

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,  
March 27<sup>th</sup>, 2018  
3:00 p.m.**

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Public Comment on Non-Agenda Items
4. Approval of Minutes: August 22<sup>nd</sup>, 2017
5. **Site Plan Review: (DeVisser Landscape Addition)**  
Joel DeVisser, of DeVisser Landscape Service, is requesting site plan approval for a 2,000 square foot office addition and a 3,000 square foot storage building expansion. 4014 South 9<sup>th</sup> Street, parcel number 3905-35-330-041.
6. **PUBLIC HEARING: Variance request (Spurr Dental)**  
Applicant is requesting a variance from section 64.300 of the Zoning Ordinance to be allowed a ten-foot rear structural setback when 20 feet is typically required. The subject property is located at 1624 South Drake Road, parcel number 3905-25-231-010.
7. Any Other Business
  - a. 2017 ZBA officer appointments—Chair & Vice Chair
8. ZBA Member Comments
9. 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 AUGUST 22, 2017**

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**Agenda**

**REQUEST TO DEFER PARKING: TJ MIHELICH, 7755 STADIUM DRIVE**  
**TJ MIHELICH, OWNER OF THE INDUSTRIALLY-ZONED PROPERTY AT 7755 STADIUM DRIVE, IS REQUESTING ZONING BOARD OF APPEALS PERMISSION TO DEFER THREE OF THE ORDINANCE-REQUIRED 12 PARKING SPACES FOR THE SUBJECT PROPERTY, PARCEL NO. 3905-34-160-030.**

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A meeting of the Oshtemo Charter Township Zoning Board was held on Tuesday, August 22, 2017, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

ALL MEMBERS WERE PRESENT:      James Sterenberg, Chair  
   Bob Anderson  
   Nancy Culp  
   Neil Sikora, Vice Chair  
   Anita Smith  
   L. Michael Smith

Also present were Ben Clark, Zoning Administrator, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist, and three interested persons.

**Call to Order and Pledge of Allegiance**

Chairperson Sterenberg called the meeting to order and invited those present to join in reciting the "Pledge of Allegiance."

**Public Comment on Non-Agenda Items**

There were no comments on non-agenda items.

**Approval of the Minutes of June 27, 2017**

Chairperson Sterenberg asked if there were any additions, deletions or corrections to the minutes of June 27, 2017. Hearing none, he asked for a motion of approval.

Mr. Anderson made a motion to approve the minutes of June 27, 2017 as presented. Mr. Smith supported the motion. The motion was approved unanimously.

**REQUEST TO DEFER PARKING: TJ MIHELICH, 7755 STADIUM DRIVE  
TJ MIHELICH, OWNER OF THE INDUSTRIALLY-ZONED PROPERTY AT 7755  
STADIUM DRIVE, IS REQUESTING ZONING BOARD OF APPEALS PERMISSION  
TO DEFER THREE OF THE ORDINANCE-REQUIRED 12 PARKING SPACES FOR  
THE SUBJECT PROPERTY, PARCEL NO. 3905-34-160-030.**

Chairperson Sterenberg said the next item was a request for deferment of three of 12 required parking spaces and asked Mr. Clark to review the request.

Mr. Clark explained the applicant is in the process of paving the existing dirt parking area on the subject property and wished to defer the installation of three of the ordinance-required 12 parking spaces. Given that the building is currently vacant, this parking requirement is based on the most "intense" usage allowed in the I-1 zoning district, which would be a professional office. The property consists of 1.4 acres and an existing 2400 square foot structure.

He said Section 68.420: *Deferred Parking (Non-Residential Use)* of the Oshtemo Township Zoning Ordinance does allow the Zoning Board of Appeals to grant such a request without requiring a variance. He listed the four criteria necessary to allow deferment and Staff's explanations of compliance by the applicant.

1. *The applicant submits a site plan including the design and layout of all required parking areas including areas proposed for deferred parking. Such deferred parking area shall not include areas required for setbacks, landscaping or greenspace, or land otherwise unsuitable for parking due to environmental or physical conditions.*

The necessary site plan has been submitted to the Township, clearly indicating that the three spaces proposed to be deferred can practically be added, should they be required. The location of these three spaces has no negative impact on landscaping, engineering, fire apparatus circulation, or general zoning compliance considerations.

2. *The applicant demonstrates, to the satisfaction of the reviewing body, that a reduced number of parking spaces will meet the parking needs due to the nature, size, density, location, or design of the proposed development. Pedestrian access and use may be considered.*

The applicant does not anticipate that the full complement of 12 parking spaces will be immediately needed for the relatively small facility. Depending on the future use of the structure, however, the applicant does concede that the three spaces may one day be needed.

3. *And any other factors reasonably related to the need for parking for the proposed development as determined by the reviewing body.*

Township Staff have not identified any other factors that the Zoning Board of Appeals should be made aware of in deliberating this request. Indeed, given that the structure is currently vacant, the actual parking needs, depending on future use, could be significantly lower.

4. *At any time subsequent to approval, the Township may require the construction of additional parking spaces based on review of the parking needs by the Planning Director.*

If the deferment is granted, Staff will continue to work with the applicant as this space is activated, ensuring that an appropriate amount of parking is provided.

Mr. Clark said upon reviewing the applicant's request to defer three of the 12 required parking spaces for this property, Township Staff are satisfied the requirements of section 68.420 of the Zoning Ordinance are being met, and that deferment of the spaces will not compromise public health, safety, or general welfare. To that end, he recommended the requested deferment be granted, to be administratively managed.

Chairperson Sterenberg thanked Mr. Clark for his report and asked if the deferment would remain in effect if the property is sold in the future.

Mr. Clark confirmed that would be the case.

The Chair determined there were no further questions from Board Members and asked if the applicant wished to speak.

Mr. TJ Mihelich said he owned the property along with his mother and brother and that it had been a pleasure working with Mr. Clark and other Township Staff members. He is proud of the property and feels the development will be beneficial for the community.

There were no further comments from Board Members or the public. Chairperson Sterenberg closed the Public Hearing and moved to Board discussion.

Mr. Smith said he was generally in favor of deferring paving in the Township as much as is reasonable.

Chairperson Sterenberg felt the project will be a huge improvement to the property and the area. Hearing no further discussion, he asked for a motion.

Mr. Smith made a motion to allow deferment of three parking spaces as requested, based on the recommendation by Staff including the explanation of criteria met. Mr. Anderson supported the motion. The motion was approved unanimously.

**Any Other Business**

Mr. Clark noted it was likely an October meeting would not be necessary.

**ZBA Member Comments**

There were no comments from Board Members.

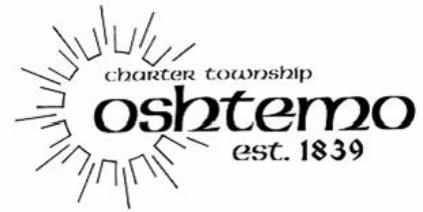
**Adjournment**

Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda, and there being no other business, adjourned the meeting at approximately 3:10 p.m.

Minutes prepared:  
August 23, 2017

Minutes approved:  
\_\_\_\_\_, 2017

March 19<sup>th</sup>, 2018



**Meeting Date:** March 27<sup>th</sup>, 2018

**To:** Oshtemo Township Zoning Board of Appeals

**From:** Ben Clark, Zoning Administrator

**Applicant:** Joel DeVisser, DeVisser Landscape Services

**Owner:** Devisser Properties

**Property:** 4014 South 9<sup>th</sup> Street, parcel number 05-35-330-041

**Zoning:** R-3—Residence District; I-1—Industrial District, Manufacturing/Serviceing

**Request:** Site plan review and approval for office and storage building expansion

**Section(s):** 23.000: R-3—Residence District; 41.000: I-1—Industrial District, Manufacturing/Serviceing;  
82.000: Site Plan Review

**Project Name:** DeVisser Landscape Addition

## OVERVIEW

Granted Special Exception Use permission in 1986 by the Township Zoning Board of Appeals, but existing for some time before then, the subject property has been the site of DeVisser Landscape Service for more than three decades. The subject site is comprised of two former single-family homes that have been converted to office use, as well as a handful of purpose-built structures that house equipment and landscaping products. Other installations present on the subject property include a cell phone tower near the south property line, and a handful of outdoor stalls for the storage of additional bulk landscaping materials. Although the property was subject to Special Exception Use when it was zoned for agricultural activity, it has since been rezoned to R-3 in the north and extreme west, and I-1 in the south. All uses present on the site are now permitted by right in their respective zoning districts.

The applicant is seeking Zoning Board of Appeals approval to add onto the northern-most administrative office building, as well as extend the larger storage building to the west towards the back of the subject parcel. Given the size of the desired additions, section 82.000—*Site Plan Review* of the Zoning Ordinance requires approval from a reviewing body, in this case the ZBA.

## GENERAL ZONING COMPLIANCE

As discussed, the two constituent uses in the scope of this review are permitted by right in their respective zoning districts, as is their expansion, provided certain conditions are met. *Section 23.202: Conversion of residence for offices[...]* of the Zoning Ordinance requires that the following criteria be observed in order for a home to be put to a non-residential use in the R-3 district:

- a. *Any such building must remain compatible in size, height, external design, landscaping and surrounding open space as other residential buildings in the area adjacent and nearest to the proposed use within a radius not to exceed one-half mile.*

- b. Any interior or exterior lighting shall be of a subdued character with the source not visible from the perimeters of the property and shall be reduced in intensity or eliminated during non-business hours.*
- c. Required off-street parking and driveways shall be maintained upon the premises, appropriately landscaped and situated in locations least objectionable to adjacent premises, not closer than ten feet to such adjacent premises nor within the required front setback areas.*
- d. Landscaping shall be established in accordance with SECTION 75 between such premises and any adjacent premises utilized for single-family or two-family purposes or, if vacant, zoned for such purposes.*
- e. Access to and from the premises by motor vehicles shall be designed to accommodate forward movement in each case and no vehicles shall be permitted to back into the abutting private or public street.*

Based on staff review of the project site plan, all five of the above-listed criteria are being met. The plan also indicates that all applicable structural setbacks are being satisfied, and no new site lighting is indicated.

### **SITE ACCESS AND CIRCULATION**

The subject property is currently served by two curb cuts—one leading to the office parking lot and the other to the materials and equipment storage areas further back on the parcel. No new driveways are proposed at this time. A sidewalk exists along the property's frontage on South 9<sup>th</sup> Street, but the business, predating any pedestrian accommodations in this part of the Township, is not connected to the non-motorized network. With this expansion, staff would like to work with the applicant to connect their office to the South 9<sup>th</sup> Street sidewalk in a mutually agreeable manner. Within the site, no drastic changes to internal circulation are proposed with this plan, although the parking area will need to be expanded. With this change township staff have also asked the applicant to include the necessary fire apparatus turn around area. That feature has yet to be fully integrated into the plan, but staff are working with the applicant to secure such.

### **LANDSCAPING**

The subject site is already well landscaped, in particular along the South 9<sup>th</sup> Street frontage, and is also wooded in some areas. No additional plantings are required with this project.

### **ENGINEERING**

The Township Engineer feels that the extant stormwater management facilities are likely adequate to except additional runoff generated by the new impervious surfaces but has asked that some additional storage capacity notation be indicated on the site plan. Staff is working with the applicant to ensure that all engineering requirements are satisfied.

## **FIRE DEPARTMENT**

The Township Fire Marshal has requested that additional changes be made to the plan in order to ensure adequate fire truck circulation into and out of the paved parking area near the two offices. An existing gravel drive will service the proposed storage building expansion. While this *does* satisfy the ordinance, as the drive isn't located within a designated parking area and therefore doesn't necessarily have to be paved, the Fire Marshal does ask for assurance that the surface can support the weight of fire apparatus in all seasons. As with the other outstanding items, Township staff are working with the applicant to secure such information.

## **RECOMMENDATION**

While some issues with the site plan do need to be resolved that potentially impact public health, safety, and welfare, Township are staff are generally satisfied with the general layout of the site plan as presented and are confident that the lingering problems can be administratively resolved. Staff therefore recommend approval of the site plan to the Zoning Board of Appeals, but also request that the following conditions be attached, to be resolved prior to the issuance of any building permits:

1. The Township Engineer shall be provided with all information necessary to ensure that all stormwater will be appropriately managed on-site, per Township standards.
2. The Township Fire Marshall shall be presented with a satisfactory site layout and surface material specifications in order to ensure adequate fire apparatus accommodation.
3. A revised site plan shall be submitted to the Township, showing a pedestrian connection between the expanded office building and the South 9<sup>th</sup> Street sidewalk.

Respectfully Submitted,



Ben Clark  
Zoning Administrator

### Attachments:

Application  
Site Plan  
Maps  
Photographs



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

**PLEASE PRINT**

PROJECT NAME & ADDRESS DEVISSER LANDSCAPE ADDITION  
3988 ~~4014~~ S. 9th ST.

**PLANNING & ZONING APPLICATION**

Applicant Name : JOEL DEVISSER  
Company DEVISSER LANDSCAPE SERVICE  
Address 4014 S 9th ST  
Kalamazoo, MI 49009  
E-mail JOEL@DEVISSERLANDSCAPE.COM  
Telephone 372-3400 Fax 375-0616  
Interest in Property ~~OWNER~~ LESSOR

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

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

**OWNER\*:**

Name DEVISSER PROPERTIES  
Address 2432 OAKLAND DR  
Kalamazoo, MI 49008  
Email DAVE@DEVISSERLANDSCAPE.COM  
Phone & Fax 217-6135 375-0616

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

- |   |   |
|---|---|
| <input type="checkbox"/> Planning Escrow-1042                 | <input type="checkbox"/> Land Division-1090           |
| <input checked="" 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 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): \_\_\_\_\_

CONSTRUCTION OF A 2,000 FT<sup>2</sup> ADDITION TO OUR EXISTING OFFICE. ALSO  
CONSTRUCTION OF A 3,000 FT<sup>2</sup> ADDITION TO OUR POLE BARN FOR VEHICLE &  
PRODUCT STORAGE.

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

SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_

**PARCEL NUMBER:** 3905- 05-35-330-041

**ADDRESS OF PROPERTY:** 3988 South 9th St Kalamazoo MI 49009

**PRESENT USE OF THE PROPERTY:** LANDSCAPE BUSINESS

**PRESENT ZONING** 1-R **SIZE OF PROPERTY** 117 x 520

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

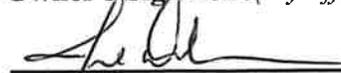
Name(s)	Address(es)
<u>JAN POST</u>	<u>2432 OAKLAND DR Kalamazoo MI 49008</u>
_____	_____

**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)

11/23/17  
**Date**

  
**Applicant's Signature**

11/23/17  
**Date**

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

\*\*\*\*

**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

ZONED "R-K" RURAL RESIDENTIAL

ZONED "VC VILLAGE COMMERCIAL R-4 RESIDENCE

ZONED "R-3" INDUSTRIAL AND I-R INDUSTRIAL DISTRICT RESTRICTED

ZONED "I-5" INDUSTRIAL

ZONED "I-R INDUSTRIAL DISTRICT RESTRICTED

**PROJECT DATA**

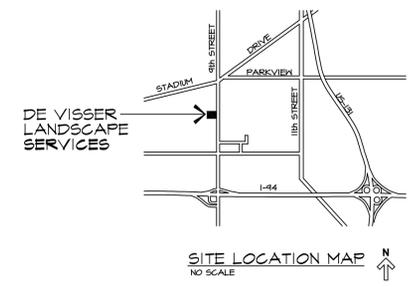
SITE AREA: 450,251 SQ. FT. (10.52 ACRES)  
 SITE ZONING: "I-R" INDUSTRIAL  
 BUILDING AREA:  
 EXISTING: 11,840 SQUARE FEET  
 NEW: 2000  
 TOTAL 13,840 SQUARE FEET  
 PAVED AREA: 7000 SQUARE FEET (EXISTING)  
 LOT COVERAGE: 4.95%  
 APPROX. LAND RESERVED FOR OPEN SPACE - 95.45%  
 ADDITION TO BE STICK BUILT FRAME WITH VINYL SIDING WITH A SHINGLED ROOF ROOF AT ITS HIGHEST POINT - 15'-8"  
 2015 MICHIGAN BUILDING CODE USE GROUP - TYPE "B"  
 2015 MICHIGAN BUILDING CODE TYPE OF CONSTRUCTION - "V-B"  
 OFFICE PARKING  
 3084 SQ. FT. (GROSS)  
 2626 SQ. FT. NET (85% OF GROSS)  
 19 SPACES REQUIRED AT 1 SPACE PER 150 SQ. FT. NET  
 WAREHOUSE PARKING  
 10,647 SQ. FT. (GROSS)  
 9050 SQ. FT. NET (85% OF GROSS)  
 1 SPACE PER 1500 SQ. FT. NET + 2 FOR EMPLOYEES  
 27 PARKING SPACES PROVIDED (25 SPACES PLUS 2 BARRIER FREE)

OWNER: DE VISSER LANDSCAPE SUPPLY  
 D.J. O'BRYEN  
 4014 SOUTH 9th STREET  
 KALAMAZOO, MICHIGAN 49009

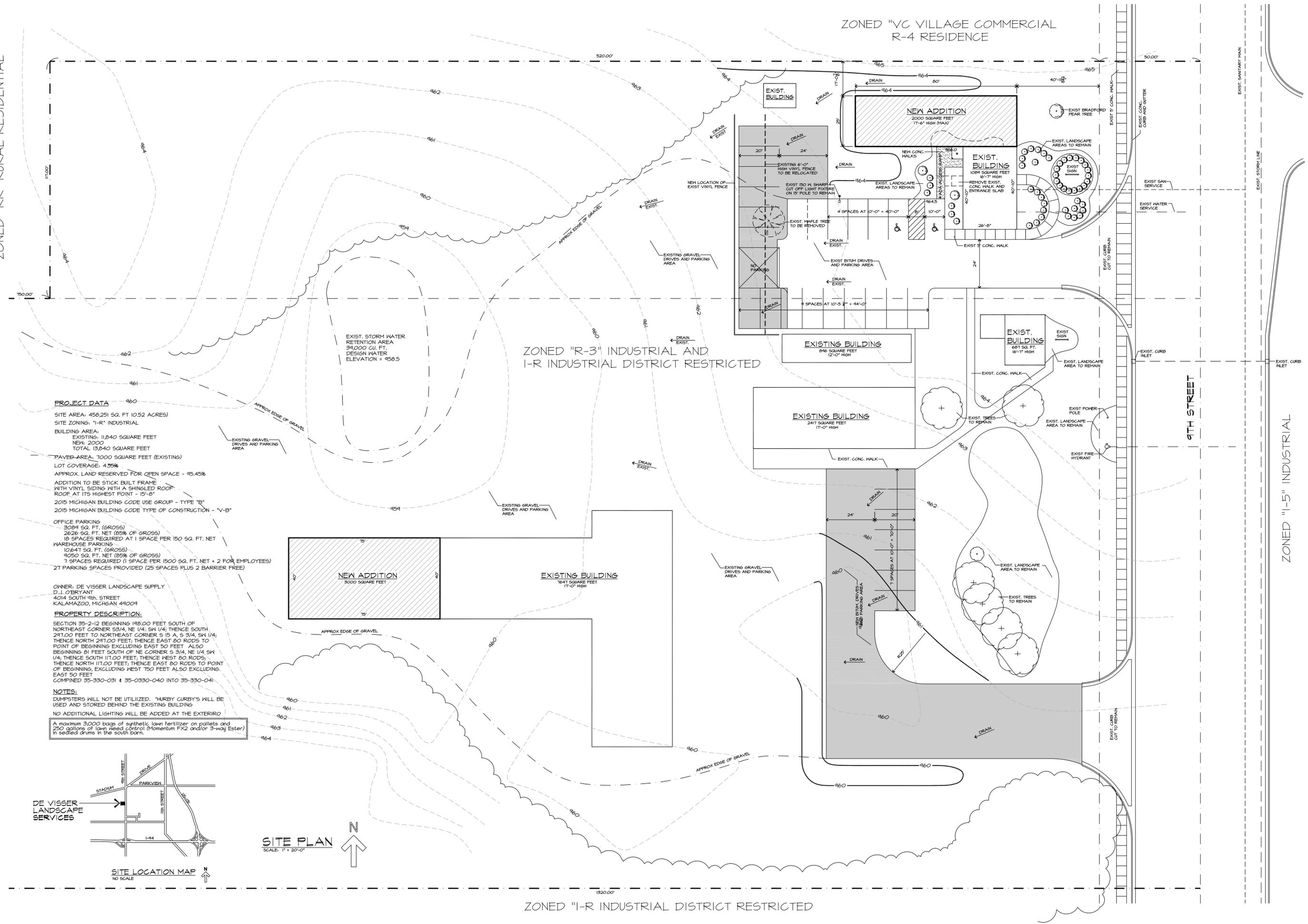
**PROPERTY DESCRIPTION:**

SECTION 35-2-12 BEGINNING 185.00 FEET SOUTH OF NORTHEAST CORNER S3/4, NE 1/4, SW 1/4; THENCE SOUTH 241.00 FEET TO NORTHEAST CORNER S 1/4, S 3/4, SW 1/4; THENCE NORTH 241.00 FEET; THENCE EAST 80 RODS TO POINT OF BEGINNING EXCLUDING EAST 50 FEET ALSO BEGINNING 91 FEET SOUTH OF NE CORNER S 3/4, NE 1/4, SW 1/4; THENCE SOUTH 117.00 FEET; THENCE WEST 80 RODS; THENCE NORTH 117.00 FEET; THENCE EAST 80 RODS TO POINT OF BEGINNING, EXCLUDING WEST 750 FEET ALSO EXCLUDING EAST 50 FEET  
 COMPINED 35-330-031 & 35-0330-040 INTO 35-330-041

**NOTES:**  
 DUMPSTERS WILL NOT BE UTILIZED. "HURRY CUREY'S" WILL BE USED AND STORED BEHIND THE EXISTING BUILDING  
 NO ADDITIONAL LIGHTING WILL BE ADDED AT THE EXTERIOR  
 A maximum 3,000 bags of synthetic lawn fertilizer on pallets and 250 gallons of lawn weed control (Momentum FX2 and/or 3-way Ester) in sealed drums in the south barn.



**SITE PLAN**  
 SCALE: 1" = 20'-0"



ADDITION AND RENOVATIONS FOR:  
**DE VISSER LANDSCAPE SERVICES**  
 4014 SOUTH 9th STREET  
 KALAMAZOO, MICHIGAN

**SITE PLAN**  
 HOWARD L. OVERBEEK  
 ARCHITECT, P.C.  
 198 EAST CENTRE  
 PORTAGE, MICHIGAN  
 PHONE (269) 323-2422

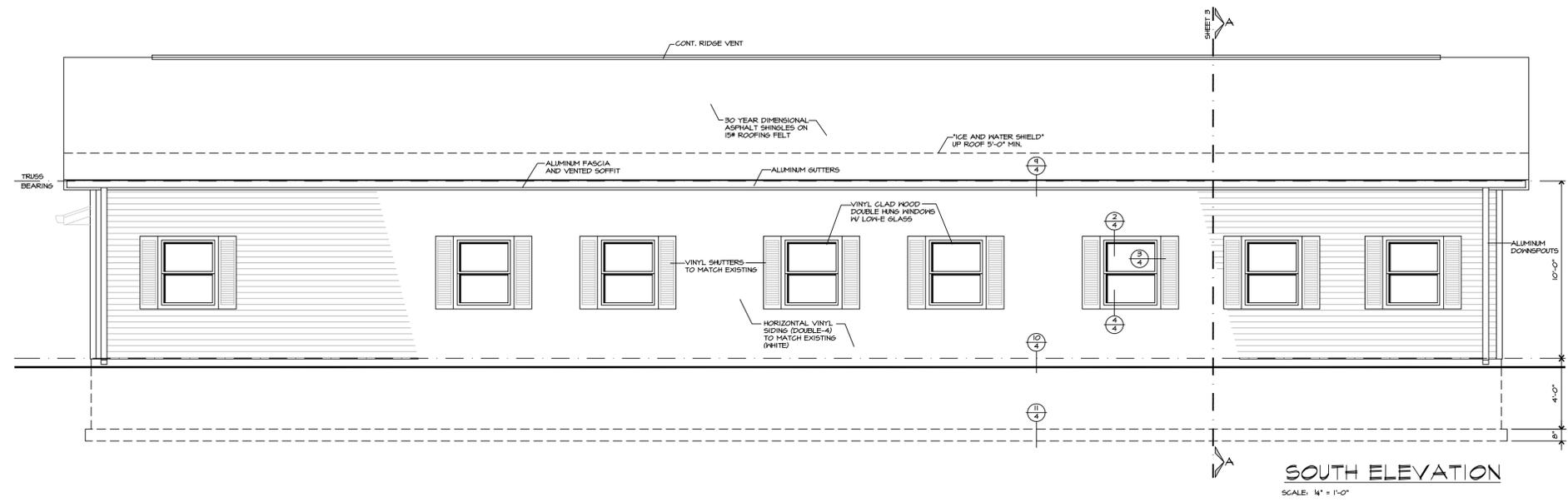


PROJECT NO.  
1726

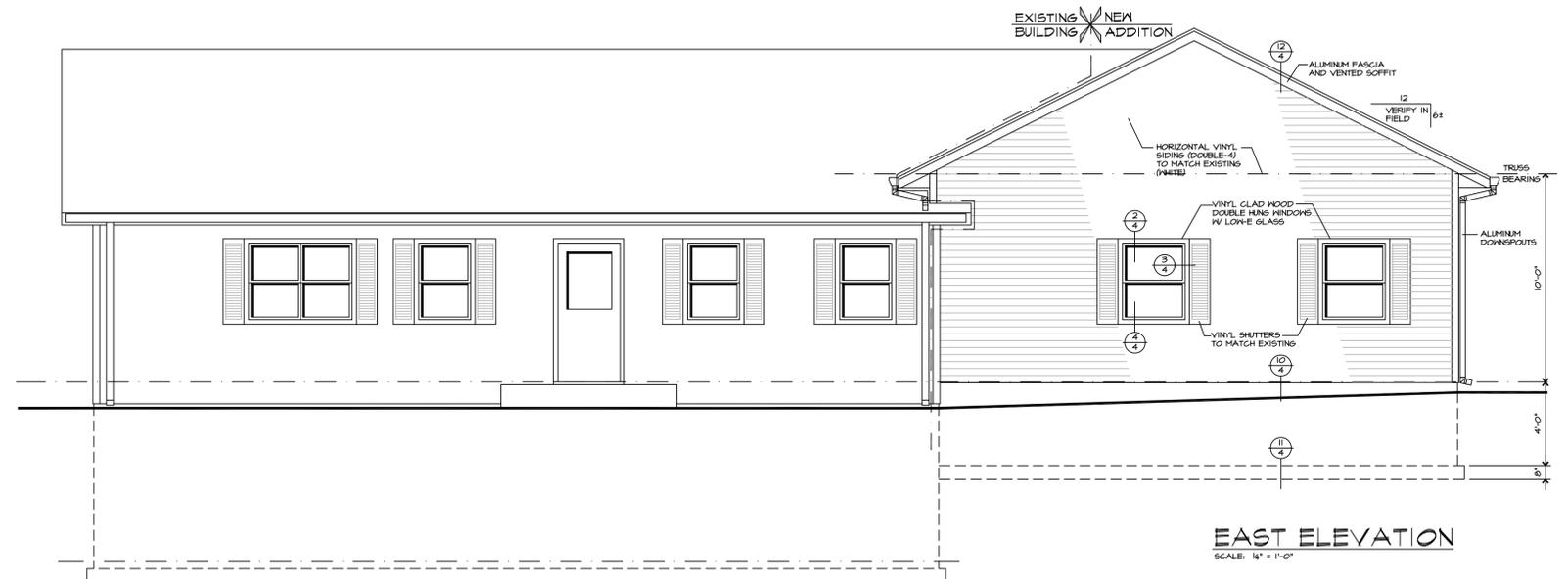
DATE  
1/11/18

REVISION  
1/20/18  
2/16/18

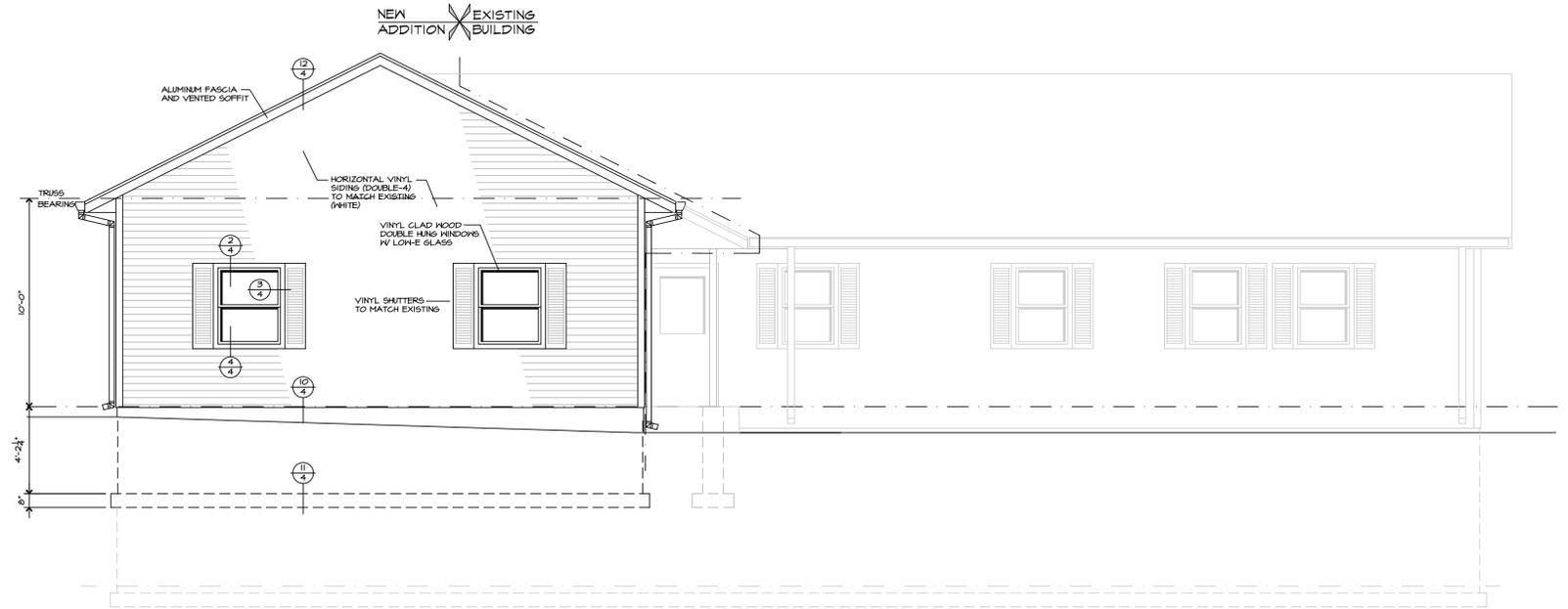
SHEET  
S1



**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0"



**EAST ELEVATION**  
SCALE: 1/4" = 1'-0"



**WEST ELEVATION**  
SCALE: 1/4" = 1'-0"

ADDITION AND RENOVATIONS FOR:  
**DE VISSER LANDSCAPE SERVICES**  
4014 SOUTH 9th STREET  
KALAMAZOO, MICHIGAN

EXTERIOR  
ELEVATIONS

HOWARD L. OVERBEEK  
ARCHITECT, P.C.

198 EAST CENTRE  
PORTAGE, MICHIGAN

PHONE (269) 323-2422

*HLA*

PROJECT NO.  
1726

DATE  
1/11/18

REVISION  
2/16/18

SHEET  
2

# DEVISSER LANDSCAPING EXPANSION

TALL OAKS DR

S 9TH ST

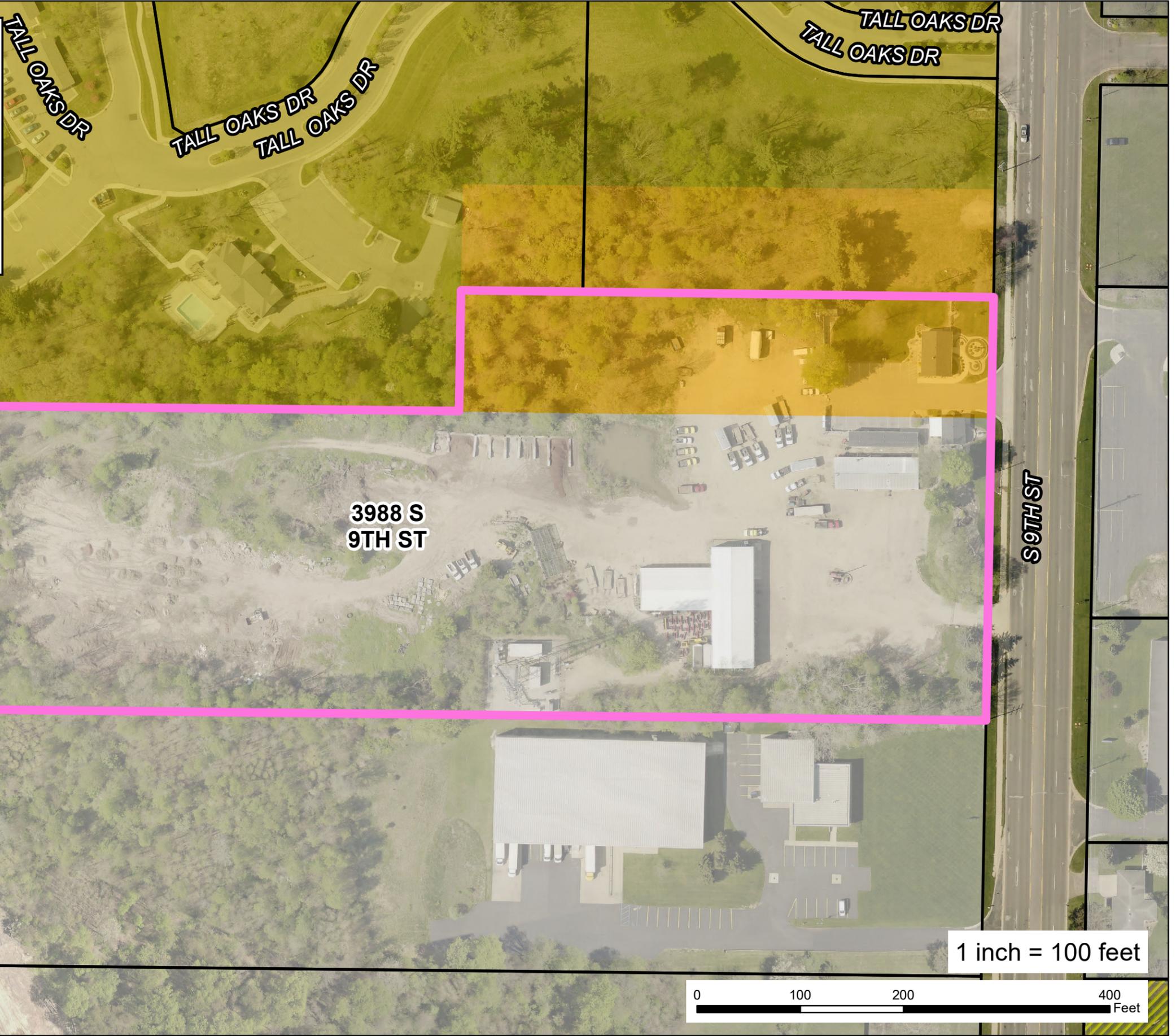


1 in = 100 ft

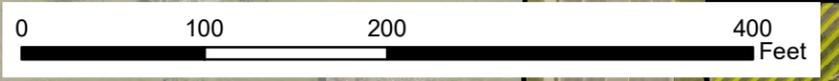
0 100 200 400 Feet

-  Subject Property
-  Other Property Line

 Subject Property  
 Other Property Line  
**Zoning**  
 RR - RURAL RESIDENTIAL DISTRICT  
 R3 - RESIDENCE DISTRICT  
 R4 - RESIDENCE DISTRICT  
 I-R - INDUSTRIAL DISTRICT RESTRICTED  
 I-1 - INDUSTRIAL DISTRICT MANUFACTURING & SERVICE  
 CONDITIONAL REZONING 2011-1



1 inch = 100 feet





**OFFICE PARKING AREA 9<sup>TH</sup> STREET ENTRANCE**



**AREA OF OFFICE EXPANSION VIEWED FROM 9<sup>TH</sup> STREET**



**STORAGE BUILDING TO BE EXPANDED**



**SOUTH FACE OF BUILDING/FUTURE ADDITION AREA**

March 12<sup>th</sup>, 2018



**Mtg Date:** March 27<sup>th</sup>, 2018

**To:** Zoning Board of Appeals

**From:** Ben Clark, Zoning Administrator

**Applicant:** John Lovely, Bosch Architecture

**Owner:** Emerald Holdings, LLC

**Property:** 1624 South Drake Rd

**Zoning:** C-R: Local Business District, Restricted

**Request:** Variance relief from west building setback

**Section(s):** 64.000: Setback and Sideline Spacing; 80.400: Variance

**Project Name:** Spurr Dental Office Addition Setback Variance Request

## OVERVIEW

Constructed in 2002, the 3,127 square foot structure located on the .72-acre subject property currently houses the practice of John Spurr, DDS. Prior to construction of this facility, the property owners created a one-lot plat from the existing parcel, as its small area and narrow frontage yielded it unbuildable according to the Zoning Ordinance at that time. To wit, in order to be buildable, a *parcel* in the C-R zoning district would've needed 200 feet of frontage and 50,000 square feet of area. The subject property only possesses approximately 160 feet of frontage on Drake Road, and around 31,363 square feet of area. A *platted lot* in this classification, on the other hand, only requires 120 feet of width at the front setback line and 13,200 square feet of area.

The property owner is now looking to expand the dental practice, and as such wishes to enlarge the building. A number of factors make this exceptionally difficult. The aforementioned unusually small property size, standard building setbacks in this zoning district, as well as the necessity for a fire truck turn around in front of the building are all factors that markedly limit where a building can be located on the lot—the current placement of the office being the most practical location. Now that there is a desire to enlarge the building, the property owner finds that the majority of the available development envelope—factoring in setbacks, landscape buffers, and other site constraints—has already been exhausted.

In order to accommodate the desired 765 square foot office addition, which is intended to house three procedure suites and an administrative office, the applicant, on behalf of the owner, is seeking a reduced setback along the west property line, with the intention of constructing the addition approximately ten feet from that boundary whereas 20 feet is the standard minimum distance, per section 64.000: *Setback and Sideline Spacing* of the Zoning Ordinance. This arrangement, the applicant contends, is the most practical way to allow the property owner to reasonably expand the business there, while also having no material impact on adjacent property owners. Given that the applicant would like relief from the minimum 20-foot structural setback, it should be noted that the required ten-foot-wide landscape buffer area would be preserved.

### **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 a practical difficulty for a nonuse (dimensional) variance. In addition, applicants must demonstrate that their plight is due to the unique circumstances particular 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:** The matter of an office expansion is discretionary, and reasonable use of the property in general does exist, even if the variance request is denied. That being said, expanding the existing structure to the extent desired and within the confines of the ordinance would be difficult and at best. In order to construct a *useful* building addition, given the small amount of available building envelope left, a variance is most likely necessary.

While the Township requirement of including a fire truck turn-around at the time of the office’s initial construction did further restrict where on the property the structure could be built, staff would like to remind the Board that such emergency vehicle accommodations are required for *all* non-residential uses, and the provision of such was not a special requirement for this property alone.

*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:** In researching past ZBA decisions regarding setback variance requests, staff has found that such relief is typically granted if there are issues with drastic topographic changes on-site, if the applicant wishes to extend a pre-existing non-conforming building line, or if the subject property is of an irregular shape. Staff was not able to find any examples where a setback variance was granted solely because any available building envelope had been otherwise exhausted.

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

**Comment:** The aggravating factor in this case is the property's small size. While the existing structure is in compliance with all applicable setback requirements, without a setback variance no meaningful expansion may happen without significant site alterations.

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

**Comment:** Referring to the initial platting of this one-lot subdivision by the property owner in 2002, the site's small size has been a known and understood factor, even prior to the office building's construction. Indeed, had the platting process not been completed, the zoning regulations extant at the time would have rendered this property unbuildable as a parcel due to both area and frontage deficiencies.

**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:** Given the nature of the subject property's use, staff do feel that granting this variance will still allow for adequate separation between the dentist's office and the parcel to the west. It is not anticipated that allowing the structure to be built closer to the adjacent multi-unit residence than is typically allowed will negatively impact the latter use in any appreciable way, as any activity on the subject property will be conducted *within* the office. The applicant has also stated that their client is willing to install additional landscaping or a screening fence to obscure the addition, should the Board be inclined to require such as a condition for granting the requested variance.

## **RECOMMENDATION**

In summary, staff present the following relevant findings to the Zoning Board of Appeals for consideration:

1. Staff is satisfied that reasonable expansion of the existing office building is impractical without relief from the minimum structural setback of 20 feet from the west property line.

2. The primary difficulty informing this variance request—small property size—is a factor that has been understood since the site was vacant. The parcel was platted specifically to render it buildable.
3. Other considerations aside, staff do feel that granting the requested variance will *not* compromise public health, safety, and welfare. The property to the west is currently the site of a multi-unit residence, but the parcel itself is commercially zoned. Also, the nature of the use of the subject property is considered low impact.

Given the above findings, the variance request before the Zoning Board of Appeals will require careful deliberation. Staff presents the Board with three possible courses of action:

1. Deny the variance, based on the fact that the practical hardship in this case was largely self-created.
2. Approve the variance, acknowledging that there is indeed a hardship in place, regardless of provenance. As staff has noted, public health, safety, and welfare would be preserved if the variance was granted, and the spirit of the ordinance upheld.
3. Approve the variance with conditions, possibly requiring additional screening along the west property line. If the Zoning Board of Appeals is inclined to implement this option, staff would recommend that evergreen plantings be installed along the west lot line, running 100 feet north from the southwest corner of the subject property. The density and number of said plantings necessary to provide sufficient screening can be determined at the time of site plan review.

Respectfully Submitted,



Ben Clark  
Zoning Administrator

Attachments

- Application
- Applicant-supplied materials
- Aerial map



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

PLEASE PRINT

PROJECT NAME & ADDRESS Dr. Spurr Dental office Addition  
1624 S. Drake Rd.

PLANNING & ZONING APPLICATION

Applicant Name: John J. Lovely  
Company Bosch Architecture  
Address 8065 Vineyard Parkway  
Kalamazoo, MI 49009  
E-mail j.lovely@boscharch.com  
Telephone (269) 321-5151 Fax N/A  
Interest in Property Engineers/Architects

THIS SPACE FOR TOWNSHIP USE ONLY

OWNER\*:

Name Emerald Holdings LLC  
Address 9159 S 2nd Street  
Mattawan, MI 49071  
Email vendors@drspurr.com  
Phone & Fax (269) 628-8770

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

→ John J Spurr PDS PC is Tenant

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): Requesting

a dimensional variance to build an addition  
off the east side of the existing building into  
the rear setback. See attached write-up.

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

See Exhibit Attached

PARCEL NUMBER: 3905- 25-231-010

ADDRESS OF PROPERTY: 1624 South Drake Road

PRESENT USE OF THE PROPERTY: Dental office

PRESENT ZONING C-R SIZE OF PROPERTY 31,805 SF +/-

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

Name(s)	Address(es)
N/A	N/A

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 2/9/18

Applicant's Signature

Date 2/9/18

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

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



February 13, 2018

Julie Johnston  
Planning Director  
Oshtemo Township  
7275 West Main Street  
Kalamazoo, MI 49009

Dear Julie,

John and Theresa Spurr are proposing to do an addition to their current facility located at 1624 South Drake Road, Kalamazoo, MI 49006. To move forward with this, we are requesting a dimensional variance for the west property line building setback requirement. The addition would be an approximately 765 square foot expansion to the west side of the existing 3,127 square foot dental office and would be approximately 13 feet away from the west property line. With a required 20 foot setback along the west property line, the addition would be 7 feet over the setback line. There is also a 10 foot green space requirement along the west property line that the addition would not project in to. The current zoning of this property is C-R and the abutting property to the west is zoned C-R as well. The property to the north is zoned R-3 and to the south is zoned C. The building to the north is West Michigan Endodontics, the building to the south is Kellogg Community Credit Union and the building to the west is zoned for commercial use. Below are physical hardships and other factors which help support our request for a dimensional variance. Additionally, pictures and exhibits of the site in its current state are included with this letter to help better illustrate our proposal.

### **Physical Hardships**

#### Initial Site Plan Approval

In 2002, Oshtemo Township approved the Site Plan as it is currently constructed. During the initial approval, Oshtemo Township required physical aspects of the site development which makes doing an addition to the current building difficult. One of those requirements was to provide a fire truck hammerhead turnaround on the site, which in turn required pushing the building further to the west on the property, not leaving much room for additions to any side of the building. The front building setback is 40 foot with a required 20 foot greenspace along the east property line which pushed the parking lot to the west and did not leave us with much of a building envelope for construction. Early on in the initial review process, moving parking to the rear was explored but due to the requirement for the hammerhead turn around and parking, there was not enough room for the building given the 40 foot front building setback. The building is pushed as far to the east as possible given the requirements from the Township, leaving a limited amount of room for the proposed addition.

#### Potential Addition Locations

Due to the nature of how the site was developed, additions would only be feasible off of the south and west end of the existing building. However, to the south, the grade elevations start increasing all the way up to the retaining wall and the steep hill that was constructed with the Kellogg Community Credit Union development. That gradual slope increase towards the retaining wall and hill make the addition off the south end of the existing building not feasible and the existing building is only 6 feet away from the 20 foot building setback. The west end of the existing building is 10 feet from the 20 foot building setback along the west property line and the grade is relatively flat making this the

most feasible area for an addition. The north and west walls of the existing building are currently abutting the parking lot, making additions off of these walls impossible while maintaining all of the township required parking stalls.

### Additional Factors for Consideration

#### Abutting Land Uses

Above I outlined the abutting land uses. None of these abutting land uses will be directly affected by the addition. The building directly to the west of Dr. John Spurr's existing office is zoned for commercial use. Also, land uses to the North and south are commercial and will not be affected by the addition. To the southwest, there is a retention pond for the Corners at Drake development, which is low impact and will not be affected by the addition.

#### Existing Grading & Vegetation

There are existing physical features on site that will screen the addition to west and also to the north and south. There is a significant amount of existing trees and vegetation that will help with screening. To the west, there are a number of trees between Dr. John Spurr's office and the building for sale. To the north, there is a row of trees as well which screens West Michigan Endodontics from the existing building and proposed addition. Also, as mentioned above, to the south, there is a good amount of existing vegetation and there is the new retaining wall and steep hill. Kellogg Community Credit Union sits on a pad that is approximately 20 feet higher than Dr. John Spurr's existing office which acts as a natural screen. Below are pictures that illustrate the existing conditions on site and support the above factors.

#### Consideration for Potential Additional Landscaping for Screening

Even with the existing site features mentioned above and illustrated below, we are aware that some additional measures could be taken in order to supplement the existing screening. We are open to planting new trees and vegetation and/or putting up a screening fence if required along the west property line which will help screen the building directly to the west.

With all of the above factors and hardships, we are hopeful that the ZBA will approve our dimensional variance request so we can proceed with preparing construction documents for the addition and other necessary approvals. If you have any additional questions, feel free to contact me by phone at (269) 321-5151 or email at [jlively@boscharch.com](mailto:jlively@boscharch.com).

Sincerely,



John J. Lovely

Pictures of Existing Conditions

East elevation



North Elevation



West Side of Building (Addition Wall)



South Elevation



North Property Line





East Property Line





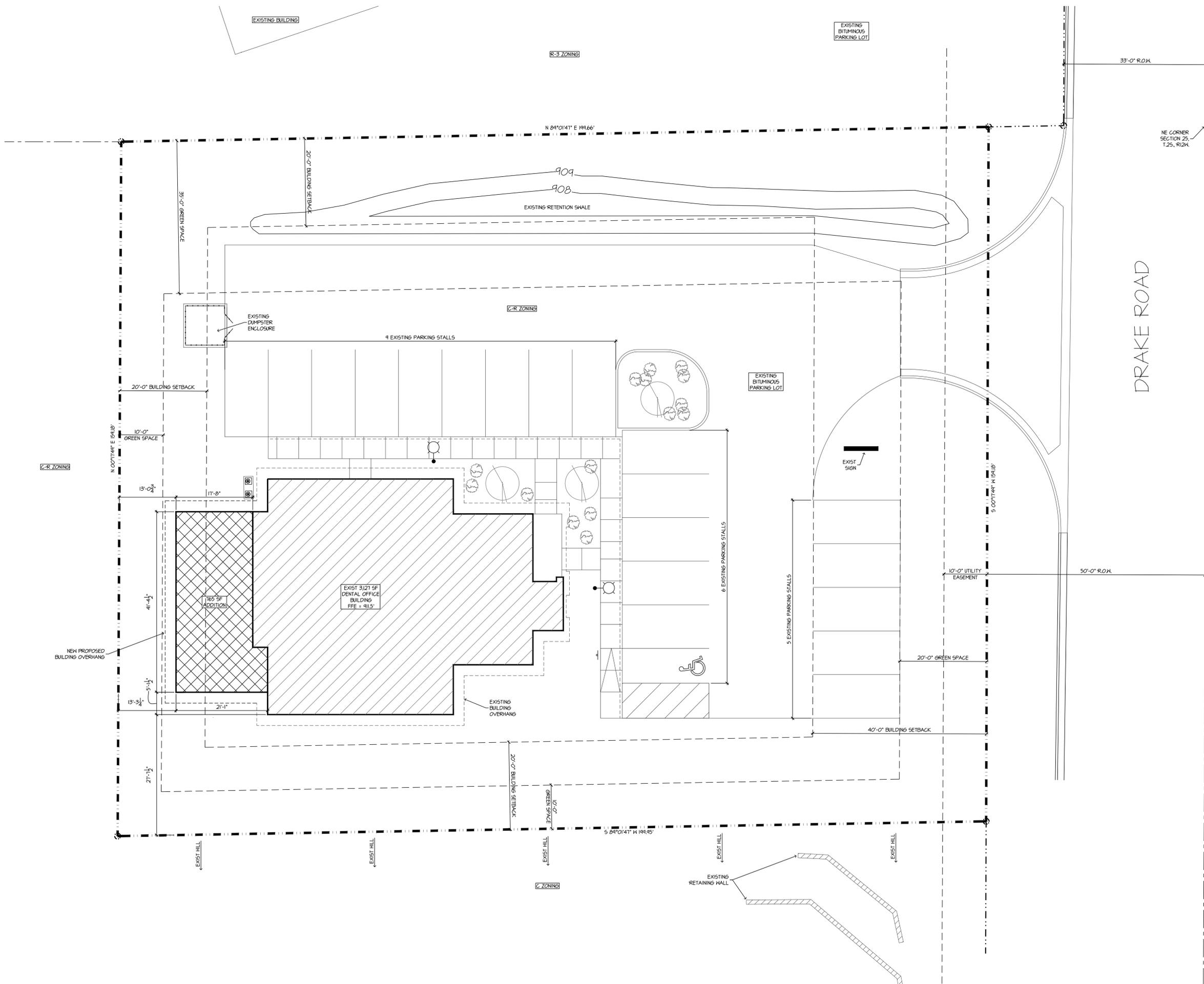


West Property Line









- SITE INFORMATION**
1. PARCEL ADDRESS: 1624 SOUTH DRAKE RD  
KALAMAZOO, MI 49006
  2. OWNER: EMERALD HOLDINGS LLC  
4194 S 2ND STREET  
MATTAWAN, MI 49071
  3. ARCHITECT: BOSCH ARCHITECTURE  
8065 VINEYARD PKWY  
KALAMAZOO, MI, 49009  
(269) 321-5151
  4. SURVEY: CHITTLEBURGH
  5. ZONING: C-R, LOCAL BUSINESS  
DISTRICT RESTRICTED
  6. PROPOSED LAND USE: DENTAL OFFICE
  7. SITE AREA: 31,805 SF +/-  
0.73 ACRES +/-
  8. LAND USE PERCENT (%): BUILDINGS: 12.2  
PAVEMENTS: 36.5  
GREEN: 51.3
  9. BUILDING TYPE: 3,942 SF +/-  
DENTAL OFFICE
  10. BUILDING HEIGHT: 17'-6" MEAN  
25'-6" RIDGE
  11. PARKING REQUIRED:  
ONE STALL FOR 150 SF OF USABLE FLOOR SPACE  
3,942 SF GROSS, 2,802 SF USABLE  
2,802 SF GROSS / 150 = 19 STALLS  
TOTAL = 19 STALLS REQUIRED (1 B.F.)  
20 STALLS PROVIDED (1 B.F.)
  12. LANDSCAPING REQ: PER OSHTEMO REQ
  13. SITE LIGHTING: PER OSHTEMO REQ  
PLAN
  14. LEGAL DESCRIPTION: COMMENCING AT THE  
NORTHEAST CORNER OF SECTION 25, TOWN 2 SOUTH,  
RANGE 12 WEST, OSHTEMO TOWNSHIP, KALAMAZOO  
COUNTY, MICHIGAN FOR THE PLACE OF BEGINNING;  
THENCE WESTERLY ALONG THE NORTH LINE OF SAID  
SECTION 250 FEET; THENCE SOUTHERLY PARALLEL TO  
THE EAST LINE OF SAID SECTION 154.18 FEET; THENCE  
EASTERLY PARALLEL TO THE NORTH LINE OF SAID  
SECTION 250 FEET TO THE EAST LINE OF SAID  
SECTION; THENCE NORTHERLY ALONG THE EAST LINE  
OF SAID SECTION 154.18 FEET TO THE PLACE OF  
BEGINNING.

*Dr. Spurr Dental Office Addition*  
1624 South Drake Road  
Kalamazoo, Michigan 49006

PRELIMINARY  
NOT FOR  
CONSTRUCTION  
2/13/18

ISSUED  
2018-02-13 FOR VARIANCE REQUEST

**bosch**  
ARCHITECTURE  
ENGINEERING  
INTERIOR DESIGN  
8065 Vineyard Parkway  
Kalamazoo, Michigan 49009  
ph: 269-321-5151  
www.boscharch.com

JOB NUMBER  
18012

ENLARGED SITE  
DEVELOPMENT  
PLAN

C002

# Dr. Spurr Dental Office



- ▬ County Boundary
- ▬ Municipal Boundaries
- ▬ Railroad
- ▬ Streets
- ▬ Interstate/Expressway
- ▬ State Trunkline
- ▬ City or County Primary Road
- ▬ Freeway Ramp/Frontage Road
- ▬ Roads
- ▬ Lakes and Rivers
- ▬ Parcels

This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The user of this map acknowledges that the State/County/Cities/Townships/Villages shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the State/County/Cities/Townships/Villages from any and all claims brought by the User, its employees or agents, or third parties which arise out of the User's access or use of data provided. Map Created: 2/12/2018







WEST ELEVATION DESIGN

SCALE: 1/4" = 1'-0"

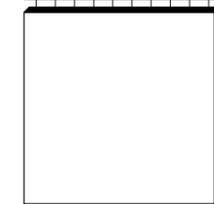


NORTH ELEVATION DESIGN

SCALE: 1/4" = 1'-0"

Dr. Spurr Dental Office Addition

Kalamazoo Michigan



ISSUED	

**bosch**  
 ARCHITECTURE  
 ENGINEERING  
 INTERIOR DESIGN  
 8065 Vinyard Parkway  
 Kalamazoo, Mich. 49009  
 ph: 269-321-5151  
 www.boscharch.com

Project Number  
18012

SCHEMATIC ELEVATIONS	

AS201



# SPURR OFFICE EXPANSION SETBACK VARIANCE REQUEST

W MICHIGAN AVE

**West Michigan  
Endodontics**

**Multi-Unit Residence  
(Zoned Commercial)**

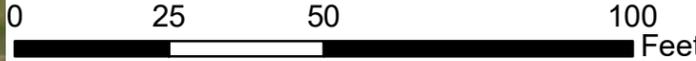
S DRAKE RD



**Kellogg Community  
Credit Union**



1 in = 30 ft



-  Subject Property
-  Other Property Line
-  Approximate Location of Addition
-  Standard 20 Foot Setback Line