

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, May 11, 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 April 13, 2023.

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #23-04-08: 724 and 730 N. Burdick St/108 and 128 E Frank St./709, 713 and 729 N Edwards St./121, 125, 129, 131, 135 E North St. Mt. Zion Baptist Church and Hollander Development Company are requesting a dimensional variance from Chapter 50-7.2, to authorize an additional eight (8) off-street parking spaces which will allow a total of 64 off-street parking spaces where a total of 56 spaces was previously approved on June 9, 2022, with a prior variance for 17 additional off-street parking spaces.
2. ZBA #23-05-09: 918 Jasper Street. Milestone Senior Services is requesting a dimensional variance from Chapter 50-4.5 B, to authorize the placement of an accessory structure in the front yard along E. Vine Street, where accessory buildings are not permitted in the front yard.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
APRIL 13, 2023 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Beth van den Homberg, Jerrid Burdue, Remi Harrington, Jeremy Terpening, Gary Wark, and Tony McReynolds

Members Absent: Joe Hohler III

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

Chair van den Hombergh called the meeting to order at 7:04 p.m.

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

APPROVAL OF MINUTES:

Mr. Terpening moved to approve the minutes as submitted, seconded by Mr. Burdue. The motion was approved by voice vote unanimously.

PUBLIC HEARINGS: Chair van den Hombergh 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 four minutes. Following that those in opposition will be invited to speak for four minutes and afterward, those received via phone will be aired for the panelist and audience. The public can call in to 269-226-6573 to leave comments for any of the property on the agenda then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Ms. Harrington read the application for 4511 and 4525 W. KL Avenue/4520 W. Michigan Avenue into the record.

ZBA#23-04-05: 4511 and 4525 W. KL Avenue/4520 W. Michigan Avenue: An application for a use variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Marty Webber. The applicant is requesting a variance from Chapter 50-4.1 to authorize an Adult Use Marihuana Microbusiness Class A facility, where only the Adult Use Microbusiness facility is permitted.

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.

Devin Loker, attorney for Marty Weber and the Royal Web Team, spoke on behalf of the applicant. He said they are a locally permitted microbusiness located at 4511,4525 West KL/ 4520 W. Michigan, where the old Great Lakes Shipping Company restaurant, and renovations to the facility have been completed and they are preparing to submit the step two portion of the application with the state to pursue full licensure, a process that takes between 30 and 60 days. He said the original microbusinesses have been failing across Michigan, so the state created a different type of microbusiness last March, and it appears the city intends to include this in the next ordinance amendments. He stated the process is still several months out. They want to avoid opening under the unsuccessful business model only to have to transition into another microbusiness licensing type and avoid customer confusion regarding what the business may or may not offer. He said this could potentially be one of the first kind in the state and would help contribute to 600k tax assessment for the retail part of the excise tax imposed. He said the original microbusiness was 150 cultivated plants and this one is 300. There are four cultivation rooms, and the sizes won't change but the main function between the two licenses is this one won't have any processing on site so if they were allowed to be a Class A, they won't do any of that on the premises and he feels it's less hazardous from that perspective.

Chair van den Hombergh asked Mr. Loker why he thought the original marihuana microbusinesses are failing and he said there are a number of factors, but he believes, ultimately, it was because some of them were at different levels of capitalization. He said when you walk into any retail shop you have a variety of options and microbusinesses were initially licensed to allow for the same thing and they could also produce their own processed product, such as gummies, but after production models, 150 plants don't give enough biomass to process enough distillate to make enough bulk concentrate to produce a myriad of products but the main focus of a microbusiness is still to grow, sell on the premises, very much like a microbrewery, but they weren't able to have enough mass to produce a lot of products so an allowance was created in the Class A model, in addition to doubling the plant count. Chair van den Hombergh asked if it would be fair to say that they're going from 150 mature plants as the cap that the facility can have, to 300 and Mr. Loker said yes. She then asked if, at this time, they are able to utilize an outside processor and Mr. Loker said not at this time because microbusinesses have to do all of their own processing on-site and aren't allowed to get products from any other licensee. Chair van den Hombergh said that the part that jumps out at her is the doubled capacity if this were approved and the facility would be double the amount of mature marijuana plants ready to be harvested. Mr. Loker said anything over eight inches would need to be tagged, so mature could be larger but anything over eight inches need to be tagged and would count toward the 300. He added that the four grow rooms on the existing floor plan currently exist, it is just a matter of how the plants will fit in, so the number of plants under cultivation would double, but the size of

the facility wouldn't. Chair van den Homberg said that it's still doubling the plants. She said her understanding of the difference, according to the Michigan Marijuana Regulatory Agency is that they are doubling the mature plant and can obtain mature plants from other licensed growers to factor into the 300, then can utilize an outside processor, which currently they can't. She asked if that meant the business can always have mature plants ready to be harvested in some form, and be sent out to production, then there would be no lag time for the growth of the plants because they can purchase plants and bring them in? She said it sounds like a treadmill of never-ending, mature product they would have then they could ship out to produce. Mr. Loker said he knows there are some allowances to bring in plants and for any MRTMA license, any adult over 21 can bring a cutting a clone into a growth facility and get those genetics into their cultivation system, so those allowances are there for all of those licenses. He wanted to go back to the first point to understand where the focus of this is. He said the original microbusinesses were running out of product at 150 plants, which was not much more than a caregiver who was dealing with 72 plants in their basement which they doubled it to come up with the original 150 range for a microbusiness but found out that's not enough product to sustain a business. They figured they would double that, and it is still significantly smaller than a Class A 500 plant grow as far as impact goes. He added the allowances to have available product for these companies to sustain themselves is part of the deal.

Mr. Wark asked that if he went from 150 plants to 300 plants, there would be no processing on-site, and Mr. Loker agreed. He said if they wanted to do something they could send it out to a processor partner, which must be licensed and, in the state, then they can bring those processed products back to their store, as white labeled by the processor, under their own brand.

Mr. Terpening asked if the company, if under current licensing for non-A microbusiness would be able to procure or sell clones, grafted plants or seed and does the A microbusiness change that policy? Mr. Loker said that they haven't gone through that extra step of having good agricultural collections processes accreditation in order to apply for clone sales and he believes that microbusinesses would be able to qualify for that, as would the Class A, but every retailer in the city should be able to do that if they saw fit. Mr. Terpening then asked if under the same provision would plants under eight inches be unlimited in the sales capacity or are there limitations to that level and Mr. Loker said there's a rule established by the CRA that they had to call ahead for an order of three clones at a time, but there are revisions underway on some of those rules. They may change the call ahead process but that was what he last knew it to be. Mr. Terpening asked if to his or his client's knowledge had there been any microbusinesses in the current non-A classification in the city of Kalamazoo that have gone under due to lack of business and Mr. Loker said he doesn't know if there are any here that have gotten started but there are only four in the state, two of them are out and, he believes, two of them are hanging on. He added that he was surprised to not see a quick transition for them to this and it's been tough for the small startups to find a niche in this space. Mr. Terpening said that to his knowledge, he hasn't known of a dispensary to go under and wants to know if there is documentation or proof that that business class is at a failure rate within the city and Mr. Eldridge answered that at this time, there are no microbusinesses open however, there were two that went through the licensing process but they never went up to, or past, the site plan approval process, which helped reinforce that there was an issue there, but as far as retailers, there has been a lot of success there. He added that some retailers changed hands and closed but opened back up under new ownership, but the retailers are doing fine but he agreed with Mr. Loker that the microbusiness category has been difficult to be successful in. Mr. Loker added that the creation of the Class-A a year ago was the State having work group sessions with the social equity team wanting to know why this

license isn't taking off and based on the work group answers as to why they're not proliferating, this was created.

Ms. Harrington said what she is understanding from this is that it is already an oversaturated market. This particular business model was it introduced a year ago, the microbusiness classification, or has it always existed and Mr. Eldridge replied it was created at the state level by the Cannabis Regulatory Agency last spring in March as a new license type to balance out the inequities that seemed to be arising from the original microbusiness. Later in the year Chapter 20B, which is the business licensing regulations for marihuana facilities, was updated. He said the city attorney at the time, Clyde Robinson, saw this coming and included the Class-A microbusiness category because it's essentially replacing the original microbusiness as a new business model so the city made the change last year and they're now posed to change the ordinance to allow this new license type as well. Ms. Harrington asked if we've seen this be unsuccessful in the past, what makes this particular application different and is this to set a precedent for this pathway in marihuana sales? Mr. Loker answered that the dream for the microbusiness is to create a socially equitable path for the small business to get into the cannabis space, they're looking for a vertically integrated license where you don't have to build all three in different places and put them all together, you can have a small mom and pop team to run the show and is based on a seed to sale model under one roof. He added we haven't seen a lot of that, but he said he's been personally involved trying to get microbusinesses started in the state over different municipalities and said it's like trying to get the stars to line up, to find property that's not been bid high for retail only, limited lottery situations, and other factors. Ms. Harrington asked if there is a virtue to local versus multi-state weed, like how we purchase local produce and Mr. Loker said that those at the Cannabis law section with the State Bar of Michigan have a subcommittee put together working on appellations in the state, similar to what the wine districts have, but it's in very early stages but a few counties in California have it and they would like to do it here but a lot of it has to do with the environment and the dirt. He said it doesn't make a direct correlation with indoor cultivation in hydroponic systems or even substitute dirt, but it would grow well because of the environment and the moisture. He added that in Van Buren County, Traverse City and up in the thumb area, he's heard different discussions whether those environments benefit cannabis production and cultivation and if there's truth to it, they will apply for Appalachian regions for the state. Ms. Harrington said if they are trying to make an argument for the mom and pops, that aspect of the argument should be strengthened first. Mr. Loker replied that there won't be a chain of multi-state operators and microbusiness ownership is limited so there will be no stacked Class-C large cultivators.

Vice-Chair Burdue asked Mr. Eldridge to clarify if what they are asking for is in the works at the city level to amend ordinances and that they won't need to come back in the future and Mr. Eldridge said that is correct and added that the applicant is here because they've been renovating the building and preparing to open and this other license classification is now in the draft ordinance amendments that the city planner, Christina Anderson, has put together, which is moving through the public comment process and will then go to the planning commission early this summer, so it is in the pipeline now and Chapter 20B, the business regulations for marihuana facilities has already been updated to include this license classification so the difficulty the applicant is facing is they would like to open their doors and operate under this new license classification, which allows more flexibility, they also have to go through getting licensed with the state, so to go through this process under the traditional microbusiness license category versus microbusiness Class-A, they would have to restart the licensing process with the state and update their license with the city later this summer, after the adoption of this additional license

classification. He added that the timing is creating the difficulty for this applicant and staff is supportive because the city is bringing on this license classification and proposing to adopt it into the zoning ordinance and said these were great comments as far as getting information out about what a microbusiness Class-A license allows, but other pertinent information is that the footprint of the building isn't changing, the floor plan is remaining the same so it won't look or feel any different other than better product availability the Class-A license. He said he hopes that answers questions about what the city is intending to do with the ordinance updates, and he hopes that clarifies why the city is supportive of this use variance. Mr. Wark wanted to clarify that the changes would be made this summer for the zoning ordinance and once the changes are made, Mr. Webber won't need to come in front of the board and Mr. Eldridge said that is correct and added that all zoning ordinances go through the Planning Commission for review and recommendation and then they go to City Commission for final approval and it's a process that will start early summer and will hopefully wrap up toward the end of summer. He said they will then need to apply for the license through the city clerk's office. Mr. Wark clarified they're just trying to get in front of it and Mr. Eldridge said correct and added that he knows there are a lot of fees involved with getting licensed through the city and the state, it doesn't make sense to go through the licensing process twice in a short span of time.

Chair van den Hombergh asked if there was anyone who wanted to speak in favor of the applicant and Marty Webber, the owner, spoke. Mr. Webber said one of the reasons they are trying to get the variance is that the state made the Class-A microbusiness an option at their beginning stages, they already had word that this was going to happen, and it was their hope, initially, to get a micro Class-A and it has taken a long time to cycle through the bureaucracies it has to go through. He added another reason they needed it was the purchasing of product because they are limited to selling only items they make and process in the grow and with the new Class-A, they can purchase product from other processors, put it in front of house, sell it for the first three months and generate income to help pay bills and without that, once they bring marihuana plants in because it's a three month process to grow, cure, and package so they would be operating for three months or more without revenue. He said his major concern is to be able to purchase product to keep them afloat for those few months.

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

Chair van den Hombergh asked if there were any call ins and there were none.

Chair van den Hombergh asked if there were any other questions from the board and there were none.

Chair van den Hombergh closed the public hearing.

FINDING OF FACT

Mr. Wark moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 4511 and 4525 W. KL Avenue/4520 W. Michigan Avenue shall include all information included in the notice of public hearing dated March 29, 2023, in the agenda packet staff provided for this request.

- 2.) notices of public hearing were sent, and no responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 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:

Attorney Loker spoke on behalf of Marty Webber and the main changes were going from 150 plants to 300 plants and there would be no processing on site if they were to get the variance. Mr. Loker also stated a lot of the microbusinesses have failed in general and having more plants would increase the chances of success. This variance would make it easier on them as a small business. Mr. Webber spoke and said the main reason for the variance is it would allow them to purchase products without having down time and that would increase their chances of success.

Mr. Terpening seconded the Finding of Fact.

Discussion:

Ms. Harrington said she feels that the concept of social equity and how that framework was constructed and why it was constructed was to create opportunities for people that have been disproportionately impacted by unjust legislation that has criminalized them, this feels like a convoluted way to address this issue but she also understands how they're small and want to participate in this industry bureaucracy has ousted them from participating as well, which allows them to qualify under the banner of this social equity framework and the city is attempting to create a more equitable landscape that is allowing smaller shops to participate. She said she wanted it on record that there's something that feels missing from the conversation in terms of how people can participate, and she feels the city is doing what it can to give more people the opportunity to participate, and she doesn't feel denying their application will benefit what that missing link is so she will be in support.

Vice-Chair Burdue asked if they could place a condition on the variance that if this doesn't end up in the final approved ordinance, then the variance would be forfeited and Mr. Eldridge said yes, a condition can be placed on any variance however, since the city commission has already approved the changes to another section of the ordinance, Chapter 20B of the code of ordinances, which has the marijuana business licensing regulations, and the city is halfway into bringing in this new license type for purposeful use by the citizenry. He added that in other instances where adoption was unknown, he would say a condition may not be a bad idea but in this case they are 50% there but there is a different process when updating zoning ordinances versus the other general ordinance regulations, which is why it's going to take longer to update. Attorney Bear added that if they were at the beginning of considering the Class-A the board could consider that, but here the business license has been approved it's a matter of getting through, as Mr. Eldridge stated, the zoning regulations which is a longer process. Vice-Chair Burdue said he is in support of the variance.

Ms. Harrington added that she is still of the opinion that there are a lot of marihuana businesses here.

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

Mr. Wark moved to approve the application for a use variance from Chapter 50-4.1 to authorize an Adult Use Marihuana Microbusiness Class A facility, where only the Adult Use Microbusiness facility is permitted, seconded by Mr. Terpening.

Motion was approved unanimously by a roll call vote.

Ms. Harrington read the application for 3625 W. Michigan Avenue into the record.

ZBA#23-04-06: 3625 W. Michigan Avenue: An application for a use variance and a dimensional variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Great Lakes Capital. The applicant is requesting a 1) use variance from Chapter 50-4.4 A (4), to allow for the first-floor occupied space in the portion of the building facing West Michigan Avenue to have residential dwelling units, where commercial use is required in this portion of the building; and 2) a dimensional variance from Chapter 50, Table 7.2-1 of 72 off-street parking spaces to allow a total of 331 off-street parking spaces for a 235 unit apartment complex.

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. Greg Dilane of, Great Lakes Capital, said he had two items, the first floor and the commercial component that is mandated in the current zoning. He said driving along West Michigan from 3625, going either east or west for more than about half a mile you won't see where there's residential above commercial. He said the first one you will come to is right before you pass into Western Michigan University and there's the Goat Bar below and 24 to 26 units above and that is the only place that is built like that. He said that with their property has a setback to the front door from West Michigan that's 373 feet. He said that the property as wide as it is in its max position is only half as wide on the front side on the street and there are two or three large trees in front that will prevent line of sight for this building, let alone having a setback that's larger than a football field but he believes there's resolution to that conversation. He also wanted to speak to vehicle counts and said that is the bigger conversation. He said city zoning is currently one to one for dwelling like this. They have 235 units and tweaking the design to work within the parameters of the site they looked at a couple of things. He said in Michigan's 2022 vehicle study, 92.5 households have at least one vehicle and of the average households there are 2.1 vehicles per average household in Michigan so looking at a place like this with the traffic count and the ability to have 200 units in one space, to have a one-to-one ratio and expect not more than 10% of additional spaces for guests and for scenarios where there is more than one person living in a house, he thinks that's a hard to get around. He stated he looked at a couple of local municipalities from here to Portage and they have a minimum of two to one in this type of scenario and in Battle Creek, even though it's one to one, they also offer a half a space per unit for guests. He said with this site they have tried to maximize as much as possible and they do have previous hurdles, such as slope changes on the site, so there are areas they can't put parking because of the features of the site. He stated his engineering team assessed some neighboring properties that fit into the same

zoning parameters, Parkway Flats being one of them and they had a 2.2 to one parking ratio, which equated to 488 spaces for the 241 units, the East half of the Forest Hill Apartments had a 2.13 ratio having 101 spaces for 48 units, and the west portion of Kenbrooke Court condos had a 1.79 ratio having 104 spaces for 58 units and those properties he believes, are just within a quarter of a mile of each other. He added that a 1.1 ratio in an urban setting where on street parking is allowed or the ability to park in a parking garage or any other type of accommodation, but there is no alternative here and doesn't believe there will ever be and added that Great Lakes Capital has over 1400 market rate apartment units like this in nine different states and their average 2.1 to one ratio at those developments.

Mr. Terpening stated that in the previous discussions, he believes it was said there would be many studio apartments for Western students or for other potential graduate programs, and public transit would be used as far as bussing or other on campus transit. He asked if that plan been altered and Mr. Dilane said it hasn't changed, but they are viewing this as a regular apartment complex and the assumption is there will be some overflow of students because it is so close to campus but right now, the major demand in Kalamazoo and for the workforce is market-rate housing for families. He said they have a little over 119 units and studios, 79 single bedrooms and 38 two bedrooms. Mr. Terpening said that if he remembers correctly, this is only meant to be an apartment complex with no commercial aspect to it and Mr. Dilane affirmed.

Vice-Chair Burdue asked Mr Eldridge if he would summarize the 10 percent overage that is currently allowed versus the expected 20 percent and Mr. Eldridge said he wanted to clarify what the applicant was talking about as far as the use of the complex first. He said if this was to be solely for student housing, there is an allowance of two spaces per apartment or dwelling unit however, the applicant has made it clear that they want to have the flexibility to have a traditional apartment complex, so that put them in the one space per dwelling unit category, which necessitated this parking variance. He said the 10 percent allowance is to address the typical need for visitor and guest parking and in this case there are 235 units and that's an additional 24 parking spaces, which is the 10 percent but the applicant is asking for an additional 72 spaces, which is about 30.5 percent and Mr. Dilane added that that is a 1.441 ratio and Mr. Eldridge agreed and said 1.4 spaces per dwelling unit would be the ratio compared to a one to one ratio. Mr. Eldridge added that there was talk earlier about a proposed amendment that's moving its way through the approval process for the microbusiness licenses, there's also an amendment that will allow for a 20 percent overage of parking spaces for any type of use but in this case, the increase would be 47 off street parking spaces which gets the applicant closer to their desired amount, but not quite there. He added that that is in the works right now with parking amendments in order to address some of the previous parking variances that have come before the board. Vice-Chair Burdue asked if that ordinance change has been approved and Mr. Eldridge said it is out for public comment at this time and won't go to the planning commission until this summer. Vice-Chair Burdue asked the applicant to speak to his request to go beyond the 20 percent and Mr. Dilane said they considered the 38 two-bedroom apartments and accounted for couples and a two to one ratio in Michigan, it's unlikely that they will be able to accommodate all of the units. He said they can accommodate one out of the gate but what is the alternative for households with two vehicles or even if they have visitors? He stated that he's finding that a struggle, especially when he's been looking at financing for a project like this, and for the appraisal value on the bank end but if you live downtown, you're in an amazing position because there are alternate means of parking. Vice-Chair Burdue asked him if he looked into alternative parking and other modes of transportation and Mr. Dilane said there may be access but he found a study Western did in 2021 regarding personal transportation from work to home and 75 percent of the parties drove alone, nine percent carpooled, and adding those together puts

you at 84 percent so that's 25 percent that are using other means of transport. He admitted that for students, public transportation could be tapped into but Drake is quite a way from where the complex is going and there's the issue of getting food and it's not in an area where you can reach other accommodations and there are no other properties in this corridor to utilize or purchase because there is a gas station on one side and a bar on the other side.

Chair van den Hombergh stated one of her concerns is the impervious coverage and possible flooding in the slope and the trailer park on the other side, but she understands the applicant's position and Mr. Dilane advised his civil engineer could speak more to this and advised they had been there previously for the natural features conversation because of the pond and the sloping, and they were able to address that concern.

Staff comments are as follows: Mr. Eldridge wanted to clarify for the viewing audience that in the fall of last year they were before the board requesting two natural features protection variances to address slope and tree cover issues and the impervious coverage was looked at closely and he is sure this is the same parking count that was proposed in the fall and added that the applicant made it clear this wasn't going to be student housing, which meant that the two parking spaces per dwelling unit didn't apply and therefore even going with the proposed 1.4, a variance was still triggered because they're asking for the additional 72 parking spaces instead of what is currently an average of 10 percent or 24 spaces.

Chair van den Hombergh asked that those in favor of the variance please step forward and Mr. Jason Raleigh, of AR Engineering and the engineer on the project, spoke. He wanted to speak on the parking counts and some of the neighboring counts that mirror what this will be but they are closer to the two to one ratio and market studies have shown that they need more than one to one to handle the multi-unit dwellings and guests, as well as staffing dedicated parking. He added that accessibility to additional parking, unlike downtown, isn't there.

Chair van den Hombergh asked that those opposed to the variance please step forward and Mr. Rex Bruggeman of 806 Ellendale spoke. He said he lives in the Arcadia neighborhood, which is kind of kitty cornered and across the street. He stated he is more neutral than for or against but missed the applicant's explanation for the use variance, but he said he's been in that neighborhood for so long and he's old enough to remember when city staff was presenting this exciting idea of having first floor commercial space and he now feels it has morphed into the commercial node serving a neighborhood where it was accessible for people and residents could take advantage of. He stated he feels that is starting to fall by the wayside and he said he thinks it's being dropped, or modified, in the new zoning ordinance but he doesn't know if that's true but he said he feels that that vision is being left behind but hopes that it's being done consciously because it seems to be a trend and we were going in one direction, but now are going in another because of market forces but he also feels that part of that is also because we're trying to incentivize the market and get commercial spaces to interact with that we want, not only downtown but also in the neighborhoods.

Chair van den Hombergh asked if there were any calls and there were none.

Vice-Chair Burdue asked Mr. Eldridge to speak to the comments made by Mr. Bruggeman about leaving the vision behind regarding first floor commercial space and the city's view on that and Mr. Eldridge stated he wanted to add staff comments, but there are two variance requests and the first one is related to the fact that this is a commercial zone and one of the requirements in this

zone is that there be a commercial use in the identified, occupied space, which is the ground floor facing the public street. He said the background here is there have been ordinance changes, there have been additions where they want to see the mixed use in the front of the buildings activate the street fronts but this portion of West Michigan doesn't have that level of development density to require this and the zoning doesn't fit the other uses around this property so this is slated to be rezoned by the city to a residential multi-dwelling zone district and when that occurs this summer, that will nullify the need for the variance regarding the occupied space so staff is in support of the first variance because they are in the process of making a change that will no longer necessitate a variance.

Vice-Chair Burdue asked if staff had any comments regarding the parking and Mr. Eldridge said regarding the off-street parking request, a lot of it has already been laid out and he wanted to clarify that the applicant is asking for 72 additional parking spaces, and they have made it clear that they will have 38 two bedroom units and even in some of the single units, there may be occupants that have two cars. He said they aren't requesting to have two parking spaces per dwelling unit, which when he did his calculations of the surrounding complexes, he came up with a similar average which was a range of 1.5 parking spaces per dwelling unit to 3.8 so the average was around 2.3. He said this explains the need to tighten up parking regulations because if you drive around apartment complexes there are seas of asphalt that are not being used so they're basically talking about two spaces or more per dwelling unit and the applicant is asking for 1.4. He added that in the staff report that they are trying to address a greater allowance for additional parking spaces, and this isn't an area that has on street parking to supplement parking on the private property so there is a proposal to increase the overage to 20 percent and right now it's one space per dwelling unit for this type of use plus an additional 10 percent and the difference between the ordinance change and what the applicant is proposing is 10.5 percent which is from the 47 additional parking spaces to the 72 they're asking for. He said he wanted to clarify that as far as the existing apartment complexes out there it's not at a desirable parking ratio compared to what the applicant is asking for. He wanted to address what Chair van den Hombergh mentioned as far as natural features protection variances and those plans that were looked at back in the fall had the same ratio of parking spaces of 1.4 per dwelling unit. Ms. Harrington asked what happened with the variance in the fall and Mr. Eldridge stated because of the sloping of the property and the woodlands to the southern part, there was both a slope and a slope setback infringement, as well as tree cover removal with this property. There were two NFP variances and those were conditioned upon the future site plan showing a native seed mix grasses trees being planted on the south slope of the new storm water retention basin which means if the project goes forward and because of the amount of regrading that needs to be done since they can't selectively clear a small area and build a retention pond, they will have to clear the area around where it will be built so the condition requires additional replanting around where the retention basin will go to replace the lost foliage. Vice-Chair Burdue asked if it was possible to build the 20 percent overage now and if they find that isn't enough parking and they need the 1.4 ratio, to come before the board again. Mr. Eldridge said it's possible but the complication is when sizing the storm water retention so all the runoff from the buildings in the parking lots needs to be calculated and then the water detention basin built to accommodate that so they would need to oversize the water detention system in the event they build the additional parking so it can be done but they would have to do some pre-planning when they go through the final site plan review process. Mr. Wark asked if it was looked at how many units the applicant would have to reduce in order to comply with the ordinance and Mr.

Eldridge stated he wouldn't have to reduce the number of units, they could simply build it with less parking.

Chair van den Hombergh closed the public hearing.

FINDING OF FACT

Vice-Chair. Burdue moved the Finding of Fact as follows:

- 1) The Finding of Fact for 3625 West Michigan Avenue shall include all information included in the notice of public hearing dated March 29, 2023 and the agenda packet provided by staff.
- 2) 205 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:

Greg Dilane, of Great Lakes Capital, spoke on both variance requests including the residential on the ground level, stating it is a 373-foot setback and there are trees existing that will prevent view from West Michigan Ave. One the second portion he spoke of the market studies showing over the one-to-one ratio is required and they are requesting a 1.4. Existing sites nearby range from 1.5 to 3.8, with the average being 2.3. He also mentioned the number of vehicles averaged per household being 2.1. In support was Jason Raleigh, who was a part of the engineering team who also spoke to the parking requirements. In opposition was Rex Bruggeman from the Arcadia area who didn't necessarily speak in opposition but was more neutral. Mr. Bruggeman commented on the first variance request of the city leaving behind the vision of commercial space on the first floor for this area. Chair van den Hombergh brought up impervious surface and NFP concerns, and staff fielded questions regarding parking and the upcoming 20 percent overage for parking and the fact that it's scheduled for rezoning residential multi-use this summer.

Mr. Terpening seconded the Finding of Fact.

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

Mr. Eldridge advised that in a situation where there are two variances, each variance should be put out to motion, seconded, discussed, and voted on separately.

Ms. Harrington made a motion to approve the application for a use variance from Chapter 50-4.4 A (4) to allow for the first-floor occupied space in the portion of the building facing

West Michigan Avenue to have residential dwelling units, where commercial use is required in this portion of the building, seconded by Mr. Wark.

Discussion:

Ms. Harrington said she voted against this in the fall and will continue to do so.

Vice-Chair Burdue said he would be in favor of the variance because it makes sense to forego the commercial on the first floor, especially since the city plans to rezone that area to residential multi-use in the near future.

Ms. Harrington stated she will vote against it because she voted against someone else who did the same thing and she didn't want to be incongruent.

Mr. Eldridge advised Ms. Harrington that these are to be looked at as individual applications. He said the NFP variances were last fall and this particular variance that is being voted on is only about the use of a building on the ground floor level that faces the street, not about whether or not the development moves forward.

Ms. Harrington said she is clear and what she is referring to is the fact that, as Mr. Bruggeman stated, they haven't been accommodating what the ordinance outlined, which is multi-use facilities with commercial spaces being on the bottom floor and she was trying to be in support of that and she feels that is being deviated from, but she is looking at the development as a whole and realizes there are things about it she didn't agree with, but she is being consistent in her position and Mr. Eldridge asked even if staff is planning to rezone that property and she said yes.

Motion approved by a five to one roll call vote, with Ms. Harrington voting no.

Ms. Harrington made a motion to approve the application for a dimensional variance from Chapter 50, Table 7.2-1, of the 72 off-street parking spaces to allow a total of 331 off-street parking spaces for a 235-unit apartment complex, seconded by Mr. Terpening.

Discussion:

Mr. Terpening said he will vote for the variance because it was included in the original NFP criteria and he knows that wasn't the time for this motion to be presented because of ongoing planning structural requirements that needed to be met before coming to this board additionally, he believes that due to either the financial or physical aspects, he doesn't believe there should be any criteria to do a scope with size as opposed to getting it done once and creating the retention and the service slope for that retention.

Vice-Chair Burdue said this one is more difficult for him because he understands the current market and studies out there, he understands the statistics about how many cars an average household owns, and he worries about going overboard with concrete, but he feels a 1.4 increase isn't awful compared to other properties nearby, some as high as 3.8. so he will be in support of the requested full additional parking spaces.

Chair van den Hombergh asked if there was any more discussion and there was none.

Motion denied by a three-to-three vote with Chair van den Hombergh, Mr. Wark and Ms. Harrington voting against the motion and Mr. McReynolds, Mr. Burdue, and Mr. Terpening voting for the motion.

Mr. Eldridge advised the board could put forth another motion for a reduced variance that aligns with what the board feels is appropriate if they chose to.

Mr. Burdue made a motion to approve the application for a dimensional variance from Chapter 50, Table 7.2-1, of additional off-street parking spaces which aligns with the 20 percent overage the city is proposing for future requests that is expected to pass this fall, seconded by Mr. Wark.

Discussion:

None

Motion was approved unanimously by a roll call vote.

Ms. Harrington read the application for 1827, 1925, and 2005 Reed Avenue.

ZBA#23-04-07: 1827, 1925, and 2005 Reed Avenue: An application for dimensional variances for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by LC Howard Inc. The applicant is requesting 1) a dimensional variance from Chapter 5, Section 5.2 of 8.5% to increase maximum impervious cover on the site to 88.5%, where 80% is the maximum permitted; and 2) a dimensional variance from Chapter 5, Section 5.2 of 15 feet from the required 25-foot building setback on the east side of the proposed 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.

Bryan Webster, of Byce and Associates at 306 West Kalamazoo Mall in Kalamazoo Michigan, spoke on behalf of the applicant, additionally Bob Goodheart of Pathfinder Engineering was there as well to talk about the building set back request. Mr. Webster said regarding the first variance request, they are in a manufacturing district on Reed and are bounded by an abandoned rail line on one side, Reed Avenue on another side, and an active rail line on another side which makes the property a sort of triangular shape. He pulled up a visual and stated the grey lines are the remnants of a building that was torn down, he believes, in 2014 and the concrete slab is still there, the hatched area is a combination of asphalt, gravel, concrete, what they call primarily impervious surface. He reiterated the site is surrounded by manufacturing and an active rail line on the northeast side of the property. He said the request, as noted, is for 88.5 percent impervious coverage and the zoning ordinance limits it to 80 percent but the existing conditions out there have been calculated to be about 88 percent as is, so they are basically asking for the same and added that with the shape of the property makes it difficult to turn trucks and there are other unique challenges to it as well. They are proposing a double rail spur coming inside the building for unloading and this will be all

warehouse space including 28 loading docks on the sides and that proposes some challenges with truck maneuverability so that's a factor and thirdly there's a cell tower on the north portion of the property that they have to maintain access to and they calculated the additional impervious just for access to that tower at about five percent.

Chair van den Hombergh asked if the board had any questions and Vice-Chair Burdue asked if the rail they created is currently abandoned and Mr. Webster replied that there is an abandoned railroad right of way on the westside of the property and the active line is on the northeast side and runs at a diagonal, and that's the line they would be proposing the new rail spur come off of.

Mr. Terpening clarified that Mr. Webster said there was about five percent of hard surfacing to maintain a right of way for a current cell tower and Mr. Webster said yes and Mr. Terpening verified that this is included in the 88.5 percent that they are requesting, and Mr. Webster agreed. Mr. Terpening said so they are technically already at 83.5 and Mr. Webster said yes, Mr. Terpening asked if it's required that they maintain an impervious surface for the utility of the cell tower and Mr. Webster said he believes it had to be some type of semi-impervious, if not impervious surface, so gravel, asphalt, or concrete.

Vice-Chair Burdue asked if there were any draining issues and are they taking any steps to plant trees or any other natural features and Mr. Webster said the site currently is 88 percent impervious and there are no provisions, it's just how it is. He believes most of the water drains to the northwest into a ditch that runs north, and their plan is to put stormwater detention under the parking lot so they're capturing, treating, and using underground chambers under the parking lot for stormwater management purposes. He said there is landscaping along Reed Avenue that meets the minimum requirements of the zoning ordinance.

Chair van den Hombergh asked if the board had additional questions regarding this portion of the request and there were none, so she asked Mr. Webster to share his position on the variance from Chapter 5, Section 5.2 regarding the 15 feet from the required 25 foot building setback and Mr. Webster stated they are requesting a setback reduction of 15 feet, from 25 feet to 10 feet from the property line that abuts the railroad line. He wanted to note the railroad line is 15 feet or so above the height of grade of the building, so there is a visual obstruction in that direction and being in a manufacturing district, there are a couple of things to consider, but the primary reason for the request has to do with the rail spur that they need and is important to the owners because it's an efficient way to ship and it keeps trucks off the roads and keeps it to rails, so having a rail spur to the building is vitally important.

Mr. Bob Goodheart of Pathfinder Engineering in Wyoming, Michigan, who is doing the railroad track design for this project said they have engaged Norfolk Southern/Grand Elk Railroad and CN. He stated it's one of the most complicated railroad agreement areas in the country. He said the railroad is owned by Norfolk and leased to Grand Elk, which is a Watco Company out of Pittsburg Kansas. He said they serve this area, but also give CN trackage rights, so the facility is jointly served by CN and Grand Elk Railroad which means they have to abide by both of the railroad's rules and they both have different rules. Ms. Harrington asked if Norfolk Southern were the ones that just had the derailment in Ohio and Mr. Goodheart said yes. He said the design of this needs to cross Reed Avenue at the end and that there used to be a Michigan buggy company back in the day and there's a storage building north of Reed Avenue, so the tracks used to cross where they're crossing again, into the northern part of the site. He said they need to still cross at that location and there's sanitary sewer, storm sewer, power poles, water all in that area and when they do the

design, they must have certain minimum radiuses and distances between reverse curves, and a certain distance of straight tracks before it goes into the building. He said when he first laid it out without doing the variance, they couldn't get rail into the building, which is why they're proposing to move the building northeast to the proposed setback location, they still have to curve the track, but he can get it to meet all the minimums with the variance requested. He added that the city asked him to check with the railroad on how close a building could be to the railroad right of way and Norfolk Southern, owning the right of way, said they have no jurisdiction over that via rule OT55, which is storage of hazardous material being no closer than a certain distance to the mainline. He spoke with Mike Howard of L.C. Howard, and he doesn't propose any hazardous materials shipped by rails at this location so OT55 doesn't apply at this location.

Vice-Chair Burdue asked if he knew how much more efficient it is to transport via rail versus truck for this particular site and what they plan to utilize the space for and Mr. Goodheart said there is typically anywhere between three and four trucks per rail car and that for every rail car, three of four trucks are being taken off of road and the state of Michigan has grant programs particularly for that, which they will be trying to obtain for this, the state has money to create jobs and taking trucks off of the roads.

Mr. Terpening asked if there would be an increase in rail traffic in or out of Kalamazoo or will this just be more or less cars required to maintain the facility and Mr. Goodheart said he can't answer that but believes a big part of the business model of L.C. Howard is serving Graphic Packaging.

Chair van den Hombergh asked that those in favor of the variance speak and there was none.

Chair van den Homberg asked that those in opposition speak and there was none.

Chair van den Hombergh asked if there were any calls and there were none.

Chair van den Homberg asked for staff comments, and Mr. Eldridge said he wanted to first thank Mr. Goodheart for reaching out to the railroad, as staff had asked them to. He said he wanted to reiterate some of the comments in the staff report and as they can see, the shape of the property is unusual, which makes for a straightforward maneuvering pathway to the building and back to the public street unworkable, so the building ends up positioned on an angle and you have a larger area for the trucks to get to the loading docks, you also have the telecommunications tower north of the building, which is already there and there's an easement in place and access has to be maintained, so there's some logic behind the request for the slight increase in their impervious coverage request. He added that with the setback for the building, the positioning of the former railroad crossing going over Reed Avenue is the most significant hardship facing the applicant and if they can't move the building over, they have to put such a curve in the track that it wouldn't meet the standards that the railroad industry has set, or multiple railroad companies have set as far as how sharp a bend in the tracks can be and moving the building over allows the tracks to cross the same spot on Reed Avenue where there are no known utility conflicts, so staff is in support of the second request as well.

Chair van den Hombergh asked if the board had any more questions and Ms. Harrington asked that in light of what we have been seeing lately, once the building is reconstructed, what are the chances of a derailment because there is a neighborhood right there and she wanted to know if staff took that into consideration. Mr. Eldridge replied he doesn't know about the margins as far as the maximum curvature and asked the board if Mr. Goodheart can come back up and speak to

that specifically. Ms. Harrington wanted to know if the question was even brought up and Mr. Eldridge said no and it was assumed, and Ms. Harrington interjected that these were engineers and they just trusted them knowing that engineers constructed the current situation that has impacted people. Mr. Eldridge stated that this will be low speed movement of railroad cars up to and into the building and then back out of the building but added he can't go any further than that because he doesn't know the specifics regarding loading and unloading rail cars.

Mr. Wark wanted to verify that there would be no hazardous materials going through there and Mr. Goodyear said no and that those types of cars are on main lines and usually go 50-60 miles per hour and here they will basically be moving paper. Ms. Harrington said she's being hypervigilant because of situations that have happened on the northside.

Chair van den Hombergh closed the public hearing.

FINDING OF FACT

Ms. Harrington moved the Finding of Fact as follows:

- 1) The Finding of Fact for 1827, 1925, and 2005 Reed Avenue shall include all information included in the notice of public hearing dated March 29, 2023, and revised notice dated April 4, 2023, and the agenda packet provided by staff.
- 2) 18 notices of public hearing were sent, and no responses were received.
- 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:

The facts presented regarding circumstances or conditions of the property or structures that are special circumstances or conditions not found on other lots in the same zoned district that make this request unique are that there are rail spurs needed that keeps trucks off the roads and on the rails and that this is one of the most complicated developments that are happening right now. Bob Goodheart from Pathfinder Engineering in Wyoming Michigan spoke about the request for dimensional variance. The facts presented regarding the cause of special circumstances are the design, that there are three or four trucks per rail car, which means there are three to four trucks off of the road. The facts presented regarding whether the applicant is denied rights enjoyed by property owners in the same zoned district by the application of the ordinance are the unique shape of the property and the location where the railroad track crosses over Reed Avenue, which were not created by the applicant. The facts presented regarding whether or not the action requested is the minimum action which will make it possible to use the latter structure in a manner that does not negatively impact the public and the spirit of the ordinance are that it was a blighted, demolished property that will be redeveloped and put up in a way that the tracks can optimize

business for L.C. Howard. The facts presented regarding whether the granting of the variance will adversely affect adjacent land in a negative way. Ms., Harrington said she understood the issue to be impervious surfaces and the applicant spoke to that. The facts presented regarding whether the granting of the variance will be generally consistent with the purpose of intent of the ordinance are that staff reported it is. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria based on the applicant having more open space in areas that are now gravel that will no longer be gravel.

Mr. Terpening seconded the Finding of Fact.

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

Chair van den Homberg offered that because this is a two part application, they would be motioned separately.

Mr. Burdue made a motion to approve the application for a dimensional variance from Chapter 5, Section 5.2 of 8.5% to increase maximum impervious cover on the site to 88.5%, where 80% is the maximum permitted, seconded by Mr. Wark.

Discussion:

Vice-Chair Burdue said he will be in support of this dimensional variance given the unique characteristics of the property and the current state of the property at this time, he feels it would be a big improvement and the impervious coverage is very similar to the existing.

Motion approved unanimously by a roll call vote.

Mr. Burdue made a motion to approve the second part of the application, a dimensional variance from Chapter 5, Section 5.2 of 15 feet from the required 25-foot building setback on the east side of the proposed building, seconded by Mr. Wark.

Discussion:

Vice-Chair Burdue said he is supporting this dimensional variance for the same reasons he supported the first part and given the unique properties of this parcel, he is supportive of using the rail and having that spur go into the building to reduce truck traffic within the city.

Motion was approved unanimously by a roll call vote.

OTHER BUSINESS:

Vice Chair Burdue 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 9:30 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: **5/11/2023**

Item: **D.1.**

TO: Zoning Board of Appeals

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

DATE: May 11, 2023

SUBJECT: ZBA #23-04-08: 724 and 730 N. Burdick St/108 and 128 E Frank St./709, 713 and 729 N Edwards St./121, 125, 129 ,131, 135 E North St. Mt. Zion Baptist Church and Hollander Development Company are requesting a dimensional variance from Chapter 50-7.2, to authorize an additional eight (8) off-street parking spaces which will allow a total of 64 off-street parking spaces where a total of 56 spaces was previously approved on June 9, 2022, with a prior variance for 17 additional off-street parking spaces.

BACKGROUND:

The site is 1.7 acres of this block surrounded by E. Frank Street, N. Edwards Street, E. North Street, N. Burdick Street in the Northside Neighborhood. It is zoned a mix of LW-1 and RM-36 Districts. Mt. Zion Baptist Church and Hollander Development Co. have been working together to develop a plan for a 70-unit mix of affordable and market-rate senior housing units. The proposed project will consist of two three-story buildings with each building having 35 units (2 - Two Bedroom Units and 33 - One Bedroom Units). One building will be positioned in the northwest corner of the site at N. Burdick Street and E. Frank Street. The other building will be in the southwest corner at E. North Street and N. Edwards Street. The parking will be located on the interior of the block with an outdoor community space. This is a Low-Income Housing Tax Credit (LIHTC) project and has been reviewed and determined to be eligible for funding, receiving the award in the Fall 2022 round.

The senior housing off-street parking standard is .5 spaces per unit. In June 2022, before making an application to the state for LIHTC approval, the developers, based on their experience building this type of housing, requested a variance to give this project closer to one space per senior housing unit. The variance was granted by the Zoning Board of Appeals (ZBA) on June 9, 2022, which allowed for a total of 56 off-street parking spaces (39 spaces permitted plus the variance of 17 spaces) or .8 spaces per unit. The reasons given for the amount requested were discussed during the ZBA public hearing were the past development experience of Hollander Development, market studies, and staff/visitor parking needs.

In the spring of 2023, the developers with their approved LIHTC application made changes to the plan, including increasing the number of senior two-bedroom units to a total of 6; They now desire to place an additional eight parking spaces on the site. This is a variance request to increase the off-street parking to 64 spaces where the prior variance approval was for 56 off-street parking spaces (.9 spaces per unit). The applicant has noted that there are plans for future senior programming that could bring additional vehicles to the site for: health screenings, in-home visits, counseling, fitness programs and other similar services for the residents of the building.

STRATEGIC VISION ALIGNMENT:

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

Strategic Vision, Master Plan 2025 and Neighborhood Plan Alignment:

LIHTC projects align with the Strategic Vision goal of complete neighborhoods by adding to the variety of housing types available. The Future Land Use Map indicates this block is 'Neighborhood Edge' which includes medium-density residential. The 2018 Northside Neighborhood Plan has a stated strategy to build new housing to accommodate all residents and create affordable housing opportunities.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

The applicant has reached out to adjacent property owners and the city has sent letters to surrounding property owners on April 26, 2023. The Northside Association for Community Development (NACD) has also been contacted.

Engagement/Communication Tools:

Notice placed in Kalamazoo Gazette, letters sent to surrounding property owners.

FINDINGS:

The staff has made the following findings regarding this request:

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

Staff does not believe that there are special circumstances peculiar to this request. The special circumstances referenced by the applicant are the need for more parking to accommodate residents, staff, visitors, and additional parking for on-site programming needs. Staff believe the additional daytime parking demand can be met with on-street parking and is willing to work with the developers to review on-street parking regulations in this area to further support.

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

Staff does not believe there are special circumstances not of the applicant's making to support this request. The applicant has cited the MSHDA standard which allows one space per senior housing unit. However, the project has already been reviewed by MSHDA and has been approved as eligible for funding with a standard of .8 spaces per senior housing unit.

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 applicant has already received one off-street parking variance. If this request is not approved, the applicant will still be permitted to build the development with 56 off-street parking spaces. Furthermore, MSHDA has already confirmed the eligibility of this project.

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 allow an increase in the parking ratio established by the 2022 variance of .8 spaces per senior housing unit to .91 spaces per senior housing unit. The 2022 variance with the on-street parking available is viewed by staff as sufficient parking for this senior housing complex.

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

The granting of the variance will not impact adjacent land as the parking lot is internal to the site, located between the two buildings.

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

The variance request is not viewed as consistent with the Zoning Code. Parking alternatives, in addition to the 2022 variance granted, provide sufficient parking for this project.

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 section is not applicable to the requested dimensional variance.

RECOMMENDATION:

The staff does not support the granting of this variance as it does not meet 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

April 26, 2023

RE: ZBA #23-05-08

724 and 730 N. Burdick St./108 and 128 E Frank St./709, 713 and 129 N Edwards St./121, 125, 129, 131, 135 E North St.

Parcel #06-15-181-001, 06-05-181-118, 06-15-182-002, 06-15-182-010, 06-15-183-106, 06-15-182-009, 06-15-182-310, 06-15-182-108, 06-15-182-310, 06-15-188-207, 06-15-183-007, 06-15-183-107.

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Mt. Zion Baptist Church and Hollander Development Company for 724 and 730 N. Burdick St./108 and 128 E Frank St./121, 125, 129, 131, 135 E North St./709, 713 and 729 N Edwards St. located in the Live Work -1 (LW-1).

The applicant is requesting a dimensional variance from Chapter 50-7.2, to authorize an additional eight (8) off-street parking spaces which will allow a total of 64 off-street parking spaces for a 70-unit senior living facility where 56 off-street parking spaces was the total approved on June 9, 2022, per a prior variance for 17 additional off-street parking spaces.

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, May 11, 2023, 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
Zoning Administrator



Community Planning & Economic Development

245 N. Rose Street, Suite 100 • Kalamazoo, MI 49007
(269) 337-8026 • www.kalamazoocity.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Byce & Associates, Inc.		Mailing Address: 306 S. Kalamazoo Mall
City: Kalamazoo	State: MI	ZIP Code: 49007
Phone: 269-381-6170	Email: danielle.rhodes@byce.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: Cathy L Wortham for Mt Zion Baptist Church		Mailing Address: 120 Roberson St
City: Kalamazoo	State: MI	ZIP Code: 49007
Phone: 269-388-3475	Email: clworth@mtzionkalamazoo.org	Preferred Contact: ☐ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 730 North Burdick Street (multiple - see attached)		
Parcel Identification Number(s): multiple (see attached)		Zone District (kalamazoocity.org/maps): LW-1
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) _____, Section(s) Article 7 ☐ Use Variance to allow _____ ☒ Natural Features Protection Variance		
☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval		
Reason for Request: Project demand anticipated to exceed the applicable parking standard for elderly housing of 0.5 spaces / unit. Project proposes 64 parking spaces to accommodate 70 units, or an increase to +/- 0.92 spaces per unit		
ATTACHMENTS		
☒ \$ 300 Fee ☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☒ Review Sheet for Request Type		Optional: Photos of property, architecture plans, etc.
<i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>		
SIGNATURE		
Signature of Applicant: <u>Danielle M. Rhodes</u>		Date: 3/15/2023
Signature of Owner (if different than applicant): <u>Cathy L Wortham</u>		Date: 3/15/2023

ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

Mt Zion Baptist Church & Hollander Development propose a Senior Independent Living Project encompassing (2) apartment building structures totaling for 70 apartment units.

See enclosed Site Plan for additional project details and specific information pertaining to this variance request.

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?

This request is unique due to the unique 'Independent Living' development parking demand. The vehicular mobility of independent seniors is not consistent with that of 'elderly housing' which only allow 0.5 parking spaces per apartment according to City's Ordinance.
This development has demand for additional safe, secured parking spaces in excess of the maximum allowable per City Ordinance.

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?

There is no 'on street' permanent over night parking allowed within adjacent right of ways. Nor would this on street parking meet the developments need for safe and secure parking or safe access for users with mobility challenges.

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

Other property owners, where the current ordinance parking tables are better aligned with development type, are allowed adequate parking to meet business need.

Variance request for parking reduction is much more common than variance request to EXCEED the minimum standard as we are requesting.



Community Planning & Economic Development

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

The proposed development is consistent with the spirit of the ordinance and development intent for the Live-Work 1 District; to promote a wide mix of commercial and residential uses in a scale and with a building form that is compatible with Kalamazoo neighborhoods and corridors. Proposed parking is interior to street facing building facades and will not adversely affect public.

Will the granting of the variance negatively affect adjacent land?

Granting of the variance will not negatively affect adjacent land. The development as a whole will have extremely beneficial results to northside community residents, and adjacent property owners and stakeholders.

The proposed development has been communicated with adjacent landowners; considering cohesiveness of design in conjunction with plans for adjacent future developments.

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

The proposed development, even with consideration to the requested dimensional deviations from the City's Zoning Ordinance, maintains the spirit and general development intent of the ordinance and future land use development plans to the maximum extent feasible.

Additional Criteria for Variance Requests for Required Landscaping

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

N/A

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

N/A



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

N/A

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

N/A

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

N/A

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

N/A

April 28, 2023

City of Kalamazoo Zoning Board of Appeals
Peter C. Eldridge, Assistant City Planner
Community Planning & Economic Development (CPED)
245 North Rose Street, Suite 100
Kalamazoo, Michigan 49007
Phone: (269) 337-8806

306 S. KALAMAZOO MALL
KALAMAZOO, MICHIGAN 49007
INFO@BYCE.COM
WWW.BYCE.COM
TEL: 269.381.6170
FAX: 269.381.6176

RE: Mt Zion Independent Living Development
127 E North Street, Kalamazoo, MI
Variance Request to the Zoning Board of Appeals
B/A Project No: 21100233

Dear Mr. Eldridge,

Byce & Associates, Inc. submits this letter on behalf of Mt Zion Baptist Church and Hollander Development as supporting documentation to the submitted *Application Request to the Zoning Board of Appeals*. The planned Senior Independent Living MSHDA Housing Development is proposed on 1.756 acres residing within the City of Kalamazoo's Live Work LW-1 base zoning district. Under City of Kalamazoo Zoning Ordinance Chapter 50 Zoning Ordinance requirements for Lot Type Development in Live-Work LW-1 zoning district, the proposed project scope proposes to target the permitted Flex Lot Type Development standards. Project intends to comply with all applicable zoning standards with exception to a single required variance from Chapter 50-7.2 off street parking requirements.

The Zoning Ordinance allows for a maximum of 0.5 parking spaces for Senior Multi-family projects while MSHDA's Standards of Design require a minimum of 1.0 parking spaces per unit on Senior Independent Living projects without congregate care. On June 9 2022, we successfully petitioned the Zoning Board of Appeals (ZBA) to allow 0.8 spaces per unit, or 56 parking spaces, as a compromise between these conflicting local and state requirements. The Zoning Board of Appeals granted the variance approving a 17 off-street parking space increase from the allowable standard, allowing a total of 56 off street parking spaces for a 70-unit senior living facility where 39 off street parking spaces is the maximum allowed per City Zoning Ordinance.

We kindly request that the City ZBA exercise their reasonable flexibility in granting approval of the requested amendment to previous Variance Request, as follows:

- 1. Dimensional Variance Request to Chapter 50, Article 7 Parking & Loading Regulations;** requesting approval of proposed off street parking in quantities exceeding the minimum requirement. According to the Ordinance Table 7.2-1 Required Parking Table, the applicable parking standard for Residential Senior

Housing is 0.5 spaces / dwelling unit. This standard does not take into consideration a bed count per dwelling unit, nor do we feel this parking ratio is sufficient for Independent Living Senior Developments, which more common than not are characterized by independent elderly persons with vehicles.

Since the initial variance approval granted in 2022, a site survey of the subject property paired with building design development has confirmed that the site can accommodate an increase in overall parking spaces. We are now proposing 64 total surface parking spaces to accommodate a 70-unit senior living facility; an 8 space increase from the previous Variance request approved. This brings our proposed parking ratio to 0.91 parking spaces per unit, still below the minimum 1.0 space per unit MSHDA requirement but exceeding the City's 0.5 space per unit allowable maximum and exceeding the 0.80 space per unit ratio approved in June 2022 through initial variance request.

Additionally we request that the board considers the following points relative to this request for increasing our parking count:

1. The Michigan State Housing Development Authority has confirmed that they view this request for increased parking count as a positive change to the number of spaces available per unit, and that the requested increase in parking will not place the reservation of credit at risk. This written confirmation was obtained and provided to City staff on 4/3/2023.
2. It is likely that final building design will include resident services, which are likely to bring additional visitors to the site, thus increasing parking demand. Examples of resident services may include health screenings, health education, counseling services, in-home visits, continuing education classes, fitness programs, or other typical senior services.
3. During our community charettes input from potential residents ages 55 and up, indicated a greater need for parking.
4. Total number of units has been maintained at 70 combined apartments, split between north and south buildings, but four (4) units have increased from one-bedroom to two-bedroom units, thus increasing overall bed count by 4.
5. We would like to assure we are doing everything we can to maximize secured parking accommodations on site, as it is not viewed favorable, or fair to require residents to park off site and walk to their homes.
6. The on-street parking options surrounding the site will be fine for visitors and service providers but are not comparable to the off-street parking provided for residents within the boundary of our secured perimeter. On street parking does not offer the same level of security as our on site parking will, nor does it offer the level of enhanced accessibility that we are aiming to provide our residents.
7. A lack of free on site parking adds an additional financial burden to those low income residents who do not receive a space (surface parking is generally free at LIHTC projects).
8. We are designing a development with abundant outdoor amenities. Twelve of the covered parking spaces in the site plan are under a dual use structure intended to function as pavilion for special events. Two parking spaces will feature EV charging stations. An additional 13 spaces will be EV capable with conduit and electrical panels in place.
9. We will have multiple bicycle racks on site, a METRO stop, and ridesharing drop offs. We are also working towards having an app-based EV car share on site with rates that are affordable to low-income residents.



Mr. Peter Eldridge
April 28, 2023
Page 3

We kindly request that the ZBA approve the submitted Variance Request Application. We feel strongly that the 8 parking space increase in overall off-street parking availability will improve our project immensely to the end user. We are confident the planned developments will contribute beneficially to the local community and surrounding stakeholders while maintaining the intent of the City of Kalamazoo Ordinance requirements for the LW-1 Zoning District and taking into consideration future Master Planning objectives. We look forward to working with the City of Kalamazoo through Site Plan Review and Approval processes immediately following board approval of the requested variance.

Sincerely,

Byce & Associates, Inc.



Danielle M Rhodes
Civil Engineer

Byce & Associates, Inc.



Michael Flynn, AIA
Vice-President

Attachments:

- Zoning Board of Appeals Application Form
- Zoning Board of Appeals Dimensional Variance Review Sheet
- Site Plan
- Legacy Senior Housing 1 (3D Rendering)
- Legacy Senior Housing 2 (3D Rendering)

cc: Matthew Hollander, Hollander Development
Jason Muniz, Hollander Development
Christina Anderson, City of Kalamazoo





May 1, 2023

City of Kalamazoo Zoning Board of Appeals
245 North Rose Street, Suite 100
Kalamazoo, Michigan 49007

Re: Mt Zion Independent Living Development
127 E North Street, Kalamazoo, Mi
Variance Request to the Zoning Board of Appeals

Dear Directors,

Hollander Development is submitting this letter on behalf of Zion Place 9 Limited Dividend Housing Association Limited Partnership (LDHALP), a joint venture between Hollander Development and Mt. Zion Baptist Church. Zion Place 9 LDHALP is the owner of The Legacy Senior Living, commonly known as the Mt. Zion Independent Living Development or Zion Place project.

Byce & Associates submitted a letter to the City of Kalamazoo on April 28th which is also included in your board packet. That letter details our initial request for a zoning variance as well as some of the reasons we are requesting a second variance. The following are additional reasons we are asking you to approve our request:

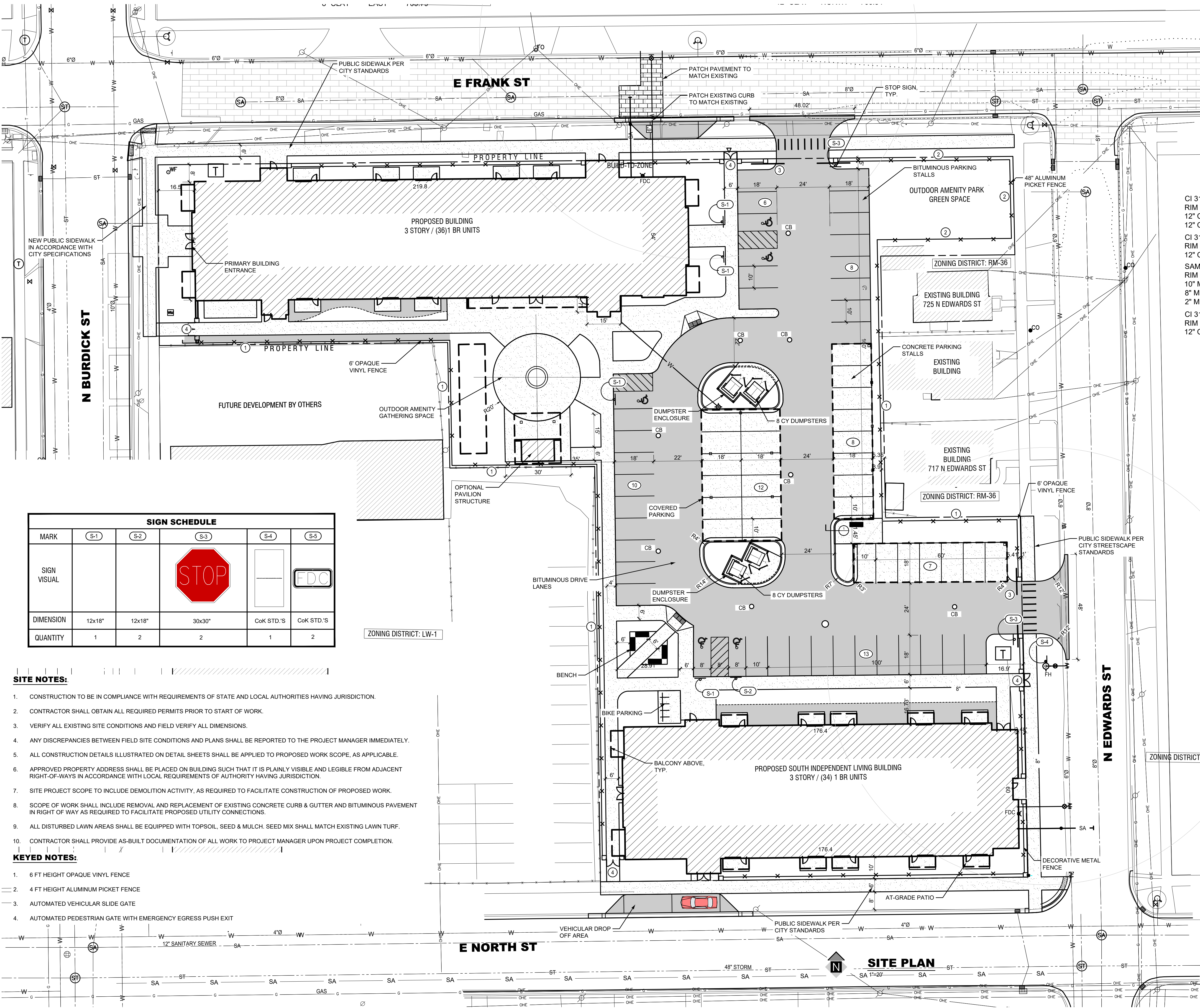
1. The zoning classification for the site is Live Work 1 (LW1). The zoning ordinance allows for a maximum of 0.5 parking spaces per unit at senior multifamily projects. This project is being financed using Low Income Housing Tax Credits (LIHTCs) from the Michigan State Housing Development Authority (MSHDA), a state agency with its own design standards. The MSHDA Standards of Design require a minimum of 1.0 parking spaces per unit on senior independent living projects without congregate care. MSHDA's parking requirement is based on their portfolio of over 6,000 similar projects across the state. Their Asset Management division recently conducted a review of parking needs at MSHDA-financed properties and concluded the 1:1 ratio should be maintained.
2. Hollander Development has developed over 1,000 units of affordable senior housing in Michigan since 1979. It is our strong opinion that the city's zoning ordinance should be updated to better define senior independent living from assisted living or skilled care. Senior independent living should be treated as multifamily. The Live Work 1 zoning district requires a 1:1 parking ratio for "regular" multifamily housing. Senior independent living is generally for individuals 55 and over. Residents of these communities are just as likely to drive as residents of non-age restricted

multifamily communities. **Most of our senior independent living projects have a 1:1 parking ratio.**

3. A lack of free off-street parking adds an additional financial burden to low-income residents who do not receive a space. Surface parking is generally free at LIHTC projects because it is viewed by MSHDA as a housing cost. Could we manage with fewer spaces? Yes. Would it result in a reduction in cars on the road? Probably not. Will it increase the monthly cost of living for our low-income renters if some of them need to pay for off-site parking? Definitely.
4. We have designed a zero-lot line development with abundant outdoor amenities. Twelve of the covered parking spaces are under a dual-use structure intended to function as a pavilion for special events. Two spaces will feature EV charging stations. An additional thirteen spaces will be "EV capable" with conduit and electrical panels in place. We will have multiple bicycle racks on site, a METRO stop, and ridesharing drop offs. We are also working on an app-based EV car share on-site with rates affordable to low-income residents. Two of our projects, The Creamery in Kalamazoo, and Spring Manor in Portage, are already enrolled in a Department of Energy-funded pilot program with Forth Mobility to offer that service later this year.
5. We are making this second variance request because our first request was submitted before we finalized our design. Our first request was for the total number of spaces we thought we could fit on the site during conceptual design. Since then, we were awarded competitive state financing and we completed schematic design. This variance request is for the total number of spaces that will fit on the site.
6. Staff have used a project at 530 Rose Street as their only example of a senior independent living project in Kalamazoo approved in conformance with the 0.5:1 parking requirement. We contacted the developers of 530 Rose Street and they also intend to apply for a parking variance to add additional parking spaces.
7. We will be adding resident services which are likely to bring additional visitors to the site. Examples may include health screenings, health education, individual and family counseling, in-home visits, continuing education classes, fitness programs, and other typical senior services.
8. During our community charettes we documented input from likely residents (who were 55 and up) who stated a greater need for parking.
9. Since our original request we have increased the size of four (4) one-bedroom units to two-bedroom units. We have not increased the overall number of units, but we have added a total of four (4) bedrooms.
10. We do not want our seniors to park off-site and walk hundreds of feet to their homes when we can easily accommodate additional on-site parking.
11. The on-street parking options surrounding the site will be acceptable for visitors and service providers, but it is unreasonable to compare them "apples to apples" with off-street parking. Those spaces will be outside our security perimeter/camera system and inconvenient for overnight parking due to snow plowing. The spaces along Frank Street are also on an uneven brick paving surface which is not friendly to individuals with balance and mobility issues.

Yours Truly

Matt Hollander, President



SITE DATA:	
ZONING:	LW-1 LIVE WORK 1 (0.981 ACRES)
	RM-36 (0.775 ACRES)
TOTAL DEVELOPMENT PROPERTY: 1.756 ACRES	
76,491.36 SF	
DIMENSIONAL STANDARDS:	
MAX. BUILDING HEIGHT:	3 STORIES
MAX. IMPERVIOUS COVER:	75%
MAX. SEMI-IMPERVIOUS COVER:	15%
SIDE YARD SETBACK:	0 FT
REAR YARD SETBACK:	N/A
BUILD TO ZONE:	0-10FT
FRONT LOT LINE COVERAGE:	70%
PROPOSED SENIOR INDEPENDENT LIVING UNITS:	
NORTH BUILDING:	36 UNITS
SOUTH BUILDING:	34 UNITS
TOTAL 1 BR APARTMENTS:	70
OFF-STREET PARKING REQUIREMENTS:	
0.5 PER DWELLING UNIT	
NORTH BUILDING:	18 SPACES
SOUTH BUILDING:	17 SPACES
MINIMUM REQUIRED:	35 SPACES
MAXIMUM ALLOWABLE:	38.5 SPACES

PROPOSED OFF-STREET PARKING:	
TOTAL PARKING SPACES:	64 SPACES
PROPOSED DEVELOPMENT AREAS:	
NORTH BUILDING FOOTPRINT:	TBD
SOUTH BUILDING FOOTPRINT:	TBD
TOTAL BUILDING COVER:	24,840.5 SF (32.5%)
TOTAL PAVEMENT COVER:	31,860 SF (41.5%)
TOTAL PROPOSED IMPERVIOUS:	56,700.5 SF (74%)
ENCROACHING PROPERTY IMPERVIOUS:	103 SF
TOTAL IMPERVIOUS COVER:	56,803.5 SF (74.3%)
TOTAL SEMI-IMPERVIOUS COVER:	0 SF (0%)
PROPOSED FRONT LOT LINE COVERAGE:	
SOUTH BUILDING (NORTH STREET ADDRESS)	
N EDWARDS STREET:	N/A
E NORTH STREET (PRIMARY FACADE):	80.8%
NORTH BUILDING (BURDICK STREET ADDRESS)	
E FRANK STREET:	N/A
N BURDICK STREET (PRIMARY FACADE):	77.4%

LEGEND:	
	PROPERTY LINE
	PROPERTY LINE OTHERS
	BUILDING SETBACK
	RIGHT OF WAY (R.O.W.)
	SEMI-IMPERVIOUS SURFACE
	NEW CONCRETE
	NEW BITUMINOUS
	EXISTING GATE VALVE
	EXISTING HYDRANT
	HYDRANT
	GATE VALVE
	MANHOLE / CATCH BASIN
	EXISTING CATCH BASIN / MANHOLE
	NEW SIGN
	EXISTING SIGN
	NEW LIGHT POLE
	EXISTING LIGHT POLE
	EXISTING TREE
	EXISTING EVERGREEN
	PROPOSED DECIDUOUS TREE
	PLANTING
	SHRUB
	EXISTING FENCE
	NEW FENCE

BYCE

ENGINEERS & ARCHITECTS

306 S. KALAMAZOO MALL
KALAMAZOO, MI 49007
CORPORATE@BYCE.COM
WWW.BYCE.COM
TEL: 269-381-6170
FAX: 269-381-6176

OCBA

LANDSCAPE ARCHITECTS

HOLLANDER
DEVELOPMENT
FREDERICK
CONSTRUCTION
M^ZB^C
Mt. Zion Baptist Church

Senior Housing Development for:

Mt. Zion Baptist Church

720 N. Burdick Street • Kalamazoo, Michigan

PRELIMINARY
NOT FOR CONSTRUCTION



The Legacy - Senior Housing





The Legacy - Senior Housing





Parcels within 300' Mailing Radius Various Northside

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



0 110 220 440 ft



Zoning Board of Appeals Staff Report

City of Kalamazoo

Date: **5/11/2023**

Item: **D.2.**

TO: Zoning Board of Appeals

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

DATE: May 11, 2023

SUBJECT: ZBA #23-05-09: 918 Jasper Street. Milestone Senior Services is requesting a dimensional variance from Chapter 50-4.5 B, to authorize the placement of an accessory structure in the front yard along E. Vine Street, where accessory buildings are not permitted in the front yard.

BACKGROUND:

The property is 3.6 acres in area and has frontage on Jasper Street, E. Crosstown Parkway, Boesman Avenue and E. Vine Street. The main entrances to the site are off Jasper Street and Boersman Avenue. There are no driveways off E. Crosstown Parkway or E. Vine Street. Milestone Senior Services offers a variety of senior programs and services on-site and off-site. Home Repair Services provides home alteration to help seniors remain in their homes. The program has grown in recent years with 10 to 20 volunteers a day working on wheelchair ramps and other home alterations for seniors in the community.

Home Repair Services has an outdoor workspace currently and limited storage for lumber and tools. Due to the growth of the program, Milestone Senior Living is proposing to add a 1,200 square foot storage building on-site to consolidate the lumber/tool storage and workspace. The applicant is requesting the variance to locate the storage building in the front yard along E. Vine Street. The storage building will be approximately 175 feet south of the E. Vine Street frontage, but is technically in the front yard because of the existing building's location. The doors of the building will face north. The property is in the Downtown 3 (D-3) District, which has standards that require the placement of the primary structures to the front of a parcel and accessory structures and parking in the side and rear yards.

The site has frontage on four streets, there are two locations on the property that would allow the accessory structure to conform to the Zoning Code. These locations are the area next to the electrical substation and a second location at the south end of the site. These two locations are viewed as problematic by the applicant. The first location near the electrical substation could impact the entry drive off Boersman Avenue; could result in removal of vegetative screening along the substation; and is in view of the outdoor patio area and windows associated with the building's event space. The second location at the south end of the site would create conflicts

with the current set up for truck deliveries and food distribution from the food pick-up area and would require additional grading work for a site that is already fully within a floodplain.

STRATEGIC VISION ALIGNMENT:

Strategic Vision and Master Plan 2025 Alignment:

There was no alignment observed with the proposed construction of this storage building.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

The applicant has been encouraged to reach out to adjacent property owners and the city sent letters on April 26th to all property owners within 300 feet of the site. The Edison Neighborhood Association has also been made aware of the request.

Engagement/Communication Tools:

Kalamazoo Gazette notice and letters to surrounding property owners.

FINDINGS:

The staff has made the following findings regarding this request:

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

The property is longer than it is wide and has frontage on four streets (Jasper Street, E. Crosstown Parkway, Boesman Avenue and E. Vine Street). This limits the number of conforming options for the location of the accessory structure, but does not eliminate all conforming opportunities.

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

The request for relief in the permitted location of the accessory structure is the result of the applicant preferring a location that is not one of the two conforming locations, which they believe to be less convenient and challenging, potentially requiring additional site work.

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 the storage building to be located in one of the two conforming locations.

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 would result in the placement of the storage building in the defined front yard.

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

The proposed location for the storage building will be screened on the west, south and east sides. The building's bay doors will be on the north side facing Vine Street and Bronson Hospital, where there will be no screening.

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

This request is not consistent with the intent of the ordinance and does not align with the form-based standards of the D-3 District.

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 does not apply to the variance requested.

RECOMMENDATION:

Staff does not support this variance request as it does not meet the review 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

April 26, 2023

**RE: ZBA #23-05-09
918 Jasper Street
Parcel #06-22-265-002**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Milestone Senior Services for 918 Jasper Street in the Downtown-3 District (D-3).

The applicant is requesting a dimensional variance from Chapter 50-4.5 B, to authorize the placement of an accessory structure in the front yard along E. Vine Street where accessory buildings are not permitted in the front yard.

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

The meeting will be held on Thursday, May 11, 2023, 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
Zoning Administrator

Zoning Board of Appeals Application



Submission date: **13 April 2023, 1:00PM**

Receipt number: **18**

Related form version: **14**

Introduction

Have you scheduled a pre-application meeting? **Yes**

Applicant Information

Name **Alex Frazier**

Organization (if applicable) **Hurley & Stewart**

Email Address **afrazier@hurleystewart.com**

Phone Number **269-492-3301**

Address **2800 S 11th St, Kalamazoo, MI 49009, USA [Map](#)
(42.26417860000001, -85.6586854)**

Preferred Contact Method **Email**

Are you the property owner? **No**

Property Owner Information

Name **Milestone Senior Services - CEO Richard Kline**

Mailing Address **918 Jasper St, Kalamazoo, MI 49001, USA [Map](#)
(42.2821178, -85.58001440000001)**

Phone Number	2693820515
Email Address	RKline@milestoneseniorservices.org
Preferred Contact Method	Email
Authorization from property owner:	Milestone - HS Authorization_.pdf

Property and Application Details

Property Address	918 Jasper St, Kalamazoo, MI 49001, USA Map (42.2821178, -85.58001440000001)
Parcel Identification Number	06-22-265-002
Zone District	CN-1
Type of Request	Dimensional Variance
Application Fee	\$300.00

To Whom It May Concern,

This letter is to confirm that Milestone Senior Services is authorizing Hurley & Stewart, LLC to perform the necessary submission(s) to State of Michigan and local agencies for the proposed site improvement project located at 918 Jasper Street in the City of Kalamazoo. Please contact RICHARD KLINE directly at [phone] 269-336-5544 or [email] RKLINE@MILESTONESENIORSERVICES.ORG additional information is required.

Sincerely,



[Name/Title]

RICHARD KLINE, CEO

Project Description & Reason for Request

Per Zoning Map site is zoned D-3 Form Based Code, CN-1 per GIS maps.

Requesting variance to construct a 1,200 storage building within the front yard area, between the primary structure and Vine Street (to the north).

Reason for request is that locations that are allowable for the storage building per the Ordinance are limited and/or not ideal.

Project Description:

The proposed Home Repair storage building is an interim growth solution for Milestone. Their Home Repair department provides home alteration services free of charge to local seniors, including installation of grab bars, handrails, and wheelchair ramps that allow them to stay in their homes as they age and lose mobility. Between 10-20 volunteers meet daily to build ramps on site at 918 Jasper which are then loaded & delivered. Currently, Milestone has an uncovered fenced area of about 1600 SF directly attached to the northeast corner of their main building for materials & lumber storage and ramp construction (see submitted photos). Demand for home repairs & ramp building services has been growing rapidly and Milestone has outgrown its current footprint and the need for covered storage to keep lumber dry is desired.

The new 1200 SF building is for covered lumber & tool storage and will not be conditioned. It will have overhead doors & adjacent paved driveway for unloading/loading of materials & for construction of ramps.

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

This shape/location of this lot is unique due to the fact that it is surrounded by public streets in all directions, except to the northwest where it abuts a power

make this request unique?

substation & a surface parking lot, and a small sliver to the south which abuts a small unused parkland parcel along Crosstown Parkway. These circumstances designate a large portion of the property as front yard. It is a very large lot but there are only two (2) areas on site where the building is permitted, however these locations are not feasible or suitable to the project. (See submitted site plan noting areas allowed per ordinance for accessory building construction.)

Option 1) Place the building directly along the the property line south of the electrical substation.

Response: This location would not be ideal for the following reasons:

- Building placed directly in/along path of main traffic flow through site between entries at Boerman & Crosstown Parkway creating possible traffic flow blockage & safety issues for volunteers while loading/unloading & ramp construction.
- Constrains space needed by owner to do the necessary activities for their day-to-day operations.
- Building placed directly outside the existing large meeting & event space for the building & in direct view of the only windows for that space, which is not ideal due to the nature of activity in the new building.
- Proximity to existing building & main driveway limits opportunities for landscape screening & creates concerns with construction noise during meetings.
- Space constraints may require removal of existing landscape screening of adjacent substation at owner's lot line.
- Change of grade in this area to support the new building would create a more significant cost hardship & scope of work to bring existing pedestrian access in and around building, handicap parking, etc. into compliance with acceptable slopes.

Option 2) Place the building directly along the southern property line where it abuts the small

parkland parcel.

Response: This location would not be ideal for the following reasons:

- Building placed in very close proximity to Crosstown Parkway does not appear to meet the intent of the Ordinance to keep accessory buildings away from the street frontage/front yard & public facing views of the site.
- Milestone also does not want to make this building a feature at the street or block sightlines to their existing monument signage & main building and any future Meals on Wheels canopy & branded signage.
- Satisfactory screening of the new building would require much more intensive scope as the adjacent parcel & Milestone site are very open lawn with minimal landscaping of any kind.
- Semi-truck access for Meals on Wheels enters & exits from the driveway at the south end of the site. This also creates possible safety concerns with location of the storage building and volunteer activities in/along the main path of semi-truck traffic through the site.

The proposed placement of the building is:

- placed so as to be able to be adequately screened from both the existing building & the public ROWs and set as far back from the public ROW as possible
- separated from the main paths of vehicular flow through the site to keep volunteer activity protected/separate from general vehicle movement

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. This property is unique in that the majority of its perimeter is roadway frontage, which designates a large portion of the property as "front yard." A large portion of this site is also falls within the Portage Creek floodplain which requires a more larger footprint of impact to the site wherever grading must be changed, as well as net-zero fill requirements that must be met to offset any raising of grade.

Are the special circumstances created by actions of the applicant?

No.

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.

Will the granting of the variance negatively affect adjacent land?

Granting of this variance will not negatively affect adjacent properties. The proposed building will be screened with landscaping and set back from all public right of ways to the maximum extent feasible.

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

Yes, the proposed placement of the new accessory building is the best possible location on the site to hold the building away from street frontage & provide adequate landscaping screening in alignment with the intent of the Ordinance, as well as not impeding current traffic flow patterns through the site while also best meeting the owner's needs to continue to support the community.

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

Yes.

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

Yes

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

N/A.

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

Existing setbacks to remain.

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

Directly abutting properties are not currently developed. Public streets abut the proposed building to the north, east, and south. An existing electrical substation owned by Consumers Power Company abuts the proposed building to the west. The proximity of Portage Creek watershed directly to the east & associated floodplain also limits development in this area. Other adjacent properties across the public right of way to the north and west could feasibly be developed for use other than residential, but are currently surface parking.

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

N/A

Supporting Documents

Supporting Documents

[918 Jasper - Existing Conditions Photos.pdf](#)
[2023-04-12 Milestone Senior Services - Proposed Site Layout.pdf](#)
[918 Jasper - Existing Site Plan.pdf](#)

Submit

Your Signature

A handwritten signature in blue ink, appearing to be 'AJF', with a long horizontal stroke above the letters.

[Uploaded signature image: AJF Signature.JPG](#)

EXISTING PLAN



Existing Building - North Facade at Event Space









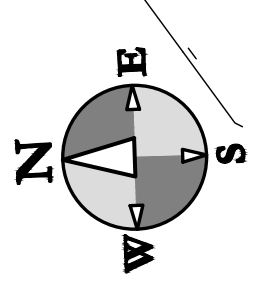
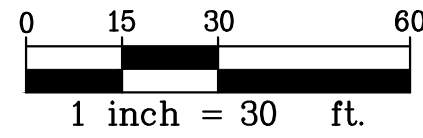
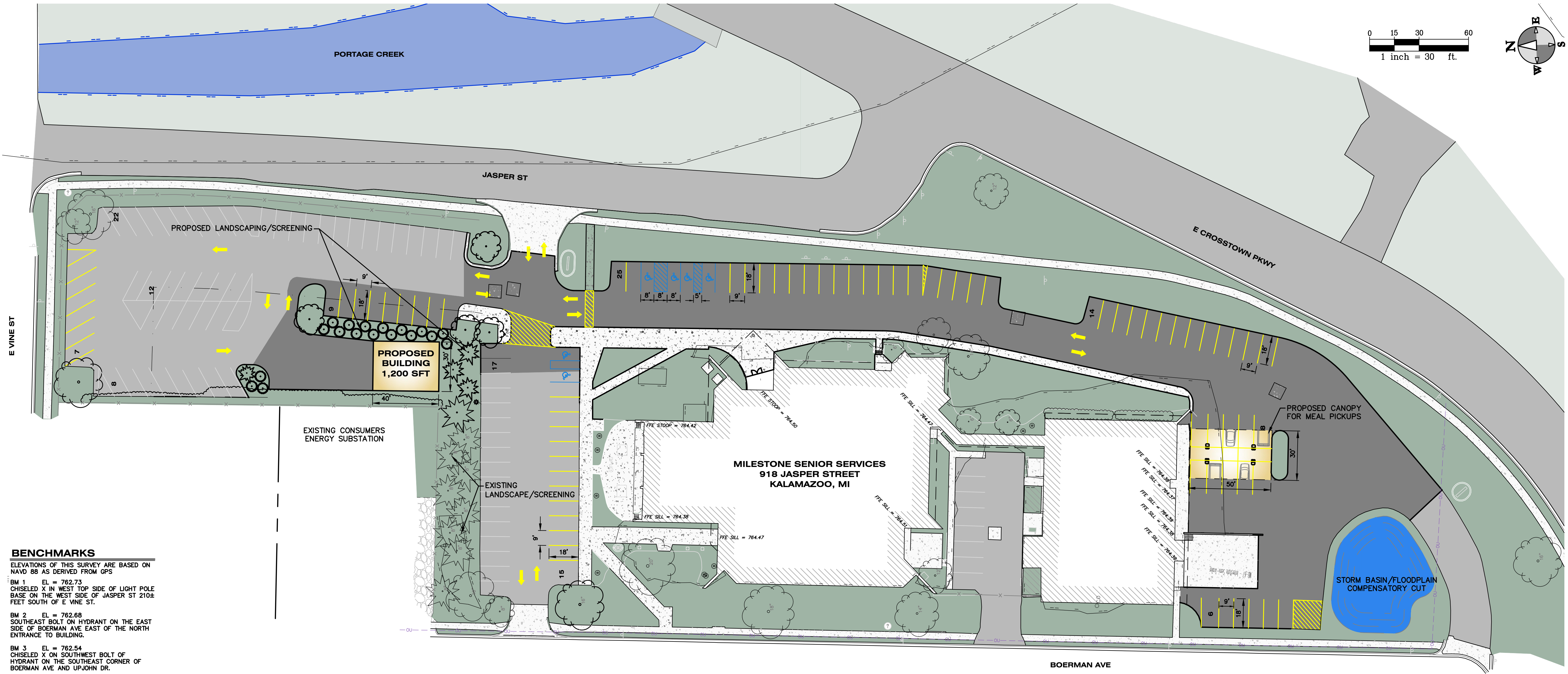


View of South End of Site from
Crosstown Parkway



View of Proposed building location
from Crosstown Parkway





BENCHMARKS

ELEVATIONS OF THIS SURVEY ARE BASED ON NAVD 88 AS DERIVED FROM GPS

BM 1 EL = 762.73
CHISELED X IN WEST TOP SIDE OF LIGHT POLE
BASE ON THE WEST SIDE OF JASPER ST 210+
FEET SOUTH OF E VINE ST.

BM 2 EL = 762.68
SOUTHEAST BOLT ON HYDRANT ON THE EAST
SIDE OF BOERMAN AVE EAST OF THE NORTH
ENTRANCE TO BUILDING.

BM 3 EL = 762.54
CHISELED X ON SOUTHWEST BOLT OF
HYDRANT ON THE SOUTHEAST CORNER OF
BOERMAN AVE AND UPJOHN DR.

LEGEND

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

LEGEND

■	PROPOSED BUILDING
■	EXISTING PAVEMENT (POSSIBLE MILL & FILL)
■	PROPOSED PAVEMENT & MINOR GRADING
■	PROPOSED DETENTION BASIN

ZONING REQUIREMENTS

SITE AREA

GROSS PROPERTY AREA: 3.66 ACRES (159,430 SFT)
EXISTING IMPERVIOUS AREA: 2.57 ACRES (112,007 SFT)
PROPOSED IMPERVIOUS AREA: 2.50 ACRES (108,983 SFT)

ZONING

THE SITE IS ZONED D-3 DOWNTOWN

SETBACKS: FRONT - NA
SIDES - NA
REAR - NA

PROPOSED USE

PARKING LOT IMPROVEMENTS AND THE CONSTRUCTION OF A 1,200 SFT BUILDING

PARKING

EXISTING PARKING SPACES = 143 SPACES
EXISTING BARRIER FREE SPACES = 13 SPACES

TOTAL PARKING REQUIRED =
OFFICE: (1/300 SFT) x (30,372 SFT) = 101 SPACES REQ.
TOTAL PARKING PROVIDED = 143 SPACES

BARRIER FREE SPACES REQUIRED = 5
BARRIER FREE SPACES = 6 PROVIDED
ALL BARRIER FREE SPACES DESIGNED PER ADA REQUIREMENTS

TYPICAL PARKING SPACE DIMENSION = 9'x18'

INTERIOR LANDSCAPING

5% PAVEMENT REQUIRED TO BE INTERIOR LANDSCAPE
LANDSCAPING AREA REQUIRED = 5,449 SFT
LANDSCAPING AREA PROVIDED = 21,832 SFT

PRELIMINARY SITE PLAN MILESTONE SENIOR SERVICES INTERSECT STUDIO

Sheet Title:
Project:
Client:

4/12/23
Sheet

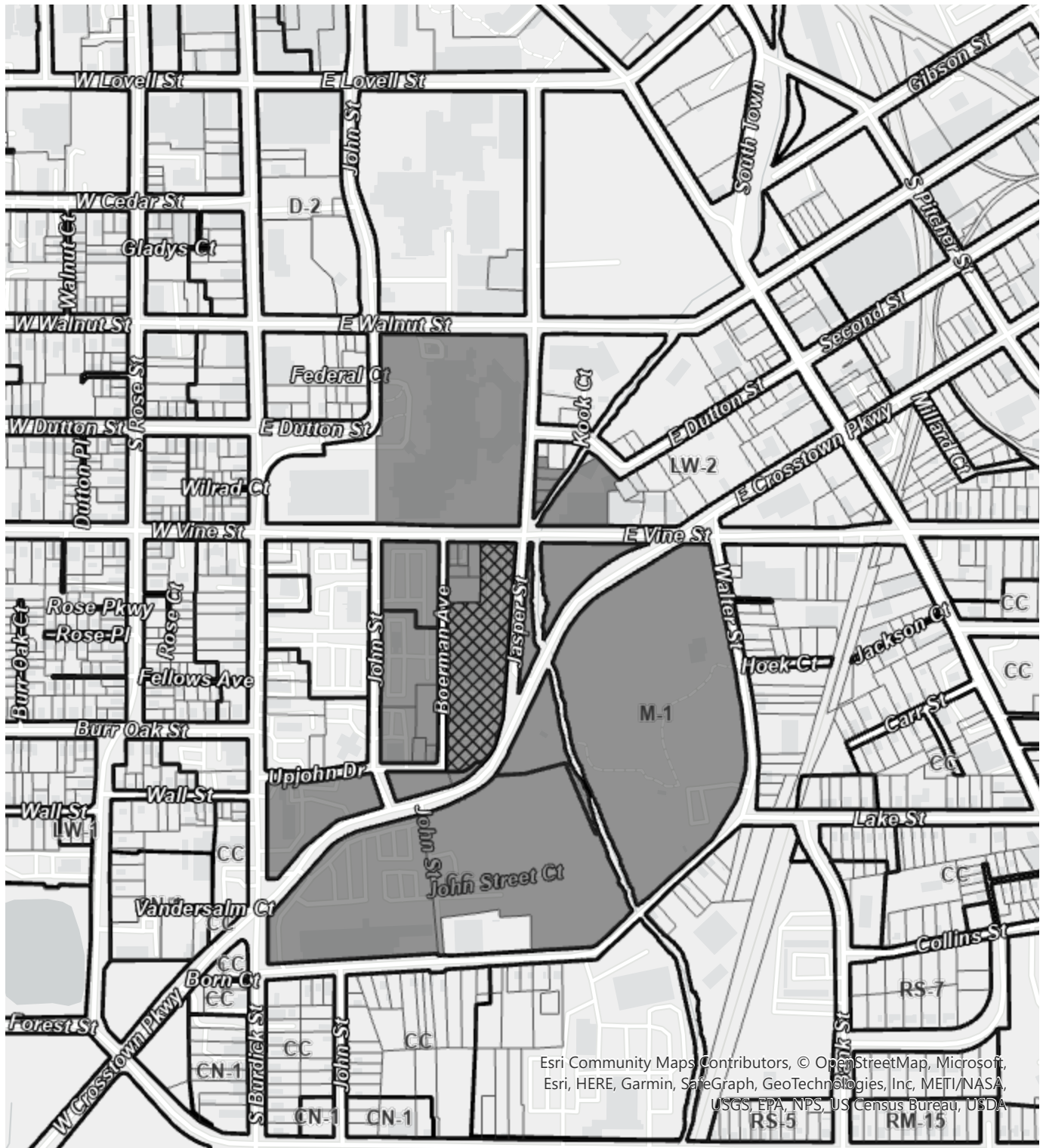
C-2

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Job No. 22-110D P.M.A.J.P. DFL NLR 0A/QC 4/12/23
ISSUED FOR REVISIONS:
#1 SITE LAYOUT PLAN FOR REVIEW 1/16/23
#2 REVISED SITE LAYOUT 4/12/23
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Parcels within 300' Mailing Radius 918 Jasper

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



0 220 440 880 ft