

7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
269-216-5220 Fax 375-7180 TDD 375-7198  
www.oshtemo.org

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

**Tuesday,  
May 24, 2016  
3:00 p.m.**

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes: April 5, 2016 Special Meeting
6. **Site Plan Review (Kalamazoo Chinese Christian Church, 5334 Parkview Avenue)**  
Applicant is requesting a 5,632 square foot addition to an existing church.
7. **PUBLIC HEARING: Variance Request (Schley Trust, 4200 South 9<sup>th</sup> Street)**  
Applicant is requesting a variance from the Zoning Ordinances, specifically Sections 75.120.A and 75.130 of the Landscaping Ordinance and Sections 40.301.i.3 and 40.301.n of the I-R: Industrial District, Restricted Ordinance related to landscaping and utility lines for that portion of the property subject to the easement taken by Michigan Electric Transmission Company, LLC. Parcel No. 3905-35-330-060.
8. **PUBLIC HEARING: Variance Request (Kalamazoo Storage, LLC, 7694 Stadium Drive)**  
Applicant is requesting a variance from the Zoning Ordinance, particularly Sections 64.300 of the Setbacks Ordinance and Section 41.405 of the I-1: Industrial District Ordinance related to the distance between buildings within a mini warehouse facility. Parcel No. 3905-34-180-025.
9. Any Other Business / ZBA Member Comments
10. Adjournment

**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.

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.

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.

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

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

**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

**MINUTES OF A MEETING HELD April 5, 2016**

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**Agenda**

**SITE PLAN REVIEW (6480 TECHNOLOGY DRIVE)  
APPLICANT, DAVID KEYTE, CCIM, REQUESTED A SITE PLAN REVIEW FOR A NEW  
MULTI-TENANT OFFICE AND WAREHOUSING FACILITY AT 6480 TECHNOLOGY  
DRIVE. (PARCEL #3905-35-450-001)**

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A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, April 5, 2016, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

ALL MEMBERS WERE PRESENT:	Cheri Bell, Chairperson Bob Anderson, Alternate Nancy Culp Millard Loy Neil Sikora L. Michael Smith, Alternate James Sterenberg
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Also present were Julie Johnston, Planning Director, Ben Clark, Zoning Administrator, James Porter, Attorney, Martha Coash, Meeting Transcriptionist, and five interested persons.

**Call to Order and Pledge of Allegiance**

Chairperson Bell invited those present to join in reciting the "Pledge of Allegiance."

**Agenda Approval**

The chairperson asked if there were any changes to the agenda. Hearing none, she asked for a motion for approval.

Mr. Loy made a motion to approve the agenda as presented. The motion was approved unanimously.

**Approval of the Minutes of January 26, 2016**

The Chairperson asked if there were any additions, deletions or corrections to the minutes of January 26, 2016. Hearing none, she asked for an approval motion.

Mr. Smith made a motion to approve the minutes of November 17, 2015 as presented. Mr. Sterenberg supported the motion. The motion was approved unanimously.

### **Public Comment on Non-Agenda Items**

There were no comments on non-agenda items.

### **SITE PLAN REVIEW (6480 TECHNOLOGY DRIVE) APPLICANT, DAVID KEYTE, CCIM, REQUESTED A SITE PLAN REVIEW FOR A NEW MULTI-TENANT OFFICE AND WAREHOUSING FACILITY AT 6480 TECHNOLOGY DRIVE. (PARCEL #3905-35-450-001)**

Chairperson Bell said the next item was a request for a site plan review and asked Ms. Johnston to review the application.

Ms. Johnston said the applicant was seeking site plan approval for a new, multi-tenant office and warehousing facility, to be located at 6480 Technology Drive in the Oshtemo Business Park site condominium development.

She said the facility is proposed to be situated in the Oshtemo Business Park at the northeast corner of 9<sup>th</sup> Street and Technology Avenue, the structure will be 34,830 square feet in size and will include a handful of tenant spaces. With no direct vehicle access to 9<sup>th</sup> Street, two driveway connections to Technology Avenue are indicated on the project's site plan. This facility will also include a loading/unloading area for trucks on the eastern side of the building that will be screened from the north, south, and west by the structure itself. The proposed facility will be served by public water and sewer while discharging stormwater into the drainage basin on the adjacent property to the east, which is a common element within the condominium development.

Ms. Johnston noted the proposed uses for this building are permitted in the I-R zoning district, and its placement on the subject property is in compliance with the Zoning Ordinance, with all necessary minimum setbacks being met. She said this site is allowed 61 to 67 parking spaces in accordance section 68.000 of the Zoning Ordinance, but the site plan indicates 71. Also, staff is concerned that the light levels indicated on the photometric plan exceed the maximum 0.1 foot-candle limit at the property line.

She explained that this site is proposed to have two motorized connections to Technology Drive. Located on what is considered a *local road* per the Township's Access Management Plan, the site access accommodations for 6480 Technology Avenue are exempt from the Zoning Ordinance's access management standards so does not need a traffic study.

Ms. Johnston said all necessary perimeter buffer widths and internal landscape areas are included on the site plan. However, Staff notes that the proposed plantings do not comply with section 75.000 of the Zoning Ordinance as follows:

- One additional canopy tree is required in the parking area.
- Two indicated canopy trees are actually of an understory species (Robinson Crabapple)
- Per section 75.180.A of the Zoning Ordinance, at least 75% of plantings must be of species native to Michigan. The included landscape plan does not meet this requirement.

She noted the Township's Engineer states that the project is generally buildable, but he still needs to see stormwater calculations from the applicant in order to ensure that runoff can be adequately accommodated by the available facilities. The Engineer has also noted that the existing drainage basin to the east of the project site appears to have become fouled with sediment, potentially compromising its capacity to accept more stormwater. As well as enlarging this feature, as is indicated on the site plan, it should also be adequately cleaned out to Staffs' satisfaction.

Additionally, she said, the Fire Marshal has determined this site will need to be serviced by three evenly spaced fire hydrants; one on the north side of the site, one on the south side, and one on the east side.

Ms. Johnston said Township Staff recommended ZBA approval of this project, but suggested the following conditions be satisfied, subject to Staff review, prior to the issuance of a building permit:

1. A signed and sealed revised site plan is to be presented to Township Staff showing that the number of parking spaces, the photometric plan, and the landscape plantings are all in compliance with the relevant sections of the Zoning Ordinance.
2. The necessary stormwater runoff calculations are to be delivered to the Township Engineer for review and approval.
3. The associated drainage basin to the east of the project site is to be restored to its intended level of functionality, to be verified in the field by Township Staff.
4. The three required fire hydrants are to be indicated on the revised site plan, the location to be approved by the Township Fire Marshal.
5. A signed and notarized agreement is to be submitted to the Township, stating that the property owners of 6480 Technology Avenue will not oppose any future special assessment districts established for the purpose of funding the construction of non-motorized facilities on 9<sup>th</sup> Street.

Chairperson Bell asked if Board Members had questions for Ms. Johnston.

In reply to a question from Mr. Sterenberg, Ms. Johnston said she did not foresee any problems with the applicant regarding the Staff recommendations.

Hearing no further questions from Board Members, the Chair asked if the applicant wished to speak.

Mr. Howard Overbeek, Architect for the project, confirmed the applicant had no problems with the Staff recommendations except they felt three fire hydrants excessive and would like the Fire Marshal to review that requirement. He noted there is a fire hydrant across 9<sup>th</sup> Street from the property. Otherwise the drawings have been redone to meet the recommendations with that exception.

Attorney Porter said a motion for approval could include a stipulation for review of the fire hydrants by the Fire Marshal.

Mr. Sikora noted the Fire Marshal quoted code in his specifications for three fire hydrants and wanted to be sure not to second-guess him.

Attorney Porter said the existing fire hydrant Mr. Overbeek referred to would not satisfy requirements due to its location west of 9<sup>th</sup> Street and that three hydrants would likely need to be installed.

Chairperson Bell asked if the new plan would include fewer parking spaces and if the basin would be restored to its potential by the owner.

Mr. Overbeek said they had included the number proposed parking spaces because they fit the space, but will eliminate four spaces to meet the requirement. He agreed the owner will restore the stormwater basin to its potential.

Hearing no further questions for Mr. Overbeek, Chairperson Bell asked for public comment.

Mr. Terry Schley, residing at 7497 Watermark Drive, Allendale, MI 49401 and a taxpayer at 4200 S. 9<sup>th</sup> Street in Oshtemo Township, said he would appreciate for record clarity on this issue under the Zoning District. He said he understood that the development goes back to a site condominium from the 1990s. He pointed out a 2012 modification to the IR district in 41.50, saying vacant land should only developed as an industrial office development as a special exception use that would need to go to the Planning Commission rather than the Zoning Board Appeals for review without a variance request.

He said the park has a history of site condominium development and that without speaking specifically to code, which is the Zoning Board's purview, he noted that there might have been some other review standards that would have come into play for this

development like sidewalks on Technology Avenue for example, in Section D of 43.01. There would also be a difference in new requirements for site coverage. Also, in Section H, the Planning Commission would come into play with other review standards.

Mr. Schley said he welcomes this new neighbor and the importance of developing new business, but reflective of the growth and potential of the 9<sup>th</sup> Street area, he cautioned the Board that there might have been an alternate course through the Planning Commission for this development.

Attorney Porter appreciated Mr. Schley's analysis of a special use interpretation, but said the distinctive factor here, even though this is technically vacant land, is that the property was previously approved under the Condominium Act for development as a whole for the specific use as a site condominium. As a result he felt 40.300 is not applicable in this case. He noted the last three or four projects within this development have been handled through the Zoning Board of Appeals.

Mr. Sterenberg asked if in Attorney Porter's opinion the Zoning Board is on the right legal track.

Attorney Porter said he understands the concern. In his opinion, if this was not part of the previously approved site condominium, he would totally agree with Mr. Schley's analysis that this should be a special exception use, but because it was part of the previously approved site condominium, he feels the path being followed is correct.

Mr. Sterenberg asked if there were benefit or harm from going down one path vs. the other.

Attorney Porter said, as Mr. Schley pointed out, there are benefits and limitations either way, but requiring this site to be developed as a special exception use would require regulations making the site almost unbuildable, such as the requirement for preservation of natural features and a park-like setting. Because this lot was approved as part of a site condominium back in the 90's, it has insufficient land to meet these and other requirements. Other projects in the site condominium followed the same approval path through the Zoning Board of Appeals.

Chairperson Bell asked if the project had gone to the Planning Commission whether it would have been accompanied by a laundry list of variances to accommodate the limitations.

Attorney Porter said that was accurate.

Several Board Members expressed their comfort in proceeding with the proposal as presented as long as the applicant satisfies staff concerns and because of the legal opinion.

Mr. Sikora made a motion to consider the site plan as presented for the reasons stated by the Township's Attorney. Mr. Smith supported the motion. The motion was approved unanimously.

Chairperson Bell thanked Mr. Schley for bringing the issue to the Board's attention moved to Board Deliberations.

Mr. Loy made a motion to approve the site plan with staff conditions numbers 1, 2, 3 and 5 as presented, and with number 4 to read "the number of fire hydrants and locations to be determined by the Fire Marshal." Mr. Sikora supported the motion. The motion was approved unanimously.

### **Any Other Business / ZBA Member Comments**

Ms. Johnston said the regularly scheduled April meeting would be cancelled due to a lack of any agenda items, but expects there will be a May meeting.

### **Adjournment**

Chairperson Bell noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, she adjourned the meeting at approximately 3:30 p.m.

Minutes prepared:  
April 6, 2016

Minutes approved:  
\_\_\_\_\_, 2016

May 15, 2016



**Mtg Date:** May 24<sup>th</sup>, 2016

**To:** Zoning Board of Appeals

**From:** Ben Clark, Zoning Administrator

**Applicant:** James Hinze

**Owner:** Kalamazoo Chinese Christian Fellowship

**Property:** 5334 Parkview Avenue, parcel number 3905-25-455-110

**Zoning:** R-2: Residential

**Request:** Site plan amendment approval to allow a 5,632 square foot addition to be erected on the north end of the existing structure.

**Section(s):** Section 22.208: Permitted uses in R-2 zoning districts

**Project Name:** Kalamazoo Chinese Christian Church Expansion

## OVERVIEW

The applicant is seeking site plan amendment approval to expand a preexisting church, located at 5334 Parkview Avenue in Oshtemo Township. Houses of Worship, being permitted uses within this zoning district, must receive approval from the Zoning Board of Appeals for any significant site plan changes. The proposed addition, 5,632 square feet in size, is intended to house eight classrooms and a meeting space and will increase the square footage of the existing building by more than 70%.

## GENERAL ZONING COMPLIANCE

The proposed addition complies with all necessary building setbacks within this district. No site lighting is being changed so Staff does not require a photometric plan at this time. The applicant was granted approval for a deferred parking scheme on a previous site plan amendment, approved in 2002, which allowed for the delayed construction of 44 new spaces to the north of the main lot. The applicant claims that the number of spaces provided is still in compliance with

the requirements of section 68.400 of the Zoning Ordinance. Staff has asked that the applicant provide an analysis, showing that they do not need to increase the amount of parking on site.

### **SITE ACCESS & CIRCULATION**

With no new means of vehicle access to Parkview Avenue, this project should have minimal impact on the traffic characteristics of the area. While the subject property may see some additional vehicle trips generated as a result of the expansion, the increase should be minimal since the building addition is intended to serve children who already attend Sunday school at the church. Staff is confident that Parkview Avenue has sufficient capacity to absorb any added vehicles.

Per the 2012 Oshtemo Township Non-Motorized Plan, a sidewalk is eventually planned for this portion of Parkview Avenue. Rather than have the applicant construct that facility now, which may conflict with future non-motorized facility designs, Staff will instead accept a signed and notarized agreement from the applicant, stating that they will not oppose any future special assessment districts established along Parkview for the purpose of funding the construction of any necessary non-motorized facilities.

### **ENGINEERING REVIEW**

Given the amount of open land that remains on the property, the Township Engineer is confident that there is sufficient capacity for the ground to absorb any stormwater runoff generated by the expansion before it leaves the property. No new stormwater management facilities are required at this time.

### **LANDSCAPE ORDINANCE REVIEW**

Given the heavily wooded nature of this property, Staff feels that the intent of the landscaping requirements of section 75.000 of the Zoning Ordinance are being met. Dense wooded areas will remain along all property lines, screening the subject parcel from both the roadway and any adjacent properties. Once construction has finished, Staff will verify in the field that adequate screening, particularly along the parcel's east property line, has been maintained.

### **FIRE MARSHAL REVIEW**

While generally satisfied with the site plan as presented, the Fire Marshal does require that one additional hydrant be located near the proposed addition, positioned in such a way as to be used without compromising traffic flow into, out of, and through the parking lot.

## RECOMMENDATION

Staff has determined that the proposed building addition for the Chinese Christian Fellowship should not have any significant impacts on either the subject property itself or the surrounding area and is therefore recommending approval of the site plan amendment. If the Zoning Board of Appeals is inclined to approve the requested changes, Staff would suggest the following conditions:

1. A parking needs analysis is to be submitted to Planning Staff, prior to building permit application, clearly indicating that the proposed amount of parking spaces comply with section 68.000 of the Zoning Ordinance. If additional parking is required, then the lot shall be expanded in compliance with the ordinance, to be evaluated and approved by Staff. If the applicant wishes to maintain a deferred parking plan when the Zoning Ordinance would otherwise call for more spaces to be built, then the applicant must obtain permission from the Zoning Board of Appeals.
2. The location of the new hydrant must be evaluated and approved by the Township Fire Marshal.
3. Prior to the issuance of a final certificate of occupancy, Planning Staff is to inspect the site, ensuring that sufficient screening remains along the east property line of the subject parcel. If additional plantings are needed, then they must meet the requirements of section 75.000 of the Zoning Ordinance, to be evaluated and approved by Staff.
4. Prior to the issuance of a final certificate of occupancy, the applicant is to submit the required non-motorized special assessment agreement to the Township.

Respectfully Submitted,



Ben Clark  
Zoning Administrator

Attachments: Application  
Site plan  
Building illustration  
Aerial map  
Engineer's memo  
Fire Marshal's memo



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

PLEASE PRINT

KALAMAZOO CHINESE CHRISTIAN CHURCH  
5334 PARKVIEW AVE. KALAMAZOO MI  
49009

PROJECT NAME & ADDRESS

PLANNING & ZONING APPLICATION

Applicant Name : James L. Hinze

Company ZION CHURCH BUILDERS

Address P.O. BOX 218  
MATTAWAN, MI. 49071

E-mail zionchurchbuilders@gmail.com

Telephone (269) 544-7211 Fax (269) 544-7216

Interest in Property construction manager

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

OWNER\*:

Name KALAMAZOO CHINESE  
CHRISTIAN FELLOWSHIP

Address 5334 PARKVIEW AVE.  
KALAMAZOO MI. 49009

Email \_\_\_\_\_

Phone & Fax (269) 375-0196

Fee Amount \_\_\_\_\_

Escrow Amount \_\_\_\_\_

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

- 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): \_\_\_\_\_

SITE PLAN REVIEW FOR PROPOSED BUILDING  
ADDITION

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

SEE ATTACHED DESCRIPTION

PARCEL NUMBER: 3905- 25-455-110

ADDRESS OF PROPERTY: 5334 PARKVIEW AVENUE

PRESENT USE OF THE PROPERTY: CHURCH

PRESENT ZONING R22 SIZE OF PROPERTY 12.24 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)
_____	_____
_____	_____

**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.*

Kristen A. Simpson Agent for Church 4-11-16  
 Owner's Signature (\* If different from Applicant) Date

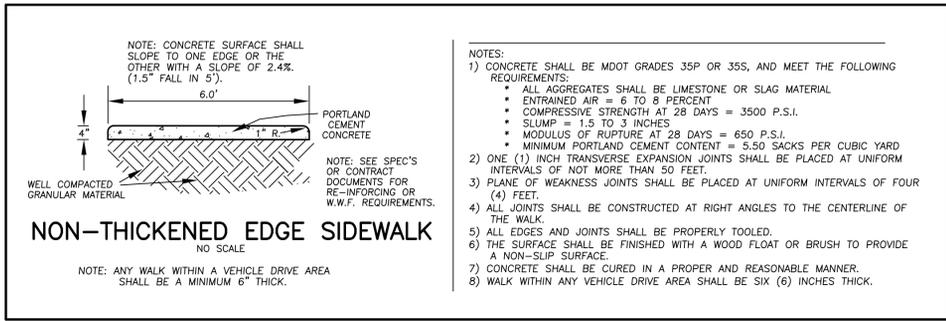
[Signature] 4-12-16  
 Applicant's Signature Date

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

\*\*\*\*  
**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

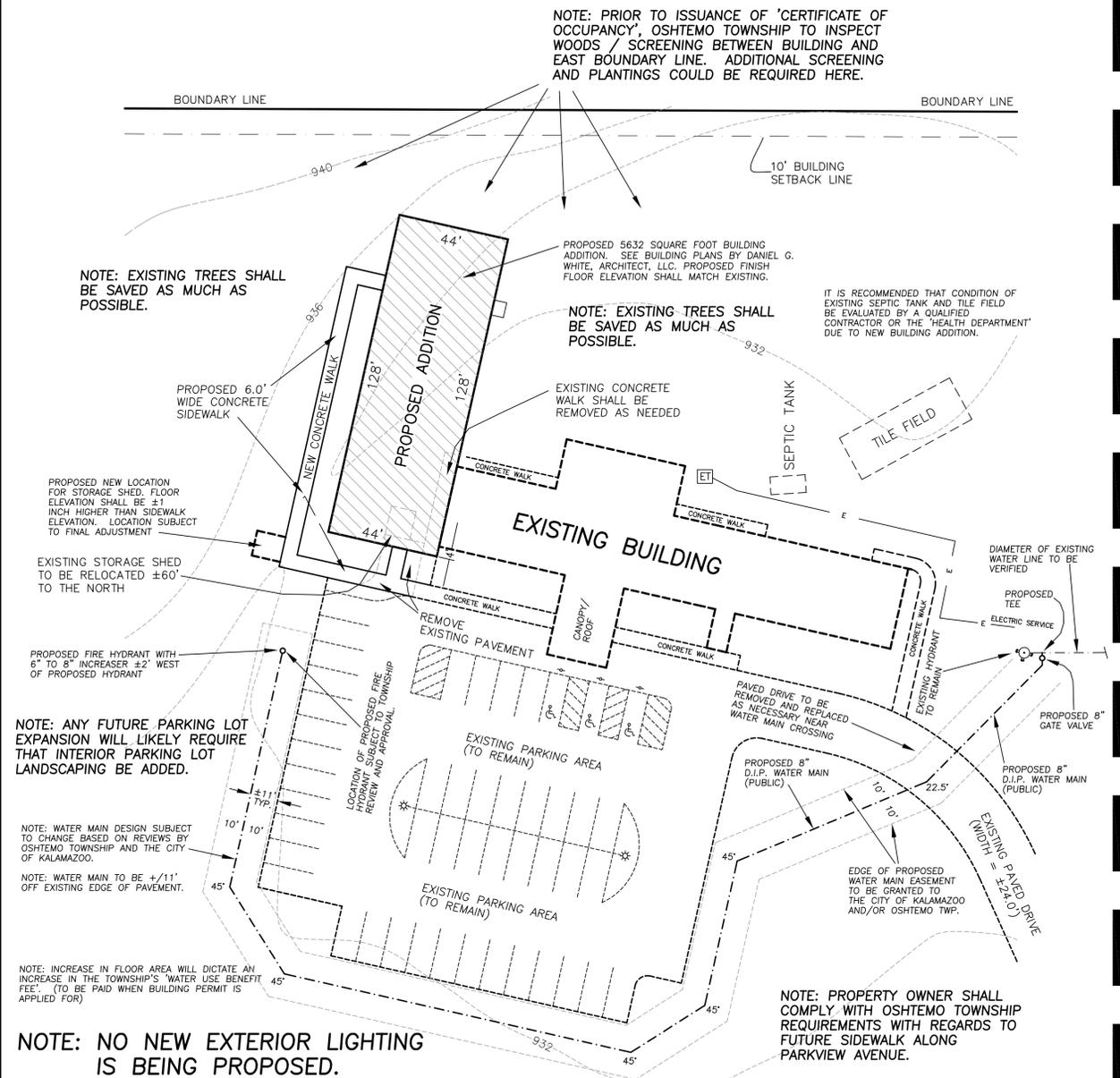
Legal description for parcel number 05-25-455-110

SEC 25-2-12 COM AT PT ON S LI SEC 25 750.6 FT E OF S1/4 POST THEREOF TH N 33 FT FOR PL OF BEG  
CONT TH N 217 FT TH W PAR TO SD S LI 90 FT TH N 662.89 FT TH E 660.6 FT TH S 837.89 FT TO N LI  
PARKVIEW AVENUE TH W ALG N LI SD AVE 206.50 FT TH S 25 FT TH W 82.10 FT TH N 108 FT TH W PAR  
TO SD S LI 88 FT TH S 108 FT TO N LI SD AVE TH W THEREON 129.90 FT TH S 17 FT TO N LI SD AVE TH W  
THEREON 64.10 FT TO BEG \* (H 25-8-2A)

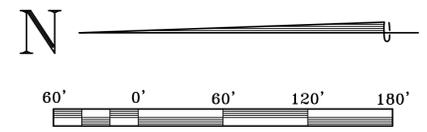
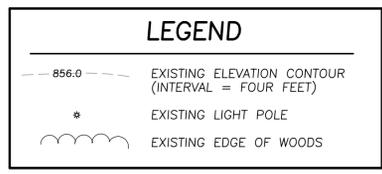
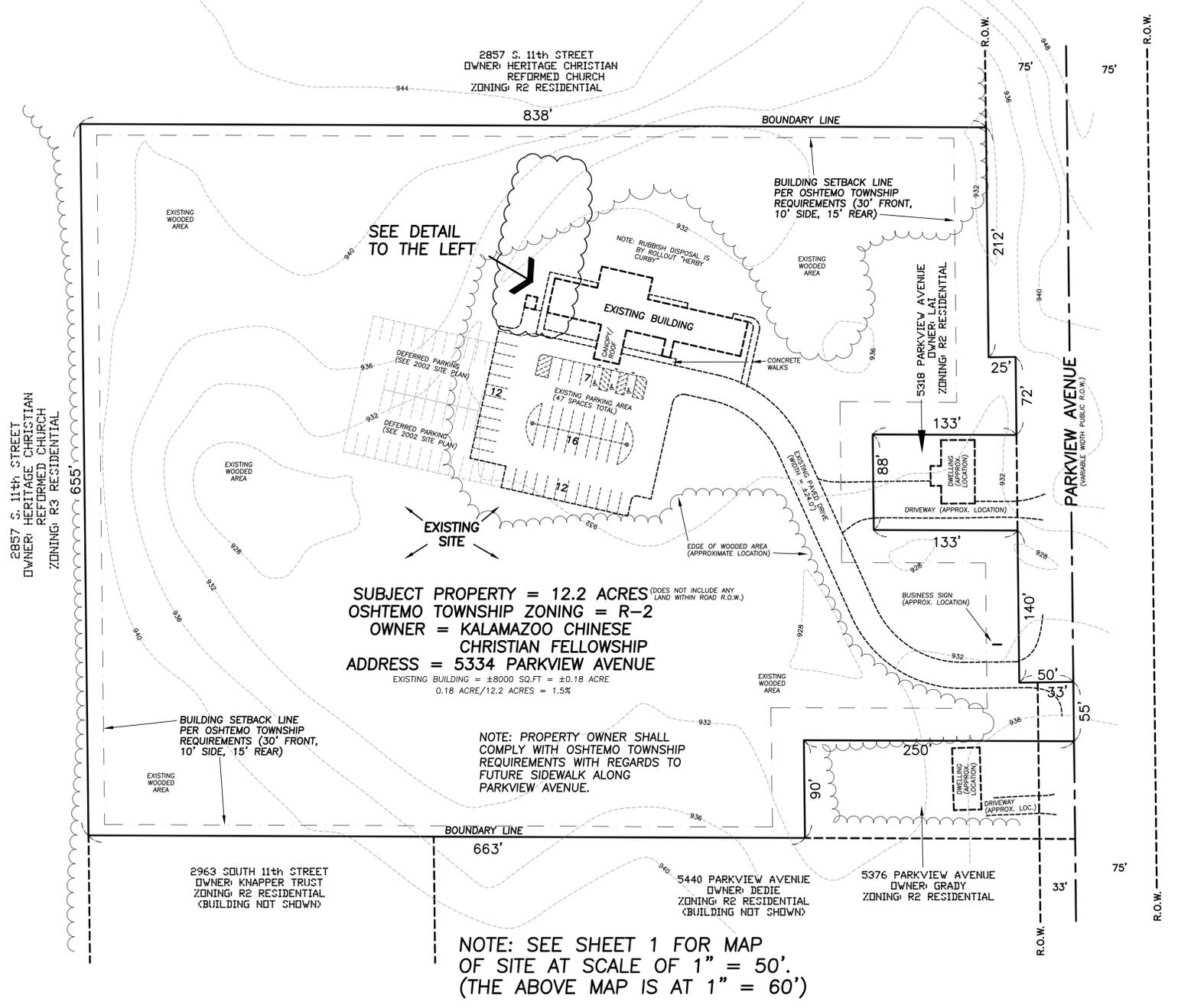
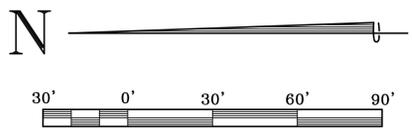


- NOTES:
- 1) CONCRETE SHALL BE MDOT GRADES 35P OR 35S, AND MEET THE FOLLOWING REQUIREMENTS:
    - ALL AGGREGATES SHALL BE LIMESTONE OR SLAG MATERIAL
    - ENTRAINED AIR = 6 TO 8 PERCENT
    - COMPRESSIVE STRENGTH AT 28 DAYS = 3500 P.S.I.
    - SLUMP = 1.5 TO 3 INCHES
    - MODULUS OF RUPTURE AT 28 DAYS = 650 P.S.I.
    - MINIMUM PORTLAND CEMENT CONTENT = 5.50 SACKS PER CUBIC YARD
  - 2) ONE (1) INCH TRANSVERSE EXPANSION JOINTS SHALL BE PLACED AT UNIFORM INTERVALS OF NOT MORE THAN 50 FEET.
  - 3) PLANE OF WEAKNESS JOINTS SHALL BE PLACED AT UNIFORM INTERVALS OF FOUR (4) FEET.
  - 4) ALL JOINTS SHALL BE CONSTRUCTED AT RIGHT ANGLES TO THE CENTERLINE OF THE WALK.
  - 5) ALL EDGES AND JOINTS SHALL BE PROPERLY TOOLED.
  - 6) THE SURFACE SHALL BE FINISHED WITH A WOOD FLOAT OR BRUSH TO PROVIDE A NON-SLIP SURFACE.
  - 7) CONCRETE SHALL BE CURED IN A PROPER AND REASONABLE MANNER.
  - 8) WALK WITHIN ANY VEHICLE DRIVE AREA SHALL BE SIX (6) INCHES THICK.

NOTE: PRIOR TO ISSUANCE OF 'CERTIFICATE OF OCCUPANCY', OSHTEMO TOWNSHIP TO INSPECT WOODS / SCREENING BETWEEN BUILDING AND EAST BOUNDARY LINE. ADDITIONAL SCREENING AND PLANTINGS COULD BE REQUIRED HERE.



DETAIL OF PROPOSED BUILDING ADDITION



**OWNER:**  
**KALAMAZOO CHINESE CHRISTIAN FELLOWSHIP**  
**5334 PARKVIEW AVENUE**  
**KALAMAZOO, MI 49009**  
**(269) 375-0196**

NOTE: IN GENERAL, EXISTING IMPROVEMENTS AND FEATURES HAVE BEEN SHOWN WITH A DASHED LINETYPE, AND PROPOSED IMPROVEMENTS HAVE BEEN SHOWN WITH A CONTINUOUS LINETYPE.

SITE PLAN <b>KALAMAZOO CHINESE CHRISTIAN CHURCH</b> 5334 PARKVIEW AVENUE, OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN		DATE: <b>4/07/2016</b>
<b>Ingersoll, Watson &amp; McMachen, Inc.</b> CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS 1133 East Milham Road • Portage, Michigan 49002 • Phone 269 344-6165 • Fax 269 344-0555		SHEET: <b>2 of 2</b>
		JOB No.: <b>36509</b>

REVISED: 5/17/2016  
 REVISED: 5/10/2016

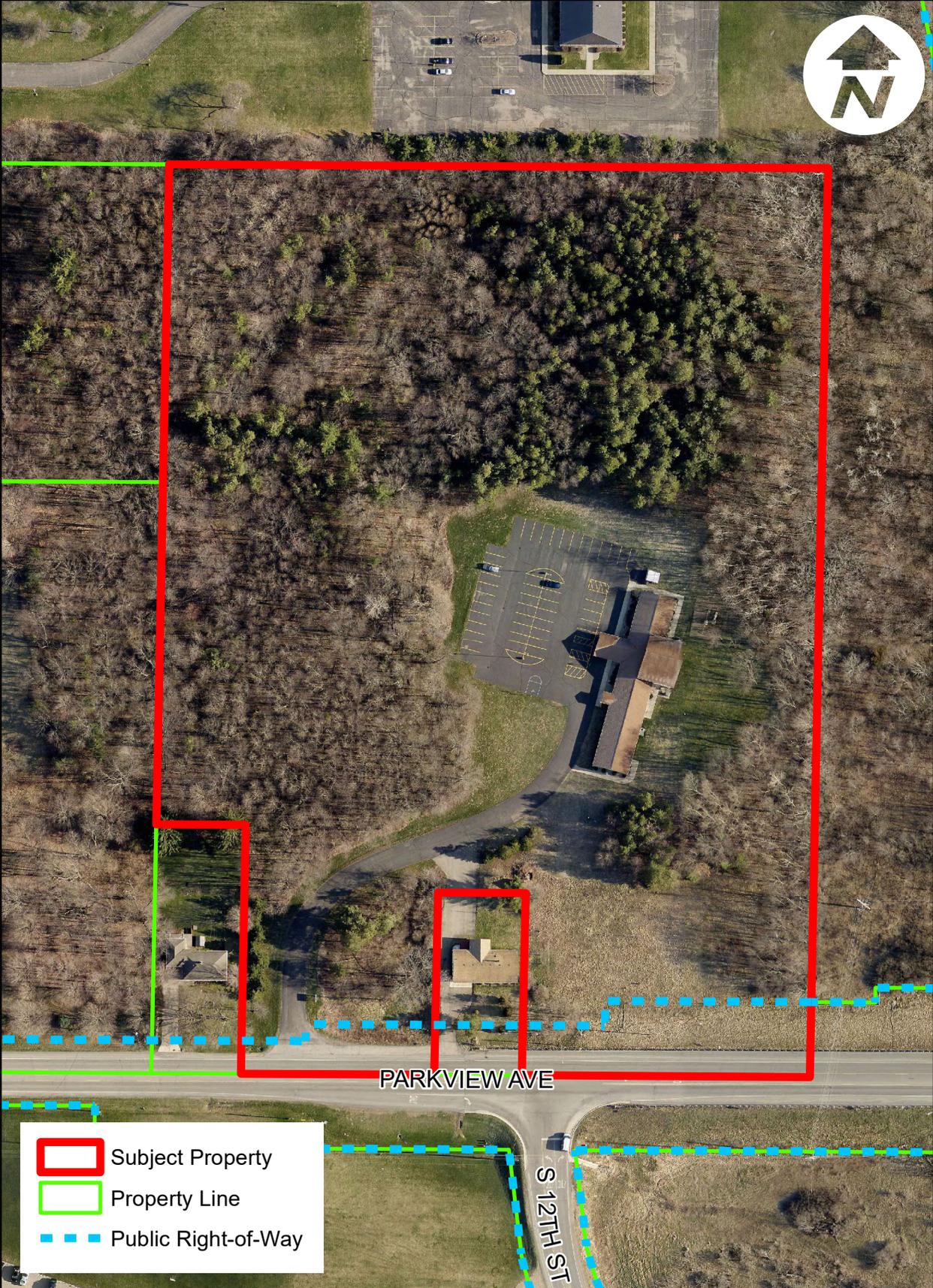
KALAMAZOO CHINESE CHRISTIAN CHURCH  
KALAMAZOO, MICHIGAN



ZION CHURCH BUILDERS, INC.  
MATTAWAN, MICHIGAN

# Kalamazoo Chinese Christian Fellowship

5334 Parkview Avenue



-  Subject Property
-  Property Line
-  Public Right-of-Way

0 100 200 400 Feet

**From:** [Marc Elliott](#)  
**To:** [Ben Clark](#)  
**Subject:** Kalamazoo Christian Church  
**Date:** Tuesday, April 26, 2016 3:06:27 PM  
**Attachments:** [05-25-455-110.pdf](#)

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Ben,

Attached is a tabulation of the additional water fees that are due.

I have no additional review comments, just a reminder to check with the health department about the existing capacity of the septic system.

Marc

Marc E. Elliott, P.E.  
[melliott@oshtemo.org](mailto:melliott@oshtemo.org)

Director of Public Works  
Charter Township of Oshtemo  
7275 W. Main Street  
Kalamazoo, MI 49009

Direct 269.216.5236  
Office 269.375.4260  
Fax 269.375.7180  
Mobile 269.389.9626

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**From:** [Jim Wiley](#)  
**To:** [Ben Clark](#)  
**Subject:** RE: Kalamazoo Chinese Christian Church  
**Date:** Thursday, April 28, 2016 1:36:34 PM

---

Hi Ben,

Thank you for the additional information.

I am still concerned that one Fire Hydrant will be enough appliance to do the job. Therefore at this time I would still recommend going with the second Fire Hydrant.

Thank you.

Jim Wiley  
Assistant Fire Chief  
Oshtemo Township Fire Department  
7275 W.Main  
Kalamazoo, MI 49009  
P. 269.375.0487 Ext. 5247



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---

**From:** Ben Clark  
**Sent:** Thursday, April 28, 2016 12:51  
**To:** Jim Wiley  
**Subject:** Kalamazoo Chinese Christian Church

Hi Jim,

Just wondering if you've had a chance to re-evaluate the hydrant needs for the church expansion in light of the information I gave you the other day. I'm hoping to have comments out by tomorrow, so I'd like to hear your thoughts.

Thanks!

**Ben Clark**  
**Zoning Administrator/GIS Specialist**  
**Oshtemo Charter Township**

7275 W. Main Street  
Kalamazoo, MI 49009  
269.216.5223  
269.375.7180 (fax)

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May 17, 2016

**Mtg Date:** May 24, 2016

**To:** Zoning Board of Appeals

**From:** Julie Johnston, AICP

**Applicant:** Terry E. & Jacqueline Schley Trusts

**Owner:** Same

**Property:** Parcel #3905-35-330-060

**Zoning:** I-R: Industrial District, Restricted

**Request:** Variance from the Landscaping Ordinance and I-R: Industrial District

**Section(s):** Sections 40.301.i.3 and 40.301.n  
Sections 75.120.A and 75.130

## OVERVIEW

The applicant is requesting relief from sections of both the I-R: Industrial District, Restricted and the Landscaping Ordinance for property located at 4200 South 9<sup>th</sup> Street. The specific sections of the Zoning Ordinance are as follows:

### Section 40.301.i.3: Special Exception Uses

*All improved areas of an individual site shall be landscaped with a variety of trees, shrubbery, and ground cover to create attractive natural buffers between adjacent uses and properties.*

### Section 40.301.n: Special Exception Uses

*Public water and sanitary sewer shall be provided as part of the site development. All utilities, including telephone, electric and cable television, shall be placed underground.*

### Section 75.120.A: General Provisions

*Portions of the site not devoted to floor area, parking, access ways or pedestrian use shall be appropriately landscaped with live plant material consisting of deciduous canopy and coniferous trees, understory trees, shrubs, ground cover, and grasses and maintained in a neat and orderly manner.*

### Section 75.130: Greenspace Areas

This section details the requirements for the buffer zones between properties depending on adjacent zoning or use. For example, this address is zoned I-R District and has I-R District zoning to the north and south of the property. *Section 75.130* would require Greenspace Category A, which is minimum width of 10 feet and requires one canopy tree and two understory trees every 100 lineal feet.

The request for variances from these sections of the Zoning Ordinance is due to the recent development of the ITC power line. A 220-foot easement for this line traverses the property near the western boundary and then reduces to a width of approximately 100 feet along the southern property line. Please see the attached easement map.

### **SECTION 40.301.n**

The request to vary from *Section 40.301.n* will not be considered as part of this review. After consultation with Attorney Porter, it was determined that the applicant has no responsibility to bury lines that are not considered part of a development or are planned for a specific property.

### **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 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 particular to their property and that the problem is not self-created.

The request by the applicant is a nonuse variance, requiring a practical difficulty that is unique to their property. 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:     The placement of the easement on the applicants property poses some challenges to meeting the landscaping requirements of the Zoning Ordinance, both under *Section 75.000: Landscaping* and *Section 40.301*, which are the Special Exception Use requirements for an Industrial-Office Development. However, it does not make compliance impossible.

*Section 75.130* of the Landscape Ordinance would require this property to maintain a 10 foot greenspace with one canopy tree and two understory trees for every 100 feet of the southern property line where the easement is located. Typical easement agreement language utilized by ITC states the following:

*“at any time to cut, trim, remove, destroy or otherwise control any or all trees, bushes, or brush now or hereafter standing or growing upon or within the Easement Area, all at the Grantee’s sole and absolute discretion.”*

Based on this language, the property owner would not be able to meet the landscaping requirements within the easement area since ITC retains exclusive rights to remove any plantings. However, it could be accomplished at the easement boundary. This would require the property owner to provide a 10-foot greenspace in a location not typically required by the Zoning Ordinance, but it would meet the intent of the Code. *Section 75.220: Exceptions* states the following:

*Reductions and Substitutions of Plantings - If a physical hardship exists or existing topography and vegetation are determined by the reviewing body to provide equal or better landscape and buffering effect, the reviewing body may approve modifications only to the planting requirements of Section 75.130. The reviewing body may require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with the spirit, purpose and intent of this Section.*

This section of the Landscaping Ordinance provides some flexibility to the reviewing body to approve landscaping in a different configuration than strictly required by the Ordinance. The burden would be placed on the property owner to provide a plan that demonstrates that “equal or better” landscaping has been

provided on site. As stated, this could be done just outside the easement boundary or by some other approach such as a fence, wall or hedge. Through this section of the Landscaping Ordinance, a reasonable accommodation has been made to allow for Zoning Ordinance compliance for those sites that find strict adherence to the regulations burdensome.

Substantively, the requirements of *Sections 40.301.i.3* and *75.120.A*. state that all areas not devoted to impervious surfaces should be appropriately landscaped with live plant material. This could be managed with ground cover or grasses within the easement area and trees and shrubs elsewhere throughout the property.

*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 75: Landscaping* is applied to all uses that require site plan review. The landscaping requirements of the I-R District are applied to all properties zoned this designation. The properties that surround the subject site to the north, south and east are all zoned I-R and would be required to meet the landscaping regulations.

When examining past decisions by the ZBA related to landscaping, most are variances to the size of the greenspace buffer, not the elimination of the requirement. In addition, the landscaping materials were still required even though the size of the buffer was reduced. A few recent examples include:

2013 – Costco (5100 Century Avenue) – reduction of greenspace from 20 feet to 11 feet to allow for parking. The variance was granted because of the uniqueness of the property; bounded by three streets requiring the building to be designed with public facades on all four sides and due to the required 100-foot right-of-way for Michigan Avenue. Landscaping materials were still required.

2014 – McDonalds (6820 West Main St.) – reduction in greenspace from 20 feet to 10.5 feet to allow for an additional drive-through lane and 24-foot passing lane requested by the Fire Marshal. The variances was granted because of the small size of the lot, the right-of-way and setback requirements from West Main Street, and the Fire Marshal’s request for a 24-foot drive lane. Landscaping materials were still required.

2015 – Field & Stream (5215 Century Avenue) – reduction in greenspace from the required 20 feet to as little as two feet along with western property line to allow

for parking. The variance was granted for the same difficulties experienced by the Costco site. In addition, the developer planned enhanced screening with a berm and an agreement with the Michigan Department of Transportation to allow for plantings within the US-131 right-of-way area, including ongoing maintenance. The ZBA felt the berm and landscaping, as well as the additional plantings outside of the property line met the intent of the ordinance.

Two additional variance applications for a change to the landscaping requirements were found from the ZBA records. Both of these applications were denied. The first was for Sterling University Center at 5200 Croydon, which was a request to allow landscape rock instead of a live plant material in the parking lot landscaping islands. The application was denied for lack of practical difficulty. The second was for Kalamazoo Hotels who wanted to build a new 5-story hotel near the existing Holiday Inn. The variance request was to reduce the required greenspace from 35 feet to 20 feet between a C: Local Business District and an R-3: Residential District to allow for parking. The ZBA denied the request stating that the need for variance was based on the size of the proposed building and not a practical difficulty with the site.

While previous variances have been granted to reduce the width of a greenspace area, the overall numbers for trees and shrubs were still met. Requiring the landscaping materials within the greenspace continued to support the spirit and intent of the ordinance, which is to provide some buffering and screening between uses.

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

**Comment:** Unique physical limitations on a property generally equate to conditions such as narrowness or shallowness of a lot, irregular shape of a lot, or exceptional topography. Due to these circumstances the lot cannot be reasonably developed or used in compliance with the provisions of the Zoning Ordinance, creating a practical difficulty. From our review of the subject site, no physical hardship exists that would make compliance with the Zoning Ordinance unnecessarily burdensome.

While the placement of the public utility easement could make development more challenging, any redevelop could be designed to manage these difficulties. Outside of the easement area, the parcel still has approximately 148 feet of frontage and 794 feet of depth according to the easement agreement sketch provided by the applicant. This is a total of approximately 2.7 acres of developable

land east of the rear easement. With the ability of the Planning Commission or Zoning Board of Appeals to apply *Section 75.220: Exceptions* of the Landscaping Ordinance, alternate landscape plans could be approved if the property is redeveloped.

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

**Comment:** Technically, the placement of an easement on a property is a self-created hardship. In this case, the hardship is created by the power company instead of the property owner who had no input into the location of the utility line. While the easement agreement does provide for some use of the property, landscaping is very limited to grasses or ground cover.

*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:** The spirit of the Zoning Ordinance will continue to be observed without the need for a variance. The Landscaping Ordinance provides for reasonable alternatives to the strict interpretation of the code through *Section 75.220: Exceptions*. As stated previously, *Sections 40.301.i.3* and *75.120.A*. state that all areas not devoted to impervious surfaces should be appropriately landscaped with live plant material. This could be managed with ground cover or grasses within the easement area and trees and shrubs elsewhere throughout the property, meeting the intent of the Ordinance.

Through the investigation into historical landscaping variance requests, a reduction in the actual planting materials was not found. Only a reduction in the width of the greenspace buffer was previously granted, meeting the spirit of the Ordinance by still providing the screening intended by code. By allowing an alternative approach to the landscaping requirements, equal treatment is being provided to sites that may have difficulties strictly adhering to the regulations or may have a more creative way of observing the purpose of the landscaping requirements.

## **RECOMENDATION**

Staff recommends denial of the variance request from *Sections 40.301.i.3* of the I-R: Industrial District, Restricted and *Sections 75.120.A* and *75.130* of the Landscaping Ordinance for the following reasons:

- No physical hardship exists on the property that necessitates the need for a variance.
- *Section 75.220: Exceptions* of the Landscaping Ordinance allows the Planning Commission or Zoning Board of Appeals to approve an alternate approach to the landscaping requirements that could be implemented if the property is redeveloped.
- Past variances granted by the Zoning Board of Appeals have required the requisite landscaping materials defined by Zoning Ordinance. The denial of this request is in keeping with these decisions, providing equal treatment and substantial justice.

As stated, the variance request to *Section 40.301.n* of the I-R District was not considered in this staff report because it was determined that the applicant has no responsibility to bury the utility lines.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Julie Johnston". The signature is written in a cursive, flowing style.

Julie Johnston, AICP  
Zoning Administrator

Attachments: Application  
Legal Description  
Easement Sketch  
Aerial Map



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

**PLEASE PRINT**

**PROJECT NAME & ADDRESS** (No Project) 4200 S. 9th Street, Kalamazoo, MI 49009

**PLANNING & ZONING APPLICATION**

Applicant Name : Terry E. & Jacqueline Schley Trusts\*  
\*See Attachment  
 Company \_\_\_\_\_  
 Address 7497 Watermark Drive  
Allendale, MI 49401  
 E-mail tschley@schley-aia.com  
 Telephone (269) 375.8360 Fax None  
 Interest in Property Owners

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

Received From: TERRY SCHLEY  
 Date: 04/06/2016 Time: 2:07:45 PM  
 Receipt 123257  
 Cashier AMCMILLON

ITEM REFERENCE	AMOUNT
1092 ZONING VARIANCE	
ZONING VARIANCE	\$500.00
TOTAL	\$500.00
CHECK 2978	\$500.00
Total Tendered:	\$500.00
Change:	\$0.00

**OWNER\*:**

Name Terry E. & Jacqueline Schley Trusts\*  
\*See Attachment  
 Address 7497 Watermark Drive  
Allendale, MI 49401  
 Email tschley@schley-aia.com  
 Phone & Fax (269) 375.8360 None

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

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

**BRIEFLY DESCRIBE YOUR REQUEST** (Use Attachments if Necessary): Request a perpetual variance from Ordinance Section 75.120A, and Section 75.130 Greenspace Areas to except 75.130A and 75.130B and Greenspace Table 75-A and Plantings per Table 75-B and Section 40.301.i.3 from the I-R Industrial District, Restricted requirements along the north 265.40' of property line and south 1007.80' of property line as shown per gray areas of attached "Sketch", and exception from I-R Industrial District, Restricted Section 40.301.N.1 requiring electric and cable utilities to be underground for Industrial-Office Development.

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

S 7 1/2 ACRES OF NE1/4 OF THE SW1/4 EXC E 50FT FOR HWY\* \*\*11-92 1992 DESCRIPTION

REVISION H 35-35-4 (ALSO SEE ATTACHMENT)

**PARCEL NUMBER:** 3905- 35-330-060

**ADDRESS OF PROPERTY:** 4200 S. 9th Street, Oshtemo Township, MI 49009

**PRESENT USE OF THE PROPERTY:** Architectural Design Firm Office

**PRESENT ZONING** I-R, with rear 250' R-3 **SIZE OF PROPERTY** 7.2159 A  
With Village Form-Based  
Code Overlay

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

Name(s)

Address(es)

\_\_\_\_\_  
\_\_\_\_\_

**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.*

*Tony C. Schley, TRUSTEE*  
*Jacqueline M. Schley, Trustee*

3/31/2016

3/31/2016

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

**Date**

**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**

## **Attachment**

### Applicant/Owner:

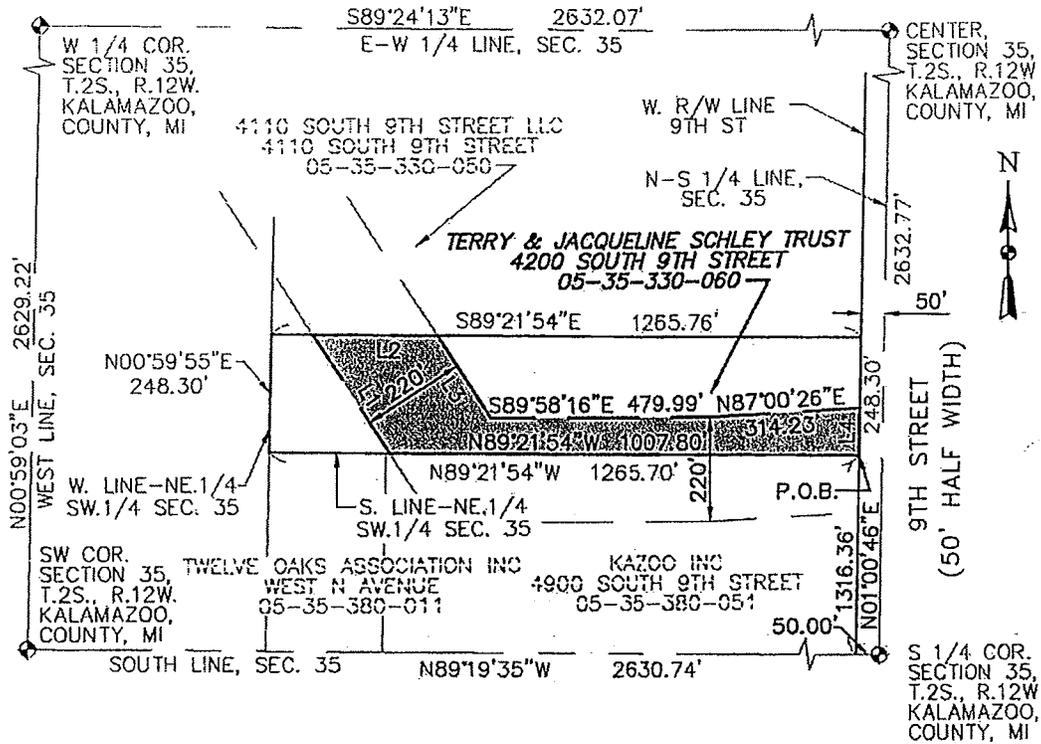
Terry E. Schley, Trustee of the Terry E. Schley Revocable Trust dated October 14, 2003, and any amendment or restatement thereto, and Jacqueline M. Schley, Trustee of the Jacqueline M. Schley Revocable Trust dated October 14, 2003 and any amendment or restatement thereto, each as to an undivided one-half (1/2) interest.

### **Legal Description (Per Document No. 2011-015157)**

The South 7 ½ acres of the Northeast ¼ of the Southwest ¼ of Section 35, Town 2 South, Range 12 West, Excepting the East 500.00 feet.

### Sketch

(Source: Easement Agreement Exhibit A)



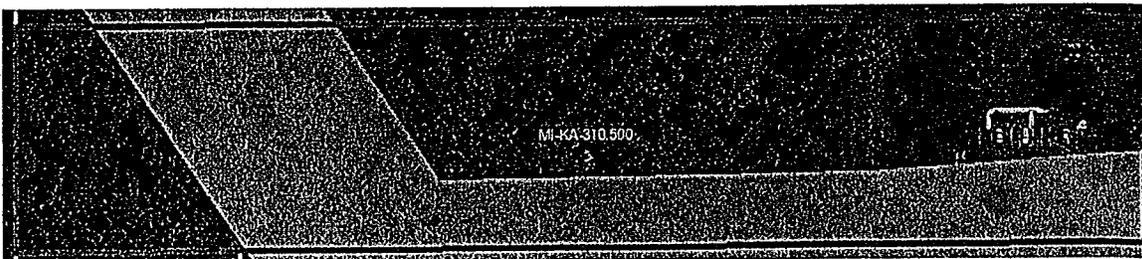
NO EASEMENTS OF RECORD AFFECT  
SUBJECT PARCEL

LINE SEGMENT DATA		
SEG.	DIRECTION	LENGTH
L1	N33°22'07"W	299.51
L2	S89°21'54"E	265.40
L3	S33°22'07"E	209.20
L4	S01°00'46"W	99.83

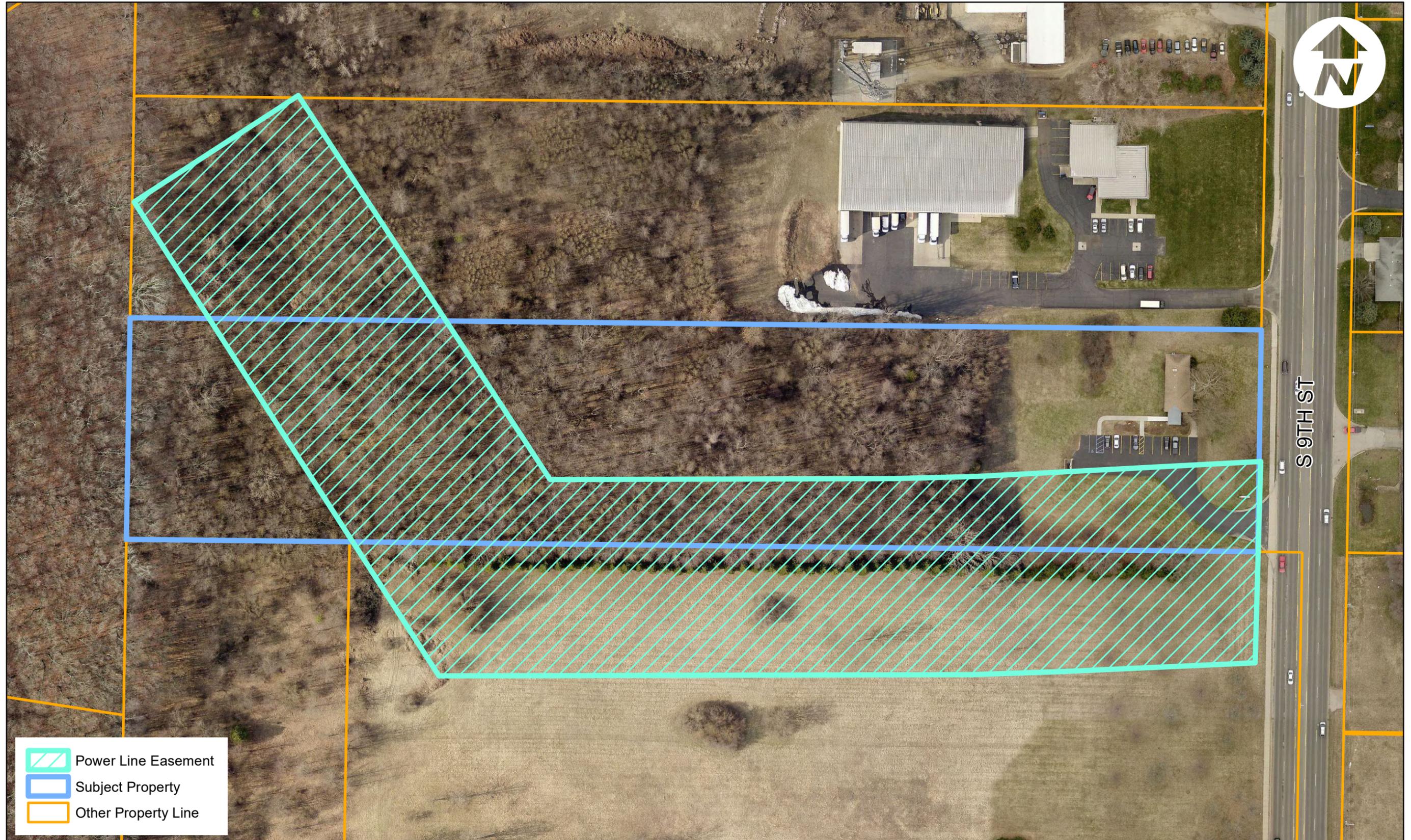
LEGEND	
P.O.B.	EASEMENT POINT OF BEGINNING
	PROPOSED EASEMENT AREA

### Aerial View

(Source: Contract Land Staff GIS Viewer)



4200 South 9th Street  
Power Line Easement Location



0 125 250 500 Feet

May 17, 2016



**Mtg Date:** May 24<sup>th</sup>, 2016

**To:** Zoning Board of Appeals

**From:** Ben Clark, Zoning Administrator

**Applicant:** Allen Frazier

**Owner:** General Electric

**Property:** 7694 Stadium Drive, parcel number 3905-34-180-025

**Zoning:** I-1: Industrial

**Request:** Variance from the minimum 70 foot setback from the Stadium Park Way right-of-way boundary

**Section(s):** Section 64.300: Setbacks for Business and Industrial Districts

**Project Name:** Kalamazoo Storage, LLC

## OVERVIEW

The applicant, representing Kalamazoo Storage, LLC, intends to develop the subject property as a self-storage facility, which is a special exception use within the I-1 zoning district. While addressed as being on Stadium Drive, this parcel also has frontage on Stadium Park Way, a street constructed to facilitate the development of a handful of industrially zoned properties. The parcel in question is approximately 200 feet wide and 1,785 feet in length. The west building setback is 20 feet from the property line for the first 360 feet north of Stadium Drive, increasing to 70 feet for the 565 feet where the property abuts the Stadium Park Way right-of-way, decreasing back down to 20 feet for the remainder of the parcel. Please see the attached map for an illustration of the setback line in question.

Already a narrow piece of land, the applicant contends that observing the 70 foot setback would make a portion of the subject property impractical to develop, as there would only be

approximately 110 feet of usable space once the corresponding 20 foot setback from the east property line is also factored in. In order to successfully develop the property and mitigate the negative impacts of its narrow east-west dimensions, the applicant is seeking relief from section 64.300 of the Zoning Ordinance, and requests that the minimum setback from the Stadium Park Way right-of-way be reduced to 20 feet, coming into line with the parcel's prevailing west building setback line.

### **APPROVAL CRITERIA**

The Zoning Enabling Act of Michigan outlines that when considering a variance request, the Zoning Board of Appeals must ensure that the "spirit of the ordinance is observed, public safety secured, and substantial justice done." The Michigan courts have added that variances should 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:** With the subject property being considerably narrow east to west, staff does feel that conformance to the minimum 70 foot setback from the Stadium Park Way right-of-way is unnecessarily burdensome, and Oshtemo Township's Zoning Ordinance offers no alternative to meeting the stated minimum building setbacks. With no other options other than compliance available for the applicant, it could be argued that the setback incongruity eliminates any reasonable use of the property.

*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:** Per section 64.300 of the Oshtemo Township Zoning Ordinance, all properties zoned as I-1 shall have a minimum setback of 70 feet from any and all street rights-of-way, regardless of what type of roadway the property is located on. Planning staff feels that while such a dimension may be appropriate for arterial and

collector roads, a local street such as Stadium Park Way does not necessitate the same consideration. Indeed, such reasoning is supported elsewhere in the ordinance: In section 50.000, which governs the 9<sup>th</sup> Street and West Main Overlay Zone, for example, only a 15 foot building setback is required from any interior street—a roadway classification that could arguably be applied to Stadium Park Way.

Staff was also able to find past instances of when the Zoning Board of Appeals was inclined to grant relief from the right-of-way setback dictated by section 64.300. Following is a brief summary of a few select cases:

- **The Hinman Company; 5474 West Main; March 23<sup>rd</sup>, 2010; variance requested from the 70 foot minimum setback from the Maple Hill Drive right-of-way:**
  - The applicant sought, and was granted, relief from section 64.300 in order to construct a building addition in-line with a preexisting, legally non-conforming structure that was originally constructed with a 38 foot setback. Deliberating on the request, the ZBA felt that a variance was justified, given the negative impact that the 70 foot setback had on the developability of the property.
- **PKSH Housing Partners; 5155 Croyden Avenue; March 24<sup>th</sup>, 2009; variance request for relief from numerous building setback requirements, including from the 70 foot Croyden Avenue right-of-way:**
  - Intending to construct a multiple-unit housing development on a parcel that was approximately 184 feet wide at its narrowest point, the applicant argued that the property's dimensions, as well as other factors including an abutting historical overlay zone, meant that compliance with the necessary setbacks was too burdensome. In considering the request to allow a 36 foot setback, the ZBA determined that observing the minimum building setbacks was not practical due to the parcel's narrow shape. The variance application was approved by the body.
- **LaRue's Restaurant; 6375 Stadium Drive; November 3<sup>rd</sup>, 1997; variance request for relief from the 70 foot Parkview Avenue right-of-way setback:**
  - The applicant requested a variance to permit the expansion of a preexisting building to be built 42 feet from the Parkview Avenue right-of-way rather than the 70 feet dictated by section 64.300 of the Zoning Ordinance. ZBA members acknowledged that the parcel's odd shape

was one significant factor that warranted relief from the ordinance, and the variance request was granted.

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

**Comment:** The narrow width of the subject parcel, along with the irregular shape of the building envelope as dictated by the 70 foot setback from the Stadium Park Way right-of-way, does pose some unique challenges to developing this property. While compliance is hypothetically possible, doing so significantly reduces any reasonable use of the property.

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

**Comment:** The variance request is a result of the minimum setback that is required from the Stadium Park Way right-of-way, which greatly impacts the subject parcel. This condition was not created by the applicant.

*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:** Seeking relief from the minimum setback along a local road that currently only serves a handful of properties, staff is satisfied that this variance request does not compromise the public health, safety, and welfare of the community. The granting of this variance request is also in accordance with past decisions made by the Zoning Board of Appeals, ensuring that substantial justice is being done.

## **RECOMMENDATION**

Staff recommends approval of the variance request from Section 64.300 for the following reasons:

- With no alternative for compliance with the minimum 70 foot setback from the Stadium Park Way right-of-way available for the applicant, conformance is unnecessarily burdensome and denial of the variance could remove any reasonable use from the property.

- The Oshtemo Township Zoning Board of Appeals has granted similar variance requests in the past, allowing relief from right-of-way setbacks. Approving this application for a variance would ensure that substantial justice is being done.

Respectfully Submitted,



Ben Clark  
Zoning Administrator

Attachments: Application  
Narrative from Applicant  
Aerial map

May 17, 2016



**Mtg Date:** May 24<sup>th</sup>, 2016

**To:** Zoning Board of Appeals

**From:** Ben Clark, Zoning Administrator

**Applicant:** Allen Frazier

**Owner:** General Electric

**Property:** 7694 Stadium Drive, parcel number 3905-34-180-025

**Zoning:** I-1: Industrial

**Request:** Variance from the required 30 foot spacing between storage buildings and mini warehouses within I-1 zoning districts

**Section(s):** Section 41.405: Supplemental development standards for storage facilities in I-1 zoning districts

**Project Name:** Kalamazoo Storage, LLC

## OVERVIEW

The applicant, representing Kalamazoo Storage, LLC, intends to develop the subject property as a self-storage facility, which is a special exception use within the I-1 zoning district. Along with the typical development standards that apply to any project allowed within this zoning classification, section 41.405 of the Oshtemo Township Zoning Ordinance also dictates that structures used for storage must be separated from one another by no less than 30 feet. The applicant feels that this required spacing is excessive, and along with taking up more room, will also allow customers to do things such as back up to the individual storage units, which will prevent the passage of other vehicles and also possibly lead to damage to the structures themselves. Specifically, the applicant requests that the minimum spacing be reduced to 24 feet between buildings, arguing that this accommodation will serve to dissuade improper parking and prevent vehicles backing into the buildings without compromising any public safety considerations.

## 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 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:** Staff doesn’t consider conformance to the required building spacing as unnecessarily burdensome. It’s likely that the storage buildings, if later approved by the Oshtemo Township Planning Commission, will be oriented east-west and the subject parcel, while narrow, has ample length along its north-south extent to accommodate numerous structures while still observing the 30 foot minimum spacing.

*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:** Staff was unable to find any past instances of relief being requested from the 30 foot spacing requirement. This standard is required for any storage facilities located in the I-1 zoning district and has been consistently applied by the Township in the past.

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

**Comment:** While the shape of the parcel means that developing within its east-west dimension does pose significant difficulties, the property is very accommodating from north to south, so compliance with the 30 foot minimum spacing standard shouldn’t be an issue.

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

Comment: Given that there are no physical or other factors that would prevent compliance with section 41.405 of the Zoning Ordinance, Staff does consider the hardship to be self-created.

*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: The 30 foot spacing requirement is intended to not only ensure that structures are far enough apart to prevent fire spread, but also in order to provide enough room for emergency vehicles to maneuver through the lanes, even if cars are parallel parked along the buildings. Allowing the structures to be placed closer together could mean that apparatuses such as fire trucks and ambulances could potentially find their paths blocked by other vehicles. Planning Staff has spoken with the Fire Marshal about this variance request, and he is concerned that public safety would be impacted if it is approved. This being said, granting relief from section 41.405 would not be in observance of the spirit of the ordinance, nor would it serve to maintain the public health, safety, and welfare of the community.

## **RECOMMENDATION**

Staff recommends denial of the variance request from section 41.405: Supplemental development standards for storage facilities in I-1 zoning districts for the following reasons:

- The difficulty is self-made, and compliance with the 30 foot spacing requirement is possible.
- Conformance to the 30 foot spacing requirement is not unnecessarily burdensome.
- Public health, safety, and welfare could be compromised.

Respectfully Submitted,



Ben Clark  
Zoning Administrator

Attachments: Application  
Narrative from Applicant



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

**PLEASE PRINT**

PROJECT NAME & ADDRESS Kalamazoo Storage LLC

PLANNING & ZONING APPLICATION 7694 Stadium Dr.

Applicant Name : Allen Francis

Company Kalamazoo Storage LLC

Address 2516 Miller Road

Kalamazoo, MI 49001

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

E-mail allen@fultonexcavating.co

Telephone 269 207-3747 Fax \_\_\_\_\_

Interest in Property Proprietor Owner

Received From: FULTON & SONS  
 Date: 04/19/2016 Time: 2:15:50 PM  
 Receipt 123295  
 Cashier LINDAI

**OWNER\*:**

Name GE

Address \_\_\_\_\_

Email \_\_\_\_\_

Phone & Fax \_\_\_\_\_

ITEM REFERENCE	AMOUNT
1092 ZONING VARIANCE	
ZONING VARIANCE	\$500.00
TOTAL	\$500.00
CHECK 47351	\$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):

relieve from set back requirements from section 64-  
From Stadium Drive parkway to 20'  
relief from 41-405 30 spacing down to 24'

**LEGAL DESCRIPTION OF PROPERTY** (Use Attachments if Necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PARCEL NUMBER: 3905- 34-180-025

ADDRESS OF PROPERTY: 7694 Stadium Dr, Oshkemo

PRESENT USE OF THE PROPERTY: Vacant

PRESENT ZONING I L SIZE OF PROPERTY 8 acs

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

Name(s)	Address(es)
_____	_____
_____	_____

**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 Oshkemo 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**

  
\_\_\_\_\_  
**Applicant's Signature**

4/19/2016  
**Date**

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

\*\*\*\*  
**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

EXHIBIT A

**LEGAL DESCRIPTION OF THE PROPERTY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWNSHIP OF OSHTEMO, KALAMAZOO COUNTY, STATE OF MICHIGAN, AND IS DESCRIBED AS FOLLOWS:

A parcel of land situated in the Northwest quarter of Section 34, Town 2 South, Range 12 West, being more particularly described as follows: Beginning at a point on the North line of Section 34, Town 2 South, Range 12 West, 200 feet East of the Northwest corner of the East 1/2 of the Northwest 1/4; thence South parallel to the West line of the East 1/2 of the Northwest 1/4 to the Northerly line of West Michigan Avenue (formerly U. S. Highway 12); thence Northeasterly thereon 275.27 feet; thence North parallel to said West line 1732.24 feet to the North line of said Section; thence West 266 feet along said North line to the place of beginning.

Excepting, however, from the aforesaid description the following described parcel: Commencing at the Northwest corner of Section 34, Town 2 South, Range 12 West; thence South 89 degrees 29' 43" East, 1313.06 feet along the North line of the Northwest quarter of said Section to the East line of the West half of said Northwest quarter; thence South 00 degrees 50' 59" West, 1855.55 feet along said East line to the Northerly line of West Michigan Avenue, also known as Red Arrow Highway; thence North 75 degrees 40' 53" East 206.97 feet along said highway to the place of beginning; thence North 0 degrees 50' 59" East 1802.60 feet parallel with said East line to said North line of the Northwest quarter; thence South 89 degrees 29' 43" East, 66.00 feet along said North line; thence South 0 degrees 50' 59" West 1785.11 feet parallel with said East line to said Northerly line of highway; thence South 75 degrees 40' 53" West 68.38 feet along said Northerly line to the place of beginning.

Together with a non-exclusive easement for ingress and egress over and use of parking facilities as recorded in Liber 982, page 661, being described as: A parcel of land in the Northwest quarter of Section 34, Town 2 South, Range 12 West, being more particularly described as follows: Commencing at the Northwest corner of Section 34, Town 2 South, Range 12 West; thence South 89 degrees 29' 43" East, 1313.06 feet along the North line of the Northwest quarter of said Section to the East line of the West half of said Northwest quarter; thence South 00 degrees 50' 59" West, 1855.55 feet along said East line to the Northerly line of West Michigan Avenue, also known as Red Arrow Highway; thence North 75 degrees 40' 53" East 206.97 feet along said highway to the place of beginning; thence North 0 degrees 50' 59" East 1802.60 feet parallel with said East line to said North line of the Northwest quarter; thence South 89 degrees 29' 43" East, 66.00 feet along said North line; thence South 0 degrees 50' 59" West 1785.11 feet parallel with said East line to said Northerly line of highway; thence South 75 degrees 40' 53" West 68.38 feet along said Northerly line to the place of beginning.

Parcel ID: 39-05-34-180-025

Street Address: 7694 Stadium Dr., Oshtemo



2516 MILLER ROAD  
KALAMAZOO, MICHIGAN 49001  
TELEPHONE (269) 385-3311  
FACSIMILE (269) 385-1005

ZBA Board Members,

Kalamazoo Storage LLC is seeking a variance that would allow the minimum 70' setback for the portion of parcel number 05-34-180-025 that abuts the Stadium Park Way right-of-way to be decreased down to 20' from said boundary. This property being only 207' wide x 1700' long was negatively impacted when Stadium Parkway was developed in the 2004 era. The township owns a tear drop shape parcel in the front west corner for a depth of 300 feet +/- that currently houses a sanitary pump station. The requested variance would cover the approximately 800' section of the property that directly borders Stadium Park Way. Stadium Park Way remains a very positive development for Oshtemo Township but it certainly had a negative impact to this particular parcel. For that reason, this property has set vacant for many years.

Kalamazoo Storage LLC is also requesting a variance from the current I-1 building spacing of 30' down to 24'. In the self-storage industry it poses more negatives than positives. Example, vehicles try to turn around as opposed to using the correct traffic pattern, often times resulting in vehicle or building damage. I am sure that most of the thought behind the 30' building separation is from a fire standpoint. I suspect that this is very valid in some industrial building applications, but not in self-storage units.

# 7694 Stadium Drive

## Requested Setback Variance



0 125 250 500 Feet