

Agenda

Zoning Board of Appeals



City of Kalamazoo

Thursday, August 14, 2025

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 July 10, 2025

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #25-08-14: 1900 Belford Street. Edison Community Partners is requesting a dimensional variance from Appendix A, Chapter 4, Section 4.2 Q(b)(6), to authorize a variance to permit 25% - 30% of the exterior materials on the buildings in the proposed development to be composed of brick, decorative precast, or decorative masonry surface, concrete siding or other natural materials such as wood, where at least 50% is required.

E. DISCUSSION/ACTION ITEMS

- 1.

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
July 10, 2025 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Joe Hohler III, Allison Haan, Remi Harrington, Tony McReynolds, Beth van den Homberg, and Gary Wark

Members Absent: None

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

Chair Hohler called the meeting to order at 7:02 p.m.

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

Chair Hohler asked if there were any changes to the original agenda and Mr. Eldridge said case number three for 1824 Portage Street is removed because there needs to be more conversation between the business owner and the property owner regarding the site plan process.

Mr. Eldridge wanted to add that the cell tower project that was in front of the board last Month was in front of the planning commission the night before and got their final approvals for replacement of the tower.

APPROVAL OF MINUTES:

Mr. Wark moved to approve the minutes as submitted, seconded by Mr. McReynolds.

The minutes were approved by voice vote unanimously.

PUBLIC HEARINGS: Chair Hohler summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to present their comments, followed by public comments in favor of the application where they will state their name and address and speak for three minutes. Following that those in opposition will be invited to speak for three minutes. The public can call in to 888-382-9556 to enter a queue to comment live for any property on the agenda and will no longer be able to leave a recorded message, then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine

a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. The board 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 4702 West Main Street into the record.

ZBA#25-07-11: 4702 West Main Street: An application for a dimensional variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Harrison French & Assoc. Architect & Engineers, Ltd., on behalf of 7 Brew Coffee, is requesting a dimensional variance from Chapter 50, 50-8.4 C(1)(a), to allow for the development of this property without the required landscaping green strip of at least five feet between the parking lot and front property line.

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.

Ella Ackerman, a civil engineer with Harrison French & Associates, is here on behalf of Seven Brew Coffee. She said this is a project they have been developing that will be on the northeast corner of the intersection of West Main and Drake, next to Chik-fil-A. She then went into her presentation and said Seven Brew is a rapidly growing coffee company that is trying to change the coffee experience, and they focus on three pillars: the positive experience, the handcrafted beverages, and the speed of service and with this project Kalamazoo residents can experience all they have to offer. She said they are focused on the customer experience and building relationships and when they come into communities they're looking for growth and are excited to have this experience and opportunity. She stated that they operate with a dual lane model, a dual lane drive-thru, where the staff will come up to your window and you place your order directly with them, which improves speed of service, face-to-face conversation and it's very efficient and added that there is no walk up service, which keeps everything smooth and efficient, and limits traffic. She stated that the menu offers a wide variety of options, over 20,000 and the top left of the screen showed the seven originals and then there were classic iced and hot coffee, energy versions, seven fizz, teas, kids, smoothies, and shakes, something for everyone and added that they have a cult following. She said what makes them stand out is that there is something for everyone and they started out with only seven and now they are across the US, with 20,000 drink options, anyone can find something they like and as far as the drive-thru experience, they believe in kindness and happiness and it's contagious and they're happy to spread that throughout the community. She added that they pride themselves on a one-of-a-kind experience and putting and putting smiles on customers' faces and giving them a jolt of energy.

Moving on to the site plan portion of the presentation, she said on the west side of the property is Chik-fil-A and to the south is the existing turn-in, and in the center will be the building, which is small because it's only a drive-thru, and the cooler is on the right and the two drive-thru lanes area around it. She then showed a zoom in snippet regarding the variance request. She said the dark solid line is the property line and the curb is also there. She stated they will be implementing a wrought iron fence to match the one at Chik-fil-A to keep it consistent, and there will be landscaping on both sides, she said this design is necessary because of the existing driveway access, which is 24 feet and can't be adjusted per the fire marshal for safety reasons, and that is why they are asking for the five feet minimization variance.

Ms. van den Hombergh stated she liked the fact that they would match Chik-fil-A's wrought iron fence and asked about the landscaping around the fence and Ms. Ackerman stated there will be rocks around the fence and there will be a five-foot sidewalk to improve the front and there will be grass in between there, but to the left and right of the parking stalls there will be landscaping.

Chair Hohler asked for staff comments, and Mr. Eldridge asked, for the sake of the board, they spoke of there being residual space left between the property line and the concrete curb of the parking spaces, somewhere in the area of a foot and a half, he asked if that would remain and Ms. Ackerman said yes. Mr. Eldridge stated that is the space that is left for the handicap parking sign and the wrought iron fencing, so there's not a lot of room, but there is space for those items. He then added staff comments, and they are as follows: He said this site is large enough to accommodate this business but because of the existing access drive, which extends across from Chik-fil-A and goes into the Westwood Plaza, it divides the site up so you end up with the building, the drive-thru lanes, the dumpster enclosure on the north side, and then there's a row of parking that will be squeezed in south of that, between this access drive and the front property line. Looking at the review criteria, he stated the special circumstances are the location and width of the internal access drive, which was designed when Chik-fil-A went in, of 24 feet because the fire marshal asked for it and deemed it necessary for fire apparatus to wrap around the Chik-fil-A building, and then in order to make a turn onto the site off of West Main, it was deemed necessary to keep that 24 foot width. He said that is where the pre-existing 24 feet came from, that is now extending across this vacant site that is eligible for redevelopment. He added that is what creates the pinch between the access drive and the front property line to fit the 18 foot deep parking spaces in, and he wanted to point out this wasn't created by the applicant and said this is a redevelopment project that Trey Star has been working on for a while and said we all remember what was left of the old gas station that sat there for years and finally got demolished, so redevelopment at this site has been a long time coming. He said it won't negatively impact the adjacent properties, which are all under Trey Star ownership and staff is supportive of this request because of the situation meeting the six review criteria.

Chair Hohler asked if anyone wanted to speak in favor of the variance and there was no one.

Chair Hohler asked if anyone wanted to speak against the variance and there was no one.

Chair Hohler asked if there were any call in comments and there were none.

Chair Hohler closed the public hearing.

FINDING OF FACT

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

- 1) The Finding of Fact for 4702 West Main Street shall include all information included in the notice of public hearing dated June 25, 2025, in the agenda packet staff provided for this request.
- 2) 14 notices of public hearing were sent, and no responses were received.

- 3) A public hearing was held before the board and public comments, and telephone calls 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:

Ms. Ella Ackerman from Harrison French and Associates spoke on behalf of Seven Brew Coffee, a drive thru only coffee shop that offers up to 20,000 custom beverages. Two drive-thru lanes, staff will come out to vehicles to take orders. There will be two drive-thru lanes for the coffee shop and staff will come out to the vehicles to take orders for face-to-face relationship building and customer service. They are looking to carry on the aesthetics that Chik-fil-A has and present a united front with the continuation of the wrought iron fence with the white rocks and grass, when they can get it in there, maybe some flowers, and will do their best to make the space look inviting. Staff confirmed there is some residual space, approximately 12 to 18 inches, and there will be ADA parking space signage. The special circumstances for this area is it's a very small space between Chik-fil-A on the corner, the Westwood Plaza, and another business right there and because of Chik-fil-A and the fire truck issues, they needed to have a 24 foot access lane, which goes across the frontage of where Seven Brews is, which is why they're asking for the variance.

Mr. Wark asked if Mr. Eldridge said 12 to 17 inches or feet and Mr. Eldridge said inches from the property line to the curb of the parking area.

Mr. Wark seconded the Finding of Fact.

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

Mr. McReynolds moved to approve the application for the dimensional variance from Chapter 50, 50-8.4 C(1)(a), to allow for the development of this property without the required landscaping green strip of at least five feet between the parking lot and front property line, seconded by Ms. van den Hombergh.

Motion was approved unanimously by voice vote.

Discussion:

Chair Hohler asked if this is a separate, individual lot within the property and if Penn Station is in the building behind this lot and Ms. Ackerman said yes. He then asked Mr. Eldridge if the problems the lot is running into are the lot's problem and not unique to the business for instance, if they say no today, will another business come in and have the same issue with the green space and Mr. Eldridge said yes, in order to make that area usable for parking, an add the five foot green strip, which is the minimum width required for the green strip along the frontage plus the 18 feet of depth, you're out in the access lane and that's where the pinch point comes in so with any future redevelopment, the access lane will remain a problem. Chair Hohler said if this isn't approved,

this lot will become unusable except for in extremely specific circumstances and Mr. Eldridge said it would be deemed unusable, unless parking were created on one of the adjacent sites for the employees. Chair Hohler then said if there were no parking spaces and the employees had to park somewhere else, it could be green space and that would be approvable.

Ms. van den Hombergh asked if another special consideration with this property is because there used to be a gas station there and is that why it's been so hard to get the right business there because of the gas drums underneath and Mr. Eldridge stated it causes more environmental work to be done and a lot of times there is a phase one study done and that found there never was any hazardous land uses on the property, so a phase two isn't needed but we know there was a hazardous use there over the years so if it hasn't been done yet, it will have to be done before the city is going to approve the site plan to have a phase two and know exactly what's in the soil. He added that the tanks are gone but that doesn't mean there's no soil contamination and he asked if Ms. Ackerman can speak to that and she stated they're definitely going through the proper channels and have done phase one, two, and a due care plan, so the site is being properly taken care of and there is some trouble existing due to the gas station that was there for so long, but they are making an effort to develop it and beautify the corner.

Chair Hohler stated this fits perfectly into the criteria that would be applied to this, and this is a perfect example of why there would be a variance, and it would be consistent with the Panda Express case and where they placed their building relative to the lot lines so they could account for parking. He added that he would love to have the five feet of buffer and green space, he feels it's the perfect reason of why you would give a variance, and he will vote in favor of the request.

Motion was approved unanimously by a roll call vote.

Ms. Harrington read the application for 1261 Portage Street into the record.

ZBA#25-07-12: 1261 Portage Street: An application for a variance has been filed with the Zoning Board of Appeals by Claudio Velasquez, owner of the Tacos El Jefe' food truck, is requesting a variance from Appendix A, Chapter 4, Section 4.3, J 7, to allow for an outdoor temporary sales use (Food Trailer) to operate in the parking lot at 1261 Portage Street from July 11, 2025, to December 15, 2025 (5-months).

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.

Sergio Correa spoke on behalf of and translated for Claudio Velasquez, who was present, and stated that he wants a six-month extension to have his food truck there on the property. Mr. Correa stated Mr. Velasquez has an agreement with the new owner of the store that just opened on that same property and Mr. Velasquez, and the store owner are hoping to, one day, team up and open a restaurant inside the store. Mr. Velasquez said it's easy because he lives in the area, as does most of his customers. He has a good relationship with the property owner, and the property owner is willing to let him continue to operate his business out of his parking lot.

Chair Hohler asked for staff comments, and they are as follows: Mr. Eldridge stated this started with a 30-day approval to sell food at this location and worked out well so they wanted to extend that period and made the application to the board and Mr. Velasquez has spoken with the property

owner regarding the site plan review process that will be required but in the meantime, that same property owner owns Howard's Party Store and they were selling there intermittently during the construction that was going on, and that made it a little tough at times for customers to get into the parking lot. He said if you look at the review criteria, it is a commercially zoned property so this type of food sales business, or eating/drinking type of establishment, is permitted in that zone district and added that what they're looking at is a variance from the temporary use only being allowed on a commercial property for 30 days per calendar year and this variance will allow them to continue to operate on this site in the parking lot while they are going through the site plan approval process. Mr. Eldridge stated they have identified a location that is out of the maneuvering lanes in the parking lot and staff have looked at how big the parking lot is, the number of parking spaces, and said there's clearly sufficient space for customers and employee parking, and for the food trailer to be placed out there. He added that as far as impact on adjacent properties, this is a corner property in a commercial zone district and the same person owns the lot to the east of the big parking lot, which is mostly gravel right now, so there are no adjacent properties that are impacted by this proposed food sales and it is consistent with the ordinance and the development regulations, as it states in there that a temporary business, like a food truck or food trailer, with site plan approval can remain on a property for an extended period of time, so it's a matter of giving the additional window of time for site plan approval, which can take two to three months, depending on what needs to be looked at during the site plan review process. He stated the only thing asked is that, like the last one, is a condition of the site plan review checklist application be submitted within 45 days, be added to the motion so that this will be in the project review pipeline and he won't have to chase anyone down mid-year, but staff is supportive and the business owner is willing to allow Mr. Velasquez to operate in the lot while he is going through the site plan review process so that he can have a more permanent relationship with hm.

Chair Hohler asked if anyone wanted to speak in favor of the variance and there was no one.

Chair Hohler asked if anyone wanted to speak against the variance and there was no one.

Chair Hohler asked if there were any call in comments and there were none.

Chair Hohler closed the public hearing.

FINDING OF FACT

Ms. Haan moved the Finding of Fact as follows:

- 1) The Finding of Fact for 1261 Portage Street shall include all information included in the notice of public hearing dated June 25, 2025, and the agenda packet provided by staff.
- 2) 63 notices of public hearing were sent, and zero responses were received.
- 3) A public hearing was held before the board and public comments were accepted and there were none.

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

Sergio Correa spoke on behalf of Claudio Velasquez, the owner of Tacos El Jefe' food trailer, presented that Mr. Velasquez is requesting an extension of the time he can remain open and in the meantime, he is working on a permanent restaurant with the store owner where he can have the food trailer parked, an extension will help to establish that business and continue to run the existing business. It conforms in all ways except for the time limits, doesn't infringe on any existing properties and is consistent with the ordinance and development regulations and is allowing for additional time to operate during the site plan review process. The only condition is that he submits his site plan review application checklist within 45 days.

Mr. Wark seconded the Finding of Fact.

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

Mr. Wark moved to approve the application for a variance from Appendix A, Chapter 4, Section 4.3 J 7, to allow for an outdoor temporary sales use (Food Trailer) to operate in the parking lot at 1824 Portage Street from July 11, 2025, to December 15, 2025 (5-months), on the condition that site plan be applied for in 45 days seconded by Ms. vanden Hombergh.

Discussion:

Chair Hohler stated that this is like the other requests from last month and the month before where the board is buying folks extra time which he thinks is the perfect use for this kind of variance or use request and for the sake of consistency alone, they need to vote to approve, and he will vote to support it.

Motion was approved unanimously by roll call vote.

E. DISCUSSION/ACTION ITEMS:

- 1) Amendments to the Zoning Board of Appeals Rules of Procedure

This is a continuation of the conversation tabled from the meeting on June 12, 2025. The statute states that there can be no reconsideration and under interpretation of the law, it will be removed from the Zoning Board of Appeals bylaws because this board doesn't have the authority to reconsider, even though it was part of the bylaws for over 20 years stated Attorney Bear.

Ms. Harrington stated the Michigan Zoning Enabling Act outlines that local municipalities have the ability to make up their own bylaws and ordinances. Attorney Bear agreed but added that having that ability doesn't determine what goes in the bylaws and because reconsideration isn't mentioned, the board isn't given that authority. Ms. Harrington said that the board did give itself, locally, the authority to

reconsider and Attorney Bear admitted that they did, but legally they shouldn't have. Ms. Harrington said that isn't true and in Public Act 110 of 2006, it specifically grants local governments authority to adopt, and enforce, zoning ordinances and bylaws on their own, locally and Attorney Bear said adopting bylaws isn't the same as granting a reconsideration, and added that nothing there states reconsideration and the courts have been very clear that the board only has the authority specifically given and while they can adopt bylaws, that doesn't mean they can put whatever they want to in the bylaws. Ms. Harrington stated in MCL125.3602, Section 602, it gives general procedural authority to local ZBAs, MCL125.36024, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order requirement decision or determination appealed from, and may make an order requirement decision or a determination in the in the board's opinion to be made in the case, and the discretion is in how they rule, and that's MCL125.36024 and that is stated specifically in the Michigan Zoning Enabling Act, that local municipalities have the ability to modify their decision. Attorney Bear said that it isn't addressing whether a reconsideration can be enacted or not and Ms. Harrington stated that it states that a local ZBA can include rules for reconsideration, or rehearing's, in its zoning ordinance. Mr. Eldridge said in that process to revisit something is mentioned in Robert's Rules, the steps involved, and the way the motion of reconsideration was laid out or is currently laid out in the Rules of Procedure, the bylaws don't follow Robert's Rules. Ms. Harrington asked if the bylaws state they have to follow Robert's Rules and Mr. Eldridge stated that is how the city boards operate. Ms. Harrington asked if the bylaws specifically state they follow Robert's Rules and Mr. Eldridge stated Section 6.8, page four says parliamentary authority: The rules contained in the current edition of Robert's Rules of Order newly revised shall guide the ZBA. Ms. Harrington asked if because they go by Robert's Rules of Order that they don't have the ability to reconsider even though the Michigan Zoning Enabling Act outlines they can? Mr. Eldridge stated the other reason for removing reconsideration is because of the length of time a board member can exercise that motion of reconsideration and he and Attorney Bear spoke about it, a variance can be granted and a permit issued by the planning and development department during the window of time provided, it's within 10 days after the meeting and a lot can happen in 10 days. Ms. Harrington questioned why there can be a 45-day stipulation on the food trucks and why the rule wouldn't be amended, she wanted to know why can't they put a time frame on developments and make them wait 10 days after a decision is made to give the board an opportunity to maintain the amount of power it has. Mr. Wark asked who has the power to make the bylaws for the boards in the city of Kalamazoo because it doesn't seem that the board made the bylaws, they just follow them and Mr. Eldridge said the board made the bylaws and they're carried over from year to year and the City Commission adopted Robert's Rules and it's now built into the bylaws and has been built in since the 2022 update, but it was updated they needed to alter citizen comment time, and there was a reason to dip into the bylaws at that point, but the term "Rules of Procedure" is antiquated and bylaws is the common term used and said what is being talked about is significant, but so is the number of board members. He added that he hasn't seen another even numbered Zoning Board of Appeals and he's had to look at questioning faces when decisions end in tied votes. Ms. Harrington also wanted to speak to the number of people on the board and while she thinks that all of the interviews she has taken place in had amazing people, she

questioned their willingness to lean toward city staff's perspective and although she feels she's seen as being oppositional to city staff, which isn't true, she isn't willing to usurp her own power and acquiesce to leanings that create imbalances in the constituent voice, for example what is happening in this meeting where they're being told they can't legally do something when they actually can and she feels that is disempowering to constituent boards. She added that even though it's been stated that it has nothing to do with her, but since she is the one that did the last reconsideration, she is taking it personally that now they want to take it off the books and Attorney Bear stated it has nothing to do with her and he resents the implication that it does, she again asked why it's coming up after 20 years? He said he can't answer that because he wasn't around 20 years ago. Mr. Eldridge wanted to add, to Ms. Harrington's point, that regarding the 10-day window, something would have to be done where variances couldn't be acted upon within 10 days, if they kept that reconsideration window and he would have to go to the planning director and talk about any complications regarding suspending any action upon approval of a variance and Ms. Harrington said that needs to happen instead of disempowering constituent boards. Chair Hohler stated he will need to know what Attorney Bear is looking at because he wants to study it and feels there will be no resolution on it at this meeting. Ms. Haan stated that they can always tack on additional time but they are there every month to meet, deliberate, and discuss and they state as late as they need to and while there is an argument that giving 10 days for reconsideration further empowers the board, further argument can be made that they can also make the decision while they are there. Ms. Harrington asked Ms. Haan if she wouldn't want the ability to take a step back or to reconsider for development? Chair Hohler asked if the board has the ability to table requests if they want more time and Attorney Bear said tabling would be for later in the meeting, but they can adjourn it to a time if they need more time to consider it. Ms. Harrington stated that would make it a month and Ms. Haan said she doesn't see any other board taking the option to make anyone wait 10 days until someone changes their mind and procedurally it doesn't seem consistent with any boards, that she's aware of and Ms. Harrington pointed out that reconsideration has been on the books, procedurally, for 20 years for this board. Ms. van den Hombergh stated that she has been the longest serving on this board and she understands where Ms. Harrington is coming from regarding disempowerment and the feeling that something is being taken away, but she also feels everyone is highly intelligent, competent people and it seems kind of awkward and stated just because you have something in your pocket that you can do doesn't mean you could or you should do it, and to her it seems odd to make decisions but to say they've got 10 days to change their minds, they aren't supposed to do that, they're supposed to come prepared, do all the research, have the conversation, stay until 9:00, and when they make a decision, be done. She said she doesn't see it as disempowerment, she sees it as making themselves look bad. Chair Hohler said there should just be a mechanism to adjourn the request for one meeting, which gives everyone 30 more days to think about it and do additional research because they get the agenda packet seven days in advance which is fine, but can also be hard on big ones like the arena for example. He then discussed ways an adjournment can work, such as having two members agree on it, and said it would have an end date, no matter what, and Ms. Harrington agreed with that course of action. Attorney Bear stated that if there is an adjournment there has to be a motion that gets voted on and this doesn't happen very often, and less likely with this board, because

there is a professional staff that reviews this, provides information, and consults with the applicants so that they generally have everything the board needs to see, but there may be situations where they may want to see something else, or even see something else from staff so that they can make a good, informed decision. Chair Hohler stated that something should be in the bylaws that if someone makes a motion and it's seconded, and it gets tabled or adjourned for a month, that should be sufficient to put it off until the next meeting. Ms. Harrington stated she doesn't feel reconsiderations should be taken off the table since they are in the bylaws, but maybe there should be an amendment. Chair Hohler said he thinks that this will provide people with time to think about their decisions. Chair Hohler stated he doesn't want to take a vote because Ms. Harrington and Attorney Bear made points, and he would like to do research.

Chair Hohler wanted to discuss adding another member to the board to make it an odd number of regular members because if you need four votes and there is a 3-3 vote, the "no" vote gets a veto on it and an odd number will result in a definite yes or no. Ms. Harrington added she thinks there needs to be more diversity on the board, and not just from neighborhoods. Mr. Wark asked if there needs to be a motion to table part of tonight's discussion and approve the extra person for the board and Mr. Eldridge said for proper terminology, they will need to adjourn this discussion until next month, he asked Attorney Bear how to do it under Robert's Rules and Attorney Bear stated they can make a motion to adjourn it to the next regular meeting.

Mr. Wark made a motion to adjourn until the next scheduled meeting in August, seconded by Mr. McReynolds.

The motion passed unanimously by voice vote.

Mr. Eldridge asked Chair Hohler if there are any questions staff can work on related to this before the next meeting and he said he wants what staff attorney and Ms. Harrington presented in an email to the board.

2) Discuss Interviews Held for Board Vacancy-Alternate

There were two interviewees for the alternate #2 seat: Michael Bingen at the end of June, and Jack Urban the week prior to the meeting and the interview team was made up of Chair Hohler, Vice-Chair Wark, and Secretary Harrington.

Mr. Bingen lives in the Oakland-Winchell neighborhood, is a retired local attorney, has lived in Kalamazoo for approximately 45 years and as an attorney is familiar with the zoning ordinances and has represented clients in other counties who were requesting variances and helped one client appeal to circuit court. He will not be available in the month of February due to travel plans.

Mr. Jack Urban has lived in the city for approximately 57 years in a variety of neighborhoods and currently lives in the Milwood neighborhood. He served on the Zoning Board of Appeals approximately 40 years ago and has also served on the County Commission and most recently served as a Kalamazoo City Commissioner and

believes that applicants deserve to understand the denial of a variance. He is familiar with the zoning ordinances and other city regulations and is on board with the current ImagineKalamazoo master plan and he's available year around.

Chair Hohler stated that he believes both of the candidates would be fine if they were to be the full-time board member but one of them may need more time to get familiar with it but said that because of his experience he would be more apt to go with Mr. Urban.

Ms. Harrington stated that she was able to be at the interview with Mr. Urban and appreciated his place-based wisdom, that he would add a lot of value, and there is an opportunity for him to expand also.

Mr. Wark agreed and stated Mr. Urban is on board with the ImagineKalamazoo 2035 program, and the Kalamazoo Master Plan and he was very impressive.

Chair Hohler asked if anyone had any questions about the interviews and Ms. Haan asked if they select an alternate now and the board decides to add another seat, would the invite the other candidate to apply for that position? Chair Hohler said yes, and Mr. Urban mentioned it during his interview and Mr. Eldridge stated they look at geographic, ethnic, and gender diversity on this board, so that needs to be balanced, and they would need to build another pool of candidates for the next round. He stated that terms end in March and some members will be eligible to renew for another term, but he doesn't know if anyone is terming off of the board.

Mr. Wark made a motion to approve Jack Urban as an alternate board member, seconded by Ms. Harrington.

The motion passed unanimously by voice vote.

F. REPORTS

G. ADJOURNMENT

OTHER BUSINESS:

The meeting was adjourned at 8:23 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Zoning Board of Appeals Staff Report

Date: **8/14/2025**

Item: **D.1.**

City of Kalamazoo

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner / Deputy Director of CPED
Prepared by: Pete Eldridge, AICP, Zoning Administrator

DATE: August 14, 2025

SUBJECT: ZBA #25-08-14: 1900 Belford Street. Edison Community Partners is requesting a dimensional variance from Appendix A, Chapter 4, Section 4.2 Q(b)(6), to authorize a variance to permit 25% - 30% of the exterior materials on the buildings in the proposed development to be composed of brick, decorative precast, or decorative masonry surface, concrete siding or other natural materials such as wood, where at least 50% is required.

BACKGROUND:

The six-acre portion of the former Performance Paper Company was rezoned to RM-24 in September 2021 in anticipation of residential development. This property is a portion of the larger Performance Paper site under the ownership of the Brownfield Redevelopment Authority (BRA).

Edison Community Partners is proposing the construction of a multi-family facility for substance abuse treatment (Kal Recovery). The site will function as a multi-family apartment complex with programming space for substance abuse. This development will include one 36-unit three-story building, which will also include recovery support space and residential amenities and two six-unit two-story buildings.

The proposed buildings have been designed to fit the context of the residential area. The three-story building is situated further to the west, near Portage Creek, while the two-story buildings are located closer to Reed Avenue and Belford Street. The exterior of the buildings exceeds the minimum number of architectural features required for multi-family construction. Architectural features will be present on all facades of each building as required per the Ordinance. Mural space is also proposed for the north and south sides of the three-story building.

The exterior materials standards state that 50% of the exterior must be comprised of natural materials, and examples of these are provided in the Ordinance. The developer is proposing that 25% to 30% of the facades will be composed of natural materials, with the use of concrete cementitious panels and composite wood. The remainder of the building facades will have a variety of vinyl siding, including board and batten and horizontal siding. The developer has

stated that the exterior materials proposed are all similar to those of the surrounding structures in the area. Staff would also like to note that these multi-family design standards are antiquated and no longer necessary. When the Zoning Ordinance is next updated, amendments will be prepared to remove this language.

STRATEGIC VISION ALIGNMENT:

Complete Neighborhoods - residential areas that support the full range of people's daily needs
Environmental Responsibility - A green and healthy City.

Strategic Goal Impact:

The project touches on the Strategic Vision goals of Complete Neighborhoods and Environmental Responsibility. The project will result in additional housing availability in the Edison Neighborhood and will allow for the reuse of six acres of a former contaminated site which has been remediated. The Future Land Use Map identifies this property as R2 - Medium Density Residential, which aligns with the proposed 48-unit development. The Edison Neighborhood Plan encourages the construction of more housing in the neighborhood.

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, dated July 30, 2025, were sent to the property owners and occupants within 300 feet. A copy of the notice was also related to the Edison Neighborhood.

Engagement/Communication Tools:

Newspaper, mailings and applicant outreach

FINDINGS:

Staff have made the following findings regarding this request:

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

The special circumstances or conditions related to this request are the three street frontages and location of the property, which is on a contaminated former industrial

site. Additionally, across from this development are residential structures that use many of the facade materials the applicant is proposing to use.

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

There are special circumstances that are not created by the applicant. We are in a unique time for development projects, where the demand for this type of housing (all types of housing) is high, and so is the cost to build this housing. These are factors well beyond the control of the applicant. The facade provisions in question will be removed from the Zoning Code when the residential districts are updated. They place an unnecessary burden on housing development, which is permitted by right in this location.

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 enforcement of this provision of the Ordinance will require an increase in the amount of more expensive natural materials required for the facades of each building. There are adjacent residential structures with the same type of material the applicant is proposing to use. Therefore, the proposed combination of natural and vinyl exterior products does fit the context of this area of the Edison Neighborhood.

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 not be contrary to the public interest, as the exterior materials will be decorative in nature and each building incorporates a number of design elements, including covered entrances.

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

The granting of the variance will not adversely affect adjacent properties, as this site will be fully landscaped and buildings will be set back from the property frontages. Exterior materials proposed for the three buildings are also similar to those utilized on surrounding structures.

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

These multi-family design standards are antiquated, as mentioned before, and this language is planned for removal from the Ordinance. The exterior design and

materials proposed by the developer do meet the intent of the Ordinance to encourage good design for new buildings.

7. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria: 1) existing landscaping, screening or wetlands intended to be preserved meets the intent of this section; 2) the landscape design proposed by the applicant meets the intent of this section; 3) there is a steep change in topography that would limit the benefits of required landscaping; 4) the proposed building and parking lot placement is setback well beyond the minimum required; 5) the abutting or adjacent land is developed or will be developed in the near future with a use other than residential; and 6) similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

This criterion is not applicable to the requested dimensional variance.

RECOMMENDATION:


Staff can support the granting of the requested variance as it does meet all of the above criteria.



Community Planning & Economic Development

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ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION			
Name:		Mailing Address:	
City:	State:	ZIP Code:	
Phone:	Email:	Preferred Contact: <input type="checkbox"/> Email <input type="checkbox"/> Phone	
PROPERTY OWNER INFORMATION			
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>			
Name:		Mailing Address:	
City:	State:	ZIP Code:	
Phone:	Email:	Preferred Contact: <input type="checkbox"/> Email <input type="checkbox"/> Phone	
PROPERTY INFORMATION			
Property Address(s):			
Parcel Identification Number(s):		Zone District (kalamazoo.org/maps):	
TYPE OF REQUEST			
<input type="checkbox"/> Dimensional Variance from Chapter(s) _____, Section(s) _____	<input type="checkbox"/> Appeal of an Administrative Decision		
<input type="checkbox"/> Use Variance to allow _____	<input type="checkbox"/> Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____		
<input checked="" type="checkbox"/> Natural Features Protection Variance	<input type="checkbox"/> Temporary Use Approval		
Reason for Request:			
ATTACHMENTS			
<input type="checkbox"/> \$ _____ Fee	<input type="checkbox"/> Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
<input type="checkbox"/> 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: 		Date: 07/17/2025	
Signature of Owner (if different than applicant):		Date:	

Reason for request:

Seeking dimensional variance to reduce the amount of surface exterior façade area of brick, decorative concrete, decorative masonry, concrete siding or natural material such as wood from 50% to 25-30% of applicable surface area.



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

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?

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?

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



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?

Will the granting of the variance negatively affect adjacent land?

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

Additional Criteria for Variance Requests for Required Landscaping

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

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



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

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

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

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

General Information:

Requesting a dimensional variance from the City of Kalamazoo Zoning Ordinance Chapter 4, section 4.2.0.b.6:

Materials, at least 50% of the surface of the exterior wall, excluding areas for windows, doors, and other similar openings shall be of brick, decorative pre-cast, or a decorative masonry surface, concrete siding, or natural materials such as wood.

Kal Recovery is a 48-unit, multi-family residential housing development with the purpose to provide individuals, who are dealing with addiction recovery, and their families supportive housing in which to continue to enhance their recovery and healing.

The multi-family residential buildings in the development consist of 3 separate structures. Building A is a 3-story, 36-unit apartment building that also incorporates the recovery supporting spaces, programs, and resident amenities. Building B and C are both 2-story, 6-unit sloped roof structure comprised of 2- and 3-bedroom units.

Kal Recovery is located in MR 24 zoning classification. The site straddles a transitional area between State and County health services buildings to the South and single-family residential homes to the East and North.

The larger 3-story building inboard on the site overlooking Portage Creek, and the smaller 2-story buildings along the East side of the site adjacent to the existing residents/ neighborhood of predominantly 2-story wood, aluminum and vinyl sided homes and are sited to be contextually sensitive to the surrounding development and the residential neighborhoods.

We request a dimensional variance from the 50% exterior surface area being of materials listed to a range of 25-30% of the surface. Of that requested 25-30% surface area, we propose incorporating a mix of acceptable materials that include the following: 1) concrete cementitious panels to mimic decorative stone finishes (ie Hardie Plank) and 2) composite wood, wood grained siding and trim (LP Smart Side). These two materials combined will be included strategically to account for the 25-30% of the exterior façade surfaces.

Additionally, at the building entrances there will be entrance pergola like structures with natural wood columns, rafters, and exposed wood decking. These custom and varied pergolas will be placed at the main entrance to each building.

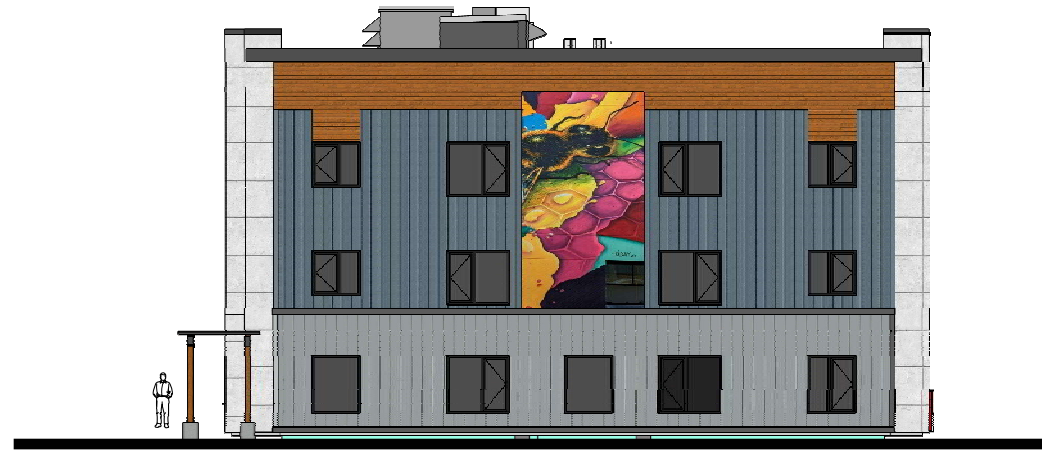
Another façade treatment that reinforces the design meeting the intent of the ordinance is the proposed murals on the end cap of facades of the main building.

The remainder of the exterior façade surfaces will be of a variety of vinyl sided shapes, directions, textures, and colors. From vertical board and batten, to horizontal beveled lap, Dutch lap and ribbed siding patterns.

We believe that the overall effect of the buildings' articulated plans and massing volumes supported by the mixture of materials, patterns, textures, and colors, augmented by the natural wood entrance pergolas meets the spirit or intent of the ordinance.

The variance, if granted, will cause no ill effects to the surrounding property owners. The variance, if granted, will be part of necessary aggressive value engineering initiative to keep escalating costs at least partially in check in order to provide desperately needed housing, and in particular the support services offered by Kal Recovery.





NORTH ELEVATION SURFACE AREA: 2,368 SQ FT

PRIMARY SIDING MATERIAL:
VINYL BOARD AND BATTEN: 830 SQ FT (35.1%)

SECONDARY SIDING MATERIALS:
VERTICAL VINYL PANEL: 592 SQ FT (25%)
WOOD COMPOSITE: 350 SQ FT (14.8%)
CEMENT BOARD: 306 SQ FT (12.9%)
MURAL: 290 (12.2%)



SOUTH ELEVATION SURFACE AREA: 2,317 SQ. FT

PRIMARY SIDING MATERIALS:
VIYNL BOARD AND BATTEN 1,366 SQ FT (59%)

SECONDARY SIDING MATERIALS:
VERTICAL VIYNL PANEL: 0
WOOD COMPOSITE: 355 SQ FT (15.3%)
CEMENT BOARD: 306 SQ FT (13.2%)
MURAL: 290 SQ FT (12.5%)



EAST ELEVATION SURFACE AREA: 6,253 SQ FT

PRIMARY SIDING MATERIALS:
VINYL BOARD AND BATTEN 4,124 SQ FT (66%)

SECONDARY SIDING MATERIALS:
VERTICAL VINYL PANEL: 210 SQ FT (3.6%)
WOOD COMPOSITE: 1,125 SQ FT (18%)
CEMENT BOARD: 794 SQ FT (12.7%)
MURAL: 0



WEST ELEVATION SURFACE AREA: 6,300 SQ. FT

PRIMARY SIDING MATERIAL:
VIYNL BOARD AND BATTEN 4,027 SQ FT (63.9%)

SECONDARY SIDING MATERIALS:
VERTICAL VIYNL PANEL: 301 SQ FT (4.8%)
WOOD COMPOSITE: 1,205 SQ FT (19.1%)
CEMENT BOARD: 767 SQ FT (12.2%)
MURAL: 0



SOUTHEAST PERSPECTIVE : BUILDING A



SOUTH ENTRY PHOTOVOLTAIC PERGOLA : BUILDING A



SOUTH ENTRANCE PERSPECTIVE : BUILDING A



NORTH ENTRANCE PERSPECTIVE : BUILDING A



WEST ELEVATION SURFACE AREA: 796 SQ. FT

PRIMARY SIDING MATERIAL:
 VIYNL BOARD AND BATTEN: 306 SQ FT (38.5%)
SECONDARY SIDING MATERIAL:
 WOOD COMPOSITE: 330 SQ FT (41.4%)
 CEMENT BOARD: 160 SQ FT (20.1%)



EAST ELEVATION SURFACE AREA: 796 SQ. FT

PRIMARY SIDING MATERIALS:
 VIYNL BOARD AND BATTEN 306 SQ FT (38.4%)
SECONDARY SIDING MATERIAL:
 WOOD COMPOSITE: 330 SQ FT (41.4%)
 CEMENT BOARD: 160 SQ FT (20.1%)



NORTH ELEVATION
 SURFACE AREA: 1,708 SQ. FT

PRIMARY:
 VIYNL BOARD AND BATTEN 913 SQ FT (53.5%)
VARIANCES:
 WOOD COMPOSITE: 277 SQ FT (16.2%)
 CEMENT BOARD: 518 SQ FT (30.3%)



SOUTH ELEVATION
 SURFACE AREA: 1,665 SQ. FT

PRIMARY SIDING MATERIAL:
 VIYNL BOARD AND BATTEN 901 SQ FT (54.1%)
SECONDARY SIDING MATERIAL:
 WOOD COMPOSITE: 371 SQ FT (22.3%)
 CEMENT BOARD: 393 SQ FT (23.6%)





SOUTH ENTRY PERSPECTIVE : BUILDING B (BLDG. C SIMILAR)



SOUTHEAST PERSPECTIVE : BUILDING B (BLDG. C SIMILAR)



NORTH PERSPECTIVE : BUILDING B (BLDG. C SIMILAR)



WEST PERSPECTIVE : BUILDING B (BLDG. C SIMILAR)



Community Planning and Economic Development

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NOTICE OF PUBLIC HEARING

July 30, 2025

**-RE: ZBA #25-08-14
1900 Belford Street
Parcel #06-27-209-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Abonmarche Byce on behalf of Edison Community Partners for 1900 Belford St within the Residential – Multi-Dwelling District (RM-24).

The applicant is requesting a dimensional variance from Appendix A, Chapter 4, Section 4.2 Q(b)(6), to authorize a variance to permit 25% - 30% of the exterior materials on the buildings on the proposed development be composed of brick, decorative precast, or a decorative masonry surface, concrete siding or other natural materials such as wood where at least 50% is required.

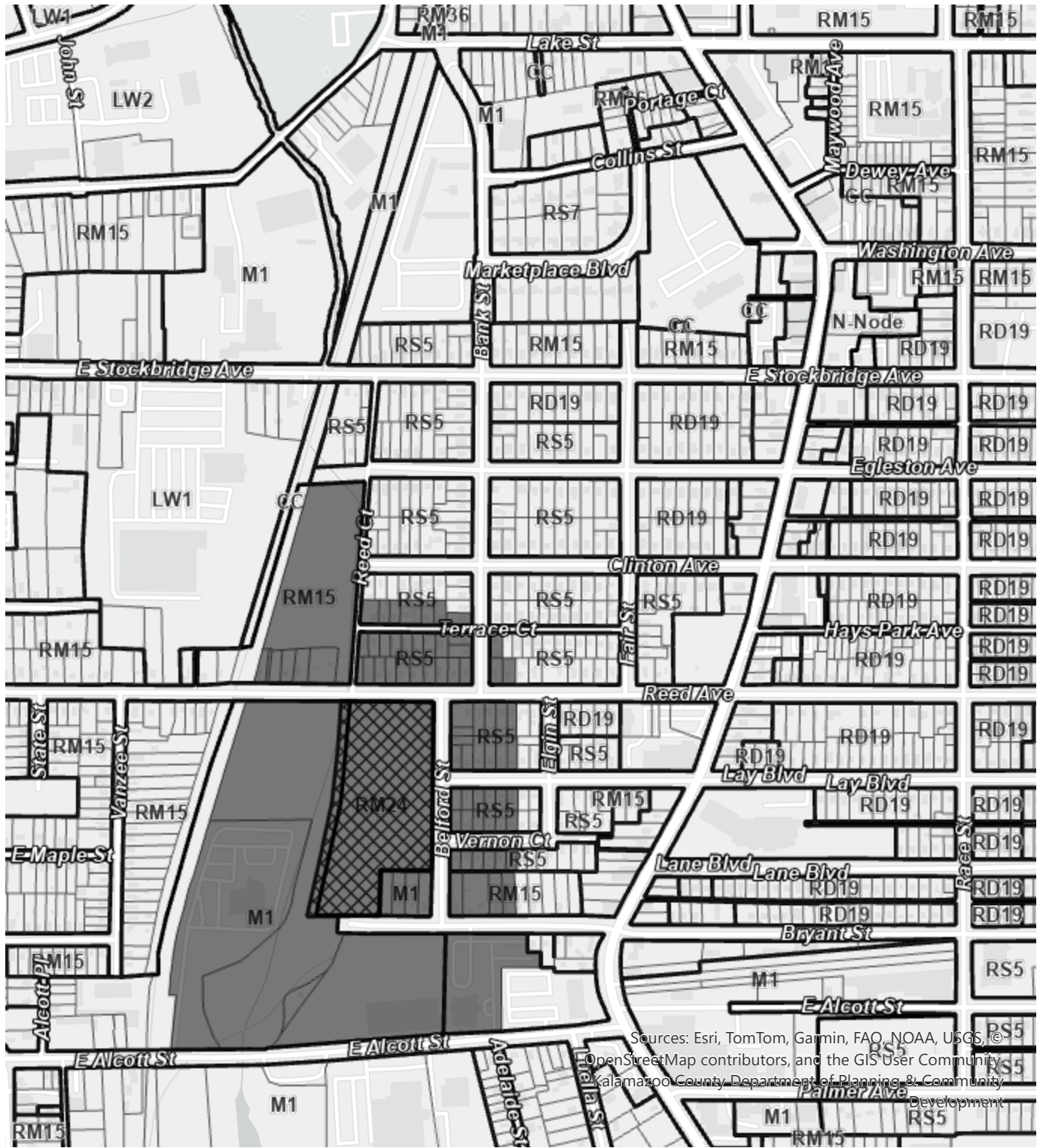
Please note that this request will not change the zoning classification of the property. This is a request for variance only regarding the item described above.

The meeting will be held on Thursday, August 14, 2025 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,

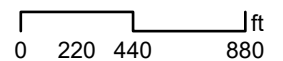
Peter C. Eldridge, AICP
Zoning Administrator



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community
 Kalamazoo County Department of Planning & Community Development

Parcels within 300' Mailing Radius 1900 Belford Street

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



ZONING BOARD OF APPEALS
~~RULES OF PROCEDURE~~ BYLAWS

ARTICLE I NAME

The name of this board is the City of Kalamazoo Zoning Board of Appeals (“ZBA”)

ARTICLE II ENABLING AUTHORITY

The Zoning Board of Appeals was established by the City of Kalamazoo, as authorized by the Michigan Zoning Enabling Act – MCL §125.3101 et seq (“Enabling Act”), under the City of Kalamazoo Code of Ordinances, Appendix A – Zoning Ordinance, §11.3 (“Zoning Ordinance”).

ARTICLE III PURPOSE, OBJECTIVES AND DUTIES

Section 3.0. The purpose of ZBA is to hear and decide questions that arise in the administration of the Zoning Ordinance as outlined in §11.3 and under the Enabling Act.

Section 3.1. The powers and duties of ZBA are further enumerated under §8.3E-Variances and §8.3G-Appeals of Administrative Decisions.

ARTICLE IV MEMBERSHIP

Section 4.0. *Members:* ZBA board members are appointed by the City Commission following the recommendation of ZBA and shall consist of ~~six (6)~~ **seven (7)** regular members and two (2) alternate members. In recommending membership to ZBA the board shall endeavor to ensure the membership represents a cross-section of the community regarding gender, race, or neighborhood composition, a member has experience or interest in the subject matters that routinely come before ZBA and several points of view are represented.

Section 4.1. *Term:* Members serve for three-year terms and may not serve for more than two consecutive terms, excluding fulfilling the unexpired term of a former member.

Section 4.2. *Residency:* Members shall be residents of the City of Kalamazoo and serve without compensation.

Section 4.3. *Vacancy:* If a vacancy occurs among the members of ZBA by reason of death, resignation, disability, or otherwise, the board shall follow the same procedure for filling the remaining term of such member as an original appointment.

Section 4.4. *Absences:* A member who is absent for more than 50% of the regular meetings of ZBA over a six-month period is considered to have resigned as a member. ZBA shall submit as soon as practicable for City Commission approval the name of the individual it recommends to fill the remaining term of that absent member.

ARTICLE V OFFICERS

Section 5.0. *Officers:* The officers of ZBA shall consist of a Chair, Vice-Chair, and Secretary, elected by ZBA at its annual meeting. Officers shall serve for a period of one year and may be reelected.

Section 5.1. *Recording Secretary*: An staff employee of the Community Development and Planning Department shall serve as Recording Secretary of ZBA, but shall not have a vote in matters before the Board. In the absence of the Recording Secretary from any meeting, the officer presiding shall designate an Acting Recording Secretary to serve for the meeting in question.

Section 5.2. *Duties of Officers*:

- a) Chair
 - 1) To preside at all meetings of ZBA.
 - 2) To call Special Meetings in accordance with these Rules of Procedure.
 - 3) To see that all actions of ZBA are properly taken.
 - 4) To decide points of order and procedure subject to these rules and with the guidance of Robert's Rules of Order (as revised).
 - 5) To sign all documents and letters on behalf of ZBA.
- b) Vice-Chair
 - 1) During the absence, disability or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and responsibilities of the Chairperson.
- c) Secretary
 - 1) To present to ZBA all such business as shall properly and legally come before it.
 - 2) To inform ZBA of all correspondence relating to business of ZBA and to attend to such correspondence.
 - 3) To conduct the election of officers at ZBA's Annual Meeting.
 - 4) To conduct a special election for the appointment of any officer to fill a vacancy, in accordance with these Rules of Procedure.
 - 5) During the absence, disability or disqualification of the Chair and Vice-Chair, the Secretary shall exercise or perform all the duties and responsibilities of the Chair.
- d) Recording Secretary
 - 1) To take and keep the Minutes of all meetings of ZBA.
 - 2) To give or serve all notices required by law or these Rules of Procedure.
 - 3) To prepare the Agenda for all meetings of ZBA.
 - 4) To be custodian of ZBA's records.

Section 5.3. *Vacancies*: If any vacancy occurs among the ZBA officers before the term of that officer expires, ZBA shall hold an election at the next regularly scheduled meeting, or as soon as practicable, in the same manner as an election for full-term officers. The officer will serve the unexpired term of the office in which the vacancy occurred.

ARTICLE VI MEETINGS

Section 6.0. *Regular Meetings*: ZBA shall conduct regular meetings in City Hall at 7:00 p.m. on the Second Thursday of each month. At each meeting, ZBA shall consider all matters properly noticed and brought before it. A regular meeting may be canceled if there are no matters for consideration; or may be rescheduled by ZBA at a prior meeting or by a majority of the ZBA members with sufficient public notice of the meeting change. If a quorum of ZBA members is not present at the regular meeting, the meeting shall be rescheduled to the next regularly scheduled meeting.

Section 6.1. *Annual Meeting*: The Annual Meeting of ZBA shall be the first regular meeting in February each year. The election officers for the ensuing year shall occur along with such other business as scheduled before ZBA.

Section 6.2. *Special Meetings*: Special meetings of ZBA shall be held at a time and place

as designated and called by the Chair, or by a concurring vote of a majority of ZBA members, which vote may be obtained by telephone as reflected in the minutes of the special meeting. The notice of the special meeting shall include the purpose for which it is held; ZBA may not conduct business beyond that purpose. The notice of the special meeting shall comply with the Open Meetings Act and posted at least 18 hours before the scheduled hearing time.

Section 6.3. *Quorum*: At any meeting of ZBA, four members of ZBA shall constitute a quorum. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date. If only four members are present the applicant of the matter pending before ZBA shall have the option to delay the public hearing until the next regularly scheduled meeting.

Section 6.4. *Voting*: At all meetings of ZBA, each member attending is entitled to cast one vote. Voting on all matters upon which ZBA is required to act under the Zoning Ordinance or Enabling Act, shall be by roll call. **A minimum of four (4) affirmative votes are required to approve a request.** All other action shall be by voice vote, except when a majority of the members present prefers a roll call or ballot vote.

Section 6.5. *Disclosure*: If any member of ZBA has a real or apparent conflict of interest in a matter then before ZBA, that member shall disclose the conflict of interest and is disqualified from participating in the discussion or voting upon the matter. The Recording Secretary shall record in the minutes that the member did not participate in or cast a vote in that matter. A conflict of interest shall include, without limitation the following situations or relationships:

- a) The member, or his/her immediate family, his/her partner, or an entity in which the member has family or business ties has a financial or beneficial interest.
- b) The member has an ownership interest in the property or owns property adjacent to property that is before ZBA.
- c) The member is the employer or employee of the applicant or agent for the applicant and has a direct financial or beneficial interest in the outcome.

Section 6.6. *Conduct of Meetings*: All meetings of ZBA are open to the public. The order of Business at meetings shall be as follows:

- a) Call to Order
- b) Communications and Announcements
- c) Approve of the Minutes of the Previous Meetings
- d) Public Hearings
- e) Old Business
- f) New Business
- g) Adjournment

No board member or other person shall speak until duly recognized by the chair, and he or she shall immediately cease speaking if ruled out of order. Speakers other than members, after being recognized, shall commence by identifying themselves by name and address. The applicant shall have ten (10) minutes to present the reasons for the requested variance or other action that is before ZBA. Members of the public shall then be permitted to speak pursuant to these Rules of Procedure and the City Commission Rules pertaining to advisory boards and commissions. The chair has the option to grant additional time to the applicant or individual considering the particular circumstances involved in the matter under consideration. However, the chair may limit public comment and audience participation to the factors that ZBA must consider for the item under consideration to maintain the order of the meeting,

Section 6.7. *Adjourned Meeting:* ZBA may adjourn a regular or special meeting if all business cannot be disposed of on that date. No further public notice is required for such meeting if the time and place of its resumption is stated at the time of adjournment and is not subsequently changed.

Section 6.8. *Parliamentary Authority:* The rules contained in the current edition of Robert's Rules of Order Newly Revised shall guide the ZBA; however parliamentary procedure shall be flexible and may be adjusted in the Chair's discretion to best serve the needs of the ZBA. Nevertheless, no procedure shall be adopted that is inconsistent with the Rules of the ZBA.

ARTICLE VI APPEALS OF ADMINISTRATIVE DECISIONS

Section 7.0. *Appeals:* In addition to all other matters properly brought before ZBA, ZBA shall hear and decide appeals from, and review any order, decision, determination, or interpretation made by the City Planner or other city administrative official in the administration or enforcement of the Zoning Ordinance. The appropriate city staff shall appear in person to present information to ZBA when the work has been started before the appeal was brought to ZBA.

Section 7.1. *Time:* All written appeals from any order, decision, determination or interpretation made by the City Planner or the above city administrative official shall be made within thirty (30) days of the date of the order, decision, determination or interpretation.

Section 7.2. *Record on Appeal:* Upon receipt of the written appeal, the City Planner or the city official whose order, decision, determination or interpretation is being appealed shall transmit the written appeal and all papers, documents and other materials relating the issues involved in the appeal.

Section 7.3. *Schedule of Hearings:* The scheduling of the appeal shall occur at the next regularly scheduled meeting that complies with the written notice requirements regarding the substance and timing of the notice under the Zoning Ordinance.

Section 7.4. *Findings of Fact:* Following the hearing of any appeal ZBA shall make a finding of fact upon which it shall base its decision. A finding of fact shall consist of the facts and circumstances relied upon by ZBA in its determination of an appeal and shall be based upon the evidence presented to ZBA.

Section 7.5. *Decision:* ZBA may affirm, partly affirm, modify, or reverse the order, decision, determination or interpretation of the City Planner or the city official. Competent, material and substantial evidence on the record that the order, decision, determination or interpretation failed to comply with either the procedural or substantive requirements of the Zoning Ordinance, state law or federal or state constitutions is required before ZBA can, by the concurring vote of the majority of ZBA members, reverse or modify that order, decision, determination or interpretation. ZBA may impose conditions that ensure the requirements and purposes of the Zoning Ordinance are followed on any affirmative decision. If ZBA does not render its decision on the date of the hearing, after all the evidence is presented, it shall make that decision by the next regularly scheduled meeting.

ARTICLE VIII POST DETERMINATIONS

Section 8.0. *Conditions of variances:* Unless otherwise specified by ZBA all variances granted shall become null and void if not exercised within one year from the date of granting. Further all variances approved by ZBA are granted in accordance with any site plan, documents or other information submitted to ZBA at the hearing for consideration.

~~Section 8.1. *Reconsideration:* Following any decision adopted by ZBA, a member who either~~

~~voted with the prevailing side or did not vote may make a Motion to Reconsider may at any time during the same meeting, or within ten (10) days after the meeting. The member making a Motion to Reconsider after the meeting shall submit the motion in writing with the stated reasons to support the motion; and that shall further deliver the motion to the recording secretary, city staff providing primary administrative support to ZBA and the other ZBA members who were present at the meeting. Any member may second the motion, and if motion is made after the meeting the second shall also be in writing and delivered in the same manner as the motion. The decision on the motion shall occur at the next regularly scheduled meeting. No decision shall be reconsidered more than once, nor shall a vote to reconsider be reconsidered. The applicant, or aggrieved person who originally appealed to ZBA, shall be given notice if a Motion to Reconsider is made and filed.~~

~~Section 8.2. *Rehearing – Change of Circumstances/Newly Discovered Evidence:* Any person whose request for a variance was not approved, or whose appeal was not granted may submit a written request for a rehearing based on a change in circumstances or the discovery of new evidence (not available or known at prior hearing due to no fault of that person) which facts accompany the request. In order for ZBA to grant a rehearing it must first determine, based on the evidence presented at the public hearing that a change in circumstances occurred or that new evidence does exist. ZBA shall consider the request for rehearing at the next regularly scheduled meeting that will comply with the notice requirements for a public hearing.~~

ARTICLE IX MISCELLANEOUS

Section 9.0. *City Staff Support:* To better carry out ZBA's duties and responsibilities under the Zoning Ordinance, the City Planner shall appoint employees of the city's Community Planning and Economic Development Department to provide administrative support and professional advice to ZBA, including one acting as the Recording Secretary. The City Attorney's Office shall also act as legal consultant to ZBA.

Section. 9.1. *Amendment:* These Rules of Procedure may be amended at any meeting of ZBA provided that the proposed amendment is delivered to each member in writing at least five (5) days before that meeting.

Originally Drafted by Assistant City Attorney John Kneas: July 16, 2017
Approved by the Zoning Board of Appeals: August 10, 2017
Implemented: November 9, 2017

Amendment 1 Drafted: January 5, 2022
Approved by the Zoning Board of Appeals: January 13, 2022
Implemented: February 10, 2022

Amendment 2 Drafted: June 4, 2025
Approved by the Zoning Board of Appeals: _____
Implemented: _____