

ZONING BOARD of APPEALS MEETING AGENDA WEDNESDAY APRIL 17, 2024 6:00 PM

The agenda for the *meeting* will include the following items:

- 1) Call to order
- 2) Roll call
- 3) Approval of agenda for April 17, 2024
- 4) Approval of Minutes:
 - a) February 21, 2024
- 5) Public Hearings
 - a) 3025 Ravine Road Sign Dimensional Variance
- 6) Old Business
 - a) None
- 7) New Business
 - a) 3025 Ravine Road Application Review & Discussion
- 8) Other matters to be reviewed by the ZBA
 - a) Comments from the public on matters not already addressed.
 - b) Zoning Board of Appeals members' comments.
 - c) Report of the Planning Commission member.
- 9) Adjournment

Public Hearings. The following rules of procedure shall apply to public hearings held by the ZBA:

- 1. Chairperson opens the public hearing and announces the subject.
- 2. Chairperson summarizes procedures/rules to be followed during the hearing.
- 3. Township zoning administrator/planning consultant presents brief summary of the request.
- 4. Applicant presents brief overview of request.
- 5. Persons wishing to comment on the request are recognized.
- 6. Chairperson closes public hearing.

*Note: further discussion of the application (such as discussion) take place during "business".

Charter Township of Kalamazoo Minutes of a Zoning Board of Appeals Meeting Held on February 21, 2024 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on February 21, 2024, commencing at 6:00 p.m. at the Township Hall. Call to Order. Leigh called the meeting to order at 6:00 p.m. and called the roll. Present were: Nicky Leigh Fred Nagler Shawn Blue Also present were Township Zoning Administrator Kyle Mucha; Township Attorney Seth Koches and Erin Geschwendt; and, no members of the audience. Absent was: Lisa Mackie **David Combs** Nagler moved, supported by Blue to approve excuse Mackie and Coombs from the meeting. The motion passed <u>3-0.</u> Approval of the Agenda for the February 21, 2024, Zoning Board of Appeals Meeting. The ZBA members received the agenda in their meeting packets. No additions or revisions were made. Blue moved, supported by Nagler to approve the agenda as presented. The motion passed 3-0. Approval of Zoning Board of Appeals' Meeting Minutes of the December 20, 2023 Meeting. The next item on the agenda was approval of the December 20, 2023, Zoning Board of Appeals' meeting minutes. Copies of the draft meeting minutes were provided to the Members in their agenda packets. Fred moved, supported by Blue to approve the minutes as revised. The motion passed 3-0. **Public Hearings** None. Old Business.

4629 Winding Way - Setback

The next item on the agenda was the continued public hearing of 4629 Winding Way. Mucha summarized the staff report he prepared, which was contained in the Board members' agenda packet. Mucha said that Vincent Marsilio ("applicant") requests relief from the 30-foot rear-yard setback requirement in the RM-2 District Zoning Classification to facilitate construction of an additional attached accessory structure and principal living space.

Mucha said the subject property is approximately 7.95 acres in size and is zoned RM-2, Multiple-Family/Mixed Use. A single-family home is a permitted use within the RM-2 District. A two-story single-family home is currently built on the subject property and is approximately 1,152 square-feet. Approximately 1.9 acres of the subject property is located in Oshtemo Township. The ZBA previously asked the applicant to obtain a survey because defined property lines could not be identified. The ZBA was unable to properly consider the applicant's request for a variance without determining the location of the property lines. The applicant previously agreed to obtain a site survey, which hasn't been completed. Mucha said that applicant informed him that a survey may be done within the next two weeks but it was unclear whether the survey and mapping would be completed at that time. The applicant did not appear at the ZBA meeting. Mucha noted that the public hearing was continued for the applicant to obtain a survey and the application was nearly one year old.

The Board members discussed whether to continue the public hearing to another date certain or process the applicant's request for a variance as presented. The Board decided to review the request for a variance as presented.

Leigh opened the public comment portion of the public hearing and invited any interested party to speak in support of or in opposition to the proposed request. Hearing no public comments, Leigh closed the public hearing and Board entered into deliberations.

Mucha said that Section 26.05.B.4.a of the Township Zoning Ordinance contains the standards of review when considering a request for a variance. Section 26.05.B.4.a states, in part, that:

In determining whether practical difficulties exist, the ZBA shall consider the following factors:

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

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

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

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

The Board members discussed each standard of review.

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None. **ZBA Member Comments.**

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The members discussed the need to appoint members to the ZBA.

The Board concluded that strict compliance with the restrictions governing setbacks will not unreasonably prevent the applicant from using the property for a permitted purpose and/or render conformity with the ordinance unnecessarily burdensome. Mucha said that the applicant did not provide any supporting documentation, such as a survey, to substantiate that this standard was satisfied. The Board agreed, noting that lot lines could not be confirmed or properly identified. Blue said he did not know where the property lines were located. The Board concluded that granting the requested variance will do substantial justice to the applicant because it will allow them to build their preferred design plans. Next, the Board members discussed whether a lesser variance will give substantial relief to the applicant and/or be consistent with justice to other property owners. The Board could not conclude that this standard was satisfied because they do not know the extent of the variance necessary to satisfy the applicant's design plans because the subject property lot lines could not be identified. As such, the Board could not conclude that a lesser variance will give substantial relief to the applicant and/or be consistent with justice to other property owners. The Board concluded that the problem and resulting need for the requested variance was entirely self-created by the applicant.

Mucha discussed Section 26.05.D.6 of the Zoning Ordinance, which states:

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to re-consideration for a period of one year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one-year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

The Board concluded that additional information, such as a survey, constitutes new information that could change the original decision if the Board denied the applicant's request for a variance. Nagler said that the applicant could re-apply for a request for a variance and the one-year limitation would be waived.

Nagler moved, supported by Blue to deny the request of Vincent Marsilio of 4629 Winding Way, Kalamazoo, MI 49006 (Parcel No. 06-06-105-076) for a variance into the 30' rear-yard setback because strict compliance with restrictions governing setbacks will not unreasonably prevent the owner from using the property for a permitted purpose or render ordinance conformity unnecessarily burdensome; a lesser variance than requested cannot be determined because the ZBA cannot accurately identify the property lines of subject property, so it is not known whether a lesser variance will give substantial relief to the applicant and/or be consistent with justice to other property owners; and, the problem and resulting need for the variance is entirely self-created by the applicant. The applicant may re-apply for a request for variance pursuant to Section 26.05.D.6 of the Township Zoning Ordinance if additional information, such as a survey, is submitted to the Township that accurate delineates property boundary lines.

The motion to deny the request for a variance passed 3-0 via roll call vote.

Comments from the public.

1	Report of Planning Commission Member.		
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3	Nagler discussed updates from recent Planning Commission meetings.		
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5	Adjournment.		
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11	SYNOPSIS OF ACTIONS		
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13	The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the		
14	February 21, 2024 meeting:		
15	4 Device the control of Microsoft Marville of ACOOMER than Marville of		
16	1. Denied the request of Vincent Marsilio of 4629 Winding Way, Kalamazoo, MI 49006 (Parcel No		
17	06-06-105-076). The applicant may re-apply for a request for variance pursuant to Section		
18	26.05.D.6 of the Township Zoning Ordinance if additional information, such as a survey, is		
19	submitted to the Township that accurate delineates property boundary lines.		
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22	Recording Secretary		

MCKENNA



April 9, 2024

Hon. Members of the Zoning Board of Appeals Kalamazoo Charter Township 1720 Riverview Drive Kalamazoo, Michigan 49004

SUBJECT: Variance Request – Sign Size & Height

APPLICANT: Jason Newton on behalf of Ken Hoving, Waste Not

SECTION: Section 7.08.D – Nonresidential District Signs

LOCATION: 3025 Ravine Road, Kalamazoo, MI 49006 (Parcel ID: 06-08-170-010)

REQUEST: To obtain relief from the sign size and height limitations of Section 7.08.D.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application regarding the variance request pertaining to the construction of ground signs at 3025 Ravine Road related to sign size and height that is beyond what is permitted within the Zoning Ordinance. The subject site is zoned I-2, General Industrial, and is approximately 5.36 acres in size.

The applicant proposes to construct two free standing signs, one for each road frontage. The signs are proposed to be approximately 14.4 feet in height, where a maximum of six (6) feet is permitted, for a variance of 8.4 feet; and a size of 62.66 square feet where a maximum of 48 square feet is permitted for a variance of 14.66 square feet.

The following analysis has been prepared for consideration by the Zoning Board of Appeals.





STAFF FINDINGS

Based on the following analysis of the sign variance request to permit a 62.66 square foot sign where a maximum of 48 square feet is permitted, and a sign height of 14.4 feet where a maximum of six (6) feet is permitted, the following considerations are offered to the Kalamazoo Township Zoning Board of Appeals.

- 1. The property can be used for a special land use purpose, as regulated within the I-2 District, without the need for the sign variances.
- 2. The variance request is not anticipated to do substantial justice to surrounding property owners, who also must comply with sign ordinance regulations.
- 3. A lesser variance than what is requested would still provide relief in terms of business identification signage.
- 4. The need for the variance is entirely self-created. The property can still be used and signed in accordance with the Township Zoning Ordinance without the need for the requested variance.
- 5. The applicant could seek a Zoning Ordinance Text Amendment to modify the current regulations to allow for an increase in sign height and size for the commercial and industrial districts.

Feel free to reach Danielle Bouchard, AICP, Principal Planner, at DBouchard@mcka.com or Kyle Mucha, AICP, Senior Planner at KMucha@mcka.com if you have any questions about this variance request or review.

Respectfully, McKenna

Danielle Bouchard, AICP

Raylle Bouchard

Principal Planner

Kyle Mucha, AICP Senior Planner

KMucha



VARIANCE ANALYSIS

The subject parcel is approximately 5.36 acres in size. The site is currently zoned I-2, General Industrial. The site is improved with a warehousing/recycling center.

Section 26.05.B.4.a, of the Zoning Ordinance provides criteria for the review of variance requests by the Zoning Board of Appeals. The following are those criteria and how they relate to this request. Applicant responses are a culmination of written communication and discussions with Township staff.

The applicant has provided the following general statement within their application:

The current sign zoning ordinance does not allow for a sign height and size required for visibility at this location. Waste Not Transfer station also has the hardship of having both the KRVT and Consumers Energy easements running along the Ravine Road frontage. This creates a setback distance that requires a larger, taller sign for visibility. Seeking the second sign location on the Nicholas Road frontage is also necessary due to this being a corner lot and the Ravine Road sign having a lesser impact due to setback.

- a. The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist and that the need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. In determining whether practical difficulties exist, the ZBA shall consider the following factors:
 - (1) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.

Applicant Statement: "YES".

Section 7.08.D – Freestanding Signs – regulates nonresidential signage. One (1) free-standing sign is permitted per road frontage on each parcel. A maximum size of 48 square feet is permitted per sign, with a maximum height of six (6) feet. The applicant proposes a sign size of 62.66 square feet and a height of 14.4 feet.

Strict compliance with the restrictions regarding non-use matters would not unreasonably prevent the owner from using the property. The existing use of a recycling center is a permitted use within the I-2 District if approved by the Planning Commission as a Special Land Use. Further, strict compliance with the existing sign ordinance would not render ordinance conformity unnecessarily burdensome: the property is still permitted signage as described within the Ordinance. Property located in the area of the subject site, and zoned I-2, is also beholden to the regulations outlined within the Township Zoning Ordinance.

The following graphic (A), via Google Street View, illustrates the property as viewed southbound on Nichols Road with graphic (B) showing westbound traffic on Ravine Road.





Nicholas (Graphic A)

Ravine (Graphic B)

While staff may be sympathetic to the applicant's desire for increased signage, it is noted that the warehouse/recycling center is significant in size and development that an increase in road signage may not be as beneficial as believed. Therefore, staff finds that the current Zoning Ordinance would still provide for adequate signage without the need for an increase in size.

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

Applicant statement: "YES".

While it is not anticipated that an increase in signage size and height would have a negative impact on adjacent property or other property within the vicinity, staff finds that substantial justice would not be achieved by granting the requested variance. The site can still be utilized and identified without the need for a variance on signage.

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

Applicant statement: "YES."

Staff finds that a lesser variance than requested would still provide relief to the applicant. Staff finds that the type of use – recycling center – is more prone to being a "destination" service. The average motorist is not expected to visit this site for recycling drop-off without it being a preplanned trip. Other properties that are zoned I-2 within the Township are subjected to the same regulations for sign size and height. Therefore, it is not anticipated that granting the requested size and height variance would provide justice to other property owners.

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

Applicant statement: "YES"

While the applicant indicated "yes" to this question, the Township's application form states the following: is the problem and resulting need for the variance not self-created by the applicant and/or the applicant's predecessors? It is our understanding of the request that the applicant believes the need for the variance is <u>not</u> self-created.



Staff finds that the need for the variance is self-created. Conformance with the Township Zoning Ordinance can be achieved without a need for a variance. Further, a sign that is 48 square feet and six (6) feet tall could be constructed on-site. Freestanding signs could be designed in a manner that fits the parameters of the Township Zoning Ordinance.

b. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

The applicant has provided an application, a brief description as it relates to the four review criteria, and a conceptual site design for the proposed sign location.

Conditions

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request.

We find that additional/reasonable conditions in connection with the variance request are not applicable at this time but defer to the Zoning Board of Appeals should they find any additional conditions warranted after the Public Hearing has been held.



Zoning Board of Appeals Application for Variance, Interpretation, or Appeal

1720 Riverview Drive Kalamazoo, MI 49004 P. (269) 381-8080 F. (269) 381-3550 ktwp.org



OFFICE USE ONLY	
Date:	
Case #:	
Fee:	

APPLICANT					
Contact Person Jason Newton					
Business Name (if applicable) Sign Center	Email Jason @ signcenter.net				
Address 711 Portage St	Phone 269-381-6869 Cell Phone 269-568-2060				
City Kalanazoo	State Zip Code 49001				
PROPERT	TY OWNER				
☐ Check here if same as above					
Name Ker Hoving	Email Ken. Wasteret @ gmail.com				
Address 3025 Ravine Lead	Phone 30-240-4294 Cell Phone				
City Kalamazoo	State Zip Code 49004				
PROPERTY II	NFORMATION				
Street Address 3025 Rowine Road	Suite/Apt. #				
Zoning District F-2	Master Plan Designation				
Gross Acreage 5.36	Parcel Dimensions 233, Stl Sqff.				
ZBA ACTION	REQUESTED				
To interpret a particular section of the ordinance, as it is felt the Zoning Administrator/Planning Commission is not using the proper interpretation.					
To interpret the zoning map, as it is felt the Zoning Administrator/Planning Commission is not reading the map properly. Describe the portion of the zoning map in question (attach detail maps if applicable).					
To grant a variance to certain requirements of the zoning ordinance, (parking, setbacks, lot size, height, floor area, sign regulations, location of accessory buildings, maximum amount of lot coverage, etc.).					
☐ To overturn an action of the zoning administrator. The zoning administrator errored (did not issue a permit, issued a permit, enforcement).					
SECTION OF THE ZONING ORDINANCE SEEKING INTREPRETATION OR VARIANCE					
Section: Free Standing Sign Soft.	Height, Setback				



FOR VARIANCE APPLICATIONS ONLY				
RULING SOUGHT (attach additional sheets if necessary)				
We seek approval of two free standing signs based on our specifications and locations				
The seek approval of the free stationing signs sused on our specifications and recations				
STATEMENT OF JUSTIFICATION FOR REQUESTED ACTION (attach additional sheets if necessary)				
State specifically the reason for the variance request				
The current sign zoning ordinance does not allow for a sign height and size required for visibility at this location. Waste Not Transfer station also has the hardship of having both the KRVT and Consumers Energy easements running along the Ravine Road frontage. This creates a setback distance that requires a larger taller sign for visibility. Seeking the second sign location on the Nichols Road frontage is also necessary due to this being a corner lot and the Ravine Road sign having a lesser impact due to setback.				
VARIANCE QUESTIONS: If you are seeking a variance, please provide answers to the following questions. Be specific, and explain your answers. If the answer to any of the questions numbered 1-4 is "no," a variance may not be granted (attach additional sheets if necessary)				
 Does strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, unreasonably prevent the owner from using the property for a permitted purpose or does the ordinance render conformity unnecessarily burdensome? YES 				
2. Would a variance do substantial justice to the applicant, as well as adjacent property owners? YES				
Would a lesser variance not give substantial relief to the applicant and/or be consistent with justice to other property owners? YES				



4.	Is the problem and resulting need for the variance not self-created by the applicant and/or the applicant's predecessors' YES		

ATTACH SEVEN (7) COPIES OF A SITE PLAN PLUS ONE ELECTRONIC COPY

NOTE: The ZBA shall *not* have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of the Township Zoning Ordinance. The ZBA has *no* authority to grant variances or overturn decisions involving special land uses or planned unit developments.

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

For more information pertaining to the rules, regulations, and powers of the ZBA, see Section 26.05 of the Township Zoning Ordinance.

From: Jason Newton jason@signcenter.net

Subject: Variance Signature Needed Date: Mar 12, 2024 at 9:56:19 AM

To: Ken Hoving ken.wastenot@gmail.com Cc: Art Mulder art.wastenot@gmail.com

Hello Gentlemen,

I have attached the signature page for the sign variance. Please sign and send back to me. I will get this delivered to the township tomorrow for the April meeting. The variance cost is \$500 fee and a \$600 escrow. Just so we are all on the same page.

Thanks! Jason

Jason Newton: Project Manager

Sign Center 711 Portage St. Kalamazoo, MI 49001 269-381-6869



(we), the undersigned, do hereby indicate that all information contained in this application, are complete and accurate to the best of my (our) browledge.	accompanies de la companie de la com
are complete and accurate to the best of my (our) knowledge	accompanying plans and attachments

Print Property Owner Name

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