

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, September 9, 2021

7:00 PM

Virtual Meeting

A. CALL TO ORDER/ROLL CALL

B. APPROVAL OF MINUTES

1. Approval of Minutes from Zoning Board of Appeals Meeting on August 12, 2021

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #21-09-10: 3301 S. Burdick Street. Moiles Properties, LLC (Kalamazoo Animal Hospital) is requesting a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of fifteen (15) off-street parking spaces to allow for 30 off-street parking spaces, where 15 is the maximum number of off-street parking spaces permitted for the 3,986 square foot facility.
2. ZBA #21-09-11: 738 Harrison Street. KNHS Home Ownership Services is requesting two dimensional variances to develop this residential lot: **1)** A dimensional variance from Chapter 5, Section 5.1-1, of 6.5 feet to authorize the development of a lot that is 37.5 feet wide where Zone RMU requires 44 feet of lot width, and **2)** A dimensional variance from Chapter 5, Section 5.1-1, of 1,169 square feet of lot area to authorize development of a lot that is 4,331 square feet where Zone RMU requires 5,500 square feet of lot area.
3. ZBA #21-09-12: 3928 Portage Street. Organic Guyz, LLC is requesting a dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 350 feet from the required 500-foot separation distance between a marijuana retailer and a licensed childcare center. Kalamazoo Regional Education Services Agency (KRESA) has a preschool on Portage Street which operates during the calendar school year that is licensed as a childcare center.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
August 12, 2021 - 7:00 p.m.**

This meeting is being conducted electronically pursuant to the Open Meetings Act MCL 15.263 (2) and MCL 15.263a 1(b).

Members Present: Matt Lager, City of Kalamazoo, MI; MI; Christina Doane, City of Kalamazoo, MI; Jeff Carroll, City of Kalamazoo, MI; Beth van den Hombergh, City of Kalamazoo, MI; Remi Harrington, City of Kalamazoo, MI; Jeremy Terpening, Alternate, City of Kalamazoo

Members Absent: Chris Flach

City Staff: Pete Eldridge, Assistant City Planner; Charles Bear, Assistant City Attorney; Shelby Donaldson, Recording Secretary, Deanna Benthin, Trades Executive Assistant

Chair Lager called the meeting to order at 7:00 p.m.

Chair Lager noted the meeting was being streamed live on Facebook and the City's You Tube channel.

Chair Lager stated the public had the ability to call in for audio and the public could call in to 269-226-6573 to leave comments for either of the properties on the agenda.

Chair Lager asked if staff had any announcements or changes to the original agenda and Mr. Eldridge stated the city commission approved conducting virtual meetings through the end of December of this year contingent upon the COVID-19 variants.

MINUTES:

Ms. van den Hombergh, moved to approve the minutes of May 13, 2021, as submitted, seconded by Mr. Carroll.

Motion approved by voice vote unanimously.

NEW BUSINESS:

PUBLIC HEARINGS: Chair Lager summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to

present their comments, followed by public comments received via phone will be aired for the panelist and audience. Then the public hearing would be closed on the request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear here is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Ms. Doane read the application for 433 Riverview Drive, Parcel #06-14-171-010:

ZBA #21-08-09: 433 Riverview Drive: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Robert Jeffries for 433 Riverview Drive, which is situated in the Commercial – Mixed Use District, Sub Area 6 of the Riverfront Overlay. The applicant is requesting two use variances for the property: 1) A use variance from Chapter 3, Section 3.7-1, to utilize the existing building for auto detailing where car washes and auto detailing do not align with the permitted uses for Sub Area 6 of the Riverfront Overlay; and 2) A use variance from Chapter 3, Section 3.7-1, to utilize the property for car sales, which also does not align with Sub Area 6 of the Riverfront Overlay. Sub Area 6 is intended for mixed use development with commercial uses oriented toward Riverview Drive being the primary use on each site.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were 16 notices of public hearing sent, and zero responses were received.

Robert Jeffries was the applicant for the variances.

He explained that his business, Jeffries' Detailing, was started in October 2017 and rented a building on Miller Road for over three years. He does business for Harold Zeigler Chrysler, Harold Zeigler Ford, and Midway Chevrolet in Plainwell Michigan. He stated they also have a dealer's license which would be used to sell or display 1-4 vehicles at any given time. He stated they have a land contract to purchase the building.

In his first year of business, they made just under \$35,000 and now they are making just under \$30,000 in 3 months, which shows a potential for growth.

He is a native to Kalamazoo and has family in the eastside neighborhoods and feels this would be an opportunity for continued growth here and feels the way the property is set up and situated it would be the perfect spot to grow the business.

He is asking that the board grant use variances for the property.

Chair Lager asked if there are any questions from the board and stated the presentation was straight forward asked Mr. Eldridge to do the staff comments. Mr. Eldridge agreed and gave more background information regarding the use variance application submitted by Mr. Jeffries.

Mr. Eldridge gave a brief overview of the former layout/use of the building, which had been used by a heating and cooling contractor since 1986. Mr. Eldridge reiterated Mr. Jeffries' sentiment regarding the future use of the building, which he said is set up for an auto oriented business. The building has a small office area, 2 garage doors on the south side of the building with one of those leading into a smaller bay and one leads to a larger drive-in bay. He stated that Mr. Jeffries also mentioned that because he does business for some dealerships the detailing wouldn't happen in the parking lot in the public view, but the detailing and equipment would be hidden inside the building. Mr. Eldridge said the ordinance for the area states no carwashes are permitted in that zone and auto detailing has fallen into that category only because of the cleaning portion of that business and that the difference for Mr. Jeffries' business is there are no drive thru lanes here like there are for carwashes and work won't be done outside of the building.

Mr. Eldridge also wanted to talk about the second element of the use variance, which is auto sales on the property. He stated that while the board is not looking to promote used car sales lots along Riverview Drive at this time, the property won't be primarily used to sell automobiles, especially since Mr. Jeffries has limited the secondary use to no more than four vehicles being displayed on the property at any given time. He went on to say there are unique circumstances surrounding the types of uses Mr. Jeffries is asking for.

Mr. Eldridge looked at the ordinances for carwashes and used auto sales that would be allowable in that area and those would be for the CC (commercial community) zone, areas of the downtown and D3 zone (downtown area's outer perimeter) and the M1 and M2 zones (manufacturing zones). He went on to say the uses Mr. Jeffries has laid out are low intensity and the circumstances are there to show these types of uses are possible on a level that would fit well with that commercial mixed use zone district. He also explained the layers of the zoning for that area, this being the riverfront overlay which has the underlying zoning and the overlay, which has specific standards and that was the reasoning for providing a secondary map to the board which shows sub-areas. There is the base zoning and any overlay standards that may apply, and they first must look at the base zoning, which is commercial mixed-use zone then look at the sub area, which is sub area 6.

Sub area 6 is described as a mixed use, high designed, quality district with predominately commercial use and as the area changes the parking lots should be situated to the side and rear of buildings and the primary structures should be facing Riverview Drive, and when this building was built in the CC zone district in 1986, prior to being changed to the commercial mixed use, it was built this way. He stated the site is fashioned in a sense that there is longevity of use on this site by this business.

His last comment pertained to something mentioned on the staff report. Mr. Eldridge stated the intent was to bring about change when the overlay first came to be in 2006 and the description of sub area 6, which covers the Riverview Drive corridor. It's a high traffic commuter corridor and the auto-oriented uses have not changed as there are various auto related businesses in the area and there may be changes to zoning for the area in the future to allow for a more intensive commercial zone, which appears to be more appropriate for the area. He referenced Indian Trails/Greyhound, which received their use variance in 2014 to expand their facility on the other side of Riverview Drive, which is in the CC zone district, a more intensive commercial zone to allow them to repair their buses. Mr. Eldridge stated since this is a high traffic route

and it's on the outskirts of downtown Kalamazoo there were a lot of reasons why it was eligible for a variance to allow for bus repairs, which is why staff is in favor of Mr. Jeffries' use variances for auto detailing and auto sales, with the condition being a limit of 4 vehicles being displayed, be allowed.

There were no other comment/questions from the board.

There were no comments from the public.

Chair Lager closed the public hearing.

FINDING OF FACT

Ms. van den Hombergh moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 433 Riverview Drive shall include all information included in the notice of public hearing dated July 28, 2021.
- 2.) 16 notices of public hearing were sent, and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Mr. Jeffries, owner of Jeffries' Detailing business is looking to continue his business at this location. He would like to operate at the current site and this site is conducive to the applicant's detailing business.

Chair Lager asked staff if something could be added limiting the number of automobiles for sale on the property, as set forth by Mr. Jeffries, to four.

Staff stated that a condition could be added for the record that Mr. Jeffries would like to have between 1 and no more than 4 vehicles for sale on the property.

Mr. Terpening seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Ms. Doane moved to approve the application for part 1) for a use variance from Chapter 3, Section 3.7-1, to utilize the existing building for auto detailing where car washes and auto detailing do not align with the permitted uses for Sub Area 6 of the Riverfront Overlay, seconded by Ms. van den Hombergh.

Discussion:

Chair Lager stated he was in favor not only because of the overlay but considering the nature of the street and the various uses already on the street that this business would fit right in, especially because of the way the structure is situated on the site and the nature of Mr. Jeffries business. He also said that the literal interpretation of the terms of the ordinance would deprive him the rights other business owners in the area enjoy and approving the variance wouldn't adversely affect any adjacent owners but may in fact contribute to the vibrancy of the Riverview Drive business corridor.

Ms. Harrington agreed with Chair Lager's view.

Motion approved by roll call vote unanimously.

Motion approved for the use variance by voice vote unanimously.

Ms. Doane moved to approve the application for part 2) for a use variance from Chapter 3, Section 3.7-1, to utilize the property for car sales, which is also does not align with Sub Area 6 of the Riverfront Overlay, to be no more than 4 vehicles. Sub Area 6 is intended for mixed use development with commercial uses oriented toward Riverview Drive being the primary use on each site, seconded by Ms. van den Hombergh.

Discussion:

Ms. Doane stated that it seemed low impact and was in keeping with the rest of the corridor and doesn't see a problem.

Chair Lager stated he was in favor for the same reasons as formerly stated but added he was happy about Mr. Jeffries' ties to that area.

Mr. Terpening said he spoke with someone from the eastside association, and they welcome good stewards of the neighborhood, and he believes they will welcome this business.

Motion approved by roll call vote unanimously.

Motion approved for the use variance by voice vote unanimously.

OTHER BUSINESS:

There were no other agenda items.

ADJOURNMENT:

The meeting was adjourned at 7:28 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair

DRAFT



Zoning Board of Appeals Staff Report

Date: **9/9/2021**

Item: **D.1.**

City of Kalamazoo

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner
Prepared by: Pete Eldridge, AICP, Assistant City Planner

DATE: September 9, 2021

SUBJECT: ZBA #21-09-10: 3301 S. Burdick Street. Moiles Properties, LLC (Kalamazoo Animal Hospital) is requesting a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of fifteen (15) off-street parking spaces to allow for 30 off-street parking spaces, where 15 is the maximum number of off-street parking spaces permitted for the 3,986 square foot facility.

BACKGROUND:

The Kalamazoo Animal Hospital has been located at 3301 S. Burdick Street for decades. The original building was approximately 2,300 square feet. In 1998, a 1,680 square foot addition was constructed on the north end of the building, increasing the overall square footage to 3,986 square feet. A review of aerial photos shows that the off-street parking count only increased from 12 parking spaces to 13 parking spaces in 1998. The proposed plan shows a new parking lot behind the building to the east with one-way traffic circulation around the north and south ends of the building. This area of the property is currently vacant.

The Zoning Ordinance permits one parking space per 300 square feet of office space plus an additional 10%. The current facility may have a maximum of 15 off-street parking spaces. There are 11 staff at the present time, which includes both doctors and support staff. The stated plan is to increase the employee count by 4 to 6, which would create a parking demand of approximately 17 spaces for employees at peak times. The facility also has four exam rooms, which usually have one customer in each, plus one in the waiting room. The Kalamazoo Animal Hospital does have other parking needs for outpatient procedures and pick-up and drop offs. This accounts for the planned 13 customer parking spaces.

STRATEGIC VISION ALIGNMENT:



Complete Neighborhoods - residential areas that support the full range of people's daily needs



Economic Vitality - A supportive infrastructure for growing businesses and stabilizing the local economy for the benefit of all.

Strategic Goals and Master Plan 2025 Alignment:

This project touches on the Strategic Goal of Complete Neighborhoods as this successful veterinarian clinic provides animal services to the surrounding community. This project also touches on the goal of Economic Vitality by supporting the expansion of a local business and the creation of additional jobs in the community.

The Master Plan 2025 identifies this area of S. Burdick Street as 'Commercial' on the Future Land Use Map, which supports the growth of commercial establishments. The existing veterinarian clinic is a permitted use in the Manufacturing - Limited District.

COMMUNITY ENGAGEMENT:

Inform – the community will be made aware of the project.

Depth of Engagement:

The applicant will reach out to adjacent property owners. There is no organized neighborhood association for this area, which is designated as the South Westnedge Neighborhood.

The City sent notices to all property owners within 300 feet and posted notice in the Kalamazoo Gazette.

Engagement/Communication Tools:

Letters and Newspaper Notice

FINDINGS:

Review Criteria:

1. That there are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same district zone.

The special circumstances identified by the applicant are specific to this veterinary clinic use. This building is classified as office use but the veterinarian clinic maintains a high number of staff in the building as well as a consistent flow of customer traffic during the day for inpatient services, patient services and pick up of medicines and products.

2. That there are special circumstances which are not the result of the actions of the applicant or titleholder of the land.

The operations of the veterinarian clinic have expanded over time, generating a need for additional parking. Further, there is no on-street parking along S. Burdick Street to handle any overflow.

3. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same district zone, and would cause practical difficulty.

The Kalamazoo Animal Hospital would need to space out appointments and limit new hires without adequate off-street parking.

4. That the granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.

Per the applicant's narrative on the number of staff and pet owners present at peak times, the granting of the variance is the minimum action to allow an increase in staff.

5. That the granting of the variance will not adversely affect adjacent land in a material way.

The granting of the variance will not adversely affect adjacent land as the new parking lot will be behind the building to the east.

6. That the granting of the variance will be generally consistent with the purposes and intent of this Ordinance.

This is a dimensional variance only for off-street parking which will be located behind the building. This project will be subject to review under the Natural Features Protection Ordinance due to the proximity to wetlands located on the east side of the property.

7. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria: 1) existing landscaping, screening or wetlands intended to be preserved meets the intent of this section; 2) the landscape design proposed by the applicant meets the intent of this section; 3) there is a steep change in topography that would limit the benefits of required landscaping; 4) the proposed building and parking lot placement is setback well beyond the minimum required; 5) the abutting or adjacent

land is developed or will be developed in the near future with a use other than residential; and 6) similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

The landscaping will be reviewed for this site as this project will require site plan review.

RECOMMENDATION:

Staff recommends the granting of the dimensional variance.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 25, 2021

**RE: ZBA #21-09-10
3301 S. Burdick Street
Parcel #06-34-201-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Moiles Properties, LLC (Kalamazoo Animal Hospital) for 3301 S. Burdick Street, which is situated in the Manufacturing – Limited District (M-1).

The applicant is requesting a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of fifteen (15) off-street parking spaces to allow for 30 off-street parking spaces where 15 is the maximum number of off-street parking spaces permitted for the 3,986 square foot Kalamazoo Animal Hospital.

Please note that this request will not change the zoning classification of the property. This is a request for use variances only regarding the item described above.

The meeting will be held on Thursday, September 9, 2021 at 7 p.m. Due to COVID-19 this public meeting will be held electronically and streamed live on the [City's Facebook page](#) and [YouTube Channel](#). Check www.kalamazoocity.org for details on providing public comments.

To examine documents related to this request or provide written comments, please contact Pete Eldridge at eldridgep@kalamazoocity.org or call (269) 337-8806. The agenda will be posted at <https://www.kalamazoocity.org/boards>

Sincerely,

Peter C. Eldridge, AICP

Assistant City Planner



Community Planning & Economic Development

245 N. Rose Street, Suite 100 • Kalamazoo, MI 49007

(269) 337-8026 • www.kalamazoo-city.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Bosch Architecture		Mailing Address: 8065 Vineyard Parkway
City: Kalamazoo	State: Michigan	ZIP Code: 49009
Phone: 269-321-5151	Email: nlooks@boscharch.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY OWNER INFORMATION		
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>		
Name: Moiles Properties, LLC		Mailing Address: 6309 S. Westnedge Avenue
City: Portage	State: Michigan	ZIP Code: 49002
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 3301 South Burdick Street		
Parcel Identification Number(s): 06-34-201-001		Zone District (kalamazoo-city.org/maps): M-1
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>7.2</u> , Section(s) <u>(2) (b)</u>		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) <u>7.2</u> , Section(s) _____		
☐ Use Variance to allow _____		
☐ Temporary Use Approval		
Reason for Request: Exceed maximum allowed parking by 15 spaces, for a total of 30 spaces on site.		
ATTACHMENTS		
☒ \$ <u>300</u> Fee ☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☒ Review Sheet for Request Type		☒ Optional: Photos of property, architecture plans, etc.
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: 		Date: 8/11/2021
Signature of Owner (if different than applicant):		Date:

August 11, 2021

Peter Eldridge
Zoning Administrator
City of Kalamazoo Community Planning and Development
245 N. Rose Street
Kalamazoo, MI 49007

Re: Variance Request
Kalamazoo Animal Hospital
3301 South Burdick Street

Dear Peter,

We are requesting a Dimensional Variance from sections 50-7.2 (A) (2) (b) Maximum parking spaces provided.

Currently the parcel has 13 parking spaces located on site. There are currently 11 employees that work at the animal hospital on a regular shift. This leaves only 2 available spaces for the customers bringing their animals to the hospital, with one available space being the barrier free space.

The hardship on this property is the parking calculations only permit 1 space per 300 sq. ft. of office space. The current facility is 3,986 sq. ft, which would permit 13 total spaces. With the 110% maximum allowance per section 50-7.2 (A) (2) (b), this would only allow 15 total spaces on site.

The animal hospital would like to potentially add 4-6 employees as a result of the renovations they completed in late 2019. This would bring the total number of employees to 17. Also, there are 4 exam rooms in the hospital, with one person in each exam room and one person waiting to enter the exam room, this accounts for 8 more people. This doesn't include the animals being picked up or dropped off for surgery and other medical procedures.

We are requesting a dimensional variance to be able to construct a new parking lot in the rear of the facility. This would bring the total amount of parking on site to 30 spaces. This is a request of 15 spaces over the maximum allowed.

If you have any questions, please feel free to contact me via email (nloeks@boscharch.com) or phone (269-207-1744).

Sincerely,



Nicholas J, Loeks, PE



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

Specific Project Details (may also provide on a separate sheet):

Review Criteria for Dimensional Variances

ZBA will review all Dimensional Variance requests using the following criteria. Please reach out to staff if you have questions.

Are there conditions, like unusual topography, the shape of the lot or structure that are not commonly found on other lots or structures in the same zone district that make this request unique?

Are there special circumstances which are not the result of the actions of the applicant or property owner of the land that impact the project?

Does the Ordinance deprive the applicant of rights enjoyed by other property owners in the same zone district?



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Is this the minimum action which will make it possible to use the lot or structure in a manner that does not negatively impact the public and meets the spirit of this Ordinance?

Will the granting of the variance negatively affect adjacent land?

Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?

Additional Criteria for Variance Requests for Required Landscaping

Does existing landscaping, screening or wetlands planned to be preserved meet the intent of the Ordinance?

Does the landscaping proposed by the applicant meet the intent of this section?



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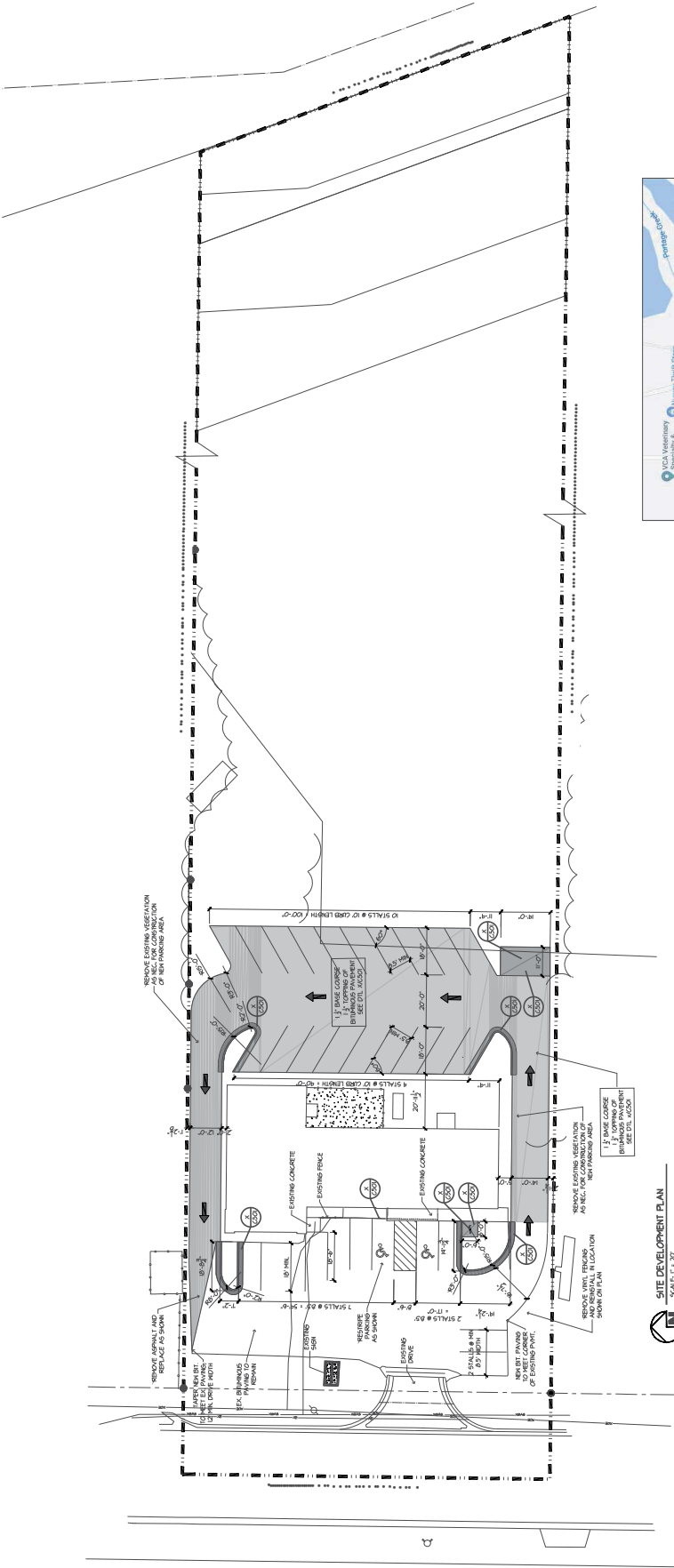
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Are there steep changes in topography that would limit the benefits of landscaping?

Are the proposed building and parking lot locations setback beyond the required setback?

Are there abutting lands developed or could be developed in the near future with a use other than residential?

Do similar landscaping conditions exist which would result in no added benefit if additional landscaping or screening was provided?



LOCATION MAP
NOT TO SCALE

SITE DEVELOPMENT PLAN
SCALE 1" = 20'

Kalamazoo Animal Hospital.
3901 S Burdick Street
Kalamazoo, Michigan 49001



65042
2017-09-11 2PM REVIEW



2017-09-11 2PM REVIEW
DEVELOPMENT PLAN
Cool

210520201.dwg



1997 Aerial Photo



LEGEND

-  Parcel Boundary
-  City Boundary



City of Kalamazoo,
8/30/2021



2018 Aerial Photo

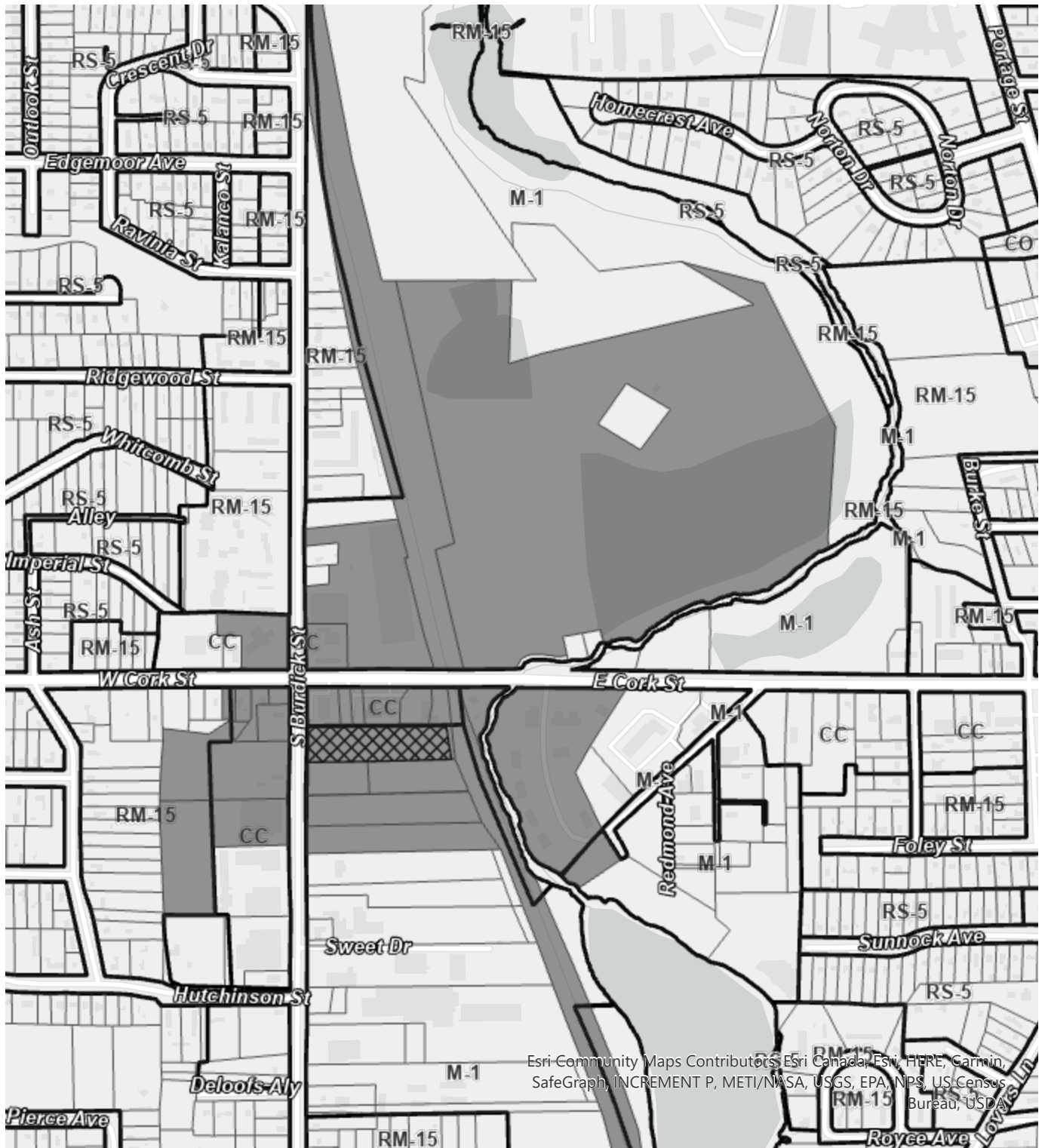


LEGEND

-  Parcel Boundary
-  City Boundary



City of Kalamazoo,
8/30/2021



Esri Community Maps Contributors Esri Canada, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Parcels within 300' Mailing Radius 3301 S. Burdick Street

-  Subject Property
-  Property within 300' Mailing Radius
-  Other Property
-  Zoning District Boundary



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **9/9/2021**

Item: **D.2.**

City of Kalamazoo

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner
Prepared by: Pete Eldridge, AICP, Assistant City Planner

DATE: September 9, 2021

SUBJECT: ZBA #21-09-11: 738 Harrison Street. KNHS Home Ownership Services is requesting two dimensional variances to develop this residential lot: **1)** A dimensional variance from Chapter 5, Section 5.1-1, of 6.5 feet to authorize the development of a lot that is 37.5 feet wide where Zone RMU requires 44 feet of lot width, and **2)** A dimensional variance from Chapter 5, Section 5.1-1, of 1,169 square feet of lot area to authorize development of a lot that is 4,331 square feet where Zone RMU requires 5,500 square feet of lot area.

BACKGROUND:

The City of Kalamazoo has owned this vacant lot since 1994. In 2021, the decision was made to sell this vacant lot to Kalamazoo Neighborhood Housing Services. KNHS Homeowners Services has put together plans to build a single – family dwelling in partnership with the Foundation for Excellence and the Home Builders Association of Western Michigan on this lot. There is evidence of a footpath from Harrison Street through this lot to Verberg Park, however, this is not a formal entrance to Verberg Park and there are no plans to expand the park to Harrison Street.

During the review of the proposed housing, it was determined that the lot size did not meet the minimum requirements for the Residential – Mixed Use District. The RMU District does have the second highest residential lot width requirement at 44 feet and the highest lot area requirement at 5,500 square feet. In 2018 when the City updated the dimensional standards for all residential lots, RMU was left off the update list, which is why we are in this situation. There are eight existing residential lots to the south of this lot, all of which are similar in size and have occupied homes.

The Riverfront Overlay District was created in 2006 to protect the river while allowing for more focused commercial and residential development nearby. This area of Harrison Street is in Sub Area 2 which encourages single family development and neighborhood-scale commercial.

STRATEGIC VISION ALIGNMENT:

Community Planning and Economic Development Department | 245 N. Rose Street, Ste 100, Kalamazoo, MI 49007
Voice: (269) 337-8744 | Fax: (269) 337-8513 | www.kalamazoocity.org



Complete Neighborhoods - residential areas that support the full range of people's daily needs



Economic Vitality - A supportive infrastructure for growing businesses and stabilizing the local economy for the benefit of all.

Strategic Goals, Master Plan 2025 and Northside Neighborhood Plan:

This project touches on the Strategic Goals of Complete Neighborhood as this proposed project will provide an additional housing unit which will add to the available housing stock in Kalamazoo and Economic Vitality by allowing re-use of underutilized lot on a block with other single-family dwellings on similar lot sizes.

The Master Plan 2025 identifies this lot as being located in 'Neighborhood Edge'. This classification allows for low and medium density residential development. Additionally, the 2018 Northside Neighborhood Plan supports construction of new housing to accommodate all residential needs on the Northside.

COMMUNITY ENGAGEMENT:

Inform – the community will be made aware of the project.

Appropriate Depth of Engagement

The applicant will conduct outreach to neighboring properties and the Northside Association for Community Development.

The City sent out letters to all property owners within 300 feet of the subject property and posted notice in the Kalamazo Gazette.

Engagement/Communication Tools:

Letters and Newspaper Notice

FINDINGS:

Review Criteria:

1. That there are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same zone district.

The special circumstances related to the narrow lot width and reduced lot area are due to the age of this neighborhood and the pattern of development in the early 1900's. These homes were built predominately between 1910 and 1920. Only two

lots on this block meet RMUs standards. In 2018 the City, updated its residential districts to better match with the City's lot size and historic pattern of development, but RMU was mistakenly not included in this revision.

2. That there are special circumstances which are not the result of the actions of the applicant or titleholder of the land.

Yes, the lots were platted a hundred years ago and the zoning rules have since fluctuated, resulting in this existing lot being non conforming.

3. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zone district, and would cause practical difficulty.

As it has been pointed out, seven of the eight nonconforming lots to the south of 738 Harrision Street have single family dwellings.

4. That the granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.

The granting of these dimensional variances will be consistent with the residential development pattern of this block and the neighborhood. It will allow for new infill housing.

5. That the granting of the variance will not adversely affect adjacent land in a material way.

The development of this lot will be consistent with the development pattern of this block and the Northside Neighborhood; it will not adversely impact adjacent property owners.

6. That the granting of the variance will be generally consistent with the purposes and intent of this Ordinance.

The dimensional variances, if granted, would allow one new housing unit on this block. The proposed home will comply with all building setbacks and will be a two-story house similar to the other housing stock on this street.

7. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria: 1) existing landscaping, screening or wetlands intended to be preserved meets the intent of this section; 2) the landscape design proposed by the applicant meets the intent of this section; 3) there is a steep change in topography that would limit the benefits of required landscaping; 4) the proposed building and parking lot placement is setback well beyond the minimum required; 5) the abutting or adjacent land is developed or will be developed in the near future with a use other than residential; and 6)

similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

Not applicable

RECOMMENDATION:

Staff recommends approval of the dimensional variances proposed.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 25, 2021

**RE: ZBA #21-09-11
738 Harrison Street
Parcel #06-15-275-008**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by KNHS Home Ownership Services for 738 Harrison Street, which is situated in the Residential – Mixed Use District, Sub Area 2, of the Riverfront Overlay.

The applicant is requesting the following: **1)** A dimensional variance from Appendix A, Chapter 5, 5.1, of 6.5 feet to authorize a 37.5 foot wide lot to be buildable where the required lot width is 44 feet in the RMU District; and **2)** A dimensional variance from Appendix A, Chapter 5, 5.1, of 1,169 square feet to authorize a 4,331 square foot lot to be buildable where the required lot area is 5,500 square feet in the RMU District.

Please note that this request will not change the zoning classification of the property. This is a request for use variances only regarding the items described above.

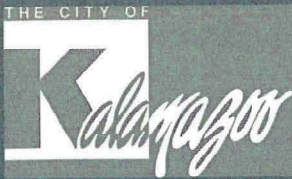
The meeting will be held on Thursday, September 9, 2021 at 7 p.m. Due to COVID-19 this public meeting will be held electronically and streamed live on the [City's Facebook page](#) and [YouTube Channel](#). Check www.kalamazoocity.org for details on providing public comments.

To examine documents related to this request or provide written comments, please contact Pete Eldridge at eldridgep@kalamazoocity.org or call (269) 337-8806. The agenda will be posted at <https://www.kalamazoocity.org/boards>

Sincerely,

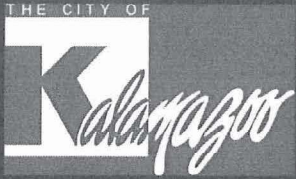
Peter C. Eldridge, AICP

Assistant City Planner



ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: KNHS Home Ownership Services		Mailing Address: 1219 S. Park St.
City: Kalamazoo	State: MI	ZIP Code: 49001
Phone: 269-547-9904	Email: mattm@knhs.org	Preferred Contact: ☒ Email ☐ Phone
PROPERTY OWNER INFORMATION		
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>		
Name:		Mailing Address:
City:	State:	ZIP Code:
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 738 Harrison		
Parcel Identification Number(s): 06-15-275-008		Zone District (kalamazoo-city.org/maps):
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) _____, Section(s) _____	☐ Appeal of an Administrative Decision	
☐ Use Variance to allow _____	☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____	
	☐ Temporary Use Approval	
Reason for Request:		
ATTACHMENTS		
☐ \$ _____ Fee	☐ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.	
☐ Review Sheet for Request Type	☐ Optional: Photos of property, architecture plans, etc.	
<i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>		
SIGNATURE		
Signature of Applicant: 		Date: 8-18-21
Signature of Owner (if different than applicant):		Date:



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

Specific Project Details (may also provide on a separate sheet):

KNHS is requesting a dimensional variance for this parcel to build a new construction home on this site in partnership with the City of Kalamazoo, the FFE, and the Home Builder's Association of Western Michigan. The parcel is zoned RMU, which calls for 5,500 sq ft and 44 ft of frontage. Our lot only has 4,331 sq ft and 37.5 ft of frontage. While this is less than the current zoning requirement, it is consistent with the existing homes and lots on the street. The 8 lots to the south of this one are all approximately 37 ft in frontage and 7 of those contain homes of a similar size and design to the one we are proposing to build.

Review Criteria for Dimensional Variances

ZBA will review all Dimensional Variance requests using the following criteria. Please reach out to staff if you have questions.

Are there conditions, like unusual topography, the shape of the lot or structure that are not commonly found on other lots or structures in the same zone district that make this request unique?

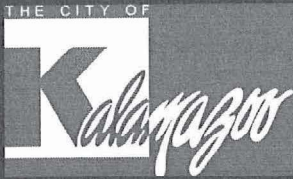
No. This lot is the same size and grade as nearby lots on the block.

Are there special circumstances which are not the result of the actions of the applicant or property owner of the land that impact the project?

No.

Does the Ordinance deprive the applicant of rights enjoyed by other property owners in the same zone district?

Yes. Existing owners have the same frontage, lot size, and home size, but their homes were built before the current zoning requirements.



Is this the minimum action which will make it possible to use the lot or structure in a manner that does not negatively impact the public and meets the spirit of this Ordinance?

Yes. This is the last action required in order to begin construction on this site.

Will the granting of the variance negatively affect adjacent land?

No.

Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?

Yes. The intent of this ordinance was to create minimum lot sizes for new construction. While we do not meet those requirements, we are just barely below them. These lots are historically sized at 37 ft, and a lack of variance would result in no construction being possible on this lot. The intent of this ordinance was presumably not to make lots that previously held housing un-buildable.

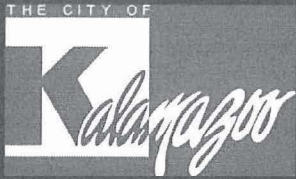
Additional Criteria for Variance Requests for Required Landscaping

Does existing landscaping, screening or wetlands planned to be preserved meet the intent of the Ordinance?

The lot in its current condition is a flat grass lot with little to no landscaping. The development will install landscaping around the house consistent with the existing homes on the block.

Does the landscaping proposed by the applicant meet the intent of this section?

Yes.



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Are there steep changes in topography that would limit the benefits of landscaping?

No.

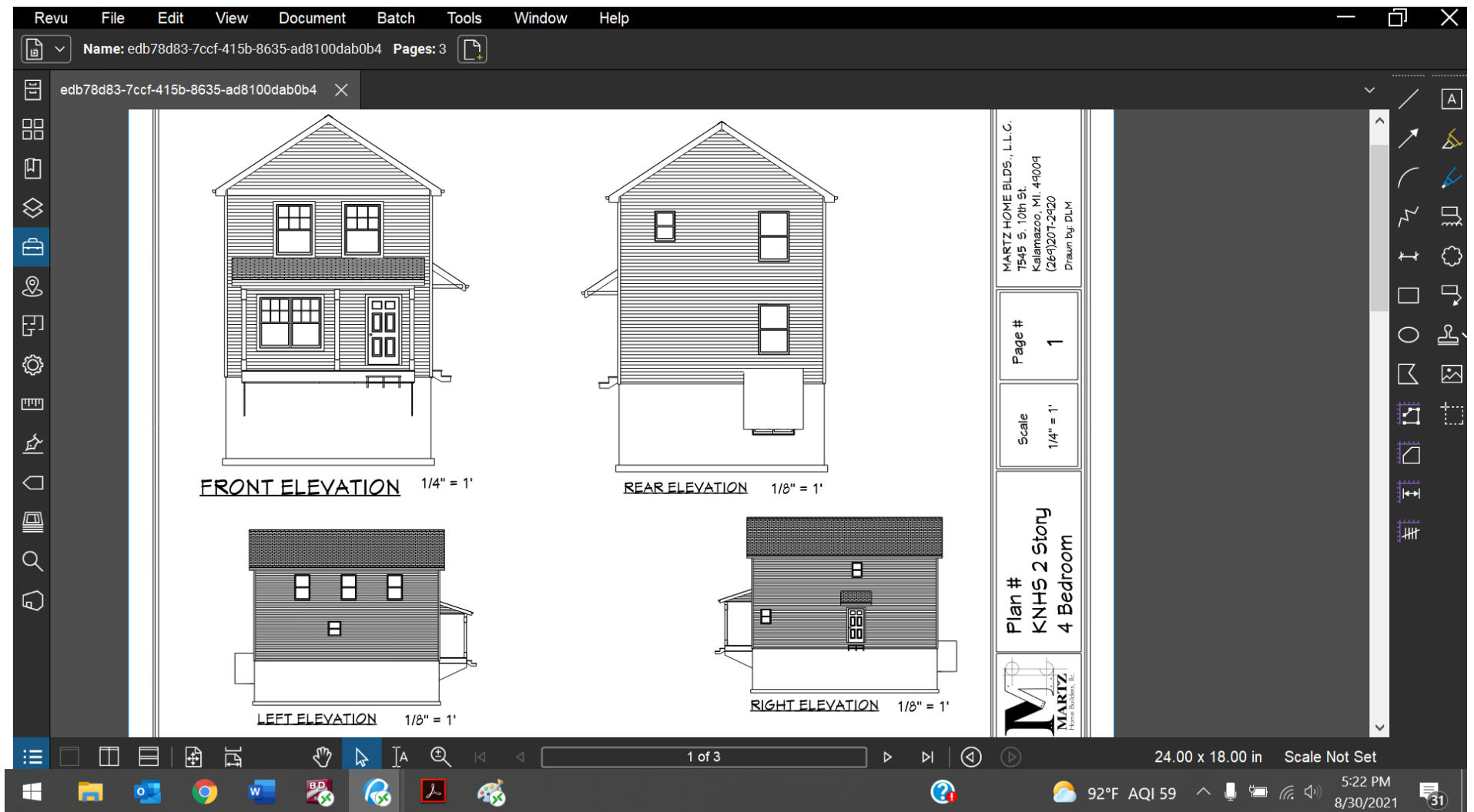
Are the proposed building and parking lot locations setback beyond the required setback?

Yes.

Are there abutting lands developed or could be developed in the near future with a use other than residential?

The three surrounding parcels are as such: 1. a residential lot with a house on it. 2. a residential lot of the same size as this one. 3. A City park.

Do similar landscaping conditions exist which would result in no added benefit if additional landscaping or screening was provided?



738 HARRISON ST KALAMAZOO, MI 49007 (Property Address)

Parcel Number: 06-15-275-008



Property Owner: CITY OF KALAMAZOO CPED

Summary Information

- > Assessed Value: \$0 | Taxable Value: \$0
- > 4 Building Department records found
- > Property Tax information found

Parcel is Vacant

Owner and Taxpayer Information

Owner	Taxpayer
CITY OF KALAMAZOO CPED 241 W SOUTH ST KALAMAZOO, MI 49007	KALAMAZOO NEIGHBORHOOD HOUSING 1219 S PARK ST KALAMAZOO, MI 49001

General Information for Tax Year 2021

Property Class	Unit	Assessed Value	Taxable Value
School District	701 Exempt KALAMAZOO CITY SCHOOL DIST	00 City of Kalamazoo \$0	\$0
Old Parcel #	0027120		\$0
District	0		\$0
old ecf;P-Filin	*NCBD		08/10/2021
R-Fclose;P-Use	No Data to Display	Notes	Not Available
Historical District	No	Census Block Group	No Data to Display
Neigh assoc	Northside	Exemption	No Data to Display

Principal Residence Exemption Information

Homestead Date No Data to Display

Principal Residence Exemption	June 1st	Final
2022	0.0000 %	-
2021	0.0000 %	0.0000 %

Previous Year Information

Year	MBOR Assessed	Final SEV	Final Taxable
2020	\$0	\$0	\$0
2019	\$0	\$0	\$0
2018	\$0	\$0	\$0
2017	\$0	\$0	\$0
2016	\$0	\$0	\$0

Land Information

Zoning Code	RMU	Total Acres	0.099
Land Value	\$0	Land Improvements	\$0
Renaissance Zone	No	Renaissance Zone Expiration Date	No Data to Display
ECF Neighborhood	Area 32	Mortgage Code	No Data to Display
Lot Dimensions/Comments	No Data to Display	Neighborhood Enterprise Zone	No

Lot(s)	Frontage	Depth
Lot 1	37.50 ft	115.50 ft
Total Frontage: 37.50 ft		Average Depth: 115.50 ft

Legal Description

3914 Beginning at a point on the east line of Harrison Street 22.75 Rods North of the north line of East North Street; thence East 7 Rods parallel with the north line of East North Street; thence North 2.25 Rods parallel with the east line of Harrison Street; thence West 7 Rods parallel with the north line of East North Street

to the east line of Harrison Street; thence South 2.25 Rods along the east line of Harrison Street to the point of beginning.

Land Division Act Information

Date of Last Split/Combine	<i>No Data to Display</i>	Number of Splits Left	<i>Not Available</i>
Date Form Filed	<i>No Data to Display</i>	Unallocated Div.s of Parent	<i>Not Available</i>
Date Created	01/01/0001	Unallocated Div.s Transferred	<i>Not Available</i>
Acresage of Parent	0.00	Rights Were Transferred	Yes
Split Number	0	Courtesy Split	No
Parent Parcel	<i>No Data to Display</i>		

Sale History

Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms of Sale	Liber/Page	Comments
08/05/2021	\$500.00	WD	CITY OF KALAMAZOO CPED	KALAMAZOO NEIGHBORHOOD HOUSING	03--ARM'S LENGTH		
01/13/1994	\$75.00	OTH	State of Michigan DNR	City of Kalamazoo	10-FORECLOSURE	1994-002497	state sale - 5 parcels

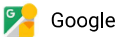
****Disclaimer:** BS&A Software provides BS&A Online as a way for municipalities to display information online and is not responsible for the content or accuracy of the data herein. This data is provided for reference only and WITHOUT WARRANTY of any kind, expressed or inferred. Please contact your local municipality if you believe there are errors in the data.

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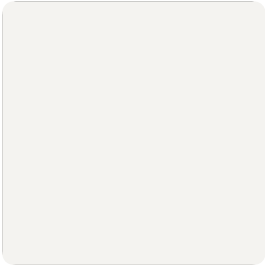


Image capture: Sep 2019 © 2021 Google

Kalamazoo, Michigan

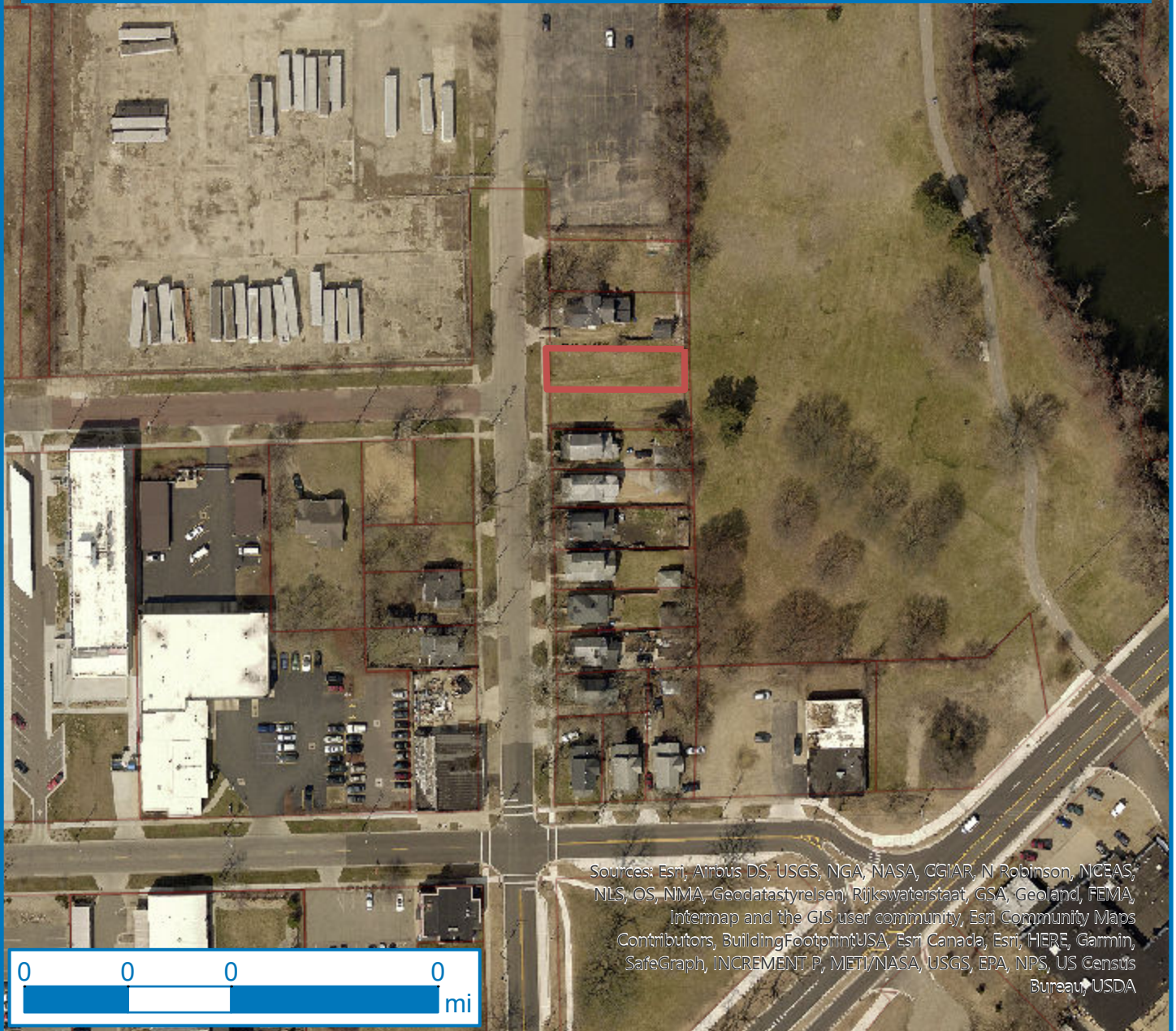


Street View - Sep 2019





738 Harrison St

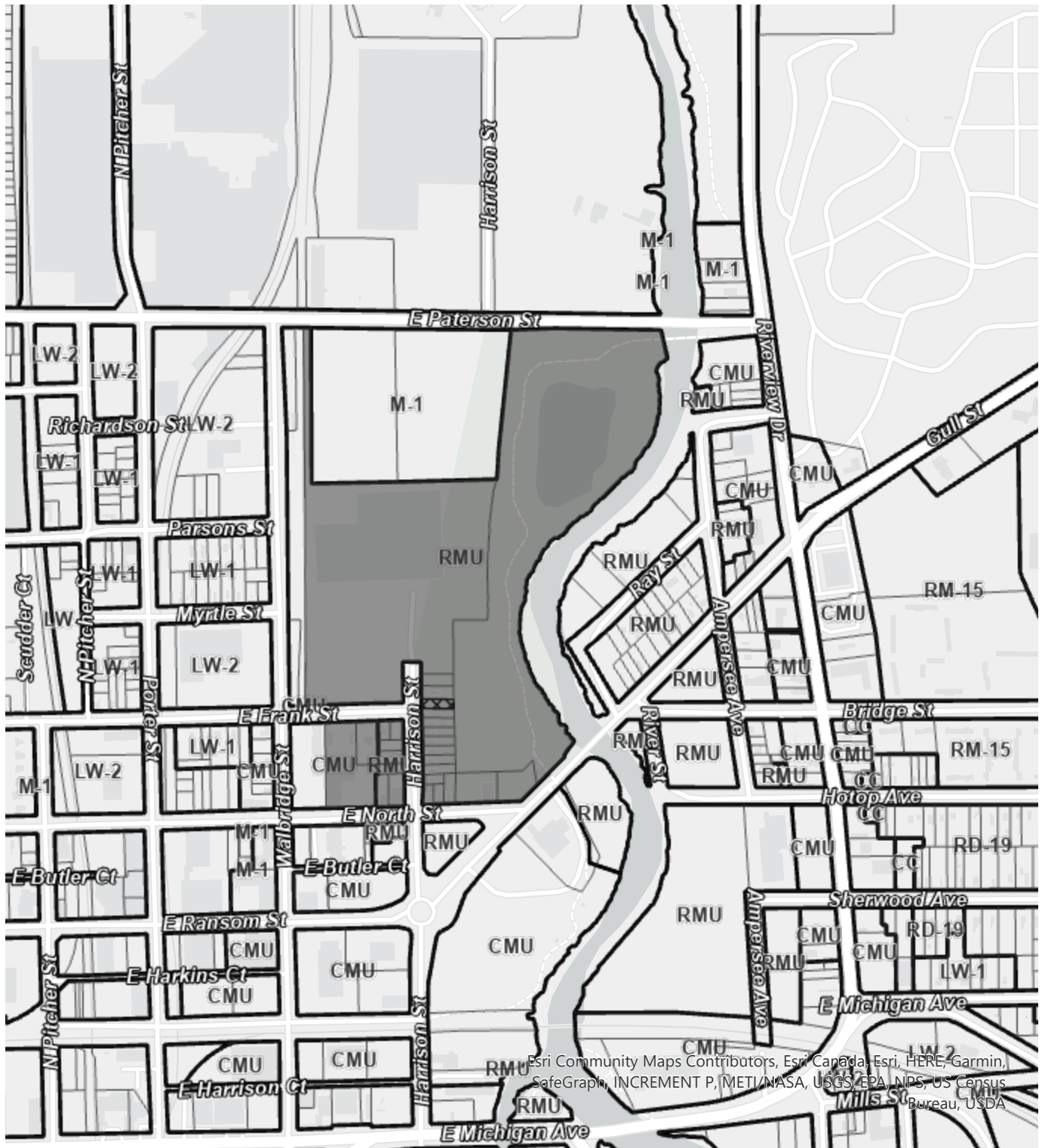


LEGEND

-  Parcel Boundary
-  City Boundary



City of Kalamazoo,
8/30/2021



Parcels within 300' Mailing Radius 738 Harrison Street

-  Subject Property
-  Property within 300'
Mailing Radius
-  Other Property
-  Zoning District Boundary



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **9/9/2021**

Item: **D.3.**

City of Kalamazoo

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner
Prepared by: Pete Eldridge, AICP, Assistant City Planner

DATE: September 9, 2021

SUBJECT: ZBA #21-09-12: 3928 Portage Street. Organic Guyz, LLC is requesting a dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 350 feet from the required 500-foot separation distance between a marijuana retailer and a licensed childcare center. Kalamazoo Regional Education Services Agency (KRESA) has a preschool on Portage Street which operates during the calendar school year that is licensed as a childcare center.

BACKGROUND:

This property is in the Commercial – Community District (CC). It is improved with an 8,280 square foot commercial strip mall. Adult Use Marijuana Retailers are a permitted use in the CC District with some development standards, including a minimum distance requirement between retailers and certain uses, such as a state licensed childcare center.

In June of 2020, an application for a provisional Adult Use Retailer and Medical Marijuana Provisioning Center certificate from the City of Kalamazoo was applied for. The application was reviewed against local regulations, including the Zoning Ordinance requirements for distances from certain protected uses, such as state licensed childcare centers and schools. Based on this review, a Provisional Certificate was issued by the City for an Adult Use Marijuana Retailer (Medical Marijuana Provisioning Center was denied) at 3928 Portage Street. The KRESA preschool in the Milwood United Methodist Church at 3919 Portage Street was not identified during this zoning review and site inspection; if it had, this application would not have met zoning requirements. The distance between the closest property line of the church and the portion of the building for which the marijuana retailer Provisional Certificate has been issued is approximately 150 feet.

The property was then purchased in May 2021. Organic Guyz moved forward with their project seeking approval for the site plan and building permit this summer. The zoning error was discovered, specifically that the retailer would not meet the distance requirement of 500 feet from a licensed childcare center. After confirming with the City Attorney's Office, City staff

alerted Organic Guyz, LLC of the issue and that a dimensional variance approval would be required to resolve this separation distance deficiency or a new site found for their business.

STRATEGIC VISION ALIGNMENT:



Economic Vitality - A supportive infrastructure for growing businesses and stabilizing the local economy for the benefit of all.

Strategic Plan and Master Plan 2025 Alignment:

This proposed project aligns with the Strategic Goal of Economic Vitality which encourages supporting a diverse mix of business types in the community which meets the needs of the neighborhood and will provide jobs for the local workforce.

The Master Plan, Future Land Use Map designates the subject property as ‘Commercial’, which encourages retail business, office and service-based business establishment growth.

COMMUNITY ENGAGEMENT:

Discussion: **Inform** – the community will be made aware of the project.

Appropriate Depth of Engagement:

It has been suggested to the applicant that they reach out to adjacent business owners to inform them of the dimensional variance. The contact information for the Milwood Neighborhood Watch was also shared with the applicant.

The city sent letters to all property owners within 300 feet and placed a notice in the Kalamazoo Gazette.

Engagement/Communication Tools:

Letters and newspaper notices

FINDINGS:

Review criteria for the dimensional variance:

1. That there are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same zone district.

The special circumstances are not related to the land or the structures but rather the approval process for review of the business license.

2. That there are special circumstances which are not the result of the actions of the applicant or titleholder of the land.

The applicant and title holder did not cause the special circumstances. It was the review of the application for the business license that resulted in the issuance of a Provisional Certificate for the Marihuana Retailer and property has since been purchased and a lease signed based on this approval.

3. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zone district, and would cause practical difficulty.

Adherence to the provisions of the Ordinance would not permit this business to open at 3928 Portage Street. This business is classified as a retail business which is a permitted use in the Commercial – Community District. This retail business will be one of four tenants in this commercial strip mall.

4. That the granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.

The granting of this variance is the minimum action that would correct this license review deficiency. The childcare center is a pre-school for three-year-olds that is open during the school year only. Access to the childcare drop off location is off Lakeway Street, approximately 250 feet north of the building at 3928 Portage Street. Currently, the childcare center is not open, but KRESA does plan to open it later this Fall.

5. That the granting of the variance will not adversely affect adjacent land in a material way.

The proposed retail business will not affect adjacent land in a material way. This will be one of four commercial tenants on this property. The surrounding land uses are residential rental properties to the north and west. To the south is a commercial office building.

6. That the granting of the variance will be generally consistent with the purposes and intent of this Ordinance.

This variance will be consistent with the intent of this ordinance to create separation between a service type business that focuses on care of children and a business that sells marihuana.

RECOMMENDATION:

Staff supports this variance to provide relief for the applicant and title holder of the land who have diligently worked to open a marihuana retail business under the assumption that this location complied with the local regulations. Additionally, it should be noted that the entrance to the parking lot used for the preschool drop off is on the back side (east side) of the church off of Lakeway, not Portage Street.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 25, 2021

**RE: ZBA #21-09-12
3928 Portage Street
Parcel #06-35-329-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Organic Guyz, LLC for 3928 Portage Street, which is situated in the Commercial – Community District (CC).

The applicant is requesting a dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 350 feet from the required 500-foot separation distance between a marihuana retailer and a license childcare center. There is a Kalamazoo Regional Education Services Agency (KRESA) preschool on Portage Street which operates during the calendar school year which is licensed as a childcare center.

Please note that this request will not change the zoning classification of the property. This is a request for use variances only regarding the item described above.

The meeting will be held on Thursday, September 9, 2021 at 7 p.m. Due to COVID-19 this public meeting will be held electronically and streamed live on the [City's Facebook page](#) and [YouTube Channel](#). Check www.kalamazoocity.org for details on providing public comments.

To examine documents related to this request or provide written comments, please contact Pete Eldridge at eldridgep@kalamazoocity.org or call (269) 337-8806. The agenda will be posted at <https://www.kalamazoocity.org/boards>

Sincerely,

Peter C. Eldridge, AICP

Assistant City Planner



Community Planning & Economic Development

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ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Organic Guyz		Mailing Address: 30600 Telegraph Rd #3355
City: Bingham Farms	State: Michigan	ZIP Code: 48024
Phone: 206 930 1045	Email: Concetta@organicguyz.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY OWNER INFORMATION		
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>		
Name: Portage Kalamazoo Properties LLC		Mailing Address: 30600 Telegraph Rd. #3355
City: Bingham Farms	State: MI	ZIP Code: 48025
Phone: 248.891.8387	Email: 3928Portage@gmail.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 3928 Portage Rd. Kalamazoo, MI 49001		
Parcel Identification Number(s): 06-35-329-001		Zone District (kalamazoo-city.org/maps): CC
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>50</u> , Section(s) <u>4.4(E)(1)(b)</u>		
☐ Use Variance to allow _____		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____		
☐ Temporary Use Approval		
Reason for Request: The Zoning Ordinance requires a separation distance of 500 feet from a day care or childcare center to the marihuana business. We were pre approved by the city of Kalamazoo to operate a dispensary within 200 ft of said day care and now the zoning ⁺		
ATTACHMENTS		
☒ \$ <u>300.00</u> Fee ☐ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☒ Review Sheet for Request Type		☐ Optional: Photos of property, architecture plans, etc.
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: 		Date: 8/11/2021
Signature of Owner (if different than applicant): <u>Ray Fournia</u>		Date: 8/11/2021



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

Specific Project Details (may also provide on a separate sheet):

Review Criteria for Dimensional Variances

ZBA will review all Dimensional Variance requests using the following criteria. Please reach out to staff if you have questions.

Are there conditions, like unusual topography, the shape of the lot or structure that are not commonly found on other lots or structures in the same zone district that make this request unique?

Are there special circumstances which are not the result of the actions of the applicant or property owner of the land that impact the project?

Does the Ordinance deprive the applicant of rights enjoyed by other property owners in the same zone district?

Is this the minimum action which will make it possible to use the lot or structure in a manner that does not negatively impact the public and meets the spirit of this Ordinance?

Will the granting of the variance negatively affect adjacent land?

Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?

Additional Criteria for Variance Requests for Required Landscaping

Does existing landscaping, screening or wetlands planned to be preserved meet the intent of the Ordinance?

Does the landscaping proposed by the applicant meet the intent of this section?



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Are there steep changes in topography that would limit the benefits of landscaping?

Are the proposed building and parking lot locations setback beyond the required setback?

Are there abutting lands developed or could be developed in the near future with a use other than residential?

Do similar landscaping conditions exist which would result in no added benefit if additional landscaping or screening was provided?



Attachment B

Introduction

1 message

Eldridge, Peter <EldridgeP@kalamazoocity.org>
To: Concetta Mazzetti <ifbloomconsulting@gmail.com>
Cc: Ray Fournia <rayfournia@gmail.com>

Wed, Aug 4, 2021 at 1:53 PM

Concetta,

Below is the email I relayed to Justin Mesi... Please note the link at the bottom for the Zoning Board of Appeals application. As I mentioned to Ray the City staff will need to explain at this Zoning Board of Appeals meeting how the Provisional License was issued in error.

Background/email sent to Justin Mesi

I have relayed to Bobby Durkee in our office the situation discovered with a day care center located nearby 3928 Portage Street. I told him would reach out to you directly regarding this matter as it impacts the site plan review process.

The Milwood United Methodist Church is located northeast of this site on the opposite side of Portage Street. The Kalamazoo Regional Education Services Agency runs a Head Start preschool program out of this church during the school year. This operation is classified as a childcare center by the State of Michigan Licensing and Regulatory Agency. The Zoning Ordinance requires a separation distance of 500 feet from a day care or childcare center to the marihuana business. This distance between the west property line of the church and the part of the building being utilized for the marihuana retailer is approximately 200 feet. This was discovered during our update of our maps and review of day care center locations around Kalamazoo.

Details on the Day Care Center at the Milwood United Methodist Church, 3919 Portage Street:

- *Name: Milwood United Methodist Church Head Start*
- *Capacity: 18*
- *Period of Operation: During School Year*
- *Description: Food Service(meals provided), Head Start Pre School*
- *Licensee: KRESA*

This situation has been brought to the attention of the City Attorneys Office and the recommendation received was that the business owner will need to apply for dimensional variance to correct this deficiency as the pre-school program started in the fall of 2018 before the license was applied for with the city.

Please know that we have looked at this in detail to see if there was another way to correct this situation. Because of this situation the site plan review cannot be scheduled at this time.

The Zoning Board of Appeals information can be found at: <https://www.kalamazoocity.org/zba> August 12, 2021, is the application deadline for the next meeting on September 9, 2021. These meeting are being held virtually via the Zoom platform currently.

1/2



Peter C. Eldridge, AICP

Assistant City Planner

PH: 269-337-8806

FAX: 269-337-8513

EMAIL: eldridgep@kalamazoocity.org

-

Community Planning & Economic Development (CPED) - Planning Division

City of Kalamazoo

245 North Rose Street, Suite 100

Kalamazoo, MI 49007

The Community Planning and Economic Development is not open to the public at this time. However, CPED staff are working remotely from home to the best of our ability. Please excuse any delays in returned calls and emails. Most City services are available online at: www.kalamazoocity.org.

City of Kalamazoo, Michigan

Marihuana Business Provisional Approval Certificate

Certificate No. 2021-08

This Provisional Approval Certificate certifies that Organic Guyz, LLC has submitted a complete, valid application for the following Marihuana Business Permit(s):

Retailer (Adult Use)

to be located at:

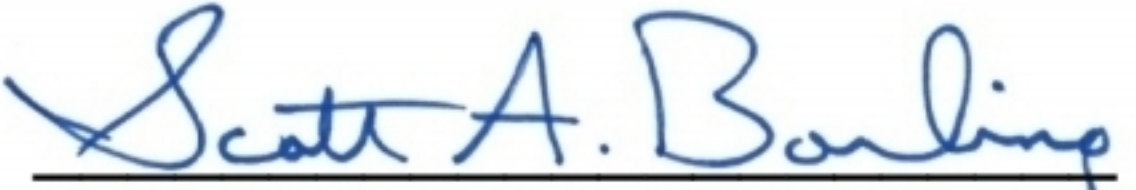
3928 Portage Street (Parcel 06-35-329-001)

in the City of Kalamazoo. The proposed facility site complies with applicable zoning and location requirements as set forth in the Kalamazoo City Code, and the applicant is eligible under City ordinance to receive the appropriate Marihuana Business License from the Michigan Marihuana Regulatory Agency.

Date of Issuance: 04/13/2021 Expiration Date: 04/12/2022

Proof of application to the state for an Adult Use License (Step 1 or Step 2) must be submitted to the City Clerk by 5:00 p.m. on: 05/13/2021

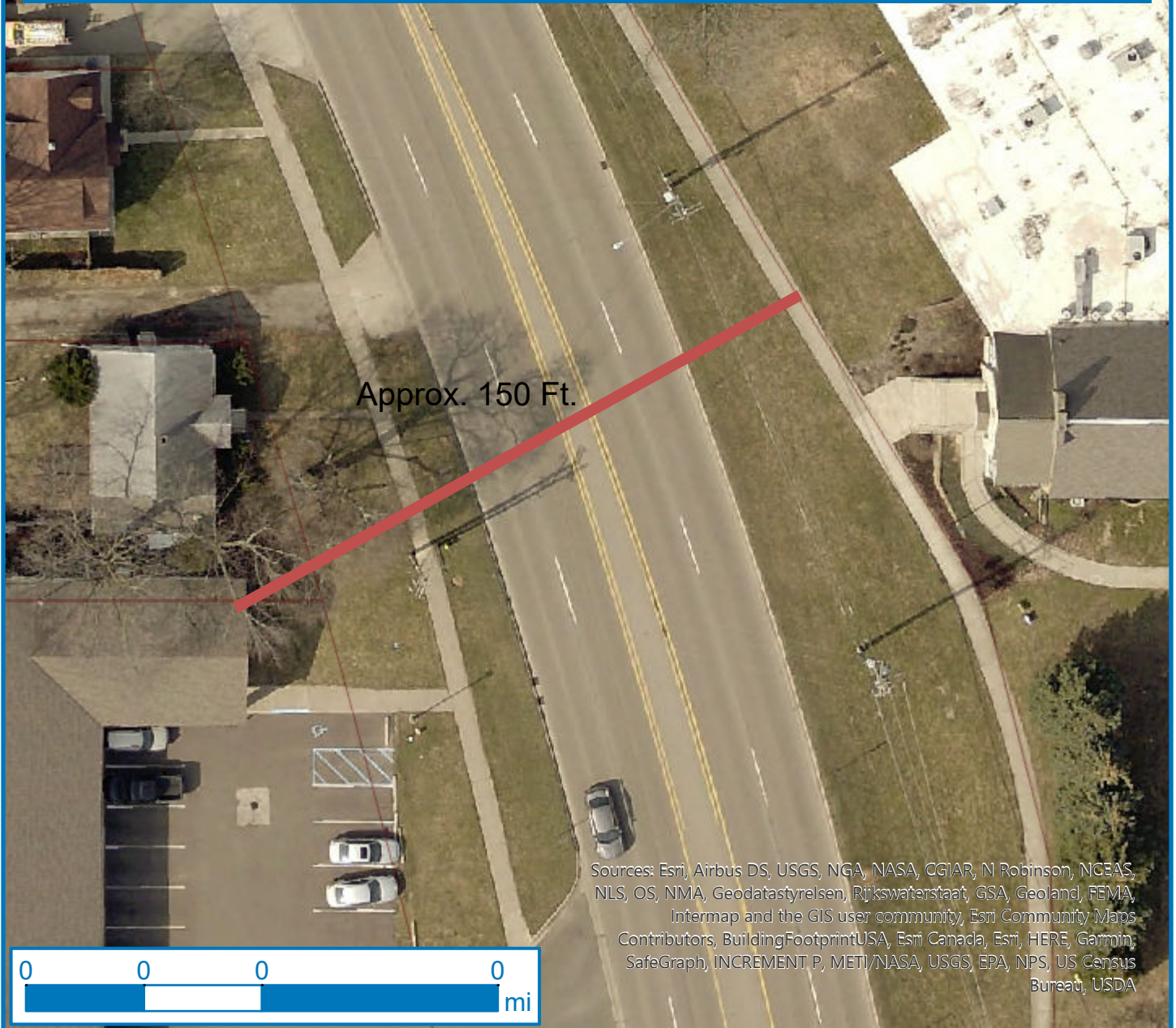
This certificate is issued under my hand and in accordance with the requirements of Section 20B-9 of the Kalamazoo City Code on this 13th day of April, 2021.


Scott A. Borling, City Clerk

****This provisional approval, by itself, does not authorize the applicant to locate or operate a Marihuana Business in the City of Kalamazoo; the applicant must obtain an Operating License from the Marihuana Regulatory Agency and an operating permit from the City prior to commencing operations****



3928 Portage St.



LEGEND

-  Parcel Boundary
-  City Boundary



City of Kalamazoo,
9/2/2021



Parcels within 300' Mailing Radius 3928 Portage Street

-  Subject Property
-  Property within 300'
Mailing Radius
-  Other Property
-  Zoning District Boundary



0 220 440 880 ft