



**ZONING BOARD of APPEALS
MEETING AGENDA
WEDNESDAY FEBRUARY 21, 2024 6:00 PM**

The agenda for the *meeting* will include the following items:

- #1 Call to order
- #2 Roll call
- #3 Approval of agenda for February 21, 2024
- #4 Approval of Minutes:
 - 4a. December 20, 2023
- #5 Public Hearings
 - 5a. None
- #6 Old Business
 - 6a. 4629 Winding Way – Setback
- #7 New Business
 - 7a. None
- #8 Other matters to be reviewed by the ZBA
 - 8a. Comments from the public on matters not already addressed.
 - 8c. Zoning Board of Appeals members' comments.
 - 8d. Report of the Planning Commission member.
- #9 Adjournment

Public Hearings. The following rules of procedure shall apply to public hearings held by the ZBA:

1. Chairperson opens the public hearing and announces the subject.
2. Chairperson summarizes procedures/rules to be followed during the hearing.
3. Township zoning administrator/planning consultant presents brief summary of the request.
4. Applicant presents brief overview of request.
5. Persons wishing to comment on the request are recognized.
6. Chairperson closes public hearing.

*Note: further discussion of the application (such as discussion) take place during "business".

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**Charter Township of Kalamazoo
Minutes of a Zoning Board of Appeals
Meeting Held on December 20, 2023**

A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was conducted on December 20, 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 December 20, 2023, Zoning Board of Appeals Meeting.

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

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

Approval of Zoning Board of Appeals' Meeting Minutes of the November 15, 2023, Meeting.

The next item on the agenda was approval of the November 15, 2023, Zoning Board of Appeals' meeting minutes. Copies of the draft meeting minutes were provided to the ZBA members in their agenda packets.

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

Public Hearings

2609 North Burdick Street – Setback

The next item on the agenda was the request of Brian Lamoreax for property addressed as 2609 North Burdick Street, Parcel No. 06-10-130-020 within the Township for a variance of up to 47 feet from the required 50-foot minimum rear yard setback; and, a 27-foot variance from the minimum 30-foot side yard setback contained in Section 25.02 of the Township Zoning Ordinance, in order to permit the construction of a dumpster enclosure three feet from the rear property line and three feet from the side property line.

1 Leigh opened the public hearing and invited anyone in support of or in opposition of the request to submit
2 public comment. The applicant was represented by attorney Matt Van Dyk of Miller Johnson. Van Dyk said
3 that he reviewed the staff report and reached a resolution regarding placement of the structure that will
4 result in a lesser variance. Hearing no additional public comment, Leigh closed the public hearing.
5

6 **Old Business**

7
8 **4629 Winding Way – Setback Request**
9

10 The next item on the agenda was re-visiting the request of 4629 Winding Way. No additional information
11 was received by the Township regarding this request. Mucha said that the applicant was not present at
12 the meeting. Leigh recommended tabling this matter until the February, 2024, ZBA meeting, at which time
13 action would be taken regarding the request.
14

15 Nagler moved moved supported by Mackie, to continue the public hearing for the request for a variance
16 regarding 4629 Winding Way to Wednesday, February 21, 2024, at the Township Hall at 6:00 p.m. The
17 motion passed unanimously.
18

19 **New Business.**

20
21 The next item on the agenda was the request of Brian Lamoreax for property addressed as 2609 North
22 Burdick Street, Parcel No. 06-10-130-020 within the Township for a variance of up to 47 feet from the
23 requested 50-foot minimum rear yard setback; and, a 27-foot variance from the minimum 30-foot side
24 yard setback contained in Section 25.02 of the Township Zoning Ordinance, in order to permit the
25 construction of a dumpster enclosure three feet from the rear property line and three feet from the side
26 property line.
27

28 Mucha prepared a staff report that was contained in the Board members' agenda packets and
29 summarized it. Mucha said that the applicant adjusted his plans so the request for a variance would be
30 only 3 feet into the rear and side-yard setback. Mucha confirmed that the Fire Marshal had no objection
31 to this revision.
32

33 Mucha said that Section 26.05.B.4.a of the Township Zoning Ordinance contains the standards of review
34 when considering a request for a variance. Section 26.05.B.4.a states, in part, that:
35

36 In determining whether practical difficulties exist, the ZBA shall consider the following factors:
37

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

1 for a proposed lot split would, by definition, be self-created, so such a variance
2 typically would not be granted.)
3

4 Mucha discussed each standard of review. The ZBA concluded that the request for variance was justified
5 in order to comply with state regulations. The ZBA concluded that substantial justice would be served by
6 granting the variance because the ordinance standards are restrictive. The ZBA noted that the applicant
7 agreed to a lesser variance from what was initially requested. The ZBA concluded that the request was
8 not self-created because the applicant is trying to comply with state standards.
9

10 Nagler moved, supported by Combs to approve the request of Brian Lamoreax to allow for a 27-foot
11 variance from the side yard setback requirement from the south property line for property addressed as
12 2609 North Burdick Street, Parcel No. 06-10-130-020 within the Township because the standards
13 contained because the standards contained in Section 26.05.B.4.a of the Township Zoning Ordinance were
14 satisfied. The motion passed unanimously.
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16 **Comments from the public.**

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18 None.
19

20 **ZBA Member Comments.**

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22 The members generally discussed ZBA matters.
23

24 **Report of Planning Commission Member.**

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26 Nagler discussed updates from recent Planning Commission meetings.
27

28 **Adjournment.**

29
30 The meeting was adjourned at 6:45 p.m.
31

32 **SYNOPSIS OF ACTIONS**

33
34 The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the
35 December 20, 2023, meeting:
36

- 37 1. Continue the public hearing for the request for a variance regarding 4629 Winding Way to
38 Wednesday, February 21, 2024 at the Township Hall at 6:00 p.m.
39
- 40 2. Approved the request of Brian Lamoreax to allow for a 27-foot variance from the side yard setback
41 requirement from the south property line for property addressed as 2609 North Burdick Street,
42 Parcel No. 06-10-130-020 within the Township because the standards contained because the
43 standards contained in Section 26.05.B.4.a of the Township Zoning Ordinance were satisfied.
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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.

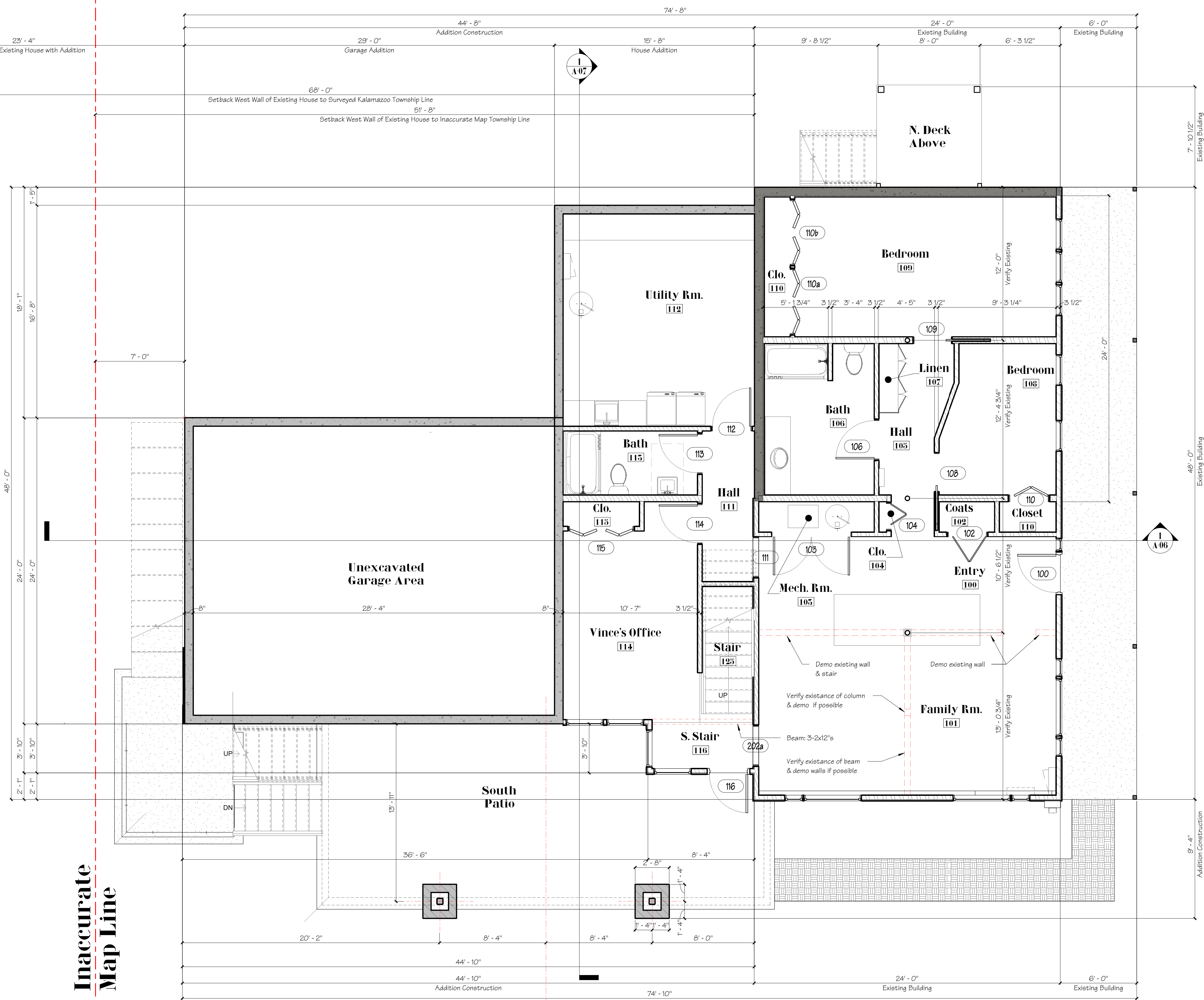
Respectfully,

McKenna

Danielle Bouchard, AICP
Principal Planner

Kyle Mucha, AICP
Senior Planner

Inaccurate
Map Line



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

Architect's Limited Building Drawing Use Note:

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

2
A-05 **Drawing Index**
SCALE: 1/4" = 1'-0"

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

Architect's Seal

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

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

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

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

Sheet Number
A-05