

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, February 9, 2023

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 January 12, 2023

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

E. DISCUSSION/ACTION ITEMS

- 1.
- 2.

F. REPORTS

- 1.

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
January 12, 2023 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Jeff Carroll, Matt Lager, Beth van den Homberg, Jeremy Terpening, and Jerrid Burdue (Alternate)

Members Absent: Remi Harrington

City Staff: Pete Eldridge, Zoning Administrator; 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.

APPROVAL OF MINUTES:

Mr. Lager moved to approve the minutes as submitted, seconded by Mr. Terpening. 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 four minutes and afterward. 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.

Mr. Lager read the application for 622 W. Kalamazoo Avenue into the record.

ZBA#23-01-01: 622 W. Kalamazoo Avenue: An application for a use variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Nicole Williams-Urban Montessori Development Center (Daycare Center), which is situated in the Residential Duplex District (RD-19). The applicant is requesting a variance from Chapter 4, Section 4.1 to authorize a daycare center on the residentially zoned property which would occupy the north half of the existing 14,000 square foot building.

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.

Nicole Williams, who spoke on behalf of the Montessori Development Center, said her partners and herself want to open a daycare center at 622 West Kalamazoo, which is currently being used for office space but was used as a daycare center in 2011. They are hoping to have it go back to its previous use so they can utilize the space. She said as far as parking nothing would change and added that the inside is set up for a daycare center and has 14 classrooms and a gymnasium, which will be used for a play area for the children, they will also be using the outdoor playscape area.

Chair Carroll asked if there were questions from the board and there were none. He asked how many staff and children they would expect at peak occupancy and Ms. Williams replied the maximum number of children is 250, but they would like to have at least 100 to 150 immediately.

Chair Carroll asked for staff comments, and they are as follows: Mr. Eldridge said he wanted to give a little background. He stated that this structure was built as a church and the front portion of it, at the corner of Kalamazoo and is still used as a church, but the case tonight is regarding the north portion. He said in 2007 there was a special use permit granted for an organization called Reach and Teach Learning Center, which the applicant was referring to, that was in the rear portion of the building for a couple of years then in 2011, a use variance was granted to allow for commercial office in that same space from 2007 until 2019. He stated when the office user moved out, there were no nuisance or enforcement problems with this non-residential use in this area and added that the back of the building is set up for classrooms and there is no outdoor play area right now, but it will be added to the rear of the property where part of the parking lot will be removed. He also added that there is an available parking lot across the street that can be utilized and Greenwich can serve as a pick up and drop off street. He stated the only other items of note are the one supportive email received from Mr. Kevin Klein of Eleanor Street and he added that the application meets all of the review criteria and isn't being viewed ed as any more intensive than prior non-residential uses already permitted for this space.

Chair Carroll asked if there was anyone who wanted to speak in favor of the applicant and Mr. Gary Wark, the Chair of the Stuart Historic Neighborhood Association stated that Ms. Williams attended the monthly meeting on that Tuesday and presented the Montessori School to the board, which the board is in support of. He added that they also hoped the Zoning Board would put in a good word to resurface Greenwich Street.

He asked if anyone wanted to speak against the applicant and there were none.

Chair Carroll asked if there were any call ins and there were none.

Chair Carroll asked if there were any other questions from the board and there were none.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Burdue moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 622 W. Kalamazoo Avenue shall include all information included in the notice of public hearing dated December 28, 2022 in the agenda packet staff provided for this request.
- 2.) 97 notices of public hearing were sent, and one response was received from Kevin Klein of 708 Eleanor Street, who was in support.
- 3.) A public hearing was held before the board and public comments were accepted. Gary Wark, the chair of the Stuart Historic Neighborhood Association expressed support, as well as support from that board.
- 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:

Nicole Williams presented the hopes of providing daycare at the site. There are 14 classrooms and an indoor gymnasium, no changes to parking will occur. They are looking at a max of 250 children and are hoping to have 100 to 150 children right away. In 2011 and prior, it was used as a day care, and sometime after that it was used as commercial office space and the only change will be the addition of an outdoor play area, which will remove part of the parking lot.

Ms. van den Homberg 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 4, Section 4.1 to authorize a daycare center on the residentially zoned property, which would occupy the north part of a 14,000 square foot building, seconded by Mr. Terpening.

Discussion:

Mr. Lager stated he would be in favor because he believes it meets all the review criteria, and especially since it has the support of the neighborhood association and one of the neighbors, it shows it will benefit the neighborhood rather than cause issues, and it has already been used for commercial purposes for over 10 years. He said it seems like a great use and Kalamazoo needs more daycare.

Motion was approved unanimously by a roll call vote.

Mr. Lager read the application for 2605 East Kilgore Road into the record.

ZBA#23-01-02: 2605 East Kilgore Road: An application for a dimensional variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Zoetis for 2605 East Kilgore Road, which is situated in the Manufacturing-General District (M-2) . The applicant is requesting a use variance from Chapter 50-7.2, to allow 586 off-street parking spaces where 510 spaces is the maximum permitted for the industrial use (increase of 76 spaces).

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.

Mr. Jeff Paulson, with Hurley and Stewart, Mr. Mark Callahan with Zoetis spoke. Mr. Paulson said they are requesting a parking variance because Zoetis has been growing over the last few years and with some ongoing and completed infrastructure projects, the additional building, that is hatched in yellow on the screen, is the current expansion under construction. He said Zoetis has added employees with the additional expansion and, as seen in the past, there has been some overlapping of shifts and contractors working as well, and the zoning ordinance doesn't allow for enough parking so they are requesting a 15% overage on the allowable parking, which is the 76 spaces to accommodate the first and second shift change employee overlap and contractors who frequent the property. He added that they agree with the staff recommendation for approval.

Chair Carroll asked if the board had any questions and there were none.

Chair Carroll asked for staff comments, and they are as follows: Mr. Eldridge stated the Zoetis facility is a 41-acre site which has seen continuous expansion over the past few years and based on the explanation provided by the applicant and development activity, the peak parking demand is going to be upon them, and they are trying to plan ahead. He said they have staff that have worked from home since the Covid 19 pandemic that will be returning to work soon, they are also adding first and second shift employees and they have ongoing projects, so they need a certain amount of contractor parking onsite. He added that they also have overlapping shifts, which means second shift has to arrive and be at the workstation before the first shift workers in the manufacturing areas can depart. He said staff looked at alternatives and there is no on-street parking on East Kilgore Road and the adjacent sites are both developed and can't provide overflow parking so taking those factors into account, and the fact that they are asking for a limited overage of 15%, staff was comfortable supporting it, especially the way it was laid out stating they don't want the employees parking in landscaped areas.

Chair Carroll asked Mr. Eldridge if he could remind the board of the spirit of the off-street parking ordinance and Mr. Eldridge said the ordinance was revised to not promote "seas" of asphalt that many zoning ordinances are known for creating where the allowance required for parking is well above the peak demand for many businesses, but it's based on a formula and the developer or business owner has to build per the zoning ordinance, so they tried to create a minimum parking standard and tried very hard to look at all of the different uses and the most appropriate way to calculate the maximum parking needs however, as the community and the board has seen, there's not a one size fits all and he cited Graphics Packaging, who came before the board last year with the same issues. He said it's a work in progress, but the intent is to preserve green space and not over build parking.

Chair Carroll asked that those in favor of the variance please step forward and there were none.

Chair Carroll asked that those opposed to the variance please step forward and there were none.

Chair Carroll asked if there were any calls and there were none.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 1) The Finding of Fact for 2605 East Kilgore Road shall include all information included in the notice of public hearing dated December 28, 2023 and the agenda packet provided by staff.
- 2) 13 notices of public hearing were sent, and zero responses were received.
- 3) A public hearing was held before the board and public comments were accepted.
- 4) The 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:

Jeff Paulson of Hurley and Stewart and Mark Callahan of Zoetis represented the applicant. The applicant, Zoetis, is a 41-acre site on East Kilgore that over the past several years has been growing and currently has ongoing infrastructure projects and there will be additional employee hiring as a result and return to work policies. Since there are overlapping shifts between first and second shifts, that time is considered peak parking and that is when additional parking is needed. The applicant is asking for an approximate 15% increase or 76 parking spaces because there is no on -street parking on East Kilgore or opportunities for parking on adjacent properties.

Mr. Terpening seconded the Finding of Fact.

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

Mr. Lager made a motion to approve the application for a dimensional variance from Chapter 50-7.2 to allow 586 off-street parking spaces in the Manufacturing-General District (M-2) where 510 spaces is the maximum permitted for the industrial use, an increase of 76 spaces seconded by Mr. Terpening.

Discussion:

There was none.

Motion approved by unanimously by a roll call vote.

Mr. Lager read the application for 3919 and 3921 Oakland Drive, 1823 Hazel Avenue, and 3903 Ruthin Road.

ZBA#23-01-03: 3919 and 3921 Oakland Drive, 1823 Hazel Avenue, and 3903 Ruthin Road: An application for a dimensional variances for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Oakland Financial Company, LLC (Kalamazoo Country Club) for 3919 and 3921 Oakland Drive, 1823 Hazel Avenue, and 3903 Ruthin Road, which is situated in Residential-Single Dwelling District (RS-5) and the Residential-Multi Dwelling District (RM-15). The applicant is requesting 1) a dimensional variance from Chapter 50-7.2 to allow 364 off-street parking spaces where 824 spaces are required for this use (decrease of 460 off-street spaces), and 2) a dimensional variance from Chapter 50-7.3 to allow 20 bicycle parking spaces where 240 bicycle parking spaces are required for this use (decrease of 220 bicycle parking spaces).

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.

Timothy Stewart of Hurley and Stewart, John Fulling and JJ Hen of the Kalamazoo Country Club, Jon Forster and Josh Roseboom of Fishbeck (the parking consultants). Mr. Stewart gave a quick overview of the project, and started an onscreen presentation, as they were in front of this board approximately six to eight months ago for a variance for the natural features protection and are currently moving into the third phase of the club's expansion project. He said they are referring to the property at 3921 Oakland Drive, a couple of small parcels that are part of that, and the former Lakeside School. He said the project entails construction of three buildings: an 87,500 square foot clubhouse, an almost 21,000 square foot golf performance center, and a 34,700 square foot indoor tennis facility, an 11-hole executive course which will be a short par three course, and other on-site amenities such as pools, a playground, will be utilizing the existing Lakeside gym, and will have a parking structure immediately west of clubhouse that will take care of the majority of the parking needs.

Mr. Forster spoke about the ordinance and the numbers required and stated one of the things that made this tricky is that there are a number of uses in one spot such as an eating and drinking establishment, an assembly space, entertainment sports (participant and spectator), and staff parking, which have all been considered. He added that in the building there is a bar, lounge, some casual and private dining, and outside terraces where people can eat and drink outside. He added that this is not a restaurant where the goal is to turn over as many tables as possible, but a members only club and the there's limited number of people there. He added that there are also a banquet rooms, a library and a media room. He spoke about the golf participants, the golf course, the training and driving range, the pro shop, pools and fitness club, and added that with these amenities there will also be staff. He said they took the code, looked at it as it's written and with the fire occupancy codes, they could fit almost 3,600 people in there, which requires 824 spaces but he said they would never reach that capacity so using the formula they ran it with the number of tables and chairs and how many people would realistically be in the spaces at any given time, and came

up to 348. He added that there are currently 10 bike spots and they doubled that to 20 and that they have operated there with 120 less spaces than they have proposed, for decades.

Mr. Fulling gave a historical perspective of the club. He said they currently have a 35,000 square foot clubhouse, pro shops, golfing, a pool and racket sports, the sizes of the new buildings has increased and their market is the members and their families so they will be going from 475 membership to about 600 total so with that, they doubled the amount of parking. He added that staffing will also increase, over time, and the majority would be added to the grounds department, which won't park on this parcel and the feeling is that at no time will there ever be 3,600 people on the site and the proposed parking would be more than suitable to cover their needs. He said at the moment they might have a couple of employees that ride their bikes to work but that is the extent of the bicycle traffic into the club and they feel 20 spaces for bikes will be enough and those would be in the covered parking ramp. He said it comes down to the number of members utilizing the club at one time.

Mr. Stewart gave a summary and comparison of the historical versus the new club functions in terms of vehicular and bicycle parking. He showed that table that was in the packet on screen. The current club has 242 vehicle parking spaces, they're proposing 364, which is an increase of 50%, current membership is 475 and is projected to be 625, a 32% increase, staff is at 175 and is projected to go to 250, a 43% increase so the 50% increase of spaces will cover that. He said there will be cases where two or three times a year they will need some overflow parking, such as the 4th of July and the current club has the opportunity to add as much as 155 or more spaces, depending on how additional areas are utilized. He said they are trying to avoid putting a "sea of asphalt" out there and the 800 plus spaces required doesn't fit this facility and they want to be sensitive to the environment. He added that the ownership has invested significantly in the development.

Chair Carroll asked if there is the potential of a staged development of parking based on future need and Mr. Stewart said not that he is aware of because the complications of that would be that 89 to 90% of that is in a parking structure that will be constructed with the building and there is some surface parking that exists around the gym that will remain but it wouldn't be possible to stage the parking ramp.

Chair Carroll asked if the board had questions and there were none.

Chair Carroll asked for staff comments, and they are as follows: Mr. Eldridge stated there are comments and he also wants to provide a timeline for the reviews and approvals of the project up to this point so that the viewing audience understands, and he thanked the applicants for the visual aids. He stated that in January of 2022 this project was brought to the Natural Features Protection review board, and they gave an overview of the project, then the development team came back in February with the initial development plan, got feedback from the NFP board, then returned in May to the NFP board with a revised plan and at that time, the board approved a recommendation for the slope and woodland variances, conditional that 2.5 acres of native grasses be replanted and 4.5 acres of woodlands be replanted. Those recommendations then came before the Zoning Board of Appeals, and they approved both the dimensional variance for the slope and slope setback disturbance and a variance to allow for 17.5% more woodland removal and those approvals came back with the same conditions. He said that was the initial step. Then -and- in July, the pre-application for site plan review for the earthwork was received followed by the site plan which was approved., and that is what is going on now because questions have been raised that tThe full

site plan for the buildings hasn't been approved, but there is a lot of work going on now and he wanted to step back and explain what's happening. He said that there was the pre site plan in July and the site plan for the earthwork, that included detailed plans about grading and information showing protection of the areas not to be disturbed and the trees that needed to be saved, and that included the fencing that needed to go up around those trees. The earthwork site plan was approved in September and a soil erosion permit was issued in October for that work to begin and in November the development team approached the planning department, again, when they realized there was an imbalance with the required and needed parking so the application before the board tonight came in December. He added that he wanted the public to know that staff goes out, periodically, to check on the work being done and to make sure the barriers for soil erosion and tree protection are in place, and one of those inspections occurred today. He said that this is a unique use and without repeating all that what Tim Stewart said, it is a private club with 85,000 square feet of facility space and the ordinance is designed to set a required minimum number of off-street parking spaces, and allow for a minor overage, if needed. He added that it's rare to have a situation where less parking is desired, and the parking requirement is there so the city doesn't have to provide the off-street parking and it would be a burden on the city and the community if we had to have on-street parking everywhere and build parking ramps, and that is the logic of requiring off-street parking. He said there is also logic to not over building off-street parking, as he talked about in the last application, but what is being built is unique and, he feels, a more specialized use and looking at what their team has done to crunch numbers and demonstrate what the true parking needs are and putting together numbers comparing the existing facility with the proposed facility and how the membership and staff numbers will change has been helpful, along with the table they provided that is in the packet, that shows maximum occupancy based on square footage and furnishings. This g- gives a vantage point of why a lower number of off-street parking spaces can work. He added that 20 bicycle spaces should also be adequate as they have had no issue in the past with the 10 spaces at the current facility not being adequate, so staff feels this meets the review criteria for granting both variances.

Chair Carroll asked that those in favor of the variance please step forward and Mr. Rick Leonard, who owns three of the eight properties directly across the street. He stated he has been watching and likes the idea and the reduction plans and he feels they are trying to control their volume, which he feels will help that stretch of Oakland Drive for the city. He said he is endorsing the project because he believes it's great for Kalamazoo.

Chair Carroll asked that those opposed to the variance please step forward and Janice Hall of 1950 Stevens Avenue, the edge of the golf course spoke. She said she wanted to talk about the comment that there is confusion on approval processes and times which, she thinks was shown by the comments made by the country club and what was presented by the board and as represented by M-Live in a recent article. She stated that in October, site plans needed to be revisited and approved before the renovations and she's confused because not only are they talking about the reduction of parking, which she feels muddles the issue because she doesn't believe paving of the area was approved, so she feels it's a misnomer to figure out how to approach the situation. She added that coming to the conclusion on this, there are several things the community would like and are concerned about and for a variety of reasons, they don't feel heard. She said today she was mocked by a city planner that didn't show up for meetings and said "Ha ha, you're confused. Meetings are next week." She said she didn't want to show up to board meetings because previously her zoning wasn't approved so now, she doesn't care about anyone else's. She stated they revisited concerns from processes and statements made from the board over the course of last meetings, which she has encountered some of the ZBA board members before, and feels she may be becoming familiar

to some of them as well, she said she expressed those concerns and got a letter back stating it didn't happen, so she researched the previous meetings and marked time stamps where it did happen. She said they haven't gotten clear communications and although as a community, they appreciate the benefits provided by the organization, its members, and individuals that represent the Kalamazoo County Club, that doesn't provide them a blank check to do what they want to do, and they have been told that since they own the property they should be able to do what they want with it. She said until that's true for all property owners in Kalamazoo, that shouldn't be true of the club, and she recently started a petition and has upward of 200 signatures of people who are concerned about the progress being made and they have already seen the bulldozers. She said she's gotten a lot of feedback and she doesn't have time to read it all but some of the keywords were "ugly, caustic, greed, habitat..." and those are from memory she said the community would like their concerns to be considered and weighed with the same representation as the country club.

Mr. Bruce Merchant, of 1924 Autumn Lane, a condominium development south of the property, said he had a question about parking. He said there was some discussion about if there is an event, they have 155 spaces available. He asked if there is any historical data available for events and wonders if the spaces available will be adequate because that could potentially push parking onto adjacent streets.

Chair Carroll asked if there were any calls and there were none.

Chair Carroll asked the applicant to return to the podium because he had a question as well about the major event parking and asked that it be summarized. Mr. Fulling explained they could use the green spaces outside the driving ranges and the property would be used. He said they have never had a time when the property couldn't be used or that anyone had to park outside of the property.

Mr. Eldridge wanted to add that part of the reason he outlined the approval process was to make it more clear as far as what has been handled up to this point but what he didn't say was that the site plan review for the new buildings is the next step in the process but can't be started until special approvals, such as variances, are gained so after this meeting they will know if they can start site plan review for the structures on the property.

Chair Carroll closed the public hearing. Someone asked if they could make a comment and Chair Carroll said that isn't how it works, they asked how it works and he explained that there was a process. Ms. Hull said he gave the Country Club more time and Chair Carroll said that was because he asked them to come back to the podium.

FINDING OF FACT

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

- 1) The Finding of Fact for 3919 and 3921 Oakland Drive, 1823 Hazel Avenue, and 3903 Ruthin Road shall include all information included in the notice of public hearing dated December 28, 2022, and the agenda packet provided by staff.
- 2) 113 notices of public hearing were sent, and one response was received from Janice Hall of 1950 Stevens Avenue.

- 3) A public hearing was held before the board and public comments were accepted and there were no call ins.
- 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:

Timothy Stewart of Hurley and Steward Engineering, representing Kalamazoo Country Club, along with Jon Fulling of the Kalamazoo Country Club, and John Forster of Fishbeck Parking Consultants. John Forster mentioned that the parking is multi-use with special site parking considerations with 348 spaces, which is more than enough. Jon Fulling mentioned that membership now is approximately 475 and they believe it will possibly increase to 600 and even though the site can hold 3,600 people, they don't think it will reach that number and they currently have one to two bicycle spaces that are used on a regular basis. The board asked if there is a possibility for staged parking based on future need and the answer was no. Staff also reviewed a timeline for the project. Mr. Rick Leonard, who owns three properties on Oakland Drive directly across from the property and development, spoke in favor. Janice Hall of 1950 Stevens Avenue spoke in opposition and shared some concerns and confusion about the approval process, the reduction of parking, and the paving approval. She also shared that she felt unheard and there was a lack of communication and some of the things she's hearing from her neighbors is that the land is ugly and caustic and this just seems greedy. Bruce Merchant of 1924 Autumn Crest Lane had questions about parking and wondered if there would be enough parking for special events and golf tournaments. The applicant spoke and said that they have always been able to find parking on site near the driving range and have never utilized street parking or parked outside the property for special events.

Mr. Burdue seconded the Finding of Fact.

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

Mr. Lager made a motion to approve the application for a dimensional variance from Chapter 50-7.2 to allow 1) a dimensional variance from Chapter 50-7.2 to allow 364 off-street parking spaces where 824 spaces are required for this use (decrease of 460 off-street spaces).

Discussion: Mr. Lager explained that because he believes it meets all the criteria, he will be in favor of granting this variance and the staff reports were very concise. He added that it seems a lot of thought has been put into how much parking is needed, and in other situations before the board, it was usually applicants asking for more parking because they need it and he thinks it's good they're reducing the minimum parking and felt the reason was compelling because of the special use with the limited market, the actual members themselves. He said he appreciated the question and answer regarding special events and how that parking situation would play out and also Mr. Eldridge's discussion regarding why there are minimum spots and he's convinced a lot of thought went into this, so he will be strongly in favor.

Chair Carroll asked for more comments and there were none. Chair Carroll advised that he would like to speak about tonight's interaction and said he was both for and against the situation. He said personally he was against the project because he feels it's tone deaf to have a private club and golf's on the decline, so he thinks they're doing a good thing by having the racket sports but as a whole, he isn't in favor of it, but that's not why they're here tonight. He said that they are here tonight because the community asked them to come here and be impartial about the situation in front of them tonight, which is about parking, not about whether Jeff likes this project or not, but it's about one small piece of the puzzle, and that's all they're asked to take care of. He added they don't pass judgement on the project and his personal opinion doesn't matter and they're only there to address the parking. He said his neighborhood has a lot of deer, but someone scraped the land that had woods on it where his house is ~~to build his house~~ and the same thing is happening at this golf course and we're all guilty of what's going on since we've all ruined somebody's view and some ~~animals~~ animal's habitat. He added that he has to run the meeting according to rules and he's sorry he couldn't accept one of the audience member's ~~comments outside of the rules~~. He said he will be in favor of granting this application.

Motion approved by unanimously by a roll call vote.

And 2) a dimensional variance from Chapter 50-7.3 to allow 20 bicycle parking spaces where 240 bicycle parking spaces are required for this use (decrease of 220 bicycle parking spaces), seconded by Mr. Terpening.

Discussion:

There was none.

Motion was approved by voice vote unanimously.

OTHER BUSINESS:

Chair Carroll announced that he would be retiring from the Zoning Board of Appeals in the coming months as soon as there is a replacement for him.

DISCUSSION/ACTION ITEMS:

REPORTS:

ADJOURNMENT:

The meeting was adjourned at 8:18 p.m.

Submitted By _____ Date _____
Recording Secretary

Reviewed By _____ Date _____
City Staff

Approved By _____ Date _____
Chair

DRAFT



Zoning Board of Appeals Staff Report

City of Kalamazoo

Date: **2/9/2023**

Item: **E.1.**

TO: Zoning Board of Appeals

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

DATE: February 9, 2023

SUBJECT: Review of ZBA Candidates Interviewed on February 7th

BACKGROUND:

STRATEGIC VISION ALIGNMENT:

Strategic Goal Impact:

[Insert Strategic Goal text snippet]

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

[Insert Community Engagement text snippet here]

Discussion:

Engagement/Communication Tools

FINDINGS:

Staff has made the following findings regarding this request:

RECOMMENDATION:

CITY OF KALAMAZOO ZONING BOARD OF APPEALS ANNUAL REPORT 2022

Introduction:

The Zoning Board of Appeals (ZBA) is a quasi-judicial body, whose duty is to balance protection of the public interest through zoning regulations with property rights of landowners.

Purpose:

The ZBA is a required appeals mechanism established by the State of Michigan's Zoning Enabling Act. Any community adopting a zoning ordinance must also establish an appeals board of review for circumstances in which landowners may be unjustly burdened by the ordinance.

Membership:

Other than residency, the ZBA has no specific membership requirements. However, staff and the ZBA officers work together to maintain membership that brings expertise, professionalism, and a broad geographic cross-section of the community to this decision-making process. The ZBA includes six members and two alternate positions, with quorum being four members. The alternates are intended to ensure that a full board is present at each meeting. The 2022 Membership included:

Name	Position	Term
1. Jeff Carroll	Chair	Second Full Term
2. Matt Lager	Vice Chair	Second Full Term
3. Christina Doane	Secretary	First Full Term
4. Beth van den Hombergh		First Full Term
5. Remi Harrington		Second Full Term
6. Jeremy Terpening		Partial Term
7. Jerrid Burdue (Alternate #1)		Partial Term

Meetings:

The ZBA meets on the second Thursday of the month at 7:00 pm at City Hall. In 2022, 11 regular meetings were held.

New Initiatives Undertaken:

1. Updated the explanation of the review criteria for use, dimensional and natural features protection variances to aid in the Finding of Fact process during the meeting.
2. Separate review sheet for NFP variances created to accompany the ZBA application.
3. Held training session with the Natural Features Protection Review Board and ZBA to review the NFP Ordinance and the variance process on May 18, 2022.
4. Changed the Zoning Board of Appeals Rules of Procedure for public comment. The public comment time was reduced to three minutes per person.

Summary of 2022 Activity:

The following is a summary of the ZBA activities. A total of 32 applications were brought before the ZBA. Some of the applications involved multiple variance requests.

	APPROVED	DENIED	WITHDRAWN	TOTAL
Use Variances	9	1	1	11
Dimensional Variances	16	2	0	18
Temporary Use	2	0	0	2
Natural Features Protection Variances	4	0	0	4
Total	31	3	1	35

Use Variances:

The ten use variances before the Board in 2022 are summarized below:

1. **121 Fellows Avenue.** 1/13/22, A use variance from Appendix A, Chapter 12, Section 12.3 is requested to allow a Bed and Breakfast in the second-floor unit of a duplex where the principal residence of the operator is in the ground floor unit. The Zoning Ordinance states the owner or operator is to reside in the same dwelling unit as the Bed and Breakfast. Approved.
2. **ZBA #22-02-06: 210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue.** 2/10/22, Kalamazoo County Housing Choices is requesting a use variance from Chapter 4, Section 4.2 Q.3, to allow residential dwelling units on the ground floor level of each of the proposed apartment buildings (60 residential units total), where retail or other commercial floor space is required on the ground floor. Please note that this is a renewal of the same variance granted on December 10, 2020 which has expired. Approved.
3. **3400 Stadium Drive.** 4/14/22, Yes Acquisitions LLC is requesting a use variance from Appendix A, Chapter 4, Section 4.1, to authorize the redevelopment of a mobile home park on this site, where in the CC District this is not a permitted land use. 2) A dimensional variance from Chapter 50, 50-4.4 E (1)(b), to authorize a variance of 120 feet from the required 1000-foot separation distance between marijuana establishments and preexisting private or public schools providing education in kindergarten or any grades 1 to 12. Approved.
4. **667 Carr Street.** 4/14/22, Chestity West is requesting a use variance from Appendix A, Chapter 4, Section 4.1. to authorize a group daycare (7 to 12 children) in her residence at 667 Carr Street, where residential daycare is not a permitted use in the M-1 District. Approved.
5. **331 Ingleside Terrace.** 6/9/22, Jacob Tardani is requesting a use variance from Chapter 4, 4.1, to authorize the re-use of the structure as a duplex in the Residential – Single Dwelling District. Approved
6. **235 Cooley Street,** 8/11/22, ACW 1N, LLC is requesting a use variance from Chapter 50-4.4 C(10)(b), to temporarily allow a parking lot on a corner lot in the D-2 District, where a stand-alone parking lot is not permitted on corner lots. Approved with conditions.
7. **1014 Mills Street,** 7/14/22, Bennett Bellingar is requesting 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). Approved.
8. **1801 Oakland Drive.** 9/8/22, 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’. Approved with conditions.

9. **301 Nazareth Rd.** 10/20/22, The Kalamazoo Department of Public Safety is requesting a use variance from Chapter 4, Section 4.1 to authorize an explosives training facility and explosives disposal range at this site in the Manufacturing- Limited District (M1). Denied.
10. **100 Monroe Street.** 12/8/22, Drakkar Hill of Westmain Hill, LLC is requesting a use variance from Chapter 4, Section 4.1, to authorize a small wine making operation on the residentially zoned premises which would utilize the existing carriage house and wine cave at Henderson Castle. Approved.

NFP Variances:

The NFP variances before the Board in 2022 are summarized below:

1. **3919 and 3921 Oakland Dr./1823 Hazel Ave./3903 Ruthin Rd./1609 Whites Rd.** 6/9/22, Oakland Financial Co. 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. Approved with conditions.
 - 2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize a 17.5% increase in the removal area of woodlands on the site to allow 67.5% clearing of woodlands, where 50% is the maximum permitted. Approved with conditions.
2. **3625 W. Michigan Avenue.** 9/8/22, 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. Approved with conditions.

Other Trends and Observations:

- Trends of Board Activity:

2012 – 21 Variance Requests	2017 – 28 Variance Requests
2013 – 21 Variance Requests	2018 – 32 Variance Requests
2014 – 32 Variance Requests	2019 – 39 Variance Requests
2015 – 34 Variance Requests	2020 – 41 Variance Requests
2016 – 35 Variance Requests	2021 – 22 Variance Requests
	2022 – 35 Variance Requests

- 82% of use variances were approved in 2022, where 80% were approved in 2021.
- 89% of the dimensional variances were granted in 2022, where 94% of dimensional variances were granted in 2021.
- There was one use variance for the Bed and Breakfast where the owner lived in the adjacent unit in a duplex. The Zoning Ordinance has been amended stating the owner or operator of the Bed and Breakfast must reside on the same lot or adjacent lot to the Bed and Breakfast.

- The Zoning Ordinance was also amended in 2021 to allow for residential uses on the ground floor level in the CC District.
- There were three dimensional variance requests related to signs for nonresidential uses in residential zone district. This has been looked at and there will be an allowance of a 36 square foot sign for nonresidential uses in R Districts with the amendments proposed to the sign regulations in 2023.
- The ZBA did have one variance associated with the Marihuana Facility regulations:
 1. **4114 Stadium Drive.** LE Battle Creek Inc., 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. This one was approved.