



Report No. 09-09

Date: November 9, 2009

STAFF REPORT TO THE ZONING BOARD OF APPEALS

SUBJECT: Use variance

PETITIONER: Wayne Crosby for RE/MAX Realtors

LOCATION: 1800 Harcrest Drive

PROPOSED: Permit construction of an accessory structure without a principal structure

ZONING: OS Office Service

REPORT

PETITION SUMMARY

The applicant is requesting to construct an accessory structure on a vacant lot without constructing a principal structure on the same lot. Section 3.03 A.1. of the zoning ordinance requires that a principal structure is present on a lot prior to construction of an accessory structure. The lot is .37 acres or 16,117 s.f. The applicant is requesting a use variance to permit construction of a 24' x 24' or 576 s.f. structure.

The Zoning Ordinance states,
Section 3.03 A.

1. **Timing of Construction**

No accessory building, including private garages and utility buildings, shall be constructed upon or moved to any parcel of property unless there is a principal building, structure or use being constructed or already existing on the same parcel of land.

REVIEW CRITERIA

The Zoning Board of Appeals may grant a requested "use" variance only upon finding that an unnecessary hardship exists. An unnecessary hardship is when the restrictions of the zoning ordinance on the property, when its environment is considered, is so unreasonable as to constitute an arbitrary and capricious interference with basic private property rights. A "use" variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of unnecessary hardship shall require demonstration by the applicant of all of the following:

- a. The property cannot be reasonably used for any purpose permitted in the zoning district without a variance.

Petitioner's response: The current zoning allows for a storage building to be built on the lot if another building is present. RE/MAX is using the lot for additional parking at this time. The subject lot is right across the street from the RE/MAX office building. If we were to build a storage unit on the lot that our office building currently sits on, the structure would be in the

middle of the parking lot, due to set back requirements, and in the winter months, snow is piled at the west end of the parking lot.

Staff Commentary: The property is currently being used for a permitted use in the zoning district, which is parking. There is sufficient space on the property to permit construction of an office use with an accessory structure.

- b. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.

Petitioner's response: The only circumstance is that there is no another structure or office building on this lot currently. It is being used for additional parking.

Staff Comments: There is nothing unique about the parcel that would require a use variance.

- c. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.

Petitioner's response: There is not another structure or office building on this lot currently. It is being used for additional parking.

Staff commentary: The character of the area is office use in general. The proposed placement of the structure would permit construction of a principal office structure at some time in the future. The anticipated development of the lot and pattern of land uses in the surrounding area would not be altered or negatively impacted if the variance was granted.

- d. The problem and resulting need for the variance has not been self-created by the applicant.

Petitioner's response: The need for this variance has been created by strict compliance with the zoning ordinance.

Staff Comments: The need for the variance is due to the applicant's desire to have separate storage space. A smaller storage building could be built on the same lot as the existing office building, across Harcrest, however, it would eliminate parking spaces and create an awkward circulation pattern in the parking lot.

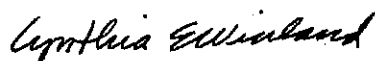
ACTION REQUIRED

An affirmative vote of a majority of ZBA members is necessary to approve this variance request.

PUBLIC COMMENTS TO DATE

Two members of the public have inquired about the proposed structure but neither have taken a position supporting or objecting to the request.

Respectfully Submitted,



Cynthia E. Winland, Consulting Planner

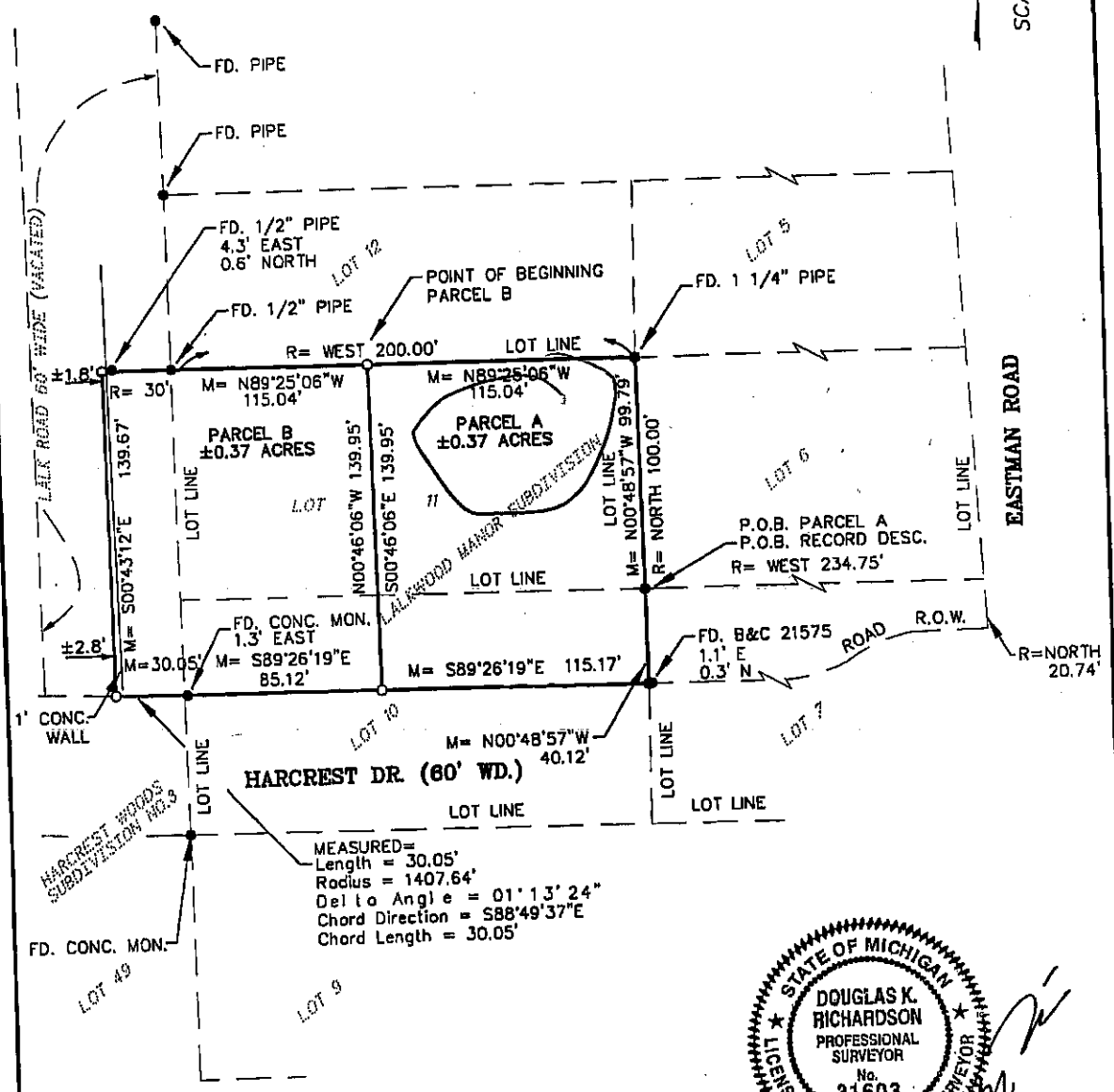
CERTIFIED BOUNDARY SURVEY

PREPARED FOR:

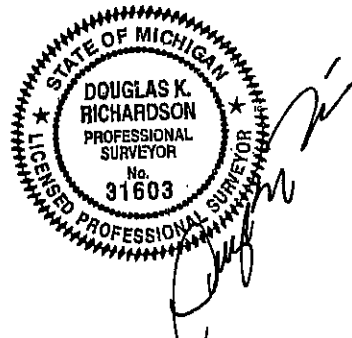
RE-MAX OF MICHIGAN
5915 EASTMAN AVE, STE. 200
MIDLAND, MI 48640

CHERRYVIEW DEVELOPMENT
624 S. POSEYVILLE RD.
MIDLAND, MI 48640

SCALE: 1" = 60'



MEASURED=
Length = 30.05'
Radius = 1407.64'
Del to Angle = 01°13'24"
Chord Direction = S88°49'37"E
Chord Length = 30.05'



LEDY SURVEY GROUP
3135 PINE TREE ROAD, SUITE C
LANSING, MICHIGAN 48911
PHONE: (517) 393-2902
FAX: (517) 393-2608

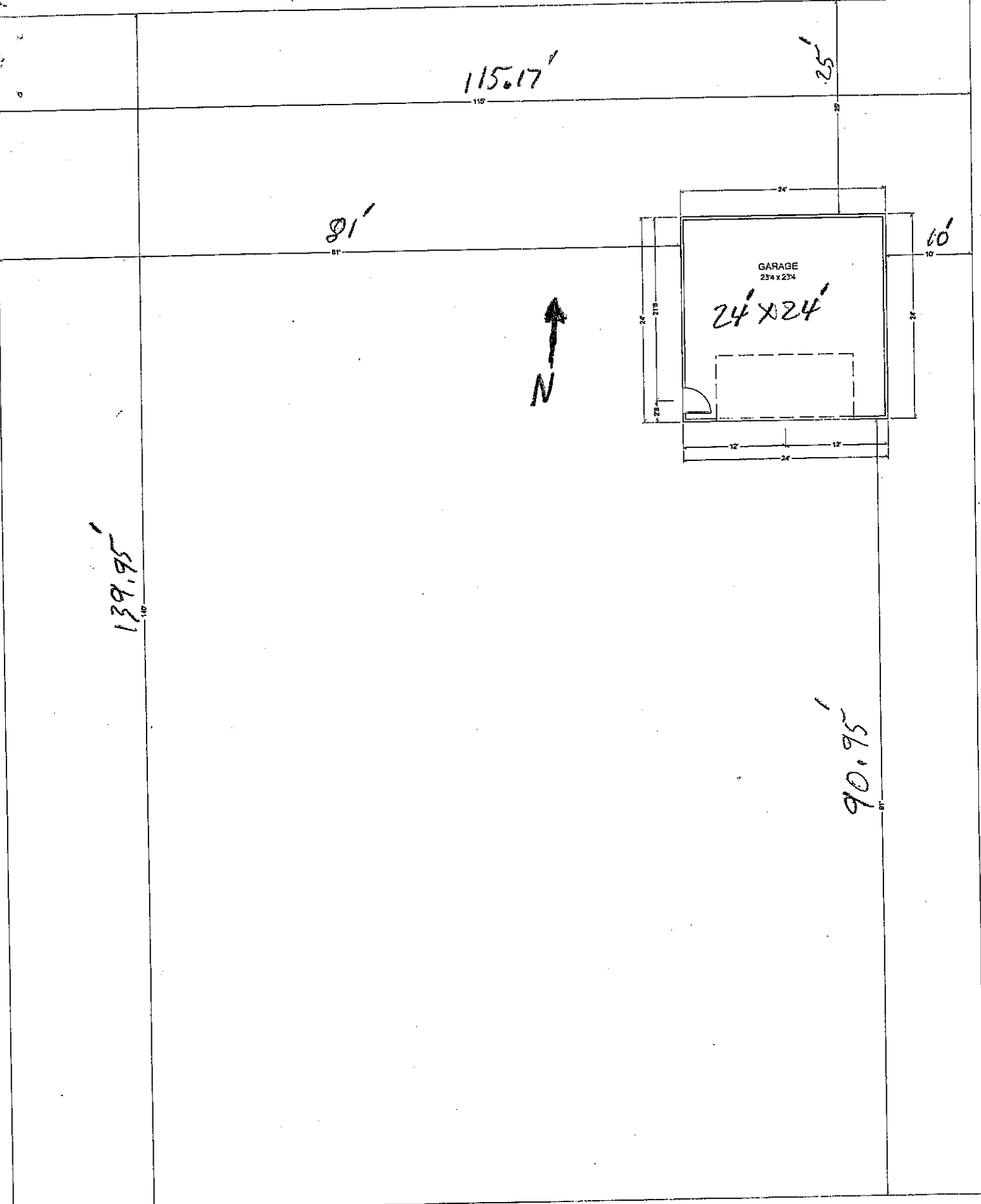


- * * * = FENCE
- - - = DISTANCE NOT TO SCALE
- R = RECORDED / M = MEASURED
- O = SET IRON & CAP #31603/41103
- = FOUND CORNER AS INDICATED

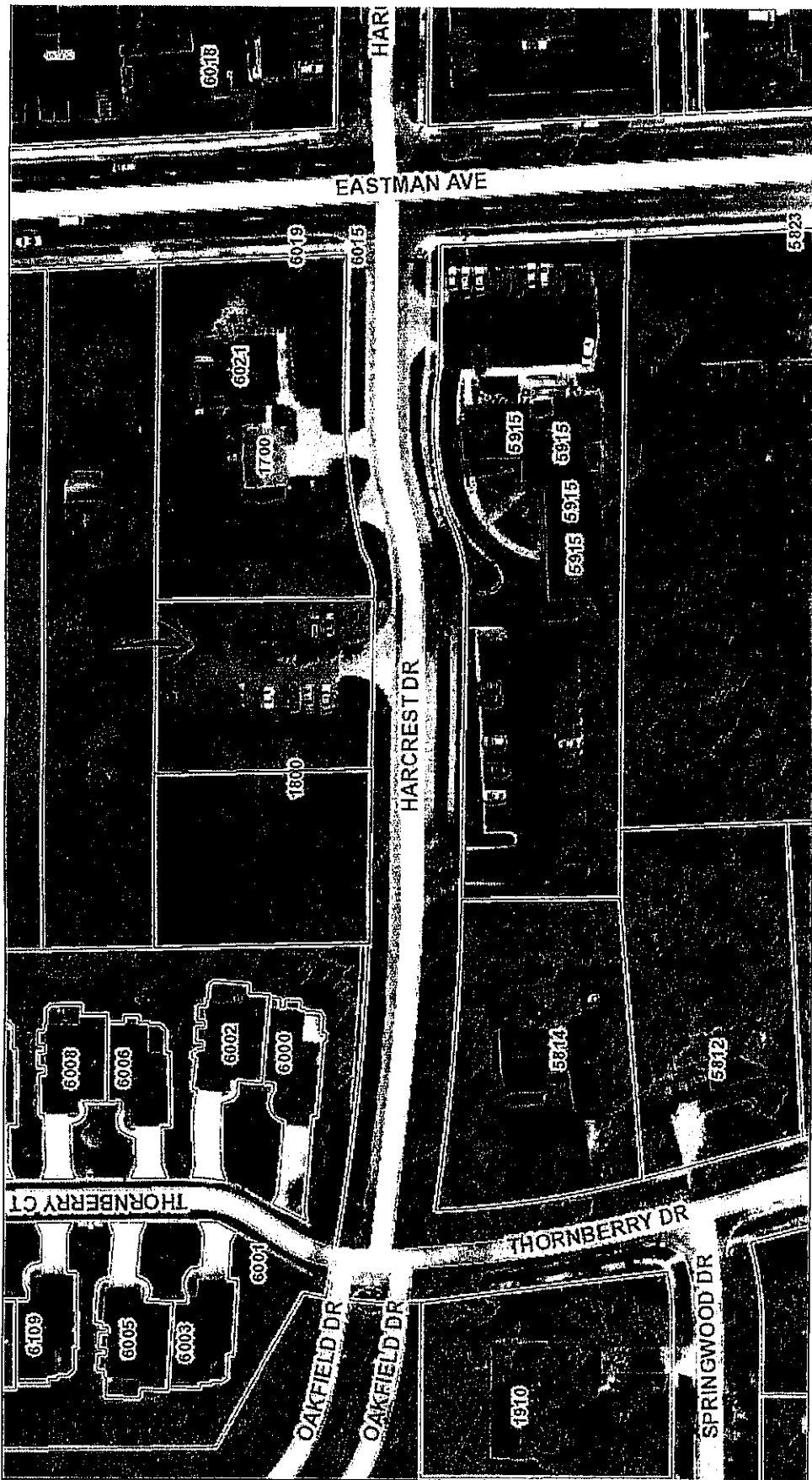
DATE 10-17-02

| | |
|---------------|---------|
| FIELD WORK BY | BJ JV |
| DRAWN BY | DLT |
| CHECKED BY | DKR |
| PROJECT NO. | 02.1909 |
| SHEET NO. | 1 OF 2 |

Crosby Job

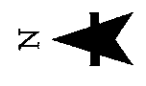


HARCREST DR.



ZONING MAP

- RA-1 RESIDENTIAL
- RA-2 RESIDENTIAL
- RA-3 RESIDENTIAL
- RA-4 RESIDENTIAL
- RB RESIDENTIAL
- RD MOBILE HOME PARK
- OS OFFICE SERVICE
- COM COMMUNITY
- AG AGRICULTURE
- NC NEIGHBORHOOD COMMERCIAL
- C CIRCLE DISTRICT
- D DOWNTOWN DISTRICT
- CC COMMUNITY COMMERCIAL
- RC REGIONAL COMMERCIAL
- LCMR LIMITED COMMERCIAL
- IA INDUSTRIAL
- IB INDUSTRIAL



ADOPTED: 1/1/2005

ZBA #09-09

