

**Zoning Board of Appeals
November 23, 2013 Regular Meeting**

STAFF REPORT

Subject: **ZBA13-023, 2940 Butternut**

Summary: Mark Compton is requesting one variance from Chapter 55(Zoning) Section 5:28 (R1C), of 9 feet for expansion of an existing residential structure into the front setback; 25 feet is required.

Description and Discussion:

The subject parcel contains a 1,130 square foot, single-family dwelling constructed in 1958. The parcel is zoned R1C (Single-Family) and is located on the corner of Butternut and Springbrook, just south of Packard. The existing setback measures 26 feet to the main house. The petitioner would like to add a 13 foot by 12 foot (156 square feet) uncovered deck to the Butternut front of the existing house. The deck will not have columns supporting it, but will be elevated approximately 2 feet to the level of the front door. The proposed deck would be located at the section of the house which is inset 2 feet from remaining front façade. As a result, the 12 foot deck extension away from the house results in only a 10 foot extension into the front yard. At the location of the new deck the existing house is setback 28 feet, so the 12 foot deck extension will result in a 16 foot front yard setback. The required setback is 25 feet, so a 9 foot variance is required. The parcel is conforming for lot area; the required minimum lot area for R1C is 7,200 square feet and the parcel is 8,712 square feet.

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 a conforming lot in the R1C Zoning District (required is a minimum lot size of 7,200 square feet; parcel is 8,712 square feet). The existing house was built in 1958 before current zoning setbacks. The house currently has no front porch; historical records do indicate that a 4 foot by 13 foot front porch previously existed at the same location as the proposed porch. The subject parcel is a corner lot and is subject to two front setbacks.

- (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 in order to construct a deck on the front of the house. Due to the location of the house on a corner there is small rear yard (15 feet in depth) and two larger front yards. If the variance is not granted, a front stoop (Maximum 20 square feet) or ground level patio can be built without a variance.

- (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.***

If the variance is approved, the structure will be consistent with a number of houses in the neighborhood and will add a useable outdoor amenity to the front of the house which has no existing front porch. Although constructing the deck does require a variance, it will not be covered or enclosed. This should minimize the impact to the surrounding neighborhood. The deck will not be extended any closer to the side property line or adjacent neighbors.

- (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 was built in the 1958 before current zoning standards were established. The house was built 26 feet from the front property line with a partially covered 4 foot by 13 foot front porch. The previous front porch was structurally failing and was removed a couple years ago. Any porch or deck added to the front of this structure would require a variance.

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

The variance, if approved, will permit construction of an uncovered front deck 16 feet from the front property line along Butternut. The previous porch that was removed measured 4 feet by 13 feet (52 square feet) and did not allow for the placement of outdoor furniture. The proposed deck measures 12 feet by 13 feet (156 square feet), however it will not be covered and should have a minimal impact to the surrounding neighborhood.

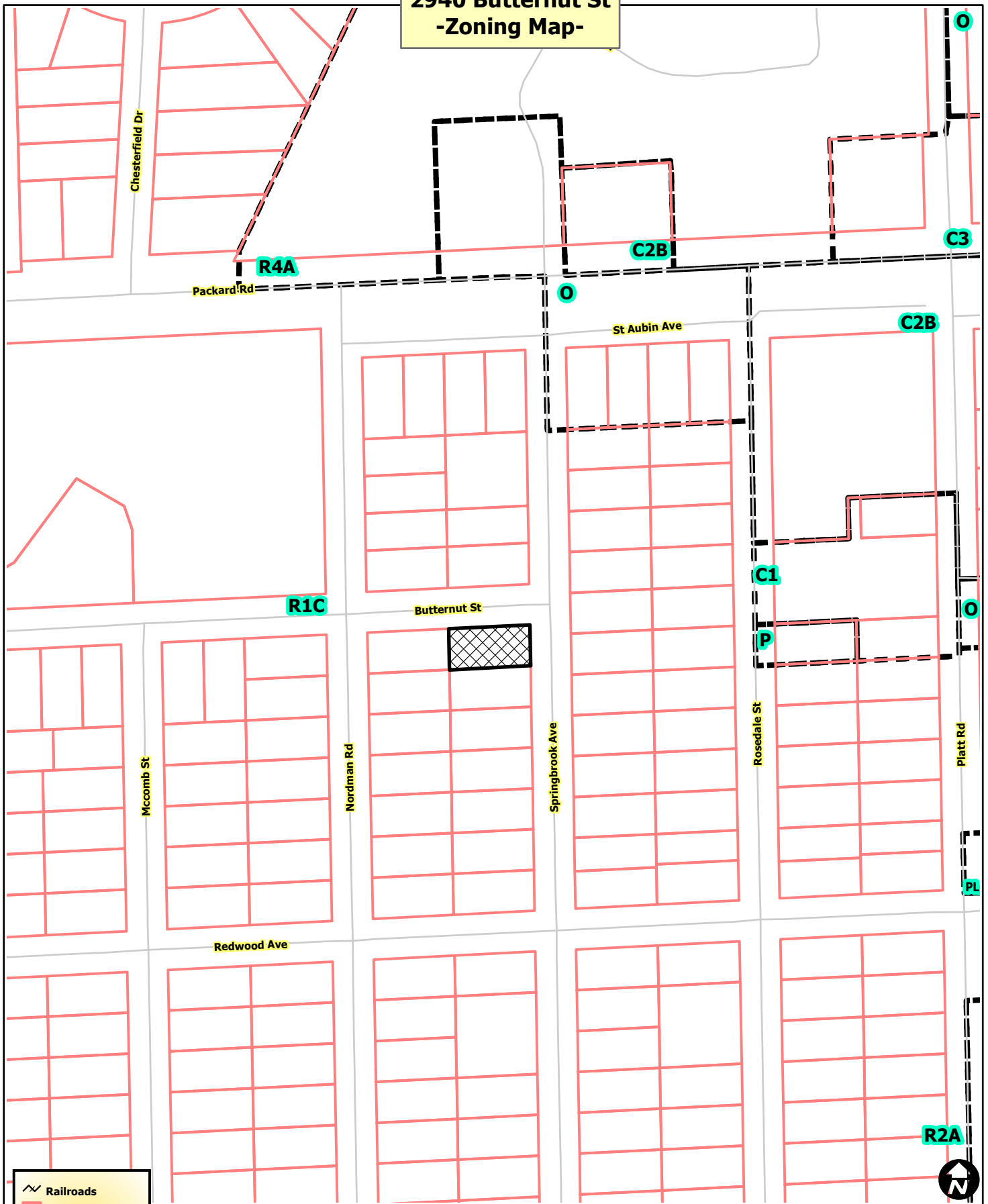
Zoning Board of Appeals
Variance
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Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'M. J. Kowalski', with a small mark to the right.

Matthew J. Kowalski, AICP
City Planner

2940 Butternut St -Zoning Map-



Railroads

Parcels

Zoning

Township Islands

Zoning Districts



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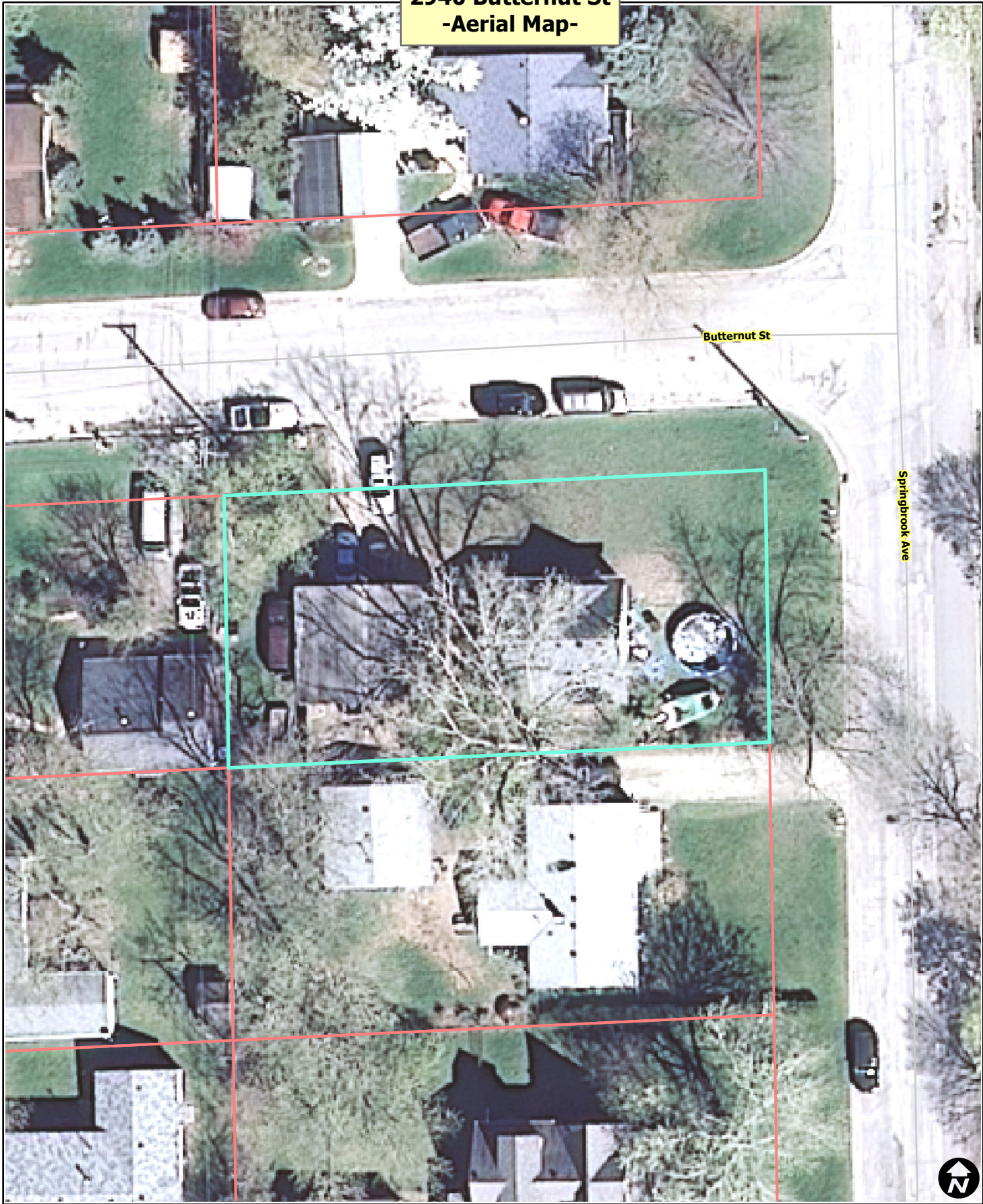
Map Created: 10/31/2013

2940 Butternut St -Aerial Map-



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2940 Butternut St
-Aerial Map-



Butternut St

Springbrook Ave



 Railroads

 Parcels



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

Section 1: Applicant Information

Name of Applicant: Mark Compton / Jessica McGinnis
 Address of Applicant: 2940 Butternut St.
 Daytime Phone: 517-936-8210 / 734-945-1713
 Fax: _____
 Email: jmcginnis80@yahoo.com
 Applicant's Relationship to Property: owners

Section 2: Property Information

Address of Property: 2940 Butternut St.
 Zoning Classification: Residential - R1C - Single-Family Dwelling
 Tax ID# (if known): 09-12-10-112-007
 *Name of Property Owner: _____

**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:

Required dimension: PROPOSED dimension:

Chapter 55, Section 5:28 25' front setback 16' front setback (9')

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)

Proposing a 12' x 13' deck on front of home, 8 ft. past current setback - (25' from ROW) to 16' from R.O.W.

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?

We would like to use proposed deck as an outdoor living area. We do not have a backyard area for such use. The current variance will only allow a 4' wide porch which would restrict use of outdoor furniture.

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)

We have a small backyard that does not allow room for a deck or outdoor use area. The front of the home is our yard area, and on a corner lot. It will increase curb appeal and add value to the home.

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

No effect, the proposed deck would be located at the center of the property.

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?

It is a corner lot with a 16' ROW on 2 sides of the property, the house and garage are backed up to the rear property line and leave only the frontage as yard space.

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

No. This property was built in 1958 and has had no updates to front of home and is in need of a ^{new} porch/deck.

Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property _____

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 _____

Lot width _____

Floor area ratio _____

Open space ratio _____

Setbacks _____

Parking _____

Landscaping _____

Other _____

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

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:

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

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 ½" by 11" sheets**. (Continued.....)

- ☒ Survey of the property including all existing and proposed structures, dimensions of property, and area of property. *SITE Plan enclosed*
- ☐ Building floor plans showing interior rooms, including dimensions.
- no interior work to be performed
- ☒ 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.

517-936-8210/734-945-1713

Phone Number

jmcginnis80@yahoo.com

Email Address

Jessica McGinnis Signature
Jessica McGinnis Mark Compton 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.

Jessica McGinnis 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.

Jessica McGinnis 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.**

Jessica McGinnis Signature

On this 23rd day of October, 2013, 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.

JOHN WHEELER

NOTARY PUBLIC, STATE OF MI

COUNTY OF WASHTENAW

MY COMMISSION EXPIRES Aug 2, 2019

ACTING IN COUNTY OF Washtenaw

John Wheeler Notary Public Signature

1 Aug 02, 2019
Notary Commission Expiration Date

John Wheeler Print Name

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: _____

Building Information

City of Ann Arbor

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Parcel: 09-12-10-112-007

1 building(s) found.

<u>Description</u> ↑	<u>Floor Area</u>	<u>Yr Built</u>	<u>Est. TCV</u>
<input checked="" type="checkbox"/> Residential Building 1	1131 Sq. Ft.	1958	\$67,965

General Information

Floor Area:	1131 Sq. Ft.	Estimated TCV:	\$67,965
Garage Area:	672 Sq. Ft.	Basement Area	754 Sq. Ft.
Foundation Size:	754 Sq. Ft.		
Year Built:	1958	Year Remodeled:	0
Occupancy:	Single Family	Class:	C
Effective Age:	39	Tri-Level?:	NO
Percent Complete:	100%	Heat:	Forced Air w/ Ducts
AC w/Separate Ducts:	NO	Wood Stove Add-on:	NO
Bedrooms:	0	Water:	Public Water
Style:	1 1/2 ST, C-BC	Sewer:	Public Sewer

Area Detail - Basic Building Areas

Height	Foundation	Exterior	Area	Heated
1.5 Story	Full Bsmnt.	Siding	754 Sq. Ft.	1.5 Story

Area Detail - Overhangs

Height	Exterior	Area	Included in Size for Rates

Exterior

Brick Veneer:	0 Sq. Ft.	Stone Veneer:	0 Sq. Ft.
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Basement Finish

Recreation:	378 Sq. Ft.	Recreation % Good:	0
Living Area:	0 Sq. Ft.	Living Area % Good:	0
Walk Out Doors:	0	No Concrete Floor Area:	0 Sq. Ft.

Plumbing Information

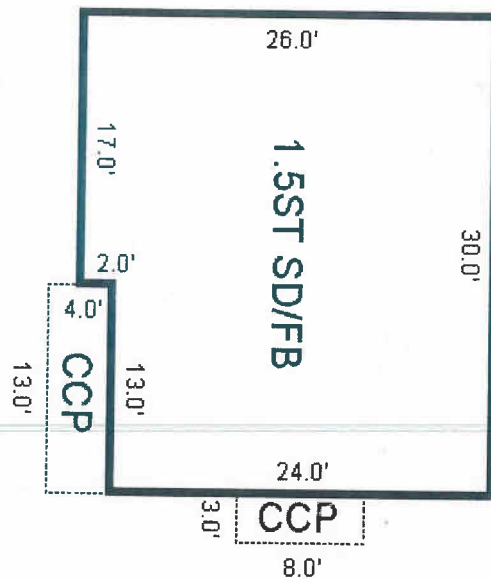
3-Fixture Baths:	1
2-Fixture Baths:	1
Extra Sink:	2
Ceramic Tile Floor:	1
Ceramic Tile Wains:	1

Garage Information**Garage # 1**

Area:	672 Sq. Ft.	Exterior:	Siding
Foundation:	18 Inch	Common Wall:	Detached
Year Built:	1964	Finished?:	NO
Auto Doors:	0	Mech Doors:	0

Image/Sketch for Parcel: 09-12-10-112-007**City of Ann Arbor**[\[Back to Non-Printer Friendly Version\]](#) [\[Send To Printer\]](#)**Caption:** No caption found

Sketch by Apex I/m

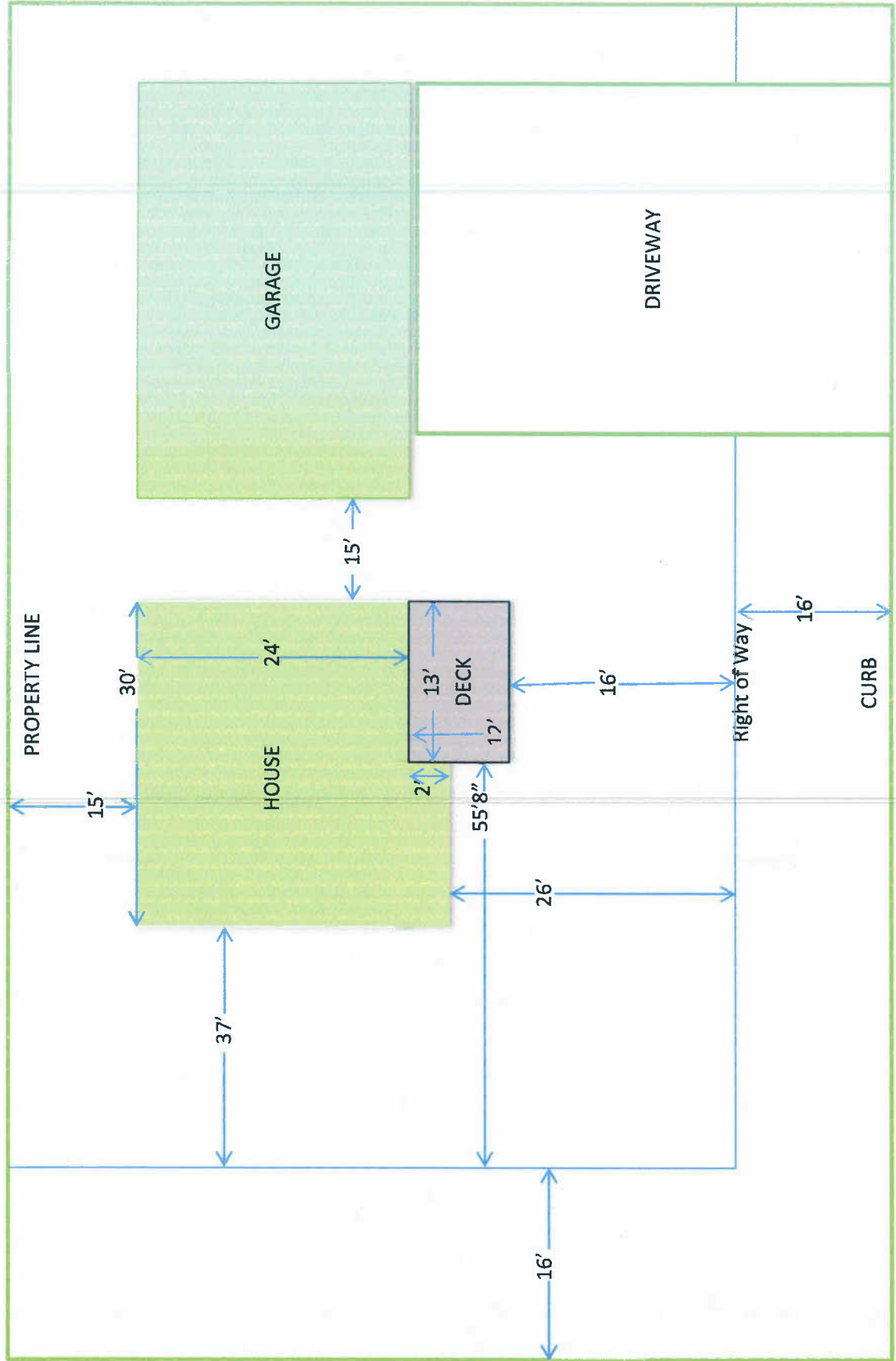


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SITE PLAN – 2940 BUTTERNUT ST.

Corner Lot, Set-back rezoning for proposed deck on front of home.



2940 Butternut Street



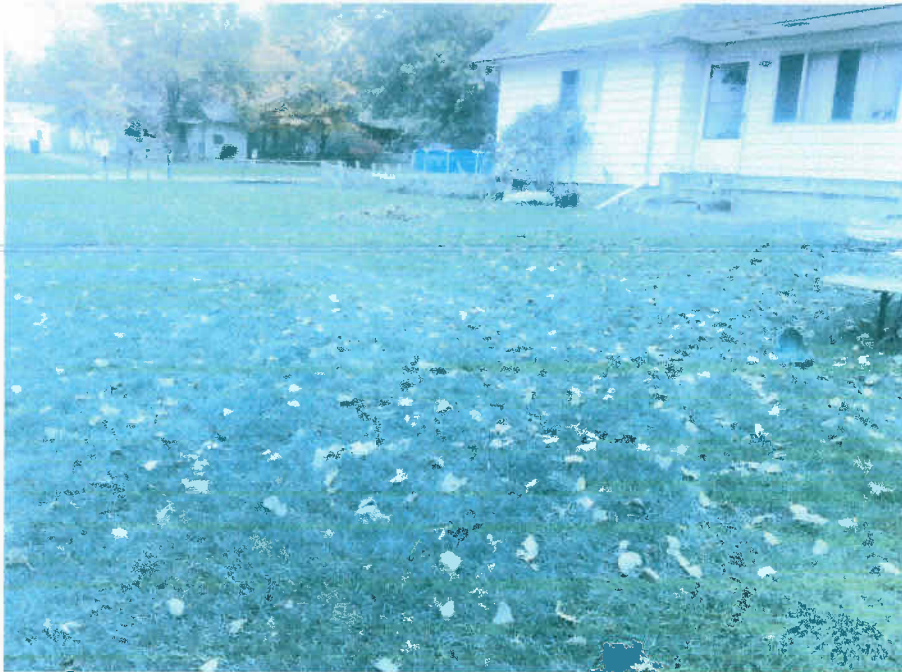
Frontage View from Curb (above)
Proposed Deck Outline(Below)



2940 Butternut Street



Yard View showing Proposed set-back Variance and Right of way (above)
Frontage View from Driveway and Curb (below)



To Whom It May Concern:

As a neighbor of Mark Compton, We support the variance from Chapter 55, Section 5:28(R1C). In this situation the orientation of his home does not lend itself to complying with the rule. It is a corner lot that was built with the front of the home being closer to the street than normal.

He removed the existing porch that was in poor condition to install a nice entryway deck, only to realize the ordinance prohibits his construction.

Mark has been a good neighbor in the 3 years we have lived in the neighborhood, lending a helping hand to others whenever called on. In the summer you will see him mowing lawns of older neighbors, and in the winter shoveling snow.

Thank you for your time,
Dan and Stephanie Curnayn
@3126 Springbrook St.

ZBA13-023; 2940 Butternut

After reviewing this request, I have no objections to this request. It would be great if you could recommend a wooden fence to hide the many stored items from view.

Thanks again,

Judith Schmitt
3127 Springbrook