



**ZONING BOARD of APPEALS
MEETING AGENDA
WEDNESDAY MAY 15, 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 May 15, 2024
- 4) Approval of Minutes:
 - a) April 17, 2024
- 5) Public Hearings
 - a) 521 E Mosel – Relief From Section 2.22.C.
- 6) Continuing Business
 - a) None
- 7) New Business
 - a) 521 E. Mosel – Application Review & Discussion
- 8) Other matters to be reviewed by the ZBA
 - a) Public Comment
 - 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".

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**Charter Township of Kalamazoo
Minutes of a Zoning Board of Appeals Meeting
Held on April 17, 2024**

10 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on April
11 17, 2024, commencing at 6:00 p.m. at the Township Hall.

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Call to Order.

20 Leigh called the meeting to order at 6:00 p.m. and called the roll.

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Present were:

27 Nicky Leigh
28 Fred Nagler
29 Shawn Blue
30 Lisa Mackie
31 David Combs

32 Also present were Township Zoning Administrator Kyle Mucha; Township Attorney Seth Koches; and, two
33 (2) members of the audience.

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Absent was:

40 None.

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Approval of the Agenda for the April 17, 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 Combs to approve the agenda as presented. The motion passed unanimously.

Approval of Zoning Board of Appeals' Meeting Minutes of the February 21, 2024 Meeting.

The next item on the agenda was approval of the February 21, 2024, Zoning Board of Appeals' meeting
minutes. Copies of the draft meeting minutes were provided to the Members in their agenda packets.

Combs moved, supported by Mackie to approve the minutes as revised. The motion passed unanimously.

Public Hearings.

3025 Ravine Road – Sign Dimensional Variance

The next item on the agenda was the public hearing for the consideration of the request of Jason Newton
(Applicant) on behalf of Ken Hoving (Agent of 3025 Ravine Road), regarding the property located at 3025
Ravine Road, Parcel No. 06-08-170-010, recorded owner of AKKG, LLC, for an 8.4-foot height variance from
the maximum 6-foot limitation (proposed height of 14.4 feet) and a 14.66 square foot size variance from
the maximum 48 square foot maximum (proposed size of 62.66 square feet). The sign limitations are
established within the Kalamazoo Charter Township Zoning Ordinance, Section 7.08. The property is

1 located in the I-2, General Industrial Zoning District. Standards for variance consideration are contained
2 in Section 26.05 of the Township Zoning Ordinance.

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4 Leigh opened the public hearing and asked for any interested person to submit public comment in support
5 of or in opposition to the Applicant’s request for a variance.

6
7 The Township received a letter from Jane Kiel, which objected to the request for a variance. The letter
8 was read aloud and entered into the record for the ZBA members to consider. Hearing no additional public
9 comment, Leigh closed the public hearing.

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11 **Old Business.**

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13 None.

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15 **New Business.**

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17 **3025 Ravine Road – Sign Dimensional Variance**

18
19 The next item on the agenda was consideration of the request of Jason Newton (Applicant) on behalf of
20 Ken Hoving (Agent of 3025 Ravine Road), regarding the property located at 3025 Ravine Road, Parcel No.
21 06-08-170-010, recorded owner of AKKG, LLC, for an 8.4-foot height variance from the maximum 6-foot
22 limitation (proposed height of 14.4 feet) and a 14.66 square foot size variance from the maximum 48
23 square foot maximum (proposed size of 62.66 square feet). The sign limitations are established within the
24 Kalamazoo Charter Township Zoning Ordinance, Section 7.08. The property is located in the I-2, General
25 Industrial Zoning District. Standards for variance consideration are contained in Section 26.05 of the
26 Township Zoning Ordinance.

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28 Mucha said that the Applicant proposed to construct two free standing signs, one for each road frontage.
29 The Applicant proposed the signs to be 14.4 feet in height, where a maximum 6 feet is permitted, thereby
30 requiring a variance of 8.4 feet. The Applicant also proposes a variance of 62.66 square-feet where a
31 maximum of 38 square-feet is permitted for sign size area.

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

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

- 37
38 (1) Strict compliance with restrictions governing area, setback, frontage,
39 height, bulk, density or other non-use matters, will unreasonably
40 prevent the owner from using the property for a permitted purpose
41 or will render ordinance conformity unnecessarily burdensome.
42 (2) The variance will do substantial justice to the applicant, as well as to
43 other property owners.
44 (3) A lesser variance than requested will not give substantial relief to the
45 applicant and/or be consistent with justice to other property owners.
46 (4) The problem and resulting need for the variance has not been self-
47 created by the applicant and/or the applicant's predecessors. (For
48 example, a variance needed for a proposed lot split would, by

1 definition, be self-created, so such a variance typically would not be
2 granted.)
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4 Art Mulder addressed the ZBA on behalf of the Applicant. Mulder said that he wants to install signs at the
5 building, which is used as a recycling center. Mulder provided the ZBA renderings of the proposed signs
6 he prefers to install. Mulder said that a variance is needed because EGLE requirements require an 8'
7 opaque fence for the existing use and the Township's height limitation for signs is 6'. Mulder provided the
8 EGLE regulations to the ZBA members specifying the 8' opaque fencing requirement. Mulder said that the
9 Township Zoning Ordinance does not account for EGLE regulations, which is a practical difficulty. Mulder
10 said that there is no negative impact on the subject property or adjacent properties if the requested
11 variances is granted.
12

13 The Commissioners discussed the standards to grant a variance. Mackie confirmed that the signs will be
14 placed approximately 120 feet from the road. Combs confirmed that the signs will be illuminated by
15 uplighting. The Commissioners discussed separating the variances into two separate motions regarding
16 sign height and sign area.
17

18 The Board concluded that strict compliance with the restrictions governing setbacks will not unreasonably
19 prevent the applicant from using the property for a permitted purpose and/or render conformity with the
20 ordinance unnecessarily burdensome. Mucha said that the applicant did not provide any supporting
21 documentation, such as a survey, to substantiate that this standard was satisfied. The Board agreed,
22 noting that lot lines could not be confirmed or properly identified. Blue said he did not know where the
23 property lines were located. The Board concluded that granting the requested variance will do substantial
24 justice to the applicant because it will allow them to build their preferred design plans. Next, the Board
25 members discussed whether a lesser variance will give substantial relief to the applicant and/or be
26 consistent with justice to other property owners. The Board could not conclude that this standard was
27 satisfied because they do not know the extent of the variance necessary to satisfy the applicant's design
28 plans because the subject property lot lines could not be identified. As such, the Board could not conclude
29 that a lesser variance will give substantial relief to the applicant and/or be consistent with justice to other
30 property owners. The Board concluded that the problem and resulting need for the requested variance
31 was entirely self-created by the applicant.
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33 Blue moved, supported by Nagler to approve the request of Jason Newton (Applicant) on behalf of Ken
34 Hoving (Agent of 3025 Ravine Road), regarding the property located at 3025 Ravine Road, Parcel No. 06-
35 08-170-010, recorded owner of AKKG, LLC, for an 8.4-foot height variance from the maximum 6-foot
36 limitation (proposed height of 14.4 feet) and a sign size variance for the sign to be place on Ravine Road
37 of 14.66 feet because strict compliance with restrictions governing area, setback, frontage, height, bulk,
38 density or other non-use matters, will unreasonably prevent the owner from using the property for a
39 permitted purpose or will render ordinance conformity unnecessarily burdensome; the variance will do
40 substantial justice to the applicant, as well as to other property owners; a lesser variance than requested
41 will not give substantial relief to the applicant and/or be consistent with justice to other property owners;
42 the problem and resulting need for the variance has not been self-created by the applicant and/or the
43 applicant's predecessors due to EGLE regulations.
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45 The motion passed unanimously.
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1 The ZBA next considered the request for a variance regarding sign size/area regarding the sign height
2 limitation and sign size for the sign to be placed facing Nichols Road. The Board decided, and Mulder
3 agreed, that the sign size variance request would not be considered by the Board.

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5 Nagler moved, supported by Combs to approve the request of Jason Newton (Applicant) on behalf of Ken
6 Hoving (Agent of 3025 Ravine Road), regarding the property located at 3025 Ravine Road, Parcel No. 06-
7 08-170-010, recorded owner of AKKG, LLC, for an 8.4-foot height variance from the maximum 6-foot
8 limitation (proposed height of 14.4 feet) for the sign facing Nichols Road because strict compliance with
9 restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will
10 unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance
11 conformity unnecessarily burdensome; the variance will do substantial justice to the applicant, as well as
12 to other property owners; a lesser variance than requested will not give substantial relief to the applicant
13 and/or be consistent with justice to other property owners; the problem and resulting need for the
14 variance has not been self-created by the applicant and/or the applicant's predecessors due to EGLE
15 regulations; the request for a variance for sign size variance for the sign to be place facing Nichols Road
16 would be denied because the standards of review contained in Section 26.05.B.4.a are not satisfied.

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18 The motion passed unanimously.

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20 **Comments from the public.**

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22 None.

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24 **ZBA Member Comments.**

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

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28 **Report of Planning Commission Member.**

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30 Nagler discussed updates from recent Planning Commission meetings.

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32 **Adjournment.**

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34 Leigh moved, supported by Combs to adjourn the meeting at 6:54 p.m. The motion passed unanimously.

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SYNOPSIS OF ACTIONS

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The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the April 17, 2024 meeting:

- 1. Approved the request for sign height and size variance for 3025 Ravine Road for the sign facing Ravine Road.
- 2. Approved the request for sign height size variance for 3025 Ravine Road for the sign facing Nichols Road and denied the sign size variance request for the same.

Recording Secretary



MCKENNA

April 18, 2024

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

SUBJECT: Variance Request – Dumpster Location
APPLICANT: Kevin Weadley – FCC Construction
SECTION: Section 2.22.C – Trash Removal & Collection; Location
LOCATION: 521 East Mosel Avenue, Parcel No. 06-03-460-030
REQUEST: To obtain relief from Section 2.22.C.1 – Dumpster Location

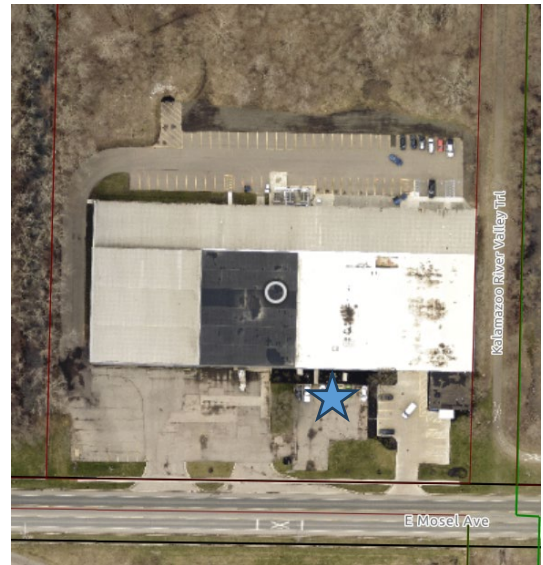
Dear Members of the Zoning Board of Appeals:

We have reviewed the above-referenced application regarding the variance request pertaining to on-site dumpster location at 521 East Mosel Avenue. The subject site is zoned I-2, General Industrial, and is approximately 5.56 acres in size.

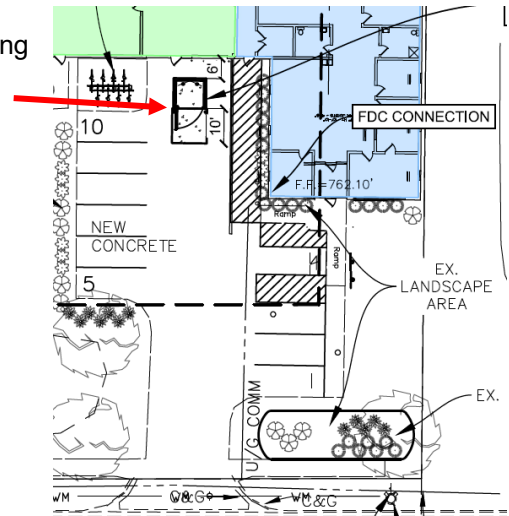
The applicant seeks relief from Section 2.22.C.1 – which states:

Dumpsters shall be permitted in the side or rear yard provided that no Dumpster shall extend closer to the front of the lot (both street frontages shall be considered “front” on corner lots) than any portion of the principal structure.

Further, the applicant proposes to erect a dumpster enclosure in front of the principal structure, as shown in the graphic to the right, and shown in larger context in the accompanying supplemental site layout plan.



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



HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

☎ 248.596.0920
☎ 248.596.0930
MCKA.COM

Communities for real life.



STAFF FINDINGS

Based on the following analysis of the variance request to permit the establishment of a dumpster enclosure in the front yard, where Section 2.22.C.1 does not permit such structure, the following considerations are offered to the Kalamazoo Township Zoning Board of Appeals.

Planning/Zoning

1. The proposed location of the dumpster enclosure would impact a minimum of two (2) parking spaces associated with the retail operation. Currently, 13 spaces are required for the retail operation and 60 spaces are required for the warehouse operations, for a total of 73 spaces. The associated plan notes a total of 80 spaces to be onsite. Given the additional seven (7) spaces on the property, removing two (2) spaces would still keep the site in compliance with off-street parking requirements.
2. The dumpster location appears to hinder emergency access along the southern portion of the building, directly north of the proposed enclosure location.
3. The property can be used for a special land use purpose, as regulated within the I-2 District, without the need for the variance.
4. Alternative refuse/debris containers, such as trash receptacles, could be utilized, which would negate the need for the variance.
5. Substantial justice would not be given to other property owners due to the dumpster enclosure being utilized by the operations at 521 E. Mosel only.
6. The need for the variance is partially self-created – alternatives are available that would render the need for the variance non-applicable. However, staff notes that requirements listed from the State of Michigan – Depart of Licensing and Regulatory Affairs – may have an impact on this provision.

Fire Safety

The Kalamazoo Township Fire Department has provided the following findings for consideration by the Zoning Board of Appeals:

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
Principal Planner

Kyle Mucha, AICP
Senior Planner



VARIANCE ANALYSIS

The applicant seeks relief from Section 2.22.C.1 of the Township Zoning Ordinance, which requires dumpsters to be located in a side or rear yard, provided that no dumpster extends closer to the front of the lot than the principal structure.

Per the Township's Zoning Ordinance, *Use, Principal*, is defined as the following:

Use, Principal: *The main use of land and buildings and the main purpose for which the land and buildings exist.*

The subject property is predominately used for the growth and processing of marijuana. A separate use on site, shown in the blue coloring, is retail of marijuana products. In review of the Township's Zoning Ordinance, Township staff find that the principal use for the property is that of manufacturing and processing, and not retail operations. Therefore, we find that the front of the building is shown in green on the accompanying site plan.

Section 26.05.B.4.a, of the Zoning Ordinance, provides criteria for the review of variance requests by the Kalamazoo Township Zoning Board of Appeals. The following are those criteria and how they relate to this request.

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

The ownership of the previously approved marijuana provisioning center use on the subject property has changed and the provisioning center is now a tenant of 521 E. Mosel. Due to industry regulations, retail staff are no longer allowed to use other interior corridors in the building to access a proposed dumpster enclosure in the rear of the building that will serve other uses on the site. This will force provisioning center staff to walk outside around the entire perimeter of the building at night to deposit trash which poses a health and human safety concern. The security gate at the southwest corner of the building is now operational since the change in provisioning center ownership so coordination with the security team would be required every time provisioning staff needs access to a dumpster enclosure at the rear of the building. Therefore we seek a variance to place a second dumpster enclosure on the south side of the building as shown on the attached site plan. This enclosure will meet all other requirements of Section 2.22 of the zoning ordinance.

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. Due to specific industry regulations regarding access to other uses in the building, provisioning staff would have to walk around the perimeter of the building to access a dumpster enclosure behind the building, posing a human health and safety concern. The security gate at the southwest corner of the building is now operational since the change in provisioning center ownership, so coordination with the security team would be required every time provisioning staff needs access to a dumpster enclosure at the rear of the building. All uses on site that will utilize the dumpster have been approved previously."

Staff Response: As previously referenced, Section 2.22.C.1. requires dumpsters to be located in a side or rear yard. The property can still be utilized for permitted purposes without the need for the variance relief of this section. Further, the applicant could seek to utilize trash receptacles,



which typically have a capacity of up to 100 gallons, for the retail operation as compared to a full dumpster and enclosure. Such receptacles could be staged in a manner to negate the need for the variance, such as adjacent to the building. Additionally, the applicant has not provided supplemental information that would indicate a dumpster enclosure is warranted for the retail operations. Depending on the volume of debris/refuse generated by the retail operation, trash receptacles may be more appropriate.

The following graphic (A), via Google Street View, illustrates the property as viewed northward along E. Mosel Avenue.



E. Mosel Avenue (A)

The applicant references changes in industry standards, however, has not provided supporting documentation for review by the Township. If such standards are in place, further consideration of this request as it pertains to standard “a” may be appropriate.

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

Applicant Statement: “Yes. While the dumpster enclosure in the front yard is not entirely behind any portion of the principal structure (Section 2.22.C.1), the enclosure is behind approximately 10% of the face of the principal structure. This portion of the building provides effective screening from properties to the east. Existing vegetation and fencing along the west property line provides effective screening from properties to the west. Granting this variance will not cause unnecessary hardship to adjacent property owners. All other requirements of Section 2.22 are satisfied by the proposed dumpster enclosures.”

Staff Response: It is not anticipated that the variance will do substantial justice to other property owners, given that the dumpster location and associated use only benefit the retail operations of 521 E. Mosel.

(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: “The variance requested from Section 2.22.C.1 is the minimum required. All other requirements of Section 2.22 have been satisfied.”

Staff Response: Based on the proposed location of the dumpster, and the relief sought from the Zoning Ordinance, staff does not find that a lesser variance would provide relief. The request is not “dimensional” in regard to setback provisions. Nor is the request a “use” variance for a type of land use that is not permitted within the District.

- (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: “The need for a variance is a result of state regulations and the applicant’s need to keep non-essential staff out of the previously approved marijuana cultivation and processing uses in other portions of the building. Non-essential staff in other areas of the building pose a security and contamination hazard to other previously approved uses.”

Staff Response: The applicant references recent state regulations, as defined by the Department of Licensing and Regulatory Affairs (LARA) – Marijuana Regulatory Agency. The applicant noted, via written communication to staff, that Section 420.203 states the following:

“Except as provided in R 420.204 and R 420.205, a marijuana business must be partitioned from any other marijuana business or activity, any other business or any dwelling.”

Due to the State requirements as outlined in the Marijuana Licenses Act, staff notes that the need for the variance is not self-created, to an extent. As referenced in earlier sections, there are alternatives to a dumpster enclosure that would negate the need for the variance and thus reduce and/or eliminate the self-created hardship potential.

- 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.

RE: 521 E. Mosel, Kalamazoo Township - Proposed Dumpster Enclosures.

Andy Brooks <abrooks@callenengineering.com>

Mon 4/29/2024 2:58 PM

To: Kyle Mucha <kmucha@mcka.com>; Danielle Bouchard <dbouchard@mcka.com>

Cc: MITTENDISTRO <hiramd@mittendistro.com>; Kevin Weadley <kweadley@teamfcc.com>; John McLeod <johnm@path20.co>

Good Afternoon Kyle,

See applicable State of Michigan Administrative Rules sections below.

"Rule 420.203

(a) Except as provided in R 420.204 and R 420.205, a marihuana business must be partitioned from any other marihuana business or activity, any other business, or any dwelling.

(c) A marihuana business must have distinct and identifiable areas with designated structures that are contiguous and specific to the marihuana license

(d) A marihuana business must have separate entrances and exits

(e) Access to a marihuana business's restricted and limited access areas is restricted to the licensee, employees of the licensee, escorted visitors, and the agency.

Rule 420.209

(2) A licensee shall ensure that any person at the marihuana business, except for employees of the licensee, are escorted at all times by the licensee or an employee of the licensee when in the limited access areas and restricted access areas at the marihuana business."

In addition to these rules, there is a need to prevent potential cross contamination resulting from retail employees entering the cultivation/processing areas of the building. Retail employees would also need to be escorted through the cultivation/processing area every time which would divert security resources from their duties as discussed in the narrative. There is also a state requirement that THC-related waste from one licensed use (retail) cannot be processed through a separately licensed facility (cultivating/processing).

Let us know if you need additional information.

Sincerely,

Andrew J. Brooks, EIT



Tel. 616.560.2342

https://link.edgepilot.com/s/f9641258/bEGGVJiaYE_4U8OcTSRnHQ?u=http://www.callenengineering.com/

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From: Kyle Mucha <kmucha@mcka.com>

Sent: Wednesday, April 24, 2024 4:58 PM

To: Andy Brooks <abrooks@callenengineering.com>; Danielle Bouchard <dbouchard@mcka.com>

Cc: MITTENDISTRO <hiramd@mittendistro.com>; Kevin Weadley <kweadley@teamfcc.com>

Subject: Re: 521 E. Mosel, Kalamazoo Township - Proposed Dumpster Enclosures.

Hi Andy,

The application references state regulations that preclude access between the two uses - can you provide the documentation to support this claim?



**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 Kevin Weadley		
Business Name (if applicable) FCC Construction, Inc.	Email kweadley@teamfcc.com	
Address 8182 Broadmoor Ave SE	Phone (616) 891-4000	Cell Phone (616) 822-5611
City Caledonia	State Mi	Zip Code 49316

PROPERTY OWNER

Check here if same as above

Name Michigan Opportunity 1, LLC	Email hiramd@mittendistro.com	
Address 521 E Mosel Avenue	Phone	Cell Phone (818) 741-6988
City Charter Township of Kalamazoo	State Mi	Zip Code 49004

PROPERTY INFORMATION

Street Address 521 E. Mosel	Suite/Apt. #
Zoning District I-2 General Industrial	Master Plan Designation Industrial
Gross Acreage 5.59 Acres	Parcel Dimensions 450' x 542'

ZBA ACTION REQUESTED


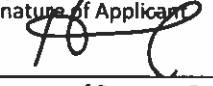
- To interpret a particular section of the ordinance, as it is felt the Zoning Administrator/Planning Commission is not using the proper interpretation.
- To interpret the zoning map, as it is felt the Zoning Administrator/Planning Commission is not reading the map properly. Describe the portion of the 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 erred (did not issue a permit, issued a permit, enforcement).

SECTION OF THE ZONING ORDINANCE SEEKING INTREPRETATION OR VARIANCE

Section: 2.22C



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

<u>4.9.2024</u>	<u></u>	<u>Kevin Weadley</u>
Date	Signature of Applicant	Print Applicant Name
<u>4.9.2024</u>	<u></u>	<u>Michigan Opportunity 1, LLC</u>
Date	Signature of Property Owner	Print Property Owner Name

FOR VARIANCE APPLICATIONS ONLY

RULING SOUGHT (attach additional sheets if necessary)

See attached narrative

STATEMENT OF JUSTIFICATION FOR REQUESTED ACTION (attach additional sheets if necessary)

State specifically the reason for the variance request

See attached narrative

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)

1. 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?

-See attached narrative

2. Would a variance do substantial justice to the applicant, as well as adjacent property owners?

-See attached narrative

3. Would a lesser variance not give substantial relief to the applicant and/or be consistent with justice to other property owners?

-See attached narrative.

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

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.

**FOR ORDINANCE INTERPRETATION / OVERTURN (MAPS OR TEXT)
APPLICATIONS ONLY**

RULING SOUGHT (attach additional sheets if necessary)

STATEMENT OF JUSTIFICATION FOR REQUESTED ACTION (attach additional sheets if necessary)
State specifically the reason for the variance request

Attach a copy of any communications pertaining to the interpretation issue and the zoning administrator's (or planning commission's) written ruling on this issue.

MEMORANDUM

DATE: APRIL 9, 2024

**TO: KALAMAZOO CHARTER TOWNSHIP
ATTN: PLANNING AND ZONING DEPARTMENT
1720 RIVERVIEW DRIVE
KALAMAZOO, MI 49004**

FROM: ANDREW J. BROOKS, EIT

**SUBJECT: VARIANCE REQUEST APPLICATION
MICHIGAN OPPORTUNITY 1, LLC
521 E. MOSEL
PPN: 39-06-03-460-030
KALAMAZOO TOWNSHIP, KALAMAZOO COUNTY, MI**

On behalf of Michigan Opportunity 1, LLC, applicant for the above subject project, we hereby submit this plan narrative related to proposed dumpster enclosures at 521 E. Mosel Avenue in Kalamazoo Charter Township, Michigan pursuant to conditions of site plan approval. This narrative is intended to supplement the current site plan, dated April 10, 2024.

Ruling Sought

The applicant seeks a variance from Section 2.22.C.1 to allow a dumpster enclosure to be placed in the front yard closer to the front of the lot than a portion of the principal structure.

Statement of Justification for Requested Action

The ownership of the previously approved marijuana provisioning center use on the subject property has changed and the provisioning center is now a tenant of 521 E. Mosel. Due to industry regulations, retail staff are no longer allowed to use other interior corridors in the building to access a proposed dumpster enclosure in the rear of the building that will serve other uses on the site. This will force provisioning center staff to walk outside around the entire perimeter of the building at night to deposit trash which poses a health and human safety concern. The security gate at the southwest corner of the building is now operational since the change in provisioning center ownership so coordination with the security team would be required every time provisioning staff needs access to a dumpster enclosure at the rear of the building. Therefore we seek a variance to place a second dumpster enclosure on the south side of the building as shown on the attached site plan. This enclosure will meet all other requirements of Section 2.22 of the zoning ordinance.

Variance Questions

1. *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. Due to specific industry regulations regarding access to other uses in the building, provisioning staff would have to walk around the perimeter of the building to access a dumpster enclosure behind the building, posing a human health and safety concern. The security gate at the southwest corner of the building is now operational since the change in provisioning center ownership, so coordination with the security team would be required every time provisioning staff needs access to a dumpster enclosure at the rear of the building. All uses on site that will utilize the dumpster have been approved previously.

2. *Would a variance do substantial justice to the applicant, as well as adjacent property owners?*

-Yes. While the dumpster enclosure in the front yard is not entirely behind any portion of the principal structure (Section 2.22.C.1), the enclosure is behind approximately 10% of the face of the principal structure. This portion of the building provides effective screening from properties to the east. Existing vegetation and fencing along the west property line provides effective screening from properties to the west. Granting this variance will not cause unnecessary hardship to adjacent property owners. All other requirements of Section 2.22 are satisfied by the proposed dumpster enclosures.

3. *Would a lesser variance not give substantial relief to the applicant and/or be consistent with justice to other property owners?*

-The variance requested from Section 2.22.C.1 is the minimum required. All other requirements of Section 2.22 have been satisfied.

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

-The need for a variance is a result of state regulations and the applicant's need to keep non-essential staff out of the previously approved marijuana cultivation and processing uses in other portions of the building. Non-essential staff in other areas of the building pose a security and contamination hazard to other previously approved uses.

On behalf of Michigan Opportunity 1, LLC, we respectfully request variance approval for parcel:39-06-03-460-030, 521 E. Mosel Avenue, Kalamazoo Charter Township, Kalamazoo County, Michigan.

