

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, April 14, 2022

7:00 PM

City Commission Chambers – 241 West South Street

A. CALL TO ORDER/ROLL CALL

B. APPROVAL OF MINUTES

1. Approval of minutes from the Zoning Board of Appeals meeting on February 10, 2022

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #22-03-08: 3400 Stadium Drive. Yes Acquisitions LLC is requesting a use variance from Appendix A, Chapter 4, Section 4.1, to authorize the redevelopment of a mobile home park on this site, where in the CC District this is not a permitted land use.
2. ZBA #22-03-09: 3433 Oakland Drive. Sign Art Inc. on behalf of the property owner Edward Fletcher, is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1, to authorize the installation of a six-foot high, 32 square foot freestanding sign for the office building, where there is no sign allowance identified for an office building in the RS-5 District.
3. ZBA #22-04-11: 437 Stone Street. Austrins Family Dentistry is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1, to authorize the installation of a nine (9) square foot projecting sign for this office building, where there is no sign allowance identified for an office building in the RM-15C District.
4. ZBA #22-04-12: 667 Carr Street. Chestity West is requesting the following variances:
 - 1) A use variance from Appendix A, Chapter 4, Section 4.1. to authorize a group daycare (7 to 12 children) in her residence at 667 Carr Street, where residential daycare is not a permitted use in the M-1 District.
 - 2) A variance from Appendix A, Chapter 4, Section 4.2, K 2. c), to authorize a

group daycare on a local street where group daycares are required to be located on collector or arterial streets.

5. ZBA #22-04-13: 231 E. Ransom Street. Eric Cunningham is requesting the following:
- 1) A use variance from Chapter 50, 50-4.1, to authorize an Adult Use Marihuana Processor, Retailer and Designated Consumption Lounge in the Live-Work 2 District, which does not permit any of these marihuana facility types.
 - 2) A dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 120 feet from the required 1000-foot separation distance between marihuana establishments and preexisting private or public schools providing education in kindergarten or any grades 1 to 12.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
February 10, 2022 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Matt Lager,; Jeff Carroll,; Christine Doane, Remi Harrington, Beth van den Hombergh, and Jeremy Terpening,

Members Absent: None

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

Chair Lager called the meeting to order at 7:01 p.m.

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

Chair Lager asked if there were any changes to the original agenda and Mr. Eldridge stated there were two: Item number 3, 121 Fellows. The bed and breakfast will be on the first floor and the second floor will be owner occupied. The second change is the Stockbridge/Lake Street item, if approved, will be valid for 18 months.

Chair Lager asked if there were any changes to the minutes of January 13, 2022 and there were none.

Mr. Carroll moved to approve the minutes of January 13, 2022 as submitted, seconded by Mr. Terpening.

Minutes were 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 in favor of the application where they will state their name and address. Following that those in opposition will be invited to speak and afterward, those received via phone will be aired for the panelist and audience. The public can call in to 269-226-6573 to leave comments for any of the property on the agenda then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve

the Finding of Fact. Therefore, the first vote you hear 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 114 and 120 Burr Oak, Parcel #06-22-196-001 and #06-22-095-004

ZBA #22-01-01: 114 and 120 Burr Oak: An application for a variance of the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Kalamazoo Neighborhood Housing Services for 114 and 120 Burr Oak, which is situated in Zone RM-36, Residential-Multi Dwelling District. The applicant is requesting a dimensional variance from Appendix A, Chapter 5, Section 5.1 of 2,635 square feet to authorize the dividing of two lots into three buildable lots. Each proposed lot will be between 3,078 and 3,135 square feet, where 4,000 square feet is the stated buildable lot size for this zone district.

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

Chair Lager recused himself from the vote citing personal interests but stated he will still run the hearing.

Matt Milcarek and Dar Smith represented Kalamazoo Neighborhood Housing. Mr. Milcarek advised they are seeking to split two lots into three on Rose Street so they can construct three new homes in the area. He stated they have already built three others in the area but realized there is a minimum lot size issue and the intent is to build similarly styled homes that are on the street. He said even though they are seeking a variance the lot is very similar to another in the area. Chair Lager asked for questions from the board and there were none.

Chair Lager asked if there were any staff comments and Mr. Eldridge replied yes.

Mr. Eldridge reiterated the lot sizes and stated this is in the RM-36 zone district which is a high-density residential zone district and they compared other lots in the area and it is comparable with other lots in the neighborhood, and there are some that are smaller. He added that this is in keeping with part of the strategic plan and will help add to the housing stock in the Vine neighborhood. He stated the plan supports the Vine neighborhood plan, which supports home ownership and increases the availability of rental units. He pointed out that it is supported by the Vine Neighborhood Association president and a number of letters went out. He stated the city staff is in support.

Chair Lager asked for comments/questions from the public and there were none. He then asked if there were any phone calls and there was one caller, April Potts-Easter, who is a Kalamazoo County resident, spoke about the flooding issues downtown around Bronson Hospital and felt they should be addressed and would be exacerbated by the addition of the development.

An anonymous caller felt another metro bus should be added to the Westnedge line.

Chair Lager closed the public hearing.

FINDING OF FACT

Mr. Carroll moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 114 and 120 Burr Oak shall include all information included in the notice of public hearing dated December 23, 2021.
- 2.) 86 notices of public hearing were sent, one response was received and are part of the record. The response, in support, was received from Steve Walsh, the director of the Vine Neighborhood Association.
- 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 in the packet provided by staff and there were no other documents received.
- 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:

Matt Milcarek, spoke on behalf of the Kalamazoo Neighborhood Housing Services, about the intent to build similar styled homes, as found in the neighborhood. The east neighboring lot is sized smaller than current zoning. As stated by city staff the lot width would be 37 feet for the three new parcels and are in line with other lot sizes in the area. The property is zoned RM-36 which is high density zoning district. City staff believes it fits in with the strategic city plan and supports the Vine Neighborhood plan. There was one caller, April Pott-Easter, who felt the flooding issues would be exacerbated by the addition of the parcels.

Mr. Terpening seconded the Finding of Fact.

Chair Lager asked if there was additional discussion and Ms. Harrington asked if the issue surrounding flooding that the caller spoke of, has more to do with the impervious surfaces and could it exacerbate that issue could the development increase the chances of flooding. Mr. Eldridge stated the caller was really speaking to the flooding around Bronson Hospital and that it has received the attention of the city.

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

Ms. Doane moved to approve the application for a dimensional variance from Appendix A, Chapter 5, Section 5.1 of 2,635 square feet to authorize the dividing of two lots into three

buildable lots. Each proposed lot will be between 3,078 and 3,135 square feet, where 4,000 square feet is the stated buildable lot size for this zone district, with a second by Mr. Carroll.

Discussion:

Mr. Terpening said he will be in favor of the variance and as a resident of Vine and the chair of the neighborhood association he feels it would be a great addition to help take care of some of the tenancy issues in the area. He spoke to the flooding and added that there is a lot of work going on in the surrounding area that should help alleviate some of the stress caused by the flooding.

Ms. Harrington said she will also be in favor because of KNHS's continued work to support home ownership in Kalamazoo.

Motion approved by roll call vote unanimously.

Ms. Doane read the application for 1000 W. Kilgore Road, Parcel #06-33-462-001:

ZBA#22-02-04: 1000 W. Kilgore Road: An application for a dimensional variance of the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Hackett Catholic Prep School for 1000 W. Kilgore Road which is situated in Zone RS-5, Residential-Single Dwelling District. The applicant is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1 to authorize the installation of a new 62 square foot freestanding sign for the school where the maximum size is limited to 46 square feet per the Zoning Board of Appeals variance granted in 2005.

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

Steve Vandersloot, an employee of Sign Art in Kalamazoo, spoke on behalf of the school. He stated that Hackett was one of the first schools Sign Art chose to use LED lighting but in 2008 the company that made the LED panels, and any replacement parts, went out of business. They have now decided to redesign the sign to take out electronic portions of the sign to restore portions of the sign with a traditional cabinet to include a reader board where the slogan used to be. He stated that size and proximity of the actual sign will remain the same and they are working with what they have. He stated that the school hasn't received any complaints about the sign in all of the years it's been there.

Chair Lager asked for comments/questions from the public and there were none.

Mr. Carroll asked what the specifics of the 2005 variance were and Mr. Eldridge said was twofold: an increase in square footage from 32 square feet to 46 and the height was increased from six to eight feet but it didn't address the digital display because the 25% standard was not in place at the time, so the sign is technically out of conformance because the digital display covers, roughly, 40% of the sign area. Mr. Carroll verified the standard is 25%, the current sign is at 40% and asked where the sign is headed back to and Mr. Eldridge replied the sign is headed back to the

25% digital display size. He added that they will be increasing the fixed portion of the sign and decreasing the digital but overall the sign will be 16 square feet larger than it is now, which triggered the need for the variance and that they are going from 46 square feet to 62 square feet. Mr. Carroll said he thought the applicant said the height wouldn't change size, Mr. Vandersloot said yes, Mr. Carroll asked what is changing about the sign and Mr. Vandersloot pointed out the changes. Mr. Carroll asked if the overall area of the sign of the digital sign is increasing or decreasing and Mr. Vandersloot said he couldn't recall. Ms. Harrington asked if they were increasing the size of the sign in terms of the proportion of the LED which will make it 25% but right now is at 40% but because of the proportionality of it, it will go back to 25% and Mr. Vandersloot said yes. Mr. Carroll asked if the sign is in compliance why is he here and Mr. Vandersloot said the overall area of the sign (increasing by 16 square feet) exceeds what was approved from the previous variance.

Chair Lager asked if there were staff comments and Mr. Eldridge stated it's in the RS-5 Residential Single Dwelling district and they are trying to be mindful of any sign approvals in this zoned district. He spoke to the sign location in relation to the primary entrance to the school, he also noted the speed limit on Kilgore is 35 miles per hour and given various factors and the location of the sign the city sees no concerns with it. He also pointed out the letters sent to area properties owners and there were no responses. He said that the area is still low density residential however there are schools in the area both public and private. He said staff is in support, which will allow the use of the sign frame that is already there.

Chair Lager asked if there were any public comments in favor and Richard Stewart voiced his support stating he was happy a local sign business was used and he stated his own experience with digital signs and how they helped benefit him. An anonymous speaker stated there was no public notice of the hearing posted outside.

Chair Lager asked for public comments opposed and there were none. There were also no phone in comments.

Chair Lager closed the public hearing.

FINDING OF FACT

Ms. Harrington moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1000 W. Kilgore Road shall include all information included in the notice of public hearing dated January 26, 2022.
- 2.) 196 notices of public hearing were sent, zero responses were received and are part of the record.
- 3.) A public hearing was held before the board and public comments were accepted. One comment by Richard Stewart in support and one comment from an anonymous person who stated there was no notice of the meeting outside.

- 4.) The Zoning Board of Appeals received documents on the request in the packet provided by staff and there were no other documents received.
- 5.) The Finding of Fact shall include those documents just described and all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Hackett Prep School embodies approximately 30 acres and 1100 feet of frontage on Duke Street and Kilgore Road. The parcel is in the Residential Single Dwelling district. On July 14, 2005 the Zoning Board of Appeals granted a dimensional variance for 46 square feet of a freestanding sign with special usage in the RS-5 district where only 32 square feet was allowed. The reasoning was to provide more visibility in a higher than normal traffic area. The new sign proposed will be constructed on the existing post. The LED lights will now fall in line with the ordinance, which is 25% where the current sign is at 40%. Staff is in support of the change.

Mr. Carroll seconded the Finding of Fact.

Chair Lager asked for additional discussion and there was none.

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

Ms. Doane made a motion to approve the application for request for a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1 to authorize the installation of a new 62 square foot freestanding sign for the school where the maximum size is limited to 46 square feet per the Zoning Board of Appeals variance granted in 2005, seconded by Mr. Carroll.

Discussion:

Mr. Carroll addressed not having a public notice of the hearing and asked the city assistant attorney if the meeting could legally be held and Mr. Eldridge outlined the steps taken to notify the public but said he will follow up on where exactly notifications are posted in and around the building and asked if Attorney Bear had anything else to add. Attorney Bear stated the minimum requirements of the statute to notify the public have been met.

Chair Lager stated he will be in favor of the motion.

The motion was granted by roll call vote unanimously.

Ms. Doane read the application for 121 Fellows parcel #06-22-190-107 into the record:

ZBA #22-02-05 121 Fellows: An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Dan Bannigan for 121 Fellows Avenue in the Residential – Multi Dwelling District (RM-36). The applicant is requesting a dimensional variance from Appendix A, Chapter 12, Section 12.3, to authorize a variance to allow a Bed and Breakfast operation in the ground floor unit of the duplex where the principal residence of the operation is in the second floor unit. The Zoning

Ordinance states the owner or operator is to reside in the same dwelling unit as the Bed and Breakfast.

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

Chair Lager recused himself citing a conflict of interest but stated he will still conduct the meeting.

Dan Bannigan, the owner of the property, is asking to operate the Bed and Breakfast on the ground floor and he will reside on the second floor. He said he has talked to his neighbors and asked if anyone noticed a change in the traffic in and out of his house and some said yes but one said no. He asked them if they had been inconvenienced in any way or if they had any concerns and they all said no. He said he also reached out to Steve Walsh, who stated he ran out of time to send his letter in to the city but he is in support. He said he wanted to share some personal experience. He said he is happy to provide a clean, comfortable space in the community for those outside of the community. He's had a variety of people from across the country stay at his place and he feels he offers a unique space and all of the people he has hosted told him they appreciated his space and having their own place to eat, sleep, and cook their own meals and his place suited their needs better than traditional offerings.

Mr. Carroll asked him how it's marketed and Mr. Bannigan said as an Air BnB. Mr. Carroll asked who makes the breakfast and Mr. Bannigan stated per the wording of the ordinance he only needs to provide pre-packaged meals. Mr. Carroll asked if he were to provide packaged meals would he suddenly become an Air BnB. Mr. Eldridge said not necessarily but it depends on the zoning district. Mr. Carroll said he stayed at an Air BnB and they provided food for him, so he didn't realize it was a Bed and Breakfast. He stated he is struggling with the difference between an Air BnB short term rental and this situation. He said he was supportive because it seemed like a great idea but it's marketed Air BnB and said the board has voted against those in the past few years. He wants to know what the difference is. Mr. Eldridge stated that an Air BnB doesn't have the owner on the premises and by definition, a Bed and Breakfast has to have the owner reside on the premises. He added that even though the owner is in the same building he's technically in a separate dwelling. Mr. Carroll said about six months a couple came in and wanted to use one side of their duplex as a short term rental and it was denied. He said the object was to be consistent and supportive of the community, even though he is supportive of Mr. Bannigan. Mr. Carroll still wanted to know the difference between what this is and the acronym BnB and Mr. Eldridge said the other case he is referring to is in the Residential-Duplex zone district and wasn't in the Multi-Dwelling zoning district. He added that this one is in a high-density zoning district, so the difference is the density of the district and they also wanted to use their home as a short term rental and was more hands off. Mr. Carroll asked Mr. Bannigan if he was there to greet the guests every time and Mr. Bannigan said he believes he was. Mr. Carroll said he still didn't see the difference, other than the zoning. Chair Lager asked that this be discussed after the Finding of Fact and asked if there were any other questions for the applicant and Ms. Harrington asked if he was located near VanderSalm's and he said yes she then asked how many other owner occupied homes were on his street and he replied three and two vacant homes on the street as well. She asked if there were rentals as well he replied there is a rooming house and other rentals. Mr. Terpening asked what the parking looks like for his place and Mr. Bannigan said there is room for four cars in his driveway.

Chair Lager asked if there were any staff comments and Mr. Eldridge stated there is a rooming house owned by Kalamazoo County Housing Choices and it is in a commercial zone district

Fellows is an RM-36 until it gets to South Burdick where a few houses are in the commercial zone. He added that Mr. Bannigan contacted the zoning inspector, Jared Chambers, to see if this is the appropriate course of action to take for what he wants to do and Mr. Chambers put him in touch with Mr. Eldridge. Mr. Eldridge said he looked at other circumstances that have been before the board and have examples in the staff report, which he cited. He added that those examples are slightly different because technically Mr. Bannigan will be in the same structure but on a different floor. He stated the ordinance states a Bed and Breakfast has to be located in a detached house as where the operator lives. He said it is in line with the strategic goals of the neighborhood being a form of lodging. He added that it is a more intensive residential zone district, and the Imagine Vine plan supports an increase in housing options. He added there were three letters of support each from 115, 124, and 125 Fellows and Steve Walsh from the Vine Neighborhood Association sent him an email in support however, he didn't have the chance to bring it up to the association board. The staff supports this variance application.

Chair Lager asked if there were any public comments for and an anonymous person made a statement that he was for the variance and said he feels if someone owns a house they should be able to do what they want to do with it. He stated the asked that the city please bring back the calendar to the website.

Chair Lager asked if there were any public comments against and there were none, there were also no phone calls for this case.

Chair Lager closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 121 Fellows shall include all information included in the notice of public hearing dated January 26, 2022.
- 2.) 81 notices of public hearing were sent, three responses in support were received and are part of the record. 115, 124, and 125 Fellows responded in support and an email was received from Steve Walsh, the director of the Vine Neighborhood Association.
- 3.) A public hearing was held before the board and public comments were accepted. One comment was made by an anonymous person in support.
- 4.) The Zoning Board of Appeals received documents on the request in the packet provided by staff and there were no other documents received.

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:

Dan Bannigan spoke and is in the same building but on another floor of a duplex which currently the ordinance doesn't allow to be used as a bed and breakfast but he feels it meets overall intent of

the ordinance. There is no known neighbor opposition. The difference between this and a case that was denied is that one was in a lower density area and more hands off. Staff comments of other variances granted for one in an adjacent building, in another case the operators lived in one of three BnB buildings. The definition of what is considered an BnB is under review. Citizens are in favor that people should be able to do what they want with their homes but was concerned this could affect their property taxes. There was a suggestion that the calendar return to the website.

Ms. van den Hombergh seconded the Finding of Fact.

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

Ms. Doane made a motion to approve the application for a dimensional variance from Appendix A, Chapter 12, Section 12.3, to authorize a variance to allow a Bed and Breakfast operation in the ground floor unit of the duplex where the principal residence of the operation is in the second-floor unit. The Zoning Ordinance states the owner or operator is to reside in the same dwelling unit as the Bed and Breakfast, seconded by Ms. van den Hombergh.

Discussion:

Mr. Carroll stated he would vote in favor because it is consistent with the other approvals that they have come across and they are in a zone district that allows for this but he pointed out the city should do something about the ordinance since this issue keeps coming up and he added that he agreed with the anonymous speaker that people should be allowed to do what they want with their homes. He added that in light of the housing crisis that we keep hearing of, why aren't more of these spaces being rented out to locals instead of out of towners.

Mr. Terpening said he will be in favor to spite the city for not moving in a timely manner regarding the ordinance. He also said every Bed and Breakfast he has ever stayed at prepared his breakfast and that's what he expects and always will. He added that as a resident of the Vine area he believes this will be advantageous.

Ms. van den Hombergh said she will be in favor and while she understands the concerns with the Bed and Breakfast issues, she added because of the zoning there is a big difference between this application and what happened last year.

Ms. Harrington said she will vote in favor for this as she voted for the one from last year. She said she feels people should have the autonomy to use their homes for supplemental income and as they see fit.

The motion was granted by roll call vote unanimously.

Ms. Doane read the application for 210, 216, 220, 302, 302 (Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue parcel #06-22-344-263, #06-22-344-262, #06-22-344-261, #06-22-415-001, #06-22-415-260, #06-22-415-002, #06-22-415-259, #06-22-410-002, #06-22-349-001 and #06-22-349-003.

ZBA #22-02-06: 210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street /205 and 209 E. Stockbridge Avenue: An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Kalamazoo County Housing Choices for 210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street /205 and 209 E. Stockbridge Avenue; which are situated in use Zone CC, Commercial – Community District; Zone CN-1, Commercial – Neighborhood District; and M-1, Manufacturing – Limited District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q.3, to allow residential dwelling units on the ground floor level of each of the proposed apartment buildings (60 residential units total), where retail or other commercial floor space is required on the ground floor. Please note that this is a renewal of the same variance granted on December 10, 2020 which has expired.

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

Lisa Wilcutt, a representative of the LIFT foundation, the only non-profit multi-family housing developer in Kalamazoo, spoke on behalf of Kalamazoo County Housing Choices. The project is in line with the Imagine Kalamazoo 2025 plan which calls for affordable housing adjacent to the downtown area. They are also applying for site plan approval but there have been some changes since that occurred, including the area being put in the Natural Features Protections overlay (NFP). Some of the features that were seen before which has to do with surface water retention now has to run underground. She said they know there was a concern about water being pushed onto Lake Street properties, which is already in a flood zone. They are looking to disperse the water onsite and also looking to disturb as few trees as possible. They plan to apply for tax credits in October so they figured doing this now would give them ample time to complete any tests needed other than that, the project remains the same.

Chair Lager asked, as a refresher, would the ground floor still house residential as well as a childcare center and Ms. Wilcutt said yes. There are two buildings: one perpendicular to Stockbridge and will have commercial office and community center on the first floor and the second is along Stockbridge, will be a two-story building on the first floor there will be the frontage area to the daycare. She said the daycare would be there to serve the whole community, not just the apartments. Ms. Harrington asked why this project has been before the board three times and what were the outcomes and Ms. Wilcutt replied the primary funding for the development and the tax credits are through the Michigan State Housing Development Authority and it takes a few times to get approved and she said as they're waiting sometimes the expiration date comes and goes and they have to reapply. Ms. Harrington asked what other developments LIFT has developed and Ms. Wilcutt listed them. Ms. Harrington asked if the others were developed using the same type of funding and Ms. Wilcutt said no. Some were developed through Section 8 and other sources. Ms. Harrington asked if the holdup was an indication of not being able to oversee the project to success and Ms. Wilcutt said no they are trying to do this ahead of time because MSHDA changes every 18 to 24 months. Mr Carroll asked if she is requesting the 18 months or is the city. Mr. Eldridge said that has been discussed because of the funding sources and the time it takes to design the site.

Chair Lager asked if there were any staff comments and Mr. Eldridge stated the only reason the project is before the board again is because of the commercial zoning, which occupies those parcels along the front of Stockbridge and that's where the development will be located. The present CC zone district doesn't allow for residential units on the ground floor. This variance has been before the board before in February of 2019 and December of 2020 and at those times they were trying to align the funding and the tax credits and other sources to get the project off the ground. He added Covid-19 halted the state for a period of time and now the project is back on track. The site plan has been presented to city staff and they are currently working with stormwater engineers. The hope is the project can begin in 2023. He added that the last staff reports touched on the additional housing stock this project would provide and it also aligns with the Edison Neighborhood plan to create more affordable housing and staff will support it.

Chair Lager asked if there were any public comments in favor of the motion and there were none.

Chair Lager asked if there were any public comments in opposition and Richard Stewart, who is a longtime resident of, and has a business in the Southtown neighborhood, which was formed by the city in 2015, spoke about the city not accepting the Southtown neighborhood plan. He added that his neighborhood opposes the destruction of these parcels and for the Southtown neighborhood plan, it is their only natural resource, natural watershed, and their only natural wildlife habitat. He also questioned why Kalamazoo Housing Choices is the applicant, but LIFT is presenting and said since the last variance approvals things have change and the area was added as an NFP. He asked that the board deny this request until the city recognizes the Southtown neighborhood plan. Mr. Eldridge added that he has a layout that he would put on the screen so everyone had a visual. Chair Lager asked if there were any more comments and Tina McClinton, a longtime resident of the Southtown neighborhood, reiterated what Mr. Stewart said and she added that this green space is what has helps protect the homes in the area from flooding worse than what they already do. She feels Southtown is being targeted for high density homes and homeless shelters at the old DHS building. She wanted to know why not put the development over there instead of taking away the only green space they have. She stated times over the past years that there has been flooding and times there hasn't, which was due to flooding. She also stated that she has neighbors that didn't receive letters. An anonymous commenter, who was not a member of that neighborhood, played a recording that described they mayor's role in this project and stated that the mayor, who runs the city and is responsible for setting the rules, is asking that he not have to follow the rules.

Chair Lager asked for telephone comments and there were none at the time.

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 210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street/205 and 209 E. Stockbridge Avenue shall include all information included in the notice of public hearing dated January 26, 2022.

- 2.) 54 notices of public hearing were sent, zero response was received and are part of the record.
- 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 in the packet provided by staff and there were no other documents received.
- 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:

Lisa Wilcutt of the LIFT foundation spoke on behalf of Kalamazoo County Housing Choices for a use variance for residential units on the ground floor of the property to better serve the community. They are still working on a site plan and securing tax credits. Richard Stewart spoke in opposition due to Natural Features Protections concerns, Ms. McClinton also spoke in opposition due to flooding concerns, and Benjamin Stanley shared concerns of the city possibly having a personal conflict of interest.

Mr. Carroll seconded the Finding of Fact.

Discussion:

Mr. Terpening wanted to know how this all originated because he recalls the last time there were no alleviations of flood concerns and the time before that there were size requirements that needed to be adjusted and the time before that it was to meet the retail versus capacity for the ground floor and he said it seems they keep bending the rules one time at a time to make this a possibility and while he is for housing, he finds it difficult to get rid of the greenspace the community is so passionate about. Mr. Eldridge said it is the same use variance request but there have been adjustments over the years to the site layout. There have been improvements to the south out of the flood plain. He stated the area is part of the NFP and that increases the amount of review it has to go through because it's near water and the latest version is taking into account the NFPs and they are working with environmental regulators. Chair Lager stated that the issue before them is not to approve the project, but strictly to grant the variance and restated the zoning ordinances restrictions regarding residential units on the ground floor of housing developments in the area. He pointed out they granted this type of variance in the past and that this shouldn't be treated differently. He added that since there is a need for more affordable housing, not requiring developers to adhere to the commercial zoning standards, the projects will be more feasible and he is in favor. Mr. Eldridge asked that they finish the Finding of Fact motion.

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

Ms. Doane made a motion to approve the application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Kalamazoo County Housing Choices for 210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street

/205 and 209 E. Stockbridge Avenue; which are situated in use Zone CC, Commercial – Community District; Zone CN-1, Commercial – Neighborhood District; and M-1, Manufacturing – Limited District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q.3, to allow residential dwelling units on the ground floor level of each of the proposed apartment buildings (60 residential units total), where retail or other commercial floor space is required on the ground floor. Please note that this is a renewal of the same variance granted on December 10, 2020 which has expired. This one will expire in 18 months and was seconded by Ms. van den Hombergh.

Discussion-continued:

Ms. Harrington wanted to know why are they before the board with the site plan being expired and Mr. Eldridge stated the variance and the site plan expired and that is why they're back. Ms. Harrington said they shouldn't be here before they have the site plan and Mr. Eldridge said they need special approvals before going back to site plan. Ms. Harrington asked who was going to deal with the NFP and Mr. Eldridge said that this goes before the NFP coordinator and if there are any issue raised, it will go to the NFP board and they will look at it. Mr. Carroll asked if the city controls the NFP and Mr. Eldridge said staff from different departments on the city side who look at the NFP. Mr. Carroll asked if, in his experience, would the concerns of the Southtown neighborhood be enough to escalate this issue to the NFP board and Mr. Eldridge said there is a process and part of the process involves the neighborhood organizations, but he would take that question back to who it needs to go to. Mr. Carroll said he will not be in favor because he has never seen an 18-month request, but variances are 12 months. Mr. Carroll asked what the roll call vote was for the previous times, but he felt it was a no. Mr. Terpening said as a part of the Vine neighborhood association he feels that part of Southtown encompasses the Vine area and the reason he joined the board was because he now has a cesspool in his front yard because a local business was able to put a drainage pond in as opposed to water retention for drainage reasons. He will be voting no. Mr. Carroll said he still has questions because he remembers when an NFP representative came to the board and there was a 45-minute discussion about one tree and he can't understand why this isn't as important as that one tree. Ms. Harrington said the conversation, she doesn't think, was about the tree as much as it was about personal philosophies and honoring what our communities really want. She feels that the term affordable housing is offensive and listening to the way the constituency in that area has been ignored, she will be voting no. Mr. Eldridge said he went back through the 2020 minutes and the vote was a unanimous approval for a use variance but he doesn't know what happened in 2019. He also said that the board was straying off topic and the topic was for a use variance for a commercial zone where there is a requirement for commercial space on the ground floor but they are asking for residential on the ground floor. He added that the oversight of the project is multi-tiered and there are many regulations that have to be adhered to and will be followed up on by their respective local and statewide agencies. Chair Lager reread the application and then he read the standards for voting on a use variance and gave commentary on how the application is affected by each standard point. He added that the board needs to stick to addressing the components of the application. Ms. Harrington went through the standards and gave commentary as well because she felt they were addressing the components. Chair Lager pointed out that they were only there

to make a decision about the variance and not about the development itself. Mr. Carroll said he appreciated the Chair bringing them back to the points at hand but the points required that all standards are met and the word all is the only word underlined. He pointed out that even though he understands Ms. Harrington's position in his opinion, three of the standards weren't met. He also went on to speak about the spirit of the city's "Live-Work" ordinances and stated that we would never get to that if everything is all for residential. Chair Lager asked if Live-Work was in a special zone district or is that in every zone district and Mr. Eldridge stated it is becoming more prevalent in the commercial districts but for the CC zone requires residential to be pushed up to the second floor and the front part of this building, in this instance, will have a daycare. He added that these are the same buildings that were approved in 2019 and in 2020 but there have been some improvements made but other than that, nothing has changed, and Mr. Carroll concurred but added that what has changed is board members and interpretation of the situation. Chair Lager asked Ms. Wilcutt why it is that they wanted to put more residential on the first floor and she said basically there isn't much use for commercial spaces. She wanted to add that they wouldn't be removing many trees but there is a house, two buildings and a barn that has been or will be removed. She said that all of the changes that were being made were being made in response to the neighbors.

There was a roll call vote and motion did not pass.

No - Terpening, Carroll, and Harrington

Yes - Lager, van den Hombergh and Doane

OTHER BUSINESS:

The next agenda item was the election of board members. Mr. Eldridge explained that there is only a voice vote needed.

Chair Lager said the potential slate was Jeff Carroll as the new chair and Christina Doane as the secretary.

Mr. Terpening made a motion to approve the suggested slate of candidates, seconded by Ms. van den Hombergh.

The motion was carried by voice vote unanimously.

Jeff Carroll was elected the new chair, Matt Lager and vice chair and Christina Doane was re-elected as secretary.

Mr. Carroll voiced his concerns about the Finding of Fact being difficult and wanted to know if there was an education or training involved. He also brought up city staff recommendations and wanted to know if other boards around the country was also given recommendations from their local municipalities and said sometimes he wonders why is he there if the city is going to make recommendations. He said he wanted to know the difference between city recommendations and the approval or non-approval of the board. Ms. van den Hombergh agreed about the Finding of Fact and added that she has never felt pressured to base her vote on the staff recommendations. Mr.

Eldridge said they can put together a training for the Finding of Fact. He added that the city gets a lot of requests everyday for developments and a lot of the requests are outside the bounds of the ordinances, so they meet with those people to find out how to help them. He added that he realizes the staff reports are more in depth than they used to be because city staff is trying to give as much information as possible. Attorney Bear answered that other municipalities do give staff recommendations and part of the boards job is to base their decisions on the facts. Ms. Harrington said she appreciates what Mr. Carroll brought up but she is glad to be in a position where she can help others get involved in a process that they may normally not be involved in.

Chair Lager brought up the annual report that is in the packet and encouraged everyone to look at it.

ADJOURNMENT:

The meeting was adjourned at 9:47 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Zoning Board of Appeals Staff Report

Date: **4/14/2022**

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: April 14, 2022

SUBJECT: ZBA #22-03-08: 3400 Stadium Drive. Yes Acquisitions LLC is requesting a use variance from Appendix A, Chapter 4, Section 4.1, to authorize the redevelopment of a mobile home park on this site, where in the CC District this is not a permitted land use.

BACKGROUND:

The parcel at 3400 Stadium Drive is 10.7 acres. A mobile home park did occupy the parcel with 70 pad sites until 2009, when it shut down and all the mobile homes were removed. Yes Acquisitions LLC has an option to purchase this site and plans to reestablish a mobile home park. Yes Acquisitions LCC is the same company that owns the Twinleaf Mobile Home Community at 3614 Stadium Drive, which is directly adjacent to the west. This company also owns the Americana Estates Mobile Home Community at 1802 Tray Lane. Both active mobile home parks are also located in the Commercial - Community District.

There is a short history of attempts to redevelop this site with an apartment complex. Projects were put forward in 2006, 2008 and 2012 which were all granted a use variance to allow the ground floor level of the buildings to be residentially occupied in place of the required commercial space. None of these projects got past the concept plan stage.

Yes Acquisitions LLC has indicated that a mobile home park development will result in a lower intensity development than a commercial development. The layout would include 70 single-story structures and a significant amount of green space. The applicant has cited several practical difficulties in utilizing the property for a permitted commercial development due to the site having only 50 feet of frontage on Stadium Drive. Additionally, there is no visibility of the site from Stadium Drive due to topography and the 350 feet distance from Stadium Drive to the main site area.

The floodplain boundary was also a concern for prior redevelopments. A detailed floodplain survey was completed and the preliminary floodplain map amendment (in the attachments) shows that almost the entire site is outside the floodplain.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision and Master Plan 2025 Alignment:

The proposed project touches on the Strategic Plan with regard to the Complete Neighborhood Goal. This development would provide 70 additional housing units and add to the variety of housing types available. The Master Plan 2025 Future Land Use Map identifies this property and the surrounding area as commercial, which is appropriate for the large parcels with substantial frontage on Stadium Drive, but the subject property has proven to be challenging to develop.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Appropriate Depth of Engagement:

Notices were sent out on February 23rd to all property owners within 300 feet of the subject and a notice was placed in the Kalamazoo Gazette.

Engagement/Communication Tools:

Letters and notices are newspapers.

FINDINGS:

The staff has made the following findings regarding this request:

1. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes of using the property for a permitted use is identified by the Zoning Ordinance, which is a right commonly enjoyed by other land in the same zone district.

The Zoning Ordinance does not permit mobile home communities; there are several legal nonconforming mobile home communities directly adjacent and nearby in the same CC District. By right, commercial uses could be placed on this site. However, as previously noted, it has no visibility from the commercial street of Stadium Drive, accessed from a long driveway. The shape of the lot and lack of visibility make it a challenging site for retail and service-based businesses.

2. That there is an unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.

The site is not desirable for commercial development due to limited frontage on Stadium Drive and lack of visibility.

3. That the special circumstances are not the result of the actions of the applicant. The special circumstances are not the result of the actions of the applicant.

Decades of bringing in fill material to elevate the frontage parcels on the northside of Stadium Drive in this area has left this site obscured from view and with limited access. Since the shut down of the prior mobile home park in 2009, all attempted redevelopment projects have been unsuccessful.

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 the variance is the minimum action necessary to allow for the redevelopment of this site for a mobile home park in a manner that will not be contrary to the public interest. There are also many businesses in the area that could benefit from an increased customer base with the proposed 70 residential units.

5. That the granting of the variance will not adversely affect adjacent land in a material way. The use variance will not result in any adverse impacts on adjacent properties.

The site is adjacent to a mobile community to the west, an Amtrak railroad to the north, and commercially improved properties to the east and south. Further, the site functioned for many years as a mobile home community prior to its closing.

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

The granting of the use variance will be consistent with the purpose of the ordinance to guide orderly development by approving a development that is appropriate for this isolated parcel in the CC District, which is also compatible with adjacent land uses.

RECOMMENDATION:

Staff recommends approval of the use variance given the difficulty in commercially developing the site with the limited frontage and lack of visibility from Stadium Drive.



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

February 22, 2022

**RE: ZBA #22-03-08
3400 Stadium Drive
Parcel #06-30-231-005**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Yes Acquisitions LLC for 3400 Stadium Drive in the Commercial – Community District (CC).

The applicant is requesting a use variance from Appendix A, Chapter 4, Section 4.1, to authorize the redevelopment of a mobile home park on this site, where in the CC District this is not a permitted land use.

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

The meeting will be held on Thursday, March 10, 2022, at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the [City's Facebook page](#) and [YouTube Channel](#).

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: Brian Dougherty		Mailing Address: 5050 S Syracuse St, Suite 1200
City: Denver	State: Colorado	ZIP Code: 80237
Phone: 970-214-5777	Email: bdougherty@yescommunities.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: Yes Acquisitions, LLC		Mailing Address: 5050 S Syracuse St, Suite 1200
City: Denver	State: Colorado	ZIP Code: 80237
Phone: 970-214-5777	Email: bdougherty@yescommunities.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 3400 Stadium Drive		
Parcel Identification Number(s): 06-30-231-005		Zone District (kalamazoo-city.org/maps): CC
TYPE OF REQUEST		
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____		
☒ Use Variance to allow <u>Mobile Home Community</u>		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____		
☐ Temporary Use Approval		
Reason for Request: Use variance to allow development of mobile home park in parcel zoned CC-Community Commercial		
ATTACHMENTS		
☒ \$ 375 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: <i>Brian Dougherty</i>		Date: 2/10/2022
Signature of Owner (if different than applicant): <i>Anthony Agent</i>		Date: 2/10/2022



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Are the special circumstances created by actions of the applicant?

See Attached

Will the granting of the variance be the minimum action necessary for the use of the land or structure that will meet the spirit of this Ordinance?

See Attached

Will the granting of the variance negatively affect adjacent land?

See Attached

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

See Attached



February 10, 2022

City of Kalamazoo – Zoning Board of Appeals
245 N Rose Street, Suite 100
Kalamazoo, MI 49007

RE: Use Variance Request
Yes Acquisitions, LLC– 3400 Stadium Drive

Dear Zoning Board of Appeals Members,

Yes Acquisitions, LLC (Yes Communities) is in the process of potentially purchasing and planning to develop the property at 3400 Stadium Drive into the Wayside Mobile Home Park. This community is planned to include the addition of approximately 70 residential units, open space, parking facilities, and internal sidewalks. Yes! Communities is under contract to purchase the subject parcel pending this variance to allow our proposed use. Yes! Communities is committed to investing in their residents by providing friendly, inviting, affordable neighborhoods so that, together, they can create communities that the residents can call home.

We request a deviation from Chapter 4 of the Zoning Ordinance, § 4.1 of the allowed uses for CC Community Commercial District, to allow for RMHP, Mobile Home Park District use. We believe that constructing a Mobile Home Park fulfills the purpose and intent of the City Zoning Ordinance better than a commercial development would.

We offer the following answers to the standards of approval for a Use Variance Request:

Standard #1. Does the Ordinance deprive the applicant from using the property for a permitted use, which is a right enjoyed by other property owners in the same zone district?

Summary:

- A. An adjacent parcel and several nearby parcels within the same zoning district are also in use as Mobile Home Parks.

The parcel located at 3614 Stadium Drive and directly west of this parcel is also zoned CC-Community Commercial, and currently has the same use as our proposed use of Mobile Home Park. While the Ordinance itself does not specifically prevent the installation of a commercial development on this parcel, 3614 Stadium Drive and several other parcels nearby in the same district also share the proposed use of Mobile Home Park.

Standard #2. Is there a hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district?

5050 S. Syracuse St, Suite 1200
Englewood, CO 80111





Summary:

- A. This parcel has only 50 feet of frontage along Stadium Drive, which makes access to this parcel difficult.
- B. This parcel is adjacent to an active high-speed rail line, which is unattractive for a potential commercial development.
- C. This parcel is set back away from Stadium Drive behind another parcel, which reduces visibility to the site.
- D. There is a vacant commercial space at 3604 Stadium Drive, the parcel directly south of this parcel. It remains vacant despite several advantages it has over any potential commercial development on our parcel.

The subject parcel is unattractive for development of a commercial use, and it is unlikely to be the target of a commercial development. Several previous use variances have been approved for this parcel. On August 10, 2006, January 10, 2008, and November 8, 2012, use variances were approved for this parcel. These proposed developments did not gain any traction and were unable to move forward before each variance expired. The parcel consists of a 10.7-acre square area set back from Stadium Drive by 350 feet. The square section of the parcel is connected by a 350 foot by approximately 50-foot (width varies) access corridor. This narrow corridor severely limits the access to the main portion of the parcel and would not adequately serve a large commercial development. Because the main portion of the parcel is set back so far, any commercial development would become more difficult to spot from Stadium Drive, reducing both intentional in impulse customers. The parcel also abuts onto an active rail line. The noise and sight of the rail line further reduce the attraction of this parcel as a commercial development. Directly south of this parcel lies a partially vacant 20,000-square foot commercial space. Previously a bar, it has remained vacant for several years until a retail facility occupied the eastern third about a year ago. The western two-thirds remain vacant. This existing commercial space has remained vacant for years, despite the fact that the building and parking facilities are already constructed. If a retail space with existing facilities, easier access, and much more visibility is not in current use, it is unlikely that a commercial development on our parcel would be attractive to developers.

Standard #3. Are there special circumstances created by action of the applicant?

Summary:

- A. Yes! Communities has not taken any action that would create special circumstances for this project.

The clear intention of the City of Kalamazoo in zoning this parcel as CC-Community Commercial was to create a corridor of commercial shops and businesses between Stadium Drive and the Amtrack Rail Line. Because of outside forces, parts of this corridor and this parcel in particular have become unattractive locations for commercial development and would be better served by a different use.

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Englewood, CO 80111





Standard #4. Will the granting of the variance be the minimum action necessary for the use of the land or structure that will meet the spirit of the Ordinance?

Summary:

- A. Granting the use variance is the minimum action necessary, other options, such as rezoning the parcel to match contiguous property uses is a much more intense action.

In order for the proposed development to be permitted, this site will either need to be rezoned into a district that lists Mobile Home Park as a permitted use, or this variance request must be granted. The process of rezoning a parcel is extensive and requires Future land use map amendment, followed by zoning map amendment, which can take several years to accomplish. This use variance is a much simpler process that is more likely to succeed. Yes! Communities' purchase and development of this parcel is contingent upon this variance being approved.

Standard #5. Will the granting of the variance negatively affect adjacent land?

Summary:

- A. An adjacent parcel and several nearby parcels within the same zoning district are also in use as Mobile Home Parks.
- B. Improvement of this parcel from its current vacant condition will provide a positive benefit to adjacent land.

Granting this use will not negatively affect adjacent land because there is already precedent for this use being granted in this area. The parcel located at 3614 Stadium Drive and directly west of this parcel is also zoned CC-Community Commercial, and currently has the same use as our proposed use of Mobile Home Park. Adding another mobile home park next door will not cause hardship to any existing neighbors. Our parcel is currently vacant and has been so for almost 15 years.

Standard #6. Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?

Summary:

- A. This development would Conserve Property Values by improving currently vacant land and repairing the existing abandoned drive entrance.
- B. This development would Prevent Building Overcrowding by providing a smaller total building and pavement footprint than a large commercial development would.
- C. This development would Lessen Public Congestion by moving population closer to commercial uses.

Consistent with §1.5 of the City of Kalamazoo Zoning Ordinance items B.4, B.5, B.6, B.9, B.11, B.12, and B.13, this proposed project meets the purpose and intent of the Ordinance. Specifically, items B.4, B.6, and B.9 are served by this development:

Allowing the creation of this mobile home park will conserve property values by removing the unsightly vacant land and improving the appearance of the existing abandoned drive entrance along Stadium Drive. The existing drive entrance features a shabby, overgrown sign, cracked pavement, tall weeds, and a rusty

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Englewood, CO 80111





access gate, all of which would be removed and updated were this project to proceed. This parcel has been vacant for almost 15 years, which has allowed the site to degrade drastically. It is now filled with destroyed pavement and overgrown with weeds and junk trees.

This project would also reduce building overcrowding compared to a commercial development because the total area of roofs and parking for a shopping center would be much larger than the area from a mobile home park. The area of parking alone would drastically reduce rainwater infiltration in the area and increase stormwater runoff. The parcel directly to the south has about 4.2 acres of impervious area, with almost no green space or trees other than those growing around the perimeter of the site.

Granting this variance will reduce public congestion by moving population closer to commercial uses. Any residents of the proposed development would have easy walking access to the restaurants and retail spaces along Stadium Drive and would not need to use cars to reach these spaces. Even if the residents do use cars to reach nearby businesses, the overall trip distance would be shorter, which also reduces congestion.

We greatly appreciate your understanding and consideration for this request and thank you for your time.

Sincerely,
Yes Acquisitions, LLC

A handwritten signature in blue ink, appearing to read 'Brian Dougherty', is written over the typed name. The signature is stylized with a large, sweeping 'B' and a long horizontal stroke extending to the right.

Brian Dougherty

5050 S. Syracuse St, Suite 1200
Englewood, CO 80111





THE SITE IS CURRENTLY ZONED CC (COMMUNITY COMMERCIAL), WILL
NEED TO BE CHANGED TO RMHP (RESIDENTIAL, MOBILE HOME PARK)
SETBACKS: 50' FROM PUBLIC ROW, 10' FROM PROPERTY LINES
(PER MICHIGAN MHP REGULATIONS)

MANUFACTURED HOME PARK

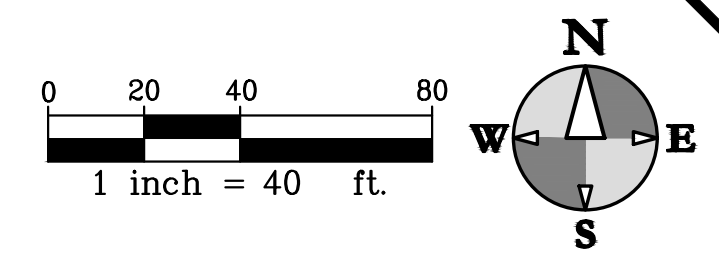
TOTAL PARK AREA	11.2 ACRES / 487,872 SFT
# OF LOTS	70
# OF SINGLE-WIDE LOTS	62 (89%)
# OF DOUBLE-WIDE LOTS	8 (11%)

STANDARD DUTY
HMA PAVEMENT

SINGLE-WIDE LOT

DOUBLE-WIDE LOT

PROPOSED BUILDING



SCALE: 1"=30'



SCALE: 1"=30'



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION FLOODWAY DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION
COMMUNITY	CITY OF KALAMAZOO, KALAMAZOO COUNTY, MICHIGAN	A parcel of land, as described in the Warranty Deed, recorded as Document No. 2002-025417, in the Office of the Register of Deeds, Kalamazoo County, Michigan
	COMMUNITY NO.: 260315	
AFFECTED MAP PANEL	NUMBER: 26077C0169D	
	DATE: 2/17/2010	
FLOODING SOURCE: ARCADIA CREEK		APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY: 42.273, -85.632 SOURCE OF LAT & LONG: ARCGIS 10 DATUM: NAD 83

DETERMINATION

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
--	--	--	3400 Stadium Drive	Property	X (shaded)	--	--	--

Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

ADDITIONAL CONSIDERATIONS (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

INADVERTENT INCLUSION FLOODWAY 2
PORTIONS REMAIN IN THE SFHA
SUPERSEDES PREVIOUS DETERMINATION

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Revision for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the property(ies) is/are not located in the NFIP regulatory floodway or the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document revises the effective NFIP map to remove the subject property from the NFIP regulatory floodway and the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 847 South Pickett Street, Alexandria, VA 22304-4605.

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION FLOODWAY DETERMINATION DOCUMENT (REMOVAL)

ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

INADVERTENT INCLUSION IN THE FLOODWAY 2 (NO PORTION OF THE PROPERTY IN THE FLOODWAY) (This Additional Consideration applies to the preceding 1 Property.)

The National Flood Insurance Program (NFIP) regulatory floodway is the area that must remain unobstructed in order to prevent unacceptable increases in base flood elevations. Therefore, no construction may take place in an NFIP regulatory floodway that may cause an increase in the base flood elevation, and any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management. The NFIP regulatory floodway is provided to the community as a tool to regulate floodplain development. Therefore, the NFIP regulatory floodway modification described in the Determination Document, while acceptable to the Federal Emergency Management Agency (FEMA), must also be acceptable to the community and adopted by appropriate community action, as specified in Paragraph 60.3(d) of the NFIP regulations. Any proposed revision to the NFIP regulatory floodway must be submitted to FEMA by community officials. The community should contact either the Regional Director (for those communities in Regions I-IV, and VI-X), or the Regional Engineer (for those communities in Region V) for guidance on the data which must be submitted for a revision to the NFIP regulatory floodway. Contact information for each regional office can be obtained by calling the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or from our web site at <http://www.fema.gov/about/regoff.htm>.

PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 1 Property.)

Portions of this property, but not the subject of the Determination/Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management.

SUPERSEDES OUR PREVIOUS DETERMINATION (This Additional Consideration applies to all properties in the LOMR-FW DETERMINATION DOCUMENT (REMOVAL))

This Determination Document supersedes our previous determination dated 11/15/2012, for the subject property.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 847 South Pickett Street, Alexandria, VA 22304-4605.

Luis Rodriguez, P.E., Chief
Engineering Management Branch
Federal Insurance and Mitigation Administration

Comparison of Flood Hazard

Effective & Preliminary Flood Hazards

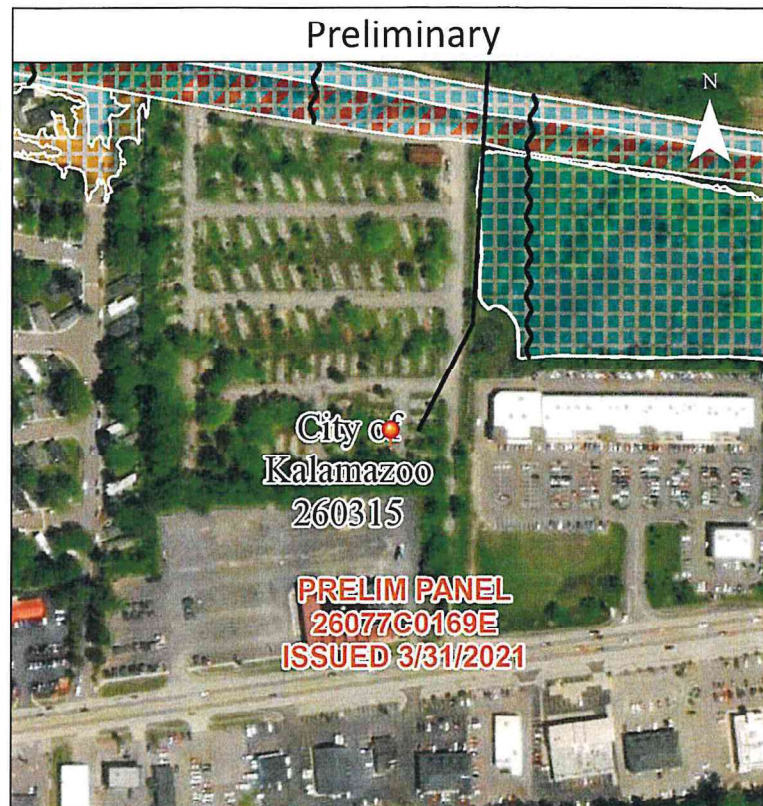


FEMA



Effective

POI Longitude/Latitude	-85.632, 42.2729
Effective FIRM Panel	26077C0169D
Effective Date	2/17/2010
Flood Zone	X
Static BFE*	Not Available
Flood Depth	Not Available
Vertical Datum	Not Available



Preliminary

POI Longitude/Latitude	-85.632, 42.2729
Preliminary FIRM Panel	26077C0169E
Preliminary Issue Date	3/31/2021
Flood Zone	X
Estimated Static BFE*	Not Available
Estimated Flood Depth	Not Available
Vertical Datum	Not Available

* A Base Flood Elevation is the expected elevation of flood water during the 1% annual chance storm event. Structures below the estimated water surface elevation may experience flooding during a base flood event.

Hazard Level **Flood Hazard Zone**
High Flood Hazard AE, A, AH, AO, VE and V Zones. Properties in these flood zones have a 1% chance of flooding each year. This represents a 26% chance of flooding over the life of a 30-year mortgage.

Moderate Flood Hazard **Shaded Zone X.** Properties in the moderate flood risk areas also have a chance of flooding from storm events that have a less than 1% chance of occurring each year. Moderate flood risk indicates an area that may be provided flood risk reduction due to a flood control system or an area that is prone to flooding during a 0.2% annual chance storm event. These areas may have been indicated as areas of shallow flooding by your community.

Unshaded Zone X. Properties on higher ground and away from local flooding sources have a reduced flood risk when compared to the Moderate and High Flood Risk categories. Structures in these areas may be affected by larger storm events, in excess of the 0.2% annual chance storm event.

Low Flood Hazard **Insurance Note:** High Risk Areas are called 'Special Flood Hazard Areas' and flood insurance is mandatory for federally backed mortgage holders. Properties in Moderate and Low Flood Risk areas may purchase flood insurance at a lower-cost rate, known as Preferred Risk Policies. See your local insurance agent or visit <https://www.fema.gov/national-flood-insurance-program> for more information.

Disclaimer: This report is for informational purposes only and is not authorized for official use. The positional accuracy may be compromised in some areas. Please contact your local floodplain administrator for more information or go to [msc.fema.gov](https://www.fema.gov) to view an official copy of the Flood Insurance Rate Maps.

Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Parcels within 300' Mailing Radius 3400 Stadium Dr-mailings

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



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **4/14/2022**

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: April 14, 2022

SUBJECT: ZBA #22-03-09: 3433 Oakland Drive. Sign Art Inc. on behalf of the property owner Edward Fletcher, is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1, to authorize the installation of a six-foot high, 32 square foot freestanding sign for the office building, where there is no sign allowance identified for an office building in the RS-5 District.

BACKGROUND:

On December 12, 2019, the Zoning Board of Appeals granted a use variance for a 5,000 square foot multi-tenant office building on this property, which is zoned Residential - Single Dwelling District (RS-5). The construction was completed in May 2021. The office use in this residential zone is not considered a special use and is therefore not eligible for the sign allowance afforded to special uses such as churches, schools, or community centers in this district.

The staff has been working on revisions to the sign regulations. These are available for public viewing on the City's website. These amendments will be moved forward later this spring. The amendments proposed will provide a sign allowance for nonresidential uses not listed as a special use in the residential zone districts.

The applicant has worked with staff to understand what standards are proposed for nonresidential uses in the sign regulation amendments. The proposal before the Board is a freestanding sign that would comply with the new sign standards. The freestanding sign will not exceed 32 square feet with an overall height no greater than six feet. Placement of the sign will be a minimum of five feet from all property lines. The required setback for locating the sign will be five feet from the property lines. Additionally, given the location is across the street from homes on Oakland Drive, the sign background will be mostly opaque so that only the logo and business name will be illuminated at night.

STRATEGIC VISION ALIGNMENT:



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

Strategic Goal Plan and Master Plan 2025 Alignment:

The variance touches on the Strategic Plan Goal of Complete Neighborhoods as this office building will provide services that are available for residences in the area. The Future Land Use Map of the Master Plan 2025 as RS- Medium Density Residential. However, the location has not been conducive to residential redevelopment, which led to the approval of a use variance for a credit union at one point and then a use variance for the office building currently on the site.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Appropriate Depth of Engagement:

Notices of the public hearing were mailed out on February 23rd to all property owners within 300 feet of the subject property and a notice placed in the Kalamazoo Gazette. The Oakwood Neighborhood Association has also been notified.

Engagement/Communication Tools:

Mailing of letters and newspaper notice.

FINDINGS:

The staff has made the following findings regarding this request:

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 circumstance is the land use authorized by the granting of use variance is not eligible for any sign allowance per the existing Zoning Ordinance, where uses that are approved through a special use permit are allowed signage. This is a gap in our current sign code that will be closed with the update later this spring.

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

The development of the surrounding properties with uses other than residential uses, including Woods Lake Elementary and the Kalamazoo Country Club, isolated this residentially zoned parcel on the east side of Oakland Avenue. Its use as

nonresidential is logical. The lack of allowance for signage for this nonresidential use in a residential district created a special circumstance.

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.

The Zoning Board of Appeals has granted a use variance for the commercial office building and the applicant should have an allowance for signage to make this use sustainable.

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 Zoning Board of Appeals has granted a use variance for the commercial office building and the applicant should have an allowance for signage to make this use sustainable.

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 impact adjacent lands in a material way. The site only has two adjacent neighbors, the Woods Lake Elementary and the Kalamazoo Country Club.

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

The granting of this variance will provide the same sign allowance for this office building that special uses permitted in the residential district would be entitled to, including Woods Lake Elementary directly to the north.

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.

This criterion is not applicable for the dimensional variance requested.

RECOMMENDATION:

Staff recommends approval of the dimensional variance for the freestanding sign because the request meets the criteria noted above.



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

February 22, 2022

**RE: ZBA #22-03-09
3433 Oakland Drive
Parcel #06-32-235-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Sign Art Inc. for Edward Fletcher at 3433 Oakland Drive in the Residential – Single Dwelling District (RS-5).

The applicant is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1, to authorize the installation of a six-foot high, 32 square foot freestanding sign for the office building, where there is no sign allowance identified for an office building in the RS-5 District.

Please note that a use variance was approved on December 12, 2019, for the 5,000 square foot office building located on this site. Please note that this request will not change the zoning classification of the property. This is a request for variance only regarding the item described above.

The meeting will be held on Thursday, March 10, 2022 at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the [City's Facebook page](#) and [YouTube Channel](#).

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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(269) 337-8026 • www.kalamazoocity.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Steve VanderSloot - SignArt, Inc.		Mailing Address: 5757 East Cork Street
City: Kalamazoo	State: MI	ZIP Code: 49048
Phone: (269) 217-1771	Email: svandersloot@signartinc.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: Edward Fletcher		Mailing Address: 3433 Oakland Drive
City: Kalamazoo	State: MI	ZIP Code: 49008
Phone: (269) 249-6588	Email: ed@fletcherfdn.org	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 3433 Oakland Drive		
Parcel Identification Number(s): 06-32-235-001		Zone District (kalamazoocity.org/maps): RS-5
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>7.3</u> , Section(s) <u>A.1</u> ☐ Use Variance to allow _____ ☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval		
Reason for Request:		
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.
<i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>		
SIGNATURE		
Signature of Applicant: <i>Steve VanderSloot</i>		Date: 02/10/2022
Signature of Owner (if different than applicant): <i>E. Fletcher</i>		Date: 02/10/2022



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ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

To provide an internally illuminated, 34 sq. ft., 5' 9" tall, double-faced monument to identify Hamilton Law, PLC for the recently built multi-tenant office building owned by Ed Fletcher.

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?

None.

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?

None.

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

No.



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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?

The proposed sign will meet the criteria of the soon to be adopted sign ordinance.

Will the granting of the variance negatively affect adjacent land?

No. The sign design is low profile and includes a background that is mostly opaque.

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

The proposed sign will meet the criteria of the soon to be adopted sign 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?



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?



Sign #1 — Permit

Illuminated Double Faced Monument Sign

Cap/Embellishment
Custom fabricated .100 aluminum.
Paint with GripGard EFX semi-gloss enamel.

I.D. Sign Cabinet
S.A. Double filler with 1 3/4" retainers.
2" Aluminum reveals.
Paint with GripGard EFX semi-gloss enamel.

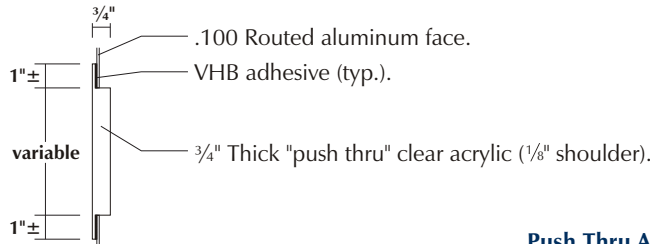
Faces
Precision routed .100 aluminum backed with 3/4" white push-thru acrylic.
Applied pressure sensitive vinyl.
Paint with GripGard EFX semi-gloss enamel.

Electrical/Illumination
White LEDs powered by low voltage power supplies.
Toggle disconnect.
1" Rigid electrical conduit.

Cladding
.100 Aluminum.
1/2" Deep flat cut acrylic letters mounted flush to cladding.
Paint with GripGard EFX semi-gloss enamel.

Support/Foundation
3" x 3" x .250" Steel support tube.
Standard steel base plate.
2'-0" x 5'-6" Deep augered concrete footing.

Note: Logo text may require modification to allow for production.



Push Thru Acrylic Detail



Night Time View



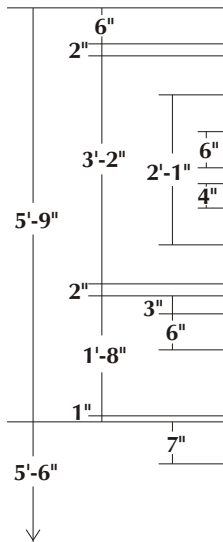
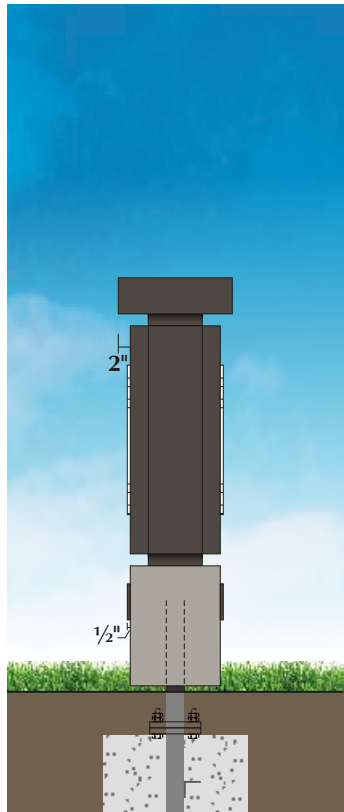
This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.

Square Footage

Sign #1 3'-2" x 10'-0" = 31.67 Sq.Ft.

1'-7"
1'-3"

10'-4"
10'-0"



Street

2'-0"

Sign #1 — Illuminated Double Faced Monument Sign

Scale: 3/8" = 1'-0"



FDC #197
Silver Gray



#53
Red



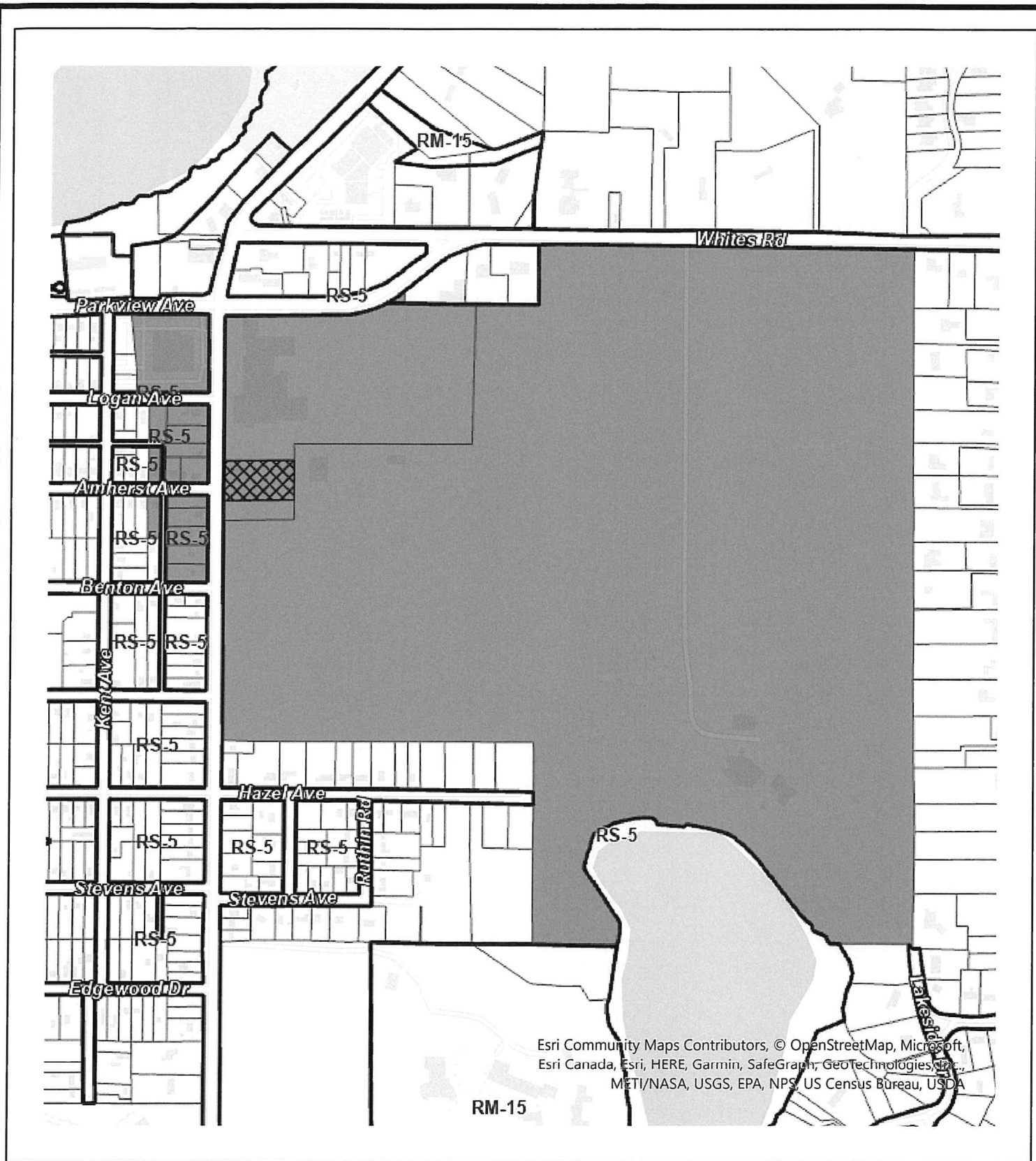
White



SW 7017
Dorian Gray



SW 7020
Black Fox



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Parcels within 300' Mailing Radius 3433 Oakland Dr

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



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **4/14/2022**

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: April 14, 2022

SUBJECT: ZBA #22-04-11: 437 Stone Street. Austrins Family Dentistry is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1, to authorize the installation of a nine (9) square foot projecting sign for this office building, where there is no sign allowance identified for an office building in the RM-15C District.

BACKGROUND:

The original structure was built as a 1,188 square foot residence and later converted to commercial office space in the 1950's. Dr. Matison's grandmother was a dentist and started Austrins Family Dentistry in 1957 at 437 Stone Street. Her grandparents lived in the house at 428 Stanwood Street, which is still in the family. Dr. Matison is the 3rd generation dentist in this building. There have not been many changes to the site. A barrier free ramp was added to the building in 2011. In 2021, the attached garage was removed, new siding was installed, and several new windows added.

The property has remained in a multi-dwelling zone district since the 1950's. However, the former Zoning Ordinance in effect in the 1950's did allow for limited commercial office uses in residential districts. All the other properties to the north and south of Austrins Family Dentistry are student rentals. Across the street is St. Thomas More Student Chapel and the WMU Public Safety Station; the University Roadhouse Restaurant is at the end of the block. Austrins Family Dentistry is open Monday to Thursday with no weekend hours.

Dr. Matison is requesting a variance for a projecting sign to be located on the front of the building above the windows to increase visibility of the signage as the building is only eight feet from the front property line. The sign will not be illuminated. If approved, the freestanding sign will be removed.

STRATEGIC VISION ALIGNMENT:



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

Strategic Goal Impact:

This project aligns with the Strategic Plan Goals of Complete Neighborhood by supporting a neighborhood business which serves area students and residents. The Future Land Use Map from the 2025 Master Plan identifies the subject location as R-2, Residential - Medium Density, but Stone Street is a mix of uses with a large church and the WMU public safety headquarters on the other side of the street.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Appropriate Depth of Engagement:

A notice of the public hearing on March 29th to all property owners within 300 feet of the subject properties and the West Main Hill Neighborhood Association. A notice was also placed in the Kalamazoo Gazette.

Engagement/Communication Tools:

Newspaper notice and mailings to property owners

FINDINGS:

The staff has made the following findings regarding this request:

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.

There are a couple of special circumstances. First, the building is located close to the front property line, giving limited space for free-standing or monument signs. There are also a large tree and utility pole close by within the right of way obstructing the view of the existing ground mounted sign.

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

The commercial use of this property has existed for over 60 years and was permitted under previous Zoning Codes. Today, it is a legal nonconforming commercial use in the RM-15C District. The current sign code gives sign allowances for special uses in

residential districts, but not for office or other legal nonconforming uses. This places the dentist office and other similar uses in residential districts in a gray area. The updates to the Zoning Code proposed for this spring include an update of the sign standards that would eliminate this issue.

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 applicant cannot legally add a wall sign for the business without approval of this variance. However, St. Thomas Moore Church across the street is in the same zone district but is classified as a special use and therefore a 32 square foot sign allowance is identified in the sign ordinance. Austrins Family Dentistry would be unable to update and improve the visibility of their signage without this variance.

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.

This dimensional variance is the minimum action that will allow this projecting sign to be installed. Once the amendments to the sign ordinance are approved, this dimensional variance will no longer be necessary as the sign will comply with the new sign ordinance.

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

The granting of the proposed dimensional variance will have no negative impact on the adjacent properties, this approval simply allows for a new sign to be added to the building front. Further, the sign will not be internally illuminated like the current freestanding sign.

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

The granting of the dimensional variance will be consistent with the intent of the ordinance and the proposed projecting sign will align with the amendments planned for the sign ordinance.

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.

This criterion is not applicable to the requested variance

RECOMMENDATION:

Staff recommends approval of the dimensional variance for the projecting sign because the request meets the criteria noted above.



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

March 29, 2022

**RE: ZBA #22-04-11
437 Stone Street
Parcel #06-21-131-003**

Dear Property Owner:

An application for variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Austrins Family Dentistry for 437 Stone Street in the Residential – Multi Dwelling District (RM-15C).

The applicant is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3 A 1, to authorize the installation of a nine (9) square foot projecting sign for this office building, where there is no sign allowance identified for an office building in the RM-15C District.

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

The meeting will be held on Thursday, April 14, 2022, at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the [City's Facebook page](#) and [YouTube Channel](#).

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: Dr. Mara Matison		Mailing Address: 3988 Marietta Circle
City: Kalamazoo	State: Michigan	ZIP Code: 49009
Phone: (269)501-4469	Email: maradds@hotmail.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: Mikelis & Lilita Austrins		Mailing Address: 1870 N. 5th
City: Kalamazoo	State: Michigan	ZIP Code: 49009
Phone: (269)501-5354	Email: maustrins@hotmail.com	Preferred Contact: ☒ Email ☒ Phone
PROPERTY INFORMATION		
Property Address(s): 437 Stone Street/ Kalamazoo/ MI/ 49006		
Parcel Identification Number(s): 06-21-131-003	Zone District (kalamazoocity.org/maps): RM-15C	
TYPE OF REQUEST		
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____ ☒ Use Variance to allow <u>for a new business sign to be mounted on the front of the building perpendicular to road.</u> ☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval		
Reason for Request: to allow for a new exterior business sign mounted higher up on the building to prevent vandalism during college football season and for better patient visibility.		
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: <i>[Signature]</i>		Date: 2/11/22
Signature of Owner (if different than applicant): <i>[Signature]</i>		Date: 2/11/22



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

1. wall mounted small exterior business sign perpendicular to the road
2. size will be no greater than 48" from the exterior wall and will not project further than the overhanging roof line.
3. neutral colors- white, black and wood tones.

see photos of proposed design

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?

large tree and telephone pole blocking the view of the "in ground" business sign.

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?

1. we have had many years of vandalism on our "in ground sign" during college football season (sign kicked, drinks spilled on it, etc.). It is time for a new sign and we would like to get it up higher off the ground and mount it on the building wall.
2. we would like the sign to be perpendicular to the road/mounted higher on the building for better patient visibility. Many times patients have not been able to see our sign on the ground because it is parallel to the road and hidden by a large tree and telephone pole.

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

n/a



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

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

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 landscaping will not be affected.

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

n/a



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

n/a

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

n/a

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

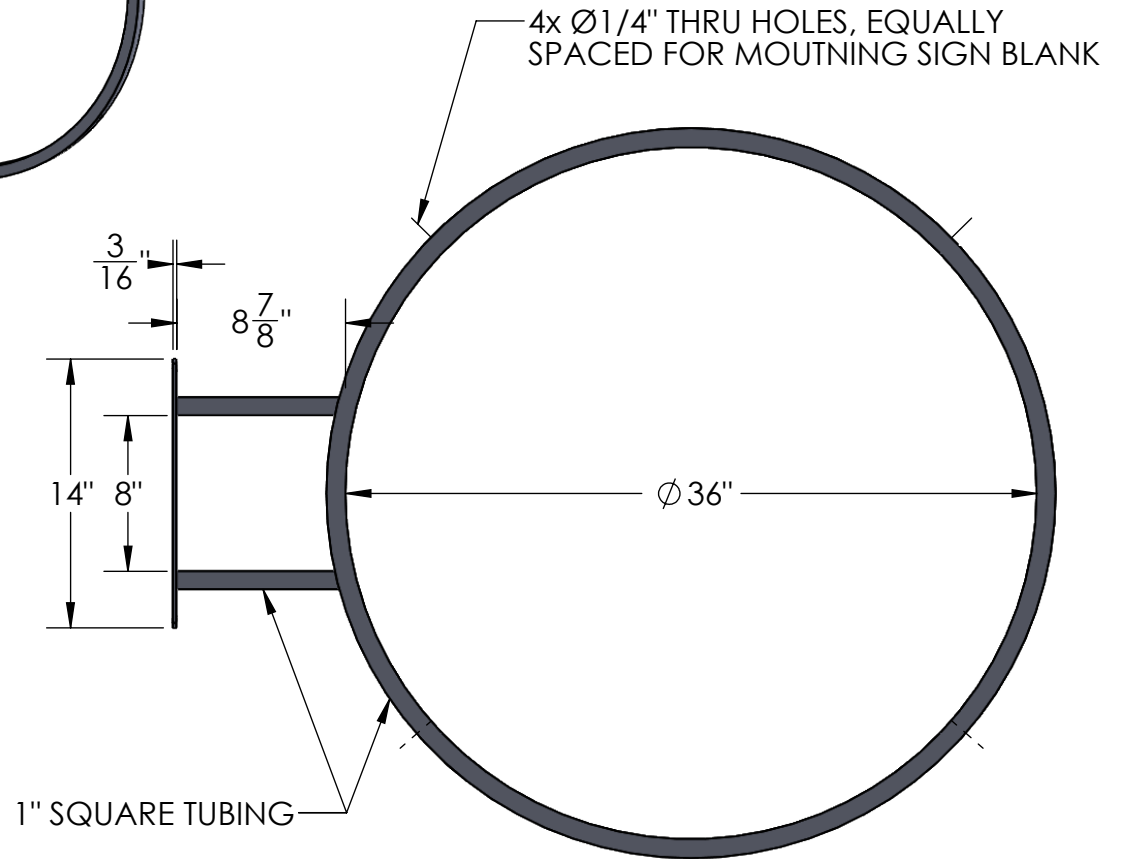
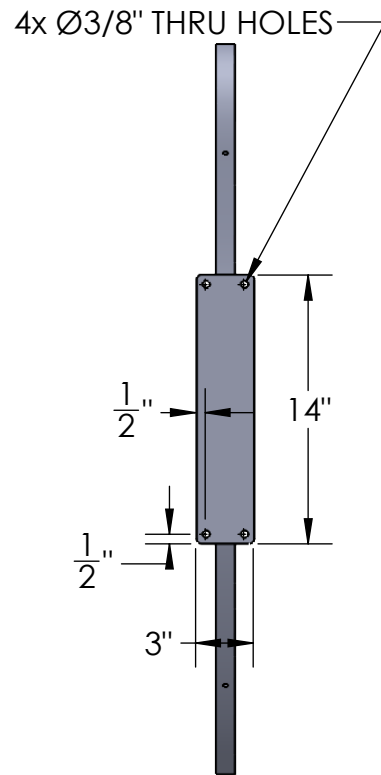
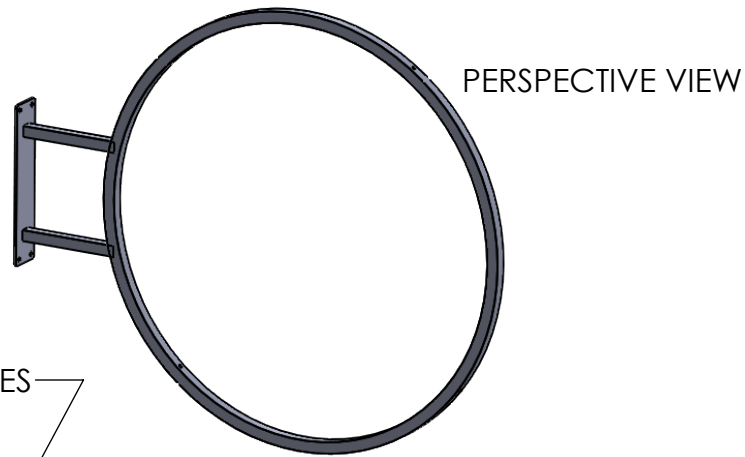
n/a

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

n/a



REVISIONS			
REV.	DESCRIPTION	DATE	CB
A	ORIGINAL DRAWING	5/2018	JB



Material:
Steel

Scale: NTS
DB:JB
Rev: A
Sheet: 1 of 1

Content: 36" Cerchio Bracket
PN: 419B-36
Color/Finish: Black Powder Coat
Customer Approval: _____

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AUSTRINS

FAMILY
DENTISTRY



Zoning Board of Appeals Staff Report

Date: **4/14/2022**

Item: **D.4.**

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: April 14, 2022

SUBJECT: ZBA #22-04-12: 667 Carr Street. Chestity West is requesting the following variances:

- 1) A use variance from Appendix A, Chapter 4, Section 4.1. to authorize a group daycare (7 to 12 children) in her residence at 667 Carr Street, where residential daycare is not a permitted use in the M-1 District.
- 2) A variance from Appendix A, Chapter 4, Section 4.2, K 2. c), to authorize a group daycare on a local street where group daycares are required to be located on collector or arterial streets.

BACKGROUND:

In 2019, Chestity West purchased the 1,817 square foot residence at 667 Carr Street which was built in 1911. She moved in and continued to run a home daycare as she had done at her last place of residence. It was not until Ms. West decided to request the change from home daycare to group day care. That is when City staff informed Ms. West that daycare operated out of a home is not identified as a permitted use in the M-1 District.

The use variance is required because only a commercial daycare is permitted in M-1; a home or group daycare is not permitted. This is likely because new residential units are not permitted in the M-1 District, as the district focuses on commercial and light manufacturing uses. More intensive land use was anticipated for this area when it was zoned M-1. However, Carr Street has remained predominantly residential despite the M-1 zoning on the north side of the street. The south side of the street is zoned in the CC District, which permits home daycare, group daycare and childcare centers.

The dimensional variance request is related to the specific requirements for group daycare in the Zoning Ordinance. The property meets the first two criteria as this change to a group daycare will not alter the appearance of the residence and there is sufficient greenspace in the fenced rear yard to comply with the 100 square feet of outdoor play area per child. The last criterion is that a group daycare should be located on a collector or arterial street. 667 Carr Street is one lot or 125 feet from Portage Street, which is considered a collector/ arterial street; this lot is used for

commercial business. Therefore, a dimensional variance is also necessary for this approval.

Carr Street has a total of nine residential properties and four commercially developed properties. Little Caesars Pizza is located on the lot between Ms. West's residence and Portage Street. Directly across the street is the U-Haul rental facility. The future land use map shows the east half of Carr Street (closest to Portage Street) as Neighborhood Edge and the west half as R2- Medium Density Residential, which indicates that lower intensity land uses are more desirable for this area as compared with what would typically be found in a manufacturing district. Further, the Edison Neighborhood Plan refers to the need to re-align the zoning with existing land uses where there is manufacturing zoning over residential areas.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision, Master Plan and Edison Neighborhood Plan Alignment:

The application aligns with the Complete Neighborhood Goal of the Strategic Vision and Master Plan 2025 as child care is a needed neighborhood service. This application also aligns with the Edison Neighborhood Plans as this plan recognizes the difficulties faced by home owners living in manufacturing zoned areas and encourages realignment of the zone with the existing land uses.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Appropriate Depth of Engagement:

Letters were sent to all property owners within 300 feet of the subject property and a notice was placed in the Kalamazoo Gazette. Edison Neighborhood association has also been contacted.

Engagement/Communication Tools:

Mailing of letters and newspaper notice.

FINDINGS:

The staff has made the following findings regarding this request:

1. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use

identified the Zoning Ordinance, which is a right commonly enjoyed by other land in the same zone district.

The M-1 District does not allow for daycare to be run out of a home. However, it does permit the operation of a commercial daycare center. There is little difference between these types of childcare, other than a commercial daycare is likely to be larger and more intensive.

Regarding the dimensional variance, the distance to Portage Street (a collector street) is 125 feet. Further, there would be no residences impacted by the customer traffic for the group daycare traveling from Portage Street to her home as Little Caesars is directly next to 667 Carr Street and U-Haul is across the street.

2. That there is an unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.

The structure on the property was built as a residence and continues to be used as such despite the M-1 zoning. This is the case for most of the north half of the block. This makes the street feel more like a neighborhood, and a in-home day care is very appropriate in neighborhoods. Additionally, the property is 66 ft. x 132 ft., which is quite small for a sustainable commercial or manufacturing business and there is limited visibility from Portage Street.

Regarding the dimensional variance, again 667 Carr Street is one property away from a collector street and is located adjacent to commercially developed properties.

3. That the special circumstances are not the result of the actions of the applicant.

The applicant moved into this residence in 2019 on a street with eight other residences. The misalignment of the zoning with the land use is not the result of any action of the applicant.

Regarding the dimensional variance, the applicant did not comment on any special circumstances other than the fact that there is only one commercial property between her home and Portage Street.

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 variances requested for the group daycare to operate at this address will not result in any change to the appearance of the residence. Further, vehicle traffic for pick up and drop off will not pass by any residentially occupied properties on Carr Street.

Regarding the dimensional variance, the intent of requiring group daycare on collector and arterial streets is to improve safety by limiting additional traffic on local, neighborhood streets. As mentioned, the customer traffic only passes by commercial properties between Portage Street and 667 Carr Street.

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

The subject property already has privacy fencing around the rear yard. There is one adjacent residence, which is to the west at 663 Carr Street. This property owner has submitted a letter of support. In the other directions are adjacent commercial uses.

Regarding the dimensional variance, the short distance off Portage Street to the residence that customers will need to travel will not adversely impact the surrounding properties.

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

The use variance request will be consistent with the intent of the ordinance to protect against harmful and incompatible land uses.

The dimensional variance will also be consistent with the ordinance as it will not result in any additional traffic on Carr Street past Ms. West's property.

RECOMMENDATION:

Staff recommends approval of use variance as it meets the above-mentioned criteria. Additionally, staff recommends approval of the dimensional variance as the only property between this residence and Portage Street is commercially occupied.



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

REVISED NOTICE OF PUBLIC HEARING

April 6, 2022

**RE: ZBA #22-04-12
667 Carr Street
Parcel # 06-22-291-003**

Dear Property Owner:

An application for variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Chestity West for 667 Carr Street in the Manufacturing – Limited District (M-1).

The applicant is requesting:

- 1) A use variance from Appendix A, Chapter 4, Section 4.1. to authorize a group daycare (7 to 12 children) in her residence at 667 Carr Street, where residential daycare is not a permitted use the M-1 District.
- 2) A variance from Appendix A, Chapter 4, Section 4.2, K 2. c), to authorize a group daycare on a local street where group daycares are required to be located on collector or arterial streets with more traffic volume. The distance from the residence to the nearest collector street is 125 feet.

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

The meeting will be held on Thursday, April 14, 2022, at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the [City's Facebook page](#) and [YouTube Channel](#).

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.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: <u>Chestly West</u>	Mailing Address: <u>667 Carr St</u>	
City: <u>Kalamazoo</u>	State: <u>Michigan</u>	ZIP Code: <u>49001</u>
Phone: <u>269 929 0167</u>	Email: <u>Chestly1976@yahoo.com</u>	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): <u>667 Carr St Kalamazoo MI</u>		
Parcel Identification Number(s):	Zone District (kalamazoo.org/maps): <u>M-1</u>	
TYPE OF REQUEST		
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____ ☒ Use Variance to allow <u>group day care in M-1 zone district</u> ☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval		
Reason for Request: <u>The existing home is in a manufacturing home district that does not allow group day care</u>		
ATTACHMENTS		
☐ \$ <u>375.00</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: <u>3/11/2022</u>
Signature of Owner (if different than applicant):		Date:



ZONING BOARD OF APPEALS

USE VARIANCE REVIEW SHEET

General Information

Project Description (may also provide on a separate sheet):

The description of my project entails increasing licensing capacity for my home-based daycare. I currently operate a licensed daycare with the capacity to care for 6 children per shift, but I recently applied to increase my license to care for 7-12 children per shift. One of the steps pertaining to the application process is that I submit to the State a zoning approval form signed by the Community Planning & Economic Development Department.

Review Criteria for Use Variances

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

Does the Ordinance deprive the applicant from using the property for a permitted use, which is a right enjoyed by other property owners in the same zone district?

Existing residential structure on 667 Carr Street was built in 1911 as a single-family home. But it is located in M-1, a manufacturing zone. It is a conforming residential use but it does not allow for daycare which consists of six or more. But this zone district does allow for daycare centers. I would like the same rights for permitted uses as other properties in this zone district to be allowed to operate a group daycare. The use variance approval would allow for a group daycare which would be less intensive than a daycare center within the district.

Is there a hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district?

The existing zoning of the property is manufacturing limited district (M-1). I have a residential use in an M-1 District. The home was built in 1911.

Are the special circumstances created by actions of the applicant?

No, I purchased the home and property in 2019 to live in it and to operate my business of licensed childcare provider (daycare).

Will the granting of the variance be the minimum action necessary for the use of the land or structure that will meet the spirit of this Ordinance?

Yes, this is the minimum action necessary to allow me to run a group daycare.

Will the granting of the variance negatively affect adjacent land?

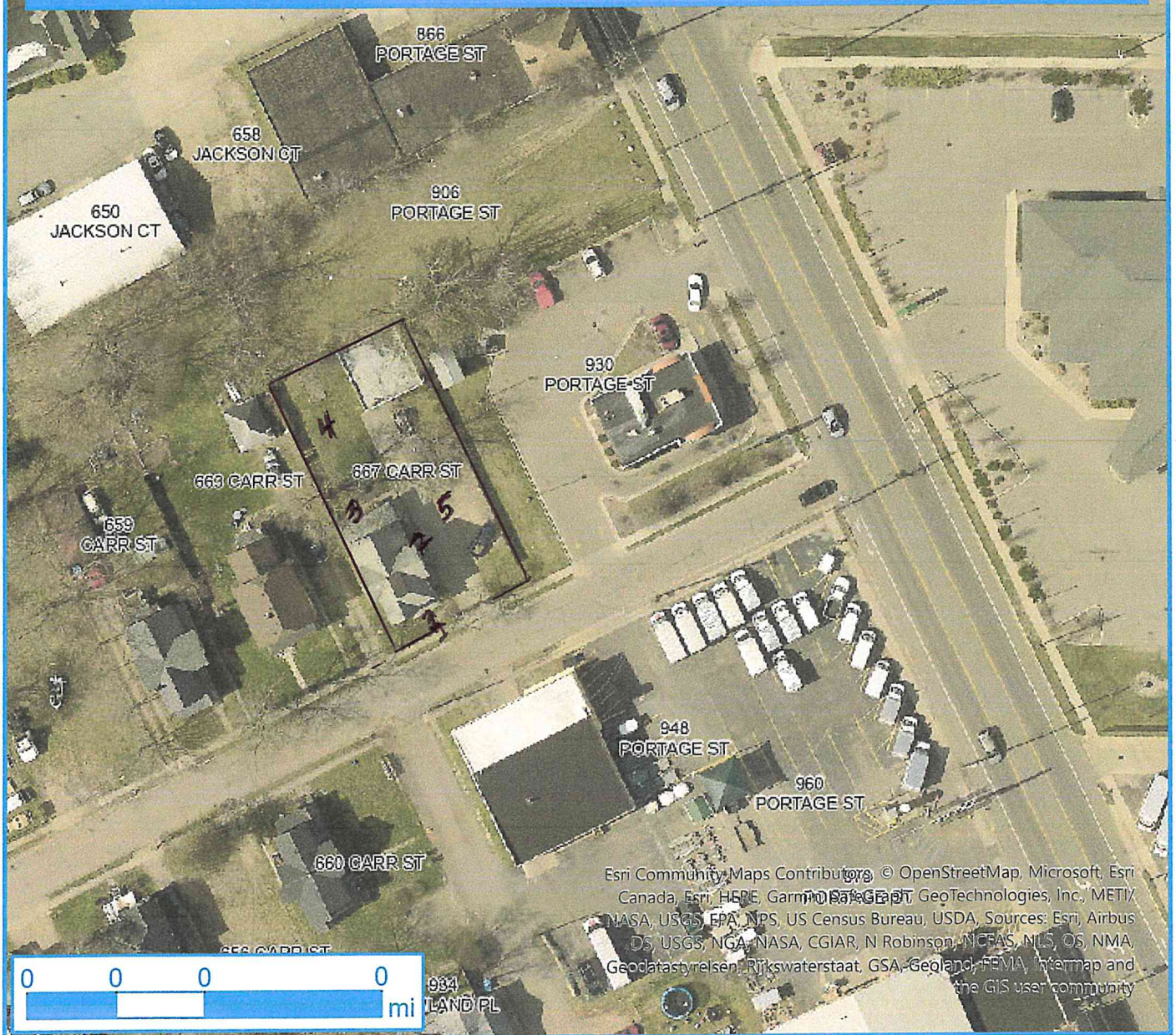
No, my neighbors to the left of my property is a commercial business (Little Ceasars) which we are separated from by a fence. My neighbor to the left is a residential home and I have fencing on that side also. Across the street from my property is another commercial business (UHaul) and a three-unit residential property. This mix of land uses will not be impacted by my daycare in anyway.

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

It would be consistent because the M-1 District allow for daycare centers and a group daycare would be a less intensive use.



667 Carr St.



LEGEND

Address

 City Boundary

- 1. Front door
 - 2. side door
 - 3. Back door
 - 4. play area
 - 5. parking area
- Drop off area



City of Kalamazoo,
3/2/2022

Monday, March 7, 2022

With respect to the Assistant City Planner Peter Eldridge

To: City of Kalamazoo
241 West South St.
Kalamazoo, MI 49007

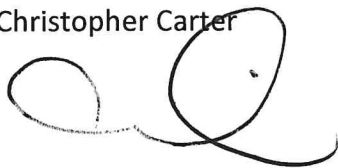
From: Christopher Carter
659 Carr St
Kalamazoo, MI 49001

For Ms. Chestity West

This letter comes with respect and support with Ms Chestity West and her desire to create a home-based child "daycare facility" business that according to code needed neighborhood support. Because she is trying to increase the license status of 6 to 12 local municipality is requesting to have neighbors to be aware of the city's positions in allowing such a thing to happen. I will support Ms. West in her desire to increase her status from 6 to 12.

Sincerely,

Christopher Carter

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a final flourish.

Oscar Oscar Johnson
663 carr st
Kalamazoo mi, 49001
Date 3/7/08

Peter Eldridge
Assistant city Planner
City of Kalamazoo
241 west south st
Kalamazoo mi, 49001

Dear Peter Eldridge:

I am sending this letter on the behalf of my neighbor Chestity West. Chestity has shared with me that she is in the process of increasing her childcare license which she operates out of her home, I would like to say that I full support chestity with the increase of her childcare license. I would like to further state I believe that this type of business will be a great asset to our neighborhood I personal enjoy children and would love to have them around. Chestity west and her late mother Deborah west provided childcare for my daughter when she was younger, so I do know that she is very knowledgeable and has the experience needed operate a daycare, also chestity has hired my daughter as a part-time daycare assistant to help her facilitate her increase of her license. She has my full support on increasing her license.

Sincerely,

Oscar Johnson





Parcels within 300' Mailing Radius 667 Carr St

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



0 110 220 440 ft



Zoning Board of Appeals Staff Report

Date: **4/14/2022**

Item: **D.5.**

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: April 14, 2022

SUBJECT: ZBA #22-04-13: 231 E. Ransom Street. Eric Cunningham is requesting the following:

- 1) A use variance from Chapter 50, 50-4.1, to authorize an Adult Use Marihuana Processor, Retailer and Designated Consumption Lounge in the Live-Work 2 District, which does not permit any of these marihuana facility types.
- 2) A dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 120 feet from the required 1000-foot separation distance between marihuana establishments and preexisting private or public schools providing education in kindergarten or any grades 1 to 12.

BACKGROUND:

The two-story building on this property is 15,000 square feet. It was most notably utilized as the Douglass Community Center. It was sold in 1984 to another nonprofit and has continued to change hands over the years with little investment in the building. The deteriorated condition of the building is to the point where all windows and most doors have been boarded over. The building was deemed a vacant and blighted structure in 2016 and monitoring inspections have continued to the present City staff. The site improvements include a fenced asphalt parking lot on the west side of the building. The site is adjacent to commercial buildings to the east and west, to the north is a one-unit residential rental, and to the south across E. Ransom Street, is the Ministry with Community facility.

This parcel and the blocks around it were all rezoned from Manufacturing- Limited (M-1) to Live-Work 2 (LW-2) in November of 2018. This rezoning aligned with the Northside Neighborhood Plan and the Northside Cultural Business District and supports mixed-used development and more residential development.

The applicant is requesting a use variance to allow three facilities: Processor, Retailer, and Designated Consumption Lounge. The LW-2 District does not permit these marihuana license types, but does allow for a marihuana Safety Compliance Facility (lab testing) and Microbusiness Facility (allows for growing of up to 150 plants, processing of these plants, and

retail sale of the resulting product).

The City put a significant amount of effort into designating zone districts for each marihuana facility type. The City has also created maps to identify eligible areas which can be found at: www.kalamazoocity.org/medicalmarihuana.

- The Zoning Ordinance identifies that marihuana Processors may be located in the M-1 or M-2.
- Marihunana Retailers may be located in CC, LW-1, D-1, D-2, D-3 (if street type conditions are met).
- Designated Consumption Lounges may be located in CC, D-1, D-2 and D-3 (if street type conditions are met).

The applicant is requesting a dimensional variance of 120 feet from the separation between a K-12 school and a marihuana facility. The required separation distance of 1000 feet from schools is intended to provide physical separation between the protected land use and adult-oriented businesses. This 1000-foot separation also aligns with the drug-free school zone established around public schools in Michigan.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision, Master Plan 2025 and Northside Neighborhood Plan Alignment:

Redevelopment of an existing blighted building would align with the Economic Vitality Goal.

The Future Land Use Map in the 2025 Master Plan identifies this area as urban edge, supporting a mix of uses, including smaller scale production uses and residential. The Northside Neighborhood Plan noted the need to update the zoning along this corridor and in other Northside locations, which led to the code update in 2018 and 2019.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Appropriate Depth of Engagement:

Notices were sent to all property owners within 300 feet of the subject property. A notice was also placed in the Kalmaazoo Gazette.

The NACD Office was also contacted regarding this application.

Engagement/Communication Tools:

Letters were mailed and a notice was placed in the newspaper.

FINDINGS:

The staff has identified the following findings:

1. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use identified in the Zoning Ordinance, which is a right commonly enjoyed by other land in the same zone district.

The marihuana facilities which are permitted in the LW-2 district are not the same as what is being requested by the applicant. The applicant's proposal for a processor, retailer, and designated consumption lounge on this site would result in more intensive marihuana uses than the safety compliance and microbusiness facility types allowed by-right. The LW-2 district does not deny the right of a property owner to operate a marihuana facility; the type of marihuana facility permitted is limited to better balance with the district's mixed use intent.

Regarding the dimensional variance for the separation distance, the code dictates how the measurements between uses are taken. It is measured from the property line of the protected use to the nearest portion of the building in which the marihuana facility is located. The zoning ordinance has utilized this method of measurement of separation distances from protected land uses from the property lines since the adoption of the medical marijuana ordinance in 2018. Of the two marihuana facilities permitted in the LW-2 district, one (Safety Compliance) does not have a separation distance requirement from schools and other protected land uses. The second facility permitted (Microbusiness) is subject to the same separation distance of 1000 feet from schools. This distance separation between retail and microbusiness marijuana facilities and protected uses, such as schools, applies to all zone districts across the City.

2. That there is an unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same district zone.

Staff found that there are no unnecessary hardships based on special circumstances or conditions unique to this property that support the use variance request. Neither the prior zone district of M-1 nor the current zone district LW-2 allow for all three of these facility types in one location.

Regarding the dimensional variance, the separation distance measurement from the actual property line to the building at 231 E. Ransom Street is the hardship cited. Staff does not agree with this assessment, as this is in conflict with the stated means of measuring the separation distance in the ordinance.

3. That the special circumstances are not the result of the actions of the applicant.

The rezoning of the property to the LW-2 district is the special circumstance cited by the applicant. However, this property was formerly in the M-1 district, which does not permit Retailer and Designated Consumption Lounge facilities that the applicant would also like to place on this property. The rezoning of this area was supported by the 2025 Plan and the Northside Neighborhood Plan.

Regarding the dimensional variance, there are no special circumstances to note by staff.

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 approval will allow for the redevelopment of a building which has not been occupied in approximately 20 years. However, the ordinance does not permit any of the three facility types proposed for this property.

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

The scale of the marihuana operations proposed is much larger than what was anticipated for this area; a microbusiness, while allowing growing, processing, and sales in one location, is limited to no more than 150 plants.

Regarding the dimensional variance, granting relief of the separation distance could have a negative impact on the protected use (Lincoln School).

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

It is not consistent with the purposes of the Ordinance. The project may attempt to meet the intent of the ordinance which is to allow for access to marihuana facilities as both an economic development tool and a desired resource for residents. However, the purpose of the ordinance is to also provide for orderly land development. Neither the LW-2 district nor the former M-1 district allowed for these three facility types at this location.

Regarding the dimensional variance, the relief requested from the separation distance from the school is not consistent with the intent of the Ordinance. The intent of the ordinance is to establish a set separation between schools and marihuana uses. Granting relief from the 1000-foot separation distance when there are other locations within the community where such uses could be located is not supported by staff.

RECOMMENDATION:

The staff does not recommend approval of the use variance as the above criteria have not been met. Further, staff does not recommend approval of the dimensional variance as this does not meet the required criteria for granting a 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

March 29, 2022

**RE: ZBA #22-04-13
231 E. Ransom Street
Parcel #06-15-194-008**

Dear Property Owner:

An application for variances for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Eric Cunningham for 231 E. Ransom Street in the Live Work -2 District (LW-2).

The applicant is requesting the following variances to apply for licensing of Adult Use Marihuana facilities at this location:

- 1) A use variance from Chapter 50, 50-4.1, to authorize an Adult Use Marihuana Processor, Retailer and Designated Consumption Lounge in the Live-Work 2 District, which does not permit any of these marihuana facility types.
- 2) A dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 120 feet from the required 1000-foot separation distance between marihuana establishments and preexisting private or public schools providing education in kindergarten or any grades 1 to 12. The building on this property is located 880 feet from the south property line of the Lincoln International Studies School(elementary school).

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

The meeting will be held on Thursday, April 14, 2022, at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the [City's Facebook page](#) and [YouTube Channel](#).

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.kalamazoocity.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Eric Cunningham		Mailing Address: 4121 Sunvalley Drive
City: Kalamazoo	State: Michigan	ZIP Code: 49008
Phone: 269.615.1947	Email: CommissionerEricCunningham@gmail.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: Matthew Norman		Mailing Address: 12145 gilmore pt
City: plainwell	State: Michigan	ZIP Code: 49080
Phone: 269.270.5643	Email: MatthewNorman@me.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 231 E RANSOM ST		
Parcel Identification Number(s): 06-15-194-008		Zone District (kalamazoocity.org/maps): LW-2
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) _____, Section(s) _____		
☒ Use Variance to allow <u>Adult Use Processor</u>		
<u>Adult Use Retailer, Designated Consumption</u>		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____		
☐ Temporary Use Approval		
Reason for Request: We are requesting a use and dimensional variance because existing zoning regulations present a practical difficulty in making use of the property.		
ATTACHMENTS		
☒ \$ 375 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: <i>E. Cunningham</i>		Date: 3-16-2022
Signature of Owner (if different than applicant): <i>Matthew J. Norman</i>		Date: 3-16-2022



ZONING BOARD OF APPEALS

USE VARIANCE REVIEW SHEET

General Information

Project Description (may also provide on a separate sheet):

231 E. Ransom Street is located in LW-2 District (Live Work -2). It was rezoned in November of 2018 from M-1 to LW-2. It is a part of the Northside/Northside Cultural Business District Area Rezoning Project. LW-2 District (Live Work -2), a micro-business would have been permitted on the site which would have allowed for grow, processing, and retail sales.

The use variance would authorize the desired Cannabis facility type, Adult Use Processor, Adult Use Retailer, and Designated Consumption Lounge.

Review Criteria for Use Variances

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

Does the Ordinance deprive the applicant from using the property for a permitted use, which is a right enjoyed by other property owners in the same zone district?

Yes. The Ordinance allows for cannabis micro-businesses of a related disposition to exist; however, our intended use is not allowable, which deprives us of a viable business use that more appropriately supports the existing landscape and disposition of the neighborhood as it stands. There are currently no cannabis micro-businesses operating in the Northside of town. We believe that the state micro-business regulations and local Ordinance do not appropriately reflect the industry demands.

Is there a hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district?

The surrounding structures are primarily used for warehousing. This particular building has had multiple owners and has been dilapidated and not used for over 20 years. The buildings floor plan has an area that once was a gym that would require it to be completely renovated or operate similarly to a gym or a warehouse.



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Are the special circumstances created by actions of the applicant?

The property was recently rezoned from M-1 to LW-2

Will the granting of the variance be the minimum action necessary for the use of the land or structure that will meet the spirit of this Ordinance?

Yes. I was instrumental in the creation of the Cannabis ordinance with city staff.

Will the granting of the variance negatively affect adjacent land?

Cannabis facilities are not to create nuisances like odor or noise that disturb adjacent businesses. We intend to be good stewards. Good stewardship would include strictly following local and state guidelines, proper ventilation and filters to clean the air before release, adequate security, and creating a community benefits agreement.

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

Yes, the intent of the ordinance is to provide social equity and facilitate ownership and economic development.

ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

This project aims to develop a Adult Use Processor, Adult Use Retailer and Designated Consumption Lounge. This development will be located on the Northside of Kalamazoo at 231 East Ransom Street Kalamazoo, Michigan 49007. The property is zoned LW-2. The intended use of this development is not allowable at this site, nor is it within the dimensional requirement. We are seeking a use and dimensional variance for this project. A cannabis micro-business is allowed in M-1, which includes growing, processing, and a dispensary. The zoning does not allow for consumption, processing, or a dispensary. Additionally, a school is 970 feet away from the operating space, and there is a 1,000-foot distance requirement.

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?

The conditions that support our dimensional variance request are the following: The school's property line is located at the back end of the parking lot; it is three blocks away from the proposed facility and is not visible from the school. Finally, the proposed facility is over 1,000 feet away from the actual school building that is situated in a residential corridor; our facility is located on Pitcher and Ransom and is among businesses and warehouses.

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?

This property has an existing building with a longstanding history in the black community for being the former Douglass Community Center. The property has not been in use for over 20 years, and the other potential locations would negatively impact the surrounding community. This proposed use is aligned with the synergy of the existing developments in Harrison Circle and the Downtown Edge of the Northside of Kalamazoo, which is considered the Northside Cultural Business District. This business will also run as a private membership-only operation similar to a speakeasy to keep a low profile yet provide a fun experience for the client and community.

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

This is a new emerging industry, and this project on any of the other three adjacent corners of Pitcher and Ransom would not require a variance as they would be over 1000 feet from the school.



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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?

The building has been vacant for over twenty years. Our goal is to develop this site to be a viable and thriving part of the existing economic development goals as outlined in the municipal plan. The business will be owned by a development team with a long-standing history of positive contribution to the Kalamazoo community.

Will the granting of the variance negatively affect adjacent land?

The expected additional traffic will not negatively effect any of the adjacent land.

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

Yes, the intent of the Ordinance is to provide social equity and facilitate black ownership and economic development.

Additional Criteria for Variance Requests for Required Landscaping

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

N/A

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

N/A



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

N/A

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

N/A

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

N/A

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

N/A



§ 50-4.1 General provisions.

Table 4.1-1

Use Table

Use	Node	LV1	LV2	D1	D2	D3
Marihuana, Adult-Use Establishments						
Grower						
Processor						
Safety compliance		P	P		PD	P
Secure transporter						
Retailer		PD		PD	PD	PD
Microbusiness			PD			
Designated consumption lounge				PD	PD	PD
Marihuana, Medical						
Grower						
Processor						
Safety compliance		P	P		PD	P
Secure transporter						
Provisioning center		PD		PD	PD	PD

Search Properties and Plac



Measurement

Feet

Measurement Result

1,187.3 Feet

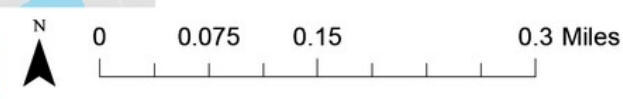
Clear



NORTHSIDE CULTURAL BUSINESS DISTRICT

LEGEND

 Northside Cultural Business District





Parcels within 300' Mailing Radius 231 E Ransom St

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



0 110 220 440 ft