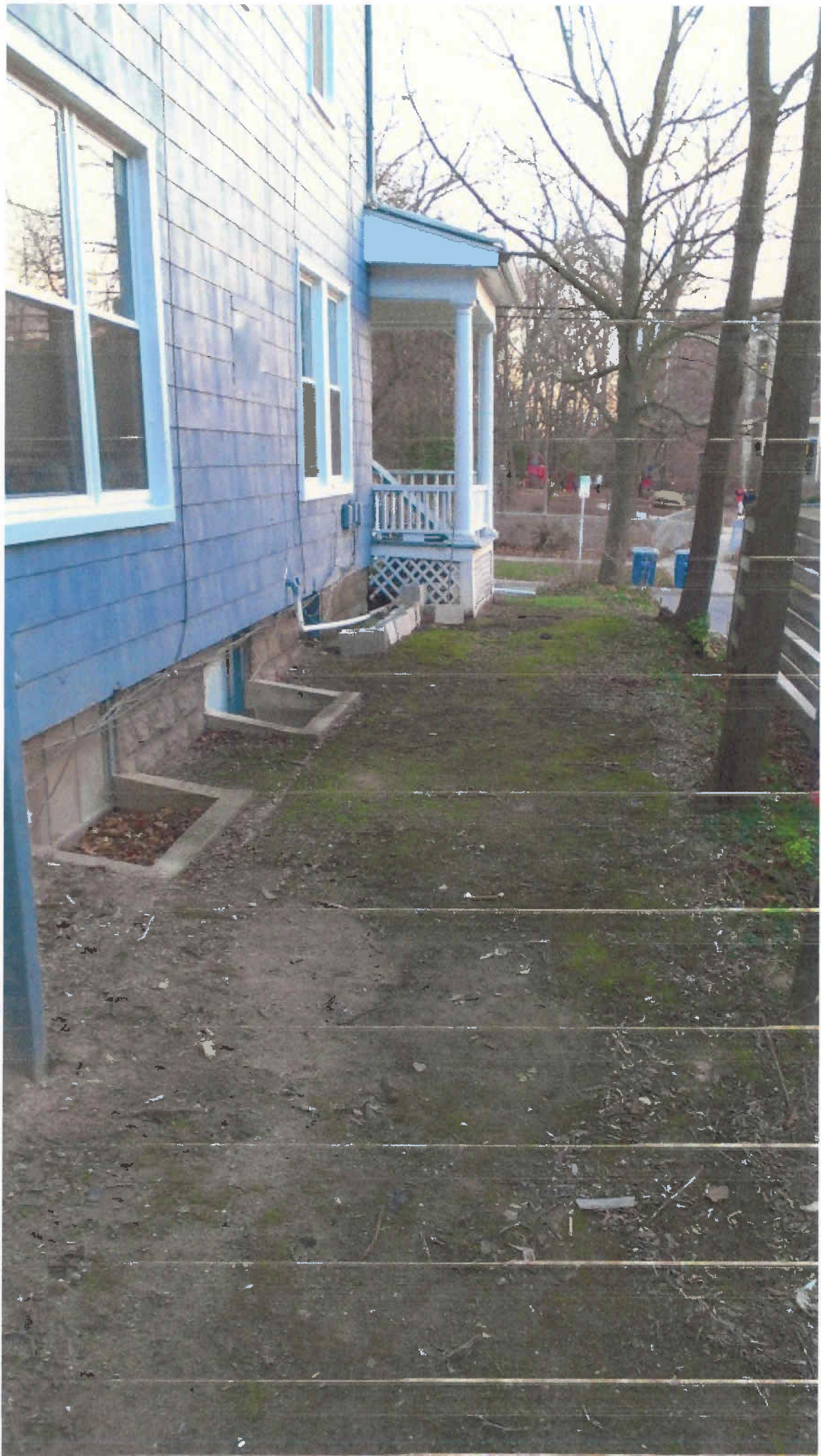




1619 S University  
3rd floor









RONALD J. BOLZ  
CHRISTOPHER M. LOVASZ  
STEVEN S. TOTH  
CHRISTOPHER A. WINKLER  
KATHERINE M. PITTEL

CONSUMER  
LEGAL  
SERVICES, P.C.

30928 FORD ROAD  
GARDEN CITY, MI 48135  
(734) 261-4700  
FAX (734) 261-4737

ATTORNEYS AND COUNSELORS

[www.LemonAuto.com](http://www.LemonAuto.com)

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November 30, 2012

Attn: Scott Klaassen  
Attn: Ronald W. White

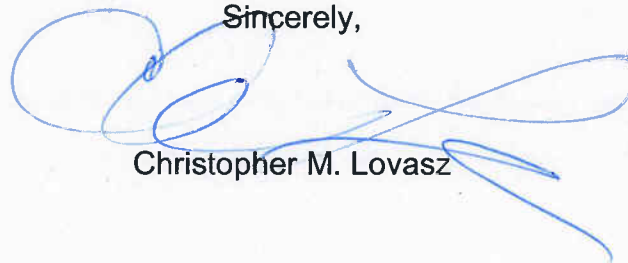
**Re: 1619 South University**

Dear Mr. Klaassen and Mr. White:

I am one of the property owners of Administrative Holdings III, LLC. Please be advised that I authorize Scott Klaassen and/or Ronald W. White to represent Administrative Holdings III, LLC before the Ann Arbor Zoning Board of Appeals for the December 19, 2012 board meeting.

If you have any questions or concerns, please contact me at the aforementioned number.

Sincerely,



Christopher M. Lovasz

CML/klw

**From:** Kathleen Faller [<mailto:kcfaller@umich.edu>]  
**Sent:** Wednesday, December 05, 2012 8:54 PM  
**To:** Kowalski, Matthew  
**Subject:** property at 1619 S. University

We will be leaving the country on the day of the hearing, December 19, 2012. We live at 1613 S. University, right next door to this property. We have lived at our address since 1971 and have seen this property deteriorate under the present ownership and to be inhabited by undergraduates who have little regard for the neighborhood. These students have loud parties into the night, often involving scores of people spilling into the streets, littering our lawn, and invading our property. This has included defecating and vomiting on our front porch and stealing furniture and plants from our front porch. It is difficult for us to believe that building yet another bedroom in violation of the code will not increase the neighborhood disturbance. We object to this request for variance from Chapter 55.

--

Kathleen Coulborn Faller, Ph.D., A.C.S.W.  
Marion Elizabeth Blue Professor of Children and Families  
School of Social Work  
1080 S. University Ave.  
Ann Arbor, MI, 48109-1106  
Room 2704  
Director, Family Assessment Clinic  
555 S. Forest Ave  
Ann Arbor, MI, 48104-2531  
734 998 9700-phone  
734 998 9710-fax  
[kcfaller@umich.edu](mailto:kcfaller@umich.edu)