

**KALAMAZOO TOWNSHIP
ZONING BOARD of APPEALS MEETING
AGENDA
WEDNESDAY MAY 17, 2023, 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 17, 2023
- #4 Approval of Minutes:
 - 4a. April 19, 2023
- #5 Public Hearings
 - 5a. 910 Jenks Boulevard – variance request for: dimensional setback.
- #6 Old Business
 - 6a. 4629 Winding Way – No Action Required
- #7 New Business
 - 7a. 910 Jenks Boulevard – Variance Review
- #8 Other matters to be reviewed by the ZBA
 - 8a. Comments from the public on matters not already addressed.
 - 8c. Zoning Board of Appeals members' comments.
 - 8d. 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 a summary or analysis of the request.
4. Applicant presents request.
5. Persons wishing to comment on the request are recognized.
6. Chairperson closes public hearing.

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**Charter Township of Kalamazoo
Minutes of the Zoning Board of Appeals
Held on April 19, 2023**

10 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was held on
11 Wednesday, April 19, 2023.

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Call to Order.

20 The Chairman called the meeting to order at 6:00 p.m.

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Present Were:

29 Nicolette Leigh, Chairperson
30 Shawn Blue
31 Frederick Nagler

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Absent was:

40 Also present were: Township Planner Danielle Bouchard, Assistant Township Attorney Josh Thall,
41 and 4 members of the public.

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Roll Call.

Chairman Leigh called the roll.

Approval of the Agenda.

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

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

Approval of the Minutes of the January 18, 2023 Zoning Board of Appeals Meeting

The next item on the agenda was approval of the minutes of the January 18, 2023, regular Zoning
Board of Appeals meeting. The draft meeting minutes were provided to all ZBA members in their
agenda packet.

Nagler moved, supported by Blue, to approve the minutes of the January 18, 2023, regular ZBA
meeting as presented. The motion passed unanimously.

1 **Public Hearings.**

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3 **4629 Winding Way Variance Request**

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5 Leigh opened a public hearing on the request at 6:02 p.m.

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7 The next item on the agenda was consideration of the request from Vincent Marsilio (“applicant”) for a variance from the required 30-foot rear yard setback in order to permit the construction of additional living space and an associated attached accessory building on the property owned by Marsilio located at 4629 Winding Way (Parcel ID: 06-06-105-076). The requested additional living space and attached accessory building is to make the home more accessible and maneuverable for Marsilio and his wife as they grow older in their home. The property is located in the RM-2, Multi-Family/Mixed Use Zoning District Classification. Standards for variance consideration are contained in Section 26.05 of the Township Zoning Ordinance.

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16 Leigh described the procedures of the public hearing and then asked Bouchard to explain the request. Bouchard read from a staff report that was prepared by her office evaluating the proposal. Bouchard highlighted from the staff report that it was determined that there were at least six alternative options to the requested variance that would allow Marsilio to accomplish making the upper level of the home more easily accessible. Additionally, she noted that the planning staff determined that the need for the variance was self-created based on the preference of Marsilio, as determined by there being alternative options. For these reasons, Bouchard stated that the report did not recommend support for the variance.

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25 Marsilio was present on his behalf, along with his contractor Richard Deboer and architect Richard Schramm. Marsilio mentioned that the property at 4629 Winding Way abuts another property that he also owns, which is located within Oshtemo Township. Marsilio discussed that the intent of the add-on to the home is to make the two-story house more accessible as the applicant and his wife grow older. The applicant and his wife desire to have greater access to the living space located on the upper level of the home. To make the upper level of the home more accessible, the applicant is seeking to be able to have the garage attach directly to the upper level of the home, which contains the primary living space, to avoid having to use stairs to access this area of the home. Additionally, there would be living space added on in the form of a covered patio. Both additions would be made to the Northwest side of the home. Additionally, the lower level of the home is being converted into extra bedrooms for guests. Marsilio also mentioned that there would be no effect on the neighboring properties to the West or North because there is a thick vegetative buffer in either direction.

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39 Leigh asked if there was any further public comment for or against the proposed variance. No one spoke for or against it. Leigh closed the public hearing at 6:07 p.m.

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42 **Old Business.**

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44 None.

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New Business.

Next, the Board considered the variance request of Vincent Marsilio for a rear yard setback variance to add additional living space and an attached garage onto the north portion of the home located at 4629 Winding Way (Parcel ID: 06-06-105-076). Bouchard gave another general overview of the request and discussed whether the request met the variance standards provided in Section 26.05 of the Township Zoning Ordinance. Bouchard again read through the staff report, highlighting the alternative options that she believed would work for the property based on her review of the proposal and documents submitted to the ZBA.

Based on the pictures, the ZBA members asked whether there was already a structure, such as a shed on the north side of the home. Marsilio explained that there was a deck on the north side of the home currently. Nagler asked the applicant what the proposed setback from the lot line would be, and the applicant indicated that the addition would be approximately 7 feet from the lot line, which Nagler noted would mean Marsilio is seeking an approximately 23-foot variance. Nagler asked the contractor, Deboer, his opinion on the proposed expansion, and why alternatives would not be suitable. Deboer explained that grading issues meant that expansion to the east or south would not be viable, and that expanding to the north and west was the best practical option.

Leigh noted that she was frustrated with the lack of information submitted with the application for the variance and noted that the photographs that were provided were not sufficient to determine what was actually going to be constructed. Leigh stated that she would have liked to see a site plan submitted to supplement the request. The applicant, his contractor and his architect, at this time, showed blueprints to the ZBA members and explained their request using large maps. Leigh again asked why it could not be built to the south. Marsilio showed the grading issues to the south and east on the maps he brought to the meeting.

The ZBA members got into a detailed discussion with each other and the Marsilio about what information should have been provided with the variance request, and explained to the applicant what information they would like to see submitted as a supplement prior to this request being considered again. The main issues for the ZBA members were the lack of a complete site plan, and the lack of a land survey to confirm where the property boundaries were, which is needed to know how much of a variance is being requested. Another one of the primary concerns of Board members was making sure the addition would not cross township boundary lines into Oshtemo.

Leigh asked Bouchard if prior to the next meeting, she could compile information on if any property owners with property in two adjoining townships had ever requested this type of variance and how those situations were handled, if any such requests have occurred.

1 Blue moved, supported by Nagler, to table the request of the variance request for 4629 Winding
2 Way until its August regular meeting, which is scheduled for August 16, 2023. The motion passed
3 unanimously.

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

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7 None.

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9 **Citizen Comments.**

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11 None.

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13 **Correspondence received.**

14 **Board Member Comments.**

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16 None.

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18 **Report of the Planning Commission Member.**

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20 Nagler did not have any update.

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22 **Adjournment.**

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24 There being no additional business, Nagler moved, supported by Blue, to adjourn the ZBA
25 meeting. The motion passed unanimously and the meeting was adjourned at 7:12 p.m.

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27 Respectfully Submitted,

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31 _____
32 Joshua Thall, Assistant Township Attorney

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34 **Synopsis of Actions**
35 **ZBA meeting April 19, 2023**

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37 The Kalamazoo Township Zoning Board of Appeals undertook the following actions at its meeting
38 of April 19, 2023:

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- 41 • Tabled to the August 16, 2023, Zoning Board of Appeals meeting the request from Vincent
42 Marsilio for a variance from the required 30-foot rear yard setback in order to permit the
43 construction of additional living space and an associated attached accessory building on
44 the property owned by Marsilio located at 4629 Winding Way (Parcel ID: 06-06-105-076).



MCKENA

May 09, 2023

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

SUBJECT: ZBA Report

#23-03 Variance Request - Setback

APPLICANT: Allison Dillon (Applicant) on behalf of Hope Reformed Church (Property Owner)

SECTION: Section 25.02 – Schedule of Regulations

LOCATION: 910 Jenks Boulevard, Kalamazoo MI 49006 (Parcel ID: 06-17-135-350 & 06-17-135-311)

REQUEST: To obtain relief from the front yard setback requirement (25 feet) in the R-2, Single & Two Family Residential District of 15 feet to facilitate construction of a children’s play structure along Fletcher Avenue.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application regarding the variance request pertaining to the construction of a children’s play structure at 910 Jenks Boulevard and offer the following for consideration.

VARIANCE REQUEST SUMMARY

The applicant, Allison Dillon, on behalf of Hope Reformed Church, is proposing to obtain relief from the Kalamazoo Township Zoning Ordinance’s Schedule of Regulations (Section 25.02) as it pertains to setback requirements for the front yard in the R-2-, Single- & Two-Family Residential District.

The applicant proposes to construct a children’s play structure that will be 10 feet from the front property along Fletcher Avenue, where a minimum of 25 feet is required.

EXISTING SITE CONDITIONS

The subject parcels are approximately 1.35 acres in size. The site is currently zoned R-2, Single & Two Family Residential. A children’s play structure is considered an accessory use to the principal use (religious institution) of the principal parcel (910 Jenks). The applicant proposes to install the children’s play structure to the northeast of the main assembly hall, along Fletcher Avenue. As additional



HEADQUARTERS

235 East Main Street
Suite 105
Northville, Michigan 48167

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MCKA.COM

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background, the applicant/property owner is undergoing parcel combination to combine five (5) separate parcels/lots into a single parcel/lot with the principal address being 910 Jenks Blvd.

STANDARDS FOR VARIANCE APPROVAL

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.

- 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. The proposed placement of the children's play structure is ultimately the best location as other locations will greatly hinder the site plan configuration and traffic circulation."

During the April 6, 2023 Planning Commission meeting, Hope Reformed Church received site plan approval, which included reduced parking spaces, modifications to landscaping requirements and access management. Township staff have discussed potential alternative conforming locations with the applicant and noted that such locations would cause significant traffic circulation issues for patrons and fire safety apparatus.

Further, staff noted that installation of the children's play structure in a conforming location would reduce the number of parking spaces the subject site is able to host, thus bringing the subject property to a potential point of nonconformity with ordinance regulations.

Therefore, staff is supportive of this finding.

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

Applicant statement: "Yes. Our property has frontage on three public roads, which renders the subject site to have three front yards."

It is not anticipated that granting the variance request will greatly impact property owners in the immediate vicinity. Due to the subject site having frontage on three (3) public roadways, the site is classified as having three (3) front yards. Because of this, the site layout severely limits where a children's play structure can be located.



In addition, due to site design standards for interior parking lot circulation, a play structure located within the center of the parking lot would impact motor vehicle travel and fire safety apparatus turning radii.

Therefore, staff is supportive of this finding.

- (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: "A lesser variance would not permit the completion of outdoor enhancement efforts."

Due to the limited area of non-improved surfaces, we find that a lesser variance would not provide substantial relief to the applicant due to the required safety buffers placed around children's play structures. Further, we find that an alternative location, such as in the center of the subject site, may increase potential conflict between motor vehicles and pedestrians accessing the play structure.

- (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: “Hope Church seeks the variance because of the unique circumstance of having three (3) front yards.”

The need for the variance is only partially self-created: the applicant could construct the play structure in a location that meets front yard setback requirements. However, as noted in previous sections, such location would then significantly impact traffic circulation, fire safety apparatus access and the total number of off-street parking spaces required by the Township Zoning Ordinance.

Further, the existing site, with three (3) front yards, has been in existence prior to Hope Reformed Church occupying the building. Township records indicate the existing structure (assembly hall) was erected in 1947, prior to the adoption of the Kalamazoo 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, brief description as it relates to the four review criteria, and a conceptual site design for the proposed play structure 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.

STAFF FINDINGS

We offer the following for consideration by the Zoning Board:

1. The need for the variance is only partially-created: alternative options exist that would render the associated setback variance non-needed. However, as noted previously, such a conforming location for the children’s play structure may bring other areas of the subject site into non-conformance with the Township Zoning Ordinance, such as parking regulations and site circulation.
2. The requested setback variance of 15 feet is the minimum needed in order to satisfy separation requirements between a play structure and other fixtured structures.
3. The requested variance is not anticipated to be detrimental to adjacent property owners.
4. The subject site is unique in the fact that it has three (3) front yards.

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

Respectfully,

McKenna

Danielle Bouchard, AICP
Principal Planner

Kyle Mucha, AICP
Senior Planner



**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	Allison Dillon		
Business Name (if applicable)	Hope Reformed Church	Email	office@hopekzoo.com
Address	910 Jenks Boulevard	Phone	2693499788
		Cell Phone	2693774233
City	Kalamazoo	State	MI
		Zip Code	49006

PROPERTY OWNER

Check here if same as above

Name	Email	
Address	Phone	Cell Phone
City	State	Zip Code

PROPERTY INFORMATION

Street Address	910 Jenks Blvd.	Suite/Apt. #	
Zoning District	R-2	Master Plan Designation	
Gross Acreage	Approx. 2	Parcel Dimensions	

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: _____



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.

3/23/23
Date

Allison Dillon
Signature of Applicant

Allison Dillon
Print Applicant Name

Date

NA
Signature of Property Owner

Print Property Owner Name



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

RULING SOUGHT (attach additional sheets if necessary)

See attached

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

See attached

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.



FOR VARIANCE APPLICATIONS ONLY

RULING SOUGHT (attach additional sheets if necessary)

see attached

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

State specifically the reason for the variance request

↓

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?

↓

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

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

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



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.



March 24, 2023

RULING SOUGHT

Hope Reformed Church seeks a variance to be granted for the requirement of placement for an accessory structure. Hope Church desires to place a child's play structure on the eastern portion of the site, abutting N Fletcher Avenue. This placement, per the township ordinance section 25.02, is not permitted in the 'front yard.'

STATEMENT OF JUSTIFICATION FOR REQUESTED ACTION

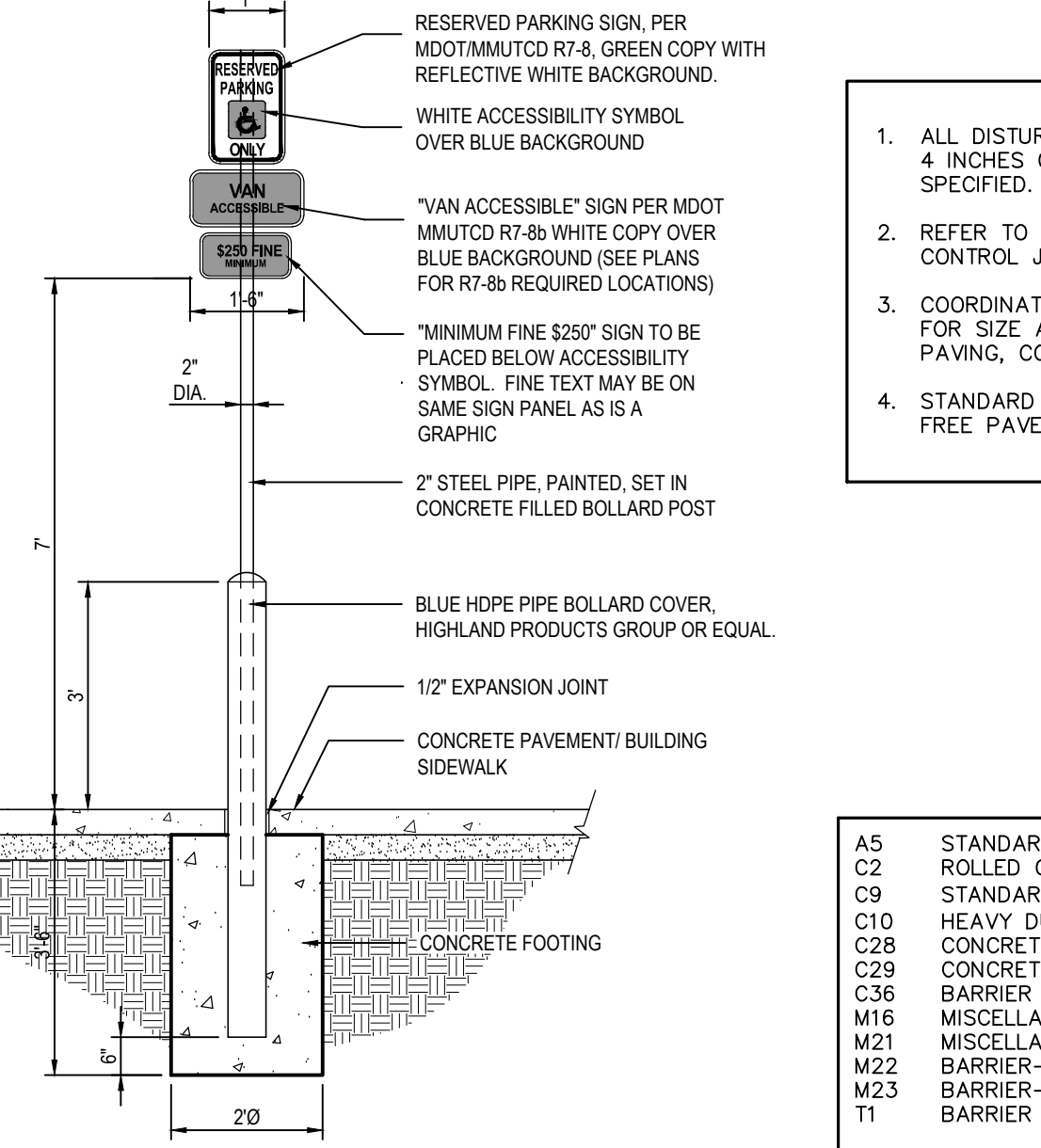
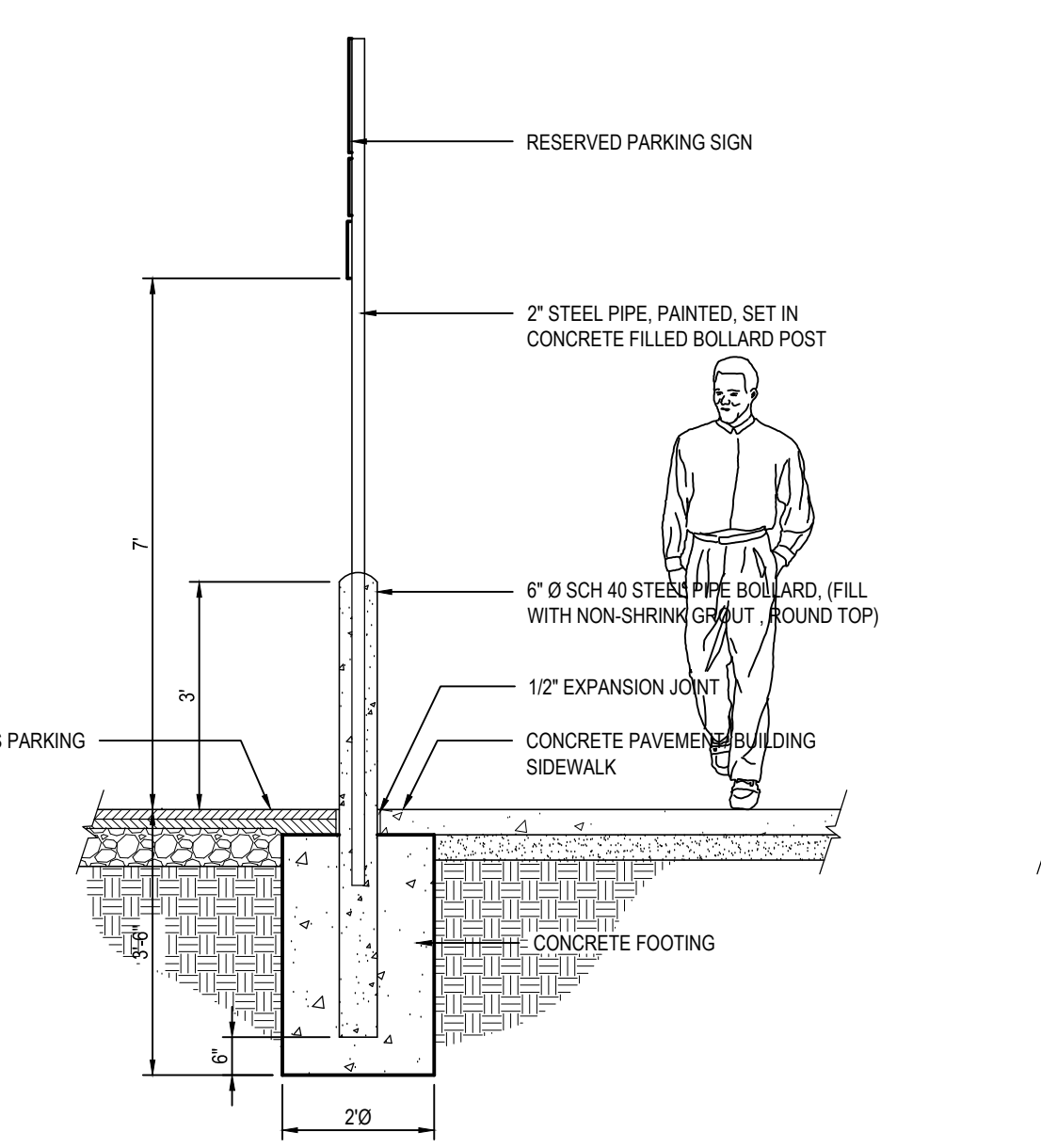
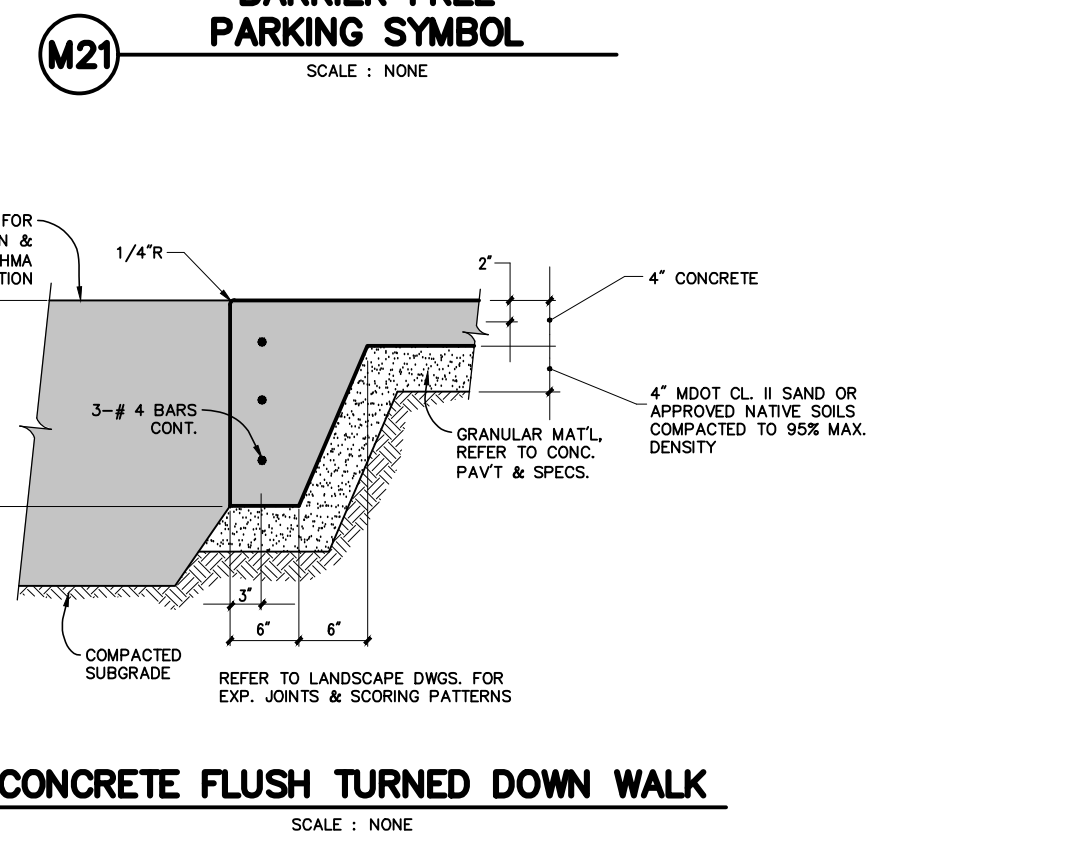
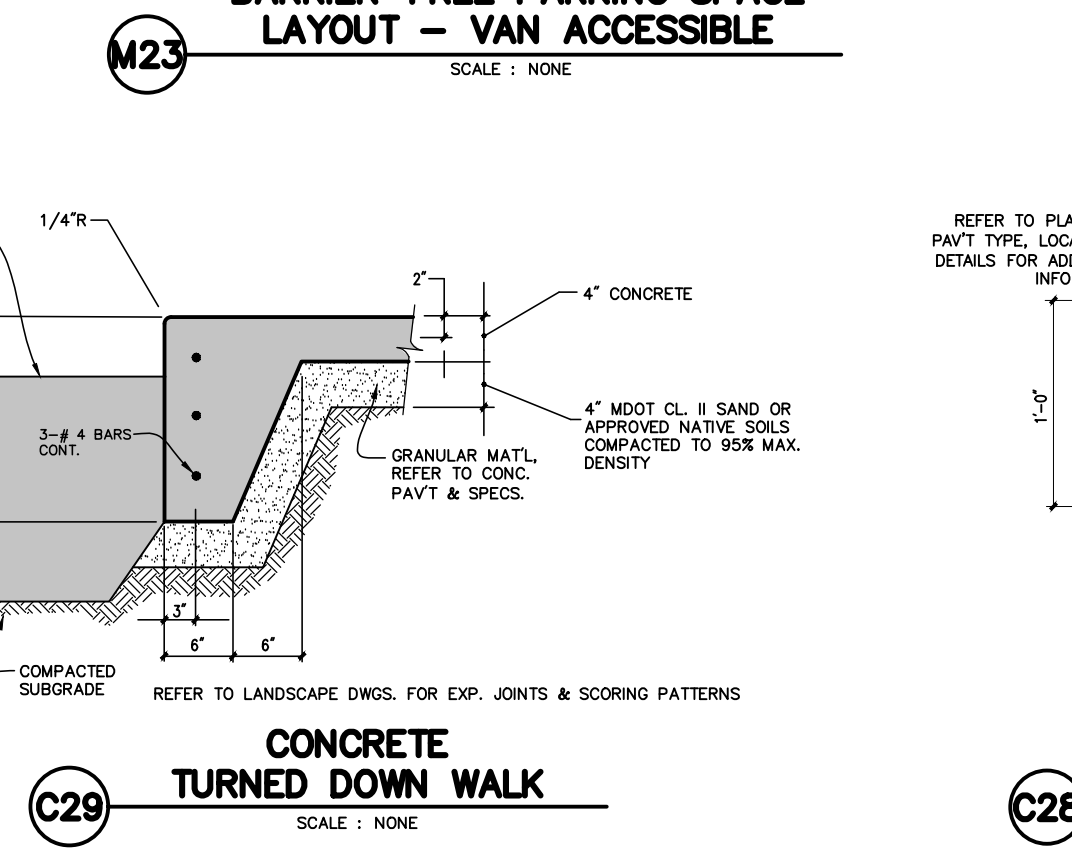
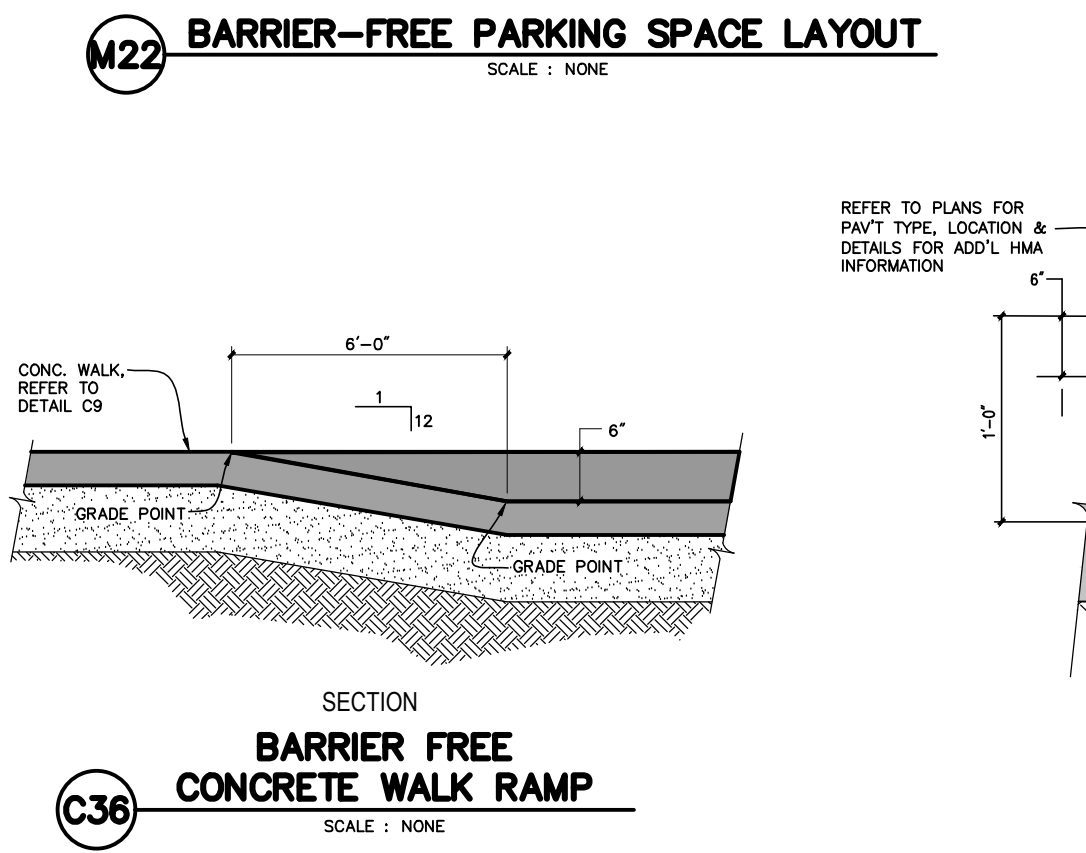
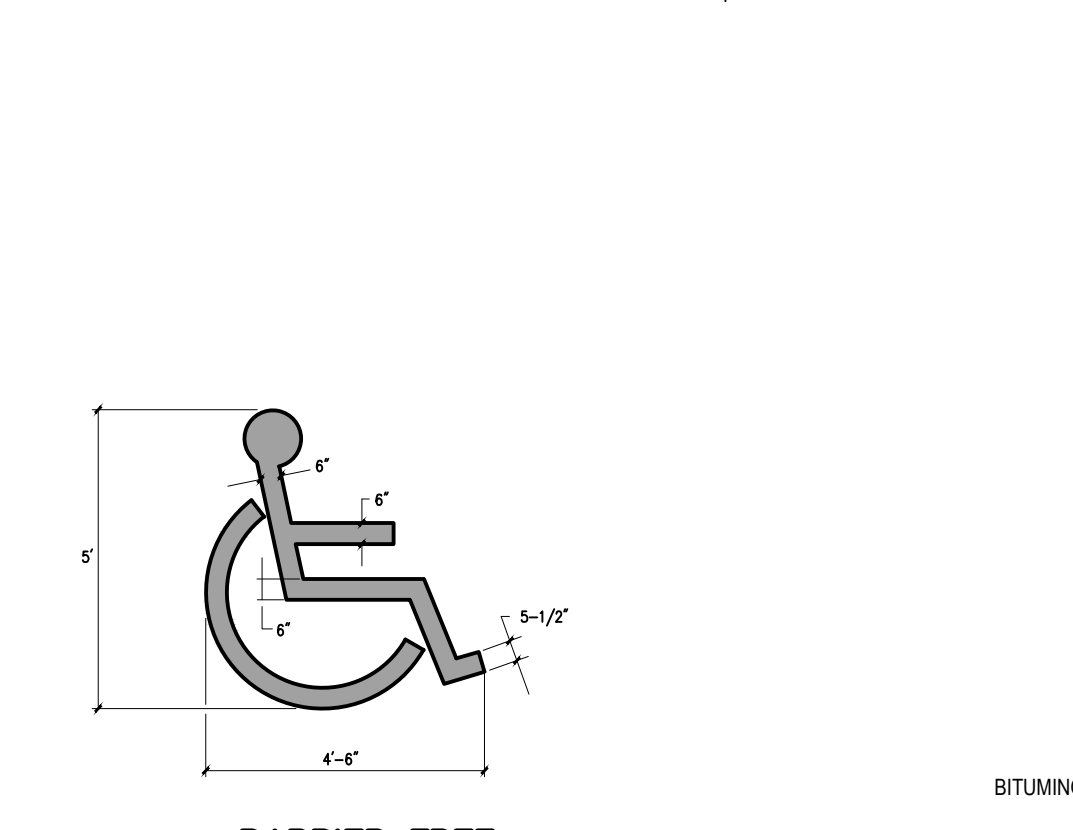
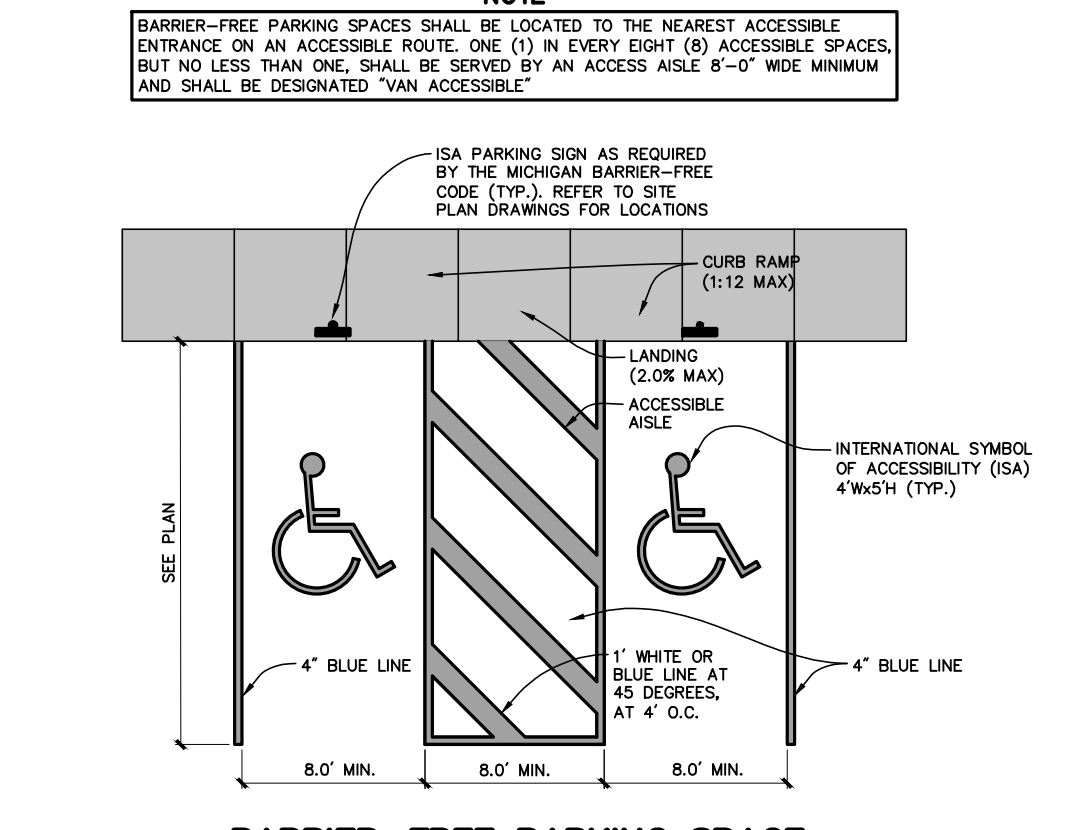
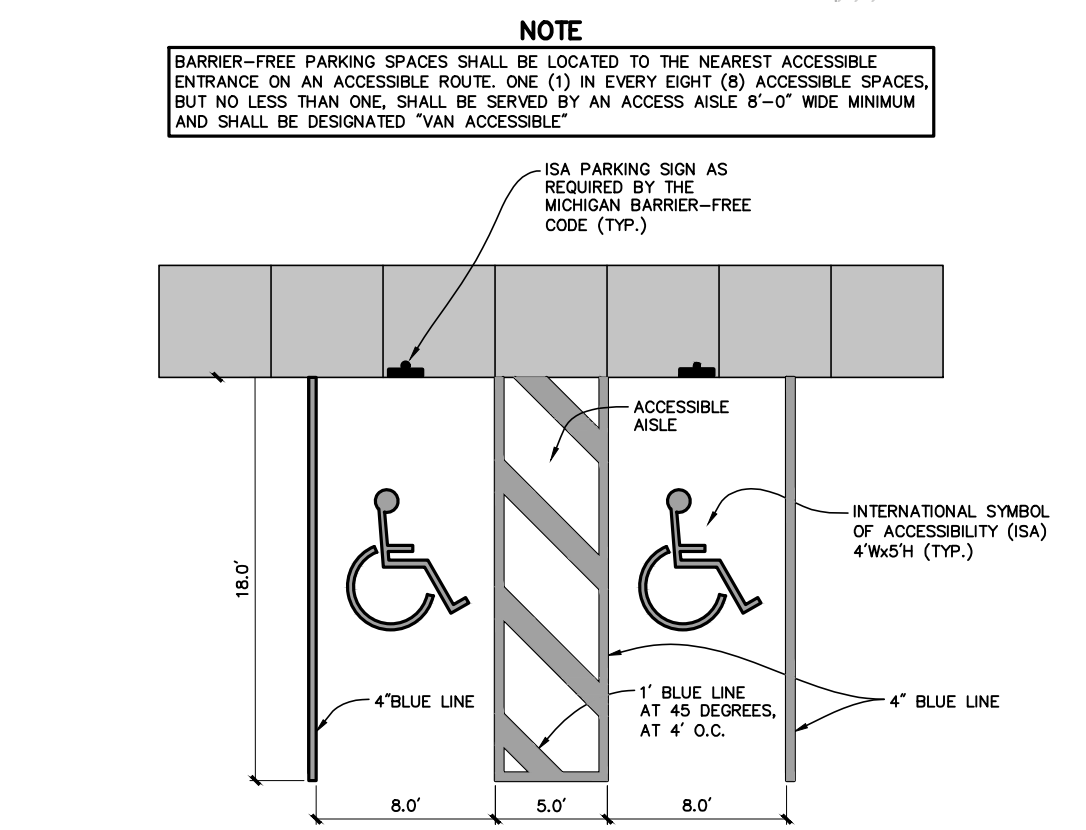
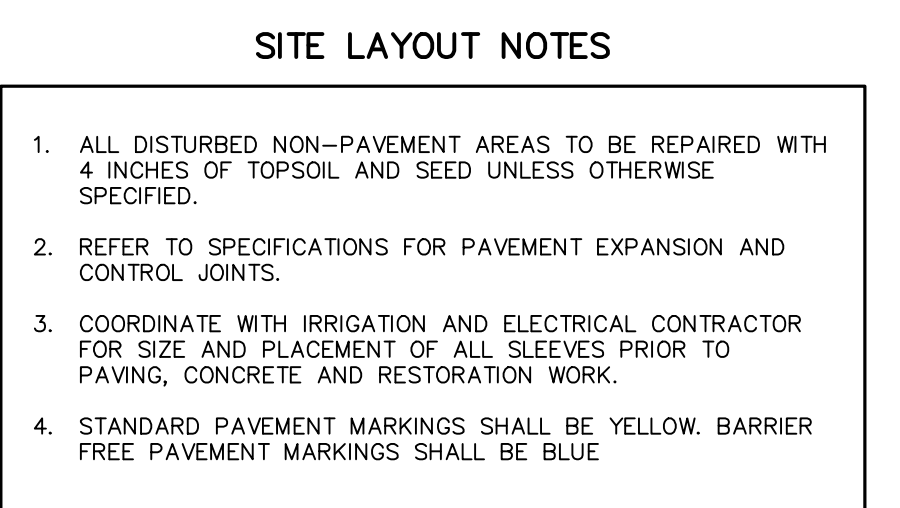
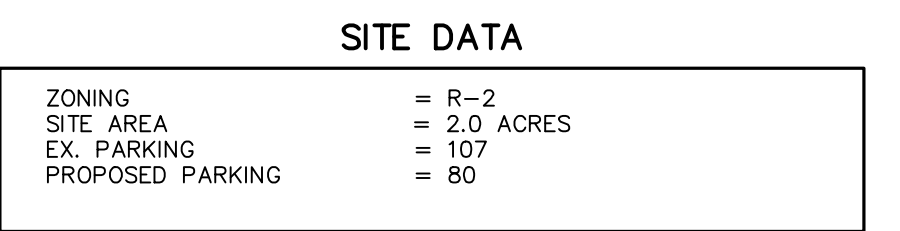
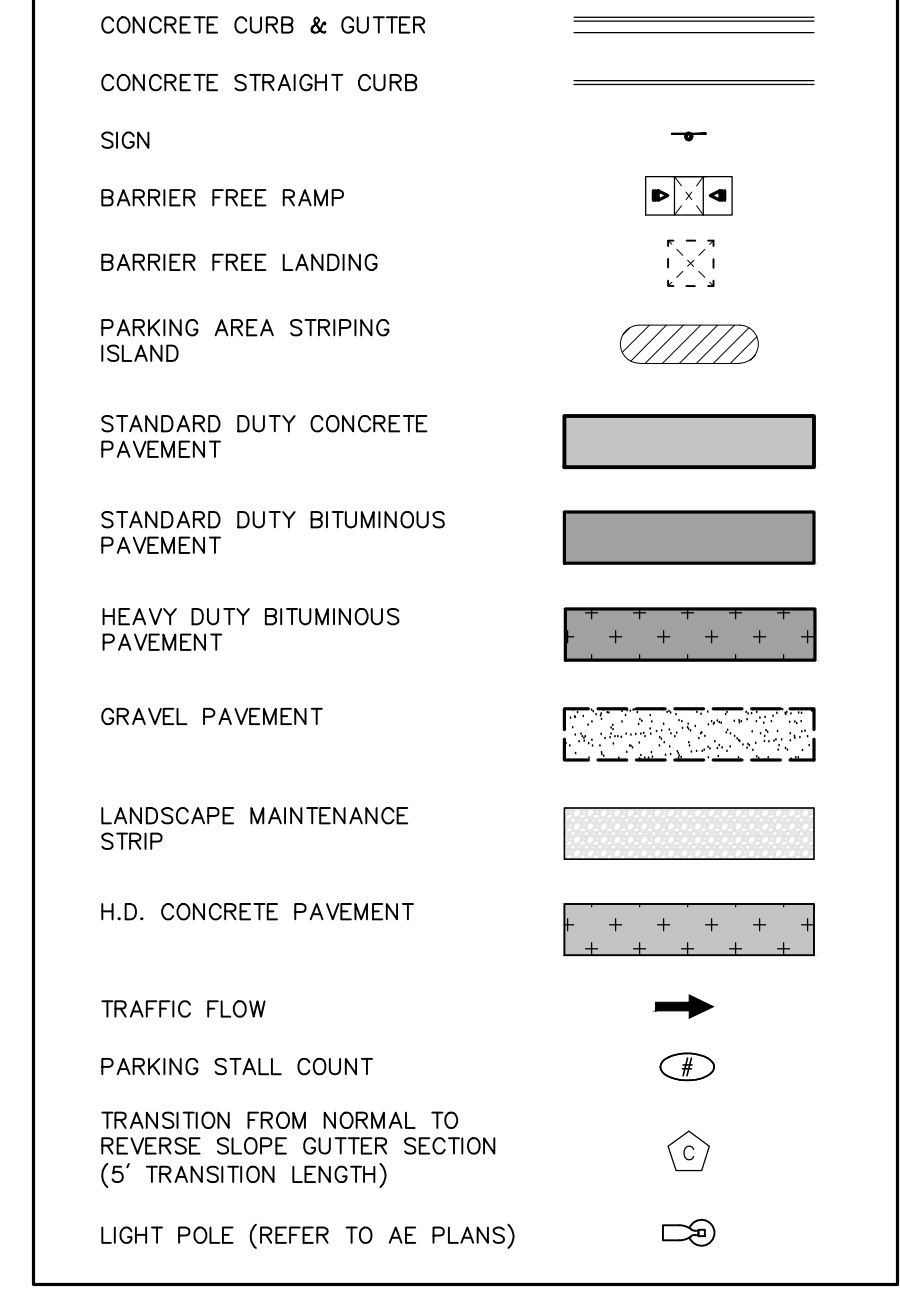
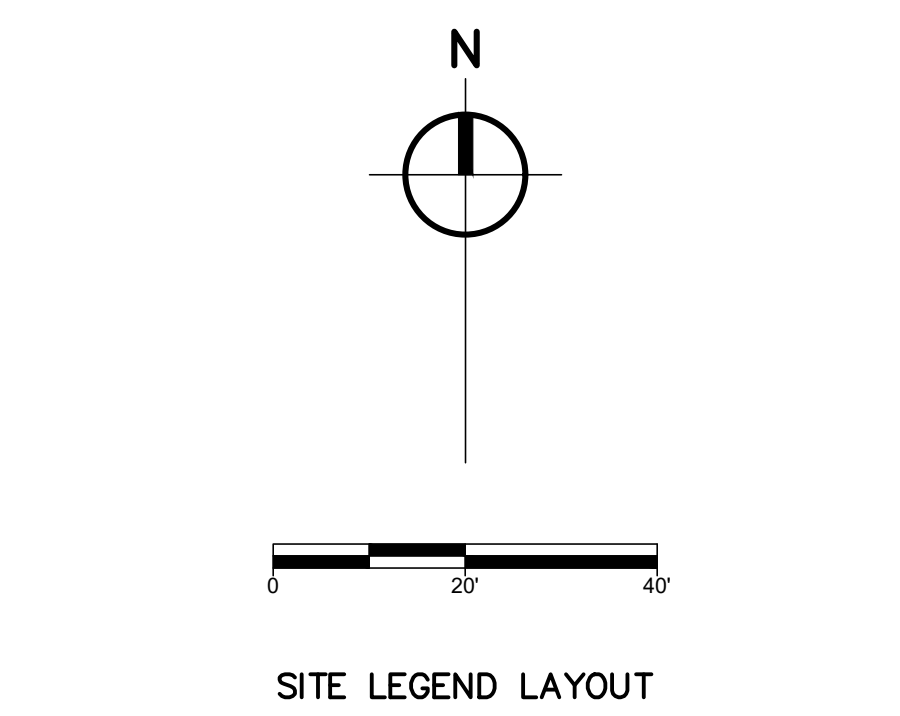
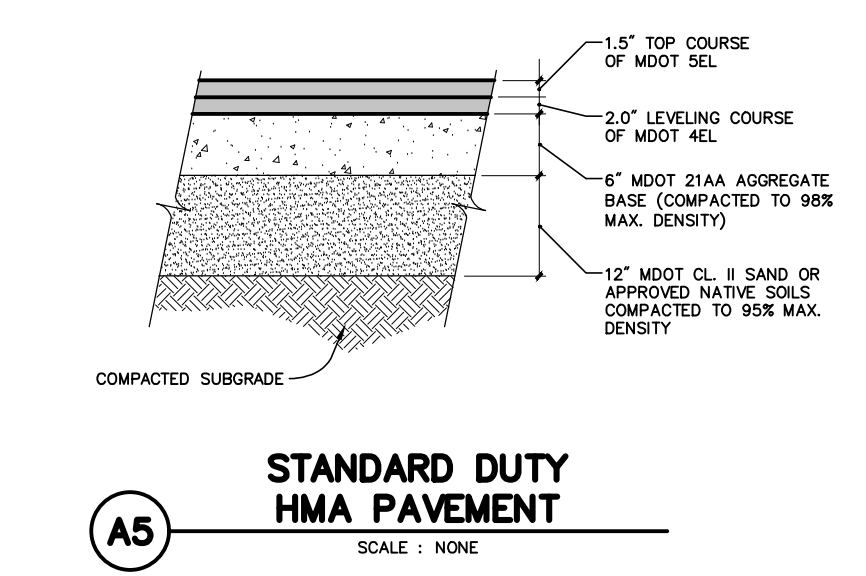
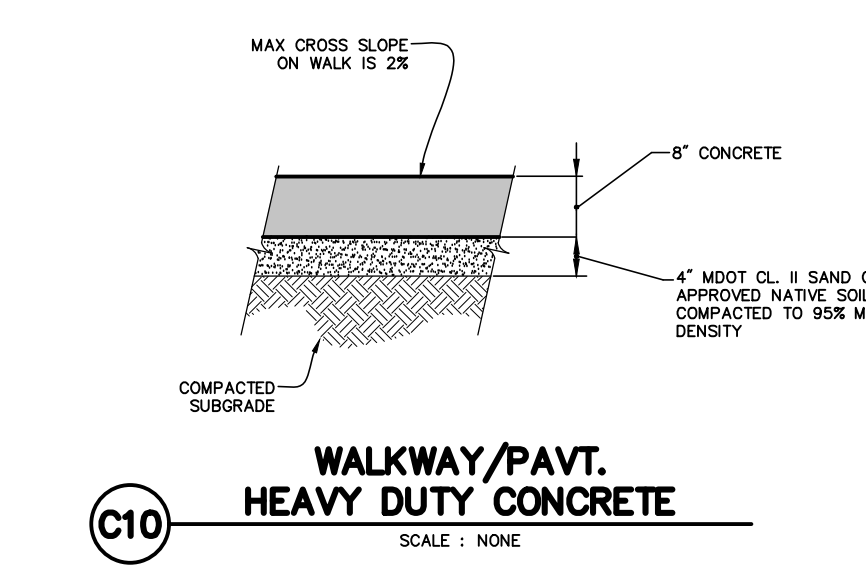
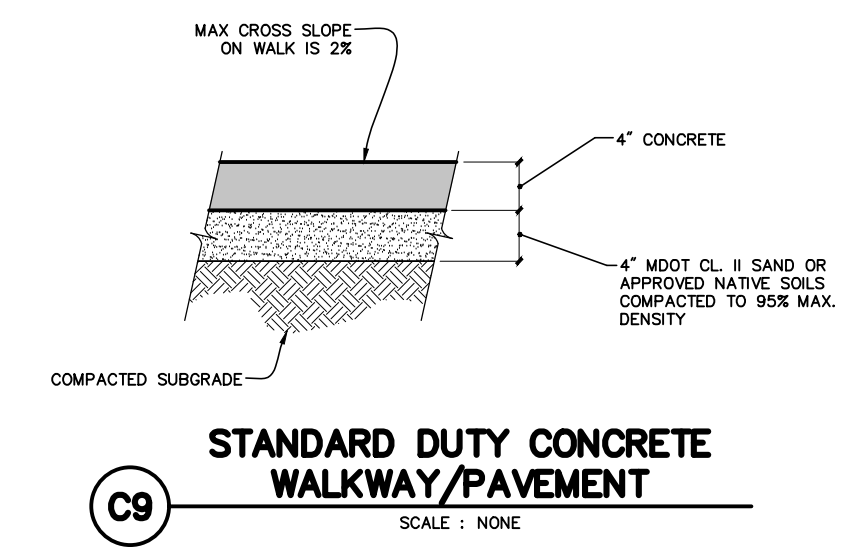
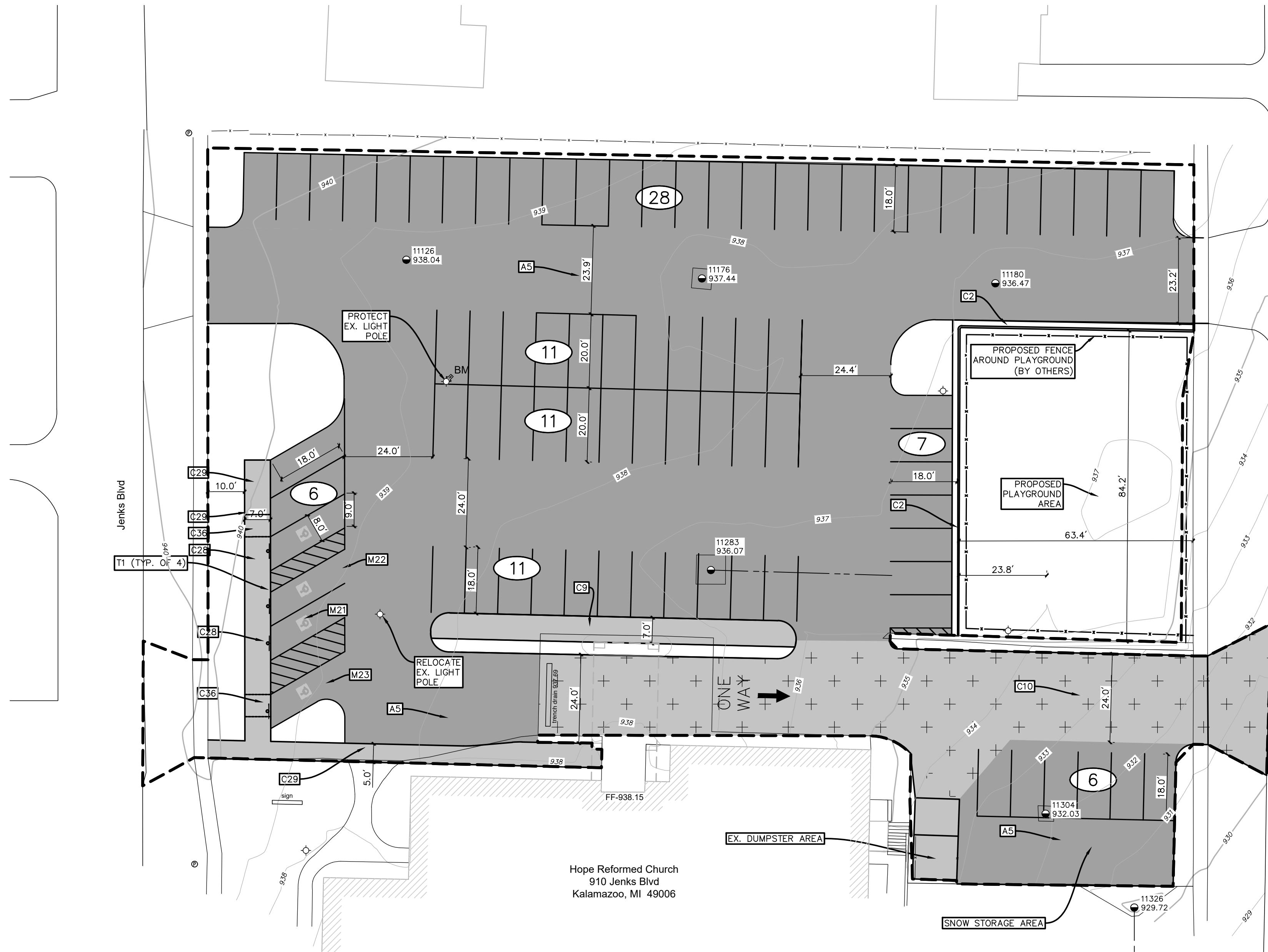
Hope Church seeks this variance because we are a unique situation in which we have three 'front yards' on our property. The current placement of the child's play structure is ultimately the best placement as other locations will greatly hinder the site plan configurations and traffic circulation. We have considered other options, which are limited, and to provide the best accessibility, flow of traffic, safety, and site lines, this current location should be utilized. Because of the hardships of our property layout, we ask that a variance be granted to allow the play structure in its current position on our site plan.

Side note: we are currently in the process of combining our parcels into a single lot.



VARIANCE QUESTIONS:

- 1) The Township ordinance renders conformity unnecessarily burdensome. Significant work has already gone into the placement of the play structure as well as consideration for the best possible location for safety and flow of traffic, and while the ordinance make sense for a residential property, we are a unique case.
- 2) Granting the variance to Hope Church to allow the play structure to be installed on the current eastern portion of the site would certainly provide the applicant and adjacent property owners a great service in the neighborhood. The current location provides what we think is an appropriate buffer to adjacent properties. The primary purpose of the play structure is to create a safe and inviting play area for the community surrounding the church. The variance would allow us to give back to the community, and hopefully provide another draw for this residential area.
- 3) Not granting the variance would ultimately prohibit the installation of the play structure and then negatively impact the completion of the outdoor efforts to not only update our property but enhance and build-up this portion of the Westwood Neighborhood Community. This play structure is very much a gift back to our neighborhood! We love where we are located. We want to continue being hospitable to our neighbors and supportive of our community as they support and love our family-focused activities that take place here!
- 4) This problem is not self-created. The church's property layout gives hardship as we have no actual 'backyard' or 'side yard' to place a structure like this. The other possible locations (middle of the parking lot or right next to our parsonage), prohibit traffic flow, site lines, and privacy for our pastor's family. Given we are not a residential property, variance that takes this into account seems appropriate.



NO.	REVISIONS	BY	DATE	DRAWN
	PLANNING SUBMITTAL		12/16	JEV
			2022	JEV
			2022	JEV

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HOPE REFORMED CHURCH
910 JENKS BLVD.
KALAMAZOO TOWNSHIP, MI
269-349-9788

PARKING LOT IMPROVEMENTS

PROJECT NO. **2220834**
SHEET NO. **2 OF 2**

T:\O\10\PROJECTS\2022\2220834 HOPE REFORMED CHURCH PARKING LOT\4_18000\2220834 - C20 SITE PLAN.DWG - JAEER\JAK - Dec. 20 2022 - 02:59pm - Plot:SitePlan.dwg

Lisa Moaiery, Clerk
Zoning Board of Appeals
Kalamazoo Charter Township
1720 Riverview Dr
Kalamazoo, MI 49004

RE: Hope Reformed Church Variance Request

I am writing today in **total** support of the variance Hope Reformed Church is requesting.

My home has been in our family for 68 years, experiencing many changes at Hope. With that said, I feel this leadership and congregation has been, by far, the most neighborhood friendly. They host unique events year-round, always including the neighborhood. Adding a playground is another way to show how important we, as neighbors, are to Hope Reformed Church.

Sincerely,

Karen Brooks
915 Jenks Blvd
Kalamazoo, MI 49006