

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, November 9, 2023

7:00 PM

City Commission Chambers – 241 West South Street

A. CALL TO ORDER/ROLL CALL

B. APPROVAL OF MINUTES

1. Approval of minutes from the Zoning Board of Appeals meeting on September 14, 2023

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #23-11-18: 1000 W. Paterson Street. The Douglass Community Center is requesting the following variances for the proposed 28 square foot LED sign on the south wall of the building.

1) A dimensional variance from Chapter 50, 50-9.5-1 [formerly: Appendix A, Chapter 7, 7.3 A], to allow a 28 square foot LED panel on the south wall, where wall signage is limited to one 24 square foot wall sign for each approved special use and the Douglas Community Center has already utilized this signage; and 2) A dimensional variance from Chapter 50, 50-9.3F(1)(a) [formerly: Appendix A, Chapter 7, 7.2 D], to allow for the 28 square foot wall sign to be 100% changeable copy or LED, where the changeable copy on wall signs in the residential districts are limited to 25% of the sign area.

The Douglass Community Center is also requesting the following variances for the proposed 50 square foot LED sign on the west wall of the building.

1) A dimensional variance from Chapter 50, 50-9.5-1 [formerly: Appendix A, Chapter 7, 7.3 A], to allow a 50 square foot LED panel on the west wall, where wall signage is limited to one 24 square foot wall sign for each approved special use and the Douglas Community Center has already utilized this signage; and 2) A dimensional variance from Chapter 50, 50-9.3F(1)(a) [formerly: Appendix A, Chapter 7, 7.2 D], to allow for the 50 square foot wall sign to be 100% changeable copy or LED, where the changeable copy on wall signs in the residential districts are limited to 25% of the sign area.

2. ZBA #23-11-19: 3113 Parchmount Avenue. Lisa Woodruff, representing Butterfly Oasis Adult Foster Care, is requesting a use variance from Chapter 4,

Section 4.1, to increase this Adult Foster Care Group Home from six residents to eleven residents, where a medium group home (7-12 residents) is not permitted in this residential district.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
September 14, 2023 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Remi Harrington, Joe Hohler III, Jeremy Terpening, Gary Wark, and Tony McReynolds (alternate)

Members Absent: Beth van den Hombergh

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

Vice Chair Wark called the meeting to order at 7:05 p.m.

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

Vice Chair Wark asked if there were any changes to the original agenda and Mr. Eldridge said no.

APPROVAL OF MINUTES:

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

PUBLIC HEARINGS: Vice Chair Wark summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to present their comments, followed by public comments in favor of the application where they will state their name and address and speak for three minutes. Following that those in opposition will be invited to speak for four minutes and afterward. The public can call in to 888-382-9556 to enter a queue to comment live for any property on the agenda and will no longer be able to leave a recorded message, then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Ms. Harrington read the application for 1321 S. Westnedge Avenue into the record.

ZBA#23-09-15: 1321 S. Westnedge Avenue: An application for a use variance has been filed with the Zoning Board of Appeals by Innovo Development Group, LLC for 1321 S. Westnedge Avenue, which is located in the Commercial-Neighborhood 1 Zone District. The applicant is requesting a use variance from Appendix A, Chapter 4, Section 4.2 Q3 to authorize residential occupancy of the ground floor level where it is not permitted in the Commercial-Neighborhood District.

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.

Jeff Swenarton, an attorney, spoke on behalf of his client, Innovo Development LLC, and was joined by one member of Innovo Development, Trey Allman, and Pat O'Brien, the realtor involved in listing the property. He stated that he believes the staff report is accurate and describes the situation very well, so he won't take too much time. He said the property is a 1591 square foot home and the current tenant, True North Financial, is leaving and there has been no interest from any commercial users for that area. He stated it is a beautiful home and there is a purchase agreement to sell the house for residential use. He added that this area will be subject to zoning changes and will be in the Live-Work 1 district, like a lot of homes in the Vine historic neighborhood and will be subject to multiple uses, residential and commercial, and stated that this will be a good use of the property, as it has historically been used as a residence, which is what the buyers intend to use it for. He added that it has been difficult for commercial users to have any interest in the property and the timing has been favorable since the city is working on rezoning areas in the community and he feels that a lot of people are in favor of the LW one and two districts and, as he understood it, last Thursday, September 7th, the Planning Commission made a few tweaks, but this area is going to remain LW1 and the City Commission has taken it up, but until they approve it, it won't be law or part of the zoning ordinance. He said he doesn't know when that's going to happen, but they want to try to get the deal done, so they decided to apply for a use variance and as Mr. Eldridge noted in the staff report, in July, but it says August 10, a property at 621 South Park Street came before the board with a similar request, as the zoning was CL, rather than CN1, but the request was the same, so they are requesting a use variance to allow residential use on the ground floor, which is not permitted now, and he hopes the Zoning Board of Appeals will see fit to approve the variance.

Vice Chair Wark asked for staff comments, and they are as follows: Mr. Eldridge stated that Attorney Swenarton covered quite a bit, but the staff report alluded to the special circumstances that are the longer than projected timeline for getting the rezoning that the city staff has been working on since February, but it includes hundreds of properties, so it is a realignment of many commercial properties located on various thoroughfares, in this case Westnedge Avenue, going through the Vine neighborhood, is the focus today. He added that it did clear the Planning Commission on September 7th and the next scheduled date is in front of the City Commission for the first reading on October 16th, then a public hearing will be held, hopefully, the next meeting after that, but it's a process the city is looking at, best case scenario, early November. He said this is a change from the commercial neighborhood one zone, which allows for residential use, but only on the second floor and above, so only upper floors of a structure in this zone are eligible for use as residential and the lower floors remain commercial. He said that this is the level of

inflexibility that the city is trying to do away with and the CN1 district will no longer exist after the updates are approved and they are moving the Commercial Office and Commercial Neighborhood zone from the ordinance completely and are replacing them with the Live Work -1 and Live Work -2 designations, based on the appropriateness of the land use. He also wanted to mention that the city has heard, many times, about the calculations concerning the housing shortage and this variance, like 621 South Park Street that was before the board back in July, shows the demand for additional housing units in the Vine neighborhood. He said this is a staff supported variance that they feel is more than appropriate with the rezoning that will align the 100 percent residential use with the new zone district, Live Work One.

Vice Chair Wark asked that those in favor of the variance to please step forward. Mr. Max Tibbetts, who currently lives on South Park and is one of the people trying to purchase the property, he and his husband. He said he has lived in Stuart for years and they have redone 3 homes and he can no longer, physically, rehab. He said this house is small enough, is turnkey, still keeps him in historic, and is ideal for residential living and added there is a lot happening in that area that they can use his expertise in that he can try to help with but he can't do the rehab anymore, which is one of the reasons they chose this house over other ones, and the current owners did a phenomenal job with the work they put into it. He said he hopes they pass the variance because he wants this to be his home.

Sally Reynolds spoke and said she is excited that Max and Jeff will be moving into the neighborhood because they would be good for the neighborhood, this will add to the residential, that they keep an eye out and know what's going on, and they aren't afraid to gather some people and get it fixed.

Jeff Siuda, who resides at 916 South Park Street, and is the other person hoping to purchase the property on South Westnedge and he thinks the best use for the property is residential and not commercial and hopes the board agrees.

Chelsea, who lives caddy-corner to the property, believes the best use for the property would be owner occupied housing and added that commercially, the businesses in the area are really suffering: Elements just asked for fundraising, Swift is being pushed out due to vandalism, and Taco Bobs has been shortening their hours. She feels that having owner occupied housing and neighbors that care makes a difference.

Pat O'Brien, a business owner in the Vine neighborhood and is also the listing agent, stated although he has an interest in making sure the sale goes through, he believes the best use of the property would be either residential or commercial. He said he has been in the Vine neighborhood over 20 years and that this house, in essence, looks like a house and when you go in it, it acts like a house and of all the buyers that looked at it, 99 percent of them were residential buyers and he believes the best use for the house would be residential.

Donna Carroll, of 435 Park Place, stated she and her husband have lived there for 49 years in the Vine neighborhood and Max and Jeff have been great neighbors. She said she knows they have done great work on South Park and have become part of the neighborhood and the fact that this was once a residence, it makes sense for it to be flexible in terms of its use going forward and she believes they will be contributing to the stability of the Vine neighborhood.

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

Vice Chair Wark asked if there were any calls and there were none.

Vice Chair Wark asked if there was any further discussion from the board and Mr. Hohler asked what the difference between Live Work-1 and Live Work-2 and Mr. Eldridge said LW-1 is a little less intensive as far as the types of commercial uses that are allowed but they both allow for the residential and a LW-2 is usually located on a larger lot size that could accommodate more intensive development and this property isn't very large as far as its overall square footage but he would have to pull the list to give him land use examples between the two. Mr. Hohler said that at some point the zoning on the house changed and it became a commercial building once it changed hands, he then asked if that is how it went and Mr. Eldridge said yes, it was built as a residence in 1901, is a historic structure, and in 2019 it went through site plan review to be converted into office use and that's when the parking lot was adjacent to it, and it was no longer classified as a house, but a commercial office. He said that a lot of homes in the Vine neighborhood are in commercially zoned areas that have continued to be residentially occupied and never made that transition, so technically they're legal non-conforming but it's not until that change occurs that the city is faced with the difficulty of properties in the commercial neighborhood zone district, and then it was also a office zone property in the Vine neighborhood that was the same kind of situation where they wanted to add a residential unit on the lower level, but not convert the whole lower level, but it still triggered a variance before the board.

Vice Chair Wark closed the public hearing.

FINDING OF FACT

Mr. McReynolds moved the Finding of Fact as follows:

- 1) The Finding of Fact for 1321 S. Westnedge Ave. shall include all information included in the notice of public hearing dated July 26, 2023 and the agenda packet provided by staff.
- 2) 92 notices of public hearing were sent, and four responses were received, all supporting the variance:
 - Max Tibbitts and Jeff Siuda at 916 S. Park Street
 - Sally Reynolds at 1013 S. Park Street
 - Stephen Senesi at 439 Park Place
 - Stephen Walsh, Exc. Director of the Vine Neighborhood Association
- 3) A public hearing was held before the board and public comments were accepted.
 - Sally Reynolds, 1013 S. Park St. - spoke in support of the variance.
 - Jeff Siuda, 916 South Park St. – spoke in support of the variance.
 - Chelsea (?), who lives caddy-corner to the property – spoke in support of the variance.
 - Pat O'Brien, O'Brien Real Estate, 527 S. Westnedge – spoke in support of the variance.
 - Donna Carroll, of 435 Park Pl. – spoke in support of the variance.

- 4) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing.

Mr. Terpening seconded the Finding of Fact.

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

Vice Chair Wark asked if there were any additional comments and Ms. Harrington said she thinks it's a beautiful house that has been meticulously maintained and she is excited for the purchasers. Mr. Hohler said they should approve it just to be consistent because they did it with the chiropractic office, Charley Martel's office, and all for the same reasons and it would be inconsistent. Ms. Harrington said she likes when they are owner occupied and doesn't like when they take residential and put it downstairs and asked if that was the continuity Mr. Hohler was referring to and he said no, he is just pointing out that they have been approving these types of variances knowing the zoning was changing anyway and people need to get to work on it now or they will have to wait until next year so let's just do it. He said he is saying for consistency's sake, the board should approve.

Mr. Terpening said that to be transparent, Mr. Siuda and Mr. Tibbetts are his backyard neighbors and that it helps because as they stated, they are good stewards of the neighborhood and once all of the letters were submitted, he believes that this is the most support they have had for a single application in regard to in person and written responses and he has personally worked with probably nine tenths of them in some fashion and feels that the best characters of the Vine neighborhood are represented here today. He added that Ms. Harrington, being on the Vine Neighborhood Association Board, can attest to the fact that people don't usually show up and for this many people to show up for these applicants bodes highly for them.

Vice Chair Wark added he would be voting for the variance as well.

Mr. Hohler made a motion to approve the application for a use variance from Appendix A, Chapter 4, Section 4.2 Q3, seconded by Mr. McReynolds.

Motion approved by voice vote unanimously.

Ms. Harrington read the application for 3651 E. Cork Street.

ZBA#23-09-16: 3651 E. Cork Street: An application for a dimensional variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Enterprise Leasing Company of Detroit, LLC for E. Cork Street. The applicant is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.2 G, to authorize signs mounted on the roof of the existing building where roof-mounted signs are prohibited.

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.

Ashby Donohue, of Enterprise Rental Car's corporate real estate office that covers the state of Michigan, is applying to get a sign on the roof of the building facing Cork Street. He said the

building has the old Burger King style roof and is almost like a residential roof, so there's nowhere to mount the sign and they are looking for a variance to put the signs up on all three sides of the roof, on the flashing on the top. He said they have switched out the roof from the Burger King blue to black and the only place to install a sign on the building is on the right side or on the front and sides on top of the flashing, above the shingling, he then referenced the renderings in the pack. Mr. Hohler wanted to know which rendering he was referencing, and Mr. Donohue said that the second rendering Mr. Hohler held up is the one they want to put on the building and the original rendering was done, conceptually, when they purchased the property and went through the special use process. Mr. Donohue added that creating the boxed off look is cost prohibitive for the company and the signage requirements, specifically the length of the thin fascia bands, and with the square footage allowed, they would be very thin and would look unusual, so the smaller, boxed signs on top of the roof will look more conventional. Mr. Hohler said he believes the staff report is suggesting one sign instead of three signs, to replace the Burger King sign that was on the roof and asked if that was an option for them and Mr. Donohue said that it is a viable option for them if that's all they can get approved for and said that is where customers along Cork Street would be able to see it. He said if they put one in the front, he is assuming they can put one on the flat surface that meets the typical sign requirements, but they are also looking to install one closer to the road, where the round Burger King sign used to be. Vice Chair Wark asked if there was a square footage amount per sign and Mr. Eldridge said the square footage is based on each individual façade which in this case is the east, the west and the south, which faces Cork Street and it's two square feet of sign area per foot of wall length, with the maximum being 200 square feet for one sign but the allowance isn't in question, sign placement is. Mr. Donohue added that they have already started with the fascia band look and have started permitting with the city, which is how they ended up before the board.

Vice Chair Wark asked for staff comments, and they are as follows: Mr. Eldridge stated that he knows the board has talked, briefly, about the site plan review process and normally if a project requires a variance, it would be handled on the front end and had they known, they would have had them before the board before the permits were issued but in this case, there was a change in design and the façade and what he was trying to show in the packet is was, at one time, a plan to box in the slope roof and create parapet walls that would allow for a legal wall to attach the wall signs, but that was changed, and that's what brought up the need for a variance after permits were issued and site construction started. He said the packet contains the original rendering showing the wall extensions and a Google street view showing what it looked like when it was an active Burger King and where those signs were located, and it also contains the version they are requesting the variance for showing the three signs on the west, south and east surface that is at the edge of the roof. He added that staff has looked at this many ways, and since the Burger King was built in 1980, there's never been any signs mounted on the crown of the roof where Enterprise would like to place the signage but there were signs mounted on the lower shingled roof, where the Burger King channel letters were placed. He said he has looked to see if there was a variance granted in 1980 or around the time the building was built, to allow for that, but was unable to find any variances but now we look at the ordinance and look at signs like this, which is clearly a roof mounted sign, which is prohibited by the ordinance but added in the staff review they looked at the building and conforming alternatives and found that there are some conforming alternatives on the east and west sides of the building, but the south side, which faces Cork Street, is more complicated because it has lots of windows and a glass entry door. He said modernizing the building included putting in a window wall, so now there are windows across the entire front of the building, so there is no wall, just the pitch of the roof coming down, the window wall, and the entry door on the southeast corner of the front. He added that staff acknowledged that there is a

signage hardship on the south façade and can support a sign on the roof that is no higher than where the Burger King sign used to be but can't support roof mounted signs on the east and west sides of the building. Ms. Harrington asked if they wanted a roof mounted sign and was told that is what is preferred. Mr. Donohue said they would prefer to attach it above the shingle line, but attaching it to the shingle, because he has done these many times, is puncturing into the roof, which leads to deterioration over time, which will void any warranties and create leaks, so they want to attach it directly to the flashing, above the shingle line so it wouldn't puncture the brand new roof system that was just installed. Mr. Eldridge added that this is a situation where they're trying to work around the existing roof system and he doesn't see an issue with attaching it to the shingled roof, but unfortunately the design somehow changed after the site plan, but while the work was going on, and now there is an issue with sign placement. He said if properly flashed, it can be added to the shingled roof and that would address leakage concerns, and Burger King, along with other businesses around the country, was very effective at doing this at multiple sites. Vice Chair Wark asked if there was a flat roof up several feet up from a parapet wall and Mr. Eldridge replied that there is a section of flat roof behind the ridge wall, which is concealing mechanical units. Vice Chair Wark said that looking at the Burger King, his concern is the signage is along the face of the building, not on the roof and Mr. Eldridge said one could argue that and he wondered if, back in 1980, that was how they interpreted the Burger King channel letters and Vice Chair Wark said the Burger King sign doesn't appear to be on the roof, but on the parapet wall and he's concerned with setting a precedent of putting a sign on a roof. Mr. Hohler said that he was going to say that if that area is covering any part of the building, it's a roof but he now understands where Vice Chair Wark was going and Ms. Harrington asked Vice Chair Wark if he didn't consider that area to be a roof and he replied no, the roof is located where the drainage is and then there is the parapet wall. Mr. Hohler asked if they were putting in a street sign and Mr. Donohue said yes, there is a permit for that. Vice Chair Wark clarified that there would be a street sign and a sign on the flat part of the building and Mr. Donohue said yes.

Vice Chair Wark asked that those in favor of the variance please step forward and there was none.

Vice Chair Wark asked that those opposed to the variance please step forward and there was none.

Vice Chair Wark asked if there were any calls and there were none. Mr. Hohler asked if it mattered that the staff report subject line said 3651 East Cork, but the first paragraph said 3651 Stadium Drive because if this was to go to court, this would need to be corrected on the staff report and Mr. Donohue said that they also have a location on Stadium Drive. Attorney Bear said that if the motion is stating the correct address and the action the board is taking is in regard to the correct address, the board should be fine.

Vice Chair Wark asked the board for further discussion and there was none, but Vice Chair Wark wanted to revisit the square footage. He wanted to know if they are going to have a sign at the street and another on the flat surface of the building, does Enterprise exceed the square footage at that point and Mr. Eldridge said no because in the commercial zoned district he can, technically, have signs on all four sides of the building and a freestanding sign as well. Enterprise only wants signage on three sides of the building and a freestanding sign.

Vice Chair Wark closed the public hearing.

FINDING OF FACT

Mr. Hohler moved the Finding of Fact as follows:

- 1) The Finding of Fact for 3651 E. Cork Street shall include all information included in the notice of public hearing dated August 30, 2023, and the agenda packet provided by staff.
- 2) 13 notices of public hearing were sent, and zero responses were received.
- 3) A public hearing was held before the board and public comments were accepted and there were no call ins.
- 4) The Finding of Fact shall include those documents just described and all facts and comments made during the public hearing.

Mr. Terpening seconded the Finding of Fact.

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

Discussion:

Mr. Terpening said that although he is completely blind, he was taken to the sight and was given a description of the visual impairments that might call for additional signage and he doesn't feel there is enough visual obstruction to require the signage be placed on top of the roof, especially since there will be a road sign and staff's suggestion of possibly putting an additional sign on the south that directly faces Cork, which is where the business interface would have the most direct contact but as the application is right now, he will vote no.

Vice Chair Wark said he agrees with Mr. Terpening and will also vote no.

Mr. Hohler said he thinks there are reasonable alternatives to what is being asked for that would allow for adequate signage, so he is also voting no.

Mr. McReynolds said he agrees with everyone else.

Ms. Harrington said she thinks that the part where it says the special circumstances are that this building was for Burger King and asked Mr. Donohue if that's why he wants so much signage is because he wants to make it clear that this is now Enterprise and that the distinction between the two businesses, she feels, is important and feels she could vote yes, but wants to read a little bit more but aesthetically, she can understand why they want the changes.

Vice Chair Wark wanted to know if they hadn't made changes to the building and left it like a Burger King, would the signage be grandfathered in, and Mr. Eldridge said no because they would have had to change the sign and it would have been a non-conforming sign at that point. He added that this is a great re-use for this property and they did a good job with the redevelopment of the property, and adding the detail shop however, the city has always taken a firm position on roof

mounted signs. He added that following Robert's Rules and how to handle this situation, the board should vote on the variance as it's written, and a second motion can be put forward for a reduced variance citing staff suggestion if that's what the board chooses to do.

Ms. Harrington wanted to know if where it says, in the staff report, the façade changes are no longer a part of the renovation, does that mean they are no longer happening, and Mr. Eldridge asked for clarification that Ms. Harrington was looking at the original façade elevation that shows boxing in the pitch angled roof.

Mr. Hohler made a motion to approve the application for a dimensional variance from Appendix A, Chapter 7, Section 7.2 G to authorize signs mounted on the roof of the existing building where roof-mounted signs are prohibited, seconded by Mr. Terpening.

Motion denied four to one by a roll call vote with Mr. Hohler, Mr. McReynolds, Mr. Terpening, and Vice Chair Wark voting no, and Ms. Harrington voting yes.

Mr. Terpening made a motion to approve the reduced variance of the signage to East Cork Street, allowing one roof mounted sign on the south roof, according to the staff recommendations, seconded by Mr. Hohler. Mr. Eldridge clarified that this is on the south face of the roof per the staff report. Mr. Donohue wanted to clarify what the motion was for, and Mr. Eldridge said it would be to bring the sign down to where the Burger King channel letters were located because staff can't support the sign bands any higher on the roof.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

Mr. Terpening said he is putting in his formal resignation.

DISCUSSION/ACTION ITEMS:

REPORTS:

ADJOURNMENT:

The meeting was adjourned at 8:10 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair

DRAFT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
September 14, 2023 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Remi Harrington, Joe Hohler III, Jeremy Terpening, Gary Wark, and Tony McReynolds (alternate)

Members Absent: Beth van den Hombergh

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

Vice Chair Wark called the meeting to order at 7:05 p.m.

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

Vice Chair Wark asked if there were any changes to the original agenda and Mr. Eldridge said no.

APPROVAL OF MINUTES:

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

PUBLIC HEARINGS: Vice Chair Wark summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to present their comments, followed by public comments in favor of the application where they will state their name and address and speak for three minutes. Following that those in opposition will be invited to speak for four minutes and afterward. The public can call in to 888-382-9556 to enter a queue to comment live for any property on the agenda and will no longer be able to leave a recorded message, then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Ms. Harrington read the application for 1321 S. Westnedge Avenue into the record.

ZBA#23-09-15: 1321 S. Westnedge Avenue: An application for a use variance has been filed with the Zoning Board of Appeals by Innovo Development Group, LLC for 1321 S. Westnedge Avenue, which is located in the Commercial-Neighborhood 1 Zone District. The applicant is requesting a use variance from Appendix A, Chapter 4, Section 4.2 Q3 to authorize residential occupancy of the ground floor level where it is not permitted in the Commercial-Neighborhood District.

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.

Jeff Swenarton, an attorney, spoke on behalf of his client, Innovo Development LLC, and was joined by one member of Innovo Development, Trey Allman, and Pat O'Brien, the realtor involved in listing the property. He stated that he believes the staff report is accurate and describes the situation very well, so he won't take too much time. He said the property is a 1591 square foot home and the current tenant, True North Financial, is leaving and there has been no interest from any commercial users for that area. He stated it is a beautiful home and there is a purchase agreement to sell the house for residential use. He added that this area will be subject to zoning changes and will be in the Live-Work 1 district, like a lot of homes in the Vine historic neighborhood and will be subject to multiple uses, residential and commercial, and stated that this will be a good use of the property, as it has historically been used as a residence, which is what the buyers intend to use it for. He added that it has been difficult for commercial users to have any interest in the property and the timing has been favorable since the city is working on rezoning areas in the community and he feels that a lot of people are in favor of the LW one and two districts and, as he understood it, last Thursday, September 7th, the Planning Commission made a few tweaks, but this area is going to remain LW1 and the City Commission has taken it up, but until they approve it, it won't be law or part of the zoning ordinance. He said he doesn't know when that's going to happen, but they want to try to get the deal done, so they decided to apply for a use variance and as Mr. Eldridge noted in the staff report, in July, but it says August 10, a property at 621 South Park Street came before the board with a similar request, as the zoning was CL, rather than CN1, but the request was the same, so they are requesting a use variance to allow residential use on the ground floor, which is not permitted now, and he hopes the Zoning Board of Appeals will see fit to approve the variance.

Vice Chair Wark asked for staff comments, and they are as follows: Mr. Eldridge stated that Attorney Swenarton covered quite a bit, but the staff report alluded to the special circumstances that are the longer than projected timeline for getting the rezoning that the city staff has been working on since February, but it includes hundreds of properties, so it is a realignment of many commercial properties located on various thoroughfares, in this case Westnedge Avenue, going through the Vine neighborhood, is the focus today. He added that it did clear the Planning Commission on September 7th and the next scheduled date is in front of the City Commission for the first reading on October 16th, then a public hearing will be held, hopefully, the next meeting after that, but it's a process the city is looking at, best case scenario, early November. He said this is a change from the commercial neighborhood one zone, which allows for residential use, but only on the second floor and above, so only upper floors of a structure in this zone are eligible for use as residential and the lower floors remain commercial. He said that this is the level of

inflexibility that the city is trying to do away with and the CN1 district will no longer exist after the updates are approved and they are moving the Commercial Office and Commercial Neighborhood zone from the ordinance completely and are replacing them with the Live Work -1 and Live Work -2 designations, based on the appropriateness of the land use. He also wanted to mention that the city has heard, many times, about the calculations concerning the housing shortage and this variance, like 621 South Park Street that was before the board back in July, shows the demand for additional housing units in the Vine neighborhood. He said this is a staff supported variance that they feel is more than appropriate with the rezoning that will align the 100 percent residential use with the new zone district, Live Work One.

Vice Chair Wark asked that those in favor of the variance to please step forward. Mr. Max Tibbetts, who currently lives on South Park and is one of the people trying to purchase the property, he and his husband. He said he has lived in Stuart for years and they have redone 3 homes and he can no longer, physically, rehab. He said this house is small enough, is turnkey, still keeps him in historic, and is ideal for residential living and added there is a lot happening in that area that they can use his expertise in that he can try to help with but he can't do the rehab anymore, which is one of the reasons they chose this house over other ones, and the current owners did a phenomenal job with the work they put into it. He said he hopes they pass the variance because he wants this to be his home.

Sally Reynolds spoke and said she is excited that Max and Jeff will be moving into the neighborhood because they would be good for the neighborhood, this will add to the residential, that they keep an eye out and know what's going on, and they aren't afraid to gather some people and get it fixed.

Jeff Siuda, who resides at 916 South Park Street, and is the other person hoping to purchase the property on South Westnedge and he thinks the best use for the property is residential and not commercial and hopes the board agrees.

Chelsea, who lives caddy-corner to the property, believes the best use for the property would be owner occupied housing and added that commercially, the businesses in the area are really suffering: Elements just asked for fundraising, Swift is being pushed out due to vandalism, and Taco Bobs has been shortening their hours. She feels that having owner occupied housing and neighbors that care makes a difference.

Pat O'Brien, a business owner in the Vine neighborhood and is also the listing agent, stated although he has an interest in making sure the sale goes through, he believes the best use of the property would be either residential or commercial. He said he has been in the Vine neighborhood over 20 years and that this house, in essence, looks like a house and when you go in it, it acts like a house and of all the buyers that looked at it, 99 percent of them were residential buyers and he believes the best use for the house would be residential.

Donna Carroll, of 435 Park Place, stated she and her husband have lived there for 49 years in the Vine neighborhood and Max and Jeff have been great neighbors. She said she knows they have done great work on South Park and have become part of the neighborhood and the fact that this was once a residence, it makes sense for it to be flexible in terms of its use going forward and she believes they will be contributing to the stability of the Vine neighborhood.

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

Vice Chair Wark asked if there were any calls and there were none.

Vice Chair Wark asked if there was any further discussion from the board and Mr. Hohler asked what the difference between Live Work-1 and Live Work-2 and Mr. Eldridge said LW-1 is a little less intensive as far as the types of commercial uses that are allowed but they both allow for the residential and a LW-2 is usually located on a larger lot size that could accommodate more intensive development and this property isn't very large as far as its overall square footage but he would have to pull the list to give him land use examples between the two. Mr. Hohler said that at some point the zoning on the house changed and it became a commercial building once it changed hands, he then asked if that is how it went and Mr. Eldridge said yes, it was built as a residence in 1901, is a historic structure, and in 2019 it went through site plan review to be converted into office use and that's when the parking lot was adjacent to it, and it was no longer classified as a house, but a commercial office. He said that a lot of homes in the Vine neighborhood are in commercially zoned areas that have continued to be residentially occupied and never made that transition, so technically they're legal non-conforming but it's not until that change occurs that the city is faced with the difficulty of properties in the commercial neighborhood zone district, and then it was also a office zone property in the Vine neighborhood that was the same kind of situation where they wanted to add a residential unit on the lower level, but not convert the whole lower level, but it still triggered a variance before the board.

Vice Chair Wark closed the public hearing.

FINDING OF FACT

Mr. McReynolds moved the Finding of Fact as follows:

- 1) The Finding of Fact for 1321 S. Westnedge Ave. shall include all information included in the notice of public hearing dated July 26, 2023 and the agenda packet provided by staff.
- 2) 92 notices of public hearing were sent, and four responses were received, all supporting the variance:
 - Max Tibbitts and Jeff Siuda at 916 S. Park Street
 - Sally Reynolds at 1013 S. Park Street
 - Stephen Senesi at 439 Park Place
 - Stephen Walsh, Exc. Director of the Vine Neighborhood Association
- 3) A public hearing was held before the board and public comments were accepted.
 - Sally Reynolds, 1013 S. Park St. - spoke in support of the variance.
 - Jeff Siuda, 916 South Park St. – spoke in support of the variance.
 - Chelsea (?), who lives caddy-corner to the property – spoke in support of the variance.
 - Pat O'Brien, O'Brien Real Estate, 527 S. Westnedge – spoke in support of the variance.
 - Donna Carroll, of 435 Park Pl. – spoke in support of the variance.

- 4) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing.

Mr. Terpening seconded the Finding of Fact.

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

Vice Chair Wark asked if there were any additional comments and Ms. Harrington said she thinks it's a beautiful house that has been meticulously maintained and she is excited for the purchasers. Mr. Hohler said they should approve it just to be consistent because they did it with the chiropractic office, Charley Martel's office, and all for the same reasons and it would be inconsistent. Ms. Harrington said she likes when they are owner occupied and doesn't like when they take residential and put it downstairs and asked if that was the continuity Mr. Hohler was referring to and he said no, he is just pointing out that they have been approving these types of variances knowing the zoning was changing anyway and people need to get to work on it now or they will have to wait until next year so let's just do it. He said he is saying for consistency's sake, the board should approve.

Mr. Terpening said that to be transparent, Mr. Siuda and Mr. Tibbetts are his backyard neighbors and that it helps because as they stated, they are good stewards of the neighborhood and once all of the letters were submitted, he believes that this is the most support they have had for a single application in regard to in person and written responses and he has personally worked with probably nine tenths of them in some fashion and feels that the best characters of the Vine neighborhood are represented here today. He added that Ms. Harrington, being on the Vine Neighborhood Association Board, can attest to the fact that people don't usually show up and for this many people to show up for these applicants bodes highly for them.

Vice Chair Wark added he would be voting for the variance as well.

Mr. Hohler made a motion to approve the application for a use variance from Appendix A, Chapter 4, Section 4.2 Q3, seconded by Mr. McReynolds.

Motion approved by voice vote unanimously.

Ms. Harrington read the application for 3651 E. Cork Street.

ZBA#23-09-16: 3651 E. Cork Street: An application for a dimensional variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Enterprise Leasing Company of Detroit, LLC for E. Cork Street. The applicant is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.2 G, to authorize signs mounted on the roof of the existing building where roof-mounted signs are prohibited.

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.

Ashby Donohue, of Enterprise Rental Car's corporate real estate office that covers the state of Michigan, is applying to get a sign on the roof of the building facing Cork Street. He said the

building has the old Burger King style roof and is almost like a residential roof, so there's nowhere to mount the sign and they are looking for a variance to put the signs up on all three sides of the roof, on the flashing on the top. He said they have switched out the roof from the Burger King blue to black and the only place to install a sign on the building is on the right side or on the front and sides on top of the flashing, above the shingling, he then referenced the renderings in the pack. Mr. Hohler wanted to know which rendering he was referencing, and Mr. Donohue said that the second rendering Mr. Hohler held up is the one they want to put on the building and the original rendering was done, conceptually, when they purchased the property and went through the special use process. Mr. Donohue added that creating the boxed off look is cost prohibitive for the company and the signage requirements, specifically the length of the thin fascia bands, and with the square footage allowed, they would be very thin and would look unusual, so the smaller, boxed signs on top of the roof will look more conventional. Mr. Hohler said he believes the staff report is suggesting one sign instead of three signs, to replace the Burger King sign that was on the roof and asked if that was an option for them and Mr. Donohue said that it is a viable option for them if that's all they can get approved for and said that is where customers along Cork Street would be able to see it. He said if they put one in the front, he is assuming they can put one on the flat surface that meets the typical sign requirements, but they are also looking to install one closer to the road, where the round Burger King sign used to be. Vice Chair Wark asked if there was a square footage amount per sign and Mr. Eldridge said the square footage is based on each individual façade which in this case is the east, the west and the south, which faces Cork Street and it's two square feet of sign area per foot of wall length, with the maximum being 200 square feet for one sign but the allowance isn't in question, sign placement is. Mr. Donohue added that they have already started with the fascia band look and have started permitting with the city, which is how they ended up before the board.

Vice Chair Wark asked for staff comments, and they are as follows: Mr. Eldridge stated that he knows the board has talked, briefly, about the site plan review process and normally if a project requires a variance, it would be handled on the front end and had they known, they would have had them before the board before the permits were issued but in this case, there was a change in design and the façade and what he was trying to show in the packet is was, at one time, a plan to box in the slope roof and create parapet walls that would allow for a legal wall to attach the wall signs, but that was changed, and that's what brought up the need for a variance after permits were issued and site construction started. He said the packet contains the original rendering showing the wall extensions and a Google street view showing what it looked like when it was an active Burger King and where those signs were located, and it also contains the version they are requesting the variance for showing the three signs on the west, south and east surface that is at the edge of the roof. He added that staff has looked at this many ways, and since the Burger King was built in 1980, there's never been any signs mounted on the crown of the roof where Enterprise would like to place the signage but there were signs mounted on the lower shingled roof, where the Burger King channel letters were placed. He said he has looked to see if there was a variance granted in 1980 or around the time the building was built, to allow for that, but was unable to find any variances but now we look at the ordinance and look at signs like this, which is clearly a roof mounted sign, which is prohibited by the ordinance but added in the staff review they looked at the building and conforming alternatives and found that there are some conforming alternatives on the east and west sides of the building, but the south side, which faces Cork Street, is more complicated because it has lots of windows and a glass entry door. He said modernizing the building included putting in a window wall, so now there are windows across the entire front of the building, so there is no wall, just the pitch of the roof coming down, the window wall, and the entry door on the southeast corner of the front. He added that staff acknowledged that there is a

signage hardship on the south façade and can support a sign on the roof that is no higher than where the Burger King sign used to be but can't support roof mounted signs on the east and west sides of the building. Ms. Harrington asked if they wanted a roof mounted sign and was told that is what is preferred. Mr. Donohue said they would prefer to attach it above the shingle line, but attaching it to the shingle, because he has done these many times, is puncturing into the roof, which leads to deterioration over time, which will void any warranties and create leaks, so they want to attach it directly to the flashing, above the shingle line so it wouldn't puncture the brand new roof system that was just installed. Mr. Eldridge added that this is a situation where they're trying to work around the existing roof system and he doesn't see an issue with attaching it to the shingled roof, but unfortunately the design somehow changed after the site plan, but while the work was going on, and now there is an issue with sign placement. He said if properly flashed, it can be added to the shingled roof and that would address leakage concerns, and Burger King, along with other businesses around the country, was very effective at doing this at multiple sites. Vice Chair Wark asked if there was a flat roof up several feet up from a parapet wall and Mr. Eldridge replied that there is a section of flat roof behind the ridge wall, which is concealing mechanical units. Vice Chair Wark said that looking at the Burger King, his concern is the signage is along the face of the building, not on the roof and Mr. Eldridge said one could argue that and he wondered if, back in 1980, that was how they interpreted the Burger King channel letters and Vice Chair Wark said the Burger King sign doesn't appear to be on the roof, but on the parapet wall and he's concerned with setting a precedent of putting a sign on a roof. Mr. Hohler said that he was going to say that if that area is covering any part of the building, it's a roof but he now understands where Vice Chair Wark was going and Ms. Harrington asked Vice Chair Wark if he didn't consider that area to be a roof and he replied no, the roof is located where the drainage is and then there is the parapet wall. Mr. Hohler asked if they were putting in a street sign and Mr. Donohue said yes, there is a permit for that. Vice Chair Wark clarified that there would be a street sign and a sign on the flat part of the building and Mr. Donohue said yes.

Vice Chair Wark asked that those in favor of the variance please step forward and there was none.

Vice Chair Wark asked that those opposed to the variance please step forward and there was none.

Vice Chair Wark asked if there were any calls and there were none. Mr. Hohler asked if it mattered that the staff report subject line said 3651 East Cork, but the first paragraph said 3651 Stadium Drive because if this was to go to court, this would need to be corrected on the staff report and Mr. Donohue said that they also have a location on Stadium Drive. Attorney Bear said that if the motion is stating the correct address and the action the board is taking is in regard to the correct address, the board should be fine.

Vice Chair Wark asked the board for further discussion and there was none, but Vice Chair Wark wanted to revisit the square footage. He wanted to know if they are going to have a sign at the street and another on the flat surface of the building, does Enterprise exceed the square footage at that point and Mr. Eldridge said no because in the commercial zoned district he can, technically, have signs on all four sides of the building and a freestanding sign as well. Enterprise only wants signage on three sides of the building and a freestanding sign.

Vice Chair Wark closed the public hearing.

FINDING OF FACT

Mr. Hohler moved the Finding of Fact as follows:

- 1) The Finding of Fact for 3651 E. Cork Street shall include all information included in the notice of public hearing dated August 30, 2023, and the agenda packet provided by staff.
- 2) 13 notices of public hearing were sent, and zero responses were received.
- 3) A public hearing was held before the board and public comments were accepted and there were no call ins.
- 4) The Finding of Fact shall include those documents just described and all facts and comments made during the public hearing.

Mr. Terpening seconded the Finding of Fact.

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

Discussion:

Mr. Terpening said that although he is completely blind, he was taken to the sight and was given a description of the visual impairments that might call for additional signage and he doesn't feel there is enough visual obstruction to require the signage be placed on top of the roof, especially since there will be a road sign and staff's suggestion of possibly putting an additional sign on the south that directly faces Cork, which is where the business interface would have the most direct contact but as the application is right now, he will vote no.

Vice Chair Wark said he agrees with Mr. Terpening and will also vote no.

Mr. Hohler said he thinks there are reasonable alternatives to what is being asked for that would allow for adequate signage, so he is also voting no.

Mr. McReynolds said he agrees with everyone else.

Ms. Harrington said she thinks that the part where it says the special circumstances are that this building was for Burger King and asked Mr. Donohue if that's why he wants so much signage is because he wants to make it clear that this is now Enterprise and that the distinction between the two businesses, she feels, is important and feels she could vote yes, but wants to read a little bit more but aesthetically, she can understand why they want the changes.

Vice Chair Wark wanted to know if they hadn't made changes to the building and left it like a Burger King, would the signage be grandfathered in, and Mr. Eldridge said no because they would have had to change the sign and it would have been a non-conforming sign at that point. He added that this is a great re-use for this property and they did a good job with the redevelopment of the property, and adding the detail shop however, the city has always taken a firm position on roof

mounted signs. He added that following Robert's Rules and how to handle this situation, the board should vote on the variance as it's written, and a second motion can be put forward for a reduced variance citing staff suggestion if that's what the board chooses to do.

Ms. Harrington wanted to know if where it says, in the staff report, the façade changes are no longer a part of the renovation, does that mean they are no longer happening, and Mr. Eldridge asked for clarification that Ms. Harrington was looking at the original façade elevation that shows boxing in the pitch angled roof.

Mr. Hohler made a motion to approve the application for a dimensional variance from Appendix A, Chapter 7, Section 7.2 G to authorize signs mounted on the roof of the existing building where roof-mounted signs are prohibited, seconded by Mr. Terpening.

Motion denied four to one by a roll call vote with Mr. Hohler, Mr. McReynolds, Mr. Terpening, and Vice Chair Wark voting no, and Ms. Harrington voting yes.

Mr. Terpening made a motion to approve the reduced variance of the signage to East Cork Street, allowing one roof mounted sign on the south roof, according to the staff recommendations, seconded by Mr. Hohler. Mr. Eldridge clarified that this is on the south face of the roof per the staff report. Mr. Donohue wanted to clarify what the motion was for, and Mr. Eldridge said it would be to bring the sign down to where the Burger King channel letters were located because staff can't support the sign bands any higher on the roof.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

Mr. Terpening said he is putting in his formal resignation.

DISCUSSION/ACTION ITEMS:

REPORTS:

ADJOURNMENT:

The meeting was adjourned at 8:10 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair

DRAFT



Zoning Board of Appeals Staff Report

Date: **11/9/2023**

Item: **D.1.**

City of Kalamazoo

TO: Zoning Board of Appeals

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

DATE: November 9, 2023

SUBJECT: ZBA #23-11-18: 1000 W. Paterson Street. The Douglass Community Center is requesting the following variances for the proposed 28 square foot LED sign on the south wall of the building.

- 1) A dimensional variance from Chapter 50, 50-9.5-1 [formerly: Appendix A, Chapter 7, 7.3 A], to allow a 28 square foot LED panel on the south wall, where wall signage is limited to one 24 square foot wall sign for each approved special use and the Douglas Community Center has already utilized this signage; and
- 2) A dimensional variance from Chapter 50, 50-9.3F(1)(a) [formerly: Appendix A, Chapter 7, 7.2 D], to allow for the 28 square foot wall sign to be 100% changeable copy or LED, where the changeable copy on wall signs in the residential districts are limited to 25% of the sign area.

The Douglass Community Center is also requesting the following variances for the proposed 50 square foot LED sign on the west wall of the building.

- 1) A dimensional variance from Chapter 50, 50-9.5-1 [formerly: Appendix A, Chapter 7, 7.3 A], to allow a 50 square foot LED panel on the west wall, where wall signage is limited to one 24 square foot wall sign for each approved special use and the Douglas Community Center has already utilized this signage; and
- 2) A dimensional variance from Chapter 50, 50-9.3F(1)(a) [formerly: Appendix A, Chapter 7, 7.2 D], to allow for the 50 square foot wall sign to be 100% changeable copy or LED, where the changeable copy on wall signs in the residential districts are limited to 25% of the sign area.

BACKGROUND:

The Douglas Community Center moved to 1000 W. Paterson Street in 1982. This five-acre site located in the Residential - Single Dwelling District (RM-15) includes a 28,000 square foot building with 83 parking spaces, a community garden area, a gymnasium, and an outdoor recreation area. The Douglas Community Center serves individuals in the Northside Neighborhood and the greater Kalamazoo Community with social, recreational and community development activities. The building also houses nine other nonprofit tenants, ranging from a pre-school to a branch of the Kalamazoo Public Library.

Barry Grey from the Douglass Community Center reached out to CPED to discuss adding additional signage to increase public awareness, and promote services, activities, and events. Mr. Grey believes changeable copy signs will assist with effectively communicating with a larger audience. However, since the property is in a residential district zone, the sign allowance is limited. A review of the current signs found there is no freestanding or wall signage allowance remaining. There are channel letters on the building and a large freestanding sign out front listing all the tenants in the building. The applicant would like to add a 28 square foot LED sign on the south wall of the building facing W. Paterson Street and a 50 square foot LED sign on the west wall.

To the west of this site is commercially zoned property with a small office building. To the south is commercially zoned property containing a machine shop. The area to the east and north are residential. The locations of the proposed signs will not directly face any residential uses.

STRATEGIC VISION ALIGNMENT:

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

Youth Development - A place with supports where young people thrive

Strategic Goal Impact, Master Plan 2025 and Neighborhood Plan Impact:

This project touches on the Strategic Vision Goals of Complete Neighborhood and Youth Development. The Douglas Community Center houses a pre-school, library branch, coordinates youth activities and educational programs as well as programs for adults. The Future Land Use Map identifies this property as low density residential. This also touches on the Northside Neighborhood Plan which includes a strategy to, 'strengthen support systems for workforce development, safety, and youth programming'.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement

A public hearing notice was placed in the newspaper and notices sent to property owners and occupants within 300 feet. The applicant has been asked to reach out to the immediate neighbors and N.A.C.D. to explain the proposed project.

Engagement/Communication Tools:

Newspaper, mailings, and applicant outreach.

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.

South and West Wall Signs: There are no special circumstances peculiar to the property. However, there is a significant level of daily activities within this 28,000 square foot community center building which services residents beyond just the Northside Neighborhood. There are also nine other tenants within the building. Activities and programs span the morning, afternoon, and evening hours.

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

South and West Wall Signs: The applicant did not create the special circumstances. The applicant is reaching out because they believe the residential sign allowance is not adequate for the outreach needs of the Douglass Community Center.

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.

South Wall Sign: Literal interpretation of the Ordinance allows for signage to only identify the on-site uses. The strict application of the sign regulations for the residential zone districts in this case does not allow for any additional signage for a changeable copy or an LED sign. The freestanding sign allowance has already been utilized for a tenant directory. The wall sign allowance has been utilized to place channel letters on the building. The south wall sign proposed is similar in size to the residential zone district standards and directly faces W. Paterson Street.

West Wall Sign: In the residential district, signage is usually oriented toward the public street not toward adjacent properties. The west wall sign is not in keeping with the sign size limitation of the residential zone district and is not oriented toward the public street,

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

South Wall Sign: The granting of the requested variances for the south wall sign is the minimum action that will provide more signage for promoting activities and events.

West Wall Sign: The granting of the requested variances for the west wall sign would allow for significantly more signage than that of other community center uses permitted in residential districts.

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

South Wall Sign: The proposed sign for the south wall will not adversely affect adjacent land with the commercial zoning and uses to both the south and west of the building. Further, W. Paterson is a Neighborhood Network Street with higher traffic volumes than a Local Street.

West Wall Sign: The proposed sign for the west wall may affect adjacent land with the orientation of the sign to the west and not toward the public street.

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

South Wall Sign: The granting of the variances will be generally consistent with purpose and intent to allow for reasonable, orderly, and effective display of signage.

West Wall Sign: The granting of the variance will allow for significantly more signage than other special uses in the residential zone district and will only be visible to east-bound traffic.

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 for landscaping is not applicable to the requested variances.

RECOMMENDATION:

Staff is supportive of the 28 square foot sign on the south wall as it is similar in size to the wall signs that allowed for special uses in a residential district zone and will allow for promotion of activities and events. However, the staff is not supportive of the 50 square foot sign on the west

side of the building due to the significant distance from Paterson Street (approx. 85 feet), the orientation of the sign away from the public street and the sign only being visible to east-bound traffic.

Zoning Board of Appeals Application



Submitted on	12 October 2023, 2:20PM
Receipt number	28
Related form version	14

Introduction

Have you scheduled a pre-application meeting?	Yes
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Applicant Information

Name	Barry Gray (BNB Services)
Organization (if applicable)	The Douglass Community Association
Email Address	bnbservices.bnbtowingrecovery@gmail.com
Phone Number	2695290602
Address	1000 W Paterson St, Kalamazoo, MI 49007, USA Map (42.3038013, -85.597945)
Preferred Contact Method	Email
Are you the property owner?	No

Property Owner Information

Name	The Douglass Community Association
Mailing Address	1000 W Paterson St, Kalamazoo, MI 49007, USA Map (42.3038013, -85.597945)
Phone Number	2693436185
Email Address	sledbetter@douglasscommunity.org
Preferred Contact Method	Email
Authorization from property owner:	Zoning letter consent 10.11.2023.pdf

Property and Application Details

Property Address	1000 W Paterson St, Kalamazoo, MI 49007, USA Map (42.3038013, -85.597945)
Parcel Identification Number	06-09-471-001
Zone District	RM-15
Type of Request	Use Variance
Application Fee	\$375.00
Project Description & Reason for Request	The Douglass Community Association is seeking an exception to the usual sign size restrictions imposed by the local zoning code. The Douglass Community Association would like to bring more public visibility, public awareness, and communication to promote our cause and draw attention to our services, activities, and events. We often need to convey important information about our upcoming events and activities. A larger sign will assist with effectively communicating events & activities with text and graphics, allowing our message to reach a larger audience. Having a larger sign that can be seen more easily by the public can also assist with attracting new partnerships and having space to recognize our current sponsors/ donors. By requesting a sign size use variance, our organization aims to enhance its visibility, effectively communicate its mission & message, and potentially increase its sponsorship efforts. Our vision for our organization is to have two led message centers that will convey who we are, events, activities, and sponsors. Our west wall message center would be 120 by 60, and our front entrance message center would be 84 by 48.

Use Variance Review Criteria

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?	No, there is no hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district for a request for sign size use variance.
Are the special circumstances created by actions of the applicant?	The special circumstances created by the actions of the applicant for a request for sign size use variance include the need for increased visibility to our community. The signs will also help the aesthetics of our building and complement our new landscaping aesthetics in making the Douglass Community Association more visible to the public.
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?	granting of the variance will be the minimum action necessary for the use of the land or structure that will meet the spirit of this Ordinance. By granting the Douglass Community Association a variance, we will be able to have better visibility for the public and allow for more community awareness of activity and event participation. Our variance would not pose competition with other nonprofits as it would drive community awareness and participation.
Will the granting of the variance negatively affect adjacent land?	The granting of the variance would not negatively affect adjacent land. Our project will use well-designed signs that are consistent with the character of the neighborhood. Which will mitigate any impact it may have on property value. Furthermore, the placement of each sign is ideal to minimize impact and aid in safety.

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

granting of a sign size use variance will be generally consistent with the purpose and intent of the ordinance. The variance would not result in significant visual obstructions that negatively affect neighboring businesses, and residents, or impede traffic as the location of each sign would not cause harm.

Supporting Documents

Supporting Documents

[Doc Oct 12, 2023, 15.18.pdf](#)

Submit

Your Signature

A handwritten signature in black ink that reads "PNB-DCA". The letters are stylized and connected, with a long vertical line extending upwards from the end of the signature.

[Link to signature](#)



October 11, 2023

To whom it may concern,

The Douglass Community Association gives Barry Gray (BNB Services) consent to file and complete the necessary application process with the City of Kalamazoo. The application is solely regarding the appeal of the zoning limitations of signage size to be placed on the Douglass Community Association building.

Feel free to contact me at sledbetter@douglasscommunity.org with any questions.

Sincerely,

S. R. Ledbetter

Stacey R. Ledbetter
Interim Executive Director
sledbetter@douglasscommunity.org
269-343-6185



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

October 25, 2023

RE: ZBA #23-11-18 -Revised Oct. 31, 2023, added new Ordinance References-
1000 W. Paterson Street
Parcel #: 06-09-471-001

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by The Douglass Community Center for 1000 W. Paterson Street located in the Residential – Multi Dwelling District (RM-15).

The applicant is requesting the following dimensional variances:

1. A dimensional variance from Chapter 50, 50-9.3F(1)(a) [formerly: Appendix A, Chapter 7, 7.2 D], to allow for new wall signs that are 100% changeable copy or LED, where the changeable copy area on wall signs in the residential districts is limited to 25% of the sign area.
2. A dimensional variance from Chapter 50, 50-9.5-1 [formerly: Appendix A, Chapter 7, 7.3 A], to allow a 28 square foot LED panel on the south wall and a 50 square foot LED panel on the west wall. It should be noted that in residential zone districts signs are limited to one 24 square foot sign for each approved special use and the Douglas Community Center has already utilized this signage.

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

The meeting will be held on Thursday, November 9, 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

munity

ge

gn with applied

120"



60"

EMC 16mm LED Message Center



ing is submitted as our proposal and is to remain our property exclusively until accepted and work is not to be shared or distributed without written permission.

ishing processes and printer capabilities the final product may differ in color from ide to achieve the most accurate finish. If color matches are required, request finish wings and specifications. **PRODUCT FINISHES AND CONSTRUCTION ARE DEEMED OF SHOP DRAWINGS.** Designs applied to photo images are intended as rough visual > scale. Refer to specifications for actual size.



UNDERWRITERS
LABORATORIES
LISTED
ELECTRIC SIGN

15886 E. Michigan Ave.
Climax, MI
Phone: 269-746-4285
burkettsgns.com



munity

ge

gn with applied

84"



48"

EMC 16mm LED Message Center



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UNDERWRITERS
LABORATORIES
LISTED
ELECTRIC SIGN

15886 E. Michigan Ave.
Climax, MI
Phone: 269-746-4285
burkettsgns.com





Freestanding Sign with Tenant Listing



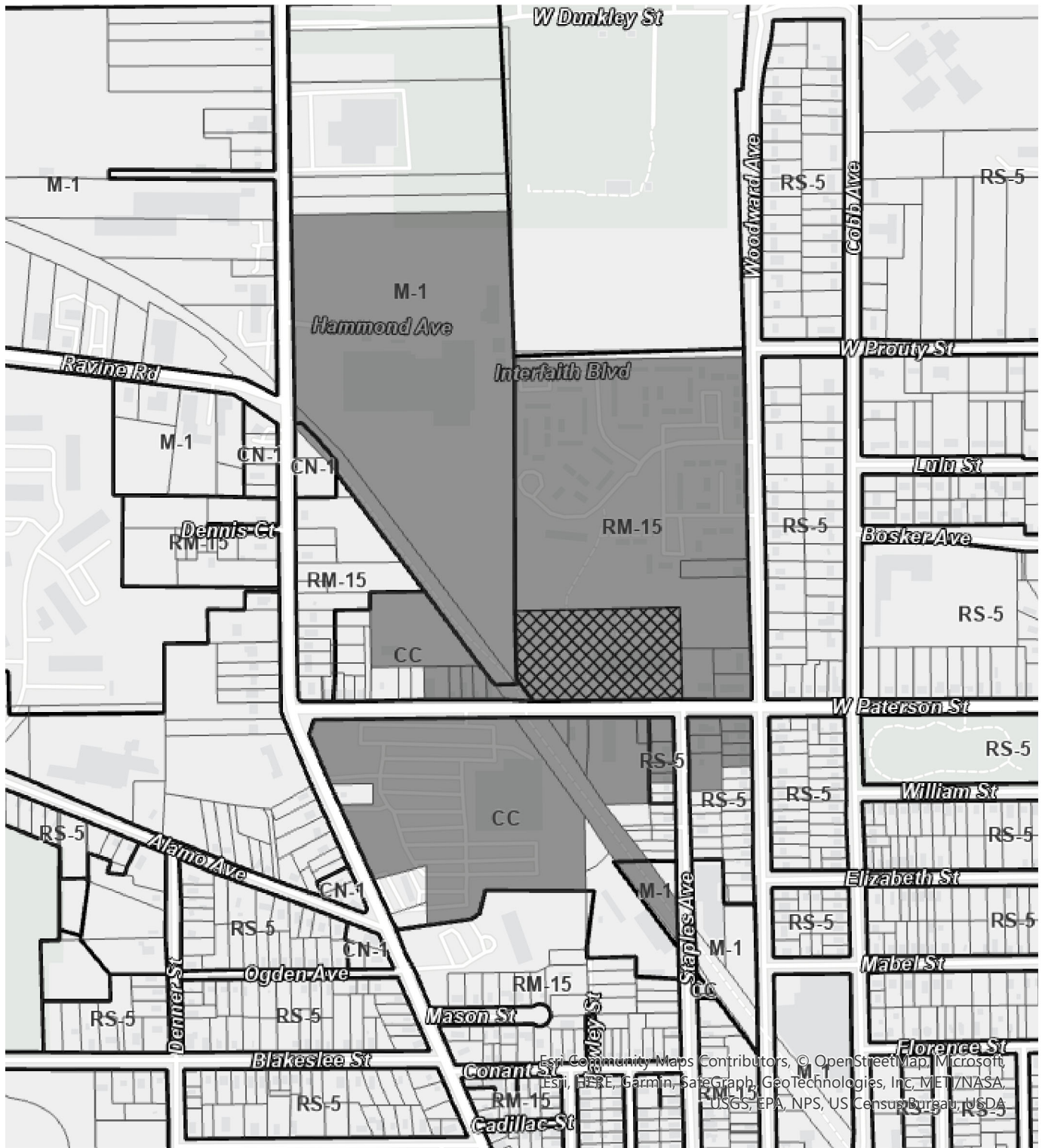
West End of Building



Location of Proposed Wall Sign on South Wall



Location of Proposed Wall Sign on West Wall



Parcels within 300' Mailing Radius 1000 W. Paterson Street

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



0 0.0375 0.075 0.15 mi

I, the undersigned do not have any opposition to

Butterfly Oasis Adult Foster Care Home
3113 Parchmount Ave.
Kalamazoo, MI 49004

From increasing their current license from a 6-bed home to an 11-bed home.

Name Michelle Lara

Print

Michelle Lara

Signature

Address 3820 MEAD STREET

KAL MICH 49004

Name

Luis F. Barbosa

Print

Luis F. Barbosa

Signature

Address 3114 PARCHMOUNT AVE

KAL MICH 49004

Name

Heather Cohoon

Print

Heather Cohoon

Signature

Address

3811 Mead St Kalamazoo, MI 49004

Name

Willie Watson

Print

Willie Watson

Signature

Address

3121 PARCHMOUNT AVE

KAL MICH 49004



Zoning Board of Appeals Staff Report

Date: **11/9/2023**

Item: **D.2.**

City of Kalamazoo

TO: Zoning Board of Appeals

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

DATE: November 9, 2023

SUBJECT: ZBA #23-11-19: 3113 Parchmount Avenue. Lisa Woodruff, representing Butterfly Oasis Adult Foster Care, is requesting a use variance from Chapter 4, Section 4.1, to increase this Adult Foster Care Group Home from six residents to eleven residents, where a medium group home (7-12 residents) is not permitted in this residential district.

BACKGROUND:

The Butterfly Oasis home is currently an Adult Foster Care Family Home (6 or fewer residents). The business operators live on site and can have up to six residents who they care for. The new owners will be licensing this as an Adult Foster Care Group Home for either the 'Small' (6 or fewer residents), which is how it operates today, or 'Medium' (7 to 12 residents) category, depending on the outcome of the use variances.

The property is 83' x 160' with a 1,887 square foot dwelling. There is a driveway off Mead Street that can accommodate three vehicles and a driveway off Parchmount Street that can accommodate two vehicles. Parking is also permitted on-street. Traffic to and from the site includes one Hospice nurse visiting each week, a bath aide that comes twice a week, and family visiting their loved ones during 11 AM and 7 PM. Under the new ownership, the on-site manager will use one of the available parking spaces, where the previous owners allocated two-spaces to the onsite staff.

In 2012, the garage was converted into three bedrooms, creating a total of six bedrooms on the ground floor. Currently, all six rooms are single occupancy. The basement contains two additional bedrooms occupied by the owners currently. The new owners plan to use the bedrooms in the basement as semi-private rooms(double occupancy) and will convert one of the private rooms on the ground floor level into a semi-private room. This will result in an increase of five residents for a total of eleven. The Adult Foster Care Group Home does require on-site management, so there will still be 24-hour supervision.

STRATEGIC VISION ALIGNMENT:

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

Strategic Goal Impact and Master Plan 2025 Alignment:

The need for Adult Foster Care Facilities aligns with the Strategic Goal of Complete Neighborhoods and the goal of increasing housing opportunities in all neighborhoods. The Future Land Use Map identifies this property as low-density residential.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

A public hearing notice was placed in the newspaper and notices sent to property owners and occupants within 300 feet. The application has reached out to the neighbors to communicate the proposed changes. There is no neighborhood association for Burke Acres.

Engagement/Communication Tools:

Newspaper, mailings and applicant outreach.

FINDINGS:

The staff has made the following findings regarding this request:

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

The Zoning Ordinance does not deprive the owner of using the property in this manner. The RS-5 District does allow for Adult Foster Care Family or Small Group Homes by right. These categories are limited to six or fewer residents.

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

There are no specific hardships related to the land or structure. The property has been and may continue to operate with six or fewer residents.

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

The special circumstance presented by the applicant is that the increase in residents will allow for more elderly individuals to live outside a nursing home. Where this statement is true, the use variance focus is on the use of the land and appropriateness of this level of occupancy.

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

This would be the minimum action that would make it possible for the applicant to have eleven residents within this home.

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

The granting of the variance may affect adjacent land with the additional visitors associated with increasing the residents to eleven to the site. This property is located on a local street and not a higher-classified neighborhood street like the Enhanced Neighborhood, which typically has more daily vehicle traffic.

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

The requested use variance is not consistent with the intent of the ordinance, which allows for small group homes in the RS-5 District and larger group homes in residential multiple family districts.

RECOMMENDATION:

Staff does not recommend approval of this variance as it does not meet the above criteria.

Zoning Board of Appeals Application



Submitted on	18 October 2023, 3:55PM
Receipt number	29
Related form version	14

Introduction

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

Applicant Information

Name	Lisa Woodruff
Organization (if applicable)	Butterfly Oasis
Email Address	Lwinlawton@gmail.com
Phone Number	269-547-7630
Address	3113 Parchmount Ave, Kalamazoo, MI 49004, USA Map (42.3280785, -85.5413851)
Preferred Contact Method	Email
Are you the property owner?	Yes

Property and Application Details

Property Address	3113 Parchmount Ave, Kalamazoo, MI 49004, USA Map (42.3280785, -85.5413851)
Parcel Identification Number	06-02-179-074
Zone District	RS-5
Type of Request	Use Variance
Application Fee	\$375.00
Project Description & Reason for Request	My financing through the SBA/Honors Credit Union is expected to close by October 27, 2023. Commitment letter already received. Enlarging capacity of residents from 6 to 11. Currently 6 private rooms upstairs. There will be 2 semi-private rooms on the lower level for a total of 4

additional residents. There are 4 individuals currently on Hospice which entails 1 RN visit (for all 4 residents) per week. There is also a bath aide that comes twice per week (which covers all 4 residents). Family visits are at hours between 11 and 7 PM and may occur bimonthly. There is ample parking d/t a corner lot with 2 double driveways. Two of the cars that are presently there will no longer be there. There will be little additional traffic.

Use Variance Review Criteria

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?

None that I am aware of.

Are the special circumstances created by actions of the applicant?

By increasing capacity more vulnerable elderly individuals will be able to stay out of a nursing home and live in a homelike environment. I am a Nurse Practitioner and will oversee care of the residents.

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?

No. Neighbors are supportive of the increased capacity. One neighbor was unaware that the AFC was operating even though it has been operating for 17 years and it is not expected to change the structure of the neighborhood.

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

Yes.

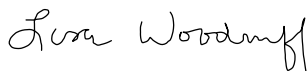
Supporting Documents

Supporting Documents

[Drawings of floor plans Butterfly Oasis.pdf](#)

Submit

Your Signature



[Link to signature](#)



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

October 25, 2023

**RE: ZBA #23-11-19
3113 Parchmount Avenue
Parcel #: 06-01-179-074**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Lisa Woodruff representing Butterfly Oasis Adult Foster Care at 3113 Parchmount Avenue in the Residential – Single Dwelling District.

The applicant is requesting as use variance from Chapter 4, Section 4.1, to increase this Adult Foster Care Group Home from six residents to eleven residents, where medium group homes (7-12 residents) are not permitted in this residential district.

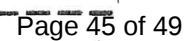
Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the item described above.

The meeting will be held on Thursday, November 9, 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,

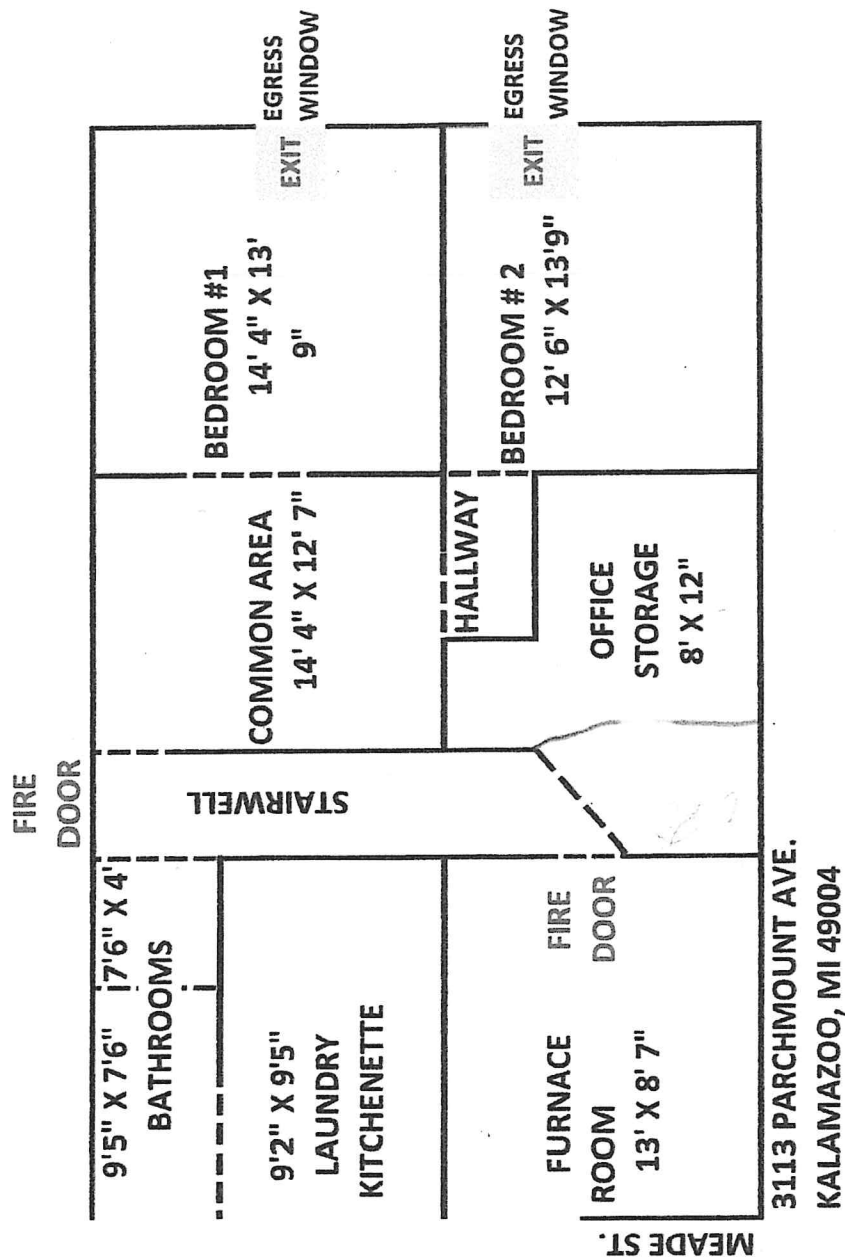
Peter C. Eldridge, AICP
Zoning Administrator



BUTTERFLY OASIS AFC



LOWER LEVEL

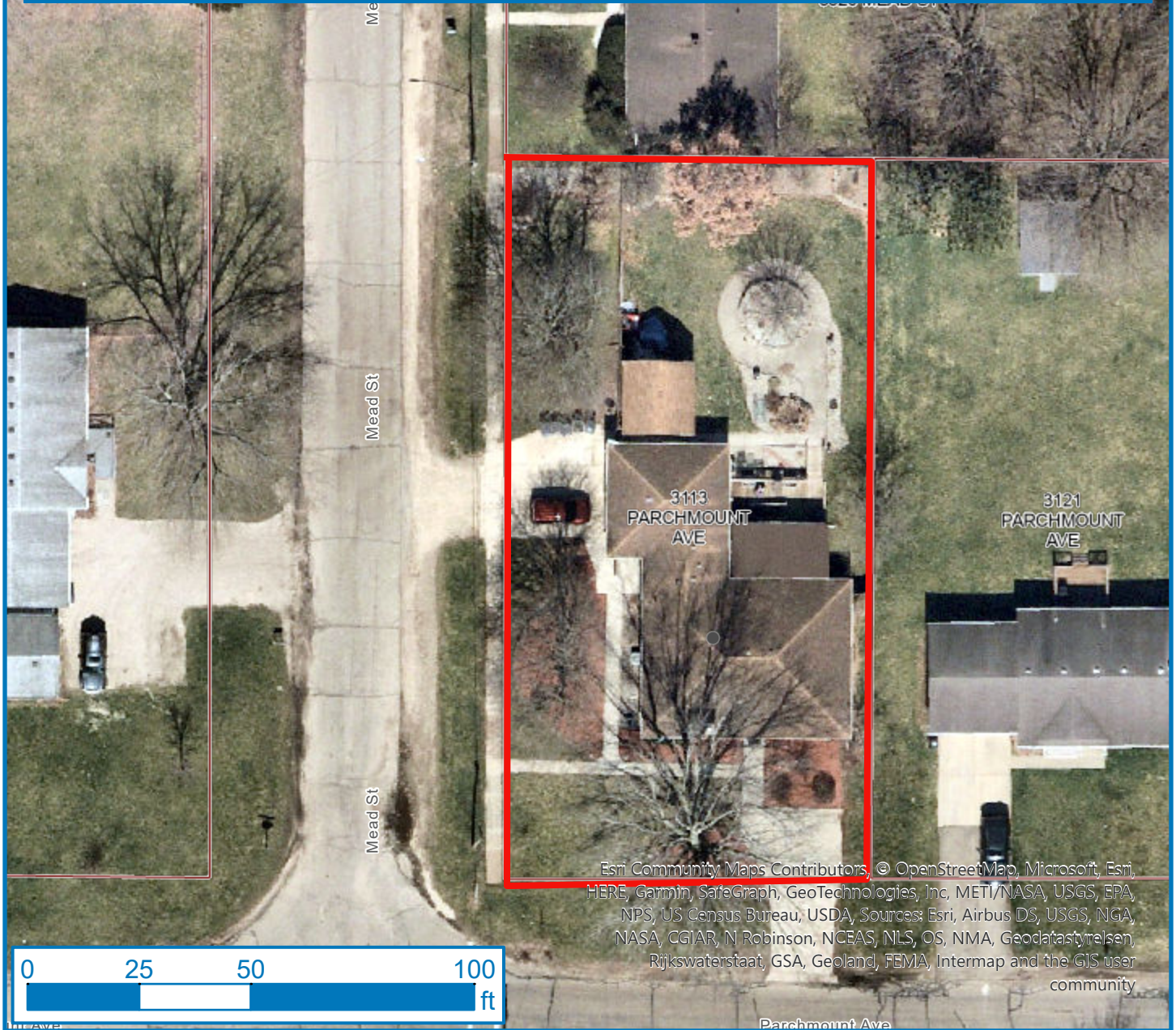




Parchmont Avenue Frontage – October 30, 2023



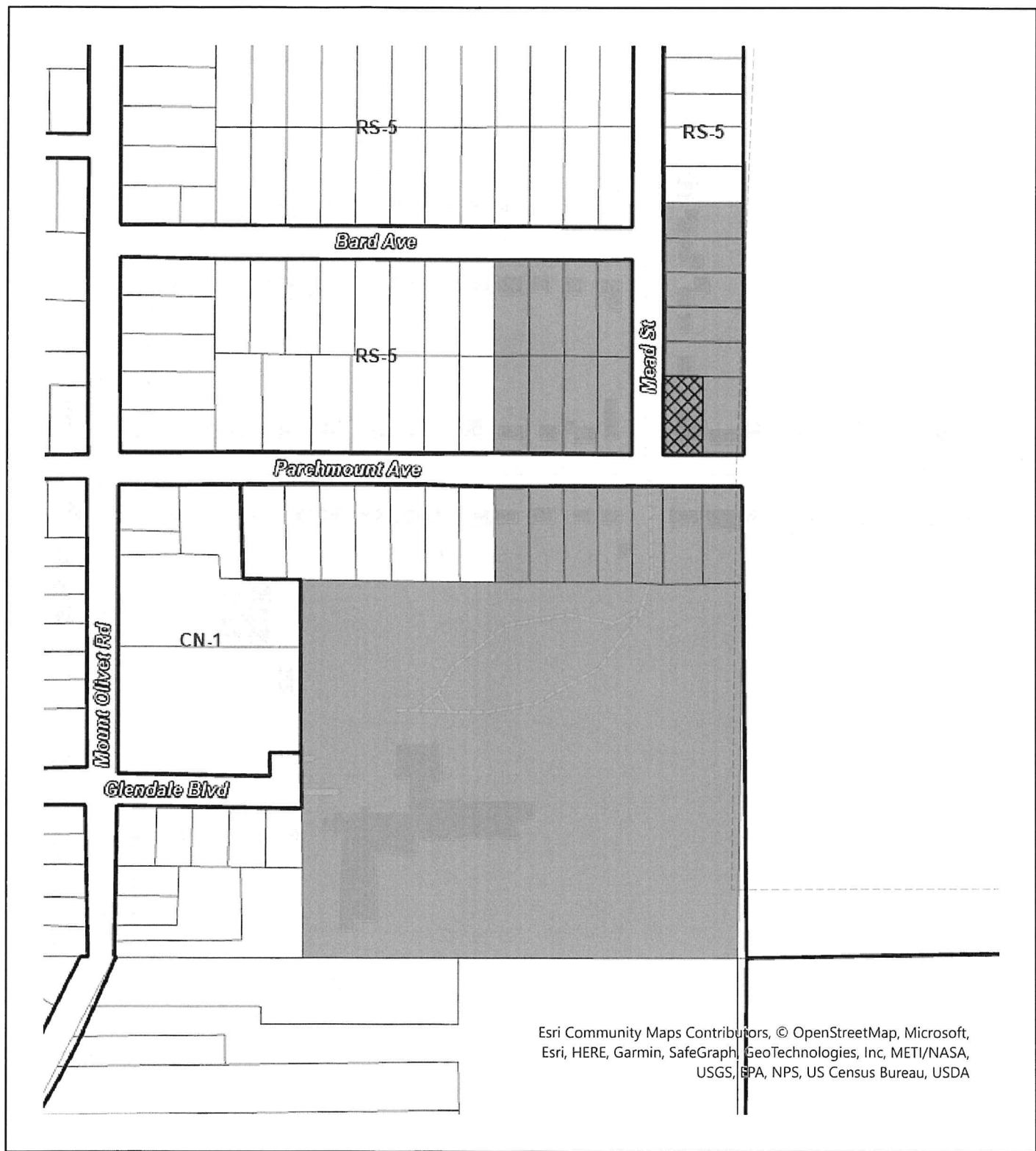
Mead Street Frontage – October 30, 2023



LEGEND



City of Kalamazoo,
10/31/2023



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Parcels within 300' Mailing Radius 3113 Parchmount Avenue

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

