

1. Zoning Board Of Appeals Meeting Agenda

Documents:

[01- ZBA AGENDA 8-23-17.PDF](#)

2. Zoning Board Of Appeals Meeting Packet

Documents:

[8-23-17 ZBA PACKET.PDF](#)

Agenda
Zoning Board of Appeals
Wednesday, August 23, 2017 - 7:00 P.M.
City Hall-Council Chambers, 1 S Huron St
Ypsilanti, MI 48197

I. Call to Order

II. Roll Call

Jake Albers, Chair	P	A
Cisco Garcia, Vice Chair	P	A
Heather Khan	P	A
Jennifer Symanns	P	A
Jared Talaga	P	A

John Bailey	P	A
Tom Roach	P	A

III. Approval of Minutes

- July 26, 2017

IV. Purpose of Meeting

V. Old Business

- None

VI. New Business

- Appeal of an Administrative Decision - 433 Worden
Public Hearing

VII. Adjournment

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**ZONING BOARD OF APPEALS
MEETING MINUTES
July 26, 2017
CITY COUNCIL CHAMBER
7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at 6:57 pm.

II. ROLL CALL

Present: J. Albers, C. Garcia, H. Khan, J. Symanns

Absent: J. Talaga (excused)

Staff: B. Wessler, City Planner
C. Kochanek, Associate Planner
N. Schuette, Executive Secretary

III. APPROVAL OF MINUTES

Commissioner Garcia moved to approve the minutes of June 28, 2017 (Support: J. Symanns) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Chairman Albers stated the purpose of the meeting.

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. Interpretation for Parking Requirement in Center District – Public Hearing

There was no public in attendance.

Staff report was presented by the City Planner, Bonnie Wessler who referred to the staff report dated July 20, 2017, which includes the details of the reason staff is requesting an interpretation of parking requirements in the Center District. She stated that basically in the course of reviewing the Thompson Block proposal, staff realized that the zoning ordinance as written does not match with how we have been interpreting it the

past few years. She consulted Richard Murphy, a former city planner, who stated that he had no recollection of interpreting the ordinance the same way that we have been doing since 2008-2009. Staff is requesting to fix the interpretation going forward and mark a point in the sand that we go back to "as written". Staff recommends this request.

Commissioner Symanns moved that the Zoning Board of Appeals find that in the case of interpreting the language of Sec 122-681(c), the language be interpreted as written; to-wit, no parking requirement shall accrue to uses in the Center District, with the exception of upper-story residential units, which shall be eligible to pay a fee to the City in lieu of providing parking, with the findings that:

- Ordinance is clearly written; and
- The effect of the ordinance as written protects the historic character and walkability of Downtown, Depot town, West Cross, and encourages walkability and density in other areas zoned Center District

The motion was supported by Commissioner Khan. A roll call vote was taken and carried unanimously.

VII. ADJOURNMENT

Since there was no further business, Commissioner Garcia moved to adjourn the meeting (Support: Commissioner Symanns) and the motion carried unanimously.

The meeting adjourned at 7:05 p.m.



10 August 2017

**Staff Review: Appeal of Administrative Decision
433 Worden Non-Conforming Status**

GENERAL INFORMATION

Applicant:	Brenda Lupian 433 Worden St Ypsilanti, MI 48197
Project:	Appeal of Administrative Decision regarding Non-Conforming Status of 433 Worden St
Application Date:	20 July 2017
Initial Decision Date:	7 June 2017
Location:	East side of Worden, between Franklin and Frederick; neighborhood south of Michigan, east of 1 st , north of Harriet, and west of Hawkins
Zoning:	R1, Single-Family Residential
Action Requested by Applicant:	Overturn Staff's determination that the 2-unit use was abandoned; allow resumption as legal nonconforming
Staff Recommendation:	Denial

INTRODUCTION & BACKGROUND

Ms. Lupian purchased 433 Worden at tax foreclosure auction in 2016. Upon taking possession, she began work on restoring it to the last apparent use as a two-family dwelling. However, the property had not been legally occupied or used as a two-family residence since approximately 2009, had been through two tax foreclosure auctions, had water service shut off in 2009, and rental certifications had lapsed and not been renewed in 2009. Further, the property had been rezoned from R2, which permitted two-family or single-family by right, to R1, single-family residential in 2015; R1 does not permit for two-family residences by right. Ms. Lupian was informed via postal mail in June that the previous two-family use had been determined to be abandoned, thus could not be restored; however, a single-family use was acceptable at this location.

Uses of structures or land generally fall into three broad categories: legal conforming, wherein a property and use conform to all current ordinances; legal non-conforming, wherein a property was initially approved under a certain set of regulations no longer in effect and could not be permitted as-is under the ordinance in effect at the present moment; and unlawful nonconforming, wherein a use could not be or was not approved under the ordinance that was in effect when it commenced. Zoning ordinances generally outline under what conditions a property may be considered legal nonconforming, and include provisions for legal nonconforming properties

regarding changes of use, the possibility for expansion, changes of occupancy or ownership, removal or destruction, and abandonment.

In this case, staff made the determination under §122-349(e) of the Zoning Code of Ordinances that any legal nonconforming use that may have been present had been abandoned, and that such abandonment was evidenced by the actions noted above: the two tax foreclosures, the loss of water service which rendered the property uninhabitable, and the failure to maintain the certifications necessary to legally rent one or more of the two units.

ORDINANCE STANDARDS

Abandonment is defined in the ordinance as:

Abandon means, in relation to nonconformities, to refer to uses, businesses, or establishments which have ceased to operate or exist; or to buildings, structures, or properties which have ceased to be occupied or used or for which no owner can be found, for a period of 365 consecutive days where there is an intent demonstrated by the property owner to abandon the nonconforming use by action consistent with §122-348(a)(5) or §122-349(e).

Section 122-349(e) regarding abandonment of certain legal nonconforming uses reads:

Sec. 122-349. Class B nonconforming uses of buildings.

All nonconforming uses of buildings not designated class A shall be class B nonconforming uses of buildings. Class B nonconforming uses of buildings shall comply with all the provisions of this article relative to nonconforming uses of buildings. The class B nonconforming use of a building, or building and lot in combination, may be continued subject to the following provisions:

- (e) **Abandonment.** If the nonconforming use of land is discontinued for a period of 365 consecutive days, where there is an intent demonstrated by the property owner to abandon the nonconforming use, it must not thereafter be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located. A nonconforming use must be determined to be abandoned if the use has ceased and one (1) or more of the following conditions exist, that said condition(s) being deemed to demonstrate intent on the part of the property owner to abandon the nonconforming use:
- (1) One (1) or more utility meters, such as water, gas and electricity to the property, have been removed;
 - (2) The property, buildings and/or grounds are unsafe or unsanitary, as described in Chapter 18, Article V;
 - (3) Cessation of business operations;
 - (4) Receipt of a written declaration by the property owner.
 - (5) Signs or other indications of the existence of the nonconforming use have been removed;
 - (6) Removal of equipment or fixtures that are necessary for the operation of the nonconforming use;
 - (7) Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;
 - (8) Bank or tax foreclosure;
 - (9) Operation or maintenance of a permitted use or different use at the property; or
 - (10) Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.

APPEAL OF ADMINISTRATIVE DECISION

§122-371

Section 122-371 regarding the appeals process reads:

Sec. 122-371. Appeals.

- (a) *Questions first go to administrative official.* All questions concerning administrative decisions under this chapter shall first be presented to the applicable City official or agency. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the applicable City official or agency.
- (b) *Filing appeal.* Appeals may be commenced by a person aggrieved by the decision of any officer, department, board, agency, or bureau of the City, county, state, or federal governments by filing a notice of appeal with the City Planner's office. The notice of appeal shall be signed, shall specify the requirement or decision from which the appeal is made, and shall state the specific grounds on which the appeal is based. The applicable fee shall be submitted with the notice of appeal; such fee shall be nonrefundable. Appeals shall be filed within 60 days of the decision in question.
- (c) *Stay of action.* An appeal stays all proceedings in the furtherance of the action appealed from unless the Building Department certifies to the Zoning Board of Appeals after the notice is filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by circuit court, following written request, notice to the officer or body from whom the appeal is taken, and due cause shown.
- (d) *Power to subpoena.* The Zoning Board of Appeals shall have the power to subpoena witnesses; administer oaths; compel testimony; and require the production of reports, papers, files, and other evidence pertinent to the matters before it.
- (e) *Decisions regarding appeals.* The Zoning Board of Appeals may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination from which an appeal is sought. To that end, the Zoning Board of Appeals shall have the powers of the public official or body from whom the appeal is taken.

BASIS OF THE DECISION

§122-349(e)

The basis of staff's decision was spelled out in the decision letter, and is reproduced below with formatting changes:

“This office has been asked for confirmation regarding the zoning status of 433 Worden St. Our records show the building was legally able to be used as two-unit through approximately 2009. Since 2009, no rental certificates have been issued nor applied for. In January of 2015, a new zoning code went into effect that prohibits the establishment of new multifamily housing, including duplexes, in this area; it also prohibits the resumption of nonconforming uses that have been abandoned.

Per our records, this unit has not been legally occupied or used as a two unit since 2009, and was forfeited to the County for taxes in 2010 and again in 2016. **Under §122-349(e) of the Ypsilanti Code of Ordinances, excerpted below, we have found the nonconforming use to have been abandoned, with the following supporting findings:**

- **there was a failure to maintain rental certification for the unit(s) after the 2007 certification lapsed in 01/2009;**
- **water service had been shut off from 1/2009 through 5/2017;**
- **[the property was] was foreclosed upon for taxes in 2010 and again in 2016.**

These conditions existed for more than 365 consecutive days. This property is located in the R1, Single-family Residential zoning district, and is subject to said zoning. Two-family uses are not permitted in R1; however, this unit may be converted to single-family use.

Section 122-349(e) of the Code of Ordinances reads as follows:

Sec. 122-349. Class B nonconforming uses of buildings.

(e) Abandonment. If the nonconforming use of land is discontinued for a period of 365 consecutive days, where there is an intent demonstrated by the property owner to abandon the nonconforming use, it must not thereafter be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located. A nonconforming use must be determined to be abandoned if the use has ceased and one (1) or more of the following

conditions exist, that said condition(s) being deemed to demonstrate intent on the part of the property owner to abandon the nonconforming use:

- (1) One (1) or more utility meters, such as water, gas and electricity to the property, have been removed;
- (2) The property, buildings and/or grounds are unsafe or unsanitary, as described in Chapter 18, Article V;
- (3) Cessation of business operations;
- (4) Receipt of a written declaration by the property owner.
- (5) Signs or other indications of the existence of the nonconforming use have been removed;
- (6) Removal of equipment or fixtures that are necessary for the operation of the nonconforming use;
- (7) Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;
- (8) Bank or tax foreclosure;
- (9) Operation or maintenance of a permitted use or different use at the property; or
- (10) Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.”

ARGUMENT IN SUPPORT OF THE APPEAL

The following statement in support of the appeal was submitted to this office by the applicant:

“The first unit has been remodeled already. The plan was to do the same with the second unit. I was recently informed of the change. If I would’ve known beforehand I wouldn’t have made the changes (remodel) to the home. It would be very expensive to convert both units into a single-family residence.”

Please see the attached application.

BACKGROUND INFORMATION ABOUT TAX FORECLOSURE AUCTIONS

Please see the attached flier and quitclaim deeds. Washtenaw County, when selling properties at tax foreclosure auction, specifically sells these properties without warranty in an as-is, where-is condition. Due diligence is expected to be the responsibility of the purchaser.

STAFF RECOMMENDATION

Staff recommends the Zoning Board of Appeals affirm the administrative decision, with the following findings:

Findings

1. Per the provisions of §122-203 and §122-349(e), the two-family use at 433 Worden had been abandoned with findings that water service had been discontinued in 2009; current licenses, certificates, permits, registrations, or other appropriate documentation had not been maintained since 2009; and the property had been foreclosed upon for taxes.
2. The City Planner acted within the scope of the authority provided under §122-381, “Duties and Enforcement Powers,” when issuing a notice of violation.

Bonnie Wessler
City Planner, Community & Economic Development Department

CC File
 Applicant



City of Ypsilanti

Community and Economic Development

7 June 2017

Ms Brenda Lupian
433 Worden St
Ypsilanti, MI 48197

RE: Nonconforming status of 433 Worden St, 11-11-39-430-006, Ypsilanti MI

Dear Ms Lupian:

This office has been asked for confirmation regarding the zoning status of 433 Worden St. Our records show the building was legally able to be used as two-unit through approximately 2009. Since 2009, no rental certificates have been issued nor applied for. In January of 2015, a new zoning code went into effect that prohibits the establishment of new multifamily housing, including duplexes, in this area; it also prohibits the resumption of nonconforming uses that have been abandoned.

Per our records, this unit has not been legally occupied or used as a two unit since 2009, and was forfeited to the County for taxes in 2010 and again in 2016. **Under §122-349(e) of the Ypsilanti Code of Ordinances, excerpted below, we have found the nonconforming use to have been abandoned, with the following supporting findings: there was a failure to maintain rental certification for the unit(s) after the 2007 certification lapsed in 01/2009; water service had been shut off from 1/2009 through 5/2017; an was foreclosed upon for taxes in 2010 and again in 2016. These conditions existed for more than 365 consecutive days. This property is located in the R1, Single-family Residential zoning district, and is subject to said zoning. Two-family uses are not permitted in R1; however, this unit may be converted to single-family use.**

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- (7) Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use;
- (8) Bank or tax foreclosure;
- (9) Operation or maintenance of a permitted use or different use at the property; or
- (10) Other actions or omissions, which in the opinion of the Planning or Building Department(s), evidence an intention of the part of the property owner to abandon the nonconforming use.

Feel free to call or e-mail me with any additional questions. The full text of the zoning ordinance is available online at www.cityofpsilanti.com/zoning.

Sincerely,



Bonnie Wessler
City Planner, Community & Economic Development Division

CC: File
Building Department



City of Ypsilanti
Planning & Development Department

**Non-refundable
Planning Fee:**
\$250

One South Huron • Ypsilanti, MI 48197
Phone: (734) 483-9646 • Fax: (734) 483-7260
www.cityofypsilanti.com

APPEAL OF ADMINISTRATIVE DECISION TO THE ZONING BOARD OF APPEALS

Applicant*

Name Brenda Lupian		
Address 433 Worden St		
City Ypsilanti	State MI	Zip 48197
Phone / Fax 734-972-9912		E-Mail brenda.lupian@yahoo.com

*If applicant is not owner of the property in question, a written, notarized statement from the owner authorizing this application must be included.

Property

Name of project
Address: 433 Worden St Ypsilanti, MI 48197
Parcel identification number(s): 11-11-39-430-006 / 11-11-39-430-007
Legal description(s) (may be attached): OLD-SID-11-11-010-148-00 YP city 1-W126 NWLY 52'-SLY 240'-NWLY-132'

Decision

Administrative decision in question (include any ordinance section referenced in the decision; may be attached): Unrecorded
see attached

Argument in support of the appeal (may be attached):

The first unit has been remodeled already. The plan was to do the same with the second unit. I was recently informed of the change. If I would've known beforehand I wouldn't have made the changes (remodel) to the home. It would be very expensive to convert both units into a single-family residence.

Circumstances, factors, and other relevant information (may be attached):

Signature

I hereby attest that the above information is accurate. I am authorized to and grant permission to the City of Ypsilanti staff to be on the subject property for the purposes of preparing staff reports and/or evaluating this application.

Sig

[Redacted Signature]

Date:

7/20/17

Print Name:

Brenda Lypian

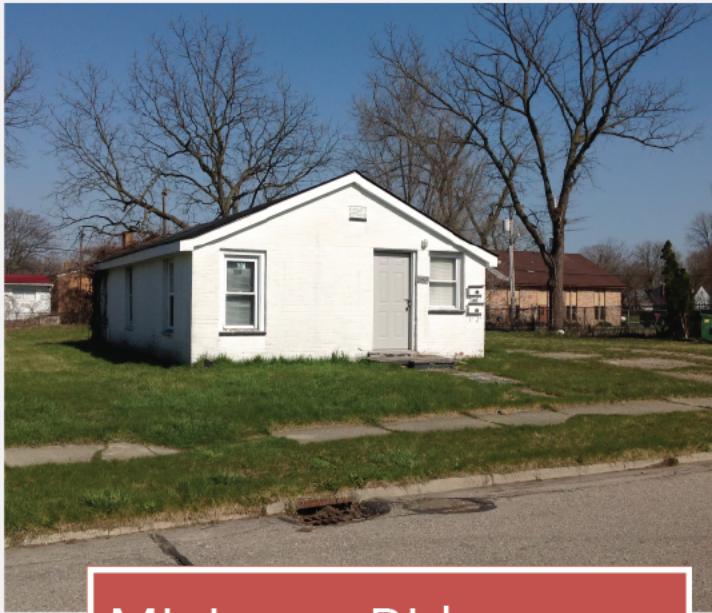
TAX-FORECLOSED PROPERTY AUCTION

BEGINS JULY 22, 2016 AT auction.com/washtenaw

**Property is sold as is & where is; purchasers release the Treasurer from all liability*

Ypsilanti, MI 48197

433 & 435 WORDEN ST



Minimum Bid: \$17,730

Parcel #: 11-11-39-430-006 & -007

Acreage: 0.32

SEV (2016) x 2: \$77,800

Property Type: Residential

Legal: See auction.com/washtenaw

Disclosures:

Under provisions of The General Property Tax Act (Public Act 206 of 1893, as amended, MCL 211.1 to MCL 211.157) Washtenaw County Treasurer, Catherine McClary, as the Foreclosing Governmental Unit for Washtenaw County, offers for sale to the highest bidder property foreclosed for non-payment of taxes.

ONLINE PROPERTY AUCTION

Opens: 8/12/2016, 10:00 a.m.

Closes: 8/15/2016, 3:00 p.m.

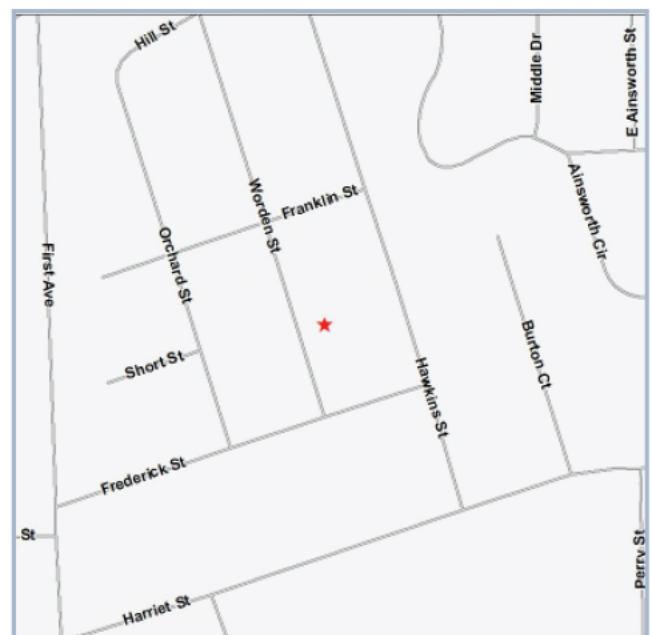
To bid on this property, view photos, maps, legal descriptions, *terms and conditions of sale, or to see other properties visit:

www.auction.com/washtenaw

For all other questions, please contact the Washtenaw County Treasurer at:

taxes@ewashtenaw.org

**Read all Terms & Conditions carefully and thoroughly.*





3

QUITCLAIM DEED

Pursuant to section 78m of The General Property Tax Act, 1893 PA 206 as amended (MCL 211.78m), Grantor, Catherine McClary, Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County, whose address is 200 N. Main Street, Suite 200, P.O. Box 8645, Ann Arbor, Michigan 48107-8645, quitclaims to the Grantee, Brenda Lupian, a married woman, whose address is 2335 McKinley St., Ypsilanti, MI 48197, the premises in the City of Ypsilanti, Washtenaw County, Michigan, described as:

SEE ATTACHED EXHIBIT A

for the full consideration of \$13,400.00, subject to any liens, easements, building or use restrictions, governmental interests, or special assessments not extinguished pursuant to section 78k of The General Property Tax Act, 1893 PA 206, as amended (MCL 211.78k), and subject to the lien for taxes levied in calendar year 2016.

By accepting this Deed, the Grantee and her successors and assigns agree to be bound by and comply with the following covenants that shall run with the land conveyed by this Deed:

1. Not to sue the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, boards, commissions, officers, employees, or agents for any claim, whether legal or equitable, arising under, or in any manner related to this Deed. To release, waive, and discharge the Washtenaw County Treasurer, the County of Washtenaw, and all its departments, boards, commissions, officers, employees, and agents, and its successors and assigns from any and all liability to the Grantee and her successors and assigns, for all losses, injury, or damage to person or property, or death, and any claims or demands therefore arising under, or in any manner related to this Deed whether caused by the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, agencies, boards, commissions, officers, employees, or agents.

2. To indemnify and hold harmless the Washtenaw County Treasurer, the County of Washtenaw, and all of its departments, agencies, boards, commissions, officers, employees, and agents from any and all claims, demands, judgments, and expenses, including attorney fees, for any and all loss, damage, death, or injury to person or property arising under, or in any manner related to the performance of, this Deed. This indemnification and hold harmless agreement is intended to and shall extend to all loss, damage, death, or injury to person or property, proximately caused in whole or in part by the negligence or other tortious conduct of the Washtenaw County Treasurer, the County of Washtenaw, its departments, boards, commissions, agencies, officers, employees, or agents.

3. Declaration of Conditions Subsequent. This Declaration is made to give record notice of the conditions subsequent to the sale of the Property by imposition of the following restrictions on the sale to the Property:

- A. That Grantee or any subsequent Purchaser/Assignee shall pay all tax obligations due on the date the Deed is issued and shall keep current payment on all tax obligations for the two years following the date the deed was issued.
- B. That Grantee or subsequent Purchaser/Assignee shall either demolish the property within six months following the date of the deed or maintain and secure the Property for two years following the date of the deed from Grantor/Treasurer in accordance with local building, health and public safety ordinances.
- C. That failure of the Grantee or subsequent Purchaser/Assignee to comply with above clauses A and/or B or to cure the default within 30 days of written notice may result in a reversion of the title of the Property to the Grantor/Treasurer or assigned to the State of Michigan, County of Washtenaw, City, or Township where the property is located, at the discretion of the Grantor/Treasurer. The right of reversion of title shall reinstate fee simple absolute title to the Grantor/Treasurer or to Treasurer's assignee within 30 days of failure to cure default, unless extended at the Treasurer's sole discretion. Written notice of default and failure to cure default addressed to the Grantee and mailed to the Grantee's address as written on the deed shall be notice to any subsequent Purchaser/Assignee, unless a copy of the Property Transfer Affidavit (PTA) that was filed with the local Assessor and which includes any change of mailing address is hand delivered to and signed as received by said Grantor/Treasurer, or designated representative. During the tax years that the conditions subsequent apply, this property shall not be sold, conveyed or transferred unless all taxes are paid in full. Violators shall be personally liable to Purchaser and/or Grantor/Treasurer for damages and agree to submit to the jurisdiction of the courts in the State of Michigan.

The Grantor grants to the Grantee the right to make any authorized division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

Time Submitted for Recording
Date 10-12-2016 Time 8:42 AM
Lawrence Kestenbaum
Washtenaw County Clerk/Register

This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated 9/30/2016

GRANTOR

Catherine McClary
Washtenaw County Treasurer and Foreclosing
Governmental Unit for Washtenaw County

(STATE OF MICHIGAN) (WASHTENAW COUNTY)

The foregoing instrument was acknowledged before me on Oct 11, 2016 by Catherine McClary, the Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County.

[REDACTED]
Notary Public, Washtenaw County

My commission expires 6-19-18
Acting in WASHTENAW County, Michigan.

Susan E. Bos, Notary Public
State of Michigan
County of Washtenaw
My commission expires **June 18, 2018**
Acting in the County **Washtenaw**

Because in this written instrument the grantor is an officer of a political subdivision of the State of Michigan acting in an official capacity, the instrument is exempt from the state real estate transfer tax pursuant to section 6(h) of the State Real Estate Transfer Tax Act, 1993 PA 330, as amended (MCL 207.526 (h)), and exempt from the real estate transfer tax levied under 1966 PA 134, as amended (MCL 207.501 to 207.513), pursuant to section 5(h) of 1966 PA 134, as amended (MCL 207.505(h)).

When recorded, return to:
Brenda Lupian
2335 McKinley St.
Ypsilanti, MI 48197

Send subsequent tax bills to:
Brenda Lupian
2335 McKinley St.
Ypsilanti, MI 48197

Prepared by:
Jacco J. Gelderios
Washtenaw County Treasurer's
Office
200 N. Main St., Suite 200
P.O. Box 8645
Ann Arbor, MI 48107-8645

Tax Parcel Number
See Attached Exhibit A

Recording fee:
\$30.00

Transfer fee:
\$ 0.00

EXHIBIT A

Parcel ID: 11-11-39-430-006

Parcel Address: 433 Worden St., Ypsilanti, MI 48197

Legal Description:

*OLD SID - 11 11-010-148-00 YP CITY 1-W126 NLY 52'-SLY 290'-WLY 132' OFLD. LYING AT NE COR
FREDERICK & WORDEN STS, OR LOT 26 WORDEN GARDENS UNRECORDED.

Parcel ID: 11-11-39-430-007

Parcel Address: 435 Worden St., Ypsilanti, MI 48197

Legal Description:

*OLD SID - 11 11-010-147-00 YP CITY 1-W125 NLY 52'-SLY 238'-WLY 132' OFLD. LYING AT NE COR
FREDERICK & WORDEN STS. OR LOT 25, WORDEN GARDENS UNRECORDED.



QUITCLAIM DEED

Pursuant to section 78m of The General Property Tax Act, 1893 PA 206 as amended (MCL 211.78m), Grantor, Catherine McClary, Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County, whose address is 200 N. Main Street, Suite 200, P.O. Box 8645, Ann Arbor, Michigan 48107-8645, quitclaims to the Grantee, Mike A. Baydoun, a single man, whose address is 7342 Oakman Blvd., Dearborn, MI 48126, the premises in the City of Ypsilanti, Washtenaw County, Michigan, described as:

SEE ATTACHED EXHIBIT A

for the full consideration of \$1,250.00, subject to any liens, easements, building or use restrictions, governmental interests, or special assessments not extinguished pursuant to section 78k of The General Property Tax Act, 1893 PA 206, as amended (MCL 211.78k), and subject to the lien for taxes levied in calendar year 2013.

By accepting this Deed, the Grantee and his successors and assigns agree to be bound by and comply with the following covenants that shall run with the land conveyed by this Deed:

1. Not to sue the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, boards, commissions, officers, employees, or agents for any claim, whether legal or equitable, arising under, or in any manner related to this Deed. To release, waive, and discharge the Washtenaw County Treasurer, the County of Washtenaw, and all its departments, boards, commissions, officers, employees, and agents, and its successors and assigns from any and all liability to the Grantee and his successors and assigns, for all losses, injury, or damage to person or property, or death, and any claims or demands therefore arising under, or in any manner related to this Deed whether caused by the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, agencies, boards, commissions, officers, employees, or agents.

2. To indemnify and hold harmless the Washtenaw County Treasurer, the County of Washtenaw, and all of its departments, agencies, boards, commissions, officers, employees, and agents from any and all claims, demands, judgments, and expenses, including attorney fees, for any and all loss, damage, death, or injury to person or property arising under, or in any manner related to the performance of, this Deed. This indemnification and hold harmless agreement is intended to and shall extend to all loss, damage, death, or injury to person or property, proximately caused in whole or in part by the negligence or other tortious conduct of the Washtenaw County Treasurer, the County of Washtenaw, its departments, boards, commissions, agencies, officers, employees, or agents.

The Grantor grants to the Grantee the right to make any authorized division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated 9/26/2013

GRANTOR

Catherine McClary
Washtenaw County Treasurer and Foreclosing
Governmental Unit for Washtenaw County

(STATE OF MICHIGAN) (WASHTENAW COUNTY)

The foregoing instrument was acknowledged before me on 09/25/2013 by Catherine McClary, the Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County.

Susan E. Bos, Notary Public
State of Michigan
County of Washtenaw
My commission expires June 19, 2018
Acting in the County Washtenaw

Notary Public, Washtenaw County

Because in this written instrument the grantor is an officer of a political subdivision of the State of Michigan acting in an official capacity, the instrument is exempt from the state real estate transfer tax pursuant to section 6(h) of the State Real Estate Transfer Tax Act, 1993 PA 330, as amended (MCL 207.526 (h)), and exempt from the real estate transfer tax levied under 1966 PA 134, as amended (MCL 207.501 to 207.513), pursuant to section 5(h) of 1966 PA 134, as amended (MCL 207.505(h)).

When recorded, return to:

Mike A. Baydoun
7342 Oakman Blvd.
Dearborn, MI 48126

Send subsequent tax bills to:

Mike A. Baydoun
7342 Oakman Blvd.
Dearborn, MI 48126

Prepared by:

Daniel A. Saltiel
Washtenaw County Treasurer's
Office
200 N. Main St., Suite 200
P.O. Box 8645
Ann Arbor, MI 48107-8645
Transfer fee:
\$ 0.00

Tax Parcel Number

See Attached Exhibit A

Recording fee:

\$13.00

Washtenaw County
Treasurer ✓

Time Submitted for Recording
Date 10-28-2013 Time 9:22AM
Lawrence Kestenbaum
Washtenaw County Clerk/Register

14

EXHIBIT A

Parcel ID: 11-11-39-430-006

Parcel Address: 433 Worden St., Ypsilanti, MI 48197

Legal Description:

*OLD SID - 11 11-010-148-00 YP CITY 1-W126 NLY 52'-SLY 290'-WLY 132' OFLD. LYING AT NE COR
FREDERICK & WORDEN STS, OR LOT 26 WORDEN GARDENS UNRECORDED.

Parcel ID: 11-11-39-430-007

Parcel Address: 435 Worden St., Ypsilanti, MI 48197

Legal Description:

*OLD SID - 11 11-010-147-00 YP CITY 1-W125 NLY 52'-SLY 238'-WLY 132' OFLD. LYING AT NE COR
FREDERICK & WORDEN STS. OR LOT 25, WORDEN GARDENS UNRECORDED.

L: 4824 P: 230 5990940 GD

12/30/2010 10:58 AM Total Pages: 2

Lawrence Kestenbaum, Washtenaw Co



QUITCLAIM DEED

Pursuant to section 78m of The General Property Tax Act, 1893 PA 206 as amended (MCL 211.78m), Grantor Catherine McClary, Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County, whose address is 200 N. Main Street, Suite 200, P.O. Box 8645, Ann Arbor, Michigan 48107-8645, quitclaims to the Grantee Tierra Buena Properties Employee Profit Sharing Plan/401(K), a Trust, Registered in the State of California, whose address is 561 Molucca Terrace, Sunnyvale, CA 94089, the premises in the City of Ypsilanti, Washtenaw County, Michigan, described as:

SEE ATTACHED EXHIBIT A

for the full consideration of \$4,650, subject to any liens, easements, building or use restrictions, governmental interests, or special assessments not extinguished pursuant to section 78k of The General Property Tax Act, 1893 PA 206, as amended (MCL 211.78k), and subject to the lien for taxes levied in calendar year 2010.

By accepting this Deed, the Grantee and its successors and assigns agree to be bound by and comply with the following covenants that shall run with the land conveyed by this Deed:

1. Not to sue the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, boards, commissions, officers, employees, or agents for any claim, whether legal or equitable, arising under, or in any manner related to this Deed. To release, waive, and discharge the Washtenaw County Treasurer, the County of Washtenaw, and all its departments, boards, commissions, officers, employees, and agents, and its successors and assigns from any and all liability to the Grantee and its successors and assigns, for all losses, injury, or damage to person or property, or death, and any claims or demands therefore arising under, or in any manner related to this Deed whether caused by the Washtenaw County Treasurer, the County of Washtenaw, or any of its departments, agencies, boards, commissions, officers, employees, or agents.

2. To indemnify and hold harmless the Washtenaw County Treasurer, the County of Washtenaw, and all of its departments, agencies, boards, commissions, officers, employees, and agents from any and all claims, demands, judgments, and expenses, including attorney fees, for any and all loss, damage, death, or injury to person or property arising under, or in any manner related to the performance of, this Deed. This indemnification and hold harmless agreement is intended to and shall extend to all loss, damage, death, or injury to person or property, proximately caused in whole or in part by the negligence or other tortious conduct of the Washtenaw County Treasurer, the County of Washtenaw, its departments, boards, commissions, agencies, officers, employees, or agents.

The Grantor grants to the Grantee the right to make any authorized division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated 11/2/10

GRANTOR

Catherine McClary
Washtenaw County Treasurer and Foreclosing
Governmental Unit for Washtenaw County

(STATE OF MICHIGAN) (WASHTENAW COUNTY)

The foregoing instrument was acknowledged before me on Dec 30, 10, 2010, by Catherine McClary, the Washtenaw County Treasurer and Foreclosing Governmental Unit for Washtenaw County.

(Notary signature)

Notary Public, Washtenaw County

JUDY A. FIEGEL
(Notary name in black ink)

My commission expires 12-21-2012

Judy A. Fiegel, Notary Public
State of Michigan
County of Washtenaw

My commission expires December 21, 2012
Acting in the County of Washtenaw

Because in this written instrument the grantor is an officer of a political subdivision of the State of Michigan acting in an official capacity, the instrument is exempt from the state real estate transfer tax pursuant to section 6(h) of the State Real Estate Transfer Tax Act, 1993 PA 330, as amended (MCL 207.256(h)), and exempt from the real estate transfer tax levied under 1966 PA 134, as amended (MCL 207.501 to 207.513), pursuant to section 5(h) of 1966 PA 134, as amended (MCL 207.505(h)).

When recorded, return to:

Tierra Buena Properties EPSP/401(K)
561 Molucca Terrace
Sunnyvale, CA 94089
Go Karmun Wong

Send subsequent tax bills to:

Tierra Buena Properties EPSP/401(K)
561 Molucca Terrace
Sunnyvale, CA 94089

Prepared by:

Deborah J. Dunn
Washtenaw County Treasurer's Office
200 N Main St, Suite 200
P.O. Box 8645
Ann Arbor, MI 48107-8645
Transfer fee:
\$ 0.00

Tax Parcel Number
11-11-39-430-006
11-11-39-430-007

Recording fee:
\$13.00

Time Submitted for Recording
Date 12-30-2010 Time 10:30 AM
Lawrence Kestenbaum
Washtenaw County Clerk/Register

EXHIBIT A

Parcel Number: 11-11-39-430-006

Property Address: 433 Worden St., Ypsilanti, MI 48197

Legal Description:

*OLD SID - 11 11-010-148-00 YP CITY 1-W126 NLY 52'-SLY 290'-WLY 132' OFLD. LYING AT NE COR
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Parcel Number: 11-11-39-430-007

Property Address: 435 Worden St., Ypsilanti, MI 48197

Legal Description:

*OLD SID - 11 11-010-147-00 YP CITY 1-W125 NLY 52'-SLY 238'-WLY 132' OFLD. LYING AT NE COR
FREDERICK & WORDEN STS. OR LOT 25, WORDEN GARDENS UNRECORDED.



Memo

To: Zoning Board of Appeals

From: Bonnie Wessler, City Planner

Date: 10 August 2017

Subject: Appeals of Administrative Decision: Resources for the ZBA

From time to time, the Zoning Board of Appeals is asked to hear an appeal of an administrative decision. Appeals are generally filed when an applicant disagrees with a decision made by staff, and in general they also make a case for a different decision. The Zoning Board of Appeals is required to hear these appeals under our Zoning Ordinance, and generally enabled to do so under the state Zoning Enabling Act; per both, the role of the Zoning Board of Appeals is to determine if the decision was properly made. These cases tend to be rare locally; the most recent one was in April of 2014 (624 S Mansfield); and the last one before that was in 2011 (317 N Washington); previous appeals were in 2006, 2005, and 2002. Due to the rare nature of these requests, this memo endeavors to provide some guidance to resources regarding these types of cases. However, as appeals can vary greatly from topic to topic and code section to code section, there is no "one set of rules" that dictates the precise process and decision points, only general guidance.

The Zoning Code of Ordinances states the following:

Sec. 122-371. Appeals.

- (a) *Questions first go to administrative official.* All questions concerning administrative decisions under this chapter shall first be presented to the applicable City official or agency. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the applicable City official or agency.
- (b) *Filing appeal.* Appeals may be commenced by a person aggrieved by the decision of any officer, department, board, agency, or bureau of the City, county, state, or federal governments by filing a notice of appeal with the City Planner's office. The notice of appeal shall be signed, shall specify the requirement or decision from which the appeal is made, and shall state the specific grounds on which the appeal is based. The applicable fee shall be submitted with the notice of appeal; such fee shall be nonrefundable. Appeals shall be filed within 60 days of the decision in question.
- (c) *Stay of action.* An appeal stays all proceedings in the furtherance of the action appealed from unless the Building Department certifies to the Zoning Board of Appeals after the notice is filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by circuit court, following written request, notice to the officer or body from whom the appeal is taken, and due cause shown.
- (d) *Power to subpoena.* The Zoning Board of Appeals shall have the power to subpoena witnesses; administer oaths; compel testimony; and require the production of reports, papers, files, and other evidence pertinent to the matters before it.
- (e) *Decisions regarding appeals.* The Zoning Board of Appeals may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination from which an appeal is sought. To that end, the

Zoning Board of Appeals shall have the powers of the public official or body from whom the appeal is taken.

The Michigan State University Extension website

(http://msue.anr.msu.edu/news/how_to_handle_appeals_of_administrative_decisions) provides the following guidance:

“When the ZBA does hear an appeal of an administrative decision, members must understand they are not issuing a new decision. Instead, the ZBA is reviewing the administrative decision to determine whether it was based on the standards in the zoning ordinance and is therefore a defensible decision. This is somewhat of a different mindset, as compared to deciding a more typical dimensional variance request where the decision is brand new and the ZBA’s own to make.

When reviewing the previous decision, the ZBA shall only review the original information presented to the administrative official or body when the original decision was made. Based on those facts, the ZBA will decide whether the individual or body correctly applied the proper ordinance standards and acted within the scope of his/her/its authority. If instead new information is presented that the administrative official or body did not have available to them, the appeal should be sent back to that individual or body, similar to a higher court remanding a case back to a lower court.

The ZBA has the authority to reverse or affirm, in whole or in part, or modify the administrative decision being appealed. In so doing, the ZBA can also issue, or direct the issuance of, a permit. When making its decision, the ZBA must include the facts and reasons for arriving at its decision. See the article [Administrative decisions require careful application to ordinance standards: Part 2](#) for more information.

The decision of a ZBA is final. It cannot be overridden by any local government body. A party aggrieved by the decision may however appeal to the circuit court for the county in which the property is located.”

The Michigan Municipal League offers similar guidance (please see your initial training binder for a copy, or available here: <https://www.mml.org/pdf/zbabook.pdf>) found on page 7-8 (14-15 of the PDF).

“The zoning board of appeals is empowered to hear and decide appeals from any person aggrieved by an administrative decision. An administrative decision is one made by a zoning administrator or the planning commission, or by the legislative body when they are acting in an administrative capacity,(if, for example, the legislative body approved all site plans). Most often, appeals are the result of a disagreement with a decision of the zoning administrator, or, in some cases, a person aggrieved by a site plan review decision by the planning commission. Appeals may be required to be filed within a specific time period set in the zoning ordinance.

(...)

Although the ZBA may reverse or affirm, wholly or partly, or may modify a prior decision, its powers are generally limited to determining whether or not the official or body making the administrative decision acted properly. The ZBA must recognize that the zoning administrator or planning commission has already made a decision regarding the issue as part of its delegated duties. The role of the ZBA is to determine whether the decision was authorized or supported by the zoning ordinance.

In addition, the ZBA should not treat the appeal as a new decision. Rather, review of the decision should be limited to the information that was available to the body or person who made the decision initially. Allowing testimony or evidence in addition to that previously submitted is inappropriate, unless the zoning ordinance directs otherwise. In those instances where the official or body used proper procedures and standards, the ZBA should uphold the decision, even if the members personally disagree with the result.”

It is staff’s hope that this helps to clarify the process for those who have not participated in an administrative appeal. Please also note that staff is currently working to arrange a training session for Zoning Board of Appeals members and Planning Commission members in the new year, due to recent turnover.