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**Charter Township of Kalamazoo
Minutes of the Zoning Board of Appeals
Held on February 19, 2020**

10 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was held on
11 Wednesday, February 19, 2020.

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Call to Order.

20 The Chairman called the meeting to order at 7:03 p.m.

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Present Were:

24 Jim Short, Chairman
25 Steve Leuty
26 Robert Mihelich
27 Fred Nagler
28 Maryanne Sydlick, Alternate

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Absent was:

33 Shawn Blue

34 Also present were: Township Planner Patrick Hudson, Township Manager Dexter Mitchell
35 Township Attorney Roxanne Seeber, Applicant William Urfer and Township Attorney Jake
36 Eccleston. Three members from the public attended the meeting.

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Roll Call.

40 Chairman Short called the roll, noting that Board Member Blue was absent, but that Alternate
41 Board member, Maryanne Sydlick, was present.

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Mihelich moved, supported by Nagler, to excuse Board Member Blue. The motion passed
unanimously.

Approval of the Agenda.

The ZBA members received a copy of the agenda in their member packets.

Nagler moved, supported by Leuty, to approve the agenda as presented. The motion passed
unanimously.

Approval of the Minutes of the January 15, 2020 Regular ZBA Meeting.

1 The next item on the agenda was approval of the minutes of the January 15, 2020 regular
2 Zoning Board of Appeals meeting. The draft meeting minutes were provided to all ZBA
3 members in their agenda packet. Leuty provided a correction on Page 5 Line 12, that the word
4 “justice” had been left out. There were no other additions or revisions made to the minutes.
5

6 Mihelich moved, supported by Short, to approve the minutes of the January 15, 2020 regular
7 ZBA meeting as presented. The motion passed unanimously. The minutes were signed by
8 Mihelich and provided to Hudson for transmission to the Township staff.
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10 **Public Hearings.**

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12 **3812 E. Michigan Avenue – William Urfer – Setback Variance**

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14 The next item on the agenda was the public hearing for consideration of the request of William
15 Urfer for a variance from the requirements of Section 25.02 of the Township Zoning Ordinance
16 to allow for an up to 18-foot variance from the required 30 foot side yard setback and up to a
17 45-foot variance from the required 50-foot front yard setback to allow for the continued
18 construction of a storage structure on property addressed as 3812 E. Michigan Avenue,
19 Kalamazoo, MI. The subject property is approximately .3 acres in size and is located in the “I-2”
20 General Industrial District Zoning Classification. Standards for variance consideration are
21 contained in Section 26.05 of the Township Zoning Ordinance.
22

23 Hudson prepared a staff report which was provided to the Board members in their agenda
24 packets and summarized it. Hudson said that the existing building is set back 17 feet from the
25 right-of-way, 12 feet from the west side, 35 feet from the east side, and 22 feet from the rear
26 lot line. Existing lot coverage is 39%. Proposed lot coverage will be 43%. The main building has
27 three service bay doors. Article 4, Parking, requires two parking spaces per service bay plus one
28 for each employee at peak hour. Aerial photographs show four parking spaces in the road right-
29 of-way and there is only room for one parking space in front of each service bay door. Assuming
30 at least 3 employees the site will require at least 9 parking spaces where there are only 7.
31

32 Hudson said that all the surrounding properties are zoned I-2 General Industrial. The property
33 fronts on a partially-abandoned section of Michigan Avenue. He explained that when Sprinkle
34 Road was expanded East Michigan was re-routed to the north. Subsequently the portion of the
35 road to the east of this lot was abandoned by the road commission, however, because of land-
36 lock issues further east, the road could not be abandoned in front of 3812 E. Michigan and the
37 properties to the west. The property to the east is occupied by a lawn mower repair shop
38 which occupies two buildings on either side of the former right-of-way. The properties further
39 east are vacant. The property to the west is a nonconforming residence. The property across
40 Michigan Avenue to the north is a gravel mine. The property to the south is the CONRAIL main
41 line, and further south is a truck terminal.
42

43 In his application, the applicant requested a variance of 35 feet from the required front yard
44 setback, and 21.2 feet from the required side yard setback. The applicant provided a site plan.

1 Hudson stated that the building was erected without permits, after the applicant was told that
2 he could not build.

3
4 Short opened the public hearing and invited any interested party to give public comment in
5 support of or in opposition to the applicant's request for a variance. The applicant Urfer spoke
6 on behalf of the request. Urfer stated that he had been in Kalamazoo 50 years. In 2016 had
7 spoken with the Township about putting up the storage building and was told that he didn't
8 need a permit. However, zoning requirements changed soon after, and Urfer was not aware
9 until he had already built the accessory building. The concrete pad the accessory building is
10 built on was already present on the property and had held trucks in the past. The County Road
11 Commission wrote a letter giving Urfer the authority to use the abandoned area for parking
12 spots as long as did not interfere with overhead lines. When Urfer contacted Consumers to get
13 power to the accessory structure, he was told he would need a building permit. Hudson had
14 told Urfer that he would need to apply for a variance for the building and so Urfer stopped
15 work on the building. Urfer had a site plan drawn up.

16
17 In response to an inquiry from Short, Urfer stated that he had owned the property for 5 or 6
18 years.

19
20 Nagler noted that it was difficult to use easements with the road commission.

21
22 Short noted that this was a difficult case because of the right of way.

23
24 Nagler asked what the building to the west was used for. Hudson stated that it was a
25 nonconforming residence.

26
27 Urfer stated that the road commission does not repair or plow the road in front of the business.

28
29 Short had concerns about parking, which Nagler agreed with. Nagler felt that the parking area
30 would be quite crowded with the curbs not allowing much room for ingress and egress. Urfer
31 indicated that he has only one employee.

32
33 Leuty recognized that aerial photos showed the painted parking spaces that have since been
34 black-topped over. Leuty also noted that east and south of the building are drainage and septic
35 utilities. Leuty noted that there is no overlap between the accessory structure and these
36 utilities.

37
38 Sydlick asked the applicant what he was going to use the structure for. Urfer replied he would
39 use it for storage. Short followed up by asking about hazardous waste or any harmful material.
40 Urfer indicated that none would be used in the building.

41
42 Nagler noted that an old smaller shed had been taken down on the property.

43
44 Urfer stated that when he purchased the property, he had put new wells in.

1 Mihelich asked if the original building had been built without a permit. Hudson stated that the
2 building under consideration was the one constructed without a permit. The original building
3 was not.

4
5 Leuty asked whether Urfer had approached KABA yet. Urfer stated that he knew he would
6 have to, but that he was waiting for zoning approval.

7
8 Audience member Christopher Mihelich spoke in support of the application, indicating that it
9 was great to see someone from the community reinvesting their money into it.

10
11 Hearing no additional public comments, Short closed the public hearing and the Board
12 members entered into deliberations.

13
14 Nagler voiced his concern about Urfer proceeding without a permit and noted that the site was
15 challenging to build on.

16
17 Leuty appreciated the presentation and good intent. Leuty noted that the applicant should
18 begin process with KABA and that the location of the building is quite challenging. He noted
19 that the site was unique because of the partial abandonment of the road; as well as the
20 permitted encroachment into the right-of-way.

21
22 Mihelich noted that the accessory structure will not have any effect on the traffic flow.

23
24 Short stated that it is nice to see good business people. Short also noted the uniqueness of the
25 property.

26
27 Sydlick stated she had no issue with granting the variance.

28
29 Attorney Seeber recommended that the Board review the standards of approval for granting a
30 request for a variance which are contained in Section 26.05 and read the same to the Board.
31 Section 26.05 B(4) titled "Variances" states,

32
33 "The ZBA shall have authority in specific cases to authorize one or more
34 dimensional or "non-use" variances from the strict letter and terms of this
35 Ordinance by varying or modifying any of its rules or provisions so that the spirit
36 of this Ordinance is observed, public safety secured, and substantial justice done.
37 A dimensional or non-use variance allows a deviation from the dimensional (i.e.,
38 height, bulk, setback) requirements of the Ordinance. A use variance authorizes
39 the establishment of a use of land that is otherwise prohibited in a zoning
40 district. The ZBA is not authorized to grant use variances by this Ordinance.

41
42 Such authority shall be exercised in accordance with the following standards.

43

1 a. The ZBA may grant a requested "non-use" variance only upon a finding
2 that practical difficulties exist and that the need for the variance is due to
3 unique circumstances peculiar to the property and not generally
4 applicable in the area or to other properties in the same zoning district. In
5 determining whether practical difficulties exist, the ZBA shall consider the
6 following factors:

7
8 (1) Strict compliance with restrictions governing area, setback,
9 frontage, height, bulk, density or other non-use matters, will
10 unreasonably prevent the owner from using the property for a
11 permitted purpose or will render ordinance conformity
12 unnecessarily burdensome.

13
14 (2) The variance will do substantial justice to the applicant, as well as
15 to other property owners.

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17 (3) A lesser variance than requested will not give substantial relief to
18 the applicant and/or be consistent with justice to other property
19 owners.

20
21 (4) The problem and resulting need for the variance has not been self-
22 created by the applicant and/or the applicant's predecessors. (For
23 example, a variance needed for a proposed lot split would, by
24 definition, be self-created, so such a variance typically would not
25 be granted.)”

26
27 The Board agreed that while there were two variances requested they would consider both
28 request at the same time. The Board discussed the standards of review and agreed that most
29 had been met. Seeber filled in the “Notice of Decision” form as the members considered each
30 standard.

31
32 Nagler moved, supported by Mihelich, to approve the request of William Urfer for the
33 requested variances conditioned upon:

34
35 The applicant must obtain an after-the-fact building permit; and

36
37 The applicant must re-stripe the parking lot. If the applicant ever adds more
38 employees, he must add two parking spaces on the east side and stripe them to
39 allow the 26 foot opening for ingress and egress of fire apparatus.

40
41 The motion passed unanimously. Short and Attorney Seeber filled out the notice of decision
42 form. The applicant was present to receive personal service of the notice of decision form.

43
44 **Old Business.**

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2 None.

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4 **New Business.**

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6 None.

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8 **Other matters to be reviewed by the ZBA.**

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10 **None.**

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12 **Citizen Comments.**

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14 None.

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16 **Correspondence received.**

17
18 Hudson noted that a copy of the Planning and Zoning News was distributed to the ZBA
19 members in their packets. Hudson also noted that two members of the Planning Commission or
20 ZBA can sign up for a master citizen planner program, to be paid by the township's insurance
21 company.

22
23 **Board Member Comments.**

24
25 None.

26
27 **Report of the Planning Commission Member.**

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29 Nagler summarized the recent Planning Commission meeting.

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31 **Adjournment.**

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33 There being no additional business, Nagler moved, supported by Leuty, to adjourn the ZBA
34 meeting. The motion passed unanimously and the meeting was adjourned at 7:56 p.m.

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36 Respectfully Submitted,

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41 _____
42 Robert Mihelich, Secretary of the Zoning
43 Board of Appeals

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Synopsis of Actions
ZBA meeting February 19, 2020

Regarding the request for variances from William Urfer:

Approved the request of William Urfer for an 18-foot variance from the required 30-foot side yard setback requirement; and a 40-foot variance from the 45-foot front yard setback in order to permit the continued construction of an accessory building at 3812 E. Michigan Avenue.

DRAFT