

**KALAMAZOO TOWNSHIP
ZONING BOARD of APPEALS MEETING
AGENDA
WEDNESDAY NOVEMBER 15, 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 November 15, 2023
- #4 Approval of Minutes:
 - 4a. October 18, 2023
- #5 Public Hearings
 - 5a. None
- #6 Old Business
 - 6a. 4629 Winding Way – Setback [No Action]
 - 6b. 3122 Santos Avenue – Lot Coverage
- #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
2
3
4
5
6
7
8
9

**Charter Township of Kalamazoo
Minutes of a Zoning Board of Appeals Meeting
Held on October 18, 2023**

10 A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on October
11 18, 2023, commencing at 6:00 p.m. at the Township Hall.

12 **Call to Order.**

13
14 Leigh called the meeting to order at 6:00 p.m. and called the roll.

15 **Present were:**

16 Nicky Leigh
17 Fred Nagler
18 Shawn Blue
19 David Combs

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

22 **Absent was:**

23
24 Lisa Mackie

25
26 Nagler moved, supported by Blue to excuse Mackie from the meeting. The motion passed 4-0.

27
28 **Approval of the Agenda for the October 18, 2023, Zoning Board of Appeals Meeting.**

29
30 The ZBA members received the agenda in their meeting packets. No additions or revisions were made.

31
32 Nagler moved, supported by Combs to approve the agenda as presented. The motion passed 4-0.

33
34 **Approval of Zoning Board of Appeals' Meeting Minutes of the September 20, 2023, Meeting.**

35
36 The next item on the agenda was approval of the September 20, 2023, Zoning Board of Appeals' meeting
37 minutes. Copies of the draft meeting minutes were provided to the ZBA members in their agenda packets.

38
39 Blue moved, supported by Nagler to approve the minutes as presented. The motion passed 4-0.

40
41 **Public Hearings**

42
43 **3122 Santos Avenue – Lot Coverage – Request for a Variance**

44
45 The next item on the agenda was the public hearing for the request of Edward and Malinda Frybarger
46 (“applicants”) for a request for a variance to construct a 2,448 square-foot single-family residential
47 dwelling with lot coverage of 31% where the maximum allowed lot coverage under Section 25.02 of the
48 Township Zoning Ordinance is 25%, on a parcel of vacant unaddressed property identified as Parcel

1 Identification No. 06-17-320-220 (“subject property”). The subject property is approximately 8,000 square
2 feet in size and is located in the Township’s “R-1” Single Family District Zoning Classification. Section 25.02
3 of the Township Zoning Ordinance limits maximum lot coverage of any buildings in the R-1 District Zoning
4 Classification to 25%. The standards for variance review are contained in Section 26.05.B.4.a of the
5 Township Zoning Ordinance.

6
7 Mucha prepared a staff report that was contained in the Board member packets and summarized it.
8 Mucha noted that the Township received several letters supporting the applicants’ request for a variance.
9 Ed Frybarger addressed the ZBA and submitted a prepared written statement to the Board members
10 summarizing the reasons why he requested the variance. Mr. Frybarger said that he wants to construct a
11 house to accommodate aging. Mr. Frybarger said that the proposed home will have wider hall ways and
12 access points in order to accommodate a wheelchair, walkers or a scooter. The proposed home is a one-
13 story house with no stairs. Mr. Frybarger said that he received approval for a VA loan, but he needs the
14 variance before he can start construction. The applicant said that he discussed the home plans with his
15 neighbors who had no objection to the project.

16
17 Leigh opened the public comment portion of the public hearing and invited any interested party to speak
18 in support of or in opposition to the proposed request. Ed Tarkowski said that the applicants’ plan sounded
19 like a good idea. Hearing no additional public comments, Leigh closed the public hearing.

20
21 **Old Business.**

22
23 **4629 Winding Way – Setback**

24
25 Mucha said that this matter remains pending and no further action or discussion is needed at this time.

26
27 **New Business.**

28 **3122 Santos Avenue – Lot Coverage – Request for a Variance – Lot Coverage**

29
30 The next item on the agenda was the Board members deliberation regarding the public hearing for 3122
31 Santos Ave. Mucha said that Section 26.05.B.4.a of the Township Zoning Ordinance contains the
32 standards of review when considering a request for a variance. Section 26.05.B.4.a states, in part, that:

33
34 In determining whether practical difficulties exist, the ZBA shall consider the following
35 factors:

- 36 (1) Strict compliance with restrictions governing area, setback, frontage,
37 height, bulk, density or other non-use matters, will unreasonably
38 prevent the owner from using the property for a permitted purpose
39 or will render ordinance conformity unnecessarily burdensome.
- 40 (2) The variance will do substantial justice to the applicant, as well as to
41 other property owners.
- 42 (3) A lesser variance than requested will not give substantial relief to the
43 applicant and/or be consistent with justice to other property owners.
- 44 (4) The problem and resulting need for the variance has not been self-
45 created by the applicant and/or the applicant's predecessors. (For
46 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. Mucha said that an alternative house plan could be constructed
5 and concluded that compliance with the Zoning Ordinance standards would not be overly burdensome.
6 Mucha said that the variance will do substantial justice for the applicants and he did not anticipate that
7 the variance will do substantial justice for other property owners. Mucha said that the applicants'
8 preferred house plan design is entirely self-created and conformance with the zoning ordinance standards
9 is not unduly burdensome. In his staff report, Mucha listed several alternative options that the applicants
10 may consider, all of which comply with Zoning Ordinance standards.
11

12 Nagler discussed the first standard of review regarding whether compliance with Zoning Ordinance
13 standards would be overly burdensome. Nagler noted that the applicants could build a smaller house in
14 compliance with ordinance standards. Combs discussed the second standard of review regarding whether
15 granting the variance will do substantial justice to the applicants and neighboring property owners. Combs
16 said that he recognized the signatures on the petition supporting the applicants' request. Nagler felt that
17 this standard was satisfied. Nagler discussed the third standard of review, whether a lesser variance will
18 not give substantial relief to the applicants and said that he wanted the applicants to provide a written
19 report for the builder discussing the floorplan and dimensions regarding accessibility. Nagler and Leigh
20 both discussed the fourth standard of review, whether the request was self-created, and agreed that the
21 request was a self-created hardship. The applicants agreed to submit a report or to have his builder come
22 to a ZBA meeting to discuss the specifics regarding dimensions of the proposed dwelling.
23

24 Combs moved, supported by Nagler to table the public hearing and request of Edward and Malinda
25 Frybarger for a request for a variance to construct a 2,448 square-foot single-family residential dwelling
26 with lot coverage of 31% where the maximum allow lot coverage is 25% under Section 25.02 of the
27 Township Zoning Ordinance on vacant unaddressed property identified as Parcel Identification No. 06-17-
28 320-220 to a date certain of November 15, 2023, at 6:00 p.m. at the Kalamazoo Charter Township Hall,
29 1720 Riverview Drive, Kalamazoo, MI 49004. The motion passed 4-0.
30

31 **Comments from the public.**

32

33 Ed Tarkowski said that he is a contractor and discussed the applicants' request for a variance and
34 accessible dimensions. Tarkowski said that he recently submitted a request for a variance and asked how
35 the application fee was utilized by the Township.
36

37 **ZBA Member Comments.**

38

39 The members generally discussed ZBA matters.
40

41 **Report of Planning Commission Member.**

42

43 Nagler discussed updates from recent Planning Commission meetings.
44

45 **Adjournment.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

The meeting was adjourned at 7:40 p.m.

SYNOPSIS OF ACTIONS

The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the October 18, 2023, meeting:

1. Tabled the public hearing and consideration of 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 to a date certain of November 15, 2023, at 6:00 p.m. at the Kalamazoo Charter Township Hall, 1720 Riverview Drive, Kalamazoo, MI 49004.

Recording Secretary



MCKENNA

November 7, 2023

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

SUBJECT: ZBA Report - Supplemental
#23-08 Variance Request – Lot Coverage

APPLICANT: Edward & Malinda Frybarger

SECTION: Section 25.02 – Schedule of Regulations – Lot Coverage

LOCATION: Unaddressed Parcel: 06-17-320-220

REQUEST: To obtain relief from the maximum permitted lot coverage of 25% in the R-1 District, to permit the construction of a single-family residential dwelling with an estimated lot coverage of 31%.

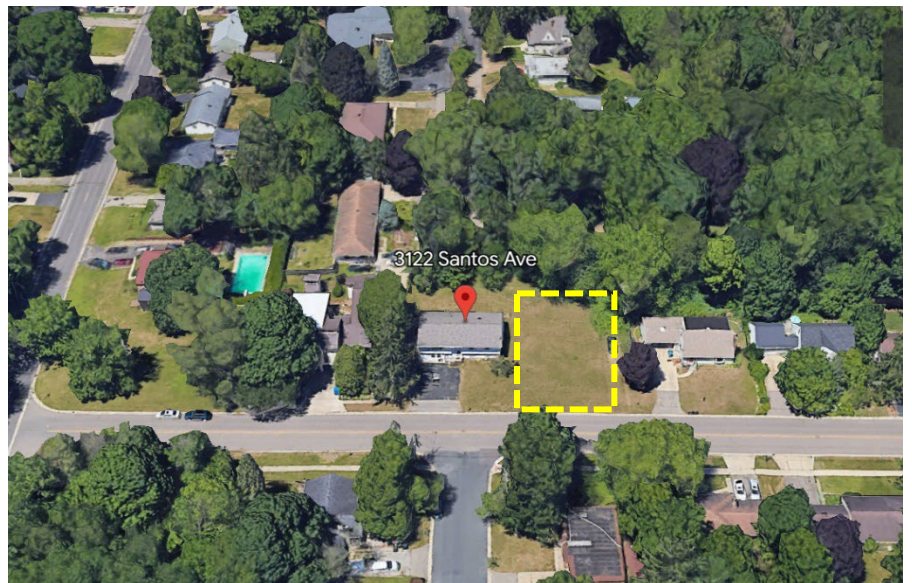
Dear Members of the Zoning Board of Appeals:

We have reviewed the above-referenced application regarding the variance request to permit the construction of a single-family residential dwelling, with a lot coverage of 31%, where the Kalamazoo Township Zoning Ordinance permits a maximum lot coverage of 25%. The applicant has supplied a floor plan and supplemental documentation from their contractor regarding the requested variance.

VARIANCE REQUEST SUMMARY

The applicants, Edward & Malinda Frybarger, seek relief from the Kalamazoo Township Zoning Ordinance’s Schedule of Regulations as it pertains to maximum lot coverage. The applicant’s seek to construct a new single-family residential dwelling and attached accessory building (garage) on a currently vacant parcel immediately east of 3122 Santos Avenue.

The subject parcel is approximately 8,000 square feet in area (80 feet wide, 100 feet deep). The applicants seek to construct a 2,448 square foot building (30.6%), where a maximum 2,000 square-foot structure is permitted (25%).



The subject parcel, 06-17-320-220, is currently owned by Edward & Malinda Frybarger.

HEADQUARTERS

235 East Main Street
Suite 105
Northville, Michigan 48167

O 248.596.0920
F 248.596.0930
MCKA.COM

Communities for real life.



EXISTING SITE CONDITIONS

The subject parcel is approximately 0.18 acres in size (8,000 square feet). The site is currently zoned R-1, Residential. Single-family detached dwellings are a permitted use within the R-1 District, per Section 11.02 of the Township Zoning Ordinance.

The subject parcel is currently vacant, as shown by the July 2023 street view capture, provided by Google.



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:*

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: "Due to advancing ages (75 & 71) and health conditions, we wish to build an aging-in-place home on the vacant lot which we own on Santos Avenue. The home will be all on one level and accessible, allowing us to age in place. Our current home has 13 steps from driveway to living room and is beginning to be a hardship for us. Since our new home needs to be on one level and include an attached garage, the home needs to be slightly larger (by 488 square feet) than the allowed 1960 square feet. This will allow us to have the additional room in the bathroom, hallways, and bedroom required for anticipated wheelchair accessibility".

The applicant, as provided in their above statement, indicates that advancing age prevents them from compliance with the Township Zoning Ordinance. As referenced in earlier sections, the subject parcel is currently vacant. Any new construction would be required to meet the established zoning regulations. Meeting the ordinance requirements would not prevent the homeowner from using the property for a permitted use (single-family residential dwelling).

Compliance with ordinance standards would not be overly burdensome. A single-family home could be constructed that meets zoning requirements. Further, due to the subject site being vacant (undeveloped), no apparent practical difficulties exist that would prevent the applicant from constructing a home that is in compliance with ordinance standards. A



modest home of 1,500 square feet, with an attached garage of up to 500 square feet could be constructed on the subject site.

UPDATE

The applicants have submitted supporting documentation from their contractor indicating the need for the increase in square footage. The documentation references the need for larger hallways, bedrooms and bathroom facilities in order to accommodate wheelchair access. Further, the supporting documents reference the desire to have all of the applicable home functions on a single level in order to avoid the need to traverse stairs as the owners advance in age.

It is noted that a home could be built that meets ordinances requirements and thus does not create an unnecessary burdensome task. While staff acknowledges the desire by the applicant to create a home that allows for aging-in-place, such a home could be designed in a manner that negates the need for the variance.

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

Applicant statement: “The requested variance will allow us to proceed with building our accessible aging-in-place home. We would still meet or exceed all setback requirements and the property will be used as a single-family dwelling per the R-1 zoning.”

The variance is not anticipated to do substantial justice to other property owners. The below synopsis table provides existing square-footage and lot sizes of adjacent residential dwellings. The data in the following table was accessed via the Kalamazoo Township Assessing Database and depicts total livable space of the residential dwelling. Accessory structures, attached & detached, have been included for consideration as well.

Property	Dwelling Square Footage	Accessory Structure Size	Total Lot Coverage	Lot Size (Acres)	Lot Size (Sq. Ft.)	Lot Coverage (%)
3108 Santos	1,547	528	2,075	0.184	8,015	25.8
3022 Santos	1,548	440	1,988	0.184	8,015	24.8
3016 Santos	1,008	440	1,448	0.184	8,015	18.0
3010 Santos	1,154	440	1,594	0.23	10,018	15.9
3007 Santos	1,064	400	1,464	0.23	10,018	14.6
3015 Santos	998	0	998	0.184	8,015	12.4
3021 Santos	1,342	400	1,732	0.184	8,015	21.6
3027 Santos	1,044	440	1,484	0.184	8,015	18.5

Based on the above analysis of existing structures along Santos Avenue, such an increase in square footage of the home would not be in character of the immediate area. Further, the variance would not correct an injustice to the property owner: the site is currently vacant and has no apparent hardships in which conformance to the ordinance standards would constitute an injustice.

A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with



justice to other property owners.

Applicant statement: “A lesser variance would force us to hire our builder to redesign a smaller home with less accessibility and less parking space provided in the garage. The garage needs to provide sufficient width for potential wheelchair entry and exit from the parked cars.”

The applicant seeks a variance from the maximum lot coverage standards within the Kalamazoo Township Zoning Ordinance. This is an entirely self-created hardship and as such, conformance with ordinance standards are not unduly burdensome. As such, because conforming alternatives exist which make the need for the variance null, a lesser variance would be counter to the intent of the ordinance. The subject site can still be developed for a single-family residential dwelling that meets all applicable regulations.

UPDATE

The applicant and their contractor have provided a response indicating that a lesser variance would not permit them to construct the home to their needs and future expectations. The contractor indicates that reducing the size of the rooms and hallways would not allow for adequate mobility access, such as a wheelchair. Further, a reduction in the number of rooms in the proposed home would not provide for living area for a care-giver.

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: “This is not a self-created issue.”

The need for the variance is a direct result from the proposed construction of a single-family residential dwelling that exceeds the maximum lot coverage as established by the Kalamazoo Township Zoning Ordinance. The following alternative options exist that would negate the need for the variance:

1. Construct a residential dwelling and attached garage that does not exceed the maximum lot coverage of 2,000 square feet.
2. Construct a residential dwelling and expanded single-car garage that would permit wheelchair access, while not exceeding the 2,000 square foot maximum.
3. Combine the subject parcel with that of 3122 Santos Avenue (parcel number 06-17-320-210) and expand the existing footprint of the residential dwelling at 3122 Santos Avenue.
4. Combine the subject parcel and 3122 Santos Avenue. Demolish the existing structure at 3122 Santos Avenue and construct a new residential dwelling on the combined parcel that meets ordinance requirements.
5. Construct a new residential dwelling on the subject parcel and a *detached accessory building*. The detached accessory building would not be considered towards total lot coverage as indicated by the following Zoning Ordinance Section 2.03.C.3.a (detached accessory buildings):

The maximum floor area of an accessory building or structure is 768 square feet, provided that the accessory building or structure together with all other buildings and structures does not cover more than twenty-five percent (25%) of the total area of the parcel, exclusive of road rights-of-way. Notwithstanding the



percentage of lot coverage requirement, each parcel shall be permitted accessory building or structure floor area totaling 576 square feet, provided that in no case shall an accessory building or structure exceed the square foot area of the principal building on the parcel.

The applicant could construct the detached accessory building in conformance with ordinance standards, thus allowing for a larger footprint residential dwelling. If the applicant pursued a detached accessory building, the need for a variance may be negated.

- 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 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.

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

REVIEW FINDINGS

The applicant has provided supplemental documentation from their contractor as to the need for increased hallway widths, larger bedrooms to accommodate wheelchair access and increased bathroom facilities in the anticipation of having mobility and care challenges. The applicants propose to construct a home that will allow them to age-in-place, without the need for extensive equipment, such as chair lifts, elevators and the need for stairs. Further, the new home is anticipated to permit accommodations for a live-in care giver.

While we acknowledge the desire by the applicant to create a home that permits aging-in-place and will meet the homeowners future needs as it pertains to mobility issues, we find that alternatives exist that would negate the need for the variance, as described in the previous analysis section.

Because alternatives exist that would negate the need for the variance, staff is not in support of the variance request. However, the decision is made by the Kalamazoo Township Zoning Board of Appeals. The ZBA should weigh the requested variance and determine if the standards listed above have been met in order to grant the variance request.

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

To whom it may concern,

I have known Ed and Malinda Frybarger and their family since my sophomore year of high school (1989-1990) as I was good friends with their son. They have 7 children and several grandchildren and great-grandchildren. They have hired me and my company many times over the years to repair, remodel, and maintain their home. They contacted me early this year to discuss building a new home, hopefully on the parcel adjacent to the one on which they currently live as they own both parcels. This would be beneficial to them considering the cost of land these days and moving next door would be easy.

They have several reasons for wanting to build a new home, most of which are centered around their age and declining physical ability:

- Their current home is built into a hill and has a daylight basement that walks-out to the driveway, making the main floor essentially a second floor. This makes for quite a climb from the driveway. They worry about their ability to make the climb as they age considering that it is already getting difficult.
- They are considering that they will likely need wheelchair access in the future and their current home is NOT wheelchair friendly. A ramp to the driveway is not practical and is nearly impossible, so a very expensive lift or elevator would have to be installed. The hallway and doorways are all too narrow and would all have to be modified, meaning a very impractical rebuilding most of the main floor.
- The current home does not have a garage. This means having to walk down a wet or icy driveway and sweep snow and ice off of their vehicle before they can leave. I know that doesn't sound that bad, but as they approach their 80's, this can be dangerous.

The proposed new home will solve these problems:

- The entire main floor will be on the same grade as the driveway with no steps except the stairway to the basement. The only thing proposed for the basement is storage and utility (furnace, water heater, etc.) so they rarely need to use any stairs. Laundry is on the main floor and shares function with a pantry so dry/canned goods and some storage can be utilized on the main floor.
- The entire house is very wheelchair friendly. All the doorways are at least 36" wide and hallways are 42" wide. The master bedroom has a French door, so access is easy. The master bath has a wheelchair-accessible walk-in shower. The kitchen is modest, but is designed to be wheelchair accessible.
- There is a 2-car, attached garage allowing for hazard-free departure.

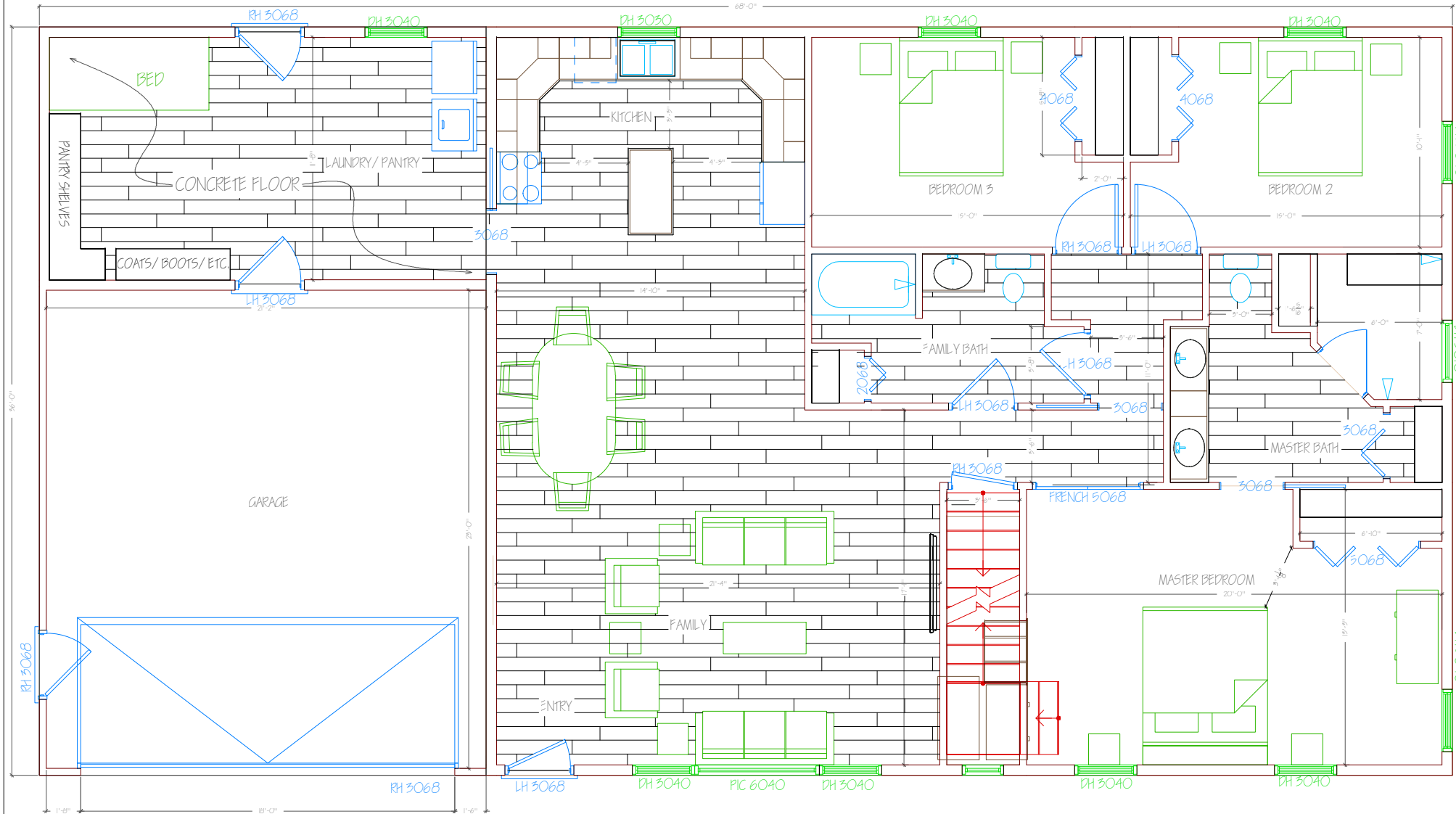
We started with a basic floorplan and have made many revisions, carefully thinking through the size and accessibility of each room. At first, the goal was to not create a home that would be extravagant or be beyond their budget. They want enough room to be able to have their children and grandchildren for holidays, etc. The living space is modest but should provide room for family gatherings. They want three bedrooms, one for each of them and one for a future live-in caregiver or a guest. The bedrooms are carefully sized to allow wheelchair access while also not having wasted space. The bathrooms are also carefully sized and shaped to allow access and the ability to turn around in a wheelchair. They want main-floor laundry so trips to the basement can be avoided. After one of the final revisions, I checked with zoning and realized that we were over the allowable square footage (footprint). I carefully went over the drawing and tried to find somewhere that we could squeeze a few square feet. I made a few small changes, but it wasn't enough. There is nowhere left that is practical to shrink. If we make the living room a little more narrow, the kitchen will become too narrow to be wheelchair friendly. If we make it a little shorter (move the front wall of the home back) then the master bedroom becomes too short to be wheelchair friendly. The garage is as small as it can be. Smaller even than I recommended. Any wall that can be moved to make a space a little smaller makes another space too small.

If we build the home as proposed, it will not look out-of-sorts. We will still meet required setbacks. A two-story house could meet the footprint requirements but I think it would look out-of-sorts because the Frybarger's current home and the house on the other side of the vacant parcel are both single-story homes. The proposed home will blend in to the neighborhood.

Attached is the floorplan for the proposed home. Feel free to contact me via email or phone if you should need anything further.

Thank you,
Jason Cook

Cook's Home Improvement
(269) 998-1628 jason@cookshomeimprovement.com



FLOOR PLAN

© 2023



7839 S. SPRINKLE RD.
PORTAGE, MI 49006
PHONE: (269) 290-1288
INFO@COOKSHOMEIMPROVEMENT.COM

CLIENT NAME & ADDRESS

Ed and Malinda Frubarquer
3122 Santos Ave.
Kalamazoo, MI 49006

DRAWING INFORMATION

PROJECT: New Home
DRAWN BY: Jason Cook

REVISION: 4.0

PAGE: 1 of 1

SCALE: -

NOTES:

Notes



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



OFFICE USE ONLY
ate: _____
ase #: _____
ae: _____

A
P
P
L
I
C
A
N
T

Contact Person Edward and Malinda Frybarger

Business Name (if applicable)

Email epfrybar@att.net

Address 3122 Santos Avenue

Phone 269-270-1954

City Kalamazoo

State MI

P
R
O
P
E
R
T
Y

O
W
N
E
R

Check here if same as above X

Name	Email
Address	Phone
City	State

P R O P E R T Y I N F O R M A T I O N	
-------------------------------------------------------------------------------------------------	--

Street Address Santos St VAC	Suite/Apt. #
Zoning District R1	Master Plan Designation 3906-17-320-22
Gross Acreage 0.18	Parcel Dimensions 80' x 100'

ZBA ACTION REQUESTED
<ul style="list-style-type: none"> <input type="checkbox"/> To interpret a particular section of the ordinance, as it is felt the Zoning Administrator/Planning Commission is not using the proper interpretation. <input type="checkbox"/> 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). <ul style="list-style-type: none"> <input checked="" type="checkbox"/> 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.). <input type="checkbox"/> 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: 25

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.

AUG. 29, 2023 Malinda J. Frybarger Edward Frybarger
 Date Signature of Applicant Print Applicant Name

AUG. 29, 2023 Malinda J. Frybarger Malinda J. Frybarger
 Date Signature of Property Owner Print Property Owner Name

FOR VARIANCE APPLICATIONS ONLY

RULING SOUGHT (attach additional sheets if necessary)

Allow variance to ordinance section 25 to allow us to proceed with building a single family dwelling home on Santos St Vac lot (which we have owned since 1985).

Our plans (see attachment) measure 2448 square feet which exceeds the allowable 25% of the land usage ordinance by 488 square feet.

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

State specifically the reason for the variance

Due to our advancing ages (75 and 71) and health conditions (heart conditions, cancer, arthritis) we wish to build an aging-in-place home on the Vacant Lot which we own on Santos Ave. The home will be all on one level and accessible, allowing us to age in place. (Our current home has 13 steps from driveway to living room and is beginning to be a hardship for us).

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)

<p>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?</p> <p>Since our new home needs to be on one level and include an attached garage, the home needs to be slightly larger (by 488 square feet) than the allowed 1960 square feet... this will allow us to have the additional room in the bathroom, hallways, and bedroom required for anticipated wheelchair accessibility.</p>
<p>2. Would a variance do substantial justice to the applicant, as well as adjacent property owners?</p> <p>The requested variance will allow us to proceed with building our accessible aging-in-place home. We would still meet or exceed all setback requirements and the property will be used as a single family dwelling per the R1 zoning.</p>
<p>3. Would a lesser variance not give substantial relief to the applicant and/or be consistent with justice to other property owners?</p> <p>A lesser variance would force us to hire our builder to redesign a smaller home with less accessibility and less parking space provided in the garage. The garage needs to provide sufficient width for potential wheelchair entry and exit from the parked cars.</p>
<p>4. Is the problem and resulting need for the variance not self-created by the applicant and/or the applicant's predecessors?</p> <p>This is not a self-created issue.</p>

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

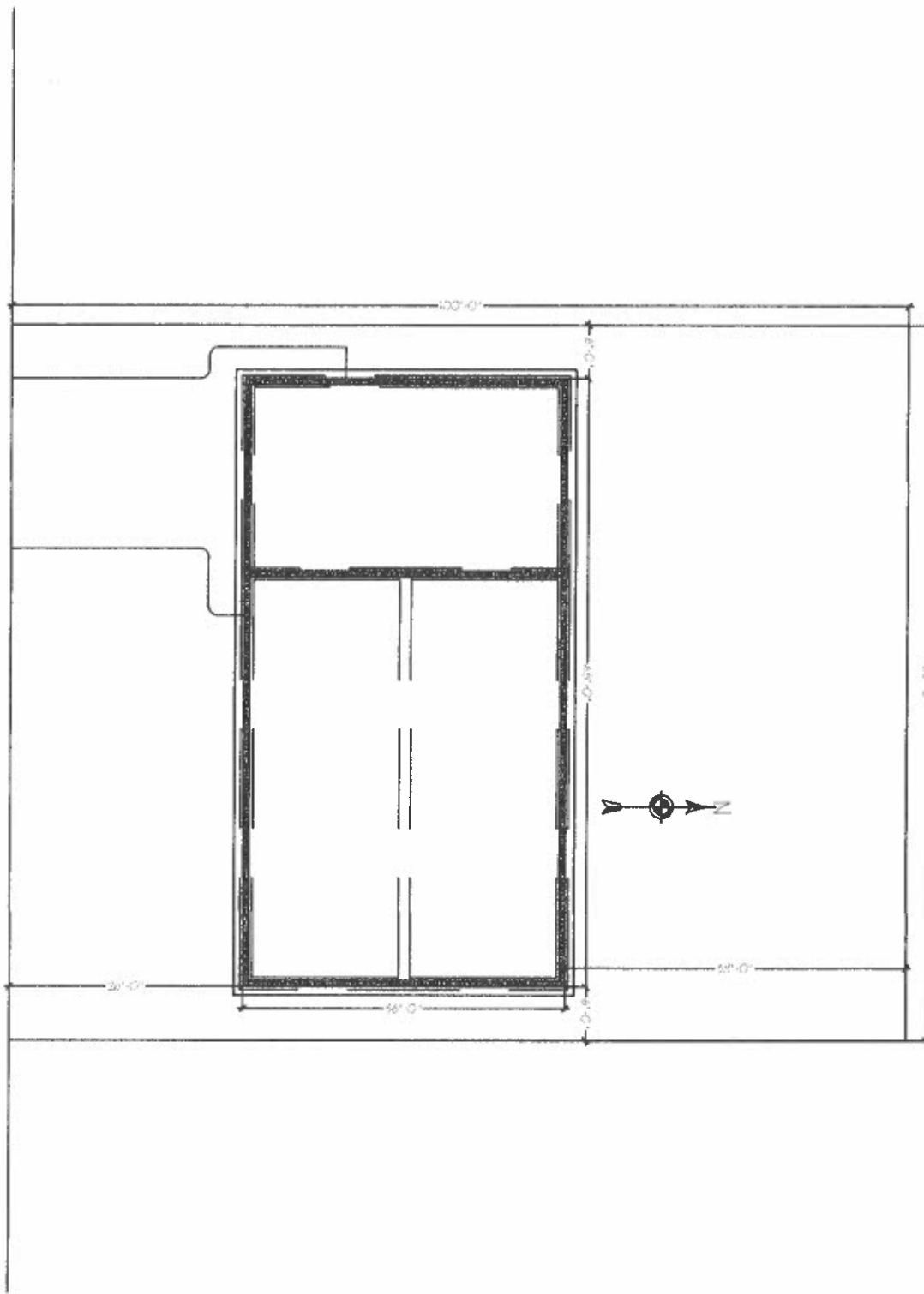
Attach a copy of any communications pertaining to the interpretation issue and the zoning administrator's (or planning commission's) written ruling on this issue.

CLIENT NAME & ADDRESS
 Ed and Malinda Filbarger
 3122 Santos Ave.
 Kalamazoo, MI 49006

DRAWING INFORMATION
 PROJECT: New Home
 DRAWN BY: Jason Cook
 PVE: JdI
 REVISION: 4.0
 SCALE: -

NOTES:
 Setback dimensions shown are from property lines to the foundation wall. The roof will have 12" overhangs, so the actual setback distances will be 1" less than what is shown.

SANTOS AVE.



LOT DIAGRAM