



**CITY OF YPSILANTI**  
**Zoning Board of Appeals MEETING**  
**Monday, October 3, 2022 @ 7:00 PM**  
**Council Chambers**  
**One South Huron, Ypsilanti, MI 48197**

Page

**I. CALL TO ORDER**

**II. ROLL CALL**

Jake Albers, Chair  
Mike Auerbach  
Jessica Donnelly  
Georgina Hickey  
Tom Roach

Jason Ringholz, Alternate

**III. AGENDA APPROVAL**

**IV. APPROVAL OF MINUTES**

3 - 4

A. [ZBA Minutes Special Meeting September](#)

**V. PRESENTATIONS AND PUBLIC HEARING ITEMS**

**VI. OLD BUSINESS**

**VII. NEW BUSINESS**

5 - 22

A. 220 S Huron Variance  
- Public Hearing  
[220 S Huron Variance Staff Review Final](#)

**VIII. ADJOURNMENT**

**IX. COMMITTEE REPORTS**

- A. Committee discussion
- B. Non-Motorized Committee Report
- C. Housing Affordability and Accessibility Committee Report





**ACTION MINUTES**  
**Zoning Board of Appeals**  
**Thursday, September 15, 2022 - 6:00 P.M.**  
**City Hall-Council Chambers**  
**1 S Huron St. Ypsilanti, MI 48197**

**I. CALL TO ORDER (6:01pm)**

**II. ROLL CALL**

**Present: Mike Auerbach, Jessica Donnelly, Georgina Hickey, Tom Roach (6:11pm)**

**Absent: Jake Albers, Chair**

Chair absent. Nomination for Chair.

*Georgina Hickey nominated herself. Jessica Donnelly supported the nomination.*

*On a voice vote, Georgina Hickey was unanimously selected as chair for the meeting.*

**Approved: Yes – 3; No – 0; Absent – 2 (Albers, Roach)**

**III. AGENDA APPROVAL**

*Motion to approve the agenda.*

**Offered By: Auerbach; Seconded By: Donnelly**

**Approved: Yes – 3; No – 0; Absent – 2 (Albers, Roach)**

**IV. APPROVAL OF MINUTES**

*Motion to approve the March 14, 2022 minutes.*

**Offered By: Donnelly; Seconded By: Auerbach**

**Approved: Yes – 3; No – 0; Absent – 2 (Albers, Roach)**

**V. PURPOSE OF MEETING**

**VI. OLD BUSINESS**

**VII. NEW BUSINESS**

**A. 319 N Huron St - Appeal of Administrative Decision.**

**• Public Hearing**

*Motion to open the public hearing.*

**Offered By: Donnelly; Seconded By: Auerbach**

**Approved: Yes – 4; No – 0; Absent – 1 (Albers)**

None.

*Motion to close the public hearing.*

**Offered By: Donnelly; Seconded By: Auerbach**

**Approved: Yes – 4; No – 0; Absent – 2 (Albers)**

*Motion to approve the appeal of the administrative decision with the following findings and conditions.*

*Findings:*

1. *Unclear intent of abandonment.*
2. *Attempts have been made for necessary compliance.*

*Condition:*

1. *That the parking spaces will be brought to compliance of the original site plan.*

***Offered By: Roach; Seconded By: Donnelly***

***Approved: Yes – 4; No – 0; Absent – 1 (Albers)***

#### **VIII. ADJOURNMENT**

***Motion to adjourn at 7:09pm.***

***Offered By: Donnelly; Seconded By: Roach***

***Approved: Yes – 4; No – 0; Absent – 1 (Albers)***



October 3, 2022

**Staff Review of Variance Request  
220 S Huron**

**GENERAL INFORMATION**

**Applicant:** The Newton of Ypsilanti  
**Project:** 220 S Huron Variance  
**Public Hearing Date:** October 3, 2022  
**Location:** 11-11-39-411-007  
**Zoning District:** Historic Corridor (HC)  
**Action Requested:** Approval of variance: specifically, a variance from section 122-547(c) to permit outdoor seating area located within 50 feet of any properties zoned R1, MD, CN, CN-Mid, or CN-SF.  
**Staff Recommendation:** Denial

**PROJECT AND SITE DESCRIPTION**

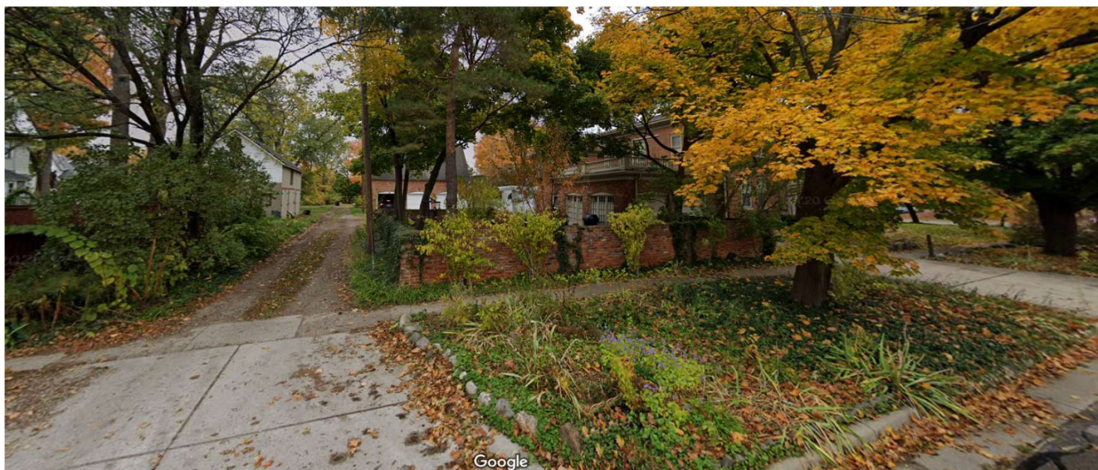
The 220 S Huron property is historically significant having been built in 1870 and most previously used as a bed and breakfast. The property was sold to the applicant in 2022 and they are now seeking relief from section 122-547 ( c ) of the zoning ordinance which requires outdoor seating areas located in HC to be no less than 50 feet from properties zoned R1, MD, CN, CN-Mid, or CN-SF. The proposed outdoor seating area is to be used by guests of the Newton which functions as both a bed and breakfast and event space. The Newton proposes to serve guests meals that will include alcohol, pending City Council and MLCC approval.

The courtyard to be used as an outdoor café is approximately 38 feet from the residentially zoned property directly west. It is approximately 48 x 43 feet dimensionally and the courtyard itself is historically significant as well estimated to be 75-100 years old. Both the applicant and the city staff would prefer to see the courtyard unaltered.

**Figure 1: Subject Site Location (2020 Aerial)**



**Figure 2: Photo of site from Catherine (Google Street-view, October 2020)**



**Figure 3: Land Use and Zoning of Surrounding Area**

	<b>LAND USE</b>	<b>ZONING</b>
<b>NORTH</b>	Residential	HC
<b>EAST</b>	Assisted Living Facility	HC
<b>SOUTH</b>	Residential	CN-Mid
<b>WEST</b>	Residential	CN

**ORDINANCE**

**§122-432(a)(2)**

**§122-547(c)**

Sec. 122-547. - Outdoor cafes, restaurants, seating modified  
areas, and beer gardens.



Outdoor cafes, restaurants, seating areas, and beer gardens shall be permitted subject to the conditions hereinafter imposed:

- (a) All outdoor seating areas at grade level must be accessory to business which provides indoor seating or food concession. All storage, preparation and cooking of food and all vending machines shall be within an enclosed building or food concession.
- (b) The outdoor seating area shall be separated from all parking areas by means of a minimum three-foot high planting, wall, or other architectural feature delineating the space.
- (c) The outdoor seating area shall not be located within 50 feet of any properties zoned R1, MD, CN, CN-Mid, or CN-SF.
- (d) All outdoor areas shall be kept clean and void of litter at all times.

( [Ord. No. 1335](#), 4-2-2019; [Ord. No. 1354](#), 1-21-2020; [Ord. No. 1370](#), 12-1-2020)

**STANDARDS**

**§122-370(b)**

**Standards for Variances.** A variance from the literal enforcement of this Ordinance may be granted by the Zoning Board of Appeals only if all of the following standards are met.

- (1) Literal enforcement of this chapter will pose practical difficulties to the applicant because of special conditions or circumstances which are unique to the specific property such as: exceptional shallowness or shape of the property, exceptional topographic conditions, extraordinary situation of a building or structure, use or development of an adjacent property, or difficulties relating to construction or structural changes on the site. Mere inconvenience or a desire to attain higher financial return shall not itself be deemed sufficient to warrant a variance.**

The practical difficulties involve the historical nature of the courtyard and its proximity to a residentially zoned adjacent property. Expanding the courtyard further east to avoid the 50 foot standard would require delineating the existing courtyard with physical barriers, which is undesirable to both the applicant and staff due to its historic nature.

Staff Recommendation: Standard met.

- (2) Such variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of this chapter. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.**

The property is a residential building that allows for bed and breakfasts by right and outdoor cafes as an accessory use. Such a variance is necessary for the preservation and enjoyment of a substantial right enjoyed by other property owners in the same district under the terms of this chapter because of the unique historical conditions of the site and its proximity to a residentially zoned property. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter in the same district because no other bed and breakfasts or outdoor cafes have sought similar relief and been denied.

Staff Recommendation: Standard met

- (3) The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property.**

While the applicant did not create the dimensional difficulties that they now seek relief from, they have chosen to pursue an outdoor café as an accessory use for the first time in the history of the property. There exists room on the site to potentially build an alternative location for an outdoor café that meets the distance standard while preserving the original courtyard.

Staff Recommendation: Standard not met.

**(4) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

The rationale for this 50-foot standard from residentially zoned properties is to protect those living nearby. The variance could potentially be detrimental to other properties in the neighborhood, particularly as it concerns noise and parking demand in the neighborhood. Outdoor cafes can be loud, especially when serving alcohol, and there is nothing prohibiting the use of the outdoor café for larger events beyond serving only the guests staying at the Bed and Breakfast. This is a higher intensity use than envisioned in the zoning ordinance and could be detrimental to the public welfare and other property in the neighborhood.

Staff Recommendation: Standard not met.

**(5) The allowance of 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 Zoning Board of Appeals to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.**

The granting of the variance would allow the property an accessory use historically not afforded to previous owners because of the proximity to a residentially zoned property. Granting the variance will not result in substantial justice being done as the primary bed and breakfast use could continue while protecting the rights of others whose property would be affected by allowance of the variance.

Staff Recommendation: Standard not met.

**(6) A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings, or structure.**

The variance is a reasonable request because the applicant is only seeking the minimum variance that will make possible a reasonable use of the land.

Staff Recommendation: Standard met.

**STAFF RECOMMENDATION**

Staff recommends the Zoning Board of Appeals **deny** the variance request from 122-547(c) to permit outdoor seating area located within 50 feet of any properties zoned R1, MD, CN, CN-Mid, or CN-SF, with the following findings and conditions:

Findings:

1. The proposed outdoor café is a new accessory use to the property created by the applicant.
2. There exists room elsewhere on the site to build an outdoor café in compliance with 122-547(c).
3. The granting of the variance shall be detrimental to the public or injurious to the neighboring properties.

Conditions:

None

Christopher Jacobs  
Community Development Manager  
Community & Economic Development Department

c.c. File  
Applicant

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**City of Ypsilanti  
Planning & Development Department**

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

**VARIANCE APPLICATION**  
INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

**Applicant**

Name <b>THE NEWTON OF YPSILANTI</b>	
Address <b>220 SOUTH HURON STREET</b>	
Phone <b>734 223 1358</b>	Email <b>CBULTMAN@FLASH.NET</b>

**Property**

Address <b>220 SOUTH HURON STREET</b>	Parcel ID <b>11.11.39.411.007</b>
Property owner* <b>CHARLES BULTMAN &amp; ALLISON ANASTASIO</b>	
Attach an accurate, scaled drawing of the property showing: <ul style="list-style-type: none"><li>• All property lines and dimensions</li><li>• Location and dimensions of all existing and proposed structures and uses on the property</li><li>• Any roads, alleys, easements, drains, or waterways which cross or abut the property and lot area and setback</li><li>• Dimensions necessary to show compliance with the regulations of this ordinance.</li></ul>	

\*If applicant is not the property owner: applicant must attach property owner's written, notarized authorization of application.

**Request for Variance:** Please attach additional pages to the application if needed.

Name and description of proposed project <b>SEE ATTACHED FOR ALL QUESTIONS</b>
Section of Zoning Ordinance (chapter, article, section, subsection format, please)
Explain how the proposed project is contrary to ordinance
Explain the unique conditions/circumstances to the property and why compliance with the ordinance will pose practical difficulties.

SEE ATTACHED.



Explain how the variance will not grant a special privilege that is not similarly enjoyed by other properties in the same district.

Have the practical difficulties been created by any person presently having an interest in the property?


Will the granting of the variance be detrimental to the public welfare or neighborhood properties?

Will the granting of the variance result in substantial justice being done, public benefits, and individual hardships solved, while protecting the rights of other properties?

Is this variance request the minimum variance that will make possible a reasonable use of land, buildings, or structure?

**Signature**

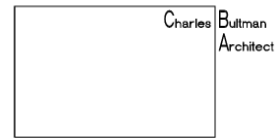
I hereby attest that the above information is accurate and complete. I am authorized to and grant permission to the City of Ypsilanti staff to access the subject property for the purposes of preparing staff reports and/or evaluating this application.

Signature: 	Date: 6 SEPTEMBER 2022
Print Name: CHARLES BULTMAN.	

Fee Schedule	
First variance for single-family property	\$500
Subsequent variance for single-family property	\$250
First variance for all other properties	\$1000
Subsequent variance(s) for all other properties	\$250

**\*\*\*FOR OFFICE USE ONLY\*\*\***

Date:	Amount:	Account: <b>101-4-7210-607-01</b>
<input type="checkbox"/> Cash		Code: <b>178 Rezone</b>
<input type="checkbox"/> Check payable to City of Ypsilanti		Signature of person receiving deposit:
<input type="checkbox"/> Credit (+ 3.0% surcharge)		
Description of deposit:		



cbultman@flash.net  
734-223.1358  
220 south huron street · ypsilanti, mi 48197

Variance Application - City of Ypsilanti

The Newton of Ypsilanti  
220 South Huron Street  
Ypsilanti, MI 48197  
Parcel ID - 11-11-39-411-007

**Owners**

Charles Bultman – 734.223.1358      cbultman@flash.net  
Allison Anastasio – 734.340.3345      TheNewtonofYpsilanti@gmail.com

**Name and description of proposed project**

The Newton of Ypsilanti (The Newton) – The project is to provide outdoor dining service for the guests of The Newton. The proposed work is to add the least amount of additional fencing as possible inside the courtyard to mark the edge of the seating area, to the satisfaction of the MLCC; to be determined.

**Section of the Zoning Ordinance**

Division 1 – Specific Standards for Certain Uses

Section 122-547 – Outdoor Cafe, restaurant, seating areas, and beer gardens

Clause (c) – The outdoor seating area shall not be located within 50 feet of any properties zoned R1, MD, CN, CN-Mid, or CN-SF

**Explain how the proposed project is contrary to ordinance**

The Newton's historic brick courtyard is approximately 38 feet from the rear property line of the west neighbor's property, which is zoned CN. Section 122-547 (c) calls for seating to be 50 feet away from a property zoned CN.

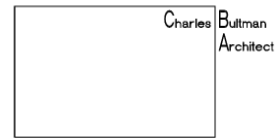
**Explain the unique conditions/circumstances to the property and why compliance with the ordinance will pose practical difficulties.**

The Newton's historic brick courtyard may be 75 to 100 years old; judging by the bricks used to enclose the space. The bricks appear to be contemporaneous with the bricks used to construct the garage and the kitchen, which date to the 1930's. The courtyard is approximately 48 feet by 43 feet and has a terrace that 'floats' inside the walls that is approximately 32 feet by 24. Outside of the terrace, but inside the walls are areas 8 to 12 feet wide that have mature trees, shrubs and heavy ground covers. It is our desire to not alter this historic courtyard.

The Newton wishes to use this historic courtyard to serve guests meals, weather permitting, without truncating the historic fabric.

The Newton's services include meals that will include alcohol (license pending). As such, the MLCC will require compliance with city codes [122-547 (c)] but will also require a physical barrier delineating the limits of the area where alcohol can be consumed. For the courtyard to be limited this way it would have to be bisected with some sort of barrier almost down the middle to meet the zoning code as written. Functionally that would become awkward, difficult to use, and people would likely not desire to use the space.

Applying the code to this site mechanically results in the need to draw a line right down the middle of an historic courtyard space, making half usable and the other half a desert; a no-man's land. Guests would find it off-putting that they can sit here... but not there; in the same room. There is no architectural way to build a reasonable barrier or fence to make this palatable. And the historic courtyard should not be demolished and rebuilt smaller.



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The Historic Corridor (HC) zoning district, which the Newton is located in, allows for a Bed-and-Breakfast use and as such its guest should be afforded the enjoyment of this historic courtyard as it was originally built, without having to brutally alter the look and / or form of a beautiful and historic space.

**Explain how the variance will not grant a special privilege that is not similarly enjoyed by other properties in the same district**

All properties in this zoning district can enjoy outdoor seating areas, if they are used in a similar fashion. The Newton's request is simply to have a smaller separation distance due to the current physical configuration of the existing historic courtyard.

**Have the practical difficulties been created by any person presently having an interest in the property?**

To the best of our knowledge, this courtyard was built by the second owner of the house, Mr. Charles Newton (owned the house from 1917 to 1977) where most of the work was done in the 1930's. No one presently having an interest in the property was involved in that work.

**Will the granting of the variance be detrimental to the public welfare or neighborhood properties?**

This historic courtyard is surrounded by 4½ foot high solid brick walls. As such, views, as well as sound, are restricted. There are also trees and shrubs on all sides that help to veil the space from view. And the closest neighbor has an additional opaque wall separating their yard from the alley and the courtyard. There are also two 24 by 32 foot, 1½ story, 3-bay, garage buildings shielding the courtyard from neighbors to the west and north. Lastly there is a 6-foot high wood wall separating the Newton's yard from the property to the north (zoned HC also) so there are no views from that yard at all. With all of these existing barriers, it does seem that the use of the courtyard for dining will be almost invisible from the surrounding properties.

**Will the granting of the variance result in substantial justice being done, public benefits, and individual hardships solved, while protecting the rights of other properties?**

It appears that the intention of the code is to allow properties within the Historic Corridor (HC) district that are presumably historic (but not necessarily) to be used as B&Bs and gathering spaces. Also presumably, those grand historic structures, which might prove less useful to 21<sup>st</sup> century users, could have additional utility if they could be used in this fashion. And therefore owners would be more likely to be able to keep them maintained and preserve the historic fabric found in the district.

With that in mind, the Newton has a beautiful private courtyard that would be ideal for an outdoor seating area however it was built long before this code was written. And it was built closer to the neighboring property than was specified in the code.

The substantial justice and public benefit that would come from this variance would be that an historic resource will stay in active use and will be able to be enjoyed by the public at large, without a major, and deleterious alteration.

**Is the variance request the minimum variance that will make possible a reasonable use of the land, building, or structure?**

Yes. The variance request is limited to the current edge of the existing paved area on the west side of the courtyard, not the enclosure itself. This protects the historic fabric and allows a reasonable use. While this will be a little more work to establish and maintain, we did not want to request a greater variance.

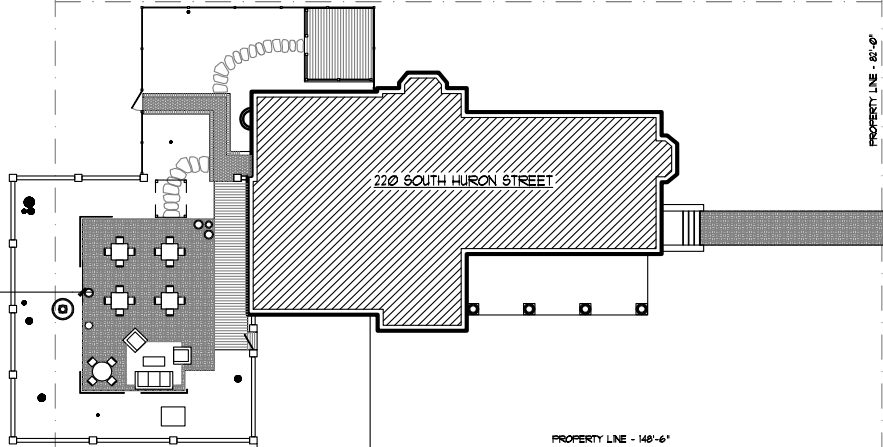
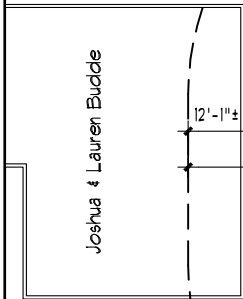
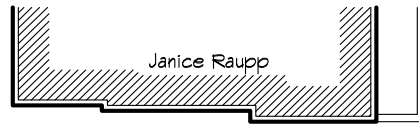
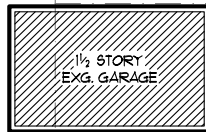
Charles Butman  
Architect

cbutman • flashnet

Joseph Lawrence

734 223 1358  
220 south huron street - ypsilanti, mi 48197

Charitel & Todd Nielson



SOUTH HURON STREET

CITY TREE

CITY TREE

CATHERINE STREET

Susan McCarty & Matthew Kirkpatrick

Preston Flews & Ying Chen

**SITE PLAN - APPROXIMATE**

THE NEWTON OF YPSILANTI  
220 SOUTH HURON STREET  
YPSILANTI, MICHIGAN

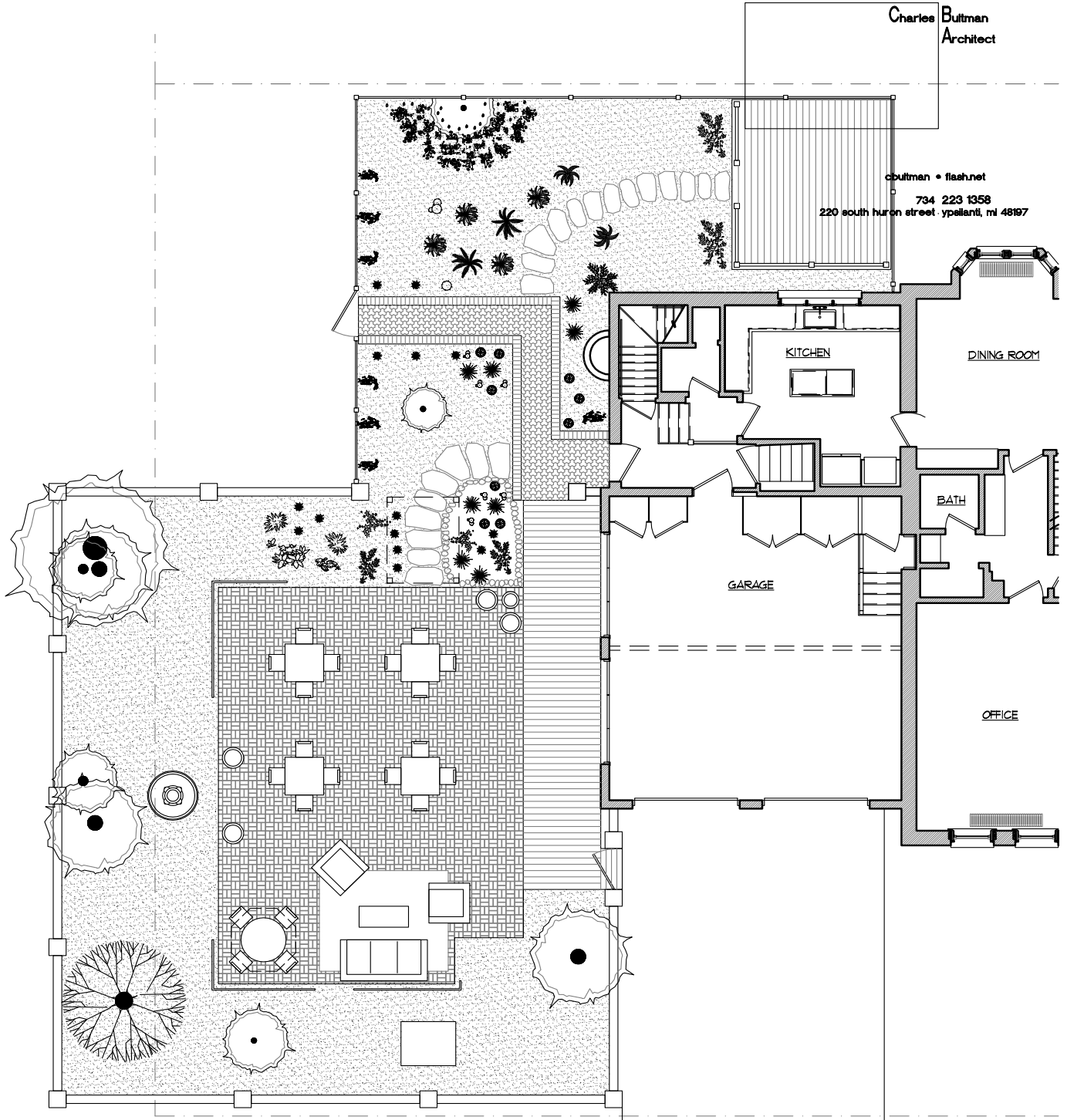
DATE 6 SEPT 2022

SCALE 1" = 30'-0"

1

Charles Butman  
Architect

cbutman • flash.net  
734 223 1358  
220 south huron street - ypsilanti, mi 48197



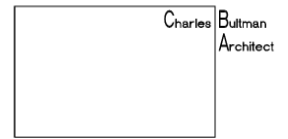
SITE PLAN - APPROXIMATE

2

THE NEWTON OF YPSILANTI  
220 SOUTH HURON STREET  
YPSILANTI, MICHIGAN

DATE 6 SEPT 2022

SCALE 1" = 10'-0"



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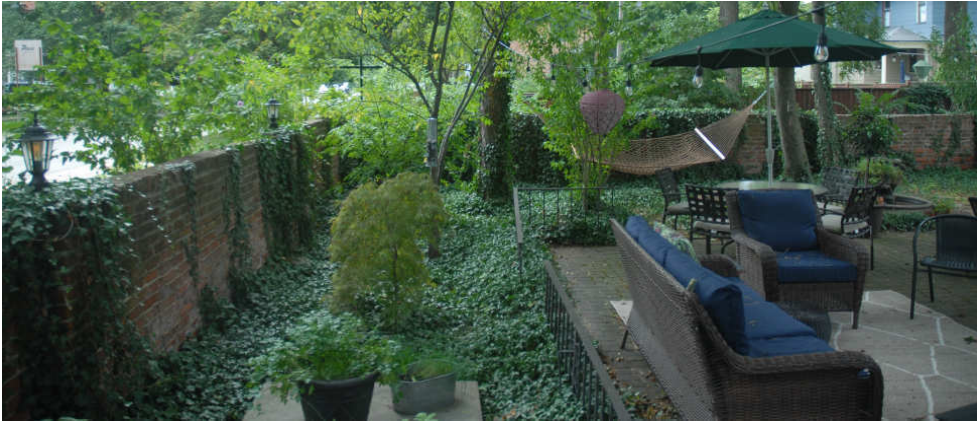
View from the SE corner



View from the SE corner

Charles Bullman  
Architect

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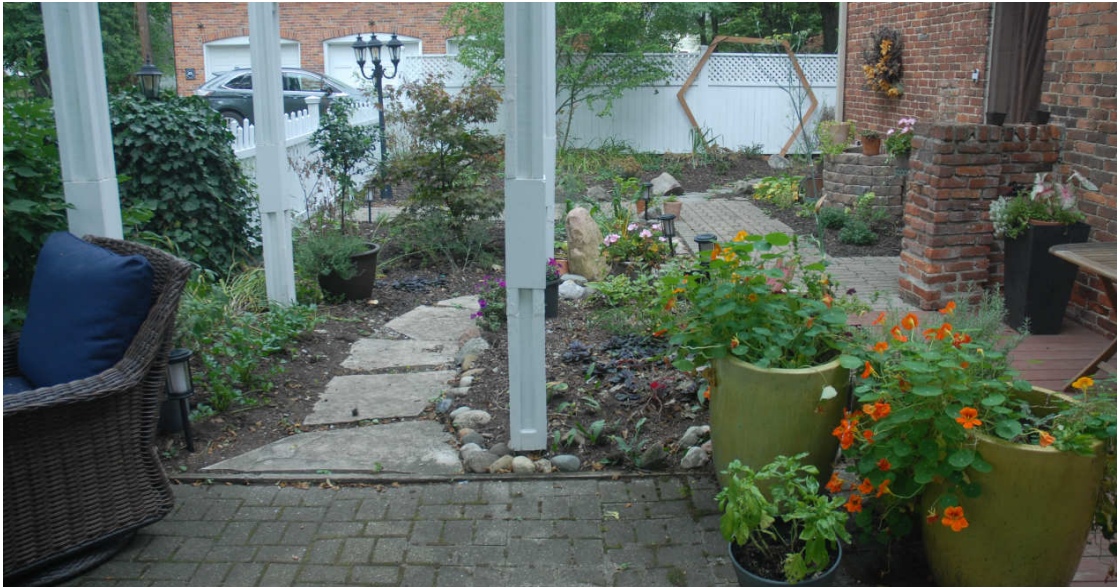
south wall



west wall



north wall



North gardens



Grill deck

Charles Bullman  
Architect

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Grill deck



View west



View north and west