

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, September 8, 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 August 11, 2022

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #22-09-27: 315 E. Frank Street. Bogan Developments, LLC is requesting a dimensional variance from Chapter 50-5.6, to allow a 0 to 31-foot front build to requirement, where a 0 to 10-foot front build-to requirement for the primary building façade is the development standard.
2. ZBA #22-09-28: 1521 Palmer Avenue. Matthew Torzewski is requesting: **1)** A dimensional variance from Chapter 6, Section 6.3 A 2, to install a six-foot fence in the front yard along Cameron Street, where four feet is the maximum height for fencing in the front yard. **2)** A dimensional variance from Chapter 6, Section 6.3 A 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%.
3. ZBA #22-09-29 3625 W. Michigan Avenue. Great Lakes Capital is requesting the following: **1)** A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the proposed development to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area. **2)** A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize the removal of 71.7% of woodland, where 50% is the maximum permitted.
4. ZBA #22-09-30: 1801 Oakland Drive. Simbarashe Chirara is requesting a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or 'lodging' land use in one of the three apartments on the premises, where in Zone RS-5

rentals are limited to 30 days or more under the definition of ‘household living’

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
August 11, 2022 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Jeff Carroll, Remi Harrington, Matt Lager, Jeremy Terpening and Jerrid Burdue (Alternate)

Members Absent: Christina Doane, Beth van den Hombergh

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

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

Mr. Eldridge performed a roll call of board members present for the meeting.

Chair Carroll asked if there were any announcements or changes to the agenda and Mr. Eldridge noted there was one announcement to the original notice for 4114 Stadium Drive, which named the applicant as Grassy Key Land Company, who is the owner of the property but the actual applicant is LE Battle Creek Inc.

APPROVAL OF MINUTES:

Mr. Burdue moved to add “Alternate” to his title on the meeting minutes and moved to approve the minutes of July 14, 2022 as submitted, seconded by Mr. Lager. The motion was approved by voice vote unanimously.

PUBLIC HEARINGS: Chair Carroll 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 and speak for three minutes. Following that those in opposition will be invited to speak for three minutes. The public can call in to 888-382-9556 to enter a queue to comment live for any property on the agenda and will no longer be able to leave a recorded message, 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. Vice Chair Lager volunteered to secretary this month's meeting.

Mr.Lager read the application for 235 Cooley Street and 455 Eleanor Street

ZBA#22-08-25: 235 Cooley Street and 455 Eleanor Street: An application for a use variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by ACW 1N, LLC for 235 Cooley Street and 455 Eleanor Street in the Downtown-2 District (D-2). The applicant is requesting a use variance from Chapter 50-4.4 C(10)(b), to allow a temporary commercial parking lot in the D-2 District where a stand-alone parking lot is not permitted on corner lots.

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

Andy Wentzel of PlazaCorp, spoke on behalf of the applicant ACW LLC, and stated they have four parcels, but he is there about three of them. He said they are planning and designing new residential units in downtown Kalamazoo. He said it is situated in the Arcadia Commons West (ACW) on the northwest quadrant of the urban core. He noted that the new county courthouse is being constructed in that area as well and another project, the Hilton Garden Inn, is also located in that quadrant. He noted that PlazaCorp owns the old PNC building in that area, and they are working to bring more residential into that area. They are seeking a variance for surface parking, which would provide for moving forward with phase one of the project, which is in two phases and two buildings and added that this variance would accommodate the first phase and would allow for parking and flexibility. He then named a few projects that PlazaCorp has worked on that may be familiar and admitted that they worked on some of those projects when it wasn't popular to do so. He said that they are an owner developer and tend to look at projects as a long-term hold. He went on to talk about the project at ACW on the south side of the creek of the two buildings that will be twelve stories each, 238 residential units in each building. The first phase would be approximately 238 residential units and about 6,900 square feet of commercial space. He added the buildings will include parking of half a level of parking on the first floor then 46 second floor parking spaces within each building. He wanted to go back to when he mentioned flexibility. He said the northside of the creek is part of the area identified as being included in the arena development that at this time is still an undecided project. He said that PlazaCorp has offered their property on the northside of the creek to be part of that development, which he said will most likely be needed for that project and have worked with city staff to work on a plan to move forward with their own project. He added that if the arena does move forward then the parcel in question will be a part of that and they would figure out alternate parking as part of phase two or on another adjacent site. He said tonight's action, in phase one, would allow for adequate parking close to a residential building and they would need approval tonight to move forward.

He showed an on screen, conceptual drawing of the buildings and added that they will be duplicates of each other, including the parking. The east lot, which is on the other side of the creek from the phase one building and has 63 spaces, is already a surface parking lot and the west lot contains a

building that is functionally obsolete and will come down as part of future development for this project. He then produced an aerial view of the block where the orange rectangles represented parking and the parcel in the upper left-hand corner is the parcel in question for the variance. The upper right-hand side, the northeast side is surface parking currently. The green rectangle is the phase one building and the yellow is the phase two building. He reiterated that the parking is needed for phase one and to the north of that is Kalamazoo Avenue and the current development of the county courthouse. Mr. Wentzel then showed the site plan and that showed the building sites on the lower part and the parking lot layouts on the upper part and added again, that they worked with city staff on required landscaping and storm water and added that there has been a five-year timeframe on this variance so they would move into the final phases of the site plan and move into construction next year.

Ms. Harrington asked what, specifically, is the use variance regarding and the applicant explained it is for surface parking on a corner and specific to that parcel. He added that the flexibility is needed because that parking lot could potentially become a part of the event center. Ms. Harrington verified with Mr. Eldridge that they are not allowed to put a parking lot there and Mr. Eldridge confirmed. He also explained that D-1 in the downtown area is the most intensive and the D-2 is the next. He added that the long-term vision and description of that zone looks more toward more dense development on those sites for everything but surface parking lots. Ms. Harrington wanted more information regarding the five years and Mr. Eldridge explained that the city has decided that five years is sufficient to see if the event center moves forward and to allow for time to put a building on the corner, even though the applicant wanted more time. Ms. Harrington, again, asked who came up with five years and Mr. Eldridge said the city planner and without the five years city staff would not support the variance. Ms. Harrington asked if staff would not support the project if the event center didn't happen and Mr. Eldridge corrected her and said that either the event center will move forward, and it will be known if the event center will need the parcel and if they don't then PlazaCorp can proceed with building the proposed building they have planned for this corner and they didn't want to proceed with design planning on the corner only to have the event center move forward and need the parcel. The five years allows for the event center to move forward and identify if they will need the parcel or PlazaCorp will be able to submit plans to build a building on the corner, which would make it legal and conforming.

Mr. Burdue wanted to know how confident they were that they would find enough parking for the development in future years and Mr. Wentzel stated that's in process of being looked at now, and managed by, someone else because the event center, the county, and the residential development will all need parking. He said they feel that five years isn't a lot of time, but they still need to move forward with their plans because they have land that is ready to be developed. He added that this may be helping to move forward with the event center because the parking needs to be figured out whether there is an event center or not. He added that they are trying to move forward responsibly while taking into consideration landscaping and stormwater and are trying not to waste money on improvements that will be torn up potentially within the five-year period.

Chair Carroll wanted to ask about the bond he saw in the application packet because he didn't realize there would potentially be a building on the parcel in question. He asked if that was in place if there was no building in five years, and because it can't remain a parking lot. Mr. Wentzel said yes, it was a requirement and they agreed to place a bond upon building permit approval for the parking lot construction on the site to either return the lot to its natural state or replace it with an approved building. Chair Carroll asked if the board needed to address the bond and Mr. Eldridge

told him that the city is handling the bond, he added that on the last page of the staff report under the recommendations, the two conditions is what the city needs the board to articulate when making the motion tonight.

Ms. Harrington wanted to clarify that if the event center doesn't happen that within five years the parcel will become an amenity for public use or be placed back in its original state, but will not remain a parking lot and Mr. Wentzel agreed but wanted to make sure it was understood that PlazaCorp is not involved with the event center but agrees that it would be a great thing for the urban core and the economic development of downtown. Ms. Harrington clarified that the space was only being used for extra parking for the two phased project and Mr. Wentzel agreed.

Chair Carroll asked for comments/questions for and against from the public and there were none. He then asked if there were any phone calls and were none.

Staff comments are as follows: Mr. Eldridge stated that in the D-2 District, corner lots can't be stand-alone parking lots because the district is designed to be intensively developed with mixed use buildings built up to the property line, multi-storied buildings, and high density residential but not permitted, by right, to be a standalone parking lot. He added that the request is a use variance to authorize a temporary parking lot for a five-year period that meets all of the city ordinances and requirements. He said in addition the five-year sunset provision mitigates the adverse effects on adjacent lands because it's only for five years and not like the other D-2 zoned properties around it that will be developed more intensely, it will remain a surface parking lot for years to come. He added that this is why city staff is adamant about the five-year condition, which starts from the date of the board's approval and the required removal of the lot will be necessary at the end of the five-year period. Mr. Eldridge stated the variance is broken down into recommendation one and recommendation two and they talk about special circumstances and practical difficulties, and it's understood that the long range plan is to have a building on each quadrant of the map that is shown on the screen, but the two northern lots shown in the orange PlazaCorp has to limit their plans right now until the event center process is taken care of. He added that they now want to focus on the two southern parcels but want to provide sufficient parking during this initial phase of development so staff is understanding of the special circumstances.

Chair Carroll closed the public hearing.

FINDING OF FACT

Ms. Harrington moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 235 Cooley Street and 455 Eleanor Street shall include all information included in the notice of public hearing dated July 27, 2022.
- 2.) 15 notices of public hearing were sent, and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted and there were none.

- 4.) The Finding of Fact shall include all facts and comments made during the public hearing which are summarized to include without limitation, the following:

Plazacorp is requesting a use variance to use the property for a commercial parking lot. The literal interpretations, terms, and provisions of the ordinance would deprive the applicant, for all practical purposes, from using the property for permitted use as a standalone parking lot, a right commonly enjoyed by other lands in the same zone districts. PlazaCorp has been working on the development of the Arcadia Commons West for a number of years. The area encompasses Eleanor, Park, and Water Streets and Westnedge Avenue. They are requesting a use variance for a parking lot, which is part of a larger development. There are unnecessary hardships based on special circumstances or conditions that are peculiar to the land or structure for which the variance is sought that are not applicable to other lands or structures in the same zone district are that the special circumstances are to accommodate phase one of a two phased project to allow for parking and flexibility for outdoor amenities to expand the options for potential developments including the possibility of an event space, which may not happen. The facts presented regarding the cause of the special circumstances are that the developer is requesting the use variance, with a five-year sunset provision, as it is the minimum action that can be leveraged to allow for the developer's short-term activity on this property. There will be no adverse impact to the public and meets the spirit of the ordinance that in the D-2 district doesn't allow for parking on a corner lot and the zoning requires far more intensive development and the city has made an accommodation for a temporary parking lot for up to five years while the current phase in for the project is developed and a decision about use that is more compliant is considered. The facts presented regarding whether granting the variance will adversely affect adjacent land in a material are that there will be no adverse impact and will provide economic vitality to our downtown area.

Mr. Terpening. seconded the Finding of Fact.

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

Mr. Lager moved to approve the application for a use variance from Chapter 50-4.4 C(10)(b), to allow a temporary commercial parking lot on a corner lot in the D-2 District, where a stand-alone parking lot is not permitted on corner lots, with the conditions that a five year sunset provision will be in place from the date of the board's approval and that the parking lot will be removed at the end of the five year period. Chair Carroll asked Mr. Lager if he would be willing to add something in there about the bond and Mr. Lager said no. the motion was seconded by Mr. Burdue.

Discussion: there was none

Chair Carroll asked if there were additional comments from the board and there were none.

Motion approved by roll call vote by a four to one vote. Mr. Burdue, Ms. Harrington, Mr. Lager and Mr. Terpening all voted yes, Chair Carroll voted no.

Mr. Lager read the application for 4114 Stadium Drive

ZBA#22-08-26: 4114 Stadium Drive: An application for a dimensional variance of the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by LE Battle Creek Inc. for 4114 Stadium Drive, which is situated in the Commercial-Community District (CC). The applicant is requesting a dimensional variance from Chapter 50-4.4 E(1)(b) of seven feet to allow a marihuana retailer to locate 943 feet from another nearby marihuana retailer after the required separation distance was established at 950 feet.

Please note that the reduction of this separation distance to 950 feet is a result of the application of the Natural Features Protection ordinance to the marihuana retailer developed south of Stadium Drive and also note this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above.

Darren Malek, attorney for LE Battle Creek Inc., is speaking for the applicant, along with Jevin Weyenberg, a representative for the applicant, will speak to some of the bona fides of the applicant. The property owner, James Broban, will speak in support. The location was previously licensed as a marihuana facility and was one of the first of the two that are implicated. Initially this location was in the back north end of the building and when another retailer came in on the south side of Stadium Drive, they wished to locate 950 feet, linearly, they sought, and were granted he believes, permission to do that. He stated the reason the original retailer was located in the back of the building instead of the space that is now proposed, which will be a front and back co-joined space, is because there was an existing occupant of the front space. The reason for this application is, in part, because they didn't occupy the front space at the time and the front space didn't allow for the additional seven feet that are required back then. Now that the space is vacant the applicant seeks to occupy the entire space, front and back, and co-join them. He stated the front and back units were separated by an interior demised wall and it was further than the 950 feet and that although the physical south end of the building requires the variance, the product itself will not be housed in that space, but further back in the building. He said it's a de minimis request, there's no expansion of the building and the building won't be moved further south, encroaching further. If this is approved, the owner has offered to make significant improvements to the property, changing the front facia of the building making improvements to the parking lot as well. He added that the concern implied by the distance requirement regarding safety, health, or other issues, because it has already been used as a retailer and there were not, to their knowledge, any issues after some reasonable investigation that arose before, and the expectation is that that will continue and will get better. He noted the support of KVCC and if this doesn't succeed, none of the improvements will be made and the property owner will be left with vacant spaces.

Mr. Weyenberg, the client and co-owner, spoke to the bona fides. He thanked KVCC for working with them and collaborating over the past few years. He stated he was born and raised in Kalamazoo and is proud to be a business owner here. He said they have five operating licenses right now: four in Kalamazoo County and a processing license in the city of Kalamazoo on Kilgore. He stated that they have a 100 percent compliance track record with the state of Michigan and the local municipalities. He said other than a \$15/hr starting wage, they offer their employees full health, dental, and vision benefits after 60 days and tuition reimbursement for cannabis education courses they offer full tuition reimbursement. He stated the building is ready to be used and easy

to remodel and will create 20 jobs and both stores in Portage have 35 employees and he can see this store doing that within a year. The owner has done some improvements to the property and is working on the façade and signage.

Ms. Harrington asked if the expansion was to accommodate the academic programming with KVCC and Mr. Weyenberg said not at this particular time, but are in talks about some other things. He also said they have hired some of the graduates of the courses. He said that this is just a commonsense business expansion and that the last retailer was in the back of the space facing away from Stadium Drive and was missing out on all of the traffic in the area. He said the Guitar Center was in the front and when they left it happened to coincide with the other marihuana retailer wanting to get out of the retail marihuana business and focus on something else. He explained looking at the space, there was no firewall and they naturally flowed into one another, and the back of the building is built out well and very secure with cameras, so it will make it easier on them to open the store if they are granted the variance. He feels it will help with the KVCC initiative. Ms. Harrington then asked Mr. Eldridge if this is about the closeness of another marihuana retailer and Mr. Eldridge said yes and that expanded into the front tenant space of the building brings the licensed space that much closer to the facility that is on the southside of Stadium Drive. He added that there was a marihuana retailer, prior to this one, that operated only out of the rear building space but now they want to operate out of the rear and front spaces.

Chair Carroll asked for comments/questions from the public in favor of the variance and there was one from James Broban, the property owner. He stated that he is in full support but wanted to add a little history about the building. He said specifically purchased the property after winning the lottery for the first set of retail operators in the area. He was also the owner/operator of Compassionate Care by Design. He had two stores in Kalamazoo and sold one of his dispensaries to Lake Effect, the applicant. He also stated he bought the property with the understanding that they would be moving into the front of the space. He stated that originally it was a 1000-foot separation, he believes, then there was a 50-foot variance put in by the other operator and Mr. Broban was shocked to learn they lost the variance. He said he purchased the building for the purpose of putting a dispensary in the front of the building he said he supports the applicant. Chair Carroll then asked if there were any others that wanted to speak in favor and there were none. He then asked for speakers in opposition and there were none. He asked if there were any phone calls and there were none.

Staff comments are as follows: Mr. Eldridge wanted to clarify what Mr. Broban, the property owner, meant when he said he won the lottery. He explained that when the city decided to allow marihuana retailers and adopted an ordinance, there were so many applicants that a lottery was held by the city clerk's office where they pulled numbers. He added that with this particular applicant where the separation distance between marihuana provisioning centers is normally 1000 feet, unless it's a social equity qualified applicant and would only be 500 feet, the circumstances surrounding the nearby retailer which is at 3825 Stadium Drive which is on the southside of the street. When this location was occupied by an active, licensed marihuana retailer the other company was in the process of developing a retail location on the southside of Stadium Drive, which is in the natural features protection overlay and the site that was selected dropped off steeply toward the south and was heavily covered with trees, so it went before the NFP board and there was some back and forth with how to work within the confines of the ordinance. He added that the 1000-foot separation was pushing the new building into the steep sloped area causing the removal of a lot of trees and large retaining walls and it was determined that the NFP standards allow for

the city to provide necessary relief to protect the natural features, setbacks and build to zones so 50 feet of relief was granted to the marihuana retailer at 3825 Stadium Drive to keep the building further north of the sloped area and out of the trees, which resulted in an established separation distance between the locations of 950 feet. When it was determined that the applicant that submitted the license, LE Battle Creek Inc, to utilize the two tenant spaces at 4114 Stadium Drive for the new retailer but when the separation distance came into question, city staff circled back to them and they retained an architect to get more specific measurements on the distance between the two marihuana sites and it was determined the deficiency is a little less than seven feet, but was rounded up to be safe. Mr. Eldridge mentioned special circumstances as this being an existing building and the fact that there was a previous marihuana retailer in the space. Staff feels that this distance is very minimal and there was no administrative relief city staff could exercise to address the nominal distance situation. Because it is a required separation, it had to come before the board. He added that the applicant provided a floor plan to show how he plans to utilize the space. He said that the seven feet would barely cover the vestibule and a small portion of the lobby seating area and there is no product in that area of the space, which is the area closest to the other retailer. Staff is in support because it is a negligible amount. He reiterated that the special circumstances surrounding this being an existing building and if this were a new build they could have looked at was to redesign or move the building and since one half of the building has a tenant there was no way to renovate to make up for the shortfall. He added that because this was previously a space used by a marihuana retailer, there are a number of cameras and other elements in place that are needed for a marihuana retailer that can be utilized. He stated that the impact is very nominal at .7 percent of the overall separation distance of 950 feet and there are no difficulties identified with neighboring properties however, the only issue they had was with the prior retailer's sign. He added that there was a five-year agreement for the sign to be modified, but it expired during Covid and they city was working with the prior tenant. It is currently being worked on with this perspective tenant. He stated staff is in support of the variance as it is the minimal action that will make this space usable, and it is a negligible amount and not noticeable as the shops will be on opposite sides of the street.

Chair Carroll asked for additional questions from the board and Ms. Harrington wanted to know the relationship between all parties involved and Mr. Broban stated he owns the building. Mr. Burdue asked for clarity if he is the owner of 4114 and 3825 Stadium Drive and Mr. Broban stated he owns only 4114 Stadium Drive.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Burdue moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 4114 Stadium Drive shall include all information included in the notice of public hearing dated July 27, 2022.
- 2.) Nine notices of public hearing were sent, and 1 response was received from Kate Miller, Director of Career and Continuing Education at Kalamazoo Valley Community College. There were no public or call in comments.

- 3.) A public hearing was held before the board and public comments were accepted and Mr. James Brodan, owner of the property, spoke to his support of the applicant because he bought the property for the purpose of opening a marihuana dispensary.
- 4.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Mr. Weyenberg has offered to make significant improvements to the property and there was also mention of the KVCC relationship. The facts presented regarding circumstances or conditions of the property or structures that are special circumstances include the special circumstance is the location of the existing commercial building. There is no feasible way to redesign the front of the building to move the front tenant unit out of the required separation distance. The business wants to occupy both front and back units of the building. The facts presented regarding the cause of special circumstances are the applicant pursued this location as it was licensed before as a marihuana provisioning center, The facts presented regarding whether the applicant is denied rights enjoyed by property owners of the same zoning district by application of the ordinance are without this request, they would be unable to utilize the full retail space, front and back. The facts presented regarding whether the action requested is 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 the ordinance are this dimensional variance is seven feet, which represents 0.7 percent of the overall separation distance of 950 feet. The facts were presented regarding whether the granting of this variance will adversely affect adjacent land in a material way and it will not. There's no expansion of the building footprint or the parking lot. The facts presented regarding whether the granting of this variance will be generally consistent with the purposes and intent of the ordinance are the intent of the ordinance is to promote orderly development, this request will be consistent with the spirit of the ordinance.

Mr. Lager seconded the Finding of Fact.

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

Mr. Lager moved to approve the application for a dimensional variance from Chapter 50-4.4 E(1)(b), of seven feet to allow a marihuana retailer to locate 943 feet from another nearby marihuana retailer at 4114 Stadium Drive, after the required separation distance was established at 950 feet, seconded by Mr. Terpening.

Discussion:

Mr. Lager said he will be in favor because, to him, the key special circumstances the fact that there was a previous marihuana retailer in the space prior to this one, even though it was in the back of the building and based on the fact there was just an internal wall and not a firewall, the seven feet distance makes no distinction whether it's at the front or the back of the building. He is also

persuaded by the reasoning in the staff memo and the fact that the city is recommending this, and he feels the city has already used good common sense around making accommodation to protect the trees and the slopes, as provided in natural features protection overlay. He feels adding the additional seven feet just seems like another commonsense accommodation.

Motion approved to pass the dimensional variance by roll call vote unanimously.

OTHER BUSINESS: None

ADJOURNMENT:

The meeting was adjourned at 8:08 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Zoning Board of Appeals Staff Report

Date: **9/8/2022**

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: September 8, 2022

SUBJECT: ZBA #22-09-27: 315 E. Frank Street. Bogan Developments, LLC is requesting a dimensional variance from Chapter 50-5.6, to allow a 0 to 31-foot front build to requirement, where a 0 to 10-foot front build-to requirement for the primary building façade is the development standard.

BACKGROUND:

This 1.4-acre property was rezoned from M-1 to LW-1 in 2021 to support a mixed-use development which will include a 1,800 square foot commercial building and a separate apartment building with nine units. The property development is supported by the City's Brownfield Redevelopment Authority (BRA).

After rezoning the property to Live Work 1 (LW1), the developer planned to meet all zoning requirements and place the residential building in compliance with the 0 to 10-foot build-to zone along N. Pitcher Street. However, subsequent survey work and site plan prepared revealed a surveying error as the plat maps for this area overlap along N. Pitcher Street, resulting in a right-of-way width of only 22 feet for N. Pitcher Street. In order to place a public sidewalk, on-street parking, and utilities along the narrow N. Pitcher Street, a public easement was determined to be the best course of action by city staff.

It was understood in July that the pavement width on Pitcher would be 20 feet. A variance was granted by the Zoning Board of Appeals on July 14, 2022, to authorize a 0 to 27 foot build-to zone due to the easement setting the building further back from the property line. However, within the past month, the Fire Marshal has reconsidered his decision and is recommending a pavement width of 24 feet, which means the easement width in front of the building would need to be increased from 17.5 feet to 21.5 feet.

The applicant re-applied to the ZBA and is seeking a dimensional variance to allow for a 0 to 31 foot build-to zone due to the Fire Marshal's reconsideration. The variance requested will allow the front of the building facade to be located up to 31 feet from the front property line, which takes the easement into account. Building setbacks and build-to zones are measured from the

property line to the closest point of the structure, even though in this case the easement area will appear to be part of N. Pitcher Street, improved with a sidewalk, on-street parking, and curbing. Buildings are not permitted in the easement area. Those traveling along the sidewalk or street will not realize that there is an easement or that the building is set back 31 feet from the property line, as the proposed buildings will be located in close proximity to the back of the sidewalk, like in other locations around the city.

The alternative to the easement is to transfer a portion of the parcel to the city to be incorporated into the public street right-of-way. This option, however, is problematic because of State of Michigan platting rules.

STRATEGIC VISION ALIGNMENT:



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



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



Environmental Responsibility - A green and healthy City.

Strategic Goal, Master Plan 2025 and Neighborhood Plan Alignment:

The project aligns with the Strategic Vision goals of Complete Neighborhoods, Economic Vitality and Environmental Responsibility. The proposed redevelopment of the site will result in environmental clean up, new businesses, and new housing opportunities. The Future Land Use Plan denotes this area is Neighborhood Edge. The Northside Neighborhood Plan includes strategies to support business opportunities for Northside residents and supports meeting the housing needs of all residents.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

Notices have been sent to all property owners within 300 feet and a notice was sent to the Northside Association for Community Development (NACD).

Engagement/Communication Tools:

Gazette notice, letters and emails

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 exceptionally narrow public right-of-way along N. Pitcher Street and the need for a public easement in the front yard of the property are special circumstances that limit the redevelopment of this site in compliance with other City ordinances and polices.

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

Neither the developer nor the Brownfield Redevelopment Authority, who seeks to have this property redeveloped, was aware of the overlap of the plats along N. Pitcher Street. Twenty-two feet is not a standard right-of-way width in Kalamazoo.

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.

Due to the required measurement of the building setback being taken from the property line, it is not possible for the developer to construct a building within the 0 to 10 foot build-to zone. The easement being given to the city covers this area entirely and buildings cannot be constructed on an easement.

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 variance is the minimal action that will make redevelopment of this property possible. The building will not appear out of place as the building's facade is only 10 feet from the back of the proposed sidewalk at the furthestest point along N. Pitcher Street.

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

The granting of the variance will not adversely affect adjacent land. The easement will look as if it is part of the right-of-way.

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

The granting of the variance will meet the intent of the ordinance to promote orderly development with the necessary infrastructure in place which can be accomplished with the proposed easement.

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 as it meets the above criteria



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 24, 2022

**RE: ZBA #22-09-30
315 E. Frank Street
Parcel #06-15-250-150**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Bogan Developments, LLC for 315 E. Frank Street in the Live Work -1 District. (LW-1).

The applicant is requesting a dimensional variance from Chapter 50-5.6, to allow a 0 to 31-foot front build to requirement, where a 0 to 10-foot front build-to requirement for the primary building façade is the development standard.

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.

The meeting will be held on Thursday, September 8, 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: Bogan Developments - Jamauri Bogan		Mailing Address: 439 Dillingham Ln.	
City: Kalamazoo	State: MI	ZIP Code: 49009	
Phone: 908.875.4999	Email: bogandevdevelopments@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: Bogan Developments - Jamauri Bogan		Mailing Address: 439 Dillingham Ln.	
City: Kalamazoo	State: MI	ZIP Code: 49009	
Phone: 908.875.4999	Email: bogandevdevelopments@gmail.com	Preferred Contact: ☒ Email ☐ Phone	
PROPERTY INFORMATION			
Property Address(s): 315 E. Frant St, Kalamazoo, MI 49007			
Parcel Identification Number(s): 06-15-250-150		Zone District (kalamazoo-city.org/maps): LW-1	
TYPE OF REQUEST			
☒ Dimensional Variance from Chapter(s) _____, Section(s) 5.6		☐ Appeal of an Administrative Decision	
☐ Use Variance to allow _____		☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____	
		☐ Temporary Use Approval	
Reason for Request: Ordinance requires 0-10' build-to zone. Due to narrow existing ROW and requirements to widen road/sidewalk/parking and provide utility improvements, building is required to be beyond the 10' maximum from ROW, but within distance to _____.			
ATTACHMENTS			
☒ \$ 300.00 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: <u>Jamauri Bogan</u>		Date: 8/10/2022	
Signature of Owner (if different than applicant):		Date:	

ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

Construction of new mixed-use development for childcare and residential use. A public easement is proposed in lieu of additional right-of-way. Since the build-to zone is based upon the right-of-way, a variance is needed. We are requesting relief from the 0'-10' build to zone to proposed 0'-31' build to zone. The buildings would still fall within a 0'-10' build to zone relative to the proposed public easement.

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 property falls on the boundary of two existing plats. There is a discrepancy between the two plats as to the right-of-way/property line. The existing right-of-way is only 22-23' wide. The City is requiring reconstruction and widening of the roadway to accommodate emergency vehicles, two-way traffic, pedestrian facilities, and on-street parking.

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 of the issues are a result of actions by the applicant or property owner.

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

Without a variance or lengthy re-plat process, the property is undevelopable based on the City's zoning ordinance.

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?

We feel this is the minimum action needed to develop the property.

Will the granting of the variance negatively affect adjacent land?

Granting the variance allows for reconstruction of the existing dilapidated roadway. This is a significant positive affect on adjacent lands.

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

The build-to zone is still tied directly to the adjacent sidewalk within a public easement, which meets the intent of the ordinance in our opinion.

Additional Criteria for Variance Requests for Required Landscaping

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

We plan to fully comply with the landscaping and screening requirements. There are no wetlands on site.

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

Landscaping will be as required by the Ordinance.



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

No

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

Proposed parking facilities are planned between the proposed buildings as shown on preliminary site plan.

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

Yes, adjacent property has flexibility with LW zoning.

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

No.

DRAWING LOCATION: H-10-1328 (Zone 32) FINAL DRAWINGS-C-2 Site Layout Plan LAST SAVED BY: LDEHL ON 8/6/2022

ZONING REQUIREMENTS

ZONING
ZONED: LIVE-WORK 1 (FLEX LOT)
SETBACKS: FRONT - 0'
SIDE - 0'
REAR - 0', 10' ADJ. TO R DISTRICT

PROPOSED USE
MIXED USE

PARKING
TOTAL PARKING SPACES REQUIRED:
1 SPACE PER DWELLING UNIT =
13 SPACES

1 SPACE PER EMPLOYEE =
4 EMPLOYEES = 4 SPACES

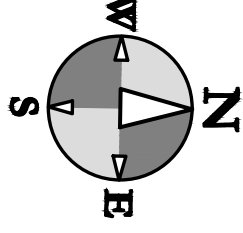
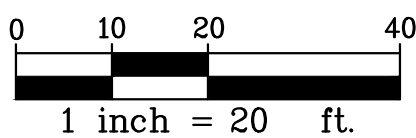
1 SPACE PER 5 CHILDREN =
30 CHILDREN / 5 = 6 SPACES

TOTAL PARKING REQUIRED = 23 SPACES
TOTAL PARKING PROVIDED = 23 SPACES
BARRIER FREE SPACES REQUIRED = 1
BARRIER FREE SPACES = 1 PROVIDED
ALL BARRIER FREE SPACES DESIGNED PER ADA REQUIREMENTS

TYPICAL PARKING SPACE DIMENSION = 8.5'x18'

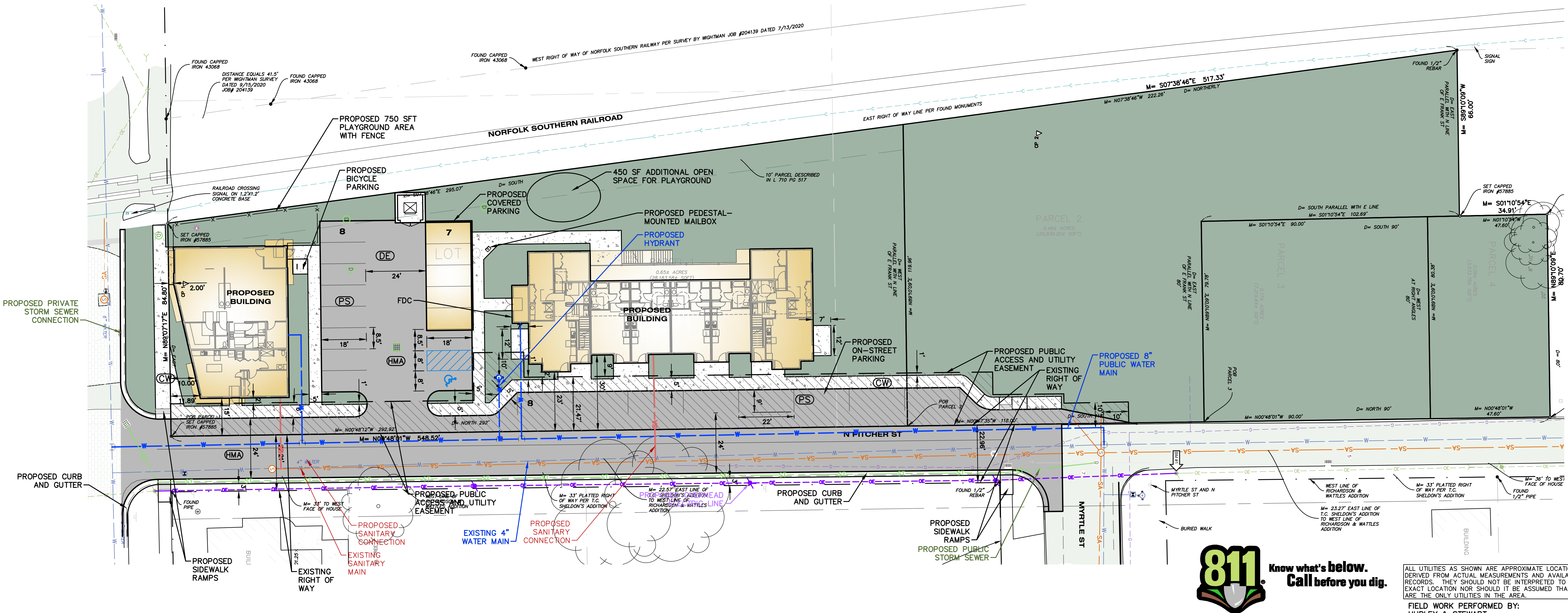
SITE LEGEND

- HMA HMA PAVEMENT
- CW CONCRETE WALK
- PS PARKING STRIPING (8.5'x18')
- DE DUMPSTER ENCLOSURE



LEGEND

- HMA PAVEMENT
- CONCRETE PAVEMENT
- PROPOSED BUILDING



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.
FIELD WORK PERFORMED BY:
HURLEY & STEWART

hurley & stewart, llc
2800 s. 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleystewart.com



ISSUED FOR/REVISIONS:			
1	VARIANCE REQUEST	6/16/22	
2	PRE-SITE PLAN REVIEW	6/21/22	
3	REVISED SITE PLAN	7/25/22	
4	ROADWAY SUBMITTAL	8/1/22	

SITE LAYOUT PLAN
ZONE 32
BOGAN DEVELOPMENT, LLC

Sheet Title:
Project:
Client:
8/1/22
Sheet
C-2

SURVEYOR'S NOTES

1. BASIS OF BEARINGS: MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83
2. CONTOUR INTERVAL = 1 FOOT
3. UTILITIES SHOWN ARE BASED ON FIELD LOCATION OF SURFACE EVIDENCE AND RECORDS PROVIDED BY OTHERS. UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE. ADDITIONAL UTILITIES MAY BE ENCOUNTERED. PRIOR TO ANY EXCAVATION THE CONTRACTOR SHALL CALL MISS DIG AT 1-800-482-7171.
4. THERE WAS NO EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING ADDITIONS OBSERVED AT THE TIME OF SURVEY.
5. THERE ARE NO KNOWN CHANGES PROPOSED TO THE STREET RIGHT OF WAY LINES. NO RECENT SIDEWALK CONSTRUCTION OR REPAIRS WERE OBSERVED AT THE TIME OF SURVEY.
6. BY SCALED MAP LOCATION AND GRAPHIC PLOTTING ONLY, THE LAND DEPICTED IN THIS SURVEY LIES IN ZONE X, MAP 26077C01870, EFFECTIVE DATE 02/17/2010.
7. NO WETLANDS ON SITE PER THE NATIONAL WETLANDS INVENTORY. A DELINEATION OF THE WETLANDS BY A QUALIFIED CONSULTANT WAS NOT PERFORMED AT THE TIME OF SURVEY.
8. PARCELS 1, 2, 3, & 4 CONTAIN 1.39± ACRES (60,076.20± SQ FT)
9. ZONING SETBACK REQUIREMENTS WERE NOT PROVIDED TO THE SURVEYOR.
10. LOCATION OF EAST RIGHT OF WAY LINE OF NORFOLK SOUTHERN RAILROAD HAS NOT BEEN FINALIZED AS OF 12/17/20. DOCUMENTS REQUIRED TO EITHER CONFIRM OR REJECT THE 1/2" IRON BAR FOUND AT THE APPROXIMATE INTERSECTION OF THE N. LINE OF FRANK ST & THE E. RIGHT OF WAY OF THE RAILROAD HAVE NOT BEEN PROVIDED BY THE TITLE COMPANY OR RAILROAD AND ARE NOT AVAILABLE FOR RESEARCH AT THE NATIONAL ARCHIVES DUE TO COVID-19 RESTRICTIONS. UPON RECEIPT OF THESE DOCUMENTS, THIS LINE WILL BE ESTABLISHED.

SCHEDULE "A" LEGAL DESCRIPTION

TITLE CO: SUN TITLE AGENCY OF MICHIGAN, LLC
UNDERWRITTEN BY: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT #PC145706 REV. NO. 1
EFFECTIVE DATE 09/17/2020 AT 08:00 AM

THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:
 LAND SITUATED IN THE CITY OF KALAMAZOO, KALAMAZOO COUNTY, MICHIGAN:

PARCEL 1:
 COMMENCING AT A POINT ON THE NORTHWEST CORNER OF FRANK AND PITCHER STREETS IN THE CITY OF KALAMAZOO; AND RUNNING THENCE NORTH ALONG THE WEST SIDE OF PITCHER STREET, 292 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF FRANK STREET TO THE RIGHT-OF-WAY OF THE GRAND RAPIDS AND INDIANA RAILROAD COMPANY; THENCE SOUTH ALONG SAID RIGHT-OF-WAY OF THE GRAND RAPIDS AND INDIANA RAILROAD COMPANY, TO THE NORTH LINE OF FRANK STREET; AND THENCE EAST ALONG THE NORTH LINE OF FRANK STREET TO THE PLACE OF BEGINNING, BEING A PART OF LOTS "Q" AND "R" OF T.C. SHELTON'S ADDITION TO KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO), ACCORDING TO THE RECORDED PLAT THEREOF; THE ABOVE DESCRIBED PARCEL BEING DESCRIBED AND ASSESSED FOR TAX PURPOSES AS FOLLOWS: THE SOUTH 28 FEET OF LOT "R" AND THAT PART OF LOT "Q", LYING EAST OF THE E LINE OF PENN RAILROAD RIGHT-OF-WAY, ALL OF T.C. SHELTON'S ADDITION TO KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO), ACCORDING TO THE RECORDED PLAT THEREOF.

PARCEL 2:
 COMMENCING ON THE EAST LINE OF LOT "R" OF T.C. SHELTON'S ADDITION TO KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO), ACCORDING TO THE RECORDED PLAT THEREOF, BEING ALSO THE WEST LINE OF PITCHER STREET, AT A POINT 292 FEET NORTH OF THE NORTH LINE OF FRANK STREET; RUNNING THENCE WEST PARALLEL WITH THE NORTH LINE OF FRANK STREET TO THE EASTERLY LINE OF THE GRAND RAPIDS AND INDIANA RAILROAD COMPANY (NOW THE PENNSYLVANIA RAILROAD) RIGHT OF WAY; THENCE NORTHERLY ON THE EASTERLY LINE OF SAID RAILROAD RIGHT OF WAY TO A POINT 132 FEET SOUTH OF THE SOUTH LINE OF PARSONS STREET; THENCE EAST PARALLEL WITH THE NORTH LINE OF FRANK STREET TO A POINT 80 FEET WEST OF THE EAST LINE OF SAID LOT "R"; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID LOT "R" TO A POINT 146 FEET NORTH OF THE SOUTH LINE OF SAID LOT "R"; THENCE EAST PARALLEL WITH THE NORTH LINE OF FRANK STREET 80 FEET TO THE EAST LINE OF SAID LOT "R"; THENCE SOUTH ON THE EAST LINE OF SAID LOT "R", 118 FEET TO THE PLACE OF BEGINNING.

THE ABOVE DESCRIBED PARCEL BEING DESCRIBED AND ASSESSED FOR TAX PURPOSES AS FOLLOWS:
 PART OF LOT "R" OF T.C. SHELTON'S ADDITION TO KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO), ACCORDING TO THE RECORDED PLAT THEREOF; DESCRIBED AS COMMENCING ON THE WEST LINE OF PITCHER STREET AND 28 FEET NORTH OF THE SOUTH LINE OF LOT "R"; THENCE WEST TO THE EAST LINE OF THE PENN RAILROAD RIGHT-OF-WAY; THENCE NORTHERLY ON SAID RIGHT-OF-WAY TO A POINT 132 FEET SOUTH OF THE SOUTH LINE OF PARSONS STREET; THENCE EAST TO A POINT 80 FEET WEST OF THE WEST LINE OF PITCHER STREET; THENCE SOUTH TO A POINT 146 FEET NORTH OF THE SOUTH LINE OF SAID LOT "R"; THENCE EAST 80 FEET; THENCE SOUTH 118 FEET TO THE POINT OF BEGINNING.

PARCEL 3:
 COMMENCING ON THE EAST LINE OF LOT "R" OF T.C. SHELTON'S ADDITION TO KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO), ACCORDING TO THE RECORDED PLAT THEREOF, 410 FEET NORTH OF THE NORTH LINE OF FRANK STREET; RUNNING THENCE NORTH ON THE WEST LINE OF NORTH PITCHER STREET 90 FEET; THENCE WEST AT RIGHT ANGLES WITH THE WEST LINE OF NORTH PITCHER STREET 80 FEET; THENCE SOUTH PARALLEL WITH THE FIRST COURSE 90 FEET; THENCE EAST 80 FEET TO THE PLACE OF BEGINNING; BEING A PART OF LOT "R" OF T. C. SHELTON'S ADDITION TO KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO).

PARCEL 4:
 THE EAST 80 FEET OF THE NORTH 47.6 FEET OF THE SOUTH 283.6 FEET OF LOT "R" OF THE KALAMAZOO VILLAGE (NOW THE CITY OF KALAMAZOO), ACCORDING TO THE RECORDED PLAT THEREOF.

PARCEL #39-06-250-150.
 IF PROVIDED ABOVE, ANY ADDRESS AND TAX PARCEL NUMBER ARE SOLELY FOR INFORMATIONAL PURPOSES. WITHOUT WARRANTY AS TO ACCURACY OR COMPLETENESS, IF INCONSISTENT IN ANY WAY WITH THE LEGAL DESCRIPTION ABOVE, THE LEGAL DESCRIPTION SHALL CONTROL.

SCHEDULE B SECTION II EXCEPTIONS

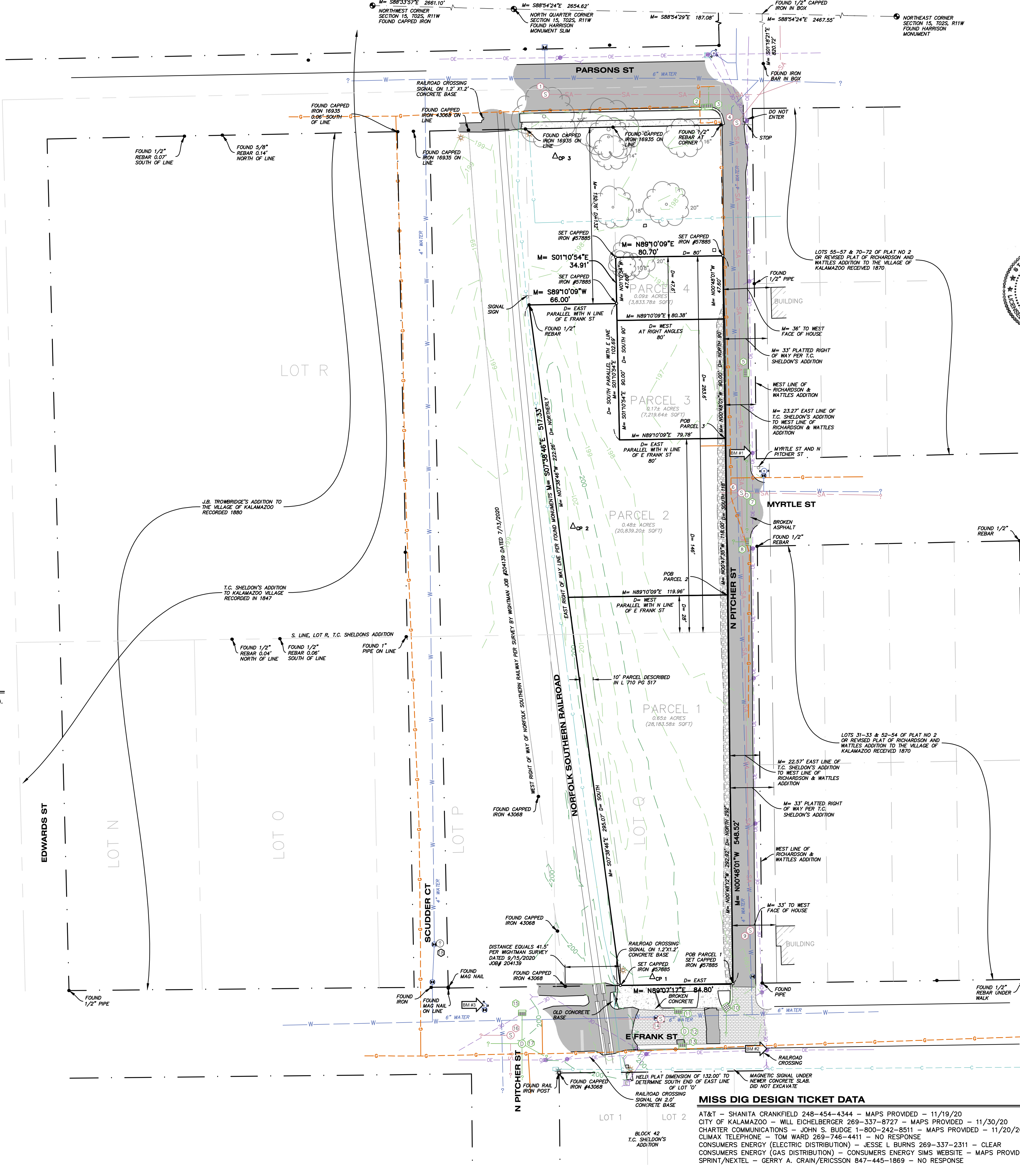
TITLE CO: SUN TITLE AGENCY OF MICHIGAN, LLC
UNDERWRITTEN BY: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT #PC145706 REV. NO. 1
EFFECTIVE DATE 09/17/2020 AT 08:00 AM

- [11] TERMS, COVENANTS, AND CONDITIONS OF INSTRUMENT, AS RECORDED IN LIBER 710, ON PAGE 517 (SHOWN).
 [12] TERMS, COVENANTS, AND CONDITIONS OF KALAMAZOO, MICHIGAN PLANNING COMMISSION RESOLUTION, AS RECORDED IN LIBER 820, ON PAGE 721 (NOT SURVEY MATTERS).
 [13] TERMS, COVENANTS, AND CONDITIONS OF NOTICE OF POSSIBLE RELEASE OF HAZARDOUS SUBSTANCES, AS RECORDED IN DOCUMENT NO. 2008-021512 (PERTAINS TO PARCEL 3).

LEGEND

BM BX BENCH MARK SET MONUMENT FOUND MONUMENT SET CAPPED IRON LIC. # 57885 FOUND IRON SET CHISELED "X" FOUND CHISELED "X" CP # CONTROL POINT P= PLATTED D= DESCRIBED M= MEASURED R= RECORD C= CALCULATED CURB CATCH BASIN SQUARE CATCH BASIN ROUND CATCH BASIN MANHOLE STORM DOWN SPOUT YARD DRAIN FLARED END SECTION MANHOLE SANITARY SANITARY CLEANOUT FIRE HYDRANT FIRE DEPARTMENT CONNECTION WATER VALVE WATER METER WELL HEAD SPRINKLER CONTROL VALVE SPRINKLER HEAD MONITOR WELL POST INDICATOR VALVE SPIGOT TRANSFORMER YARD LIGHT HAND HOLE (ELECTRIC) LIGHT POLE (UTILITY, GUY, POWER) POLE GUY WIRE ELECTRIC MANHOLE ELECTRIC METER AIR CONDITIONER GAS METER GAS VALVE TELEPHONE MANHOLE COMMUNICATION MANHOLE	RISE PIPE MARKER COMMUNICATIONS PIPE MARKER FIBEROPTICS PIPE MARKER ELECTRIC PIPE MARKER GAS SIGN (SINGLE/DOUBLE) MAILBOX PARKING METER (SINGLE/DOUBLE) POST SOIL BORING FLAG COLUMN BOLLARD CONTOUR HIGHLIGHTED CONTOUR NORMAL POWER LINE MISS DIG COMMUNICATION MISS DIG ELECTRIC MISS DIG FIBEROPTIC MISS DIG GAS MISS DIG SANITARY SEWER MISS DIG STORMWATER MISS DIG TELEPHONE MISS DIG WATER WETLAND MARKER MISS DIG UNKNOWN TREE LINE FENCE GUARD RAIL DECIDUOUS TREE CONIFEROUS TREE BUSH PAVEMENT CONCRETE SURFACE ADA RAMP BUMPS GRAVEL LANDSCAPING PAVERS
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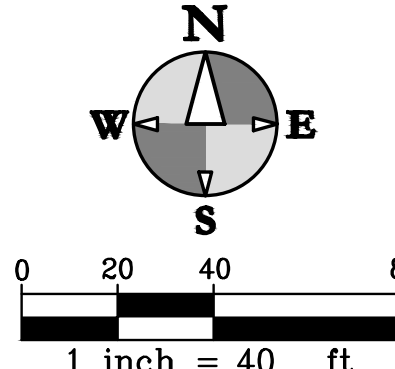
ALTA/NSPS LAND TITLE SURVEY



SITE LOCATION MAP

NOT TO SCALE

SECTION 15, TOWN 02 S, RANGE 11 W,
 CITY OF KALAMAZOO, KALAMAZOO COUNTY,
 MICHIGAN
 315 E FRANK ST



SURVEY CONTROL

CP 1	N = 5000.00	E = 5000.00	EL = 200.00
CP 2	N = 5339.40	E = 4940.16	EL = 201.60
CP 3	N = 5618.24	E = 4926.78	EL = 198.41

BENCHMARKS

ELEVATIONS OF THIS SURVEY ARE BASED ASSUMED, HELD AN ELEVATION OF 200.00 ON CONTROL POINT #1

BM 1 EL = 198.68
 SPIKE IN THE WEST FACE OF UTILITY POLE ON THE NORTHEAST CORNER OF N PITCHER ST AND MYRTLE ST.

BM 2 EL = 200.54
 SPIKE IN THE NORTH FACE OF UTILITY POLE ON THE SOUTH SIDE OF FRANK STREET AT THE WEST N PITCHER ST AND FRANK ST INTERSECTION.

BM 3 EL = 201.61
 CHISELED X ON BOLT WITH BURY TAG ON HYDRANT ON THE NORTH SIDE OF FRANK STREET AT THE EAST N PITCHER ST AND FRANK ST INTERSECTION.

STRUCTURE DATA

① SAN MH RIM = 198.74	① STM CB RIM = 199.02 12" CLAY DROP TO S DROP = 197.72 PIPE = 194.52
② STM CB RIM = 196.94	② 4.0" BRICK STM MH RIM = 199.85 SUMP = 194.15 NO PIPES VISIBLE
③ CONCRETE STM CB RIM = 196.90 INV. N 10" SLOPP = 193.95 SUMP = 193.9	③ STM CB RIM = 199.4 INV. 12" IRON DROP TO N DROP = 197.6 PIPE = 194.5±
④ 4.0" BRICK SAN MH RIM = 197.57 INV. S 10" CLAY = 193.42 INV. NW 10" CLAY = 193.37	④ 4.0" BLOCK SAN MH RIM = 199.7 INV. W 8" CLAY = 192.58 INV. W HOLE CORED WITH NO PIPE = 197.40
⑤ STM CB RIM = 196.59	⑤ STM CB RIM = 199.28 12" CLAY SOUTH TO DROP DROP = 195.63 PIPE = 195.68
⑥ 4.0" BRICK SAN MH RIM = 197.25 INV. N 10" CLAY = 194.25 INV. W 8" CLAY = 194.3 INV. W 8" CLAY = 194.3 INV. SW 8" CLAY = 194.3 SUMP = 194.25	⑥ 4.0" BLOCK SAN MH RIM = 199.88 INV. S 8" CLAY = 192.95 INV. W 8" CLAY = 193.05
⑦ 4.0" BRICK STM MH RIM = 197.15 INV. N 8" CLAY = 193.55 INV. S 8" CLAY = 193.55	⑦ 4.0" BRICK STM MH RIM = 199.88 INV. N 12" IRON = 193.88 INV. S 12" IRON = 193.83 INV. SE 12" IRON = 193.88 SUMP = 193.83
⑧ STM CB RIM = 197.08 12" IRON TO WEST DROP = 195.68 PIPE = 194.78	⑧ MH RIM = 199.86
⑨ 4.0" CONCRETE SAN MH RIM = 198.63 INV. S 12" IRON = 194.43	
⑩ STM CB RIM = 199.08 12" IRON DROP TO S DROP = 197.93 PIPE = 195.08 SUMP = 195.08	

TO BOGAN DEVELOPMENT, LLC, A MICHIGAN LIMITED LIABILITY COMPANY, SUN TITLE AGENCY OF MICHIGAN, LLC:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDED ITEMS 1, 3, 4, 5, 6(b), 11, AND 17 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON 12/15/2020

DATE OF PLAT OR MAP: 01/07/2021

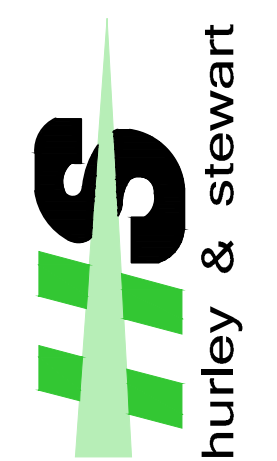
TRAVIS A. KRENTZ PROFESSIONAL SURVEYOR # 57885



MISS DIG DESIGN TICKET DATA

AT&T - SHANITA CRANKFIELD 248-454-4344 - MAPS PROVIDED - 11/19/20
 CITY OF KALAMAZOO - WILL EICHELBERGER 269-337-8727 - MAPS PROVIDED - 11/30/20
 CHARTER COMMUNICATIONS - JOHN S. BUDGE 1-800-242-8511 - MAPS PROVIDED - 11/20/20
 CLIMAX TELEPHONE - TOM WARD 269-746-4411 - NO RESPONSE
 CONSUMERS ENERGY (ELECTRIC DISTRIBUTION) - JESSE L BURNS 269-337-2311 - CLEAR
 CONSUMERS ENERGY (GAS DISTRIBUTION) - CONSUMERS ENERGY SIMS WEBSITE - MAPS PROVIDED - 12/14/20
 SPRINT/NEXTTEL - GERRY A. CRAIN/ERICSSON 847-445-1869 - NO RESPONSE

hurley & stewart, llc
 2800 south 11th street
 Kalamazoo, michigan 49009
 269.552.4960 fax 268.352.4961
 www.hurleystewart.com



12/17/2020
 #1 ALTA/NSPS SURVEY
 #2 LOT LINE ADJUSTMENT
 01/07/21
 TRAVIS A. KRENTZ PROFESSIONAL SURVEYOR # 57885
 4001057885
 LICENSED PROFESSIONAL SURVEYOR
 COPYRIGHT © of Hurley & Stewart, LLC

ALTA/NSPS LAND TITLE SURVEY
 ZONE 32
 BOGAN DEVELOPMENT, LLC

Sheet Title:
 Project:
 Client:
 01/07/21
 Sheet
S-1
 1 of 1



Community Planning and Economic Development

245 N. Rose Street, Suite 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

Bogan Developments Inc.
Attn.: Jamauri Bogan
180 E Water Street, Apt 6111
Kalamazoo MI 49007

July 18, 2022

**Re: ZBA #22-07-21
315 E. Frank Street
Parcel #06-15-250-150**

Dear Mr. Bogan:

At the meeting of the Zoning Board of Appeals on Thursday, July 14, 2022, the Board approved a dimensional variance from Chapter 50-5.6 to allow up to a 27-foot setback where a build-to zone of 0-10 feet is required.

Please note that unless specified by the Board, all variances granted shall become null and void if not exercised within one (1) year of the date of granting. Site Plan Review approval will be required before the issuance of permits for the project.

If you have any questions, please contact me in the Community Planning and Development Department at (269) 337-8806.

Sincerely,

Peter C. Eldridge, AICP
Assistant City Planner

C: Property File

Mr. Lager seconded the Finding of Fact.

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

Mr. Lager moved to approve the application for a use variance from Appendix A, Chapter 4, Section 4.1 to allow the property to be used for “Light Equipment Repair” (which is defined as repair of automobiles and the sale, installation, and servicing of automobile equipment and parts but excluding body repairs and painting, seconded by Ms. van denHombergh.

Discussion:

Chair Carroll stated he was in favor but questions the speed in which the city will update the ordinance. He wanted to know should they wait until the ordinance passes or can they put a condition on the variance that it expires, and Mr. Eldridge said the variance will no longer be needed once the ordinance is adopted and if approved, the variance will disappear. He added that there can be delays but he doesn't see them coming from the residential district standards that are being proposed.

Vice Chair Lager added he will be in favor based on the special circumstances and that the building was custom built for an automotive business. He felt that it wouldn't make sense to deny this based on there being other auto related businesses on opposite corners of this location.

Chair Carroll asked if there were additional comments from the board and there were none.

Motion approved by roll call vote unanimously.

Mr. Lager read the application for 315 E. Frank Street

ZBA#22-07-21: 315 E. Frank Street: An application for a dimensional variance of the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Bogan Developments LLC for 315 E Frank Street, which is situated in the Live-Work District (LW-1). The applicant is requesting a dimensional variance from Chapter 50-5.6 to allow up to a 27-foot setback where a build-to zone of 0-10 feet is required.

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

Jamauri Bogan of Bogan Development and Alex Phelan of Hurley and Stewart spoke. Mr. Bogan said they would bring a 14 unit building to the site with one of those being a childcare center run in partnership with the YMCA.

Mr. Phelan, a civil engineer with Hurley and Stewart said they have been working on this project for one year. He stated they have been working with the city to rezone the property from a Manufacturing zone to a Live-Work 1 zone. He said part of Live-Work designation is that the

property would bump up against the right of way and even though they intended to do that, they found an error in the survey, which he presented on the screen. He stated a typical right of way is 33 feet wide on each side of the road, or 66 feet wide in total. The right of way, which was platted back in the 1800's, is only 22.5 feet on that side of the road. He said while they were going through site plan, they were told they would need to bring the road up to the 24 feet cross section standard. The issue is standard number two: they have the 24-foot road with parking, and sidewalks and that is pushing the buildings further away. They would like to grant an easement to the city and the hope is and it will function as a right of way and the buildings would be 10 feet within the easement area instead of the right of way.

Mr. Carroll asked if the image shown is what they intend to build, and Mr. Phelan said it is. Mr. Phelan described the highlighted yellow are buildings. Mr. Carroll asked if the pink is the landscaped easement and Mr. Phelan said yes.

Mr. Phelan said there are two ways to correct: one is to go back and replat, which goes thru the state of Michigan and can take years or establish an easement. He then presented a picture of Pitcher Street stating the city is asking that they improve the street to turn it into a thoroughfare to accommodate traffic, on street parking, pedestrian traffic, a fire apparatus, and other emergency vehicles. He said the goal is to meet the intent of the Live-Work zone.

Mr. Burdue asked if the whole street is being reconstructed or just a portion adjacent to the property and Mr. Phelan pointed out the gray area on the image as being what is being done since it is owned by Mr. Bogan. Mr. Bogan added that they will also be doing the part of Pitcher Street by Myrtle and that the city will also add dollars into the rest of the street as well.

Ms. Harrington asked if it is Mr. Bogan's responsibility to make the improvement or the city's and Mr. Bogan said it's part of the project.

Chair Carroll asked for comments/questions from the public and there were none. He then asked if there were any phone calls and there were none.

Staff comments are as follows: the focus is a set-back issue that this is a platting error made long ago that is creating this hardship and is no fault of the applicant or the city. He added that once the error was discovered it was realized that it would affect public utilities, on-street parking, and the public sidewalk. He said that the city decided it was best to go with an easement and that the easement would not change the property lines.

Mr. Eldridge touched on the strategic vision stating that this is a Brownfield site the city has been looking to develop and has been working closely with Bogan Development. He stated the site has been cleaned and now will be repurposed to add businesses and housing and is a very positive thing for the city. He said the city recommends granting the variance based on the hardship.

Chair Carroll asked for additional questions from the board and Ms. Harrington stated she doesn't understand why it is the applicant's responsibility if this was a planning error and Mr. Eldridge stated that the error occurred many years ago and because this portion of Pitcher Street has seen very little development, it wasn't known until this project came up that there was an error with the right of way until the survey was done and what was thought to be 66 feet wide is only 22.5 feet

and that it's insufficient for travel lanes, utility runs or the placement of the public sidewalk. So either has to be replatted or an easement has to be created so that the city has access to the property frontage for the utilities.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Terpening moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 315 E. Frank Street shall include all information included in the notice of public hearing dated June 29, 2022.
- 2.) 29 notices of public hearing were sent, and zero response were received. There were no public or call in comments.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) 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:

Jamauri Bogan and Alex Phelan of Hurley and Stewart presented a platting error that occurred several years ago and is resulting in set back issues. The easement will allow the city to install utilities and other investments to the property can also move forward. Hurley and Stewart submitted slides to show the final result. Two solutions were given replatting is lengthy and expensive and easement of right of way was also suggested.

Ms. van den Hombergh seconded the Finding of Fact.

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

Mr. Lager moved to approve the application for a dimensional variance from Chapter 50-5.6., to authorize a dimensional variance from Chapter 50-5.6 to allow up to a 27-foot setback where a build-to zone of 0-10 feet is required, seconded by Mr. Burdue.

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

Discussion:

Chair Carroll appreciated the slides and explained his reasons for support based on the fact that this one meets all of the requirements and the circumstances are not the fault of the applicant, it will not have a negative impact on the immediate area, and it is in conjunction with the intent and purpose of the ordinance.



Parcels within 300' Mailing Radius 315 E Frank St

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



0 110 220 440 ft

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Zoning Board of Appeals Staff Report

Date: **9/8/2022**

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: September 8, 2022

SUBJECT: ZBA #22-09-28: 1521 Palmer Avenue. Matthew Torzewski is requesting: **1)** A dimensional variance from Chapter 6, Section 6.3 A 2, to install a six-foot fence in the front yard along Cameron Street, where four feet is the maximum height for fencing in the front yard. **2)** A dimensional variance from Chapter 6, Section 6.3 A 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%.

BACKGROUND:

Mr. Torzewski owns a corner lot with 55 feet of frontage on Palmer Avenue and 125 feet of frontage on Cameron Street. The dwelling is approximately five feet from the interior side property line and approximately 20 feet from the front and corner property lines. A four foot fence with up to 75% opacity is permitted in the yards adjacent to the street; however, the applicant would like to install privacy fencing. The code only permits this type of fencing behind the house, along the west side of the property, because it is a corner lot.

Mr. Torzewski is proposing to remove the existing chain-link fence and install a six-foot, 100% opaque privacy fence which would run from the southeast corner of the house to the northeast corner of the garage. The fencing will extend into the front yard along Cameron Street and will turn and connect to the garage approximately 18 feet short of the alley. This fence would be placed just inside the property line along Cameron Street, approximately 12 feet from the curb. There is a sidewalk along Cameron; it is located at the back edge of the curb with greenspace between it and the proposed fence.

Mr. Torzewski has indicated that the dwelling is positioned close to the west property line, which has resulted in a large front yard along Cameron Street where he cannot place anything taller than a four foot, 75% opaque fence. The Ordinance currently allows for a reduction of 50% of the required front building setback for the dwelling on the side of the property that does not contain the primary entrance. If this was a newly constructed dwelling, it could be positioned 12.5 feet from the property line along Cameraon Street instead of 20 feet.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision, Master Plan 2025 and Edison Neighborhood Plan alignment:

The Future Land Use Map identifies this property at R1 - Low Intensity Residential.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

Notices have been sent to all property owners within 300 feet and a notice was sent to the Edison Neighborhood Association.

Engagement/Communication Tools:

Notice was placed in the Gazette, letters and emails.

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 no unique circumstances like topography or the shape of the lot. The house, constructed under an earlier Zoning Ordinance, is set back further from the Cameron Street property line than it could, if built today. This creates a large yard space along Cameron Street that by Ordinance cannot be fenced in with a privacy fence.

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

As stated above, the house was built such that there is a wider yard along Cameron Street than is located on the other side of the home (interior side yard). The applicant did not build the house, purchasing it at a later date.

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 literal interpretation and enforcement of the ordinance would allow for a four-foot tall, 75% opaque fence in the front yards and a six-foot, 100% opaque fence in the side and rear yards. This is a corner lot, which per the ordinance has 2 front yards (Palmer and Cameron). The applicant is requesting that taller, less transparent fencing be allowed in the Cameron Street (front) yard.

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 requested installation of a taller, less transparent fence does not impact site distances for those traveling on Pamer and Cameron Streets. The applicant is requesting the taller, less transparent fencing in one front yard (Cameron Street), not both and not in the yard with the front door to the property. The minimum action would be relief equal to the difference between the former front setback of 20 feet and the current setback allowed of 12.5 feet.

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

The granting of the variance will not affect adjacent land in a material way. The applicant has indicated that he will also be removing the existing chain-link fence currently located in the right-of-way.

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

The granting of the variance will be consistent with the ordinance to promote orderly and safe development.

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 dimensional variance.

RECOMMENDATION:

The staff recommends the board give consideration to approving a reduced variance.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 24, 2022

**RE: ZBA #22-09-27
1521 Palmer St
Parcel # 06-26-179-014**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Matthew Torzewski for 1521 Palmer Street in the Residential – Single Dwelling District (RS-5).

The applicant is requesting:

- 1) A dimensional variance from Chapter 6, Section 6.3 A 2, of two feet to install a six-foot fence in the front yard along Cameron Street, where four feet is the maximum height for fencing in the front yard.
- 2) A dimensional variance from Chapter 6, Section 6.3 A 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%.

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

The meeting will be held on Thursday, September 8, 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



Submission date: 11 August 2022, 11:53AM
Receipt number: 6
Related form version: 11

Introduction

Have you scheduled a pre-application meeting? Yes

Applicant Information

Name	Matthew Torzewski
Email Address	matthew.a.torzewski@gmail.com
Phone Number	5748071517
Address	1521 Palmer Ave, Kalamazoo, MI 49001, USA Map (42.270185, -85.5606)
Preferred Contact Method	Email
Are you the property owner?	Yes

Property and Application Details

Property Address	1521 Palmer Ave, Kalamazoo, MI 49001, USA Map (42.270185, -85.5606)
Parcel Identification Number	06-26-179-014
Zone District	RS-5

Type of Request	Dimensional Variance
Application Fee	\$300.00
Project Description & Reason for Request	Description: 6ft wood privacy fence on the property line (12ft from back of sidewalk) along Cameron St. extending to and attached to the front of the house. Refer to neighborhood precedent and proposed fence footprint. Reason: Any other fencing option taken, once the dilapidated chain-link fence present in the right-of-way is removed, would increase the likelihood of trespassing and theft as well as adverse animal reactions with aggressive neighborhood dogs as confirmed by the crime map and current demographics of the neighborhood.

Dimensional Variance Review Criteria

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?

Yes. Existing house is positioned closer to west side property line leaving large yard area on east side of house that is all front yard with limited fencing allowance. Sidewalk is positioned at back of curb not at edge of private property. This is not commonplace in other neighborhood even other areas of Edison.

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?

Yes. Privacy fences are not permitted in front yards to reduce vision obstruction at street corners and provide better visibility for vehicles pulling out of driveways/alleys and across sidewalks. Fence will not extend into this front yard along Palmer St. The sidewalk on the Cameron Street side is at the back of the curb creating approximately 12 feet of right of way that is open between the proposed privacy fence and sidewalk. Visibility is not obstructed at the street corner by the fence or for vehicles pulling out of alley. Also, fence will not extend all the way to alley it will turn and run to corner of the garage approximately 6 feet away from the alley.

Are the special circumstances created by actions of the applicant?

Yes. Privacy fences are not permitted in front yards to reduce vision obstruction at street corners and provide better visibility for vehicles pulling out of driveways/alleys and across sidewalks. Fence will not extend into this front yard along Palmer St. The sidewalk on the Cameron Street side is at the back of the curb creating approximately 12 feet of right of way that is open between the proposed privacy fence and sidewalk. Visibility is not obstructed at the street corner by the fence or for vehicles pulling out of alley. Also, fence will not extend all the way to alley it will turn and run to corner of the garage approximately 6 feet away from the alley.

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. Any other fencing option taken, once the dilapidated chain-link fence present in the right-of-way is removed, would increase the likelihood of trespassing and theft as well as adverse animal reactions with aggressive neighborhood dogs as confirmed by the crime map and current demographics of the neighborhood.

Will the granting of the variance negatively affect adjacent land?

No. There are no adjacent lands or line of sight for motorists (given the proposed fence footprint) that could be impacted by the variance.

Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?	Yes. The ordinance is to ensure sight lines remain for corner lots. The 66ft street right-of-way and end of the fence at the front corner of the house ensures sight lines remain appropriate for the intersection as demonstrated by historical performance of the identical fence footprint 1 block south of the proposed location.
--	--

Does existing landscaping, screening or wetlands planned to be preserved meet the intent of the Ordinance?	Not applicable
--	-----------------------

Does the landscaping proposed by the applicant meet the intent of this section?	Not applicable
---	-----------------------

Are there steep changes in topography that would limit the benefits of landscaping?	Not applicable
---	-----------------------

Are the proposed building and parking lot locations setback beyond the required setback?	Not applicable
--	-----------------------

Are there abutting lands developed or could be developed in the near future with a use other than residential?	Not applicable
--	-----------------------

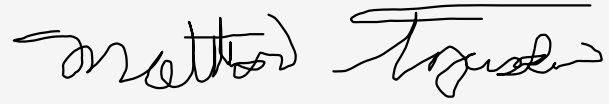
Do similar landscaping conditions exist which would result in no added benefit if additional landscaping or screening was provided?	Not applicable
---	-----------------------

Supporting Documents

Supporting Documents	1521 Palmer Overhead.JPG Edision Neighborhood Precedent.JPG 1521 Palmer Fence Footprint - Behind Tree.JPG
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Submit

Your Signature

A handwritten signature in black ink, appearing to read "Matthew Tjornehoj". The signature is written in a cursive style with a horizontal line above the last name.

[Link to signature](#)

Palmer and Cameron Right-of-Ways

Legend

-  Parcels
-  Street Centerlines - City



0.0 0 0.01 0.0 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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Parcels within 300' Mailing Radius 1521 Palmer 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: **9/8/2022**

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: September 8, 2022

SUBJECT: ZBA #22-09-29 3625 W. Michigan Avenue. Great Lakes Capital is requesting the following: **1)** A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the proposed development to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area. **2)** A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize the removal of 71.7% of woodland, where 50% is the maximum permitted.

BACKGROUND:

The project is located on West Michigan Avenue near the Western Michigan University campus in the Commercial - Community District (CC). The proposed use will be student housing, which will include 164 apartment units, a pool, a pool house, a basketball court, and other amenities. The proposed project will redevelop a vacant and blighted former long-term care facility (nursing home). This involves the demolition of the main building on the property, with significant site preparation to balance the land and manage grades on the property. This work is necessary to match grades with adjacent properties and properly route stormwater for on-site management.

The project is in the NFP Overlay District. The project identifies both protected slopes (over 20%) and woodlands on the property. Working with AR Engineering, the applicant, Great Lakes Capital (GLC), is requesting variances from the two NFP standards. The project went to a Project Review Meeting to gain early feedback from the Site Plan Review Committee. After several meetings with staff and adjustments to the site plan, the applicant is requesting the following:

Variance from the Slope Protection Standards:

The NFP Ordinance has a conservation slope protection standard, which prohibits any disturbance to slopes of a 20% grade with woodland cover. Additionally, development within the slope setback is prohibited. The initial site plan for the project showed regrading and/or

filling of all slopes on the entire site to prepare for a much larger footprint of buildings and parking. The applicant reduced the apartment count and pulled the development to the north end of the site, thereby reducing the impact on the sloped and woodland covered area along the southern boundary. The loop driveway, recommended by the Fire Marshal, which extends around the south side of the southernmost buildings does pass through a protected slope area along the east side of the property.

Variance from the Woodland Protection Standards:

The NFP Ordinance has woodland protection standards, whereby sites with 50-75% total woodland coverage must preserve 50% of the area of woodland on the site. The woodland preservation requirement for this site would be preserved except for the regrading that is required to match grades of adjacent sites, loop access drive around all the buildings, and stormwater facilities that will protect off-site wetlands below the property. The initial site plan for this project showed clearing of all the woodland on the entire site to prepare for a much larger grouping of buildings and parking area. The reduction in the number of apartments and pulling the development to the north of the site has preserved the woodlands along the southern boundary.

The Natural Features Protection Review Board met on August 23, 2022. At this meeting, the Board unanimously approved a recommendation to the ZBA to approve the two variances with one condition that the future site plan includes a native seed mix, grasses, and trees being planted on the south slope of the new stormwater retention basin.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision and Master Plan 2025 alignment:

This project touches on the Strategic Vision goal of Complete Neighborhoods as it will result in the removal of a blighted structure and construction of new housing units.

The Future Land Use Map identified this parcel as commercial. The proposed use does fit with the surrounding land uses as there is student housing to the east and a bar/restaurant and more student housing to the west.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

Notices have been sent to all property owners within 300 feet.

Engagement/Communication Tools:

Gazette notice and letters.

FINDINGS:

The staff has made the following findings regarding this request:

1. Are there reasons the parcel cannot be reasonably utilized for its zoned use without the requested relief?

The goal of the NFP Ordinance is to balance development with protection of the natural features. Adherence to the standards in NFP Ordinance would limit development to approximately 50% of the property and would not address the antiquated stormwater management on the site. The developer has reduced the number of housing units and parking spaces to less than what is permitted for this site to accommodate the preservation of the natural features. Further reductions would make this project no longer feasible.

2. Is the extent of relief requested the minimum action needed to permit reasonable utilization of the site?

The requested relief is the minimum action that will allow for the redevelopment of this site. The developer has scaled back the project to protect the natural features.

3. How can you demonstrate that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the NFP Overlay District?

Granting the relief will result in the demolition of a blighted structure, the regrading of the site to match the grades of the adjacent developments, preservation of native slope and woodlands along the southern boundary of the site, and replacement of the antiquated stormwater system.

4. Is the requested relief balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater best management practices from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List?

Greater stormwater capture and treatment will improve the condition of woodland and low-lying areas along the southern boundary of the property. The condition placed on the recommendation for approval requires the replanting of the area south of the detention basin with native grasses and trees.

RECOMMENDATION:

The staff follows the recommendation of the NFP Board and recommends approval of the two NFP variances as they meet the review criteria, with the one condition that the future site plan includes a native seed mix, grasses, and trees being planted on the south slope of the new stormwater retention basin.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 24, 2022

RE: ZBA #22-09-29
3625 W. Michigan Avenue
Parcel #06-19-463-001

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Great Lakes Capital for 3650 W. Michigan Avenue in the Commercial – Community District (CC).

The applicant is requesting the following variances:

- 1) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the development proposed to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area.
- 2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize the removal of 71.7% of woodlands (increase of 21.7%), where 50% is the maximum permitted.

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

The meeting will be held on Thursday, September 8, 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: Great Lakes Capital		Mailing Address: 130 South Main St., Ste. 325
City: South Bend	State: IN	ZIP Code: 46601
Phone: 574-855-5700	Email: jsmoke@greatlakescapital.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: Kalamazoo Realty Holdings, LLC		Mailing Address: 40600 Ann Arbor Rd. E. Ste. 201
City: Ann Arbor	State: MI	ZIP Code: 48170
Phone:	Email: simi@hallmark-living.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 3625 W Michigan Ave, Kalamazoo, MI 49006		
Parcel Identification Number(s): 06-19-463-001		Zone District (kalamazoo.org/maps): CC - community commercial
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>50</u> , Section(s) <u>6.2 and 7.2</u>		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) <u>50</u> , Section(s) _____		
☐ Temporary Use Approval		
☐ Use Variance to allow _____		
Reason for Request: Variance to allow for tree removal within the NFP Overlay as noted on the plans. (28.3% preserved / 71.7% requested to be removed). Variance to allow for 36,590 sft of steep slope impacts.		
ATTACHMENTS		
☒ \$ <u>300.00</u> Fee		
☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☐ Review Sheet for Request Type		☐ Optional: Photos of property, architecture plans, etc.
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: <u>Jeff Smoke</u>		Date: <u>08/02/22</u>
Signature of Owner (if different than applicant): <u>[Signature]</u>		Date: 08 / 02 / 2022

ZONING BOARD OF APPEALS

NATURAL FEATURES PROTECTION REVIEW SHEET

General Information

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

The site is proposed to be redeveloped as an apartment complex. The existing site will be demolished and cleaned up to allow for redevelopment. The development is planned to have several amenity upgrades such as a pool, pool house, basketball court and other sport court.

Review Criteria for Natural Features Protection Variances

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

The parcel cannot be reasonably utilized for its zoned use without the requested relief.

The existing parcel was recently added into the NFP Overlay. Adjacent parcels have been developed fully utilizing their parcel. The property in question cannot reasonably be utilized as similar uses that exist on the adjacent parcels without some relief.

The extent of relief requested is the minimum needed to permit reasonable utilization of the site.

The extent of relief shown for the tree impacts are the minimum needed when considering a balance between preservation, cost feasibility, and required site improvements. There are fire department requirements that dictate needing a looped fire lane around the site. This requirement does impact and require tree removal. The site redevelopment will clean up a dilapidated building and site that has created issues for the City of Kalamazoo. The shown improvements (number of units) are at the low end of desired unit count to make this project feasible to redevelop the site.

It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.

There is no concern for substantial detriment to the public good and granting relief will not impair the intent and purpose of the NFP Overlay District.

The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater best management practices from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List.

The requested relief utilizes existing site features as best possible to minimize tree removals and minimize slope impacts. Storm water management will be reviewed in greater detail with the City Engineering team, but existing natural low areas near the South property line are intended to be utilized to help minimize required storm water runoff requirements.

It is intended to plant desired trees detailed in Table 6.2-5. We will work closely with the City of Kalamazoo and our landscape architect to put together a detailed landscape plan utilizing desired trees and plantings.

We also intend to have additional supporting documentation on the types and condition of existing trees within the woodland area that is proposed to be impacted. We will have these documents prepared and provide them to the City prior to the upcoming Board meetings.

The proposed development coincides with the City's zoning ordinance and provides more residential housing within the City limits in an area that has additional demand for housing. Michigan Ave contains multiple uses ranging from commercial to multi-family residential. Approving this variance increases housing availability for families and students in this area.



Community Planning & Economic Development

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

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ZONING BOARD OF APPEALS

NATURAL FEATURES PROTECTION REVIEW SHEET

General Information

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

The site is proposed to be redeveloped as an apartment complex. The existing site will be demolished and cleaned up to allow for redevelopment. The development is planned to have several amenity upgrades such as a pool, pool house, basketball court and other sport court.

Review Criteria for Natural Features Protection Variances

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

The parcel cannot be reasonably utilized for its zoned use without the requested relief.

The existing parcel was recently added into the NFP Overlay. Adjacent parcels have been developed fully utilizing their parcel. The property in question cannot reasonably be utilized as similar uses that exist on the adjacent parcels without some relief.

The extent of relief requested is the minimum needed to permit reasonable utilization of the site.

The extent of relief shown for the steep slope limits is the minimum needed when considering a balance between preservation, cost feasibility, and required site improvements. There are fire department requirements that dictate needing a looped fire lane around the site. This requirement does require impacts to a section of steep slope. The neighboring development to the East created berm areas / steep slopes adjacent to the shared property line, which creates hardships to match existing grades.

It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.

There is no concern for substantial detriment to the public good and granting relief will not impair the intent and purpose of the NFP Overlay District. Slope restoration methods such as double sided mulch blanket, utilizing foundation walls of proposed buildings, and reinforcing slopes are planned for in order to minimize steep slope impacts.

The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater best management practices from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List.

The requested relief utilizes existing site features as best possible to minimize impacts to steep slopes. Storm water management will be reviewed in greater detail with the City Engineering team, but existing natural low areas near the South property line are intended to be utilized to help minimize required storm water runoff requirements and therefore keep impacts to steep slopes minimal (as shown on the submitted plans).

The proposed site redevelopment will clean up a dilapidated building and site that has created issues for the City of Kalamazoo. The shown improvements (number of units) are at the low end of desired unit count to make this project feasible to redevelop the site. We will plan to attend the required meeting and be prepared to discuss any questions the City or Board may have that the required meetings.

The proposed development coincides with the City's zoning ordinance and provides more residential housing within the City limits in an area that has additional demand for housing. Michigan Ave contains multiple uses ranging from commercial to multi-family residential. Approving this variance increases housing availability for families and students in this area.



Community Planning & Economic Development

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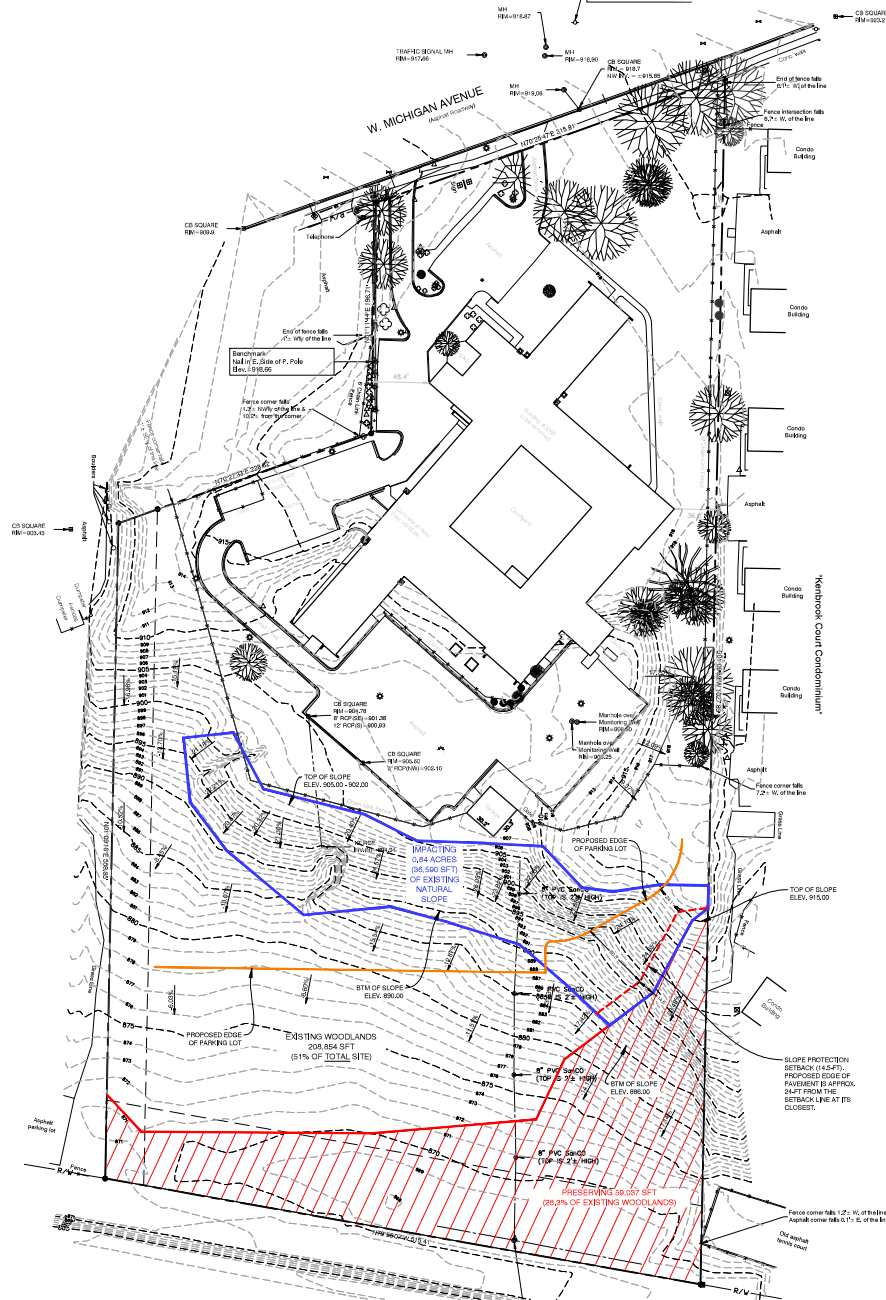
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DEMOLITION NOTES

1. ALL WORK SHALL CONFORM TO ALL LOCAL, STATE AND FEDERAL LAWS, RULES AND REGULATIONS IN FORCE AT TIME OF CONSTRUCTION.
2. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS, PERMIT COSTS, TAP FEES, METER DEPOSITS, PERMANENT UTILITY APPLICATIONS, BONDS, AND OTHER FEES REQUIRED FOR PROPOSED WORK. THIS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO THOSE REQUIRED BY THE CITY OF KALAMAZOO, MICHIGAN AND KALAMAZOO COUNTY.
3. CONTACT MISS DIG "911" FOR LOCATION OF UNDERGROUND UTILITIES A MINIMUM OF 48 HOURS BEFORE COMMENCING EXCAVATION WORK. THE DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY OF NOTIFYING UTILITY OWNERS WHO ARE NOT PART OF THE MISS DIG ALERT SYSTEM. THE CONTRACTOR SHALL CONDUCT HIS OPERATIONS IN A MANNER AS TO ENSURE THAT THOSE UTILITIES NOT REQUIRING RELOCATION WILL NOT BE DISTURBED.
11. DEMOLISH & REMOVE ALL EXISTING SITE FEATURES AS REQUIRED.
12. ALL SOIL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO DEMOLITION.
13. ALL EXCAVATION SHALL BE IN ACCORDANCE WITH THE TECHNICAL SPECIFICATIONS AND GEOTECHNICAL REPORT FOR THIS SITE.
14. ALL EXISTING ELEVATIONS ARE TO BE VERIFIED AND ACCEPTED AS SHOWN PRIOR TO COMMENCEMENT OF WORK.
15. CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID TRACKING SOIL ONTO ADJACENT ROADWAYS. CONTRACTOR SHALL SWEEP IMMEDIATELY IF OCCURS.
16. ANY DISTURBED AREA WHICH WILL BE LEFT UNWORKED 15 DAYS OR LONGER MUST BE SEEDED TO ESTABLISH VEGETATION FOR TEMPORARY STABILIZATION. BAINS TO BE SEEDED AND MULCH BLANKETS APPLIED IMMEDIATELY TO PROVIDE A STABLE BASE AND AVOID EXCESSIVE EROSION.
17. REVIEW ALL THE REMOVALS AND PROTECTION WITH OWNER PRIOR TO COMMENCING CONSTRUCTION. INSTALL TEMPORARY SNOW FENCE AROUND ALL TREES REQUIRING PROTECTION. SNOW FENCE SHALL BE PLACED AT EDGE OF DRIP LINE.
18. SAWCUT ALL CURBS, SIDEWALK, AND PAVEMENTS PRIOR TO REMOVAL. ADDITIONAL SAWCUT MAY BE NECESSARY PRIOR TO REPLACEMENT TO ENSURE CLEAN EDGE.
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21. REMOVE, STORE, AND RESET ANY EXISTING SIGNS AS DIRECTED BY THE ENGINEER/OWNER.
22. REMOVE ALL TREES TO THE CLEARING LIMITS AS SHOWN. REMOVE ALL EXISTING TREES, STUMPS AND BRUSH FROM THE SITE AS NECESSARY TO CONSTRUCT THE IMPROVEMENTS.
23. THE CONTRACTOR SHALL DEMOLISH AND REMOVE ANY ITEMS REMAINING FROM THE EXISTING BUILDING. IN ITS ENTIRETY, INCLUDING WALLS, FOUNDATIONS AND FOOTINGS. ALL BUILDING DRAINS AND UTILITY LEADS SHALL BE LOCATED AND PROPERLY PLUGGED. UTILITY LEAD WORK SHALL BE COORDINATED WITH THE APPROPRIATE UTILITY COMPANY.
24. BACKFILL EXCAVATED AREAS WITH CLEAN GRANULAR FILL COMPACTED TO 95% OF THE MATERIAL UNIT WEIGHT BY MODIFIED PROCTOR.
25. CONTROL SHALL BE MAINTAINED OVER THE SITE AND OPERATION TO ELIMINATE HAZARDS TO THE PUBLIC. NAILS OR OTHER TIE PUNCTURING ITEMS SHALL NOT BE DROPPED ON STREETS, ALLEYS AND ADJACENT PROPERTY. PUBLIC STREETS, CURBS AND SIDEWALKS SHALL BE PROTECTED FROM DAMAGE. THE PERSON ENGAGED IN THE DEMOLITION WORK SHALL BE LIABLE FOR ANY AND ALL DAMAGE TO CURBS, STREETS, SIDEWALKS AND OTHER PUBLIC OR PRIVATE PROPERTY AND FOR ANY BODILY INJURY OCCURRING AS A RESULT OF THE DEMOLITION WORK.

NATURAL FEATURES PROTECTION

ORDINANCE REQUIREMENTS:
WOODLAND COVERAGE OF PARENT PARCEL: 50% - 75%
MINIMUM REQUIRED WOODLAND COVERAGE TO BE PRESERVED: 50%
EXISTING WOODLAND AREA: 208,845 SFT
TOTAL SITE AREA: 411,971 SFT
WOODLAND COVERAGE PERCENTAGE: 51%
PROPOSED WOODLAND AREA: 59,037 SFT
PROPOSED WOODLAND TO BE PRESERVED: 26.3%
VARIANCE REQUESTED TO REMOVE 71.7% OF REMAINING WOODLANDS WHEN ORDINANCE ALLOWS 50% REMOVAL OF WOODLANDS.

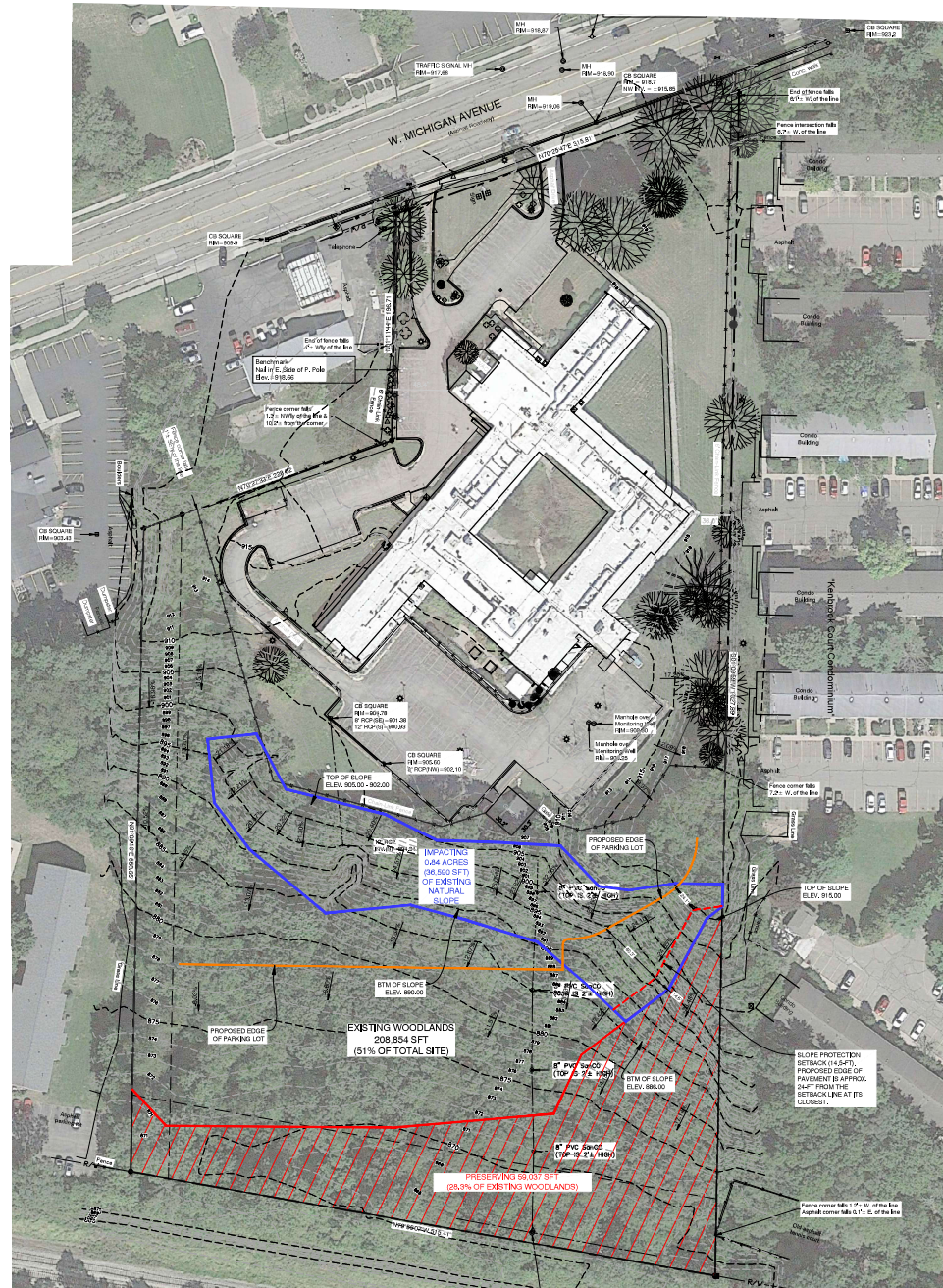


DEMOLITION NOTES

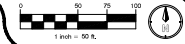
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NATURAL FEATURES PROTECTION

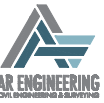
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VARIANCE REQUESTED TO REMOVE 71.7% OF REMAINING WOODLANDS WHEN ORDINANCE ALLOWS 50% REMOVAL OF WOODLANDS.



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA. FIELD WORK PERFORMED BY: MCGISTROM & ASSOC., INC.



PLANS PREPARED BY:



DRAWN: JPR
CHECKED: JPR
BORED: JPR

No.	ISSUED FOR:	DATE	BY
0	VARIANCE	08/02/22	JPR
1			
2			
3			
4			

EXISTING CONDITIONS - AERIAL
KALAMAZOO MULTIFAMILY
GREAT LAKES CAPITAL
3525 W MICHIGAN
SECTION 19, T2S, R1W

SHEET TITLE:
PROJECT:
CLIENT:
SITE ADDRESS:
SITE SECTION:

JOB NUMBER
2185008

DATE
08/02/2022

SHEET NUMBER
C1.1

SITE DATA

1. PROPERTY INFORMATION:
PARCEL #S: 06-19-403-001
SITE AREA: 411,971 SF (6.46 AC)
OWNER: KALAMAZOO REALTY HOLDINGS, LLC
4060 W. MICHIGAN RD., E. STE. 201
AUBURN, MI 48317
DEVELOPER: GREAT LAKES CAPITAL
130 SOUTH MAIN ST., STE. 325
SOUTH BEND, IN 46801
PHONE: (874) 854-7000
EMAIL: JIM@GREATLAKESCAPITAL.COM
2. ZONING:
PROPERTY CURRENTLY ZONED: CC-COMMUNITY COMMERCIAL
ABUTTING PROPERTY CURRENTLY ZONED:
NORTH: CM-1-COMMERCIAL NEIGHBORHOOD &
RS-4-RESIDENTIAL SINGLE DWELLING
SOUTH: CC-COMMUNITY COMMERCIAL
EAST: RM-15-RESIDENTIAL MULTIFAMILY
WEST: CM-1-COMMERCIAL NEIGHBORHOOD; PUD
PROPOSED LAND USE = MULTIFAMILY DWELLING
PERMITTED USE IN COMMUNITY COMMERCIAL DISTRICT
3. SETBACKS
FRONT = NOT SPECIFIED
SIDES = 25' ABUTTING R. DISTRICT / N/A
REAR = 25' ABUTTING R. DISTRICT / N/A
4. PARKING:
REQUIRED = (1) PARKING SPACE PER UNIT
164 UNITS / 1 PER UNIT = 164
ORDINANCE ALLOWS 10% INCREASE = 180
PROVIDED (SURFACE PARKING SPACES) = 204
PROVIDED (GARAGE PARKING INSIDE BLDG) = 30
TOTAL PROVIDED = 234
VARIANCE OF 54 SPACES REQUIRED
5. BUILDING:
THREE-STORY
MAXIMUM HEIGHT: N/A
PROPOSED IMPERVIOUS COVERAGE: 51%
MAXIMUM IMPERVIOUS COVERAGE: 80%

GENERAL NOTES

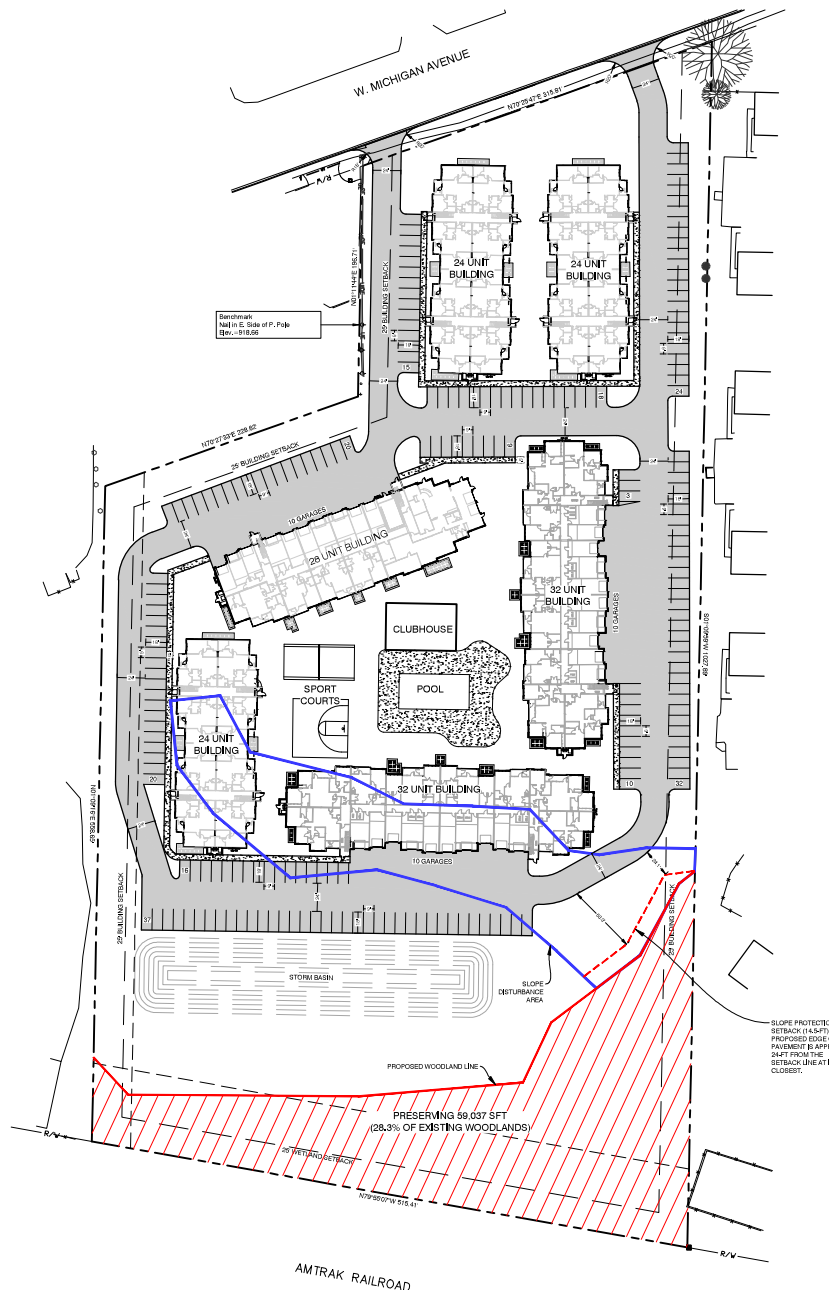
1. DIMENSIONS TAKE PRECEDENCE OVER SCALE. CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD.
2. IF ANY ERRORS, DISCREPANCIES, OR OMISSIONS BECOME APPARENT, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER PRIOR TO CONSTRUCTION OF ANYTHING AFFECTED SO THAT CLARIFICATION OR REVISION MAY OCCUR.
3. ALL CURB RADIUS AND DIMENSIONS ARE TO FACE OF CURB. CURB TO BE PROVIDED WHERE SHOWN AND INTEGRAL WITH SIDEWALK AT PAVING EDGE.
4. SLOPE GRADES UNIFORMLY BETWEEN ELEVATIONS SHOWN. NOMINAL GRADING. SLOPE SIDEWALKS AWAY FROM BUILDING AT 1/4" PER FOOT ON ENTRY WALK.

LEGEND

- PAVEMENT SECTION
- CONCRETE PAVEMENT AND SIDEWALK

NATURAL FEATURES PROTECTION

- ORDINANCE REQUIREMENTS:
WOODLAND COVERAGE OF PARENT PARCEL: 50% - 75%
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PLANS PREPARED BY:



DRAWN: BOREAD
CHECKED: JPN

No.	DATE	BY
0	9/8/2022	JPN
1		
2		
3		
4		

SHEET TITLE
PROJECT
COUNT
SITE ADDRESS
SITE SECTION

JOB NUMBER
2185008
DATE
08/02/2022

SHEET NUMBER
C2.0



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Parcels within 300' Mailing Radius 3625 W Michigan Ave

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



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **9/8/2022**

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: September 8, 2022

SUBJECT: ZBA #22-09-30: 1801 Oakland Drive. Simbarashe Chirara is requesting a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or 'lodging' land use in one of the three apartments on the premises, where in Zone RS-5 rentals are limited to 30 days or more under the definition of 'household living'

BACKGROUND:

Mr. Chirara purchased this property in 2017; it is improved with a 2,983 square foot two-story structure that contains three dwelling units of which the applicant lives in one. The property has a large driveway and parking area. The property is in the Residential - Single Dwelling District (RS-5). The three dwelling units are legally nonconforming and rental records have been found back to 1995 showing the continued use as a three-unit building though it is believed to have been a three-unit rental much longer. Though the property is zoned RS-5, the driveway access is from Howard Street, a City Connector in the Street Design Manual, not a neighborhood street. The property is on the outer edge of the Oakland Drive Winchell Neighborhood at the corner of Oakland Drive and Howard Street. A fire station and Western Michigan University Campus are located across the street.

Mr. Chirara is having difficulty filling one vacant unit and believes there is a market for short-term rentals to support a more mobile workforce of nurses, engineers and temporary staff businesses need and bring to Kalamazoo for limited periods of time. However, the Zoning Ordinance allows for 'Household Living' which is month to month or longer in RS-5. Any rental periods less than 30 days would fall under 'Lodging', like a hotel or motel where temporary stays or short-term lodging is offered in exchange for compensation.

No neighborhood opposition has been received and two letters of support from property owners to the north of this location have been submitted. As a resident on the property, Mr. Chirara is able to closely monitor the activities of the rental units.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision and Master Plan 2025 and Neighborhood Plan alignment::

The project does touch on the Strategic Vision goal of Complete Neighborhoods as this is another type of housing that is needed within the community for the transient workforce. The Future Land Use Map designates this property as R1- Low Intensity Residential. The Oakland Drive / Winchell Neighborhood Plan does not make any references to the use of short-term rentals but does focus on quality of life issues in the neighborhood and ordinance enforcement. 1801 Oakland Drive has no outstanding enforcement cases.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

The applicant reached out to the adjacent property owners and the Oakland Winchell Neighborhood Association. Two letters of support were received from 1807 and 1811 Oakland Drive. Notices have also been sent by the city to all property owners within 300 feet and a notice was sent to the Oakland Winchell Neighborhood Association.

Engagement/Communication Tools:

Gazette notice, letters and emails

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

The literal interpretation and enforcement of the ordinance would not allow for the shorter-term rental use but would allow the applicant to continue to rent the unit month to month. This limitation would not allow Mr. Charari to reach the transient workforce he is planning to market the unit to.

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 special circumstances are the pre-existing condition of the property with three dwelling units and the location at the edge of the neighborhood on a busy City Connector street across from a fire station and WMU.

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

This property had three dwelling units when the applicant purchased it.

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 will be the minimum action that will allow the owner the flexibility to rent one of the units as a short-term rental.

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

The granting of the variance will not change the appearance of the property and should not have any negative impact on adjacent properties.

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

The granting of the variance is consistent with the ordinance and this action allows flexibility in the length of stay for tenancy of this rental unit.

RECOMMENDATION:

The staff recommends approval of the use variance as it meets the above criteria.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

August 24, 2022

**RE: ZBA #22-09-31
1801 Oakland Drive
Parcel # 06-28-104-004**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Simbarashe Chirara for 1801 Oakland Drive in the Residential – Single Dwelling District (RS-5).

The applicant is requesting a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or ‘lodging’ land use in one of the three apartments on the premises, where in Zone RS-5 rentals are limited to 30 days or more under the definition of ‘household living’.

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, September 8, 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: Simbarashe M. Chirara		Mailing Address: 1801 Oakland Drive, Unit A	
City: Kalamazoo	State: Michigan	ZIP Code: 49008	
Phone: 269 443 3705	Email: schirara5@gmail.com	Preferred Contact: ☒ Email ☐ Phone	
PROPERTY OWNER INFORMATION			
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.			
Name:		Mailing Address:	
City:	State:	ZIP Code:	
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone	
PROPERTY INFORMATION			
Property Address(s): 1803 Oakland Drive, Kalamazoo, MI 49008			
Parcel Identification Number(s): 06-28-104-004		Zone District (kalamazoo.org/maps): RS-5	
TYPE OF REQUEST			
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____ ☐ Use Variance to allow <u>Short-Term Rentals (STR)</u> _____		☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval	
Reason for Request: *Unique features of property allow for STRs, have had difficulty finding longer-term tenants, will allow property to cater to a more mobile workforce of nurses, and Stryker/Pfizer staff with temporary stay needs, additional income will allow me to reinvest into the property and benefit the neighborhood.			
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>Simba Chirara</i>		Date: <i>8/11/22</i>	
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):

1801-03 Oakland Drive is a 3-unit rental property, located on the outer edge of the Oakland neighborhood and at the corner of the busy streets of Oakland and Howard Street. I have owned the property since 2017, live in one of the units and have leased out the other two. I am looking to start leasing one of the units, 1803 Oakland Drive, as a short-term rental "less than 30 days", which is not currently supported in Zone RS-5.

Unique features of the property include:

- There are other rentals in the same zone
- The property is located across from a police / fire station
- Big parking lot
- Next to Oakland and Howard Street
- Owner occupied
- Multiple dwelling unit

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?

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 property is a multi-dwelling unit and has a big parking lot and garage. The property doesn't function like others in the neighborhood and the parking lot supports a number of vehicles.



Community Planning & Economic Development

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Are the special circumstances created by actions of the applicant?

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?

Short-term rentals is a minimum action necessary for the use of the land or structure and will meet the spirit of the Ordinance. The granting of the variance will be beneficial for a number of reasons:

1. I have had difficulty finding longer-term tenants. The unit has been vacant since July of 2021. Even then I was getting below market rents of \$820/ month for a 2 bedroom unit.
2. STR will allow the property to cater to a more mobile workforce of nurses, and Stryker/Pfizer workers with temporary stay needs while generating more income.
3. Additional income will allow me to reinvest into the property that also benefits the neighborhood.

Will the granting of the variance negatively affect adjacent land?

It will not negatively affect adjacent land. The purpose of the Ordinance is for low intensity residential use which will still be met. I have stayed on the property since 2017 and still occupy one of the units, so I will be there to monitor things. The property is already a multi-dwelling unit so it is uniquely positioned for this use variance.

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

Yes







RE: Appeal for 1803 Oakland Drive to be approved for Short -Term Rentals

Simbarashe Chirara, a homeowner of 1801-3 Oakland Drive, Kalamazoo, MI 4900, a multiple dwelling unit property, will be unit appearing before the City of Kalamazoo Zoning Board of Appeals to have one of his rental units be approved to host short-term rentals (less than 30-day stay). As neighbors within the vicinity:

Do you approve of this?

<u>Name</u>	<u>Address</u>	<u>Comments</u>
Matt Fowler	1811 Oakland Dr Kalamazoo, MI 49008	- Approve

Do you have any reservations?

<u>Name</u>	<u>Address</u>	<u>Comments</u>

RE: Appeal for 1803 Oakland Drive to be approved for Short -Term Rentals

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Do you approve of this? Yes

<u>Name</u>	<u>Address</u>	<u>Comments</u>
Scott Keith	1807 OAKLAND DR	

Do you have any reservations? No

<u>Name</u>	<u>Address</u>	<u>Comments</u>
Scott Keith	1807 OAKLAND DR	



Simbarashe Chirara <schirara5@gmail.com>

1803 Oakland Drive

odwnanews winchellneighborhood.org <odwnanews@winchellneighborhood.org>

Wed, Jul 20, 2022 at 1:02 PM

To: Simbarashe Chirara <schirara5@gmail.com>

Hi Simba,

Thanks for reaching out on this issue, I appreciate it.

The location of your property does seem to support a rental situation. To be clear - after checking the City's website for [1801 Oakland Dr.](#) it looks like that property is currently not registered and certified as a valid rental property? [Parcel Number - 06-28-104-004 | City of Kalamazoo | BS&A Online \(bsaonline.com\)](#)

The only other question I'd have at this point is: How does the City define the differences between "long term" and "short term" rentals, and how are each registered and certified?

If all the ordinances, registration and certification is completed properly I don't see why our association would object. However, I would suggest, to help your "case" with the City, that you talk to the adjoining property owners and document that they have no objections to your possibly changing the type/length of rental you are proposing. Having the support of those neighbors could go a long way in showing the City that your proposed change is a good one, and will not be a possible burden on those neighbors.

I hope this helps. Feel free to reach back out with any further questions,

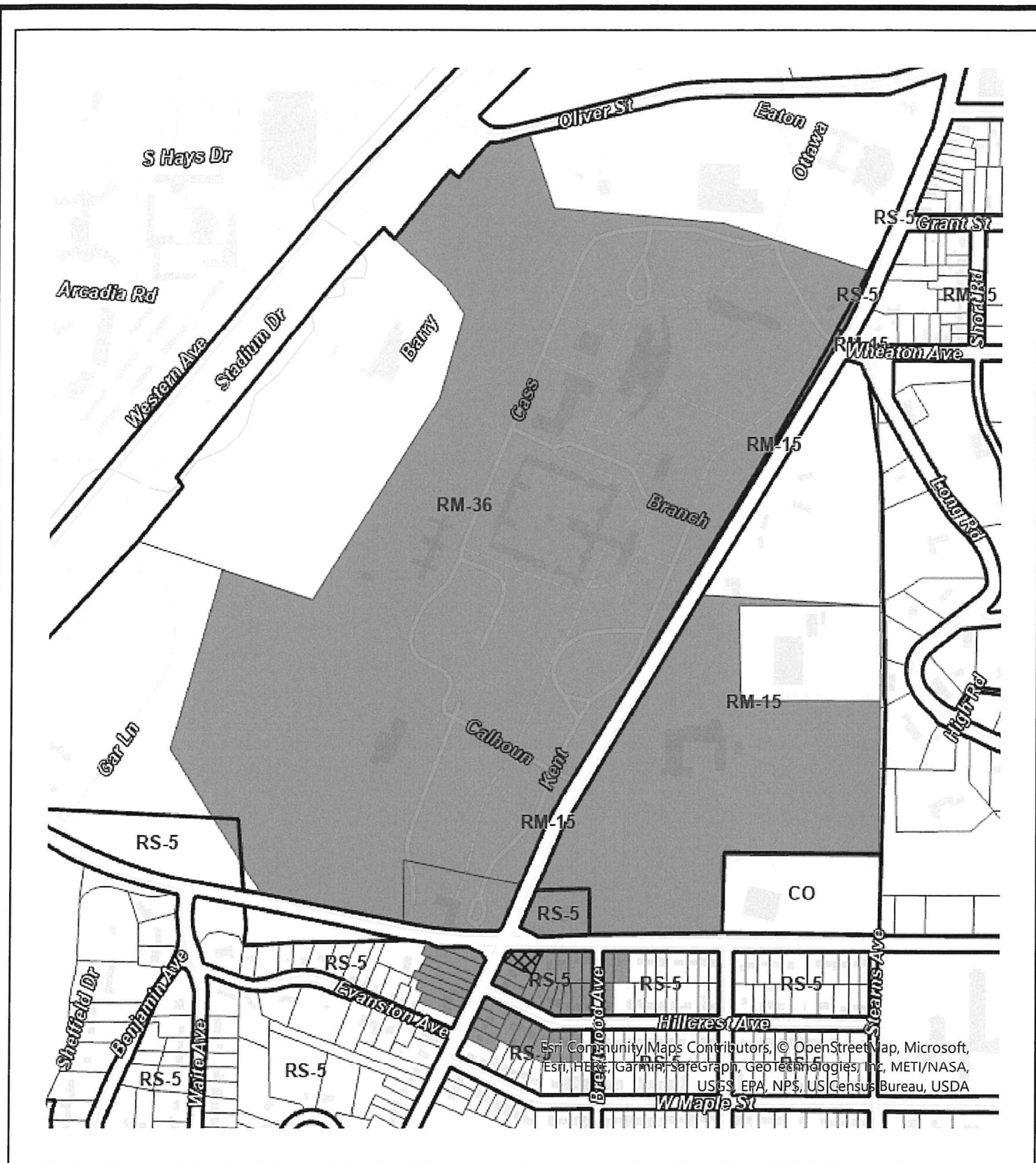
Peter Kushner, President

Oakland Drive-Winchell Neighborhood Association

odwnanews@winchellneighborhood.org

www.WinchellNeighborhood.org

[Quoted text hidden]



Parcels within 300' Mailing Radius 1801 Oakland Dr

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



0 220 440 880 ft