



**ZONING BOARD of APPEALS
MEETING AGENDA
WEDNESDAY DECEMBER 20, 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 December 12, 2023
- #4 Approval of Minutes:
 - 4a. November 15, 2023
- #5 Public Hearings
 - 5a. 2609 North Burdick - Setback
- #6 Old Business
 - 6a. 4629 Winding Way – Setback
- #7 New Business
 - 7a. 2609 N. Burdick – Setback Discussion
- #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”.

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**Charter Township of Kalamazoo
Minutes of a Zoning Board of Appeals Meeting
Held on November 15, 2023**

A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on November 15, 2023, commencing at 6:00 p.m. at the Township Hall.

Call to Order.

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

Present were:

Nicky Leigh, Chairperson
Fred Nagler
Shawn Blue
David Combs
Lisa Mackie

Also present were Township Zoning Administrator Kyle Mucha; Township Attorney Seth Koches; and, three (3) members of the audience.

Absent was:

None.

Approval of the Agenda for the November 15, 2023, Zoning Board of Appeals Meeting.

The ZBA members received the agenda in their meeting packets. No additions or revisions were made.

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

Approval of Zoning Board of Appeals' Meeting Minutes of the October 18, 2023, Meeting.

The next item on the agenda was approval of the October 18, 2023, Zoning Board of Appeals' meeting minutes. Copies of the draft meeting minutes were provided to the ZBA members in their agenda packets.

Nagler moved supported by Combs, to approve the minutes as presented. The motion passed unanimously.

Public Hearings

None

Old Business

4629 Winding Way – Setback Request

1 No action taken.

2

3 **3122 Santos Avenue – Lot Coverage – Request for a Variance**

4

5 The next item on the agenda was the continued public hearing for the request of Edward and Malinda
6 Frybarger (“applicants”) for a request for a variance to construct a 2,448 square-foot single-family
7 residential dwelling with lot coverage of 31% where the maximum allowed lot coverage under Section
8 25.02 of the Township Zoning Ordinance is 25%, on a parcel of vacant unaddressed property identified as
9 Parcel Identification No. 06-17-320-220 (“subject property”). The subject property is approximately 8,000
10 square feet in size and is located in the Township’s “R-1” Single Family District Zoning Classification.
11 Section 25.02 of the Township Zoning Ordinance limits maximum lot coverage of any buildings in the R-1
12 District Zoning Classification to 25%. The standards for variance review are contained in Section
13 26.05.B.4.a of the Township Zoning Ordinance. This matter was before the ZBA on October 18, 2023, and
14 continued to November 15, 2023, so the applicants could provide the ZBA more information regarding
15 the floor plan of the home they propose to build. The applicants’ builder also attended the meeting and
16 provided a letter to the Board members, which was contained in the agenda packet.

17

18 Mucha prepared an updated staff report and summarized it. Mucha said that the applicants submitted
19 supporting documentation from the contractor indicating the need for increased square footage. Larger
20 bedrooms, hallways and bathrooms were needed to accommodate wheelchairs access. A single-story
21 home was the preferred home design in order to avoid stairs for an aging couple. Mucha said that the
22 contractor’s letter indicated that a lesser variance would not permit the applicants to construct a home
23 that meets other needs and future expectations. Reducing the size of the rooms and hallways would not
24 allow for adequate mobility access and would not provide living space for a care-giver. Koches noted that
25 the applicants’ lot was a lawful non-conforming lot and that the home could be built within the existing
26 setback standards.

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28 Jason Cook, the applicants’ contractor addressed the ZBA. Cook said that the floor plan he submitted
29 provides adequate space to live and have appropriate mobility. Cook indicated that he designed the floor
30 plan of the home to fit within the setback requirements.

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

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

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

41

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

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

45

(4) The problem and resulting need for the variance has not been self-
46 created by the applicant and/or the applicant's predecessors. (For
47 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.)
3

4 Mucha discussed each standard of review. Nagler asked whether compliance with ordinance standard
5 was unnecessarily burdensome. Blue said that the applicants' request is supported by the Township's
6 master plan, which indicates more diverse housing is needed. Blue said that the subject property has been
7 vacant for approximately 35 years and the applicants' plan to build a home offers a different housing
8 option. Mackie said that the applicants' current home has 13 steps to enter the home and that is
9 burdensome for them. The ZBA discussed whether the applicants' request was self-created. The ZBA
10 concluded that the unique nature of the request did not render this request self-created (i.e. aging).
11 Mucha said that every application is unique. The ZBA determined that substantial justice would be done
12 by granting the request for variance because there were no objections to the request and surrounding
13 property owners signed a petition supporting the request. The ZBA concluded that a lesser variance would
14 not give relief because the contractor designed an appropriate floorplan to meet the needs the applicants.
15 The applicants said that they looked for existing homes within Kalamazoo County that met their needs,
16 but could not find a suitable home. No additional public comment was submitted to the ZBA.
17

18 Combs moved, supported by Blue to approve the request of Edward and Malinda Frybarger for a request
19 for a variance to construct a 2,448 square-foot single-family residential dwelling with lot coverage of 31%
20 where the maximum allow lot coverage is 25% under Section 25.02 of the Township Zoning Ordinance on
21 vacant unaddressed property identified as Parcel Identification No. 06-17-320-220 because the standards
22 contained in Section 26.05.B.4.a of the Township Zoning Ordinance were satisfied. The motion passed
23 unanimously.
24

25 **New Business.**

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27 **Comments from the public.**

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29 None.
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31 **ZBA Member Comments.**

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33 The members generally discussed ZBA matters.
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35 **Report of Planning Commission Member.**

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37 Nagler discussed updates from recent Planning Commission meetings.
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39 **Adjournment.**

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41 The meeting was adjourned at 6:45 p.m.
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SYNOPSIS OF ACTIONS

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The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the November 15, 2023, meeting:

- 1. Approved the request of Edward and Malinda Frybarger for a variance to construct a 2,448 square-foot single-family residential dwelling with lot coverage of 31% where the maximum allow lot coverage is 25% under Section 25.02 of the Township Zoning Ordinance on vacant unaddressed property identified as Parcel Identification No. 06-17-320-220.

Recording Secretary



MCKENNA

December 12, 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

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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.
3. The applicant has not provide a property survey as requested by the Zoning Board of Appeals as discussed during the April 19, 2023 and August 16, 2023 meetings.

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

OT (rough) Survey
Kalamazoo Township Line
Inaccurate
Strip Line

Oshtemo Township
Kalamazoo Township

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

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

Total Site Plan
© Copyright Richard Schramm 2/10/01 / 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

Date: 05/12/2023
Revised:
Drawn by: R.A.S.
Project: 0883.201
Sheet Number
A-01



MCKENNA

December 14, 2023

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

SUBJECT: Zoning Board of Appeals #23-09 Variance Request – Dimensional Setback

APPLICANT: Brian Lamoreaux, Lamoreaux Construction & Ravinder Singh, Lachi Equity Partners

SECTION: Section 25.02 – Schedule of Regulations – Minimum Setbacks

LOCATION: 2609 N. Burdick Street, Parcel #06-10-130-020

REQUEST: To obtain relief from the side & rear yard minimum setback requirements of the I-2, General Industrial District as it pertains to the placement of a dumpster enclosure pad three (3) feet from the side and rear property lines.

Dear Members of the Zoning Board of Appeals:

Kalamazoo Charter Township has received a variance application to permit the construction of a dumpster enclosure, located at 2609 North Burdick Street, parcel #06-10-130-020. The applicants propose to construct this enclosure within 3 feet of the rear and side property lines. A side yard minimum of 30 feet and rear yard minimum of 10 feet is required within the I-2, General Industrial District; thus, the applicant seeks a 27-foot side yard variance and a 7-foot rear yard setback from these regulations.

BACKGROUND

The applicant received conditional site plan approval during the September 02, 2021 Kalamazoo Township Planning Commission meeting. The conditional approval was based on the following:

1. *Submission of a detailed landscaping plan.*
2. *Adjustment of proposed lighting plan to correct area over the allowed standard.*
3. *Include odor control devices in building plan.*
4. *The dumpster be moved to comply with setbacks.*
5. *The site will have nine parking spaces.*
6. *Screenshots of camera angles will be provided to the Township planner to ensure there is no invasion of privacy.*

In December 2021, a letter was issued to the applicant that indicated the dumpsters were in compliance. Upon further analysis of the Township Zoning Ordinance, it appears that this letter was issued in error. As such, the existing dumpster enclosure onsite does not meet the minimum requirements for setbacks of the I-2 District (30-foot side yard; 10-foot rear yard). Subsequent to this issuance, the applicant has placed a secondary dumpster (orange in color) on the subject property that does not meet setback provisions nor screening requirements.

As of December 12, 2023, the orange-colored dumpster (refuse container) was removed from the site, leaving only the structure that was initially proposed in 2021.

EXISTING SITE CONDITIONS

The subject parcel is approximately 0.91 acres in size and is located just south of the Mosel & Burdick intersection. The site is currently being utilized at a marijuana grow facility, which is considered a special land use

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within the I-2, General Industrial District. The subject site is bordered to the north by the Kalamazoo Township Northwood Fire Station, to the west by a vehicle impound lot, the south & east by other industrial uses. The following graphic, provided by Google Earth, shows the subject site and location of the noncompliant dumpsters.

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:

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 State requires green waste removal, and therefore needs to be a separate container. The location would be within the setback area”.

Staff Review & Findings: The applicant received conditional site plan approval on September 02, 2021 from the Kalamazoo Township Planning Commission to locate the dumpster in a conforming location. Since this date, the applicant has placed the second dumpster in a location that violates their conditional site plan approval and Township Zoning Ordinances.

TPer Section 2.22 – Trash Removal and Collection – of the Kalamazoo Township Zoning Ordinance, “dumpsters shall comply with the setback requirements for the district in which they are located” (2.22.C.2). The required setbacks for accessory structures in the this district is 10 feet from the rear and 30 feet from the side property lines.

Staff finds that compliance with the ordinance would not be unreasonably burdensome because the property can still be used for an Industrial permitted use, or special land use, subject to approval by the Township’s Planning Commission. The applicant has been able to utilize the property since 2021 for a grow operation, and therefore, strict compliance has not unreasonably prevented the owner from operating a permitted use.

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

Applicant Statement: “Yes. A variance would not impede any neighbor or affect their property in any manner.”



Staff Review & Findings: Placing a dumpster enclosure closer to the property boundary than what is currently permitted in the I-2 District would not do substantial justice to other property owners. The dumpster enclosure, placed within a required setback, may have negative impacts on adjacent property owners; the property to the north houses the Northwood Fire Station, which includes residential components. Locating the dumpster closer to the northern (side) property boundary may cause an increase in odor and other unanticipated consequences, which has not been addressed for mitigation by the applicant/property owner.

Further, when seeking site plan approval, the applicant was made aware of the requirements as it pertains to site development provisions. As referenced, approval of the site plan was conditioned on the dumpster enclosure being located in a conforming manner.

Additionally, while waste service needs to be provided, a dumpster is not a requirement of the site: 96-gallon containers could be utilized in place of a large dumpster enclosure.

- 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: “We are asking for a full variance to put a green waste container in the northwest corner.”

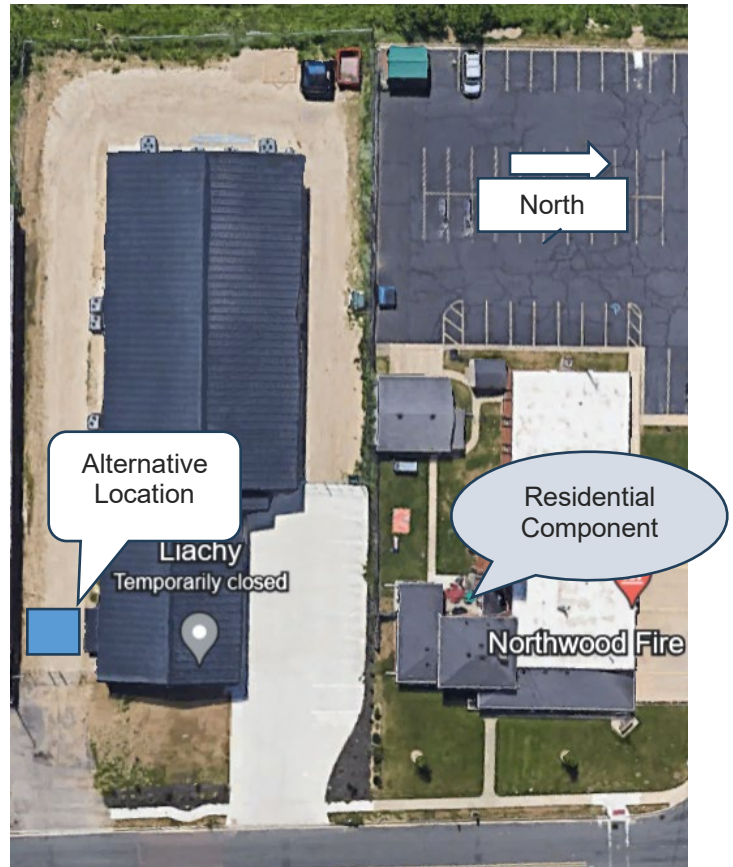
Staff Review & Findings: On December 12, 2023 Township staff met with the applicant and representatives of the subject property. Township staff discussed the possibility of relocating the dumpster enclosure to the southeastern portion of the site (see photograph). Township staff opined that such a location would negate the need for one of the variances – rear yard setback. By placing the dumpster in this side yard, the applicant would only be required to seek variance approval for a side yard setback of 27 feet, which is currently being sought for the northwest corner. This lesser variance would still provide relief to the applicant in order for them to properly dispose of waste materials.

Staff finds that this location would be more appropriate for the existing use on site and is encouraged by the discussion with the applicant to bring the site into compliance to the extent possible with the Township Zoning Ordinance.

The applicant has also submitted an updated drawing, showing this secondary location, which is enclosed after this review.

- 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: “It is not self-created. It is mandated by the State to have this container and due to lot size, we need to place it in that corner so it complies with local and State mandates”.





Staff Review & Findings: Staff notes, as discussed in previous sections, that the applicant received site plan approval subject to conditions previously outlined. Staff does not agree with the applicant that this is not a self-created hardship. The applicant indicates that a green waste container is mandated by the State: if such is accurate, then the applicant should have made note of that during their site plan review process and determined that this site may not have been compatible for their intended use.

The applicant has not supplied documentation or supporting supplemental diagrams that lend credibility to their statement of this not being self-created.

- 7. 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 and justification for the requested variance.

CONDITIONS

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

The Zoning Board of Appeals may impose reasonable conditions on a variance request; should the Zoning Board of Appeals grant the requested variance, or a lesser variance, and after hearing from the public at large during the Public Hearing, staff recommends the below conditions be imposed. These conditions need not apply should the variance request be denied:

- 1. The applicant submits an updated site plan for review by the Township Administrative staff, showing the location of the dumpster enclosure, in accordance with the granted variance. Such an amendment would be considered a minor site plan modification.*

REVIEW FINDINGS

The applicant requests a variance from the side and rear yard setback requirements of the I-2 District in order to construct a dumpster enclosure. The applicant indicates that the proposed location is the only suitable area for the enclosure, however, has not provided documentation to support this claim.

As referenced earlier, Township staff met with representatives of the property on December 12, 2023 and discussed an alternative location that would bring the property into further compliance with the Township Zoning Ordinance. Township staff have indicated that the alternative location (southern portion of the site) would be more suitable and is accepting of this proposal.

Therefore, the Zoning Board of Appeals is offered the following observations as noted by Township personnel. The Zoning Board of Appeals will be required to make the final determination as it relates to the variance request:

Observations:

- Consider the alternative location for the dumpster enclosure that would negate the need for a rear yard setback, but still require a 27-foot side yard setback, permitting the dumpster enclosure three (3) feet from the side property line where a minimum of 30 feet is required.
- Grant the requested variance to locate the dumpster enclosure three (3) feet from the side (north) property line and three (3) feet from the rear (west) property line where a minimum of 30 feet from the side and 10 feet from the rear is required.
- Locate the dumpster enclosure a minimum of 10 feet from the rear (west) property line and 30 feet from the side (north) property line, in accordance with the Township Zoning Ordinance, thus negating the need



for the variance entirely.

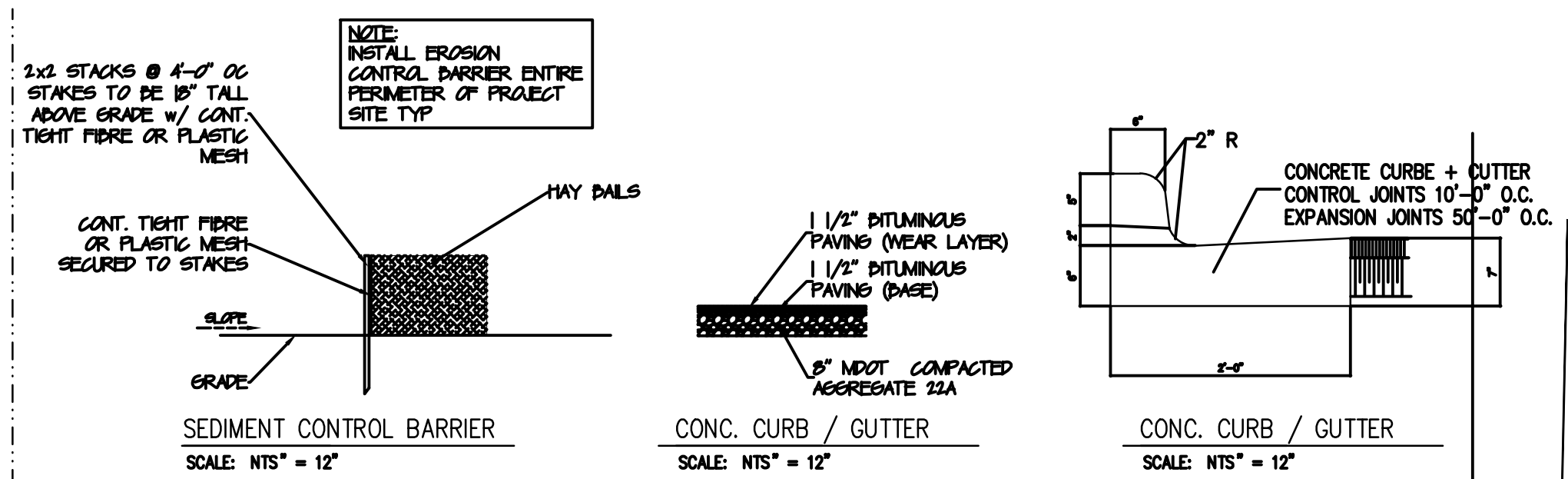
Feel free to reach Danielle Bouchard, AICP, at DBouchard@mcka.com or Kyle Mucha, AICP, at KMucha@mcka.com you have any questions about this variance request or review.

Respectfully,

McKenna

Danielle Bouchard, AICP
Principal Planner/Township Planner

Kyle Mucha, AICP
Senior Planner/Township Zoning Administrator



20'-0" x 5'-0" (VERIFY W/ OWNER) TRIMMING DUMPSTER W/ FENCE ENCLOSURE ON NEW 12' x 5'-0" CONC SLAB

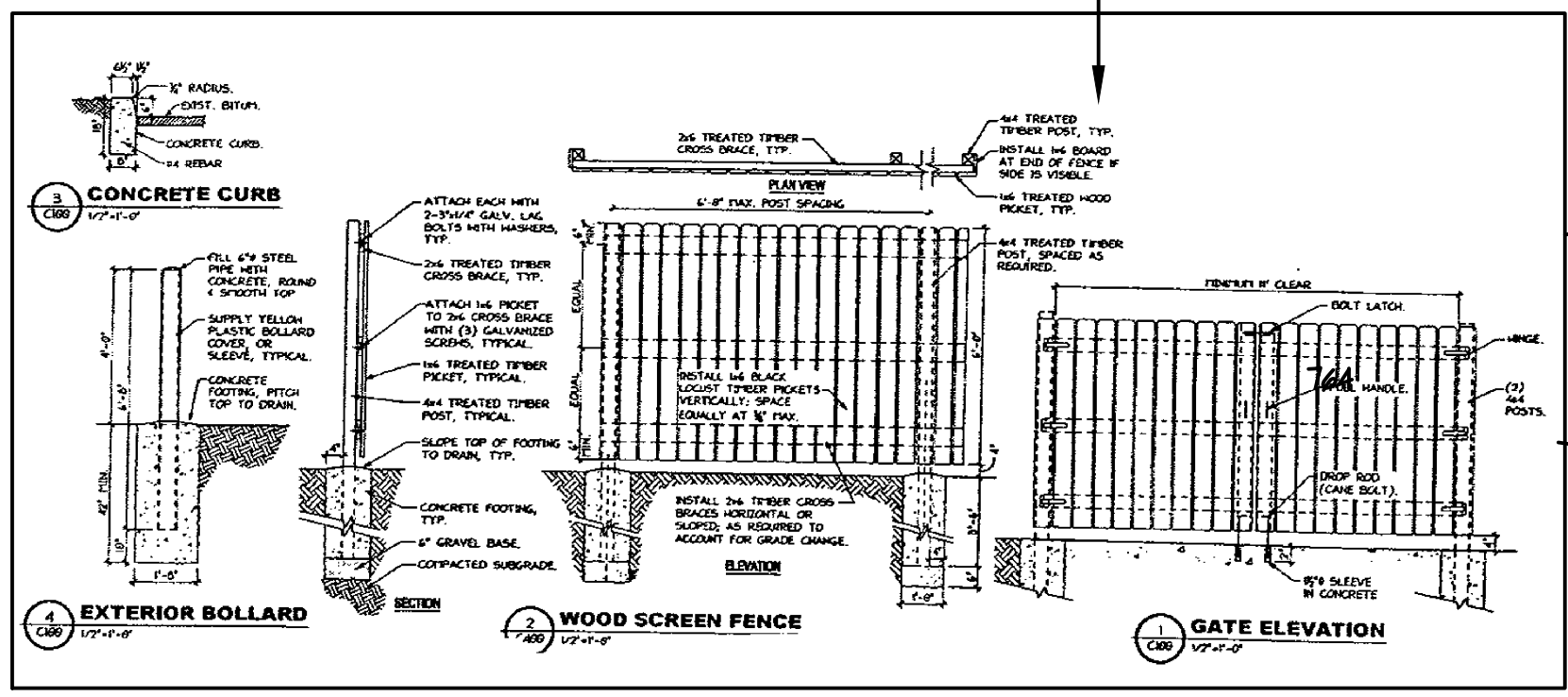
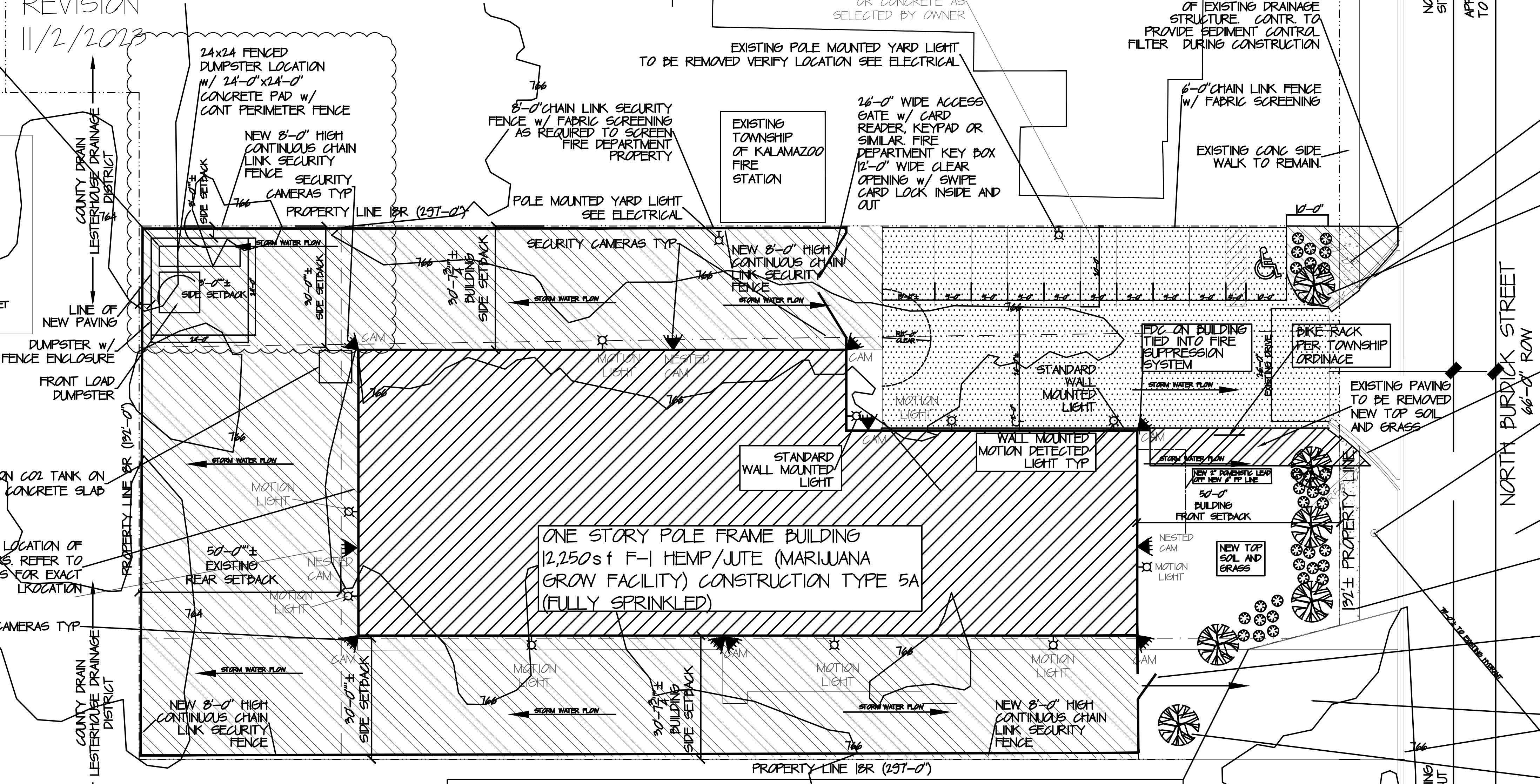
STORM WATER RUNOFF (NEW PAVING)
 AREA OF BUILDING = 12,250sf
 AREA OF NEW PAVEMENT = 5,096sf
 RUNOFF COEF: 0.5
 INTENSITY: 6.25 IN/HR. 6.25"/12" = 0.520833 ft/hr
 V = 0.5 X 5.096 X 12 = 31.176cf

STORM WATER RETENTION BASIN CAPACITY
 TOP AREA = N/A
 BOTTOM AREA = N/A

DOE TO SITE SOIL CONTAMINATION NO STORM WATER RETENTION IS SHOWN AT THIS TIME PER THE RECOMMENDATION OF THE ENVIRONMENTAL SURVEYS PLE CARE PLAN

EXISTING SHEET DRAINAGE TO COUNTY DRAIN AND BURDICK STREET TO BE MAINTAINED PER COUNTY DRAIN COMMISSIONER RECOMMENDATIONS

REVISION
 11/2/2013



PROPERTY DESCRIPTION:
 PROPERTY ADDRESS: 2609 N BURDICK, KALAMAZOO, MI 49007
 KALAMAZOO COUNTY, KALAMAZOO TOWNSHIP

PARCEL NUMBER 06-10-190-010

LEGAL DESCRIPTION:
 10' x 90' 0" ON 10' 190' 0" 0' 10'-10 SEC 10-2-11 S 8 R OF N 10 R OF NE 1/4 OF NW 1/4 LYING W OF N BURDICK ST 10 A

SITE DEVELOPMENT PLAN
 SCALE: 1/16" = 1'-0"

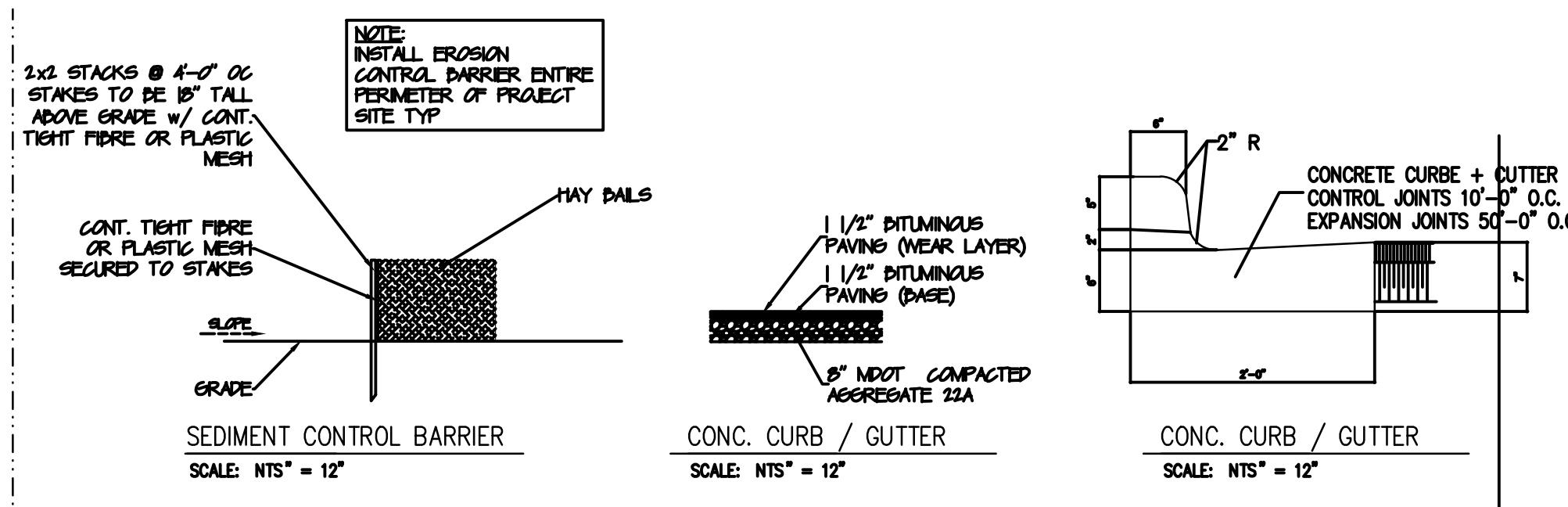
SCALE

NOTE:
 SOIL EROSION CONTROL BARRIER TO BE INSTALLED AROUND ENTIRE SITE AND BE MAINTAINED THROUGH THE DURATION OF THE PROJECT.

- 7/7/2010 ADDED LESTERHOUSE DRAIN NOTE
- 5/20/2011 ADDED NEW 6" FIRE PROTECTION LINE, TAP LOCATION TO EXISTING WATER MAIN
- 5/20/2011 ADDED CO2 TANK LOCATION
- 6/10/2011 REVISED EAST FENCE LOCATION AND CROSS ACCESS TO NEIGHBOR
- 7/9/2011 ADDED DUMPSTER LOCATION, DETAILS, CARBON FILTER LOCATION

- 8/18/2011 ADDED BIKE RACK PER TOWNSHIP REQUEST
- 9/7/2011 RELOCATE DUMPSTER
- 7/6/2013 ADDED NEW TRIMMING DUMPSTER/CONC PAD/FENCE ENCLOSURE
- 11/02/2013 DUMPSTER VARIANCE CONC PAD/FENCE ENCLOSURE

72 HOURS BEFORE YOU DIG CALL MISS DIG 1-800-482-7171



20'-0" x 5'-0" (VERIFY W/ OWNER) TRIMMING DUMPSTER W/ FENCE ENCLOSURE ON NEW 12x15'-0" CONC SLAB

STORM WATER RUNOFF (NEW PAVING)
 AREA OF BUILDING = 12,250sf
 AREA OF NEW PAVEMENT = 5,096sf
 RUNOFF COEF: 0.2
 INTENSITY: 6.25 IN/HR. 6.25"/12" = 0.520833 ft/hr
 V = 3 X 5,096sf X 0.520833 = 8,772cft

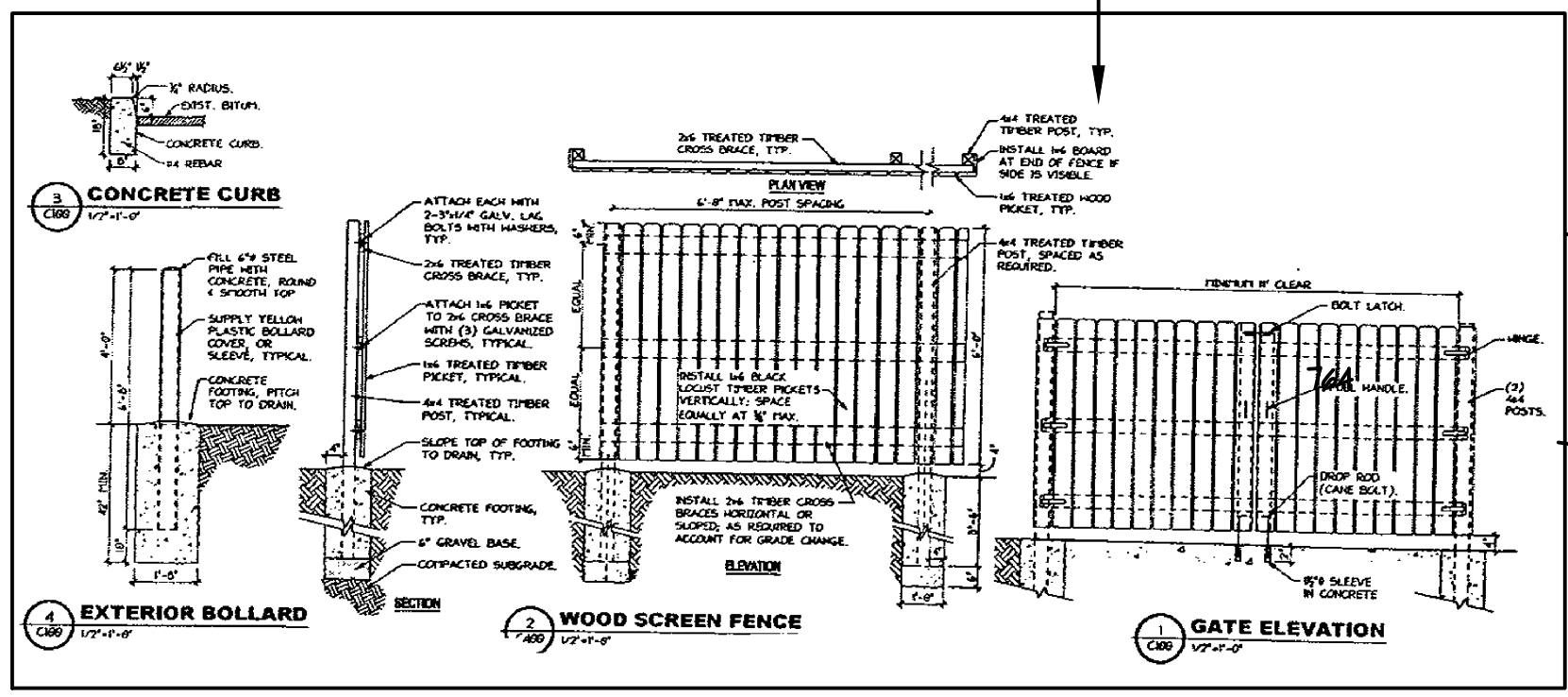
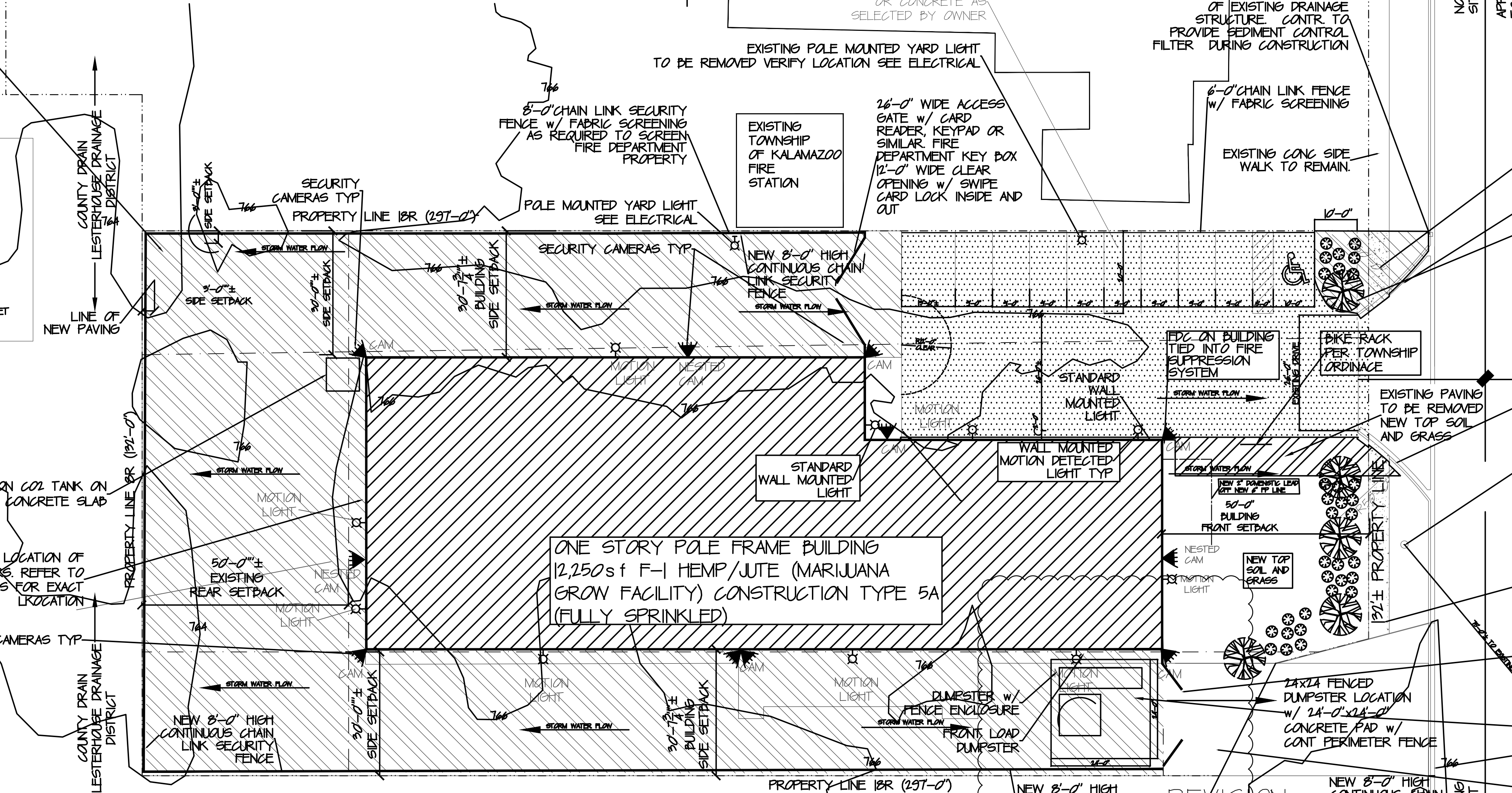
STORM WATER RETENTION BASIN CAPACITY
 TOP AREA = N/A
 BOTTOM AREA = N/A

DUE TO SITE SOIL CONTAMINATION NO STORM WATER RETENTION IS SHOWN AT THIS TIME PER THE RECOMMENDATION OF THE ENVIRONMENTAL SURVEYS PLE CARE PLAN

EXISTING SHEET DRAINAGE TO COUNTY DRAIN AND BURDICK STREET TO BE MAINTAINED PER COUNTY DRAIN COMMISSIONER RECOMMENDATIONS

15 TON CO2 TANK ON 8'-0" x 8'-0" CONCRETE SLAB

APPROXIMATE LOCATION OF (3) CARBON FILTERS REFER TO MECHANICAL DRAWINGS FOR EXACT LOCATION



PROPERTY DESCRIPTION:
 PROPERTY ADDRESS: 2609 N BURDICK, KALAMAZOO, MI 49007
 KALAMAZOO COUNTY, KALAMAZOO TOWNSHIP

PARCEL NUMBER 06-10-190-010

LEGAL DESCRIPTION:
 0.14360 33 06 10 190 010 0 10-10 SEC 10-2-11 S 8 R OF N 10 R OF NE 1/4 OF NW 1/4 LYING W OF N BURDICK ST 10 A

SITE DEVELOPMENT PLAN
 SCALE: 1/16" = 1'-0"

NOTE:
 SOIL EROSION CONTROL BARRIER TO BE INSTALLED ROUND ENTIRE SITE AND BE MAINTAINED THROUGH THE DURATION OF THE PROJECT.

7/1/2010 ADDED LESTERHOUSE DRAIN NOTE
 5/10/2011 ADDED NEW 6" FIRE PROTECTION LINE, TAP LOCATION TO EXISTING WATER MAIN
 5/10/2011 ADDED CO2 TANK LOCATION
 6/10/2011 REVISED EAST FENCE LOCATION AND CROSS ACCESS TO NEIGHBOR
 7/9/2011 ADDED DUMPSTER LOCATION, DETAILS, CARBON FILTER LOCATION
 8/15/2011 ADDED DIKE RACK PER TOWNSHIP REQUEST

12/1/2011 RELOCATE DUMPSTER
7/6/2013 ADDED NEW TRIMMING DUMPSTER/CONC PAD/FENCE ENCLOSURE
11/01/2013 DUMPSTER VARIANCE CONC PAD/FENCE ENCLOSURE
12/14/2013 RELOCATED DUMPSTER VARIANCE CONC PAD/FENCE ENCLOSURE

REVISION 12/4/2013

EXISTING CONCRETE CURB AND GUTTER

APPROX LOCATION OF EXISTING DRAINAGE STRUCTURE CONTR TO PROVIDE SEDIMENT CONTROL FILTER DURING CONSTRUCTION

72 HOURS BEFORE YOU DIG CALL MISS DIG 1-800-482-7171

APPROX LOCATION OF EXISTING DRAINAGE STRUCTURE CONTR TO PROVIDE SEDIMENT CONTROL FILTER DURING CONSTRUCTION

EXISTING CONCRETE CURB AND GUTTER

NEW 5'-0" CONCRETE SIDEWALK ALIGN NEW SIDEWALK WITH EXISTING AT NORTH PROPERTY LINE

NEW CURB AND GUTTER PER KALAMAZOO COUNTY ROAD COMM. W/ 50'-0" RADIUS.

8 OF 64 NE SHRUBS PER ORDINANCE

NEW CURB AND GUTTER PER KALAMAZOO COUNTY ROAD COMM. W/ 50'-0" RADIUS

NEW FIRE HYDRANT

EXISTING CONCRETE CURB AND GUTTER

APPROXIMATE LOCATION OF EXISTING WATER MAIN

APPROX LOCATION OF NEW 6" WATER LINE TO NEW HYDRANT AND BUILDING

NEW 5'-0" CONCRETE SIDEWALK W/ ZERO HT CURB AT DRIVES TYP SAW CUT EXISTING CURB AS REQUIRED

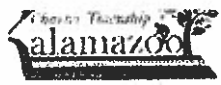
3'-0" WIDE ACCESS GATE W/ CARD READER, KEYPAD OR SIMILAR FIRE DEPART KEY BOX 12'-0" WIDE CLEAR OPENING W/ SWIPE CARD LOCK INSIDE AND OUT

EXISTING CURB CUT AND PAVING TO REMAIN REMAIN FOR ACCESS TO PROPERTY TO THE SOUTH

8 OF 64 NEW SHRUBS PER ORDINANCE

APPROXIMATE LOCATION OF EXISTING FIREHYDRANT

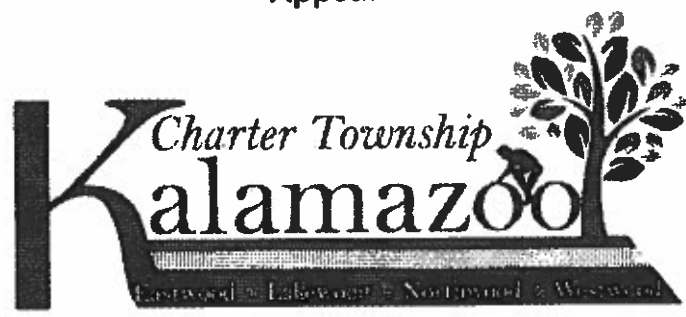
APPROX LOCATION OF EXISTING DRAINAGE STRUCTURE CONTR TO PROVIDE SEDIMENT CONTROL FILTER DURING CONSTRUCTION



Kylo

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: <u>Brian Lamoreaux</u>		
Business Name (if applicable): <u>Lamoreaux Construction</u>	Email: <u>bpx01@sol.com</u>	
Address: <u>52850 M-40 North</u>	Phone: _____	Cell Phone: <u>269 655-6218</u>
City: <u>Marcellus</u>	State: <u>Mich</u>	Zip Code: <u>49067</u>

PROPERTY OWNER

Check here if same as above

Name: <u>Ravinder Singh (Lachi Equity Partners)</u>	Email: <u>ravioli1975@gmail.com</u>	
Address: <u>7386 field Bay Ave</u>	Phone: <u>2696150553</u>	Cell Phone: _____
City: <u>Kalamazoo</u>	State: <u>MI</u>	Zip Code: <u>49009</u>

PROPERTY INFORMATION

Street Address: <u>2609 North Burdick</u>	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).
- 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: _____



FOR VARIANCE APPLICATIONS ONLY

RULING SOUGHT (attach additional sheets if necessary)

To Allow a dumpster pad to be placed within the setback on the Northwest corner of property for "Green waste". Approx size 14x10, Fenced in. The hardship is that this is required by the state, and this is the only spot it can go.

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?
yes, The State Requires green waste removal, and therefore needs to be a separate container; the location would be within the setback area.
2. Would a variance do substantial justice to the applicant, as well as adjacent property owners?
yes. A variance would not impede any neighbor or affect their property in any manner.
3. Would a lesser variance not give substantial relief to the applicant and/or be consistent with justice to other property owners?
we are asking for a Full variance, to put a green waste container in the north west corner.



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.

11/2/23
Date

[Signature]
Signature of Applicant

Ravinder Lambore
Print Applicant Name

11/2/23
Date

Ravinder Lambore
Signature of Property Owner

RAVINDER B SINGH
Print Property Owner Name



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

It is not self created, It is mandated by the state to have this container, and due to lot size we need to place it in that corner so it complies with local Fire and state mandates.

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.

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2
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Charter Township of Kalamazoo
Minutes of a Planning Commission Special Meeting
Held on September 02, 2021; 7:00 p.m.

10 A special meeting of the Kalamazoo Charter Township Planning Commission was conducted on September
11 02, 2021, commencing at 7:00 p.m., via Zoom remote teleconference pursuant to the Kalamazoo
12 Township Remote Meeting Policy and Emergency Order of the Kalamazoo County Board of Commissioners
13 due to the COVID-19 public health crisis.

14
15
16

Present were:

17 Denise Hartsough
18 Christopher Mihelich
19 Peter Morrison
20 Fred Nagler, Chairman
21 Steven Leuty

22 William Chapman, joined at 7:06

23
24

Absent:

25 Warren Cook

26
27

Others in attendance:

28 Also present were Township Planner Danielle Bouchard, Township Zoning Administrator Katarina
29 Kusmack, Township Attorney Seth Koches, and 2 other interested parties

30
31

1. Call to Order

32 The Chairman called the meeting to order at 7:01 p.m.

33
34

2. Roll Call and Recognition of Visitors

35 Nagler welcomed those in attendance. Commissioner Cook was absent, commissioner Chapman joined
36 meeting at 7:06 p.m.

37 A motion to excuse Cook and Chapman from the September 02, 2021 Planning Commission Meeting was
38 made by Mihelich and supported by Leuty. Upon roll call vote (3 aye, 1 abstain, 2 absent) of the
39 commissioners in attendance, the motion was approved.

40
41

3. Approval of the Agenda for the September 02, 2021 Planning Commission Meeting

42 The first item on the agenda was approval of the agenda for the September 02, 2021 Planning Commission
43 meeting. The Commissioners received the meeting agenda in their packets.

44 Upon motion of Mihelich, supported by Leuty, and unanimous roll call vote of the commissioners in
45 attendance, the agenda was approved as presented.

46
47
48

4. Public Comment

1 None.

2

3 **5. Scheduled Reviews – Stoneco Gravel Mine Inspection**

4

5 Bouchard presented the report, noting that the review of the Stoneco gravel mine, located at 3800 Ravine
6 Road was inspected on July 14, 2021 and the fee had been paid in full. Updated Liability insurance
7 documentation has been received and will expire September 01, 2022. An updated earth changing permit
8 has also been received and will expire on January 27, 2022. Bouchard reported that the site appears to be
9 in compliance with all standards, there have not been any complaints on the operations.

10

11 A representative from Stoneco was in attendance via phone and reiterated the desire to be good
12 neighbors.

13

14 Upon motion of Leuty, supported by Mihelich, and unanimous roll call vote of the commissioners in
15 attendance, the special land use permit renewal was approved by the planning commission.

16

17 **6. Approval of Minutes of the August 05, 2021 Regular Planning Commission Meeting**

18

19 Mihelich, Hartsough and Nagler made several minor corrections to the presented minutes.

20

21 Upon motion of Mihelich, supported by Chapman, and unanimous roll call vote of the commissioners in
22 attendance, the minutes were approved as amended by the planning commission.

23

24 Nagler made note of the minutes from the special Planning Commission meeting held on August 25, 2021
25 would be approved at the October Planning Commission regular meeting but had been compiled and
26 would be available for review, if requested.

27

28 **7. Public Hearings**

29

30 None.

31

32 **8. New Business - 2609 N. Burdick – Special Land Use for Change of Use**

33

34 Bouchard presented on the special land use permit for 2609 North Burdick, noting that a public hearing
35 for the special use permit was held on June 03, 2021. The Planning Commission approved a special use
36 permit for a Class A medical grow facility (allowing up to five-hundred plants) at 2609 N. Burdick, a site
37 plan for the class A medical facility was approved by the Planning Commission on July 02, 2020. The
38 applicant is fully approved for the Class A facility.

39

40 The applicant is requesting to add a class C license, permitting a maximum of two thousand plants. If the
41 class c approval is granted, the applicant will be permitted up to two thousand five hundred plants.

42

43 Bouchard stated that the proposed change of use for the property does not conflict with any of the
44 standards imposed for granting a special use permit of this nature. Planning Commission may find that
45 additional landscaping may be required. Provided the applicant complies with all ordinances and state
46 governing marijuana establishments, it is not anticipated that the proposed Special land used will cause
47 any detrimental effects to public safety or welfare.

48

1 At the time of the meeting, the applicant had not requested a sign permit. Mckenna has received a copy
2 of updated liability insurance from the applicant

3
4 The applicant is requesting a smaller number of spaces than is required by the ordinance.

5
6 Upon completion of review, noting the site meets all required standards, McKenna is recommending
7 approval of the special land use permit for the facility at 2609 N. Burdick if they are given site plan approval
8 by the planning commission.

9
10 Mihelich inquired about some security cameras being pointed at adjacent parcels, a representative from
11 the applicant stated that their IT department has ensured that no security cameras are pointed at adjacent
12 parcels.

13
14 Morrison asked the applicant where their product is distributed, the applicant stated that they distribute
15 their product in many different places as they are licensed to do so. Commissioner Morrison asked
16 Bouchard if the effect of Marijuana use during the COVID-19 pandemic had been considered when
17 completing the community health portion of review. He is not comfortable with approving more adult use
18 facilities, considering the potential side effects from cannabis use in conjunction with potential side effects
19 from COVID-19. Hartsough commented that the decision should be handled at the state level. Mihelich
20 mentioned the Township does not restrict the number of licenses, just the land where facilities can exist.

21
22 Bouchard and Attorney Koches commented on setting precedents.

23
24 Upon motion of Hartsough, supported by Leuty, and roll call vote (5 – aye, 1 – no, 1 – absent) of the
25 commissioners in attendance, the special land use permit for the Class C Marijuana license for the site at
26 2609 N. Burdick was approved by the planning commission

27
28 **9. Old Business – 2609 N. Burdick, site plan review and Change of Use**

29
30 Bouchard reported that the site is now approved for up to 2500 plant, with the combination of the existing
31 Class A grow license and the newly approved Class C license. The facility is approximately 12, 500 sf. As a
32 condition of the Class C license approval, a site plan review is required. The approximately 40,000 sf lot is
33 currently zoned as industrial, with approximately 132 feet of frontage on Mosel Ave. Proposed
34 improvements to the site include the addition of a 12,500 sf building.

35
36 Mckenna has sent notices to the applicant regarding standards required by the ordinance and called out
37 during the initial site plan review. The presented site plan is deficient by eight parking spaces. The
38 applicant explained that because the site will not be used for retail and the parking spaces will just be
39 used by employees. Landscaping is adequate, but they did the applicant did not provide enough detail.
40 During review it was noted that a small section emitted slightly too much light to comply with ordinance
41 standards. Updated liability insurance has been received. Odor control procedures have been deemed to
42 be adequate, but the location of fans and filters should be noted on the plan incase of emergency. An
43 updated waste management was provided and outlined the process for handling cannabis waste and
44 noting that the site would not be producing hazardous waste. It is recommended that the dumpster be
45 moved to comply with setback requirements. It is noted that all permits will need to be obtained from all
46 authorities. Security plan is adequate. Sidewalk requirement is satisfied.

47

1 McKenna is recommending approval of the site plan with the following conditions: planning commission
2 determines the number of parking spaces is adequate, the addition of a landscaping table to the site plan,
3 an exterior lighting plan that shows compliance to the zoning ordinance, and an update to the dumpster
4 placement showing compliance to the setbacks defined by the ordinance.

5
6 Fire Marshall Kowalski commented that the dumpster location must also be located at least fifteen feet
7 from the proposed CO₂ tank, and be not closer than five feet from the eave of any building. He wanted to
8 clarify that the recap document should be changed to remove any reference to Kent County and replaced
9 with Kalamazoo County

10
11 Commissioner Chapman inquired about the instillation of a fire hydrant, Kowalski

12
13 Mihelich asked the applicant about the location of the waste management area, the applicant that a
14 chipper like device would be located in the dumpster enclosure. Mihelich asked how odor is controlled
15 during the process as it is done externally, the applicant said the plant is already dead at this point of the
16 process and is not producing odor. The applicant stated the proposed waste management plan exceeded
17 state guidelines. The applicant assured the planning commission that the proposed waste management
18 chipper will not produce noise outside of opening time.

19
20 Kusmack asked why the chipper was not pictured on the site plan, the applicant stated that the chipper
21 was a portable piece of equipment.

22
23 Hartsough inquired about the hours of operation and the number of employees, the applicant stated the
24 facility is open from eight in the morning to five in the evening and there is an average of four employees
25 up to six during the harvesting periods.

26
27 Mihelich stated that the Planning commission had previously approved a site plan with six parking spaces
28 and the applicant had provided two additional spaces with the new site plan. Leuty referenced a memo
29 submitted by applicant, that included nine spaces.

30
31 A project representative stated the dumpster location could be moved to the left corner of the property
32 thereby complying with the required setback from the CO₂ tank. He stated the fence had been installed
33 and allowed enough room for egress, pursuant to fire marshal review. The project representative said
34 there are detailed plans for the landscaping requirements, but they could not be put in until the water
35 service had been installed. The water service and fire hydrant will be installed the week of September 13,
36 2021. The dumpster will be enclosed by a fence.

37
38 The applicant ensured the Planning Commission that al unprocessed waste will be stored inside the facility
39 until processed.

40
41 Upon motion of Chapman, supported by Hartsough, and unanimous roll call vote of the commissioners in
42 attendance, the site plan for the at 2609 N. Burdick was approved with the following conditions from the
43 planning commission:

- 44 - Submission of a detailed landscaping plan.
- 45 - Adjustment of proposed lighting plan to correct area over the allowed standard.
- 46 - Include odor control devices in building plan.
- 47 - The dumpster be moved to comply with setbacks.
- 48 - The site will have nine parking spaces

- 1 - Screenshots of camera angles will be provided to the Township planner to ensure there is no
2 invasion of privacy.
3

4 **11. Open Discussion – Members of the Audience**

5
6 None.

7
8 **12. Report of the Township Board Representative**

9
10 None.

11
12 **13. Report of the Township ZBA Representative**

13
14 None.

15
16 **14. Comments from Planning Commission Members**

17
18 Commissioners Chaman and Mihelich stated they had both stopped by the township offices recently,
19 commissioner chapman was impressed by the hard work of the Planning and Zoning department.

20
21 Commissioner Leuty commented that copies should be duplexed going forward to save money. He
22 mentioned annual reviews of marijuana facilities. Attorney Koches

23
24 **15. Report of the Township Planner**

25
26 All four properties listed had minor site plan amendments and were approved by McKenna in August and
27 did not go to the Planning Commission for review. Canopies were added to each of the locations. The fire
28 marshal and the engineer reviewed the plans. The applicant was able to add several bike racks to the
29 locations,

- 30 -1521 Gull Road, North Building site plan amendment
31 -1521 Gull Road, Nav Center site plan amendment
32 -1521 Gull Road, MSB site plan amendment
33 -1521 Gull Road, Heart Center site plan amendment
34

35 Master Plan update Status, Bouchard updated the commission on the master plan status and reported
36 that the plan proposal will be given to the Planning commission at the October meeting.
37

38 **16. Report of the Township Zoning Administrator**

39
40 Kusmack updated the Planning commission about Native Landscape Management, Kusmack reported that
41 the township does not have the resources in place to address the scope of Native Landscaping. More
42 discussion of the issue is needed to go forward. The fire marshal reported on the Kalamazoo township fire
43 insurance rating, and how the current ordinances support the lowered rating the Township has. Hartsough
44 Leuty commented on the scope of the issue and the need for it to be addressed by the planning
45 commission
46

1 Kusmack updated the Planning commission on Japanese Knotweed Mitigation processes, the MSU
2 invasive species network is a good resource for dealing with the invasion. Hartsough asked if the invasion
3 could be mentioned in the newsletter.
4

5 **17. Report of the Township Attorney**
6

7 None.
8

9 **18. Adjournment**
10

11 There being no further business to come before the Planning Commission, the September 02, 2021
12 Planning Commission Special meeting was adjourned at 8:58 p.m.
13

14 **SYNOPSIS OF ACTIONS**
15

16 The Kalamazoo Township Planning Commission undertook the following actions at the September 02,
17 2021 Planning Commission meeting:
18

- 19 1. The Planning Commission approved a special and use for 2609 N. Burdick. Allowing the
20 applicant to have an additional 2500 plants with the approval of the requesting Class C use.
- 21 2. The planning Commission approved a site plan for 2609 N. Burdick, the following conditions
22 must be observed:
 - 23 a. Submission of a detailed landscaping plan.
 - 24 b. Adjustment of proposed lighting plan to correct area over the allowed standard.
 - 25 c. Include odor control devices in building plan.
 - 26 d. The dumpster be moved to comply with setbacks.
 - 27 e. The site will have nine parking spaces
 - 28 f. Screenshots of camera angles will be provided to the Township planner to ensure
29 there is no invasion of privacy.
- 30 3. The following minor site plan amendments were approved:
 - 31 a. -1521 Gull Road, North Building site plan amendment
 - 32 b. -1521 Gull Road, Nav Center site plan amendment
 - 33 c. -1521 Gull Road, MSB site plan amendment
 - 34 d. -1521 Gull Road, Heart Center site plan amendment
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Christopher Mihelich, Secretary