

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, August 12, 2021

7:00 PM

Virtual Meeting

A. CALL TO ORDER/ROLL CALL

B. APPROVAL OF MINUTES

1. Approval of Minutes from the Zoning Board of Appeals meeting on May 13, 2021.

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #21-08-09: 433 Riverview Drive. Robert Jeffries is requesting two use variances for the property: **1)** A use variance from Chapter 3, Section 3.7-1, to utilize the existing building for auto detailing where car washes and auto detailing do not align with the permitted uses for Sub Area 6 of the Riverfront Overlay; and **2)** A use variance from Chapter 3, Section 3.7-1, to utilize the property for car sales, which also does not align with Sub Area 6 of the Riverfront Overlay.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
MAY 13, 2021 - 7:00 p.m.**

This meeting is being conducted electronically pursuant to the Open Meetings Act MCL 15.263 (2) and MCL 15.263a 1(b).

Members Present: Matt Lager, City of Kalamazoo, MI; Chris Flach, City of Portage, MI; Christina Doane, City of Kalamazoo, MI; Jeff Carroll, City of Kalamazoo, MI; Beth van den Hombergh, City of Kalamazoo, MI; Remi Harrington, City of Kalamazoo, MI

Members Absent:

City Staff: Pete Eldridge, Assistant City Planner; Clyde Robinson, City Attorney; Beth Cheeseman, Recording Secretary; Jamie McCarthy, Redevelopment Project Manager; Amanda Cockroft, Marketing and Communication Specialist

Public: Andy Wenzel; Tammy Stefl; Greg & Nicole Tiongson; Tomas Minto; Aaron Smith; Alice Covell, Nicolas

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

Mr. Eldridge noted that agenda items H. Public Comment, I. City Commission Liaison Comments, and J. Planning Commissioner Comments were not a part of the ZBA meeting.

Chair Lager explained the process for citizens to comment on public hearing items. He also explained the process of finding of the fact and the public hearing. Four votes are required for any variance to be approved.

MINUTES:

Ms. van den Hombergh, moved to approve the minutes of April 8, 2021, as submitted, seconded by Mr. Carroll.

Mr. Eldridge commented that there was one misspelling in the minutes which was corrected. Chair Lager asked for a vote with the correction of the misspelling.

A voice vote was taken, and the motion was approved unanimously.

NEW BUSINESS:

PUBLIC HEARINGS: Chair Lager 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 received via phone will be aired for the panelist and audience. Then the public hearing would be closed on the request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear here 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 now 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. Doane read the application for 2636 Bronson Boulevard, Parcel #06-28-418-013:

ZBA #21-05-05: 2636 Bronson Boulevard: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Nicole and Greg Tionson owners of 2636 Bronson Boulevard, which is situated in Zone RS-5, Residential – Single Dwelling District. The applicants are requesting: 1) A dimensional variance from Chapter 6, Section 6.3 A 2, to authorize replacing seven foot tall fencing in the front yard along Bronson Boulevard and eight foot fencing along the alley to the south, where fencing in the front yards is limited to four feet under the Zoning Ordinance; and 2) A dimensional variance from the Chapter 6, Section 6.3 A 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards) like the existing fence, where the Zoning Ordinance states front yard fencing may have a maximum of 75% opacity.

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

Mr. and Mrs. Greg and Nicole Tionson were the applicants for the variance.

Mr. Tionson reported that their property is surrounded by road or alley on all sides. In the back yard they have a pool with a privacy fence in place. He said that fence needs to be repaired/replaced. Since the purchase of the property, the zoning laws have changed so that frontage needs a specific type of fence. Mr. Tionson said that the previously determined back yard is now considered a front yard by zoning ordinance. This creates a scenario where they cannot have a privacy fence around their pool. They essentially have no back yard because there is frontage of street on all sides.

Mrs. Tionson said they front Edgemoor Avenue. They do not have fencing along Edgemoor or most of Bronson Blvd. The privacy fencing that currently exists only includes what they consider a backyard space. She noted that to comply with ordinances for pool fencing and Kalamazoo fencing, they would need to have fencing custom built. Mrs. Tionson said it would cost quite a bit more to fence this area because of that. She shared that the pool was put in at least 50 years ago - predating the ordinances. They are requesting one section of fence along the alley to be higher because it hides the pool mechanicals. Mrs. Tionson explained that the whole property sits on a hill. Even with the current privacy fencing (7 feet high), when

they stand in the backyard, they can see Bronson Blvd and into their neighbor's yards. She feels it is a unique situation. The fencing will provide privacy only on the level of the pool. She also explained they are not requesting any changes to the footprint of the fence. To be in good repair, they need to replace posts and panels, which makes it considered a replacement fence, not just a repair.

Mr. Flach asked about the kind of fence they would put in as a replacement and if the fence was there when they purchased the house. Mrs. Tiongson said they purchased the home in 2003 and the fence was there. They currently have a stockade style fence with narrower vertical boards. She said the businesses they have consulted don't have that style any longer, so it would be a wider board panel, but the same footprint.

Mr. Flach asked staff when zoning requirements changed for fencing. Mr. Eldridge responded that fencing regulations changed in October 2005. He said that specific standards were created for front yard fencing. These requirements limit height of fencing to 4' and requires gaps between boards – the opacity standard.

Mrs. Tiongson clarified that even though their address is Bronson Boulevard, the front door and primary use is on Edgemoor Avenue.

Mr. Flach asked staff to clarify what makes a repair vs a replacement of a fence. Mr. Eldridge stated that they can repair a nonconforming fence. If 50% or more of it is removed, it has to be replaced with a fence that meets ordinance standards. They could replace a few boards at a time for fence maintenance. This was explained to him as a removal and replacement of the fencing along two sides of the property. There is no exception in the ordinance regarding corner lots. Mr. Flach wondered if they replaced half the fencing, if there was a time period, they would have to wait to replace the rest for it to be considered a repair. Mr. Eldridge said it would be an administrative call whether it was a replacement or a repair.

Mr. Carroll clarified the height of current fences in the alleys and what they are requesting. Mr. Tiongson said the fences are currently 8' in one alley and 6' in the other. They are requesting to replace them with the same heights as is currently there.

Mr. Eldridge clarified that the request was written for a 7' fence along Bronson Blvd, but it sounds like that may really be 6'. They can say in the motion to replace the fence with new fencing of the same height.

There were no comments from the public.

Chair Lager closed the public comment portion of the public hearing.

FINDING OF FACT

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

- 1.) The Finding of Fact for 2636 Bronson Boulevard shall include all information included in the notice of public hearing dated May 13, 2021.

- 2.) Ninety two notices of public hearing were sent, and four responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations, and a letter. Received one additional document on this request.
- 5.) 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:

Applicants are surrounded by frontage on all sides of the property. They have concerns over safety with their pool. Applicants would like to have fence higher on the side by the alley to cover pool mechanicals and to assist with vision line due to hill.

Mr. Eldridge asked her to specify correspondence received. Ms. van den Hombergh stated there were four items: letters of support from Ed and Mary Pawlak, James Klein, and Cynthia Alves. The fourth item was a review sheet from the applicants.

Mr. Carroll seconded the Finding of Fact.

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

Mr. Flach said he was in favor of the variance. It makes sense based on what is currently there, and they could technically do this without coming to the zoning board. He felt it was within the design of what ordinance intends. He noted that the footprint and size of the fencing was not changing and there was no neighbor concern.

Chair Lager stated he was also in favor. He said the first element they look at in deciding dimensional variances is if there are special circumstances of unique topography or shape of parcel. Chair Lager stated that this parcel absolutely has unique circumstances. It is surrounded by roads or alleys. The orientation of the house does not formally have frontage – especially on Bronson Blvd.

Mr. Eldridge suggested they do two separate motions for this hearing - one for height and one for opacity. The first motion can read to authorize replacing of the fencing of front yard along Bronson Blvd. and along the south alley with fencing of same height.

Ms. Doane made a motion to grant a dimensional variance from Chapter 6, Section 6.3 A 2, to authorize replacing fencing in the front yard along Bronson Boulevard and fencing along the alley to the south with fencing of the same height as what currently exists,

where fencing in the front yards is limited to four feet under the Zoning Ordinance, seconded by Mr. Carroll.

Motion approved by roll call vote unanimously.

Ms. Doane moved to grant a dimensional variance from Chapter 6, Section 6.3 A 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards) like the existing fence, where the Zoning Ordinance states front yard fencing may have a maximum of 75% opacity, seconded by Ms. van den Hombergh.

Motion approved by roll call vote unanimously.

Ms. Doane read the application for 1503 S. Burdick Street, Parcel #06-22-382-003:

ZBA #21-05-06: 1503 S. Burdick Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Tomas Minto for the property at 1503 S. Burdick Street, which is situated in Zone CN-1, Commercial – Neighborhood District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q3, to authorize two dwelling units on the ground floor level of the existing building, where retail or other commercial floor space is required for the entire ground floor level in Zone CN-1.

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

Mr. Tomas Minto was the applicant for the variance.

Mr. Minto showed pictures of the house he is under contract to purchase. Currently the upstairs is residential and is rented. It was originally built as a home. A kitchen still remains in the first-floor unit. The addition was used as a hair salon. It has bathroom in it, but no shower. He felt this portion could be made into a low mobility or handicap accessible unit. Mr. Minto noted that one property to the north is office space. All others to south and north are residential. There is enough parking for more residential. No on-street parking will be needed. He said there would be no changes to the external structure and there would be minimal internal modifications. He wants to add units on the first floor. Mr. Minto noted there is a need for more housing units in Kalamazoo. He felt if the trend changes in the future, it could easily become soft offices or something similar.

Chair Lager asked how long since there had been commercial office or retail tenants in that space. Mr. Minto wasn't sure, but said it was currently empty on both sides.

Mr. Carroll asked how long the owner has been the owner. Mr. Minto responded that he has it under contract, but the owner has had it for 40 or more years.

Ms. Alice Covell, current owner, stated that she and her husband purchased it in 1983 for use as a medical billing company. They had planned to convert it into two more apartments when they no longer needed it for their business. Ms. Covell said she finally realized she would not

be able to carry out their plans, so she put it up for sale. She stated her pleasure to have a buyer interested in carrying out the vision she and her husband had for the property. Ms. Covell requested the ZBA Board grant the variance for this property.

Ms. Maureen Kelly, Berkshire Hathaway, said she had 14 showings of this property. Two people were interested in commercial possibilities and the rest were interested in residential. She said they currently have very few residential listings in the City of Kalamazoo. There is definitely a higher need for residential.

Mr. Eldridge said the Future Land Use map identified this area as Neighborhood Edge. What is being proposed is in line with the Neighborhood Edge category which allows for residential uses. He anticipates this area will be rezoned in the future and may be a candidate of Live Work 1 or 2 categories which promotes a mix of residential and commercial uses. He said the CN-1 zone district has the requirement of no residential units on ground floor, which is what brought Mr. Minto to the board. Mr. Eldridge said that staff support this proposed use variance, and they believe it fits with the surrounding area.

No public comments at this time.

FINDING OF FACT

Mr. Jeff Carroll moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1503 S. Burdick Street shall include all information included in the notice of public hearing dated May 13, 2021.
- 2.) 46 notices of public hearing were sent, and one response was received. It consists of a letter of support from the Edison Neighborhood Association.
- 3.) A public hearing was held before the board and public comments were accepted. There were none.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations, and a letter. No additional documents provided.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Mr. Tomas Minto spoke on behalf of the application and was joined by current owner, Ms. Alice Covell. The property is under contract currently. It was originally built as a home. The second floor is currently a residential rental. The addition was previously used as a salon. The ground floor is currently vacant. Substantial number of surrounding properties is residential. Applicant believes there is plenty of on-street parking to support additional

residential use on this street. Future Land Use Map designates this area as Neighborhood Edge. Request meets spirit of land use designation.

Mr. Eldridge clarified that it was off-street parking that was identified as available.

Ms. van den Hombergh seconded the Finding of Fact.

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

Chair Lager said he was in favor of approval of this variance. He said they have seen a number of these in the last couple years where a commercial corridor has verged into more of a residential area. Chair Lager noted the comments from the realtor saying there is a high need for residential in the community and a lower need for commercial. He believes this would be in keeping with the character of the area.

Ms. Doane moved to approve the use variance from Chapter 4, Section 4.2 Q3, to authorize two dwelling units on the ground floor level of the existing building, where retail or other commercial floor space is required for the entire ground floor level in Zone CN-1, seconded by Ms. van den Hombergh.

Motion approved by roll call vote unanimously.

Ms. Doane read the application for 3110 Oakland Drive, Parcel #06-29-474-110:

ZBA #21-05-07: 3110 Oakland Drive: An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Consumers Credit Union owner of 3110 Oakland Drive, which is situated in Zone Commercial – Neighborhood District and the Natural Features Protection Overlay. The applicant is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 K.8 c), to authorize a small portion of the parking lot in the northwest corner of the site to extend within the critical root zone of an existing 42-inch maple tree.

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.

Ms. Tammy Stefl was the applicant for the variance.

Ms. Stefl explained they are planning a two-story building to be used for Consumer's Credit Union purposes as well as two lease spaces. In addition, they are going to redevelop the existing Bacchus building by using part of the foundation to create a multi-tenant space with possible retail, office, and/or restaurant. Because of the high intensity of use, they are concerned about the number of parking spaces. Ms. Stefl said they are requesting the variance to allow a small portion of the parking lot to be in the critical root zone of a Maple tree. The paving currently there goes beyond the area they are proposing to pave. They will actually be decreasing the paving in the critical root zone. The tree in question is not in good health and the NFP board would be in support of removing the tree. She said if they removed the tree, they would have to do replacements, so they would not be taking away, but adding to site.

Mr. Eldridge shared pictures of the tree area. He explained that pavement will go back to near the base of the tree. It is a substantial tree, but parts of it are not in good health. Mr. Eldridge introduced Ms. Jamie McCarthy and explained the variance related to the dumpster was not looked at favorably by the NFP, so there would be a redesign to reposition the dumpsters. The pavement in critical root zone was more acceptable to NFP.

Ms. McCarthy shared that the NFP Review Board didn't feel the parking lot encroachment into the critical root zone was going to threaten the health of a viable natural feature. The dumpster enclosure was something that could be redesigned or handled by a different kind of variance. Ms. McCarthy shared pictures of the area behind the Bacchus building. This site will be cleaned up and have improved conditions. She mentioned the long-standing stormwater and erosion issues there. They feel the curb and gutter type parking lot will help stop some of the degradation they see back there. The NFP Board felt the spirit of the NFP code was not being reduced here and they would probably see improvement to the natural features on the site.

Chair Lager stated that this is the second time they've had a variance recommendation from NFP. He asked staff to talk about the process. Mr. Eldridge explained that it is a two-step process. A recommendation comes from the NFP Board and then it is up to the ZBA board to grant the variance. He said it is similar to a rezoning where the Planning Commission makes a recommendation to City Commission for final review and approval.

Mr. Eldridge stated that Consumers Credit Union has worked diligently to make a multi-tenant development project for this corner with a pedestrian space on the corner of Oakland Drive and Parkview Ave. He said it is really a dynamic project that will change the look of the corner.

Ms. Harrington said she was struggling with the idea of using the pedestrian space as a rationale for the development of this parking lot.

Ms. McCarthy explained that the corner does need work. The NFP Board saw that the tree had survived in this state in poor condition. They decided to allow the new paving to go in because they think it will bring the site up to a better condition and be a bit more protective of the tree. During site plan approval, the NFP wants to see better treatment of this area – maybe some regrading, replanting, better cover. That will come with NFP review and approval of the site plan. The Board says putting a parking lot this close to this tree isn't threatening natural features any more than it has for a long time. They felt this tree is in the latter stages of its lifespan.

Mr. Eldridge added that they are not pushing development by Woods Lake. They won't be intruding any further into the woodland or slope area.

Mr. Carroll questioned how they know the demand for parking or site plan needs, when they don't know the type of tenants who will be using the building. He felt the application was a little vague. Mr. Carroll said he needed to know the definition of a small portion. If they grant a small portion, how many feet is a small portion?

Mr. Eldridge said there was an idea of the type of uses planned for these buildings. Parking calculations are not that different from retail uses and the restaurant space proposed. He said if they get a user there that wants more than one tenant space and has a slightly larger parking requirement, commercial zones allow for use of shared/dedicated parking within 600 feet. Mr.

Eldridge said there is always the ability to have auxiliary parking designated for this development.

Mr. Carroll said if there was a less intense use, then they would need less parking. Mr. Carroll said his vote would be no, unless there is a definition of a small portion. Mr. Eldridge explained that new pavement going in would not be closer to the trunk of the tree.

Ms. McCarthy stated that she appreciated Mr. Carroll's comments, and, in the future, they can be much more specific. She showed a drawing of the area of the critical root zone. Mr. Carroll said he thought NFP would want to know the square footage encroaching in the root zone. He said they were very specific about whether the first applicant could do a 6' or 7' fence replacement. Mr. Carroll thought it was only fair to be specific with this as well.

Ms. van den Hombergh said she was inclined to vote yes on this proposal because the developer was reducing the paved area. She was confused as to why there was an issue. Once they put the parking lot in, there wouldn't be as much water runoff and damage done to the soil.

Chair Lager believed the phrase "a small portion" was superfluous to the construction of the request. He felt the request was asking them to authorize the parking lot to be extended into the critical root zone.

Mr. Eldridge asked Ms. McCarthy to clarify the calculation for the critical root zone. Ms. McCarthy said the applicants are to calculate the critical root zone of a protected tree by using the diameter of the tree trunk at breast height – measuring outward from the outside of the tree trunk 18" for every 1" of tree diameter.

Mr. Flach agreed with Mr. Carroll that there was no clarification of what small portion means.

Mr. Eldridge thought they had provided enough detail in packet by referencing the section of NFP standards talking about critical root zone and identifying the 42" maple tree. He said in the future, they can be more specific.

Mr. Nicholas Loeks, applicant, explained the process they had gone through. He said they talked about possibly moving the dumpster in that corner of the critical root zone to keep it out of the slope area. That's why that area hadn't been defined.

Ms. Harrington didn't believe that the tree was being prioritized in order to protect the natural features. She felt it was underhanded and in opposition of the integrity of the NFP protection.

Mr. Eldridge said that on the site plan layout there is a clearly defined circle around this 42" tree that is the critical root zone. He didn't feel it was as nebulous as they were saying - it is a known quantity. Mr. Carroll stated that if it is a known quantity, it can be calculated. He felt that they could table the issue until there is a calculation. That would protect the community and the NFP. Ms. Harrington agreed with that, saying they've declared a climate crisis and trees produce oxygen. It is not a minor issue.

Mr. Eldridge agreed they were making valid points. He explained that the NFP Board has the expertise to make a solid call if this is a safe variance to grant that will not prematurely bring

about the end of the life of that tree. This development will bring about stormwater management and containment that this site has not had in decades. Mr. Eldridge said there are numerous environmental benefits to this development. They have expertise to put into making the recommendation.

Chair Lager asked if it was the intention of the NFP Board and its recommendation to allow the construction of the parking lot to extend into the entire critical root zone of the 42" maple. Ms. McCarthy responded that the NFP Board was recommending a variance the way the drawing was drawn. There is an actual dimension and when they approve a site plan or make a recommendation, that plan once approved stands. Once it is built in the field, the inspector measures and makes sure the plan matches what is built. Mr. Lager asked if they could word the motion to include the drawing and define the critical root zone by reference to the drawing.

Mr. Carroll said he wanted to vote yes, but he wanted the calculation to be done.

Attorney Robinson stated that they could reference the drawing as part of the motion. The other option is to postpone action for one month to get a quantifiable number.

Mr. Loeks calculated and said that the number was roughly 1200 square feet.

Ms. Harrington asked if that was a 1200 sq. ft. encroachment into the critical root zone and what that meant for the tree.

Ms. McCarthy explained that when the standard was written, the intent was not to just protect the tree by not cutting it down. They also wanted to make sure the root zone doesn't get damaged by being driven over or compacted. During construction, there is a requirement of fencing around critical root zone. The NFP Board looked at this case and saw there was already pavement in the critical root zone. The developers are not proposing to make it worse, so it didn't seem like their proposal was threatening the natural feature.

Ms. Doane asked for the calculation of how much the parking lot encroaches in the critical root zone now.

Ms. Harrington said that at the beginning of the conversation it was asserted that the tree had reached the end of its life cycle. She took that to mean (coupled with the small portion language) that the tree and critical root zone wasn't taken into consideration. While she understands there is no additional encroachment on this critical root zone, she thought it was an underhanded way of setting a precedent and that NFP was not protecting the natural features.

Mr. Loeks said that the parking lot currently encroaches 1477 sq. ft. in the critical root zone.

Chair Lager recounted that currently the parking lot covers 1477 square feet of the critical root zone of this tree. They are requesting a variance that the parking lot be allowed to cover no more than 1200 square feet of the critical root zone.

There were no comments from the public.

Chair Lager closed the public hearing.

FINDING OF FACT

Mr. Flach moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 3110 Oakland Drive shall include all information included in the notice of public hearing dated May 13, 2021.
- 2.) Thirty-one notices of public hearing were sent, and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations, and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

The applicant made a request to redevelop the property for use as a multi-tenant space. The intent is to make sure there will be adequate parking for tenant use. Staff displayed pictures of the tree. They noted that the city wants that area to be improved. Jamie McCarthy, NFP liaison, said the encroachment in the critical root zone will not be problematic for the tree. The site will be cleaned up and the parking lot may help with erosion. However, NFP was not in support of another variance for the dumpster. Possible work will not harm tree but may help the tree. Jeff Carroll asked for clarification of small portion. Nicholas Loeks provided the exact amount of encroachment to critical root zone. Applicant would like the parking lot to cover no more than 1200 square feet of critical root zone.

Ms. van den Hombergh seconded the Finding of Fact.

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

Chair Lager stated that the motion will be for the granting a variance from the Natural Features Protection Ordinance Chapter 50, section 50-6.2 K.8C to authorize that not more than 1200 square feet of parking lot in the northwest corner of the site be constructed to extend within the root zone of the existing 42" maple.

Ms. Doane made the motion as stated by Chair Lager, seconded by Ms. van den Hombergh.

Mr. Flach stated that he is in favor of granting the variance with the clarification and with the recommendations of the NFP Board. The area is already dilapidated and there is runoff. The current condition of the property does not benefit the geographic landscape nor the natural features. The developer is proposing to reduce the amount of impervious soil. He sees this as a benefit for everything including the tree.

A roll call vote was taken. Mr. Flach, Mr. Carroll, Mr. Lager, Ms. Doane and Ms. van den Hombergh voted yes. Ms. Harrington voted no.

Motion was approved by roll call vote and passes.

Ms. Doane read the application for 225 Parsons Street, Parcel #06-15-139-001:

ZBA #21-05-08: 225 Parsons Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by PlazaCorp Realty Advisors owners of the property at 225 Parsons Street, which is situated in Zone LW-2, Live Work – 2 District. The applicant is requesting a dimensional variance from Chapter 50-5.6 C(2), of two stories to authorize the construction of a five-story hotel directly north of the former Gibson Guitar Factory where three stories is the maximum height permitted for the Live Work -2 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.

Mr. Andy Wenzel, PlazaCorp Realty Advisors, was the applicant for the variance.

Mr. Wenzel gave an overview of their plan for the site. This historic site was the original manufacturing facility for Gibson guitar. Current tenants, Heritage Guitar and Forensic Fluids, will remain after the renovation. Mr. Wenzel shared that this renovation project includes Hard Rock Hotel as their partner and spaces for tenants, banquets, a restaurant, a museum, and smaller complimentary uses. The variance request is to accommodate Reverb by Hard Rock. It is a new brand for an affordable but contemporary hotel. It will have 125 rooms with a music theme, highlighting local food, entertainment, and music. Partners for the museum space are WMU, KVCC, Kalamazoo Valley Museum, retired Gibson employees, current employees of Heritage, and museum planning professionals. They will rebuild the historic smokestack that was removed. Mr. Wenzel said they are working with the State Historic Preservation Office and National Park Services for national accreditation of an historic site and the redevelopment and addition. He said they have preliminary National Park Service approval for renovation of the site in general.

Chair Lager clarified that the addition would be five stories. Mr. Wenzel stated that the ordinance allows new construction of three stories measuring 52' tall. Their overall height for five stories will be 55'. Mr. Wenzel said they need a variance for adding the two stories.

Ms. Doane clarified that the allowed height is 52' and they desire to build to 55'.

Mr. Wenzel shared that they did have a Community Open House where they talked to the community about their plans for the site. He believes this project is in line with the Strategic Goals of the community and the Master Plan. Mr. Wenzel felt they met special circumstances criteria in that they are redeveloping a building that takes up whole City block and it incorporates historic preservation. He believed this redevelopment meets the intent of the ordinance by having the addition as far away from adjacent properties as possible. They have done community outreach – they shared their plans with Mt. Zion, Lincoln International Studies school, the Northside Association for Community Development, property owners and

occupants. They also plan to incorporate job training in the neighborhood. He said they are retaining 100 jobs and bringing in 100 jobs.

Mr. Carroll clarified that the ordinance reads number of stories. He thought they should craft the motion to say 5 floors at a maximum of 55’.

Mr. Eldridge presented the staff report. He said the facility encompasses an entire city block and is currently 134,000 square feet. The former zoning in the area would have allowed for a five-story structure. He noted that PlazaCorp was supportive of the rezoning of this property. Mr. Eldridge said that the Master Plan 2025 designates rezoning a large portion of this area from Manufacturing to LW-1. Manufacturing intensity doesn’t fit well with existing residences in this area. The Live Work categories allow for more residential to come in, but at the same time allows for commercial development to thrive as well as cottage and smaller scale manufacturing. Mr. Eldridge stated that the design which pushes the additional height away from adjacent streets will lessen the impact to the area. The current structure is already over 40’ in height and the smokestack will be taller than that. He said this development will bring new jobs to the area. Mr. Wenzel did quite a bit of outreach to surrounding businesses and residents. Mr. Eldridge stated that there were emails of support from Jamauri Bogan, local developer and Jane Ghosh, Discover Kalamazoo. There were also letters of support from Dr. Addison Moore, Pastor of Mt. Zion, and Ms. Mattie Jordan Woods of the Northside Association of Community Development.

Mr. Flach asked if the applicant would need a variance for a three-story building that was 52’ tall. Mr. Eldridge stated there wasn’t a need for a variance if it was only three stories. The ordinance is to regulate height and reduce intensity of development.

Mr. Flach asked if staff was in support of the intensity of the current site plan. Mr. Eldridge agreed that staff was in support. The site is already at a higher intensity level and adding additional stories for the interior of the building doesn’t impact surrounding properties.

Ms. Harrington asked if there was a strategic plan surrounding development without displacement as it relates to zoning shifts. She was also curious about what the workforce development piece looked like and if there was a component for living wage jobs.

Mr. Wenzel said they have a plan for collaborating with Ms. Jordan Woods and KVCC for the job training process. They are working with hospitality users, hotels, and restaurants, to talk about job training. They plan to work with other groups as well, but this is where they’ve started.

There were two comments from the public.

Mr. Jeff Mitchell, Founder and Director of Kalamazoo Academy of Rock, called in support of the variance request for zoning at 225 Parsons. He said they had their band room in that building for about 9-10 years. Mr. Mitchell stated that he was behind the project for saving the stack. He supports any work that can be done there to improve the building and recognize it as an historic landmark. Mr. Mitchell is supportive of allowing for commercial enterprise there that will transform the Northside in a profound way. He expressed hope that this can go through.

Mr. Chris Shook called in support of the variance requested for the 225 Parsons Street. This goes to the larger vision for the City of Kalamazoo. He said he believes this is the continuation of the transformations he has seen as he worked and continues to work downtown. Mr. Shook thinks it is a wonderful use of all that property. He totally supports it.

Chair Lager closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 225 Parsons Street shall include all information included in the notice of public hearing dated May 13, 2021.
- 2.) Thirty-five notices of public hearing were sent, and four responses were received. Emails of support from Jamauri Bogan and Jane Ghosh, letters of support from Pastor Moore, Mt. Zion Church and Ms. Jordan Woods, NACD.
- 3.) A public hearing was held before the board and public comments were accepted. There were two public comments.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations, and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

The applicant spoke on behalf of the case. Will keep current commercial space in addition to adding hotel, event space, banquet, restaurant, and museum. Plans to preserve as much of the original historical building as possible. Has coordinated with non-profits as needed for different aspects including Park Service. He spoke for a need of five stories to accommodate minimum number of hotel rooms (125) to make hotel viable without unduly modifying the existing building. Noted that five stories would be 55' total vs 52' allowed for a maximum three-story building. Staff said previous zoning would allow this project. Applicant worked with City to be close to new existing zoning ordinance. Area would support a building of this type. Taller buildings would be further away from the streets minimizing impact to area. Reason for ordinance is for height and intensity of development which would not apply here. Staff is in support of site plan since it is already considered high intensity. Questions to applicant, report they have a plan for workforce support. They are working with KVCC and spoke to property owners. They have the support of surrounding community in part by working with local community organizations. Jeff Mitchell called in support. Founder and Director of Kalamazoo Academy of Rock has supported building preservation and projects and feels this will be a great benefit to the community. Chris Shook called in support. Has

worked downtown for 48 years and feels this would be a great benefit and wonderful reuse of property.

Ms. van den Hombergh seconded the Finding of Fact.

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

Mr. Eldridge reminded them about a comment made about adding the 55' height to the motion.

Ms. Doane moved to approve a dimensional variance from Chapter 50-5.6 C(2), of two stories to authorize the construction of a five-story hotel for a maximum of 55' total directly north of the former Gibson Guitar Factory, seconded by Mr. Carroll.

Ms. Harrington and Ms. Doane expressed their excitement for the development.

Chair Lager said he was in favor of the variance. He feels there are special circumstances of an historic nature of the existing building and the fact that it takes up an entire City block. Chair Lager liked that the addition will be well integrated into the historic nature of the building as evidenced by working with SHPO and National Parks. He believes the community is in support of the development. He loved the features of job support, walkability to the neighborhood and the possibility of tying into other developments nearby. Chair Lager didn't see that it would displace people.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

None.

ADJOURNMENT:

The meeting was adjourned at 9:39 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Zoning Board of Appeals Staff Report

City of Kalamazoo

Date: **8/12/2021**

Item: **D.1.**

TO: City of Kalamazoo Planning Commission

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

DATE: August 12, 2021

SUBJECT: ZBA #21-08-09: 433 Riverview Drive. Robert Jeffries is requesting two use variances for the property: **1)** A use variance from Chapter 3, Section 3.7-1, to utilize the existing building for auto detailing where car washes and auto detailing do not align with the permitted uses for Sub Area 6 of the Riverfront Overlay; and **2)** A use variance from Chapter 3, Section 3.7-1, to utilize the property for car sales, which also does not align with Sub Area 6 of the Riverfront Overlay.

BACKGROUND:

This .3-acre parcel is improved with a 2,000 square foot building built in 1986. The building contains a small office area, restrooms and breakroom in the front portion. But approximately two thirds of the building is two large garage bays and open storage. The last user of the building was a heating and cooling contractor with a small fleet of service trucks.

Robert Jeffries has acquired this building for his growing auto detailing business. He has been renting a building in Kalamazoo since 2017. The primary clients of the business are dealerships which schedule vehicles to be cleaned but they also take customers by appointment. All vehicle cleaning goes on within the building not out in the parking lot. The parking lot will be used for holding vehicles to be worked on, employee parking and to display a small number of vehicles for sale. Mr. Jeffries stated the building is set up for auto-related uses with the large garage bays and small office area. He stated he does plan to clean up the exterior of the building and plant landscaping. Mr. Jeffries further stated that this use is similar to other automobile-oriented business along Riverview Drive like: MVP Auto Sales, Red's Tire Sales, All Auto Glass, Muffler Man, Monroe Auto Service and AutoZone.

The Riverfront Overlay District was created in 2006 to protect the river, encourage mixed use development and encourage urbanistic design (referring to small front setbacks and parking areas beside or behind buildings).

The property to the west is a vacant brownfield lot and property to the south vacant also. To the north is an unoccupied single-family dwelling and to the east across the street is the Greyhound bus facility.

The auto detailing business most closely aligns with the car wash category in the land use table in Chapter 3, Section 3.7-1 which is not permitted in this Sub Area of the CMU District. However, Mr. Jeffries has indicated the auto detailing will all occur inside the building. In regard to the auto sales, auto sales are listed as a ‘conforming use’ in Chapter 3 acknowledging that car sales lots along Riverview Drive were in existence when the Riverfront Overlay was created in 2006. The ordinance is clear that new auto sales businesses are not permitted in this Sub Area of CMU District. Mr. Jeffries has stated that this is a smaller element of his business and he is only asking for approval to display up to four vehicles at a time.

STRATEGIC VISION ALIGNMENT:



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

Master Plan 2025, Strategic Vision and Neighborhood Plan Alignment:

The Future Land Use Map designates the subject property as Urban Edge. This designation promotes medium scale commercial uses serving in these transitional areas adjacent to the downtown. These areas are typically high traffic transit corridors. Types of uses promoted in these areas includes: light industrial maker spaces, commercial, retail, office and medium to high density residential development.

This business does align with the Strategic Goal of Economic Vitality which supports growth of local businesses. This also aligns with the Eastside Neighborhood plan which is looking to foster redevelop and stabilize existing commercial uses in the corridors of E. Main and Riverview.

COMMUNITY ENGAGEMENT:

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

Engagement:

The applicant will conduct outreach to surrounding property owners on the project. The applicant has also reached out to the Eastside Neighborhood Association.

The city has sent letters to all property owners within 300 feet.

FINDINGS:

Variance Considerations:

1. 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.

Sub Area 6 of the CMU District does not allow an auto detailing business or the auto sales. The applicant has indicated the building is laid out for an auto related use and that this use is similar to other auto oriented businesses along the corridor. The building is a single story structure built on a slab. There are two large garage bays and open storage behind the small office space. There is a large parking surface located beside the building for easy access to the garage doors.

2. The special circumstances are not the result of the actions of the applicant or titleholder of the land. The building, large garage bays and asphalt parking lot are all existing. The applicant has indicated he is running an auto-oriented business similar to others along Riverview Drive and his auto detailing will occur inside the building unlike other businesses with merchandise or services occurring outside on the property.

3. 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.

Adherence to the Ordinance would not allow for this type of business to locate on Riverview Drive in Sub Area 6 of the CMU District. However, Riverview Drive is a highly commercialized corridor with a wide variety of land uses from a Greyhound bus repair facility to a Walgreens. Typical car wash or auto detailing businesses have drive thru lanes (automated car wash) or some services being performed outside on the property. Auto sales typically involves a large surface parking lot for display of inventory. The auto detailing and auto sales uses would be permitted in the following zones CC, D3, M-1 and M-2. The applicant has indicated the scale of this operation and auto detailing occurring inside the building. The applicant has also referenced other auto-oriented business along Riverview Drive in the same zone district.

4. 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 applicant has indicated the auto detailing will occur within the building and the vehicles displayed for sale will be limited to no more than four. Conditions may be placed on this approval by the ZBA to hold the business owner to these limitations and preserve the spirit of the Ordinance to limit intensity of business activity outside of the building.

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

No adverse affects noted. The properties are vacant to the south and west of the site. To the north there is an unoccupied single-family dwelling. There are no windows on the north side of the building at 433 Riverview Drive which will help contain any noise generated by equipment used for auto detailing.

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

The applicant has indicated the limitations of the business activity outside on the property. Mr. Jeffries has further stated he will improve the visual aesthetics as he plans to add landscaping. This is considered a change in use which means site plan review approval will be required.

RECOMMENDATION

Staff is supportive of the granting of the use variance to allow for the auto detailing business being conducted inside the building. This is in line with the goals of the Riverfront Overlay and this project will result in landscaping and other site improvements after site plan review is completed. Further, the Greyhound bus repair facility across the street was granted a use variance in 2014 for heavy equipment repair which is yet another vehicle related service business in this corridor. The use variance for the vehicle sales is not supported by staff but if the Board finds the limitation of vehicles displayed acceptable a condition can be placed on the approval.



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

July 28, 2021

**RE: ZBA #21-08-09
433 Riverview Drive
Parcel #06-14-171-010**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Robert Jeffries for 433 Riverview Drive, which is situated in the Commercial – Mixed Use District, Sub Area 6 of the Riverfront Overlay.

The applicant is requesting two use variances for the property: **1)** A use variance from Chapter 3, Section 3.7-1, to utilize the existing building for auto detailing where car washes and auto detailing do not align with the permitted uses for Sub Area 6 of the Riverfront Overlay; and **2)** A use variance from Chapter 3, Section 3.7-1, to utilize the property for car sales, which is also does not align with Sub Area 6 of the Riverfront Overlay. Sub Area 6 is intended for mixed use development with commercial uses oriented toward Riverview Drive being the primary use on each site.

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

The meeting will be held on Thursday, August 12, 2021 at 7 p.m. Due to COVID-19 this public meeting will be held electronically and streamed live on the [City's Facebook page](#) and [YouTube Channel](#). Check www.kalamazoocity.org for details on providing public comments.

To examine documents related to this request or provide written comments, please contact Pete Eldridge at eldridgep@kalamazoocity.org or call (269) 337-8806. The agenda will be posted at <https://www.kalamazoocity.org/boards>

Sincerely,

Peter C. Eldridge, AICP

Assistant City Planner



Community Planning & Economic Development

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

(269) 337-8026 • www.kalamazoo.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION			
Name: Robert Jeffries		Mailing Address: 5980 Jacille Ave.	
City: Kalamazoo	State: MI	ZIP Code: 49048	
Phone: 269-271-1013	Email: jeffriesdetailing@yahoo.com	Preferred Contact: ☒ Email ☐ Phone	
PROPERTY OWNER INFORMATION			
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>			
Name:		Mailing Address:	
City:	State:	ZIP Code:	
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone	
PROPERTY INFORMATION			
Property Address(s): 433 Riverview Dr.			
Parcel Identification Number(s): 06-14-171-010		Zone District (kalamazoo.org/maps): CMU	
TYPE OF REQUEST			
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____ ☒ Use Variance to allow Car Wash with Auto Dealer License _____		☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval	
Reason for Request: To allow Jeffries Detailing Auto Detailing Business with Auto Dealers License. Jeffries Detailing has been doing contracted detailing work daily for Harold Zeigler Auto Group for close to 4 years. We would like to continue to operate at the new location. (433 Riverview Dr.) Auto Dealers License is not being used presently but we would like to buy and sell 1-4 vehicles at any given time, displaying 1-2 vehicles for sale on the property.			
ATTACHMENTS			
☒ \$ 375.00 Fee		☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.	
☒ Review Sheet for Request Type		☒ Optional: Photos of property, architecture plans, etc.	
<i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>			
SIGNATURE			
Signature of Applicant:		Date:	
Signature of Owner (if different than applicant):		Date:	



ZONING BOARD OF APPEALS

USE VARIANCE REVIEW SHEET

General Information

Project Description (may also provide on a separate sheet):

Review Criteria for Use Variances

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

Does the Ordinance deprive the applicant from using the property for a permitted use, which is a right enjoyed by other property owners in the same zone district?

Is there a hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district?



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Are the special circumstances created by actions of the applicant?

Will the granting of the variance be the minimum action necessary for the use of the land or structure that will meet the spirit of this Ordinance?

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?

Google Maps 400 Riverview Dr



Image capture: Sep 2019 © 2021 Google



433 Riverview Dr.

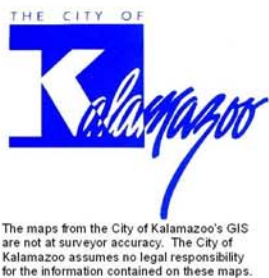
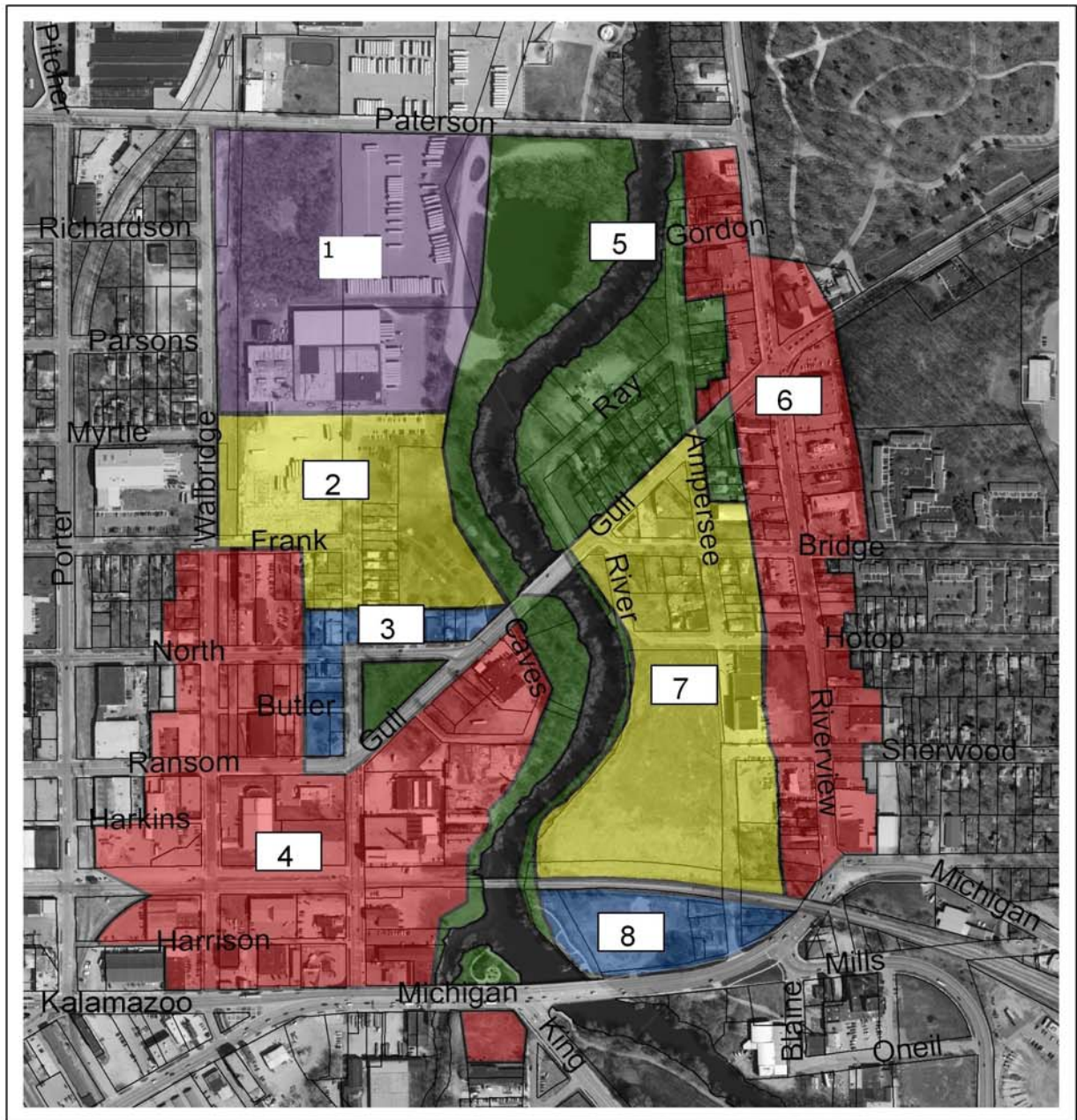


LEGEND

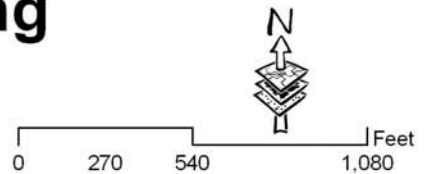
 Parcel Boundary



City of Kalamazoo,
8/3/2021



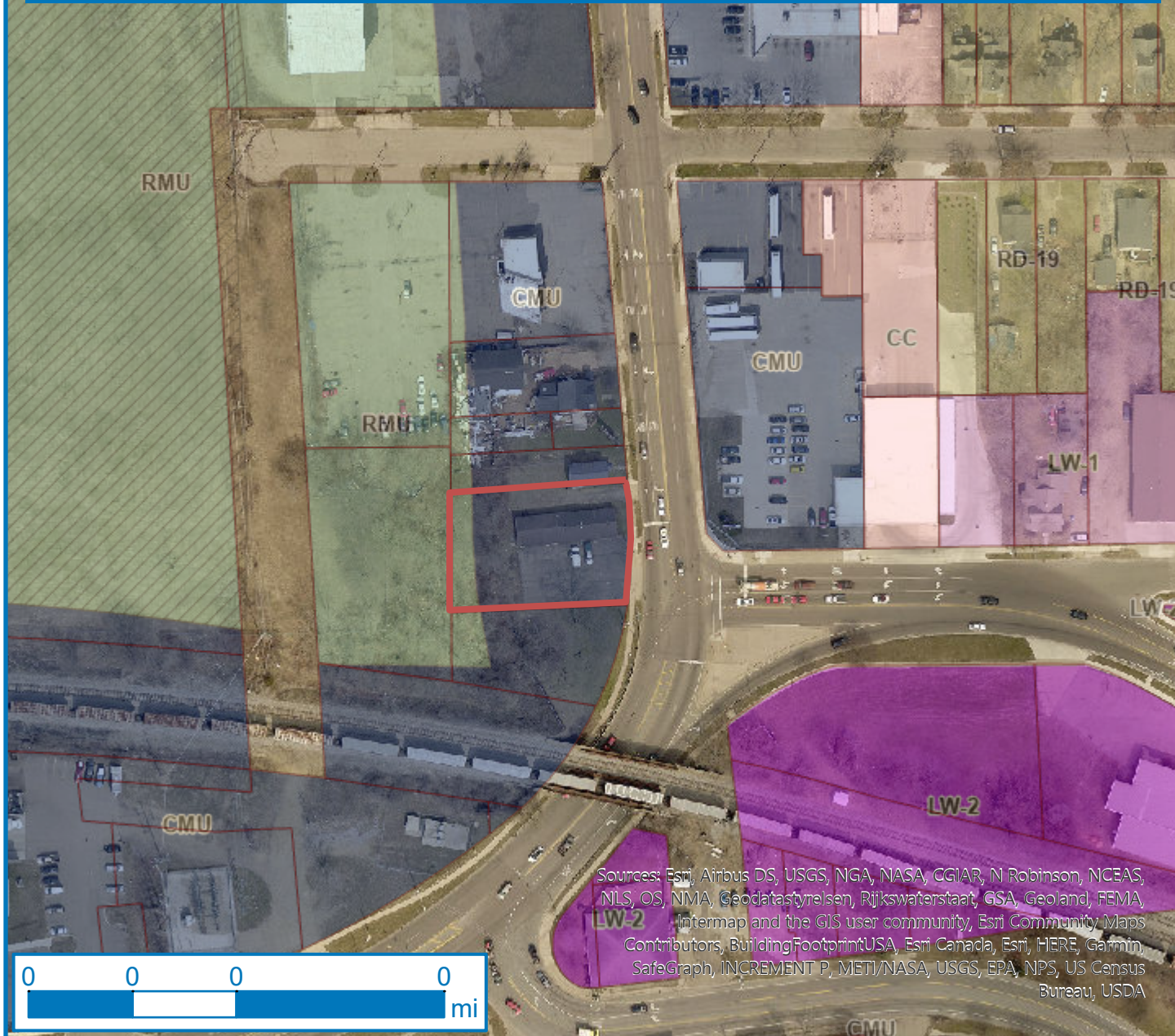
Riverfront Zoning Sub-Areas



1. **Subarea 1 (Northwest Manufacturing/Residential)**
Subarea 1 currently has an industrial character, but is intended to transition to a residential area over time. All accessory scrap and salvage operations shall be inside an enclosed structure. Residential units should be constructed close to the street frontage of each lot to help define and enclose street spaces.
2. **Subarea 2 (West Residential)**
Subarea 2 is intended for future single-family residential uses and neighborhood-specific commercial uses, with residential units constructed close to the street frontage of each lot to help define and enclose street spaces.
3. **Subarea 3 (West Park Mixed Use)**
Subarea 3 is intended for future residential and mixed uses, with structures constructed close to the street frontage of each lot to help define and enclose street spaces and park areas. Structures may include live/work units, residential neighborhood commercial, and office uses, and shall be 2 or 3 stories in height. No single story structures shall be permitted.
4. **Subarea 4 (Southwest Commercial)**
Subarea 4 is intended for mixed use, including lower intensity industrial uses, as well as commercial, office, and residential uses. High quality design will be required.
5. **Subarea 5 (Park)**
Subarea 5 is intended to be used for park areas and open space along the Kalamazoo River. Existing homes may remain and shall be deemed to be conforming land uses, but new principal and accessory structures shall be required to comply with applicable design standards.
6. **Subarea 6 (Riverview Commercial)**
Subarea 6 is intended for mixed use of high design quality, with commercial uses predominating. As redevelopment occurs, parking lots shall be located behind or beside (but not in front of) primary structures. New development shall orient to Riverview Drive.
7. **Subarea 7 (East Bank Mixed Use)**
Subarea 7 is intended to accommodate an urban-style residential neighborhood with residential uses along the river and neighborhood scale commercial uses around the edges of the area. The amount of commercial development shall be limited to ensure the predominantly residential character of the area.
8. **Subarea 8 (Southeast Mixed Use)**
Subarea 8 is a highly visible location with excellent transportation access, and is intended for redevelopment with a mix of office, restaurants or retail uses.

C. Permitted Uses

Different land uses are permitted in each subarea of the RF-O district as shown in the attached Table 3.7-1. Abbreviations used in the table shall have the same meanings assigned to them in Sec. 4.1. A “P” indicates that a use is permitted by right, subject to compliance with all other applicable local, state and federal regulations, including the regulations of this ordinance. A “C” indicates that the use may not be established after October 18, 2005, but if the use was legally established and in existence on that date it may continue to exist as a legal conforming use. An “S” indicates that a use is allowed



LEGEND

Parcel Boundary

City Boundary

Natural Features Overlay

Zoning

CC CC

CMU CMU

LW-1 LW-1

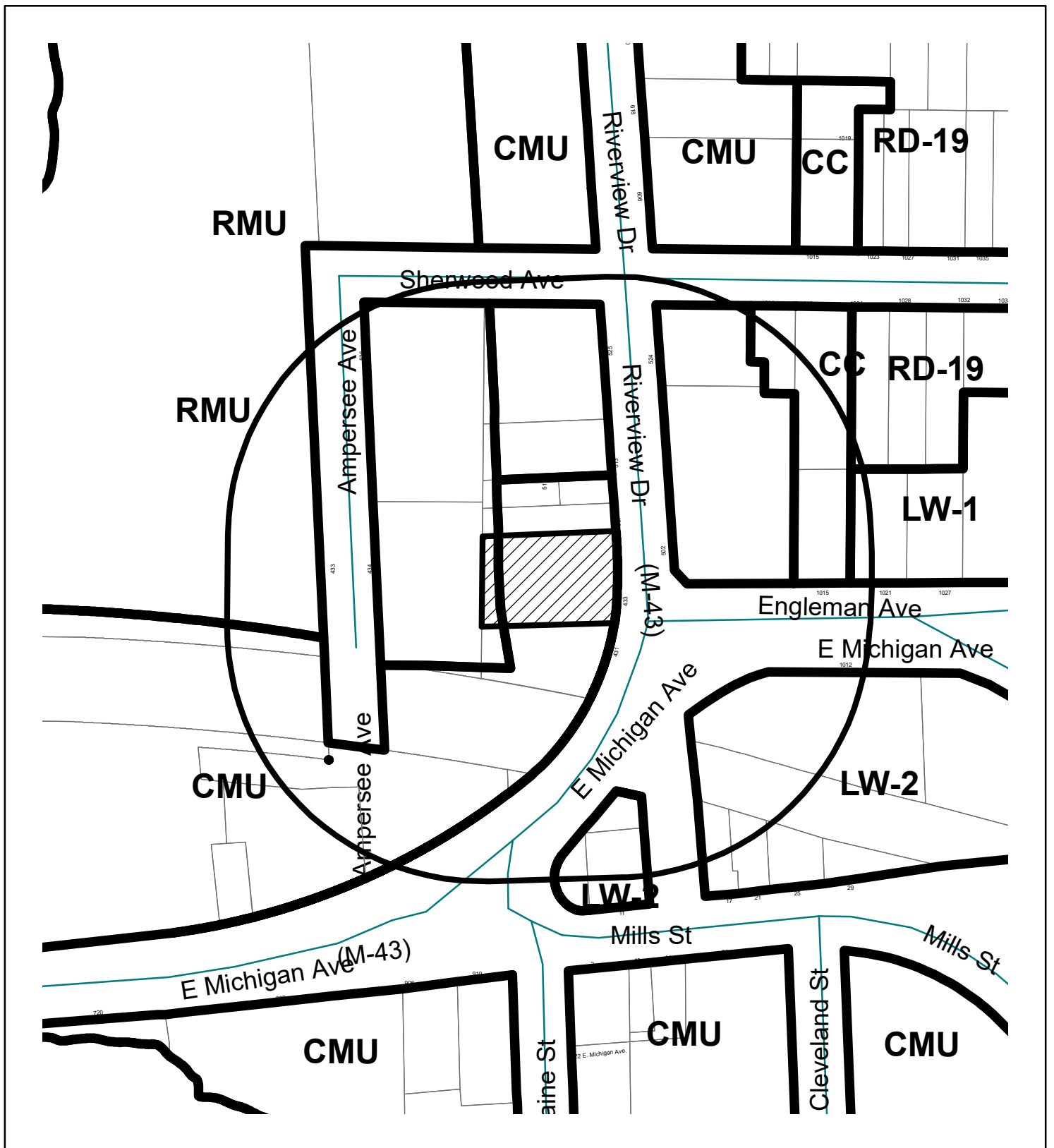
LW-2 LW-2

RD-19 RD-19

RMU RMU



City of Kalamazoo,
8/5/2021



300' Mailing Boundary
433 Riverview Dr.



0 2040 80 Feet