



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334
269-375-4260 FAX 375-7180 TDD 375-7198
www.oshtemo.org

**NOTICE
OSHTEMO CHARTER TOWNSHIP
Zoning Board of Appeals**

**Tuesday,
November 17, 2015
3:00 p.m.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Public Comment on Non-Agenda Items
5. Approve Minutes September 22, 2015 Regular Meeting
6. **PUBLIC HEARING: Parking Variance Request (Mitch Lettow for Southwest Michigan Land Conservancy)**
Applicant is seeking a variance from Section 68.300.C. of the Zoning Ordinance, which requires all parking lots to be a paved surface.
7. Any Other Business / ZBA Member Comments
8. Adjournment

CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Charter Township of Oshtemo will conduct a public hearing on Tuesday, November 17, 2015, commencing at 3:00 p.m. at the Oshtemo Charter Township Hall, 7275 West Main Street, within the Township, as required under the provisions of the Michigan Zoning Enabling Act.

The item to be considered at said public hearing includes, in brief, the following:

1. A variance from Section 68.300, Paragraph C, of the Township Zoning Ordinance has been requested by the applicant, Southwest Michigan Land Conservancy to use gravel as the parking lot surface instead of asphalt for Public Nature Preserve to aid in pollution reduction and storm water management. The subject property is approximately 69.5 acres in size in Land Section 21 located at KL Avenue and 4th Street, within the "RR" Rural Residential District classification. Parcel No. 3905-21-305-019.
2. Such other and further matters as may properly come before the Zoning Board of Appeals at the public hearing.

You are invited to attend this hearing. If you are unable to attend, written comments may be submitted in lieu of a personal appearance by writing to the Zoning Board of Appeals at the Township Hall, 7275 W. Main Street, Kalamazoo, MI 49009. All materials relating to these requests may be examined at the Oshtemo Township Hall during normal business hours.

Oshtemo Charter Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seven (7) days' notice to the Oshtemo Charter Township. Individuals with disabilities requiring auxiliary aids or services should contact the Oshtemo Charter Township by writing or calling the Township.

OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

By: Deborah L. Everett, Township Clerk

(269) 375-4260

Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be board discussion prior to call for a motion.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment or Citizen Comment on Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 5/9/2000)
(revised 5/14/2013)

Policy for Public Comment
6:00 p.m. "Public Comment"/Portion of Township Board Meetings

At the commencement of the meeting, the Supervisor shall poll the members of the public who are present to determine how many persons wish to make comments. The Supervisor shall allocate maximum comment time among persons so identified based upon the total number of persons indicating their wish to make public comments, but no longer than ten (10) minutes per person. Special permission to extend the maximum comment time may be granted in advance by the Supervisor based upon the topic of discussion.

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(adopted 2/27/2001)
(revised 5/14/2013)

**AGENDA ITEM WITHIN 300'
OF YOUR PROPERTY**

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KALAMAZOO COUNTY, MICHIGAN

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OSHTEMO CHARTER TOWNSHIP ZONING BOARD OF APPEALS

By: Deborah L. Everett, Township Clerk

(269) 375-4260



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-216-5223 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS KL Avenue Nature Preserve (KL Ave & 4th)

PLANNING & ZONING APPLICATION

Applicant Name : Mitch Lettow
Company Southwest Michigan Land Conservancy
Address 6851 S. Sprinkle Rd. Portage, MI 49002
E-mail LETTow@SWMLC.ORG
Telephone 269-324-1600 Fax _____
Interest in Property Developing Public access

Oshtemo Charter Township
7275 W MAIN ST
KALAMAZOO, MI 49009
Phone : 269-375-4260
OSHTEMOTOWNSHIP.ORG

Received From:
SOUTHWEST MICHIGAN LAND CONSERVANCY
Date: 10/20/2015 Time: 11:14:14 AM
Receipt: 118893
Cashier: JMILLER

OWNER*:

Name See Above
Address _____
Email _____
Phone & Fax _____

ITEM REFERENCE	AMOUNT
1092 ZONING VARIANCE	
ZONING VARIANCE	\$500.00
TOTAL	\$500.00
CHECK 7511	\$500.00
Total Tendered:	\$500.00
Change:	\$0.00

NATURE OF THE REQUEST: (Please check the appropriate item)

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: _____

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):

Seeking
permission to use gravel as parking lot
surface instead of asphalt. for public nature Preserve.
This will aid us in pollution reduction & stormwater mgmt.

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

See additional documents

PARCEL NUMBER: 3905- 05-21-305-019

ADDRESS OF PROPERTY: NA

PRESENT USE OF THE PROPERTY: Nature Preserve - limited access

PRESENT ZONING Rural Residential **SIZE OF PROPERTY** 69.5 acres

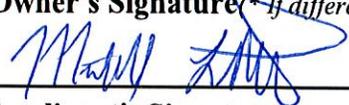
**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)
NA	NA

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.

Owner's Signature *If different from Applicant)



Applicant's Signature

Date

10/15/15

Date

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS

STREET

STREET

4TH

4TH

NATURE WAY

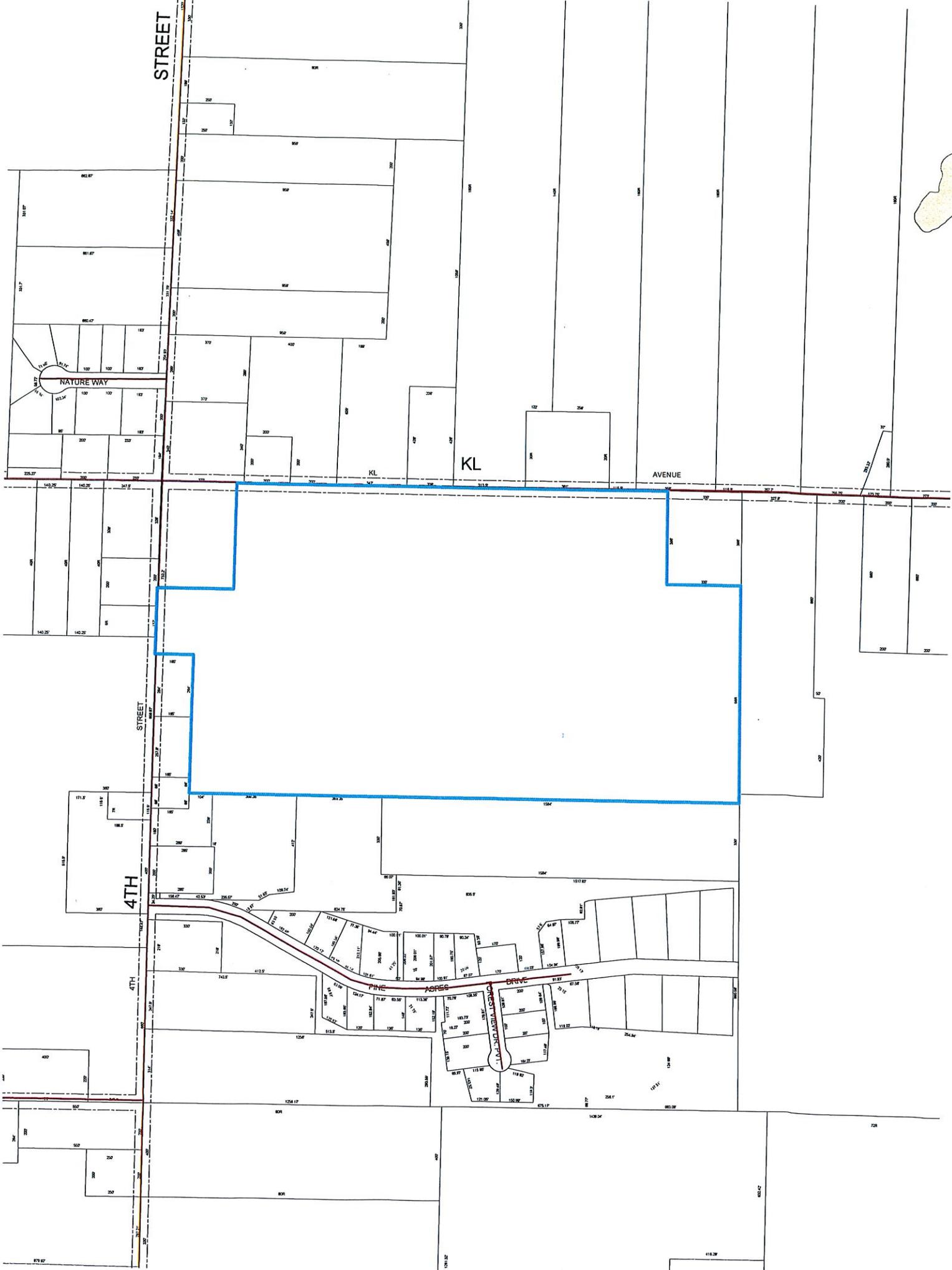
AVENUE

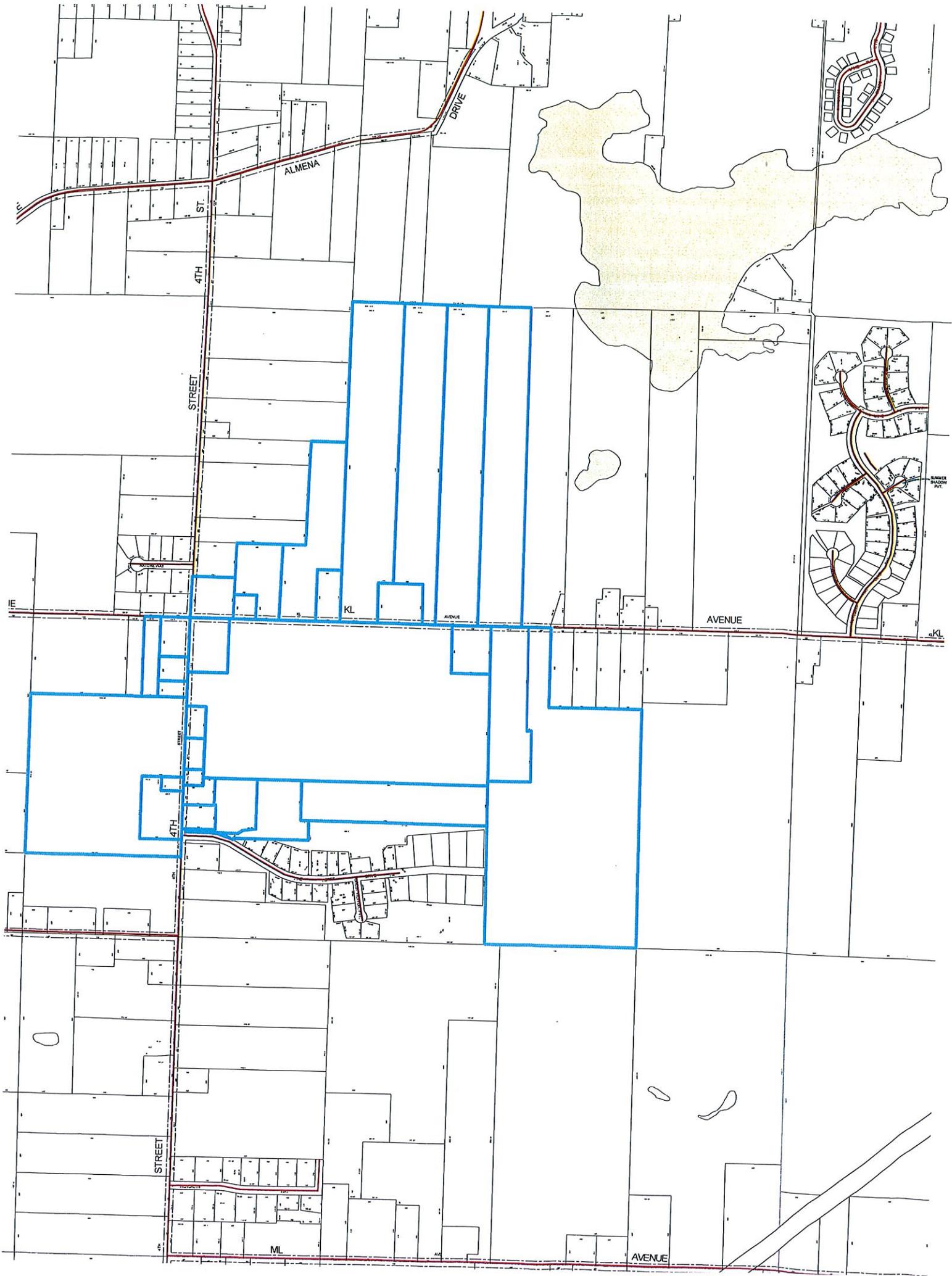
KL

KL

PINE ACRES DRIVE

LAUREL MEADOWS





COUNTY OF KALAMAZOO
201 WEST KALAMAZOO AVENUE
KALAMAZOO, MI 49007

SCHIPPERS EDWIN
8495 WEST KL AVENUE
KALAMAZOO, MI 49009

COUNTY OF KALAMAZOO
3801 EAST KILGORE ROAD
KALAMAZOO, MI 49001

CHARTER TOWNSHIP OF OSHTEMO
7275 WEST MAIN
KALAMAZOO, MI 49009

CHARTER TOWNSHIP OF OSHTEMO
7275 WEST MAIN
KALAMAZOO, MI 49009

COUNTY OF KALAMAZOO
3801 EAST KILGORE ROAD
KALAMAZOO, MI 49001

SOKOLOWSKI BRETT
8766 WEST KL AVENUE
KALAMAZOO, MI 49009

HEGELMANN NORBERT & JOY LYNN
8880 WEST KL AVENUE
KALAMAZOO, MI 49009

WESSELS STEPHEN
745 SOUTH 4TH STREET
KALAMAZOO, MI 49009

MCKENZIE LOUIS L & LINDA L
8565 WEST KL AVENUE
KALAMAZOO, MI 49009

SOUTHWEST MICHIGAN LAND
CONSERVANCY
6851 SPRINKLE ROAD
PORTAGE, MI 49002

SIEGWART STEPHAN K
5081 FOREST RIVER WAY
KALAMAZOO, MI 49009

MEYERS KATIE M
8900 WEST KL AVENUE
KALAMAZOO, MI 49009

FULK TERRY & CATHY
1249 SOUTH 4TH STREET
KALAMAZOO, MI 49009

WAGNER JASON
1311 SOUTH 4TH STREET
KALAMAZOO, MI 49009

MADER RUTH E
1143 SOUTH 4TH STREET
KALAMAZOO, MI 49009

BUCKMASTER KEITH & DAWN
7067 SOUTH 10TH STREET
KALAMAZOO, MI 49009

ELDER ELLEN ROZANNE
1181 SOUTH 4TH STREET
KALAMAZOO, MI 49009

BOWEN HAROLD L & DORIS A
9033 WEST KL AVENUE
KALAMAZOO, MI 49009

LUYENDYK ROBERT P & DIANE J
920 SOUTH 4TH STREET
KALAMAZOO, MI 49009

CRANE DONALD E & JOANNE G
9067 WEST KL AVENUE
KALAMAZOO, MI 49009

RAFFERTY MICHAEL
976 SOUTH 4TH STREET 978
KALAMAZOO, MI 49009

PHILLIPS NANCY
1202 SOUTH 4TH STREET
KALAMAZOO, MI 49009

SLOAN TONYA K & DIANE M
1300 SOUTH 4TH STREET
KALAMAZOO, MI 49009

HINKLE DANIEL & KRISTIN TRUST
4285 SQUIRE HEATH ROAD
PORTAGE, MI 49024

MCCARTHY ROBERT D & ROBIN L
8794 WEST KL AVENUE
KALAMAZOO, MI 49009

CHARTER TOWNSHIP OF OSHTEMO
7275 WEST MAIN STREET
KALAMAZOO, MI 49009

JBARA CRAIG & MARY
8942 PINE ACRES DRIVE
KALAMAZOO, MI 49009

MOTT BUILDERS II LLC
4098 RYON DRIVE
OLIVET, MI 0

MALOTT RICHARD W
8971 WEST KL AVENUE
KALAMAZOO, MI 49009

OCCUPANT 
8443 W KL AVE
KALAMAZOO, MI 49009

OCCUPANT
8495 W KL AVE
KALAMAZOO, MI 49009

OCCUPANT
W KL AVE
KALAMAZOO, MI 49009

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8740 W KL AVE
KALAMAZOO, MI 49009

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KALAMAZOO, MI 49009

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KALAMAZOO, MI 49009

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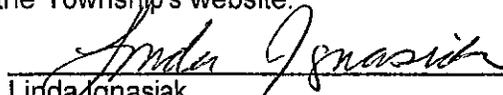
OSHTEMO CHARTER TOWNSHIP
KALAMAZOO COUNTY, MICHIGAN

STATE OF MICHIGAN)
 : ss.
COUNTY OF KALAMAZOO)

AFFIDAVIT OF MAILING
NOTICE OF ZBA PUBLIC HEARING
Hearing Date: 11/17/2015
Variance – Southwest Michigan Land Conservancy

The undersigned, being first duly sworn, deposes and says that on the 27th day of October, 2015, he/she mailed a true and correct copy of the attached Notice of Public Hearing to the owner of the property proposed for a variance in said Notice and to all persons to whom any real property is assessed within 300 feet of any premises proposed in said Notice for a variance as shown on the last assessment roll of the Township, and to the occupants of all single- and two-family dwellings located within 300 feet of any property therein proposed for a variance (which mailing date is not less than fifteen [15] days prior to the date of hearing set forth in said Notice) by properly addressing an envelope to each person, placing a copy of the Notice in each envelope, sealing the envelopes and mailing the same, First Class Mail, with postage fully prepaid, from Kalamazoo, Michigan. Where the tenant's name was not known, the term "Occupant" was used preceding the address on said envelope; the foregoing mailing of Notice was accomplished in accordance with the Michigan Zoning Enabling Act, as amended.

In addition, on the 27 day of October, 2015, in accordance with the provisions of MCL 42.8, as amended, and in accordance with other requirements of law, he/she did, at 10:10 a.m. post a copy of the attached Notice of Public Hearing on the bulletin board located at the Oshtemo Charter Township Hall situated at 7275 West Main Street, Kalamazoo, Michigan 49009, as well as on the Township's website.



Linda Ignasiak

Subscribed and sworn to before me this 27th day of October, 2015.



Notary Public
County of Kalamazoo, State of Michigan
Acting in Kalamazoo County, Michigan
My commission expires: 6-19-2016



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(adopted 5/9/2000)
(revised 5/14/2013)

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(adopted 2/27/2001)
(revised 5/14/2013)

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD SEPTEMBER 22, 2015

Agenda

PUBLIC HEARING: PARKING VARIANCE REQUEST (PRIME CONSTRUCTION AND DEVELOPMENT FOR BRONSON HEALTHCARE GROUP) SEEKING TO BE ALLOWED 26 PARKING SPACES FOR RECENTLY APPROVED BRONSON FASTCARE FACILITY LOCATED ON APPROXIMATELY FOUR ACRES OF VACANT LAND AT 6220 WEST MAIN STREET IN THE "R-3" RESIDENCE DISTRICT (PARCEL NO. 3905-14-288-011)

SITE PLAN REVIEW: (AUTOZONE DEVELOPMENT, LLC) FOR PROPOSED 14,000 SQUARE FOOT RETAIL STORE ON 1.4 ACRE PARCEL LOCATED AT THE EASTERMOST UNADDRESSED OUTLOT BETWEEN MEIJER AND WEST MAIN STREET IN THE "C" LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-14-185-039)

SITE PLAN REVIEW: (ARCHITECTURAL WORKSHOP FOR KALAMAZOO MORTGAGE) FOR A CHANGE IN USE FOR PROPERTY LCOATED AT 2425 SOUTH 11TH STREET, CURRENTLY PINE WEST BANQUET HALL, LOCATED IN THE "C" LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-25-405-012)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, September 22, 2015, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Bob Anderson, Second Alternate
Nancy Culp
Millard Loy
Neil Sikora, First Alternate
L. Michael Smith

ABSENT: James Sterenberg

Also present were Julie Johnston, Planning Director; James Porter, Attorney; Ben Clark, Zoning Administrator; and eight interested persons.

Call to Order and Pledge of Allegiance

Chairperson Bell called the meeting to order and the "Pledge of Allegiance" was recited.

Public Comment on Non-Agenda Items

There were no comments on non-agenda items. However, Julie Johnston took the opportunity to introduce herself, as the new Planning Director, and the new Zoning Administrator, Ben Clark, to the members of the Board and said she looked forward to working with them.

Approval of the Minutes of August 25, 2015

The Chairperson asked if there were any additions, deletions or corrections to the minutes of August 25, 2015. Nancy Culp said the reference to members present which indicated that Nancy Carr was present should be changed to Nancy Culp.

Hearing nothing further, the Chairperson called for a motion on the minutes. Mr. Loy made a motion to approve the minutes of August 25, 2015, as corrected. Mr. Smith seconded the motion. The Chairperson called for a vote on the motion, and the motion was approved unanimously.

PUBLIC HEARING: PARKING VARIANCE REQUEST (PRIME CONSTRUCTION AND DEVELOPMENT FOR BRONSON HEALTHCARE GROUP) SEEKING TO BE ALLOWED 26 PARKING SPACES FOR RECENTLY APPROVED BRONSON FASTCARE FACILITY LOCATED ON APPROXIMATELY FOUR ACRES OF VACANT LAND AT 6220 WEST MAIN STREET IN THE "R-3" RESIDENCE DISTRICT (PARCEL NO. 3905-14-288-011)

Chairperson Bell moved to the next item on the agenda, a parking variance for Bronson Health Group, and asked Mr. Clark for his report.

Mr. Clark explained that the applicant was granted site plan approval on August 25, 2015, to develop a fastcare healthcare facility. He said, per Section 68.000 of the Zoning Ordinance, the 1,584 square foot building would be required to have a minimum of eight to ten parking spaces and would not be permitted more than 110% of that number. The reason for the variance was that the applicant had determined, based upon its facility on Westnedge Avenue in Portage, that it would need approximately 26 parking spaces during the peak flu season. Mr. Clark also said that the applicant does intend to build additional buildings on the subject property in the not-to-distant future and felt that this additional parking would facilitate the overall parking needs for multiple buildings thereby furthering the cross-access parking requirements of the Township. Mr. Clark then took

the Board through the approval criteria as more fully set forth in his report dated September 22, 2015.

The Chairperson asked if there were any questions. Mr. Sikora asked Mr. Clark to point out the parking areas on the overhead, which he did. The Chairperson asked why the variance was separated from the site plan review. Mr. Clark said it was a timing issue.

The Chairperson then asked to hear from the applicant. Daniel Lewis of Prein & Newhof introduced himself to the Board. He explained that they determined they needed 20 parking spaces at their Westnedge facility. Given that and the fact that this facility was going to add one additional examination room, they determined that they needed approximately 26 parking spaces for peak demand. He said the parking would be for staffing and for patients.

The Chairperson opened the floor to questions. She began by asking how long the urgent care facility in Portage had been operated. Ms. Susan McKeowns introduced herself to the Board and explained that facility had been in operation for approximately a year and a half. She said the Westnedge fastcare facility had two exam rooms, and the subject facility would have 50% more exam rooms, and therefore, the additional parking was necessary.

The Chairperson asked at what point the applicant knew there was a need for additional parking. Mr. Lewis said they knew immediately after looking at the Zoning Ordinance that the parking would be insufficient for this type of facility.

Mr. Sikora asked what the intent of the applicant was with regard to the additional buildings and their use of the parking area. Mr. Lewis said that they would likely extend the road further north and construct parking areas off that private drive. He said he was not sure whether the parking areas would necessarily be interconnected at this point in time but could serve as overflow in the future.

The Chairperson asked if there were any further questions. Hearing none, she opened the hearing to the public. There was no public comment. Therefore, the Chairperson called for Board deliberations.

Mr. Smith said he thought that the proposal sounded reasonable. He said, considering their needs and that there were not any other similar developments in the Township, he thought that their parking request was reasonable. Mr. Anderson said he did not see any downside to the request. Mr. Loy said he felt that the applicant had demonstrated a need, and he thought they should grant the variance request. The Chairperson said she thought it should be noted that this is the first time anyone had asked to have parking increased beyond the Township's minimum parking requirements. Attorney Porter said it was likely that when additional buildings were added and the cross-access easement provisions of the Township's Ordinance were implemented, that there would not be any excessive parking at this site at that time.

Mr. Clark said he was comfortable in recommending the additional parking because this type of use did not have any minimum required parking space requirements defined by Section 68.400 of the Ordinance. Therefore, he thought this matter fell under Section 68.410B which states that "For those uses not specifically mentioned, the requirement for off-street parking facilities shall be based upon uses similar in terms of parking demand as determined by the Township." Therefore, he thought that the ZBA had the latitude to use its discretion in expanding the allowed parking spaces.

Ms. Johnston mentioned that she thought that parking should be based upon the use and that granting it for such a specific use as a fastcare health facility would not set an adverse precedent.

Again, the Chairperson said that she wanted to make sure that the Board did not set an adverse precedent because of the unusual nature of the request. The staff indicated that they understood.

The Chairperson asked if there was anything further. Hearing nothing further, she said she would entertain a motion. Mr. Smith made a motion to grant the variance, as requested, based upon the staff report and the comments in the record. Mr. Loy seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

SITE PLAN REVIEW: (AUTOZONE DEVELOPMENT, LLC) FOR PROPOSED 14,000 SQUARE FOOT RETAIL STORE ON 1.4 ACRE PARCEL LOCATED AT THE EASTERMOST UNADDRESSED OUTLOT BETWEEN MEIJER AND WEST MAIN STREET IN THE "C" LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-14-185-039)

The Chairperson indicated that the next item on the agenda was the consideration of the site plan review for AutoZone Development, LLC. The Chairperson called for a report from the Planning Department staff. Ms. Johnston explained to the Board that AutoZone is preparing to develop a new retail store on the easternmost outlot in front of Meijer. She said the subject property is approximately 1.4 acres in size in the "C" Local Business District.

She said that the proposed building was approximately 1,400 square feet in size and parking would be located to the south and east of the building with two access drives – one south towards Meijer and one onto the access drive leading to M-43.

She explained that the applicant was looking for approximately 37 parking spaces in line with the Ordinance. She stated that the Fire Marshal, the Township Engineer and MDOT had all approved the proposed circulation and access provisions of the proposed plan. She did note that there was an issue with regard to the possible need for a Phase II environmental, and that the applicant was agreeable to completing the Phase II environmental study for the subject property. Ms. Johnston then took the Board through

the standards for approval of the site plan as set forth in Section 82.800, as more fully set forth in the report.

The Chairperson asked if there were questions of the Planning Director. Mr. Loy asked about signage. Ms. Johnston said that the applicant had not yet submitted a sign application, and therefore, the only information which she had at this time was the proposed location of the sign.

Ms. Culp asked if it was necessary to use the service drive on the east end of the Meijer's parking lot area. Mr. Clark said it was not required, but he said there was not anything within the Township's Access Management Plan which would warrant denial of the use of that access drive. He also noted that the Fire Marshal and Township Engineer had approved the use of the same.

Mr. Anderson asked how they determined that there was an environmental issue on site. Ms. Johnston said that they had detected an odor of hydrocarbons on the property and a possible discoloration of soil.

Hearing no further questions, the Chairperson asked to hear from the applicant's representative. Mr. Wesley Verlin said he was the Engineer for the proposed project. He said he thought staff had covered the proposed project quite thoroughly and asked if the Board had questions.

Mr. Smith asked if they would accept waste oil. Mr. Verlin said that they would, but it would be entirely above ground, and therefore, there should not be any environmental concerns.

Ms. Culp asked if the second access drive was necessary. Mr. Verlin said he thought it was in order to allow for ingress and egress for large delivery trucks.

Mr. Sikora asked if Mr. Verlin or his client had thought about restructuring the center lane of the access drive going to Meijer to allow a left turn lane coming into their facility. Mr. Verlin said that they had not considered that, and he thought they could discuss that matter with Meijer. Mr. Sikora said he thought perhaps that would avoid any possible stacking issues or conflict issues with traffic.

Ms. Johnston said that perhaps the center lane could be used as a left turn lane and encouraged the applicant to approach Meijer to discuss adding that in the future. However, she said there was not anything within the Township's Ordinances that would mandate such a reconfiguration.

Mr. Clark said maybe they could label the lane as a left turn lane whether one was coming into Meijer or coming out of Meijer.

The Chairperson asked if AutoZone knew about the difficulties with this intersection, and if not, she thought they should familiarize themselves with the records

including the number of accidents at this site. The Planning Director said she thought that was an excellent suggestion.

The Chairperson raised an issue with regard to the recommendation for a Phase II environmental study assessment. She said her reading of that would not necessarily require AutoZone to clean up the property. Attorney Porter said that the Chair was correct, but that once the Phase II was completed, if there was contamination, it would have to be remediated. He said if AutoZone had a provision in its contract, it might be able to rescind the buy-sell agreement with Meijer, but once Meijer was on notice that there was environmental contamination, it would then have to be cleaned up by Meijer. He said he felt confident that State law would require a remediation if, in fact, an environmental contamination was discovered.

Mr. Sikora said he was not sure what the ZBA's authority was with regard to allowing or not allowing a drive onto the access drive, and if it met Township Ordinances, he did not believe there was any basis to deny its use. Ms. Johnston said that perhaps this is an issue which the Planning Department should look at in the future and work on more specific criteria within the Access Management Plan.

Mr. Smith said having worked in the auto parts business for a number of years, he did not think traffic would be a major issue at this site now or in the future.

The Chairperson asked if there were further questions. Hearing none, she said she would entertain a motion. Mr. Loy made a motion to approve the site plan, as submitted, with the following recommendations:

1. A Phase II Environmental Site Assessment must be completed to address the detected petroleum hydrocarbon soil contamination and its recommendation for remediation followed.
2. A sign permit is required before any new signs are installed on site, and all signage shall conform to the requirements of the sign chapter of the Zoning Ordinance.
3. Site plan approval is subject to the approval of the Fire Department, pursuant to adopted codes.
4. Site plan approval is subject to the review and acceptance of the Township Engineer as adequate.

Mr. Sikora seconded the motion. The Chairperson called for a vote on the motion. The motion passed unanimously.

SITE PLAN REVIEW: (ARCHITECTURAL WORKSHOP FOR KALAMAZOO MORTGAGE) FOR A CHANGE IN USE FOR PROPERTY LCOATED AT 2425 SOUTH 11TH STREET, CURRENTLY PINE WEST BANQUET HALL, LOCATED IN THE "C" LOCAL BUSINESS DISTRICT (PARCEL NO. 3905-25-405-012)

The Chairperson indicated that the next item for consideration was an application from Architectural Workshop for Kalamazoo Mortgage for a site plan review for a change in use from a banquet hall to office suites for property located at 2425 South 11th Street. The Chairperson asked to hear from the Planning Department.

Mr. Clark submitted his report to the Board. He said that the current location of Pine West Banquets & Catering and the Lucky Steer Restaurant was being restructured into commercial office suites for four professional offices. He said the subject property is situated on approximately 2.16 acres between U.S. 131 and 11th Street. He said that there were no changes to the overall floor area, and while there had to be restriping in the parking area, the layout would basically stay the same. He also noted that there would be no additional landscaping required.

Mr. Clark said because there were no significant exterior changes, both the Township Engineer and the Fire Marshal were satisfied with the proposed layout.

He noted that, under Section 78.730 of the Zoning Ordinance, the lighting was installed prior to 1994, and therefore, it did not need to meet the 0.1 foot-candle illumination limitation at the property line. Mr. Clark then proceeded to take the Board through the standards for site plan approval as set forth in Section 82.800 of the Zoning Ordinance.

The Chairperson asked if there were any questions of Mr. Clark. Hearing none, she asked to hear from the applicant.

Mr. Richard Schramm, Architect, introduced himself to the Board on behalf of the applicant. He said he thought this was the simplest site plan he had ever worked on in all his years as an architect. He reiterated what Mr. Clark had said with regard to the restriping of the parking lot, and that other than that, all changes would be internal to the office building. Mr. Schramm then introduced his clients, Ryan Rarick and Brian Methner, to the Board.

Mr. Smith asked what the office space would be used for. Mr. Rarick said it would be used for Kalamazoo Mortgage, and they would be the anchor tenant. Kalamazoo Insurance would be the second tenant, and they were working on letters of intent with two other businesses to occupy Suites C and D.

The Chairperson asked when they would be likely to begin and end construction. Mr. Rarick said they would likely start November of this year and complete the site improvements by April, 2016.

Mr. Smith asked if they were changing any of the lights. Mr. Schramm said there were existing poles, and they might change some light fixtures, but they would not change the overall lighting design for the property. Mr. Clark indicated that if they made changes to the lighting system, they would have to comply with current lighting standards including photometric requirements.

Mr. Loy said he thought it was an ideal use for the property. Mr. Smith said, while he had gotten some good meals there in the past, he thought this was a good steady use for the property. Mr. Sikora said he thought it was a good use and an ideal location, and he appreciated what they were doing to upgrade the building.

The Chairperson said if there were no other questions, she would entertain a motion. Mr. Smith made a motion to approve the site plan, as submitted, subject to the following recommendations:

1. A sign permit is required before any new signs are installed on site, and all signage shall conform to the requirements of the sign chapter of the Zoning Ordinance
2. Site plan approval is subject to the approval of the Fire Department, pursuant to adopted codes.
3. Site plan approval is subject to the review and acceptance of the Township Engineer as adequate.

Mr. Loy seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

Any Other Business / ZBA Member Comments

The Chairperson asked if there was any other business or comments from the ZBA members. Hearing none, she welcomed Nancy Culp to the Board.

Adjournment

There being no further business, Chairperson Bell adjourned the meeting at approximately 4:00 p.m.

Minutes prepared:
September 24, 2015

Minutes approved:
_____, 2015

November 12, 2015



Mtg Date: November 17, 2015

To: Zoning Board of Appeals

From: Julie Johnston, AICP

Applicant: Mitch Lettow

Owner: Southwest Michigan Land Conservancy

Property: Parcel #3905-21-305-019

Zoning: R-R: Rural Residential

Request: Variance from the parking lot standards which require surfaces to be paved

Section(s): Section 68.300.C – Pavement

Project Name: KL Avenue Nature Preserve

OVERVIEW

The Southwest Michigan Land Conservancy requests a variance from Section 68.300 of the Off Street Parking of Motor Vehicles regulations of the Zoning Ordinance, which requires all parking areas to be paved. Per their application, the request is to allow the KL Avenue Nature Preserve to remain gravel to aid in pollution reduction and storm water management.

The KL Avenue Land Preserve was acquired by the Land Conservancy when the 69.5 acre parcel was donated by an Oshtemo resident in the winter of 2015. The Conservancy has made no improvements to this property. The pictures provided with the application indicate the direction the Conservancy would like to take this preserve, i.e. a gravel parking lot, some type of fencing around the lot, signage and a trail head. Due to the RR: Rural Residential zoning of the property, the Conservancy will be required to request a Special Exception Use from the Planning Commission to operate as an outdoor recreational facility. Many of these details will be examined as part of that process.

APPROVAL CRITERIA

The Zoning Enabling Act of Michigan outlines that when considering a variance request, the Zoning Board of Appeals must insure that the "spirit of the ordinance is observed, public safety secured, and substantial justice done." The Michigan courts have added that variances should

7275 W. Main St.
Kalamazoo, MI 49009
(269) 375-4260
www.oshtemo.org

only be granted in the case of unnecessary hardship for use variances or a practical difficulty for nonuse variances. In addition, applicants must demonstrate that their plight is due to the unique circumstances peculiar to that property and that the problem is not self-created.

The request by the applicant is a nonuse variance. The ZBA should review the following standards in considering the variance request:

Standards of Approval of a Nonuse Variance (practical difficulty):

Standard: Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

Comment: Conformance with the parking regulation is not unnecessarily burdensome. However, a nature preserve is a unique land use that warrants some additional consideration with regard to the intent of conserving a “natural” setting. It could be argued that the use of a gravel parking lot is more in keeping with the intent of the land use than an asphalt or concrete pad.

Options related to pervious surfaces, like permeable concrete, could be explored. While these types of surfaces present a similar aesthetic to a standard parking lot, the improvements gained in storm water management through a permeable surface would be similar to what would be achieved with a gravel surface.

If the variance request is denied, the Southwest Michigan Land Conservancy would continue to preserve the 69.5 acres and therefore reasonable use still exists.

Standard: Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).

Comment: Section 68.300 indicates that paved parking spaces and/or lots are required for all uses except single and two-family dwellings, mobile homes and farms. While the nature preserve is not an active farm, the rural and natural quality of the development lends itself more toward this type of use than multi-family, commercial or industrial uses which would also be required to meet this regulation. In addition, the land is zoned and future land use planned for Rural Residential development.

Staff contacted the applicant to get a sense of the number of vehicles per day the nature preserve is likely to experience. The intent was to understand if usage of the property was more like those that are allowed an exemption from this ordinance requirement. Since the KL Avenue Preserve is so new, vehicle visits per day is unknown. However, the applicant has indicated that their most visited preserve, the Chipman Preserve in Comstock Township, on average experiences around 10 cars per day. A high peak travel day may see up to 20 visits. This low number of visits per day supports the idea that the preserve is more in line with the uses that are allowed an exemption to Section 68.300.

Also, a nature preserve, while characterized by the Zoning Ordinance as a recreational use, will not have the same number of visits per day as an active park. The Preserve is a passive recreational experience that does not see the same activity as a recreational park with play equipment where families with children tend to congregate.

To Staffs' knowledge, there is only one other property that was granted a variance for an unpaved parking lot and it was conditioned that the lot be paved within a one-year time frame. The property in question was The Rock Church located at 2901 North 10th Street. The lot is now paved.

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

Comment: The variance is being requested not because of any physical hardship on the property, but due to a desire to maintain a gravel parking lot that is more in keeping with the natural features of the site and which will assist with storm water management.

Standard: Self-Created Hardship
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Comment: The applicant is aware that the request to maintain a gravel parking lot is self-created. An asphalt parking lot could be installed at this location. However, the need for a hard surface lot is mitigated by the low volume of traffic which accesses the site.

Standard: Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance is granted?

Comment: Local ordinances almost always require that parking lots be paved. This is primarily due to the convenience of paved surfaces and to reduce dust which is often generated from unpaved areas. The intent is to ensure appropriate parking lots are developed for urbanized areas of a community. The KL Avenue Nature Preserve is in a more rural location of the Township where the Future Land Use Map clearly intends for this character to continue. Allowing the 12 space parking lot to remain gravel will not impede public health, safety or welfare. Dust generated from the gravel parking lot will be minimal due to the nature of the use on the property.

RECOMENDATION

Staff recommends approval of the variance request from Section 68.300.C. of the Off-Street Parking of Motor Vehicles ordinance for the following reasons:

- The rural nature and character of the use is similar to other uses that are allowed an exemption from Section 68.300, allowing the spirit of the Ordinance to be observed.
- The Future Land Use Map indicates continued rural uses for this area of the Township, which helps in protecting public health, safety and welfare as urbanization and the need for paved surfaces is not intended.

Respectfully Submitted,



Julie Johnston, AICP
Zoning Administrator

Attachments: Application
Photos

November 12, 2015



Mtg Date: November 17, 2015

To: Zoning Board of Appeals

From: Julie Johnston, AICP

Applicant: Mitch Lettow

Owner: Southwest Michigan Land Conservancy

Property: Parcel #3905-21-305-019

Zoning: R-R: Rural Residential

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Respectfully Submitted,



Julie Johnston, AICP
Zoning Administrator

Attachments: Application
Photos



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-216-5223 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS KL Avenue Nature Preserve (KL Ave & 4th)

PLANNING & ZONING APPLICATION

Applicant Name: Mitch Lettow

Oshtemo Charter Township
7275 W MAIN ST
KALAMAZOO, MI 49009
Phone : 269-375-4260
OSHEMOTOWNSHIP.ORG

Company Southwest Michigan Land Conservancy

Address 6851 S. Sprinkle Rd.
Portage, MI 49002

E-mail LETTow@SWMLC.ORG

Received From:
SOUTHWEST MICHIGAN LAND CONSERVANCY
Date: 10/20/2015 Time: 11:14:14 AM
Receipt: 118893
Cashier: J MILLER

Telephone 269-324-1600 Fax _____

Interest in Property Developing Public access

OWNER*:

Name See Above

Address _____

Email _____

Phone & Fax _____

ITEM REFERENCE	AMOUNT
1092 ZONING VARIANCE	
ZONING VARIANCE	\$500.00
TOTAL	\$500.00
CHECK 7511	\$500.00
Total Tendered:	\$500.00
Change:	\$0.00

NATURE OF THE REQUEST: (Please check the appropriate item)

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: _____

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):

Seeking
Permission to use gravel as parking lot
surface instead of asphalt. for public nature Preserve.
This will aid us in Pollution reduction & Stormwater mgmt.

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

See additional documents

PARCEL NUMBER: 3905- 05 - 21 - 305 - 019

ADDRESS OF PROPERTY: NA

PRESENT USE OF THE PROPERTY: Nature Preserve - limited access

PRESENT ZONING Rural Residential **SIZE OF PROPERTY** 69.5 acres

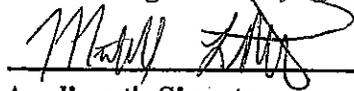
**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)
NA	NA

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.

Owner's Signature *(If different from Applicant)*



Date

10/15/15

Applicant's Signature

Date

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS

PLAT OF SURVEY — RESULTING PARCEL DESCRIPTIONS

RESULTING PARCEL "A" LEGAL DESCRIPTION

LAND SITUATED IN THE COUNTY OF KALAMAZOO, TOWNSHIP OF OSHTEMO, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOWS.

COMMENCING AT THE WEST 1/4 CORNER OF SECTION 21, TOWN 2 SOUTH, RANGE 12 WEST, OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 21, NORTH 89 DEGREES 02 MINUTES 14 SECONDS EAST 340.05 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE, NORTH 89 DEGREES 02 MINUTES 14 SECONDS EAST 1898.94 FEET TO THE WEST LINE OF THE EAST 330 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE ALONG SAID WEST LINE AND PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST 1/4, SOUTH 00 DEGREES 59 MINUTES 14 SECONDS EAST 396.00 FEET TO THE SOUTH LINE OF THE NORTH 396 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE ALONG SAID SOUTH LINE AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST 1/4, NORTH 89 DEGREES 02 MINUTES 14 SECONDS EAST 330.00 FEET TO THE EAST LINE OF SAID SOUTHWEST 1/4, NORTH 89 DEGREES 02 MINUTES 14 SECONDS EAST 924.33 FEET TO THE SOUTH LINE OF THE NORTH 1/2 OF SAID SOUTHWEST 1/4; THENCE ALONG SAID SOUTH LINE, SOUTH 00 DEGREES 59 MINUTES 14 SECONDS EAST 2426.71 FEET TO THE EAST LINE OF THE WEST 185 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE ALONG SAID EAST LINE AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST 1/4, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 585.00 FEET; THENCE PERPENDICULAR TO THE WEST LINE OF SAID SOUTHWEST 1/4, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 282.14 FEET TO THE SOUTH LINE OF SAID SOUTHWEST 1/4; THENCE ALONG SAID WEST LINE, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 282.14 FEET TO THE SOUTH LINE OF THE NORTH 450 FEET OF SAID SOUTHWEST 1/4; THENCE ALONG SAID SOUTH LINE AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST 1/4, NORTH 89 DEGREES 02 MINUTES 14 SECONDS EAST 340.05 FEET TO THE EAST LINE OF THE WEST 340 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE ALONG SAID EAST LINE AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST 1/4, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 450.06 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 69.46± ACRES OF LAND (3,025,732 SQUARE FEET).

RESULTING PARCEL "B" LEGAL DESCRIPTION

LAND SITUATED IN THE COUNTY OF KALAMAZOO, TOWNSHIP OF OSHTEMO, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOWS.

BEGINNING AT THE WEST 1/4 CORNER OF SECTION 21, TOWN 2 SOUTH, RANGE 12 WEST, OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 21, NORTH 89 DEGREES 02 MINUTES 14 SECONDS EAST 340.05 FEET TO THE EAST LINE OF THE WEST 340 FEET OF SAID SOUTHWEST 1/4; THENCE ALONG SAID EAST LINE AND PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST 1/4, SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 450.06 FEET TO THE SOUTH LINE OF THE NORTH 450 FEET OF SAID SOUTHWEST 1/4; THENCE ALONG SAID SOUTH LINE AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST 1/4, SOUTH 89 DEGREES 02 MINUTES 14 SECONDS WEST 340.05 FEET TO THE WEST LINE OF SAID SOUTHWEST 1/4; THENCE ALONG SAID WEST LINE, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 450.06 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 3.51± ACRES OF LAND (153,022 SQUARE FEET).

Alan E. Dohi P.S. No. 47948

THE DESCRIPTION WAS GIVEN TO US BY THE PERSON CERTIFIED TO, OR WAS TAKEN FROM THE RECORD INFORMATION OR DOCUMENTS GIVEN TO US BY THE PERSON CERTIFIED TO, AND SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE INSURANCE POLICY FOR ACCURACY, EASEMENTS OR EXCEPTIONS.

- LEGEND**
- Set Ground Line
 - Found Iron
 - M Measured
 - R Received
 - Lot or Property Line
 - ⊗ Settable Dish



DRIESENGA & ASSOCIATES, INC.
 Engineering • Surveying • Testing

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FOR SOUTHWEST MICHIGAN LAND CONSERVANCY
 SECTION 21, T2S, R12W, OSHTEMO TWP., KALAMAZOO COUNTY
 DATE 11/29/11 DRAWN BY WGE
 SHEET 4 OF 4 JOB No. 1150150.5A

SOUTHWEST MICHIGAN LAND CONSERVANCY
BLACK RIVER PRESERVE, SOUTH HAVEN, MI

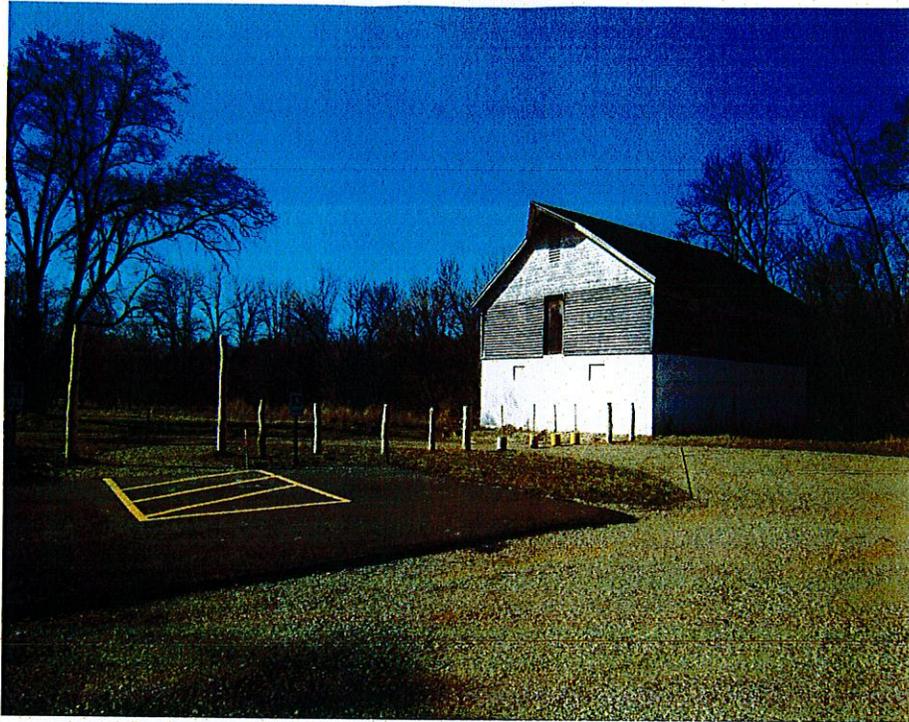


View of the northwest corner of the gravel parking lot, 8th Ave. running parallel behind vehicles. This was a recent preserve celebration and paddling event. The parking lot has a 14 car capacity.



Southeast corner of the lot. Note the intact trees and surrounding vegetation. Also note the wooden posts in the background, part of a "rustic fence" style of containing the parking lot. These wooden posts are made of naturally-resistant black locust trees, an invasive plant on several of our preserves. They will later be strung with wire to direct hikers to appropriate access points.

SOUTHWEST MICHIGAN LAND CONSERVANCY
BOW IN THE CLOUDS PRESERVE, KALAMAZOO, MI



Looking west across a 12-car gravel lot in the city limits of Kalamazoo toward preserved homestead barn intended as a future community space. Note the turn around portion of the lot in the right side of the photo for emergency vehicles, school buses, etc.



Looking east toward Nazareth Rd. through the pedestrian access and handicap access asphalt pad. Note black locust bollards paired visually with the gravel surface. Basic wire has been strung through the bollard fencing to further prevent vehicle entry into the preserve.

KL Avenue Nature Preserve



1 inch = 300 feet