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

**Tuesday, May 28, 2019  
3:00 p.m.**

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Public Comment on Non-Agenda Items
4. Approval of Minutes: February 26, 2019
5. **Public Hearing: Variance request from Maple Hill Leasehold, LLC**  
Consideration of an application from Jim Vandenberg on behalf of Maple Hill Leaseholds LLC, for two variances from the provisions of Section 49.130.D., to allow a reduced setback for the display of vehicles for sale. The subject property is addressed as 6883 West Main Street, within the "C" Local Business District classification. Parcel No. 3905-14-305-015.
6. Any Other Business
7. ZBA Member Comments
8. 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 or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email ([oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org)), walk-in visits, or by appointment.

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. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

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, but it is not required.

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 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 does not follow these guidelines.

(adopted 5/9/2000)  
(revised 5/14/2013)  
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at [www.oshtemo.org](http://www.oshtemo.org), email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to [oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org) and it will be directed to the appropriate person.

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Township Department Information		
<b><u>Assessor:</u></b>		
Kristine Biddle	216-5225	<a href="mailto:assessor@oshtemo.org">assessor@oshtemo.org</a>
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Rick Suwarsky	216-5227	<a href="mailto:rsuwarsky@oshtemo.org">rsuwarsky@oshtemo.org</a>
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Rental Info	216-5224	<a href="mailto:oshtemo@oshtemo.org">oshtemo@oshtemo.org</a>
<b><u>Planning Director:</u></b>		
Julie Johnston	216-5223	<a href="mailto:jjohnston@oshtemo.org">jjohnston@oshtemo.org</a>
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**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

**MINUTES OF A MEETING HELD FEBRUARY 26, 2019**

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**Agenda**

**PUBLIC HEARING: VARIANCE REQUEST FROM CONSUMERS CREDIT UNION BOSCH ARCHITECTS, ON BEHALF OF CONSUMERS CREDIT UNION, REQUESTED VARIANCES FROM SECTION 64.100: DESIGNATEDS HIGHWAYS TO ALLOW FOR A VARIANCE TO THE BUILDING SETBACKS FROM BOTH WEST MAIN STREET AND DRAKE ROAD, AND TO SECTION 75.130: GREENSPACE AREAS TO ALLOW FOR REDUCED LANDSCAPE BUFFERS. THE SUBJECT PROPERTY ADDRESS IS 5018 WEST MAIN ST., PARCEL NO. 3905-13-280-062.**

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A meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, February 26, 2019 at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

All MEMBERS WERE PRESENT:            James Sterenberg, Chair  
   Fred Antosz  
   Fred Gould  
   Micki Maxwell  
   Neil Sikora, Vice Chair  
   Anita Smith

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist and three other 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**

The Chair determined there were no public comments on non-agenda items.

**APPROVAL OF THE MINUTES OF JANUARY 22, 2019**

Chairperson Sterenberg asked if there were any additions, deletions or corrections to the minutes of January 22, 2019.

Ms. Smith noted a typo on page one.

Ms. Maxwell made a motion to approve the Minutes of January 22, 2019 as presented with the correction noted by Ms. Smith. Mr. Gould supported the motion. The motion was approved unanimously.

Chairperson Sterenberg moved to the next agenda item and asked Ms. Johnston for the Staff report.

Ms. Johnston said Consumer Credit Union (CCU), located at 5018 West Main Street, would like to demolish their existing building to redevelop the site. Based on concerns related to parcel size, the applicant was requesting the following variances associated to both building setbacks and the landscape buffer requirements:

### **Building Setbacks**

- Drake Road (east property line) – a 120-foot setback is required from the centerline of Drake Road. The applicant is requesting a 103-foot setback, resulting in a needed 17-foot variance.
- West Main Street – a 170-foot setback is required from the centerline of West Main Street. The applicant is requesting a 149-foot setback, resulting in a needed 21-foot variance.

### **Landscape Buffers**

- East property line – requires a 20-foot landscape buffer. The applicant is requesting a landscape buffer that tapers from 20 feet down to almost 1 foot as you move from north to the south along the east property line. The maximum variance needed would be 19 feet.
- South property line – requires a 20-foot landscape buffer. The applicant is requesting a five-foot landscape buffer, requiring a 15-foot variance.
- West property line – requires a 10-foot landscape buffer. The applicant is requesting six-foot landscape buffer, requiring a four-foot variance.

She said the current configuration of the property is non-conforming; it meets neither setback nor landscape requirements. The redesign plan for the site, while needing variances to be approved, would bring the site more into compliance with the current setback and buffer standards and would provide more greenspace.

She said the ZBA granted a sign setback variance in 2006 for this property. Per *Section 76.420*, signs are to be setback a minimum of 10 feet from the right-of-way. CCU requested placement of the sign seven feet from the right-of-way of West Main Street. They received approval from MDOT to allow the sign to encroach within the right-of-way. The ZBA granted the variance stating unique circumstances with the loss of property on Drake Road to the improved interchange.

Ms. Johnston listed the Standards of Review principles applied by the Michigan Courts for a dimensional variance, which collectively amount to demonstrating a practical difficulty:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.

She said Staff analyzed the request against these principles and offered the following information to the Zoning Board of Appeals.

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

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

**Comment:** The location as a corner property adjacent to two large rights-of-way provides some unique physical circumstances. The width of the parcel has been made incrementally smaller with the acquisition of right-of-way for Drake Road. Property was acquired in 2005/2006 to allow the expansion of Drake Road from a five-lane interchange to a seven-lane interchange adjacent to this parcel. The “land swap,” which provided additional property to CCU at the immediate southeast corner of their site, did not offer any additional square footage that would assist with building setbacks as they are measured from the centerline of the road.

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

**Comment:** The building setback ordinance has changed over time, which has affected this property. When the site was originally developed in 1973, the setbacks for both West Main Street and Drake Road were 100-feet from the centerline of the road, allowing the building in its current location. Today, the setbacks are 170 feet from the centerline of West Main Street and 120 feet from the centerline of Drake Road. While it is believed the setback ordinance was changed as rights-of-ways increased to help maintain a uniform building line, these ordinance changes have impacted the ability to redevelop this site.

Though the setbacks provide minimal available square footage on the site, a smaller commercial use without the need for drive through lanes could be redeveloped on this site. Building setbacks could be maintained allowing parking and other ordinance requirements to be met within the setback areas.

When this site was originally developed in 1973, there were no landscaping requirements for commercial developments. Since that time, the site has remained relatively unchanged except for the addition of pavement in 2006 when the Planning Commission approved new drive through and ATM lanes. With the redevelopment of the site, the landscaping requirements could be met. But it would be difficult to achieve the other ordinance requirements and have a building that meets the size needs of the credit union, as well as the drive through facility.

In addition, the landscaping requirements on a corner lot have an extra burden. A 20-foot landscape buffer is needed on both West Main Street and Drake Road. If this was an internal commercial lot, the eastern buffer (Drake Road) would be 10 feet.

Finally, the redevelopment of the site is providing an opportunity to increase some of the existing landscape buffers. While still not fully addressing ordinance requirements, the redevelopment will meet the buffer regulations to the north and will provide wider landscape buffers to the west, east and south. However, this does not preclude the site from being redeveloped by a smaller commercial business that may have a better chance of meeting all ordinance requirements.

*Standard: Minimum Necessary for 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 Zoning Board of Appeals decisions regarding building and landscape setbacks, Staff found several instances in which the ZBA granted variances for both setbacks and landscape buffers based on these standards.

Some past precedence has been set to allow a certain amount of flexibility for both building setbacks and landscape buffers. Previous Boards have considered the size of the parcels, the impact of larger setbacks on the ability to develop a property, and the substantial rights-of-way that could provide additional greenspace for a project.

Based on the proposed site plan, the applicant has tried to bring the site more into compliance with current setback and landscape buffer standards. In addition, they have worked to accommodate the minimum

variances necessary while still allowing for both a building and drive through facility.

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

**Comment:** She said with the redevelopment of the site an argument could be made that the variances needed are self-created. However, the building setbacks for this corner property severely limit the amount of space available for redevelopment. Based on the aerial provided to Board Members, there is only 4,600 square feet available outside the two required setback areas from Drake Road and West Main Street. In addition, the size of the parcel, which has been reduced by acquired right-of-way, makes it difficult to meet all ordinance requirements for a commercial use that also requires a drive through facility. CCU is reducing the size of the building and pavement from its current configuration to accommodate the small size of the parcel. While three of the four landscape buffers are still noncompliant, the applicant has made an attempt to design the site that improves on existing conditions.

In addition to the above principles, she noted the Zoning Enabling Act of Michigan states that when considering a variance request, the Zoning Board of Appeals must ensure the “spirit of the ordinance is observed, public safety secured, and substantial justice done.” Staff believes the applicant has made every attempt to adhere to the spirit of the ordinance by reducing the size of the building and asphalt on the site and increasing the amount landscaping from what is currently existing. If the Zoning Board of Appeals is amenable to granting the requested variances, Township Staff and the Planning Commission will review the site plan to ensure public safety.

Based on the site plan provided by the applicant, she indicated the only other alternate approach Staff can see for this site is to eliminate the drive through lanes and reorient the building to accommodate enhanced setbacks. This would allow more square footage to be dedicated to the landscape buffer requirements. However, current banking practices would make this approach prohibitive to the applicant.

The only alternative would be to redevelop the site for a commercial use that can be successful within a 4,600 square foot building envelop.

Ms. Johnston explained any motion made by the ZBA should include the findings of fact relevant to the requested variance. Based on the staff analysis, she listed findings of fact:

### Variance request #1: Reduction in the required building setbacks

#### Support of variance approval:

- A unique physical circumstance exists for this property as a corner lot adjacent to two significant rights-of-way, which have acquired property from this parcel over time.
- Conformance to the ordinance is unnecessarily burdensome as the enhanced setbacks for West Main Street and Drake Road severely limit the buildable area of this parcel.

#### Support of variance denial:

- Reasonable use of the property still exists under the C: Local Business District for an allowable commercial use that can utilize the available 4,600 square feet of building envelope.

### Variance request #2: Reduction in the required landscape buffer

#### Support of variance approval:

- The physical condition of a corner property places an extra burden on the parcel to meet landscape buffer requirements.
- Past precedence has allowed smaller landscape buffers adjacent to large rights-of-way where additional greenspace is provided.

#### Support of variance denial:

- Reasonable use of the property still exists under the C: Local Business District for an allowable commercial use that can utilize the available 4,600 square feet of building envelope.

Ms. Johnston listed possible actions the Zoning Board of Appeals might take:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

She also listed possible motions for the Zoning Board of Appeals to consider:

1. Based on the findings of fact, motion to approve the applicants requested variances as presented in their plan dated January 22, 2019:
  - A 103-foot setback from the centerline of Drake Road, resulting in a needed 17-foot variance.
  - A 149-foot setback from the centerline of West Main Street, resulting in a needed 21-foot variance.



- A landscape buffer variance for the east property line that tapers from the required 20-foot buffer down to a 1-foot buffer, resulting in a maximum 19-foot landscape buffer variance.
  - A five-foot landscape buffer for the south property line, requiring a 15-foot variance.
  - A six-foot landscape buffer for the west property line, requiring a four-foot variance.
2. Motion to approve the requested variances with some alternate approach determined acceptable by the Zoning Board of Appeals.
  3. Motion to deny the requested variances because reasonable use of the property is possible under the C: Local Business District.
  4. A combination motion that would approve one and/or deny the other variance request, utilizing the findings of fact and the possible motions outlined above.

Chairperson Sterenberg thanked Ms. Johnston for her review and asked if there were questions from board members.

Mr. Sikora confirmed the 4,600 square feet proposed was just for the building.

Mr. Gould asked if a zero setback had ever been approved by the ZBA.

Ms. Johnston said a zero setback had been approved for a sign.

Attorney Porter added he remembered zero setbacks similar to this request being approved twice in the past. He noted this situation was a “poster child” for ZBA as the project was originally developed in 1973 and standards have changed since.

Chairperson Sterenberg asked when the property became non-conforming.

Attorney Porter said the 1967 ordinance, which was one of the first Township ordinances, was replaced in 1981; they were out of compliance at that point since the property was developed so early and many ordinance changes have been made since.

Ms. Johnston added there was no landscape ordinance in place at all when the property was developed.

The Chair asked how the property would move closer to compliance if the requested variances are approved.

Ms. Johnston said the setback from Drake Road would go from 84 to 103 feet; the setback from West Main would go from 131 to 149 feet. In addition, landscaping will be included where there is currently no landscaping at all.

Hearing no further questions, Chairperson Sterenberg asked whether the applicant wished to speak.

Ms. Cindy McDonald of Consumers Credit Union, residing at 6303 Plainfield Ave., thanked the Board for their consideration. She explained the exterior of the building underwent a full assessment and it was determined it requires major changes. Approval of the variances will allow them to improve the appearance of the corner property and building and improve its functionality. Efficient land use and updating the appearance are goals. She confirmed the new building will consist of only one story.

Chairperson Sterenberg thanked her for her comments, determined there were no members of the public who wished to speak, and moved to Board Discussion.

The Chair reviewed the Standards of Review principles and felt the restrictions on the property were unnecessarily burdensome and that the owners were working to come into compliance as much as possible. He noted the land swap with MDOT had further restricted options. He felt the criteria was in the spirit of the ordinance and said the east wall in itself provides a kind of buffer. He concluded he was inclined to approve both requests for variance.

As there was Board consensus on the Chair's evaluation, and based on the standard that conformance with the ordinance is unnecessarily burdensome, and that the spirit of the ordinance and findings are being complied with as much as possible to improve the property, Chairperson Sterenberg made a motion to approve the applicant's request as follows:

- A 103-foot setback from the centerline of Drake Road, resulting in a needed 17-foot variance.
- A 149-foot setback from the centerline of West Main Street, resulting in a needed 21-foot variance.
- A landscape buffer variance for the east property line that tapers from the required 20-foot buffer down to a 1-foot buffer, resulting in a maximum 19-foot landscape buffer variance.
- A five-foot landscape buffer for the south property line, requiring a 15-foot variance.
- A six-foot landscape buffer for the west property line, requiring a four-foot variance.

Ms. Maxwell supported the motion. The motion was approved unanimously.

Ms. Johnston noted the Planning Commission would consider the site plan at their March 14 meeting and that if they approve, it is expected construction will be completed yet this year.

### **Any Other Business**

Ms. Johnston said there are no issues to come before the Board in March.

She also indicated that with the departure of Ms. Culp, the Township Board would appoint a liaison to ZBA at their meeting at 7:00 later in the day.

### **ZBA Member Comments**

There were no comments from Members.

### **Adjournment**

Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, he adjourned the meeting at approximately 3:28 p.m.

Minutes prepared:  
February 27, 2019

Minutes approved:  
\_\_\_\_\_, 2019

May 17, 2019



**To:** Zoning Board of Appeals

**From:** Julie Johnston, AICP  
Planning Director

**Mtg Date:** May 28, 2019

**Applicant:** Maple Hill Leasehold, LLC  
Jim VandenBerg

**Owner:** Maple Hill Leasehold, LLC

**Property:** 6883 West Main Street, Parcel No. 3905-14-305-015

**Zoning:** C: Local Business District

#### **APPLICATION OVERVIEW**

Maple Hill Leasehold, LLC, which is currently located at 5622 West Main Street, intends to expand their operation to the former Kalamazoo Kitty site at 6883 West Main Street. The subject property is zoned C: Local Business District and car sales lots are a Special Use under Section 18.30. The Planning Commission approved this Special Use at their meeting on April 11, 2019.

The applicant is requesting relief from the required setbacks for the display of cars in a sales lot. Section 49.130.D states the following:

*D. All operations and business activities, including the parking or display of sales items and equipment and outdoor sales and display area enclosures, shall comply with the setback requirements for buildings and structures contained in the Ordinance.*

The sale and display of cars must meet the same setback requirements as any building or structure onsite. This would require the following per Section 50.60: Setback Provisions:

- 170 feet from the centerline of West Main Street
- 70 feet from the right-of-way of North 8<sup>th</sup> Street

The applicant has requested the following setbacks:

- 110 feet from the centerline of West Main Street, a 60-foot variance
- 40 feet from the right-of-way of North 8<sup>th</sup> Street, a 30-foot variance

## **ADDITIONAL ZONING CONSIDERATIONS**

Section 53.50 of the Landscape Ordinance requires a 20-foot landscape buffer along both West Main Street and North 8<sup>th</sup> Street. The applicant's request for a 110-foot setback for the car sales lot would violate the required buffer, leaving only 10 feet for landscaping along this right-of-way. The landscape buffer along North 8<sup>th</sup> Street can still be maintained with the requested variance.

The Zoning Board of Appeals may wish to consider these landscaping requirements when deliberating the requested setback variance.

## **STANDARDS OF REVIEW - STAFF ANALYSIS**

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.

Staff has analyzed the request against these principles and offer the following information to the Zoning Board of Appeals.

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

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

**Comment:** There is a unique physical circumstance related to this property that limits the frontage along West Main Street. At some point in the past, approximately 1,062 square feet of the northwest corner of the property was reserved by the Michigan Department of Transportation (MDOT) for roadway drainage. This altered the shape of the property, removing 272 linear feet of frontage along West Main Street, leaving approximately 174 feet of frontage. In addition, the removal of this property made the parcel legal nonconforming as the Zoning Ordinance requires 200 feet of frontage for commercial parcels.

*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 a vehicular sales lot expansion is discretionary, and reasonable use of the property in general does exist for other commercial ventures, even if the variance request is denied. Parking lots for other commercial uses would not be required to meet the building setback standards, only the landscape ordinance requirements. That being said, the limited frontage on West Main Street makes the 170-foot setback particularly burdensome for this use as it further reduces the visibility from the right-of-way.

*Standard: Minimum Necessary for 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 Zoning Board of Appeals decisions regarding setbacks for the display of cars for sale, staff investigated car dealerships within the Township – Halli’s Auto, Maple Hill Auto Group, Metro Toyota, and DeNooyer Chevrolet. All four dealerships sought and were granted variances from the setback requirement for the sales display area.

1. DeNooyer Chevrolet, 5800 Stadium Drive

In 1983, DeNooyer Chevrolet received a variance to display vehicles within the 100-foot setback, required at that time, from the centerline of Stadium Drive. This approval was based on the site plan permitted by the Planning Commission on November 17, 1983, which allowed pavement up to the Stadium Drive right-of-way and the first 320 feet of Ventura Park Road from the centerline of Stadium Drive.

2. Maple Hill Auto Group, 5622 West Main Street

In 2003, the Maple Hill Auto Group received a variance to expand their display area to within 10-feet of the rear (north) and side (west) property lines where a 20-foot setback was required. It should also be noted that the Maple Hill Auto Group vehicle display area is within approximately 80 feet of the West Main Street centerline where a 170-foot setback is required and is immediately adjacent to the Maple Hill Drive right-of-way where a 70-foot setback is required. Staff could not find variances for these display areas. It is possible that the right-of-way lines changed since the development of this dealership.

3. Halli’s Auto, 8688 West Main Street

In 2005, Halli’s Auto received a variance to display cars within the required 170-foot setback from the centerline of West Main Street on their existing parking lot, which was originally intended for customer use. The southern edge of the existing parking lot is approximately 108 feet from the centerline of West Main Street.

4. Metro Toyota, 5850 Stadium Drive

In 2005, Metro Toyota received a variance to place their vehicle display area within 20 feet of both the Stadium Drive and Quail Run Drive rights-of-way where a 120- and 70-foot setback was required.

5. Metro Toyota, 5924 Stadium Drive

The expansion of Metro Toyota to 5924 Stadium Drive received a variance to place the vehicle display area within 20 feet of Stadium Drive and Quail Run Drive where a 120- and 70-foot setback was required.

In addition to the car dealerships, the Zoning Board of Appeals granted a variance in September of 2000 to Steensma Lawn and Power Equipment at 7561 Stadium Drive to allow the display of merchandise at the right-of-way line.

Certainly, past precedence has been set to allow some flexibility for the display of merchandise for sale. However, staff questions whether the current application is the minimum necessary along West Main Street for substantial justice considering the required landscape setbacks and existing pavement extent, which is approximately 140 feet from the centerline of West Main.

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

*Comment:* The existing site boundaries and design were not a result of the applicants' actions.

## **ALTERNATIVES**

In addition to the above principles, the Zoning Enabling Act of Michigan states 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." To help ensure these standards are met for both the applicant and adjacent property owners, the Zoning Board of Appeals may want to consider conditioning any variances granted on meeting the landscaping requirements of Section 53.50 of the Zoning Ordinance. This would equate to a 120-foot setback from the centerline of West Main Street, necessitating a 50-foot variance. The requested variance along North 8<sup>th</sup> Street maintains the required landscape buffer.

## **POSSIBLE ACTIONS**

The Zoning Board of Appeals may take the following possible actions:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
  - The unique physical condition of the property, losing approximately 1,062 square feet for an MDOT drainage basin, limits the frontage on West Main Street.
  - The 170-foot setback from the centerline of West Main Street for the display of cars for sale is particularly burdensome to this use due to the limited frontage.
  - Significant precedence has been set allowing encroachment into the required setbacks, especially along rights-of-way.
- Support of variance denial
  - Reasonable use of the property still exists under the C: Local Business District for any other allowable use.

Possible motions for the Zoning Board of Appeals to consider include:

1. Applicant's Request

Based on the findings of fact, motion to approve the following variances for parking or display of sale items related to new/used car sales:

- 60-foot variance along West Main Street, allowing a setback of 110 feet
- 30-foot variance along North 8<sup>th</sup> Street, allowing a setback of 40 feet

If the ZBA chooses this motion, another variance hearing will be required. The Township did not publicly notice for a landscape variance, only a setback variance. Per State statute, public notices are to describe the nature of the request. A second hearing would be scheduled for the June 25<sup>th</sup> meeting.

2. Alternate Approach

Based on the findings of fact, motion to approve the following variances for parking or display of sale items related to new/used car sales:

- 50-foot variance along West Main Street allowing a setback of 120 feet
- 30-foot variance along North 8<sup>th</sup> Street, allowing a setback of 40 feet

3. Motion to deny the requested variances because reasonable use of the property is possible under the C: Local Business District for any other allowable use.

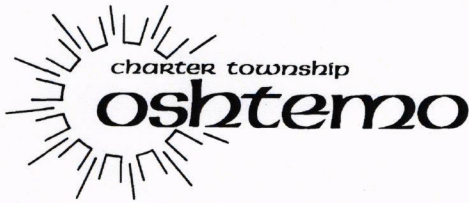
Respectfully Submitted,



Julie Johnston, AICP  
Planning Director

Attachments: Application and Applicant's Statement  
Aerial Map with Setbacks





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

**PLEASE PRINT**

**PROJECT NAME & ADDRESS** MAPLE HILL WEST

**PLANNING & ZONING APPLICATION**

Applicant Name : JIM VANDENBERG  
Company MAPLE HILL LEASEHOLDS LLC  
Address 6983 W MAIN ST  
KALAMAZOO MI 49009  
E-mail JVANDENBERG@MAPLEHILLAUTO.COM  
Telephone 269-342-6600 Fax \_\_\_\_\_  
Interest in Property OWNER

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

**OWNER\*:**

Name MAPLE HILL LEASEHOLDS LLC  
Address 5622 W. MAIN ST  
KALAMAZOO MI 49009  
Email SAME  
Phone & Fax SAME

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

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

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

**BRIEFLY DESCRIBE YOUR REQUEST** (Use Attachments if Necessary):

CURRENT FRONT "PARKING" SET BACK IS 170' FROM CENTER LINE REDUCED TO 110" (AVG SET BACK FROM CL IS 98')  
REDUCE SIDE OR 8<sup>TH</sup> ST SIDE SET BACK 30' TO CURRENT END OF PAVEMENT  
(FROM 70' TO 40') OFF-RIGHT AWAY

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

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

PARCEL NUMBER: 3905- 14305015

ADDRESS OF PROPERTY: 6883 W. MAIN ST KALAMAZOO MI 49009

PRESENT USE OF THE PROPERTY: AUTO DEALERSHIP NEW/USED/PARTS/SERVICE


PRESENT ZONING C SIZE OF PROPERTY 4.1 ACRE

**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.*

  
\_\_\_\_\_

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

4-12-19

**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**

# MAPLE HILL WEST

6883 West Main St. · 269-342-6600

[Maplehillauto.com](http://Maplehillauto.com)

Ben Clark  
Oshtemo Planning Director  
7275 W. Main Street  
Kalamazoo, MI 49009

DEAR BEN,

Maple Hill is looking for a reduction of the front and side setback for PARKING vehicles only to help with visibility and parking on the property of 6883 West Main St.

- First the Front setback is currently at 170 feet from the center line of W Main (M-43) for Vehicle parking which was placed at the current Building setback. This property has a large disadvantage that is sets back so far from West Main and the Mall to the east Blocks the entire building when coming from the east. This reduction of the setback for Parking only to 110' from the center line, would allow us to increase our visibility to the East.
- Properties 300' to the east and west of the property average a setback of 98'(see enclosed map). The direct property adjacent to the property to the West, parking is allowed within 64' for address 7021. The direct property to the East parking is 99' from center line. Our request of 110' is 46' and 11' greater then current neighbors.
- Projects on west Main St. like:
- Latitude 42 parking set back is 99'
- Bronson at 115 to back of car, 84 'to pavement.
- Arby's is at 115'
- Our request will reduce our set back for parking but will still be the farthest from the center line of any of the other Auto Dealerships in Oshtemo Township with DeNooyer at 100' from centerline, Metro Toyota under 100' from center line, Maple Hill Auto Group at 80' from center line and the small used car lot on west Main at 75' from center line.
- This property is also unique that it does not own the corner, or the first 95' from the center line which leaves a very large Green space in front of the property. M-dots ownership of the corner is also a draw back on this property because of the lack of care that is given their property.
- The side setback is currently at 70' from RIGHT OF WAY, which places the set back 30' onto the asphalt surface. We are asking to reduce the setback to 40' from the right of way so that the current asphalt and setback alien and this space can be used for

parking. This also bring the setback in line with the wall on the west side of Walmart's property. All the green space and trees along 8<sup>th</sup> St. will remain.

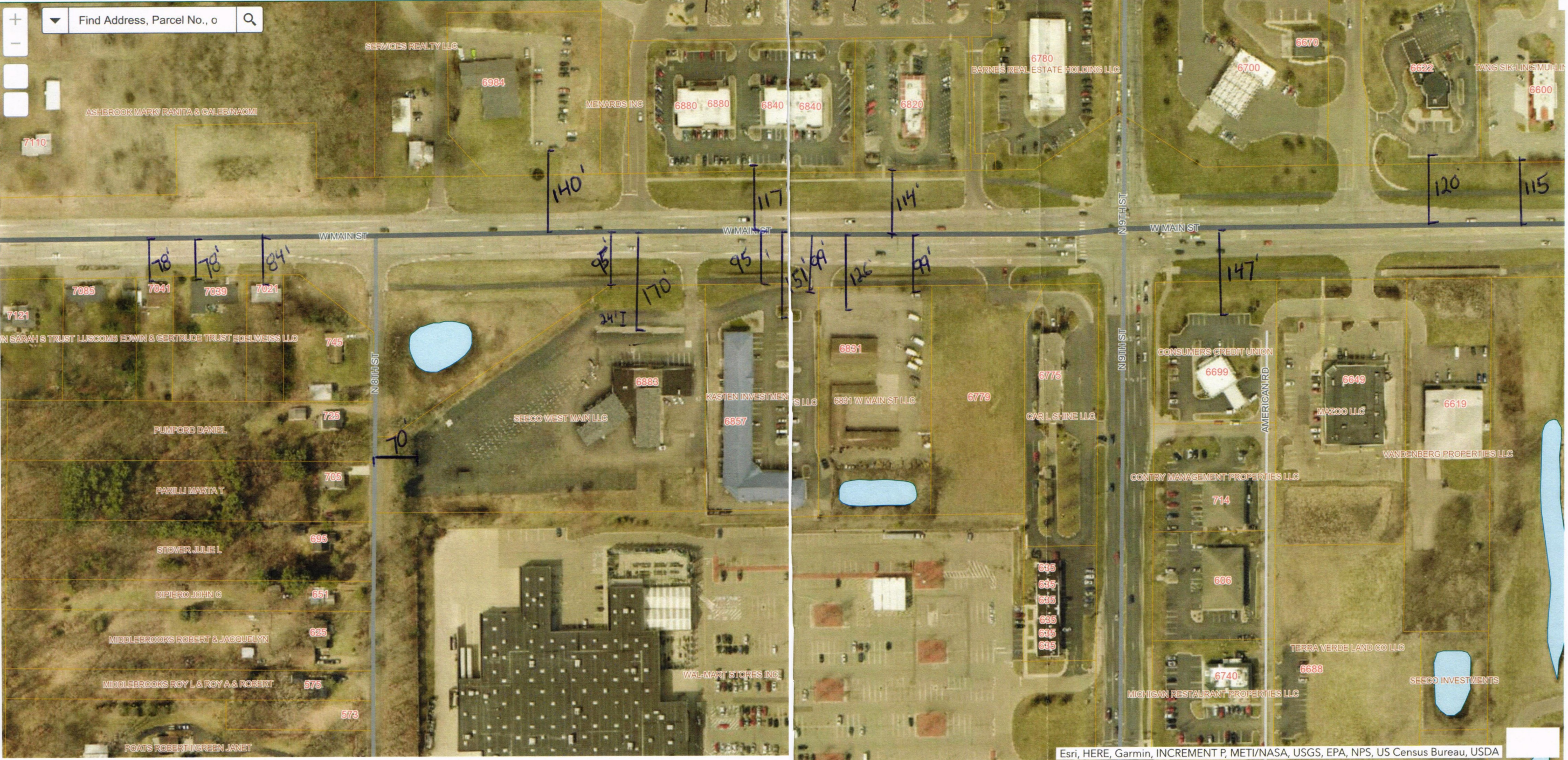
Thank you

A handwritten signature in blue ink that reads "Jim Vandenberg". The signature is written in a cursive style with a large initial "J".

Jim Vandenberg

Maps of West Main and property setbacks enclosed.

AVERAGE PARKING SETBACK



98' AVG ON SOUTH SIDE 300' EACH DIRECTION



