

**KALAMAZOO TOWNSHIP
ZONING BOARD of APPEALS MEETING
AGENDA
WEDNESDAY AUGUST 16, 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 August 16, 2023
- #4 Approval of Minutes:
 - 4a. July 19, 2023
- #5 Public Hearings
 - 5a. None
- #6 Old Business
 - 6a. 4629 Winding Way – Setback
- #7 New Business
 - 7a. None
- #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 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".

1 **Charter Township of Kalamazoo**
2 **Kalamazoo County, Michigan**

3 **Minutes of Zoning Board of Appeals meeting conducted on July 19,**
4 **2023**

5 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals
6 was conducted on July 19, 2023 commencing at 6:00 p.m. at the Township
7 Hall, 1720 Riverview Drive within the township.

8 Present were:

9 Fred Nagler
10 Shawn Blue
11 Nicolette Leigh, Chairperson

12
13 Township Planning Consultant Kyle Mucha; Township Attorney Roxanne Seeber
14 and 3 additional members of the audience were also present.

15 **1. Call to order**

16 Chairperson Leigh called the meeting to order.
17

18 **2. Roll Call**

19 The roll was called. Blue moved, supported by Nagler to excuse Mackie from
20 the meeting. The motion passed unanimously.
21

22 **3. Approval of agenda**

23 Nagler moved, supported by Blue to approve the agenda as submitted. The
24 motion passed unanimously.
25

26 **4. Approval of Minutes**

27 Blue moved, supported by Nagler to approve the minutes of the May 17, 2023
28 Zoning Board of Appeals meeting as submitted. The motion passed
29 unanimously.
30

31 **5. Public Hearings**

- 32 a. The chairperson opened a public hearing on the request of Consumers
33 Concrete Company and Hurley-Stewart Engineers for parking space,
34 landscaping and height variances for the property located at 3809 E.
35 Michigan Avenue. The property is located in the I-2 District Zoning
36 Classification. Mucha outlined the application for variances. The
37 parking space and landscaping variance requests had already been
38 addressed as part of site plan review by the Planning Commission.

39 Mucha indicated that the remaining request was for building height.
40 The height limitation in the I-2 District zoning classification is 45 feet
41 He explained that the applicant needs a height variance for indoor
42 aggregate storage. Brady Parsons, the Consumers Operations
43 Manager and Steve Burnett, the engineer for the project stated that
44 the only variance being sought was for building height. No one spoke
45 for or against the request and Leigh closed the public hearing.

46 b. The chairperson opened a public hearing on the request of Edward
47 Tarkowski for a side yard variance related to the proposed construction
48 of a garage at 2334 Lincoln within the Township. The property is
49 located in the I-2 Industrial District Zoning Classification. Mucha
50 explained that the applicant wished a side yard setback variance for
51 construction of a garage. He explained that several properties in the
52 area had residences on them which were made non-conforming when
53 rezoned to industrial by the Township. The Applicant indicated that
54 his house was located 5 feet from the west property line. Mucha stated
55 that with the change to Industrial, the setbacks became much higher.
56 The applicant stated that it was all residential at one time. The
57 applicant's request was to put a 2-car garage on the east side of the
58 parcel. With the narrow parcel size, his garage could only be 15 feet
59 in width to meet setbacks. No one spoke for or against the application.
60 The chairperson closed the public hearing.

61 c. The chairperson opened a public hearing on the request of Jason
62 Newton for front and side yard setbacks related to a proposed
63 entryway sign on the property located at 222 S. Kendall within the
64 Township. The property is located in the RM-3 Residential Restricted
65 District Zoning Classification. Mucha stated that the staff was
66 recommending approval and that the applicant could not appear due
67 to a personal conflict. Mucha explained that the request was to
68 replace the existing sign with an entryway sign in the same location.
69 No one spoke in favor of or against the request. The chairperson
70 closed the public hearing.

71 **New Business**

72 3809 E. Michigan.

73 Burnett explained that he is the engineer for the project. They wished to take
74 the operation indoors and they needed to truck in some of the aggregate and
75 store it indoors in order to make concrete blocks inside. They had reduced
76 the area needed for height variance from 250' x 40' to 80' x 40'. He explained
77 that on the back side of the building that had already been approved by the

78 Planning Commission, there is a high bank. The production process, he said,
79 drives the need for the variance. He indicated that the building height, if
80 approved would be placed 30 feet below the center line of Sprinkle Road due
81 to the high bank. Only about 20 feet of the high portion of the building would
82 be seen from Sprinkle. The rest of the building, he said, is below 35 feet in
83 height.

84 Leigh commented that the height would not be obtrusive, that the need for
85 variance was not self-created but due to the indoor fabrication process. The
86 applicant stated that they are replacing an existing plant and increasing
87 production capacity.

88 Mucha explained that the Planning Commission had approved the site plan,
89 although there was some discussion about rotating the building 90 degrees.
90 The Planning Commission had approved parking and landscaping waivers.
91 Nagler confirmed this. Mucha stated that there was no perceived issue from
92 the roadway.

93 Blue inquired about the site plan received from the Planning Commission.
94 Mucha indicated that it was to establish that waivers were approved and the
95 requesting landscaping and parking variances were not needed.

96 The members of the Zoning Board of Appeals went through the factors to be
97 considered for granting of a variance as follows:

98 (1) Strict compliance with restrictions governing area, setback,
99 frontage, height, bulk, density or other non-use matters, will
100 unreasonably prevent the owner from using the property for a
101 permitted purpose or will render ordinance conformity
102 unnecessarily burdensome. The owner would not be able to
103 move its process into the building unless a variance was
104 granted.
105

106 (2) The variance will do substantial justice to the applicant, as
107 well as to other property owners. Leigh stated that it would
108 allow the applicant to undertake its process inside of a building
109 and that the height was needed to allow for the aggregate used
110 in the production process to be stored indoors. Leigh stated
111 that the building would not look out of place since it was located
112 in a valley. A smaller silo would not make a difference.
113

114 (3) A lesser variance than requested will not give substantial
115 relief to the applicant and/or be consistent with justice to other
116 property owners. The applicant had reduced size of portion of
117 building needing the variance.

118
119 (4) The problem and resulting need for the variance has not
120 been self-created by the applicant and/or the applicant's
121 predecessors. (For example, a variance needed for a
122 proposed lot split would, by definition, be self-created, so
123 such a variance typically would not be granted.) Leigh
124 stated that this standard was met as the production process
125 required the height variance.
126

127 Nagler commented that the neighboring opposition at the Planning
128 Commission came from a woman who lives across the street and she likely
129 would not be affected by the grant of the variance. In response to an inquiry
130 from Blue, Burnett stated that traffic would increase slightly. Nagler indicated
131 that the Planning Commission had conditioned approval on the applicant
132 requesting signs from the road commission indicating that there were trucks
133 in the area. Leigh indicated that the traffic increase was not caused by the
134 grant of the variance but was related to the need in the industry for silo
135 storage.

136 Burnett stated that the building height was actually a little higher than what
137 was requested. The group calculated the variance being requested at 7'4".

138 Nagler moved, supported by Blue to approve the 7'4" height variance to permit
139 the construction of the silo portion of the building at 52'4" in height. The
140 reasons for the variance include the necessity of keeping the operation
141 indoors; the applicant's reduction of size of the portion of the building needing
142 variance; and the location of the building several feet below the travelled
143 portion of Sprinkle Road due to its topographical situation. The motion passed
144 unanimously. Seeber prepared the decision form. Leigh signed it and Seeber
145 provided a copy to the applicant and to Mucha for safekeeping in the
146 Township's files.

147 **Public Hearing Tarkowski garage 2334 Lincoln**

148 The next item on the agenda was the request of Edward Tarkowski for a side
149 yard variance related to the proposed construction of a garage at 2334 Lincoln
150 within the Township. The property is located in the I-2 Industrial District
151 Zoning Classification. Mucha re-iterated his comments at the public hearing,
152 indicating that the change to industrial zoning increased the setbacks such
153 that compliance with the ordinance was unduly burdensome and would result
154 in a very narrow garage on this separate parcel. Mucha explained that that
155 he has asked the applicant about combining the parcels, and that he was not
156 agreeable to it, saying that he may want to sell them separately at some point

157 in the future. Tarkowski explained that he wants a two-car garage. He had
158 spoken with the neighbors and they liked the idea.

159 Leigh commented that granting a variance would do substantial justice to the
160 applicant and the neighboring property owners. The situation was not self-
161 created, but was rather created by the Township's rezoning of these
162 residentially-occupied and used houses to Industrial. Leigh stated that a
163 lesser variance would not result in substantial relief to the applicant because
164 of the narrowness of the existing lot. He was asking for a two-car garage
165 which is consistent with most residential uses. Blue commented that the
166 rezoning impacted the properties, and that the two parcels were very narrow.
167 Nagler commented that even if the situation were deemed to be self-created,
168 the applicant met the other three standards and that would justify the granting
169 of the variance.

170 Blue moved, supported by Nagler to approve the variance as requested,
171 reasoning that the Township's rezoning of the property to industrial and the
172 extreme narrowness of the lots justified the grant of the variance. The motion
173 passed unanimously. Seeber explained that using a decision form would start
174 the appeal period immediately, rather than waiting 30 days after the minutes
175 of the meeting were approved, which may be significantly in the future,
176 depending on when meetings were held. She provided a copy of the form to
177 the applicant and to Mucha.

178 **Kendall variance request.**

179 Mucha introduced this request. The applicant wished to eliminate the existing
180 sign and replace it with a development entryway sign, which is what the
181 ordinance now requires. The problem, he said, was that the existing sign was
182 made non-conforming when the road was widened and compliance with the
183 setbacks now would put the entryway sign into the middle of the parking lot.
184 Mucha commented that building addresses were now required on all entryway
185 signs. That, he said would be addressed by the fire marshal if the variance
186 was approved. The staff recommended approval of the variance.

187 Blue inquired as to whether there was a Township Fire Code. Seeber indicated
188 that there is a 700-page document that has been adopted by the Township as
189 its fire code; and that the Township had adopted a "fire standards site plan"
190 ordinance to give people a heads up as to what the fire department would be
191 looking for on new developments or improvements to properties in the
192 Township. This, she said, tended to limit the confusion between "zoning" and
193 "fire department" approvals.

194 Leigh was concerned about the size of the sign face if addresses had to be
195 included on it. Mucha stated that the Zoning Board of Appeals was only
196 approving the location. If a larger sign face was needed than what was
197 allowed, another variance would need to be applied for. Nagler commented
198 favorably on the application, indicating that the applicant was placing a much
199 nicer sign on the property in compliance with the Ordinance. He did not have
200 a problem with using the same location, when the applicant was reducing the
201 degree of non-conformity voluntarily by using an entryway sign. Leigh
202 inquired about the addressing on the sign and Mucha confirmed that only the
203 building numbers and not individual addresses would be required.

204 The group considered whether strict compliance with the ordinance would
205 create a difficulty. Nagler and Leigh commented that the sign became more
206 conforming by the installation of an entryway sign.

207 Leigh indicated that compliance with the ordinance was unduly burdensome
208 because compliance with the ordinance would require placement in the
209 parking lot.

210 The members next considered whether the grant of the variance would due
211 substantial justice to the applicant and surrounding property owners. Nagler
212 stated that some of the adjacent owners have entryway signs. The group also
213 determined that the variance could not be reduced because there was no
214 conforming location available and the sign was replacing an existing sign.

215 Nagler moved, supported by Blue to approve the variance for placement of an
216 entryway sign in the same location as the existing sign, due to the reduction
217 in the degree of nonconformity; and the meeting of all four considerations for
218 variance. The motion passed unanimously. Mucha reported that he would
219 scan and email the notice of decision to the applicant.

220

221 **Report of the Planning Commissioner.**

222 Nagler reported on the approval of the Consumers Concrete site plan that had
223 been considered earlier in the evening. He and Mucha provided a progress
224 report on the master plan. Leigh indicated that she would like to see global
225 warming and resultant relocation of numbers of people considered in the
226 master plan. She and Blue discussed electric cars and considerations for
227 reducing fuel consumption. Seeber stated that a lot of communities are
228 dealing with industrial solar right now, but that Kalamazoo Township was
229 largely built out and it may not be a big concern at this point. Nagler

230 commented that the gravel pits would have to become something at some
231 point. Mucha agreed.

232 Mucha indicated that there was a potential ZBA application for next month,
233 but that the deadline had not been met. Winding Way is not scheduled to
234 return until August.

235 Mucha stated that the Supervisor had received an application for appointment
236 to the ZBA. In response to an inquiry from Blue, Mucha stated that a full
237 board was 5 members with two alternates.

238 **Public Comment.**

239 None.

240 **Adjournment.**

241 Upon motion of Blue, supported by Leigh and unanimous voice vote, the
242 meeting was adjourned at 6:53.

243

244

245

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

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

Call to Order.

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

Present Were:

Nicolette Leigh, Chairperson
Shawn Blue
Frederick Nagler

Absent was:

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

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.**

2

3 **4629 Winding Way Variance Request**

4

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

6

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

15

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

24

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

38

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

41

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.

4
5 **Other matters to be reviewed by the ZBA.**

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7 None.

8
9 **Citizen Comments.**

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11 None.

12
13 **Correspondence received.**
14 **Board Member Comments.**

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16 None.

17
18 **Report of the Planning Commission Member.**

19
20 Nagler did not have any update.

21
22 **Adjournment.**

23
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.

26
27 Respectfully Submitted,

28
29
30
31 _____
32 Joshua Thall, Assistant Township Attorney

33
34 **Synopsis of Actions**
35 **ZBA meeting April 19, 2023**

36
37 The Kalamazoo Township Zoning Board of Appeals undertook the following actions at its meeting
38 of April 19, 2023:

- 39
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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).



MCKENNA

August 8, 2023

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

SUBJECT: ZBA Report

#23-02 Variance Request - Setback

APPLICANT: Vincent Marsilio (property owner)

SECTION: Section 25.02 – Schedule of Regulations

LOCATION: 4629 Winding Way, Kalamazoo MI 49006 (Parcel ID: 06-06-105-076)

REQUEST: To obtain relief from the rear yard setback requirement in the RM-2, Multi-Family/Mixed Use District of 30 feet to facilitate construction of additional attached accessory structure and principal living space.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application regarding the variance request pertaining to the construction of additional living and accessory square footage at 4629 Winding Way and offer the following for consideration.

VARIANCE REQUEST SUMMARY

The applicant, Vincent Marsilio, 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 rear yard in the RM-2, Multi-Family/Mixed Use District. The applicant proposes an addition that would make the rear setback 24 feet and 4 inches from the rear lot line. The minimum in the RM-2 District is 30 feet.

The applicant proposes to construct additional living space and an associated attached accessory building on the property at 4629 Winding Way.



EXISTING SITE CONDITIONS

The subject parcel is approximately 7.95 acres in size. The site is currently zoned RM-2, Multi-Family/Mixed Use. A single-family dwelling is a permitted use within the RM-2 District, per Section 14.02.A. of the Kalamazoo Township Zoning Ordinance. The site is currently improved with a two-story single family dwelling, approximately

HEADQUARTERS

235 East Main Street
Suite 105
Northville, Michigan 48167

○ 248.596.0920
F 248.596.0930
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1,152 square feet in area. The subject site also includes an attached accessory building, estimated at 576 square feet. Based on aerial photographs, there also appears to be detached accessory buildings located to the east and south of the principal dwelling.

The subject site shares a municipal boundary with Oshtemo Township, located to the immediate west. An approximate 1.9 acres of the subject property is located within Oshtemo Township, with 6.4 acres located within Kalamazoo Township.

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:

- 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 only reasonable and logical part of the existing house to attach an addition is the West side of the building. The North side of the existing building has no room to the property line for an addition. The East side of the building has the septic system and tile field. The South side of the building has part of a drain field along with an electrical transformer set on the ground. Also the South part of the property is the money shot of the lake and the part of the property that we live and entertain outdoors. The West side is the ideal area for the addition. The west side will bring a better resale value to the property, & the tax base."

We noted several alternatives in our review that the applicant could pursue, which would negate the need for the variance:

1. Convert the existing attached garage into living space and expand the building footprint to the east, which would not require variance approval. The applicant could then seek to either construct an attached accessory building or a detached accessory building.
2. Install an indoor elevator to access the second floor of the home.
3. Install a chair lift to navigate stairwells.
4. Construct a new home on the subject property that meets all dimensional requirements.
5. Expand the existing dwelling to the south and/or southeast to meet all applicable zoning setback requirements for the RM-2 District.
6. Relocate the drain field to an alternative location in order to permit the expansion of the home southwards.

While the applicant indicates that the logical area for the expansion is to the west of the existing dwelling, adjacent to the municipal boundary line, no supporting documentation from a licensed builder/contractor has been provided to lend credence to this claim; staff cannot substantiate the applicants claim.

Therefore, we find that strict compliance with restrictions governing area, setback or other non-use matters **would not** unreasonably prevent the owner from using the property for a



permitted purpose, nor would the Kalamazoo Township Zoning Ordinance unnecessarily render conformity burdensome.

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

Applicant statement: “Yes. The 10’ variance would allow the home to be built to meet our future living needs. The 10’ variance has no effect on and adjacent property owners – I own the Oshtemo property that is adjacent to the Kalamazoo Township property in question.”

It is not anticipated that granting the variance request will greatly impact property owners to the west or north due to the extensive natural vegetation that exists on the subject property, as shown in the below image.



Because alternatives exist for the applicant in regards to constructing additional living space that meets the Zoning Ordinance, staff finds that the variance will not provide substantial justice. Alternative conformities exist that the applicant has not explored, therefore, staff finds that granting the variance would overrule conforming alternatives.

(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. Because of survey done on the west side of the property, we have reduced the necessary variance needed to 10’ rather than the original 20’.”

It is conceivable that a lesser variance would give substantial relief to the applicant, especially given the alternative recommended configurations provided in consideration 1.



Staff has no records of past rear yard dimensional variance approvals to offer further guidance on whether a lesser variance would 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.)*

Applicant statement: “Yes, the existing structure was built very close to the property line, (which at this time I invite the board to come for a site visit to have a clear understanding of the situation before the August meeting. The builder marked with string the future addition, and the engineer put stakes on the west property line, as a visual for your visiting members). Because the existing home sits on the far Northwest corner of the property makes other design options not desirable.”

The need for the variance is entirely self-created. As previously indicated, the applicant has alternative conforming options that should be explored, such as expanding to the east or south of the existing parcel.

Township records indicate the home was constructed in 2001 (prior to the current owner having possession). The municipality boundary line was in existing prior to the home being constructed.

The applicant states that other design options are not desirable. Staff finds that this statement is not indicative of a physical hardship and is that of an aesthetic matter. The applicant can construct an addition that meets the zoning regulations without a need for a variance.

- 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 home expansion.

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 due to the applicant having conforming alternatives that would negate the need for the variance.



STAFF FINDINGS

We offer the following for consideration by the Zoning Board:

1. The need for the variance is self-created. The applicant has alternative conforming options that would negate the need for the variance.
2. Alternative conforming options have not been explored, to staff's knowledge.

Due to apparent alternative conforming options available to the applicant, and the need for the variance being entirely self-created, staff is not able to offer a finding of support as it pertains to this request.

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 Vincent E Marsilio		
Business Name <i>(if applicable)</i>	Email wmcbs@outlook.com	
Address 4629 Winding Way	Phone	Cell Phone 269-823-3728
City Kalamazoo	State MI	Zip Code 49006

PROPERTY OWNER

X Check here if same as above

Name	Email	
Address	Phone	Cell Phone
City	State	Zip Code

PROPERTY INFORMATION

Street Address 4629 Winding Way	Suite/Apt. #
Zoning District	Master Plan Designation
Gross Acreage	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).

X 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: Set Back



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.

Date 07/17/23

Signature of Applicant Vincent E Marsilio

Print Applicant Name Vincent E Marsilio

Date 07/17/23

Signature of Property Owner Vincent E Marsilio

Print Property Owner Name Vincent E Marsilio

FOR VARIANCE APPLICATIONS ONLY

RULING SOUGHT (attach additional sheets if necessary)

I am seeking a 10' variance on the west side of my property.
 This is the follow up to a zoning board meeting in May of 2023. The board wanted a survey of the west side property line because part of our property is in Kalamazoo Township and part is in Oshtemo Township. We are putting an addition onto our house, during the first zoning board meeting we were looking for a 20' variance. After the survey by Mitten State Engineering, we found that the farthest western side of the addition will set 23'4" from the property line. Therefore, we are seeking a 10' variance from the zoning board.

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

The new addition will sit on the west side of the existing building. The existing house is a 2 story bi-level house with guest bedrooms located on the lower level. The upper level is my wife and I living space – Living , Dining, M/Bed & M/Bath, Kitchen and Guest Bath. The Land rises from the lower level walk out to the west side of the property rising to make the upper level a walk out. Our desire is to add the addition and a 2-1/2 car garage to the west side of the existing house, so in the future we will be able to enjoy the upper level without the need of stairs as we age. In the last meeting the zoning board made a number of suggestions as alternatives to the remedy the home, though viable suggestions, none were practical to our needs.

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?
 Yes. The only reasonable and logical part of the existing house to attach an addition is the West side of the building. The North side of the existing building has no room to the property line for an addition. The East side of the building has the septic system and tile field. The South side of the building has part of a drain field along with an electrical transformer set on the ground. Also the South part of the property is the money shot of the lake and the part of the property that we live and entertain outdoors. The West side is the ideal area for the addition. The west side will bring a better resale value to the property, & the tax base.
2. Would a variance do substantial justice to the applicant, as well as adjacent property owners?
 Yes. The 10' variance would allow the home to be built to meet our future living needs. The 10' variance has no affect on and adjacent property owners – I own the Oshtemo property that is adjacent to the Kalamazoo Township property in question.
3. Would a lesser variance not give substantial relief to the applicant and/or be consistent with justice to other property owners?
 Yes. Because of survey done on the west side of the property, we have reduced the necessary variance needed to 10' rather than the original 20'.



4. Is the problem and resulting need for the variance not self-created by the applicant and/or the applicant's predecessors?
Yes, The existing structure was built very close to the property line, (which at this time I invite the board to come for a site visit to have a clear understanding of the situation before the August meeting. The builder marked with string the future addition, and the engineer put stakes on the west property line, as a visual for your visiting members).
Because the existing home sits on the far Northwest corner of the property makes other design options not desirable.

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 INTREPRETATION / 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.



Residence Addition



- Existing septic tank
- Existing alternator valve
- Existing tile field
- Electric Meter
- Gas Meter

Architectural Workshop, Inc.
Richard Schramm, Architect
 7540 Stadium Drive
 Kalamazoo, MI 49009
 Phone: 269.375.2472
 FAX: 269.372.7272
 www.ArchWorks.us

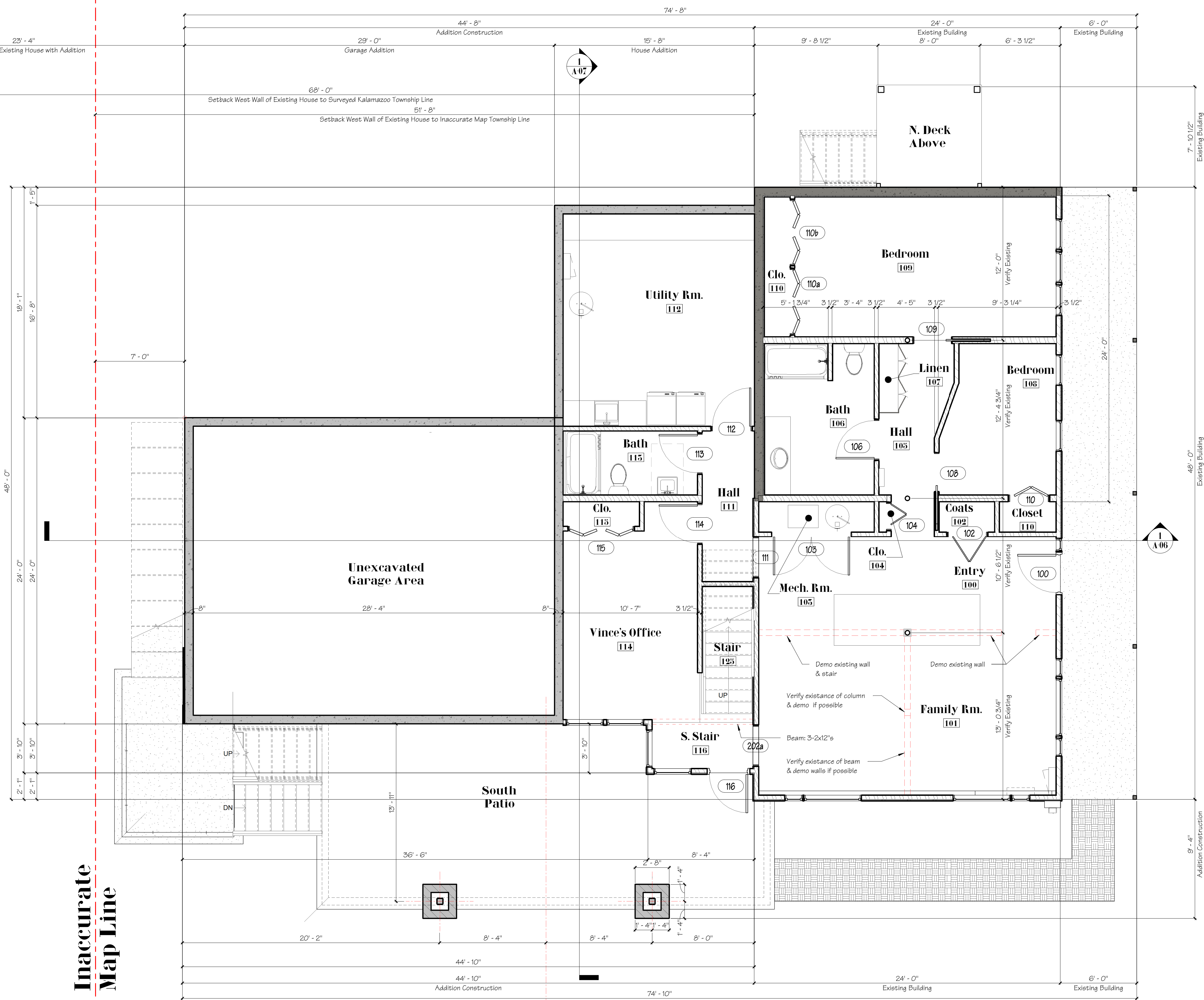
Total Site Plan
 © Copyright Richard Schramm 2/10/11 / Do not copy or duplicate without written permission. The Architect's embossed seal is required on this document.
Marsilio Residence
 4629 Winding Way, Kalamazoo, Michigan 49006

Architect's Seal
 NOTE: Official drawings prepared by the Architect shall bear this embossed seal.

Date: 05/12/2023
 Revised:
 Drawn by: R.A.S.
 Project: 0883.201

Sheet Number
A-01

Inaccurate
Map Line



1
A-05 **First Floor Plan**
SCALE: 1/4" = 1'-0"

Architect's Limited Building Drawing Use Note:

- The use of these drawings is limited by agreement with the Architect.
- The Architect's copyright, date is indicated on the drawings.
- The Architect's drawings shall not be duplicated. Additional copies are available from the Architect.
- The drawings are prepared to illustrate the general concept of the proposed building renovation.
- The Architect has not illustrated all details and required construction work.
- These plans are prepared for use only by Contractors who possess Michigan trade licenses for their work.
- The Architect assumes the Contractor is experienced and skilled in construction techniques and has a working knowledge of the current Michigan Construction Codes.
- The Contractor shall verify all dimensions before starting any work, the Architect shall be notified of any variations.
- All products shall be installed as recommended by the manufacturer.
- The work shall be constructed in conformance with current code requirements.
- During the construction process, adjustments may be required which shall be illustrated on the Contractor's "Shop Drawings" and shall be recorded on the "As-Built Drawings" maintained by the installing Contractor locating all revisions.
- Hidden work.
- The "As-Built Drawings" shall be submitted to the Architect prior to issuance of the "Certificate of Substantial Completion" and prior to final payment.

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A-05 **Drawing Index**
SCALE: 1/4" = 1'-0"

- A-01 Total Site Plan with Topo
- A-02 Foundation Plan
- A-03 First Floor Plan
- A-04 Second Floor Plan
- A-05 Roof Plan
- A-06 East-West Cross Section
- A-07 North-South Cross Section
- A-08 East & South Elevations
- A-09 West & North Elevations
- A-10 Exterior Renderings
- A-11 Architectural Notes & Specs
- A-12 More Architectural Notes, Specs & Details
- E-01 Electrical First Floor Plan & Legend
- E-02 Electrical Second Floor Plan
- S-01 Second Floor Framing Plan
- S-02 Roof Framing Plan

Architect's Seal

NOTE: Official drawings prepared by the Architect bear his embossed seal below.

Architectural Workshop, Inc.
Richard Schramm, Architect
7540 Stadium Drive
Kalamazoo, MI 49009
Phone: 269.375.2472
FAX: 269.372.7272
www.ArchWorks.us

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First Floor Plan
Marsilio Residence
4629 Winding Way, Kalamazoo, Michigan 49006

Date: 05/12/2023
Revised:
Drawn by: R.A.S.
Project: 0883.201

Sheet Number
A-05