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**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS - REGULAR MEETING**

**OSHTEMO TOWNSHIP HALL
7275 WEST MAIN STREET**

**TUESDAY, APRIL 22, 2025
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: March 25, 2025
6. **Variances: Non-Motorized Facility and Landscaping & Site Plan Review: Blackberry Systems (6477 W KL Avenue 3905-23-405-013**
Zoning Board of Appeals to consider request for variance from Section 57.90 of the Zoning Ordinance to eliminate the requirement that a non-motorized facility be established along South 9th Street when a new warehouse is built and a variance from the greenbelt requirements of Article 53. Zoning Board of Appeals also to conduct site plan review of a proposed 2100 square foot warehouse building and additions to the existing building.
7. Other Updates and Business
8. Adjournment

(Meeting will be available for viewing through <https://www.publicmedianet.org/qavel-to-qavel/oshtemo-township>)

**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), 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 a.m.-1 p.m. and 2-5 p.m., and on Friday, 8 a.m.–1 p.m. Additionally, questions and concerns are accepted at all hours through the website contact form found at 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 and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Cheri Bell	216-5220	cbell@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Clare Buszka	216-5260	cbuszka@oshtemo.org
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Kristin Cole	375-4260	kcole@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
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Township Department Information			
<u>Assessor:</u>			
Kristine Biddle	216-5225	assessor@oshtemo.org	
<u>Fire Chief:</u>			
Greg McComb	375-0487	gmccomb@oshtemo.org	
<u>Ordinance Enforcement:</u>			
Alan Miller	216-5230	amiller@oshtemo.org	
<u>Parks Director:</u>			
Vanessa Street	216-5233	vstreet@oshtemo.org	
Rental Info	216-5224	oshtemo@oshtemo.org	
<u>Planning Director:</u>			
Jodi Stefforia	375-4260	jstefforia@oshtemo.org	
<u>Public Works Director:</u>			
Anna Horner	216-5228	ahorner@oshtemo.org	

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD MARCH 25, 2025

Agenda

Site Plan Review: Laaksonen (7190 W KL Avenue 3905-22-285-047)

Zoning Board of Appeals to conduct site plan review of a proposed 4,256 square foot warehouse building at 7190 West KL Avenue in the I-1, Industrial zoning district.

Site Plan Review: Story Point (1451 & 1700 Bronson Way 3905-12-455-016 & 12-4550-017)

Zoning Board of Appeals to conduct site plan review of a proposed 23-unit senior cottage development off Bronson Way Boulevard in the R-4, Multiple Family Residential zoning district.

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held Tuesday, March 25, 2025, beginning at 3:00 p.m.

MEMBERS PRESENT: Rick Everett
 Fred Gould
 Harry Jachym, Vice Chair
 Al Smith
 Louis Williams, Chair

MEMBERS ABSENT: Dusty Farmer

Also present were Jodi Stefforia, Planning Director; Colten Hutson, Zoning Administrator; Jim Porter, Township Attorney; and 5 interested persons.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 3:00 p.m. Those in attendance joined in reciting the Pledge of Allegiance.

APPROVAL OF AGENDA

Chair Williams called for approval of the agenda, with the deletion of Item 3, as it had been addressed at the previous meeting.

Mr. Smith **made a motion** to approve the agenda as amended. Mr. Gould **seconded the motion**. The motion was **approved unanimously**.

PUBLIC COMMENT ON NON-AGENDA ITEMS

There were no comments on non-agenda items.

APPROVAL OF THE MINUTES OF FEBRUARY 25, 2025

Chair Williams asked for additions, deletions, or corrections to the Minutes of the meeting held on February 25, 2025.

Vice Chair Jachym **made a motion** to approve the minutes of the meeting held on February 25, 2025 as attached.

Mr. Gould noted a correction on page 8 of the minutes, stating that it was he, not Vice Chair Jachym, who raised the concern regarding a bridge over the railroad.

Mr. Smith **made a motion** to approve the minutes of the meeting held on February 25, 2025 with the identified correction. Mr. Gould **seconded the motion**. The **motion was approved** unanimously.

SITE PLAN REVIEW: Laaksonen (7190 W KL Avenue 3905-22-285-047)

Ms. Harris presented her staff report dated March 20, 2025, and incorporated herein, regarding site plan approval to construct an approximately 4,300 square foot building at 7190 W KL Avenue, Parcel Number 05-22-285-047.

Project Summary

The applicant, Seth Barr, with Bosch Architecture, on behalf of Kevin Laaksonen, property owner, is requesting site plan approval to construct a 4,256 square foot warehouse located 7190 W KL Avenue. The 1.91-acre site, including rights-of way, is located on the north side of W KL Avenue, west of S 8th Street. An aerial image from 2022 was provided.

The subject site is zoned I-1: Industrial District. Contractor's services are a permitted use within this zoning district. When reviewing this site plan request, the general Site Plan Review criteria in Section 64 are considered. An analysis against said code section follows. Overall, most of the requirements of Section 64 have been met.

Section 64: Site Plan Review

Zoning:

Currently zoned I-1: Industrial District, the site abuts warehouse, light manufacturing, and office uses to the east and west, and residential uses to the north. I-1: Industrial District zoning is situated east and west of the site while RR: Rural Residence District zoning abuts to the north. The percentage of land covered by buildings is 5.1%, pavement coverage is 11.5%, open space is 83.4% of the site. All general zoning requirements have been met. A snapshot of the proposed site plan is provided to the right.

Access:

Access will be provided from a new commercial driveway on West KL Avenue. The location of this driveway has not yet been approved by the Road Commission of Kalamazoo County (RCKC). Such approval will be required prior to building permit issuance. From informal conversations, Staff believes that the RCKC will require the driveway to be relocated to the east end of the site essentially flipping the site layout. This change can be accomplished while satisfying ordinance requirements and could be approved administratively.

All circulation aisles within the site are a minimum of 24 feet in width, which is the minimum width required for two-way travel.

Parking:

Three (3) parking spaces are shown on the site plan, with one ADA accessible space and aisle proposed to be constructed in concrete. All standard parking stalls on-site are shown at 10' x 20'. Contractor's services are required to provide parking at 1 space per each 1,500 square feet of net floor area, plus the required parking devoted to other uses, or one per employee, whichever is greater. All parking requirements for the proposed use have been satisfied.

Easements:

There are existing easements located on the south side of the subject site along West KL Avenue. No new easements are proposed.

Non-motorized:

There are no non-motorized paths outlined in the Township's Non-Motorized transportation Plan in this area of West KL Avenue.

Building Information:

The proposed approximately 4,300 square foot building will be positioned on the east side of the property. The building will store tools, equipment, and aluminum frame components. The height of the building will be approximately 30 feet.

Lot Dimensions:

The site under consideration is about 1.91 acres in size, including the West KL Avenue rights-of-way, with approximately 204 feet of frontage on West KL Avenue. Property area and frontage requirements are satisfied.

Setbacks:

Properties located within industrial zoning districts are required to have a minimum front yard setback of 70 feet. The proposed building is set back at least 70 feet from the West KL Avenue right of way line. Industrial properties are also subject to a minimum side and rear yard setback of 20 feet or equal to the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater. Since the building is proposed at a height of 30 feet, a 30-foot side yard setback applies on the

east property line. There is also an enhanced setback to the northern residential zoning of 100 feet. The minimum setbacks for the front, side, and rear yard are met.

Fencing:

No changes or additions to fencing on the site are proposed.

Lighting:

A lighting plan was provided and is satisfactory.

Signs:

Any signage planned to be added to the site will be required to follow the sign permit application process and submitted separately to the Township for review and approval.

Landscaping

A landscaping plan was provided with the plan set. There are a number of plantings proposed in the greenbelt along West KL Avenue, surrounding the building, and along the west property line. Within the rear setback area, existing trees and a 4-to-6-foot berm are proposed to remain, which will provide adequate screening to the northern residential property. All necessary landscaping is provided in the site plan and landscaping requirements have been satisfied.

Engineering

The Oshtemo Public Works Department has concerns regarding engineering details on the site plan; however, is confident that these concerns can be resolved administratively prior to building permit issuance.

Fire Department

Oshtemo's Fire Marshal has reviewed the proposed layout and has no concerns in terms of access and circulation and is satisfied with the overall design of the site.

Recommendation

Planning Department staff recommend that the Zoning Board of Appeals approve the proposed site plan to allow for the construction of an approximately 4,300 square-foot building located at 7190 West KL Avenue with the following conditions:

1. Site Plan approval is subject to review and approval from the Oshtemo Public Works Department and all other regulatory agencies such as the Road Commission of Kalamazoo County, the Kalamazoo County Health Department, and the Kalamazoo County Drain Commissioner prior to building permit issuance.
2. Any change to the layout due to other regulatory agency requirements will be considered for administrative site plan amendment approval.

Chair Williams invited any representatives of the project up to the podium to speak. The project representative thanked staff for their report.

Mr. Everett inquired about the engineering concerns. Ms. Harris explained that the concerns were related to the positioning of the driveway and the finalization of the stormwater details.

Mr. Smith **made a motion** to approve the proposed site plan for 7190 West KL Avenue as outlined in the packet with reservations regarding the storm water retention and the driveway positioning. Mr. Gould **seconded the motion**. The **motion was passed** unanimously.

SITE PLAN REVIEW: Story Point (1451 & 1700 Bronson Way 3905-12-455-016 & 12-4550-017)

Mr. Hutson presented his staff report dated March 20, 2025, and incorporated herein, regarding site plan approval to construct a 23-unit senior cottage development located at 1451 Bronson Way, Parcel Number 05-12-455-016.

Project Summary

CommonSail Development, on behalf of the owner, EPC Trevi, LLC, is requesting site plan approval to construct a handful of three and four-family dwellings to serve as senior cottages located at 1451 Bronson Way. Currently vacant, the applicant is seeking to develop seven residential buildings which will provide a total of 23 new dwelling units. The project site falls within the R-4: Residence District zoning designation. The overall campus is outlined in light blue on the map to the right with a snapshot of the subject development site placed on top of the aerial in the northeast corner of the campus.

When reviewing this request, there are two sets of criteria that need to be considered: the general site plan review criteria outlined in Section 64, and the conditions for specific permitted use requirements outlined in Section 48.130. Below is an analysis of the proposal against these two code sections. Overall, most of the requirements of Section 64 and Section 48.130 have been met

Section 64: Site Plan Review

Zoning:

1451 Bronson Way is zoned R-4: Residence District and is located within the northeast quadrant of the Township. The subject property abuts farmland to its east, single family homes and a communication tower facility to its north, a hospice care facility to its south, and unimproved commercial property and a multi-family development to the west. Land that abuts to the north and east of the project area are zoned R-2: Residence District while property adjacent to the south is CRZ zoned R-4: Residence District. Property to the west is zoned R-4: Residence District and C: Local Business District. Three and four family dwellings are categorized as a permitted use with conditions within the mentioned zoning district. With the proposed improvements at 1451 Bronson Way, the percentage of land covered by buildings is 13.2% while 24% is open space.

Access:

The site under consideration already possesses a full access point adjacent to Croyden Avenue. The property also has an emergency access drive along Beech Avenue

to the north. The proposed private street is designed to accommodate two-way travel. The 24' wide drive aisles meet the minimum width requirements outlined in the Township's zoning ordinance. The Fire Marshal has reviewed the site plan and found it adequate to service emergency vehicle circulation. As the campus encompasses three legally separate parcels and shares one full access point adjacent to Croyden Avenue, cross-access easements will need to be submitted to the Township for review and subsequently recorded at the Kalamazoo County Register of Deeds Office.

Parking:

Each dwelling unit offers an attached 1.5 stall car garage in addition to the respective driveway. The zoning ordinance requires at least 2.5 parking spaces for three and four-family dwellings. Minimum parking requirements have been satisfied.

Easements:

Easements have been illustrated on the site plan. Any proposed easements will be required to be recorded at the Kalamazoo County Register of Deeds Office.

Non-motorized:

The Township's Non-motorized Transportation Plan does identify a non motorized facility adjacent to the subject site on the east side of Maple Hill Drive. A 5' wide concrete sidewalk in said location is currently proposed as a part of the memory care building addition project that was approved by the Zoning Board of Appeals in May of 2024. Said sidewalk drawings will need to be included in an updated plan set for the subject project. If any portion of the sidewalk results in being located outside of the public right-of-way in order to avoid safety concerns and utility conflicts, a sidewalk easement will be required to be recorded at the Kalamazoo County Register of Deeds Office.

An internal sidewalk network is proposed on both sides of Story Point Drive. Said sidewalk will be 5' wide and made of concrete. Sidewalk ramps are provided both at intersections and mid-block crossings. Striping is proposed at all five cross-walk locations. The site plan will need to be revised so that all sidewalk ramps are constructed with concrete curbing and cross-walks that meet Michigan Manual on Uniform Traffic Control Device standards.

Building Information:

The buildings containing three-family dwellings are proposed to be 108.1' x 42.1'. Buildings containing four-family dwellings are proposed to be 144.5' x 42.1'. Each dwelling unit will be 1,480 square feet in area. The exterior material proposed for the proposed three and four-family dwellings include brick, stone sill, vinyl siding, trim board, and asphalt shingles. A snapshot of the elevation sheet submitted with the site plan.

Lot Dimensions:

The site under consideration is comprised of three parcels and is about 35 Acres in size when including public right-of-way. The overall campus has approximately 1,680' of

road frontage adjacent to public roadway. The property exceeds the minimum area and frontage requirements of the R-4: Residence District. The site's dimensions satisfy minimum zoning ordinance requirements.

Setbacks:

The residential structures are proposed to be setback approximately 100' from the west property line, 85' from the north property line, approximately 20' from the east property line, and about 70' from the south property line. The minimum setbacks outlined in the Township's Zoning Ordinance for the front, side, and rear yards have all been satisfied.

Waste Disposal Container:

A community waste disposal container is not proposed as each dwelling unit will have their own respective roller bin. This portion of review is not applicable.

Fencing:

No changes to the current on-site fencing is proposed. This portion of the review is not applicable.

Lighting:

A photometric plan has been provided. Several new pole and building mounted lights are proposed. The lighting plan will need to be revised to illustrate foot-candles to the property lines and show the updated site layout to confirm ordinance requirements have been met.

Landscaping

The landscaping plan that was submitted is proposing to preserve a number of existing trees along the north and west ends of the site in addition to planting several deciduous trees to satisfy the Township's streetscaping requirements. Evergreen trees are also proposed to be planted throughout the site. Other than the need to provide dimensions for some site elements of the landscaping plan, all requirements within the Zoning Ordinance have been met.

Engineering

The Oshtemo Public Works Department have reviewed the project site plan and overall are happy with the proposal. Oshtemo Public Works is coordinating with the applicant on the final design plans for stormwater, grading, and utilities. It is suggested that any further review and approvals for outstanding engineering items be handled administratively with the Oshtemo Public Works Department.

Fire Department

The Fire Marshal expressed that the on-site circulation for fire apparatus is satisfactory; however, a fire hydrant will need to be added on an updated site plan along the southwest corner of Story Point Drive.

Section 48.130: Conditions for Specific Permitted Uses – Three or Four-Family Dwellings
Specific Use Requirements: The Conditions for Specific Permitted Use development requirements of Article 48.

Per Section 48.130 of the Zoning Ordinance, there are three specific requirements that must be met for three or four-family dwellings within the Township. Each requirement is outlined below. Staff have confirmed that such requirements outlined under Section 48.130 of the Zoning Ordinance will be met.

- A. Building shall not be more than two stories in height.
Requirement Satisfied. Please see site data notes on Sheet C200 of plan set.
- B. Dwelling unit density shall be limited to a maximum unit density of four units per acre.
Requirement Satisfied. Please see site data notes on Sheet C200 of plan set.
- C. Public sanitary sewer facilities shall be provided as part of the site development.
Requirement Satisfied. Please see utilities proposed on Sheet C400 of plan set.

Recommendation

Planning Department staff recommend the approval of the proposed Site Plan for a 23-unit senior cottage residential development at 1451 Bronson Way with the following conditions.

- 1) A Soil Erosion and Sedimentation Control (SESC) permit from the Kalamazoo County Drain Commissioner's Office will be required prior to building permit issuance. Chair Williams invited any representatives of the project up to the podium to speak. The project representative thanked staff for their report.
- 2) A permit by the Road Commission of Kalamazoo County authorizing work within the public right of-way as well as a non-motorized project permit for new sidewalk will be required prior to building permit issuance.
- 3) A revised site plan addressing any outstanding concerns from the Oshtemo Planning, Fire, and Public Works Departments shall be submitted to the Township for administrative site plan review and approval prior to building permit issuance.
- 4) Copies of the necessary recorded easements shall be provided to the Township prior to issuing a certificate of occupancy.
- 5) All non-motorized facilities on the approved site plan shall be installed prior to issuing a certificate of occupancy.

Chair Williams invited representatives of the project up to the podium to speak.

Mr. Tony Perez from O'Brian Construction Group spoke on the project. This is a compliment to the existing community. The cottages are for independent active seniors, but with the security and safety of being on campus. There will be some monitoring such as nurse calls and other activity from the main building.

Ms. Stefforia asked about the average age. Mr. Perez shared it really just depended on how active and mobile the person is.

Mr. Gould inquired if the residents would eat in the main building or cook in their units. Mr. Perez shared they would be able to cook in their units although he did share that over time, the residents do tend to gravitate towards the main building for meals and rely more on housekeeping and other everyday services.

Mr. Gould inquired if the intent was for the residents to move through housing options. Mr. Perez shared that yes, the intent is for them to stay within the community but move into other living situations as the needs of the resident changes.

Ms. Stefforia inquired if pets would be allowed. Mr. Perez confirmed that pets would be allowed.

Mr. Jeff Miller of Prein & Newhof spoke next. As for the review of the outstanding items, he shared that he does have any concerns with the completion and satisfying of the requests.

There were no further comments.

Mr. Smith **made a motion** to approve the proposed Site Plan for the 23-unit independent senior cottage development at 1451 Bronson Way subject to the contingencies set forth in the staff recommendations. Mr. Gould **seconded the motion**. The **motion was passed** unanimously.

OTHER UPDATES AND BUSINESS

Ms. Stefforia invited everyone to stay and attend the joint Township Board meeting at 5:00 p.m.

She also acknowledged that the success of the Site Plan reviews is due to the collaboration and hard work of the Planning Department staff and Public Works prior to the presentation to the Board. Chair Williams thanked the team for their efforts.

ADJOURNMENT

There being no further business, Chair Williams adjourned the meeting at 3:25 p.m.

Minutes Prepared: March 27, 2025

Minutes Approved:

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April 17, 2025

Mtg Date: April 22, 2025

To: Oshtemo Township Zoning Board of Appeals

From: Leeanna Harris, Zoning Administrator

Applicant: Cameron Shields, Blackberry Systems

Owner: SHIELDS MJ, LLC

Property: 6477 W KL Avenue, Parcel Number 3905-23-405-013

Zoning: I-1: Industrial District

Request(s): Site plan review; a variance to not be required to construct the non-motorized facility adjacent to S 9th Street, per Section 57.90 of the Zoning Ordinance; and a variance to not be required to install certain landscaping in the greenbelt along the S 9th Street right-of-way, per Section 53.60.

Section(s): Section 64 – Site Plan Review; Section 53.60 – Landscaping; Section 57.90 – Sidewalks and Non-Motorized Facilities

OVERVIEW:

The property owner, Cameron Shields, is requesting site plan approval and two (2) variances. The site currently encompasses two buildings with additions of buildings for storage, office, and warehouse uses proposed. The project is planned to be constructed in three phases: the warehouse addition in phase one (2025), the office addition in phase two (summer of 2027), and the showroom addition in phase three (summer of 2028). The site possesses frontage adjacent to S 9th Street and W KL Avenue. The subject property is outlined in green on the aerial map to the right.

The requested variances are from Sections 53.60 and 57.90 of the Zoning Ordinance. The applicant is requesting to not be obligated to install certain landscaping along the S 9th Street right-of-way, per Section 53.60. The applicant is also requesting relief from Section 57.90 to not be obligated to install the 6-foot-wide sidewalk along the property’s frontage on S 9th Street.



ANALYSIS:

When reviewing this site plan and variance requests, there are two sets of criteria that need to be considered: the general Site Plan Review criteria outlined in Section 64, and the variance review criteria in Section 69 against Section 53 and Section 57. Below is an analysis of the proposal against Section 64. See ‘Section 69: Standards of Review’ section following for variance review.

Section 64: Site Plan Review

General Zoning Compliance:

Zoning: 6477 W KL Avenue is zoned I-1: Industrial District. Adjacent to the east are other industrial uses and to the south is Township-owned property and the Amtrak railway. The proposed building and additions are permitted uses within this zoning district. The percentage of land proposed to be covered by buildings is 13.5% and remaining open space is 63.5%. All general zoning requirements are met.

Access and Circulation

Access: The property has an established drive from W KL Avenue, and this access is not expected to change. All circulation aisle widths meet the minimum required for two-way travel.

Parking: There are 25 existing parking spaces on the site, the minimum required for the proposed uses on the site. There are also five large spaces proposed for equipment storage near the frontage to S 9th Street.

Easements: There is a Consumer’s Power easement that spans diagonally across the southwest of the site. Staff also suggest, if the non-motorized variance and site plan are approved, that an easement be provided to the Township to accommodate future non-motorized infrastructure along S 9th Street.

Non-motorized: A variance was requested by the applicant to not be required to install the non-motorized infrastructure along S 9th Street at this time, per Section 57.90 of the Zoning Ordinance. If the variance is not granted, the site plan would need to be revised and administratively approved by staff and the non-motorized infrastructure would need to be installed at the time of construction. Since the non-motorized infrastructure would be located outside of the right-of-way, due to RCKC and Township requirements, staff recommend the ZBA require an easement for future facilities, with the width of the easement to be determined.

Building Design

Building Information: The proposed 2,100 square foot single-story warehouse, to be constructed in phase one, is proposed to have a height of 19 feet and have steel siding, see elevation details attached. The approximate 1,600 square foot office addition on the east side of the site, to be accomplished in phase two, is proposed to have a height of 15 feet. Both this addition, and the approximate 800 square foot addition on the north side of the site to be accomplished in phase three which is not proposed to exceed the existing building in height, are proposed to match the existing side color and style.

Lot Dimensions: The property is approximately 2.63 acres, including rights-of-way, with 298 feet of frontage along W KL Avenue and 248 feet of frontage on S 9th Street. Lot size and dimensions satisfy requirements.

Setbacks: From S 9th Street and W KL Avenue, a 70-foot setback is required. From the eastern side yard, a setback of 15 feet is required, due to a 5-foot setback variance that was granted by the ZBA at their August 20, 2024 meeting, and a 20-foot setback required from the south property line. Setback requirements are satisfied.

Fencing: Existing fencing on the east property line is expected to remain on site. No additional fencing is proposed at this time; therefore, this portion of the review is not applicable.

Lighting: Six (6) new wall-pack lights are proposed on the single-story warehouse. All lighting will be cut-off fixtures.

Signs: No new signage is proposed; therefore, this portion of the review is not applicable. Any signage would be reviewed and approved by the Township Zoning Administrator through the sign permitting process.

Landscaping

A variance was requested to not install the two (2) canopy and four (4) understory trees in the greenbelt along the S 9th Street right-of-way; therefore, these are not currently shown on the site plan. Depending on the outcome of the variance request, the site plan would need to be revised and administratively approved by staff. There are eight (8) shrubs proposed along the parking lot adjacent to S 9th Street. The greenbelt requirements along the W KL Avenue right-of-way are satisfied with the three (3) canopy trees and six (6) understory trees shown on the landscaping plan. There is an existing dumpster enclosure on the south end of the site.

Engineering

The Oshtemo Public Works Department has reviewed the proposal and have provided a memo, attached, regarding the non-motorized infrastructure along the S 9th Street frontage. Besides their concerns about existing grades in the area as it pertains to a future non-motorized facility and the existing stormwater infrastructure, they are satisfied with the site.

Fire Department

The Oshtemo Township Fire Marshal has reviewed the proposal and have found the site plan to be satisfactory and that it meets code requirements.

RECOMMENDATION

Planning Department staff recommend that The Zoning Board of Appeals approve the site plan with the following conditions:

- An updated site plan shall be submitted and approved by the Township prior to building permit issuance showing the following:
 - A note shall be added to the site plan indicating that the final location of the non-motorized facility shall be determined by the Township at the time of construction.
 - Any additional and necessary changes required due to variance approvals or denials.
- An easement for a future non-motorized facility shall be provided to the Township prior to occupancy being granted for the warehouse in phase one.

Section 69: Standards of Variance Review

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

- Special or unique physical conditions and circumstances exist which are specific 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.
- Public safety and welfare.

Staff have 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: **Sidewalk and greenbelt landscaping along S 9th Street** – The frontage of the property along S 9th Street where non-motorized facilities would be placed is steep and construction at this time would present significant grading challenges with existing terrain as well as impacts to stormwater infrastructure. *See site photos below.* The same unique physical limitations or conditions are present with regard to the greenbelt landscaping along the rights-of-way with the addition of a Consumers Power easement, shown illustrated on the site plan, which would limit the area and the height available to install canopy or understory trees. Shrubs required by the streets right-of-way section, intended to provide screening to the parking lot, are still being provided on the site plan. Also see applicant’s reasoning in the attached narrative.

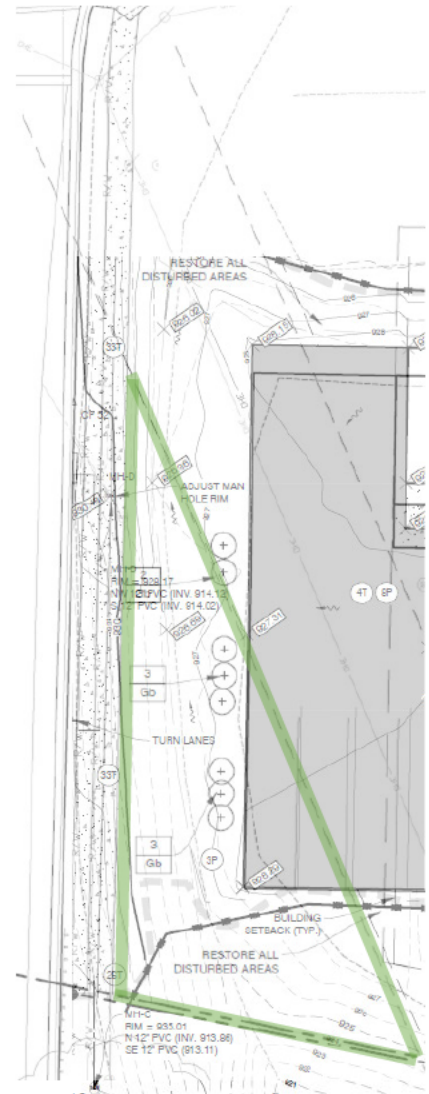


Standard: *Conformance Unnecessarily Burdensome*
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

Comment: **Sidewalk along S 9th Street** – It would be unreasonable to require a sidewalk to be installed that does not connect to another non-motorized facility nearby. Given the recent changes in the law, constructing a ‘sidewalk to nowhere’ violates the new Public Right-Of-Way Accessibility Guidelines (PROWAG) statute. Additionally, as a part of the Comprehensive Master Plan, a close look will be taken at the non-motorized transportation plan and recommendations for revisions will arise with the completion and implementation. See also applicant’s reasoning for this criterion in the attached narrative.

Greenbelt landscaping along S 9th Street – It could be argued that there are reasonable options for compliance. The applicant is requesting not to be required to install the two (2) canopy and four (4) understory trees along the S 9th Street frontage in the greenbelt area and just install shrubs along the parking area. The applicant indicated in their narrative that plantings to satisfy this requirement were provided with past site plan reviews but were removed by Consumers Energy due to the restrictions of the easement, which indicates no trees are allowed to be in this area. This, coupled with the unique topography, could make conformance challenging.

To honor the intent of the ordinance and the restrictions of the easement, staff recommend the ZBA consider reducing the requirements by half, requiring one (1) canopy and two (2) understory trees, or a substitution of low-growing shrubs or other understory trees, to be located outside of the easement area, shown to the right.



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 ZBA decisions regarding variance relief from the non-motorized facilities requirements of Section 57.90 and Section 53.60 of the Zoning Ordinance, Planning Department staff were able to identify similar requests where these Ordinance requirements were considered. A summary of these findings is described below.

Sidewalk along S 9th Street

Complete Team Outfitters, 1560 S 8th Street, August 20, 2024 – Granted

The applicant requested a variance to not be required to install a 6-foot-wide concrete sidewalk along their frontage to S 8th Street. Their argument was that the request was not self-created, and that the sidewalk requirement would be unnecessarily burdensome. Information was also provided detailing that the Ordinance provision requiring the installation of sidewalk would present a significant grading challenge given the topography where the sidewalk would be placed. It was also mentioned that the surrounding area cannot support the subject sidewalk given there are no other non-motorized facilities to connect to and that the bridge crossing the AMTRAK railway currently does not have the capacity for a sidewalk or pedestrian boardwalk at this time. The ZBA granted the variance with a condition that requires the property owner to consent to a Special Assessment District (SAD) agreement for the sidewalk, which essentially allows for the construction of the sidewalk to be deferred until the Township finds it appropriate to create a SAD to implement these public improvements. By the property owner executing this agreement, they consented to not oppose the creation of a SAD and to pay the appropriate assessment in the future when the district is established.

Fountain Springs, 1410 S 9th Street, February 25, 2025 – Granted

Similar to the Complete Team Outfitters request, the applicant requested a variance to not be required to install a 6-foot-wide concrete sidewalk along the S 8th Street frontage, as well as along their S 9th Street frontage. The applicant argued that the request is not self-created, and that the sidewalk requirement would be unnecessarily burdensome. Significant grading challenges also affected this site on both their frontages subject to this requirement. On their S 8th St frontage, the corridor could not support the sidewalk given there would be no other facilities to connect to, and the AMTRAK railway cannot support a pedestrian crossing in the near future. The ZBA granted the variance with a condition that requires the property owner to consent to a Special Assessment District (SAD) agreement for the sidewalk.

Greenbelt landscaping along S 9th Street – No similar variances have been granted.

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

Comment: Sidewalk along S 9th Street – The applicant’s request for relief to not be obligated to install the subject non-motorized infrastructure is what is causing the variance request. However, it could be argued that this request is not entirely self-created given the parcel’s frontage along the east side of S 9th Street does not support non-motorized infrastructure at this time. Prior to an amendment to the Zoning Ordinance in 2021, the applicant would have been able to consent to a Special Assessment District and would not have to come forward with this request. See applicant’s reasoning for this criterion in the attached narrative.

Greenbelt landscaping along S 9th Street – The applicant’s request for a variance to not install any trees along the frontage could be considered self-created. However, it should be noted that the property owner did not create the existing conditions along the S 9th St road frontage, nor did they create the large easement that runs diagonally across the property that prohibits trees to be installed in this area. These, as well as the constructability issues and grading challenges, are not man-made.

Standard: Public Safety and Welfare
Will the variance request negatively impact the health, safety, and welfare of others?

Comment: Sidewalk and greenbelt landscaping along S 9th Street – It is not expected that these variance requests would negatively impact the health, safety, or welfare of others. See applicant’s reasoning for this criterion in the attached narrative.

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 for the **sidewalk along S 9th Street** –
 - There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - Conformance to the Ordinance is unnecessarily burdensome.
 - Minimum necessary for substantial justice is met.
 - The request is not entirely self-created.
 - It is not expected that the variance request would negatively impact the health, safety, or welfare of the public.
- Support of variance denial for the **sidewalk along S 9th Street** –
 - The applicant’s request to have the sidewalk requirement waived can be considered as a self-created hardship.
- Support of variance approval for the **greenbelt landscaping along S 9th Street** –
 - There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - The request is not entirely self-created.
 - It is not expected that the variance request would negatively impact the health, safety, or welfare of the public.
- Support of variance denial for the **greenbelt along S 9th Street** –
 - The applicant’s request to have certain landscaping in the greenbelt along the S 9th Street right-of-way be waived can be considered as a self-created hardship.

- Conformance to the Ordinance is not unnecessarily burdensome.
- Minimum necessary for substantial justice is not met.

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

1. The Zoning Board of Appeals denies the variance request from Section 53.60, but approves the variance from Section 57.90 with the condition that:
 - a. The applicant consents to a Special Assessment District for a future non-motorized facility.
 - b. An easement for a future non-motorized facility shall be provided to the Township prior to occupancy being granted for the warehouse in phase one.
2. The Zoning Board of Appeals approves the variance from Section 53.60 as requested but denies the variance request from Section 57.90.
3. The Zoning Board of Appeals approves alternate variance relief from Section 53.60, requiring a reduced number of plantings along the S 9th Street right-of-way in the greenbelt area, but denies the variance request from Section 57.90.
4. The Zoning Board of Appeals approves both variance requests as requested from Section 53.60 and Section 57.90 with the condition that:
 - a. The applicant consents to a Special Assessment District for a future non-motorized facility.
 - b. An easement for a future non-motorized facility shall be provided to the Township prior to occupancy being granted for the warehouse in phase one.
5. The Zoning Board of Appeals denies both the variance requests as requested from Section 53.60 and Section 57.90.

Attachments: Application
Applicant Narrative
Site Plan
Warehouse Elevations
04/17/2025 Memo from the Oshtemo Township Public Works Department
Minutes (08/20/2024 ZBA, 02/25/2025 ZBA)
Page 1 of Document 2022-004219 (Consumers Electric Facilities Easement)



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-375-4260 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS

BlackBerry Warehouse
6477 West. KL Ave
Kalamazoo, MI 49009

PLANNING & ZONING APPLICATION

Applicant Name: Mike Shields
Company: BlackBerry Systems

Address: 6477 W. KL Ave

[Redacted address information]

Telephone: 269-207-5124 Fax: None

Interest in Property: Owner

OWNER*:

Name: Cameron Shields

Address: _____

E-mail: [Redacted email address]

THIS SPACE FOR TOWNSHIP USE ONLY

Fee Amount _____
Escrow Amount _____

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

- | | |
|---|---|
| <input type="checkbox"/> Pre-Application Review | <input type="checkbox"/> Accessory Building Review – I083 |
| <input checked="" type="checkbox"/> Site Plan Review – I088 | <input type="checkbox"/> Rezoning – I091 |
| <input type="checkbox"/> Administrative Site Plan Review – I086 | <input type="checkbox"/> Subdivision Plat Review – I089 |
| <input type="checkbox"/> Special Exception Use – I085 | <input type="checkbox"/> Interpretation – I082 |
| <input type="checkbox"/> Zoning Variance – I092 | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Site Condominium – I084 | |

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): For
new warehouse construction

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

see ATTACHMENT

PARCEL NUMBER: 3905- 05-23-405-013

ADDRESS OF PROPERTY: 6477 West KL Ave, Kalamazoo MI 49009

PRESENT USE OF THE PROPERTY: BUSINESS

PRESENT ZONING: Industrial 1301 **SIZE OF PROPERTY:** _____

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

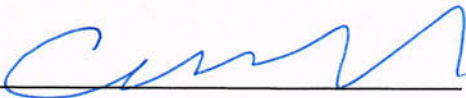
Name(s)

Address(es)

NONE

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)

2/20/2025

Date



Applicant's Signature

2/20/2025

Date

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

PLEASE ATTACH ALL REQUIRED DOCUMENTS



www.blackberrysystems.com

Corporate Office: 6477 West KL Avenue • Kalamazoo, MI 49009 • 269.353.8844 • 800.732.9400 • fax.269.353.8843

3/5/2025

To: Oshtemo Township Planning Commission and Zoning Board of Appeals

Our current application is for the request for the construction of a new 2,100 Sq. Ft warehouse on our property at 6477 West KL Ave, Kalamazoo, MI. We are in dire need of additional warehouse space as our continued growth has outpaced the space we have for material storage. This building is for cold storage of windows and doors for both our residential and commercial market sectors. We are looking forward to this additional building and hoping to move forward with its construction by June of this year. Please let me know if you have any questions or concerns.

Sincerely,

Cameron Shields
President and Owner of BlackBerry Systems, Inc.

Architectural • Historical • Commercial Window and Door Systems



3/27/2025

To: Oshtemo Zoning Board of Appeals

From: Cameron Shields Owner of BlackBerry Systems, Inc. at 6477 West KL Ave, Kalamazoo, MI.

BlackBerry Systems has been located at our current location since 1997. We are currently in the process of going through the review for a building permit for a new 2,100-square warehouse on our property. In this process two items have come up in regard to the overall compliance to proceed.

First, addressing the sidewalk on 9th St. which we are requesting a variance from the requirement of Section 57.90 in favor of a Sidewalk Special Assessment District Document where we would participate in the construction of the sidewalk in the future when a larger segment is built. At this point in time there is no walkway to connect to going North or South on 9th Street.

Second, addressing the landscape plan requirement on our west boundary 9th street frontage. This variance is only for the canopy and understory trees because of Consumer Power's maintenance of their lines, the setback zone of 20' each side from the lines. When we built our second warehouse about 8 years ago we complied with the landscape plan ordinance, Consumers came in and removed all the trees. When we protested and contacted the company, they initially responded that this was to their prerogative. In following communication, they never would reply. We do not want to spend the money on this and have the same issue occurring. On KL we request eliminating tall growing canopy trees since overhead power lines run the length of our property, we would comply with the understory trees.

Please consider our request.
Thank you for your consideration
Cameron Shields
President/Owner



ZONING BOARD OF APPEALS - VARIANCE REQUEST REVIEW FORM

The Board is required by law to consider the following, and only the following, criteria when deciding on an application for a nonuse variance. When making a motion on a variance, each of the following criteria must be clearly addressed in order to document how the Board's decision was made. Please fill in the lines below and verbally state how these criteria are, or are not, met.

Case: BlackBerry Systems Inc. Date: 3/27/2025

Criteria 1: Conformance Unnecessarily Burdensome

Are reasonable options for compliance available? Please note that economic hardship cannot be considered.

Yes: See Attachment

No: _____

Criteria 2: Substantial Justice

Is the decision consistent with past decisions of the ZBA (precedence)?

Yes: See Attachment

No: _____

Criteria 3: Unique Physical Circumstances

Are there unique physical limitations or conditions which prevent compliance?

Yes: See Attachment

No: _____

Criteria 4: Self-Created Hardship

Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Yes: See Attachment

No: _____

Criteria 5: Public Safety and Welfare

If granted, will the spirit of the ordinance be observed, and public safety and welfare secured?

Yes: See Attachment

No: _____

Based on the review of the criteria listed above the Zoning Board of Appeals rules to Approve / Deny the variance request.

3/27/2025

To: Oshtemo Zoning Board of Appeals

From: BlackBerry Systems, Inc.

Re: Variance Request Review Form for Sidewalk Variance

Criteria 1: Unnecessarily Burdensome. No, this is not essential to pedestrian travel which is rare to see at this intersection. We ask to comply when area sidewalks are established in our area.

Criteria 2: Substantial Justice : Please refer to Planning Administrator

Putting in this walkway nowhere is of no value to the community, we feel it most likely will be unused and could go decades prior to connecting walkways being added going North or South on 9th Street, meanwhile, by that time our walkway could be in need of repair or replacement.

Criteria 3: Unique Physical Circumstance. Please refer to Planning Administrator

Criteria 4: Self-Created Hardship. No this is required by Ordinance and is not necessary in the current use of the 9th Street corridor.

Criteria 5: Public Safety and Welfare, If granted I don't believe there is any evidence that the public safety or will be diminished, since there is very limited pedestrian use of this section of the 9th Street corridor and the addition of this section will not encourage increase of pedestrian traffic.



Corporate Office: 6477 West KL Avenue • Kalamazoo, MI 49009 • 269.353.8844 • 800.732.9400 • fax.269.353.8843

3/27/2025

To: Oshtemo Zoning Board of Appeals

From: BlackBerry Systems, Inc.

Re: Variance Request Review Form for Landscape Ordinance

Criteria 1: Unnecessarily Burdensome. No, this is not essential to the public viewing of our property that has been occupying this location since 1997

Criteria 2: Substantial Justice : Please refer to Planning Administrator

Putting in this landscape material on 9th Street and large canopy trees on KL nowhere is of no value to the community, our property has always been well maintained and not an eyesore to the public.

Criteria 3: Unique Physical Circumstance. Trying to comply with Consumers Power having control of these features on our 9th Street frontage takes control from us to maintain these plantings.

Criteria 4: Self-Created Hardship. No this is required by Ordinance and is not necessary in the current use of the 9th Street corridor.

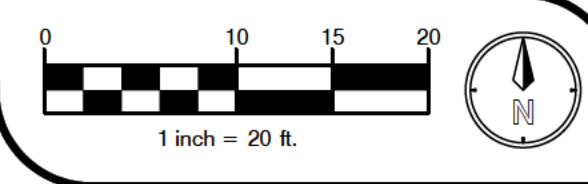
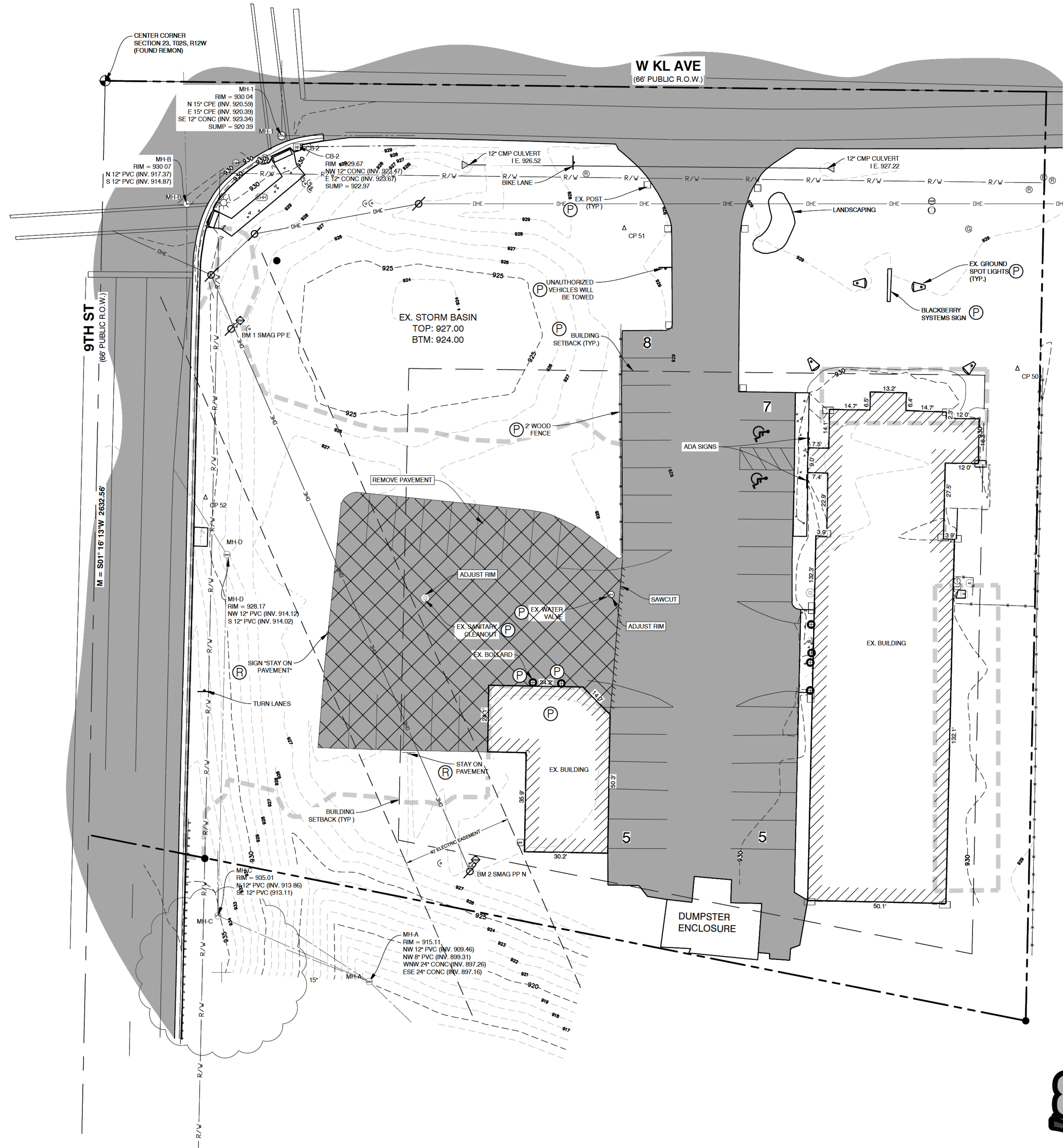
Criteria 5: Public Safety and Welfare, If granted I don't believe there is any evidence that the public safety or will be diminished, since plantings have no contribution to public safety or welfare.

DEMOLITION NOTES

- ALL WORK SHALL CONFORM TO ALL LOCAL, STATE AND FEDERAL LAWS, RULES AND REGULATIONS IN FORCE AT TIME OF CONSTRUCTION.
- THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS, PERMIT COSTS, TAP FEES, METER DEPOSITS, PERMANENT UTILITY APPLICATIONS, BONDS, AND OTHER FEES REQUIRED FOR PROPOSED WORK. THIS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO THOSE REQUIRED BY OSHTOMO TOWNSHIP, MDOOT AND KALAMAZOO COUNTY.
- CONTACT "MISS DIG 811" AT 1-800-482-7171 FOR LOCATION OF UNDERGROUND UTILITIES A MINIMUM OF 48 HOURS BEFORE COMMENCING EXCAVATION WORK. THIS DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY OF NOTIFYING UTILITY OWNERS WHO ARE NOT PART OF THE "811" ALERT SYSTEM. THE CONTRACTOR SHALL CONDUCT HIS OPERATIONS IN A MANNER AS TO ENSURE THAT THOSE UTILITIES NOT REQUIRING RELOCATION WILL NOT BE DISTURBED.
- DEMOLISH & REMOVE ALL EXISTING SITE FEATURES AS REQUIRED.
- ALL SOIL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO DEMOLITION.
- ALL EXCAVATION SHALL BE IN ACCORDANCE WITH THE TECHNICAL SPECIFICATIONS AND GEOTECHNICAL REPORT.
- ALL EXISTING ELEVATIONS ARE TO BE VERIFIED AND ACCEPTED AS SHOWN PRIOR TO COMMENCEMENT OF WORK.
- CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID TRACKING SOIL ONTO ADJACENT ROADWAYS. CONTRACTOR SHALL SWEEP IMMEDIATELY IF OCCURS.
- ANY DISTURBED AREA WHICH WILL BE LEFT UNWORKED 15 DAYS OR LONGER MUST BE SEEDED TO ESTABLISH VEGETATION FOR TEMPORARY STABILIZATION. BASINS TO BE SEEDED AND MULCH BLANKETS APPLIED IMMEDIATELY TO PROVIDE A STABLE BASE AND AVOID EXCESSIVE EROSION.
- REVIEW ALL THE REMOVALS AND PROTECTION WITH OWNER PRIOR TO COMMENCING CONSTRUCTION. INSTALL TEMPORARY SNOW FENCE AROUND ALL TREES REQUIRING PROTECTION. SNOW FENCE SHALL BE PLACED AT EDGE OF DRIP LINE.
- SAWCUT ALL CURB, SIDEWALK, AND PAVEMENTS PRIOR TO REMOVAL. ADDITIONAL SAWCUT MAY BE NECESSARY PRIOR TO REPLACEMENT TO ENSURE CLEAN EDGE.
- ALL REMOVALS SHALL BE TAKEN OFF-SITE AND DISPOSED OF PROPERLY. NO STOCKPILE OR BURNING OF DEBRIS IS ALLOWED.
- ALL REMOVALS SHALL BE TO THE LIMITS INDICATED ABOVE UNLESS OTHERWISE DIRECTED BY THE ENGINEER. UNAUTHORIZED REMOVALS AND SUBSEQUENT REPLACEMENT SHALL BE AT THE CONTRACTOR'S EXPENSE.
- REMOVE, STORE, AND RESET ANY EXISTING SIGNS AS DIRECTED BY THE ENGINEER/OWNER.
- REMOVE ALL TREES TO THE CLEARING LIMITS AS SHOWN. REMOVE ALL EXISTING TREES, STUMPS AND BRUSH FROM THE SITE AS NECESSARY TO CONSTRUCT THE IMPROVEMENTS.
- THE CONTRACTOR SHALL DEMOLISH AND REMOVE ANY ITEMS REMAINING FROM THE EXISTING BUILDING, IN ITS ENTIRETY, INCLUDING WALLS, FOUNDATIONS AND FOOTINGS. ALL BUILDING DRAINS AND UTILITY LEADS SHALL BE LOCATED AND PROPERLY PLUGGED. UTILITY LEAD WORK SHALL BE COORDINATED WITH THE APPROPRIATE UTILITY COMPANY.
- BACKFILL EXCAVATED AREAS WITH CLEAN GRANULAR FILL COMPACTED TO 95% OF THE MATERIAL UNIT WEIGHT BY MODIFIED PROCTOR.
- CONTROL SHALL BE MAINTAINED OVER THE SITE AND OPERATION TO ELIMINATE HAZARDS TO THE PUBLIC. NAILS OR OTHER TIRE PUNCTURING ITEMS SHALL NOT BE DROPPED ON STREETS, ALLEYS AND ADJACENT PROPERTY. PUBLIC STREETS, CURBS AND SIDEWALKS SHALL BE PROTECTED FROM DAMAGE. THE PERSON ENGAGED IN THE DEMOLITION WORK SHALL BE LIABLE FOR ANY AND ALL DAMAGE TO CURBS, STREETS, SIDEWALKS AND OTHER PUBLIC OR PRIVATE PROPERTY AND FOR ANY BODILY INJURY OCCURRING AS A RESULT OF THE DEMOLITION WORK.

LEGEND

- PAVEMENT REMOVAL
- EXISTING PAVEMENT
- SAWCUT
- REMOVE
- PROTECT
- LIMITS OF CONSTRUCTION



BENCHMARK INFORMATION

BM 1	ELEV = 928.97 (NAVD 88)
SMAG PP E	
BM 2	ELEV = 929.47 (NAVD 88)
SMAG PP N	

PLANS PREPARED BY:

AR ENGINEERING
CIVIL ENGINEERING & SURVEYING
MICHIGAN | INDIANA | ILLINOIS | OHIO
289.250.5901 PHONE | 866.568.0004 FAX
www.ar-engineering.com

DRAWN: MT
CHECKED: SO

STATE OF MICHIGAN
SPENCER ANDREW O'DELL
ENGINEER
No. 6201309325
LICENSED PROFESSIONAL ENGINEER

SPENCER O'DELL, P.E.
No. 6201309325

No.	ISSUED FOR:	DATE	BY:
0	OWNER REVIEW	10/31/2024	SAO
1	PRELIM BID SET (NO SITE PLAN APPROVAL)	11/13/24	SAO
2	SITE PLAN REVIEW	03/04/25	SAO
3	TWP. COMMENTS	03/27/25	SAO
4	TWP. COMMENTS	04/15/25	SAO

REPRODUCTION, COPYING OR OTHER USE OF THIS DRAWING WITHOUT WRITTEN CONSENT IS PROHIBITED BY AR ENGINEERING, LLC.

EXISTING CONDITIONS AND DEMO
BLACKBERRY SYSTEMS POLE BARN & ADDITION
MICHAEL SHEILDS
6477 W KL AVE, KALAMAZOO, MI
SECTION 23 T02S, R12W

PROJECT:
CLIENT:
SITE ADDRESS:
SITE SECTION:

JOB NUMBER
24186001

DATE
04/15/2024

SHEET NUMBER
C1.0



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA. FIELD WORK PERFORMED BY: AR ENGINEERING

SITE DATA

- PROPERTY INFORMATION:**
 PARCEL #: 05-23-405-013
 SITE AREA: 114,562 SF (2.63 AC)
 OWNER: SHIELDS MJ LLC
 6477 W KL AVE
 KALAMAZOO, MI 49009
- ZONING:**
 PROPERTY CURRENTLY ZONED:
 I-1 - INDUSTRIAL DISTRICT
 MANUFACTURING & SERVICE
 ABUTTING PROPERTY CURRENTLY ZONED:
 NORTH: R2 - RESIDENTIAL DISTRICT
 SOUTH: I-1 - INDUSTRIAL DISTRICT
 EAST: I-1 - INDUSTRIAL DISTRICT
 WEST: I-1 - INDUSTRIAL DISTRICT
 PROPOSED LAND USE = CONTRACTOR'S SERVICES
 *PERMITTED USE IN I-1 DISTRICT
- SETBACKS:**
 FRONT = 70' FORM ROW
 SIDES = 20' (5' VARIANCE OBTAINED FOR EAST PL)
 REAR = 20'
- PARKING:**
 REQUIRED WAREHOUSE/DISTRIBUTION = (1) PARKING SPACE PER (1500) SF. OF GROSS FLOOR AREA
 $11,576 \text{ SF} / 1500 = 8$
 REQUIRED SHOWROOM = (1) PARKING SPACE PER (400) SF. OF GROSS FLOOR AREA
 $1,968 \text{ SF} / 400 = 5$
 REQUIRED OFFICE = (1) PARKING SPACE PER (150) SF. OF GROSS FLOOR AREA
 $1,800 \text{ SF} / 150 = 12$
 TOTAL REQUIRED = 25
 PROVIDED = STANDARD 9'X20' SPACES = 23
 BARRIER FREE SPACES = 2
 TOTAL PROVIDED = 25
- BUILDING:**
 SINGLE STORY (24)
 PROPOSED BUILDING COVERAGE: 13.5%
- LOT:**
 MINIMUM LOT SIZE: 50,000 SFT
 MINIMUM LOT WIDTH: 200 FT
 LOT SIZE: 114,562 SFT / 2.63 ACRES
 LOT DIMENSIONS: IRREGULAR
- LANDSCAPING:**
 SHALL BE IN ACCORDANCE WITH TWP. STANDARDS.
 THE PROPOSED SITE RETAINS 63.5% OPEN SPACE
- STORM WATER DETENTION REQUIRED:**
 STORM WATER MANAGEMENT SHALL BE IN ACCORDANCE WITH COUNTY STORM WATER GUIDELINES.

LEGEND

	ASPHALT PAVEMENT (SEE DETAIL THIS SHEET)
	CONCRETE PAVEMENT AND SIDEWALK

BENCHMARK INFORMATION

BM 1 ELEV = 928.97 (NAVD 88) SMAG PP E
BM 2 ELEV = 929.47 (NAVD 88) SMAG PP N

- SITE PLAN NOTES**
- A ASPHALT PAVEMENT (SEE DETAIL THIS SHEET).
 - B 10' CONCRETE APRON (SEE DETAIL THIS SHEET).
 - C PROPOSED BUILDING SIGN
 - D OVERHEAD DOOR
 - E DOWNSPOUT (TYP.)
 - F VEGETATIVE SWALE TO STORM BASIN
 - G 3' STONE MAINTENANCE STRIP - 3-4" STONE OVER GEOTEXTILE FABRIC
 - H FUTURE 6' WIDE CONCRETE NON-MOTORIZED PATH - COMPLY WITH TOWNSHIP ORDINANCE COORDINATE WITH TOWNSHIP - OWNER TO ESTABLISH SPECIAL ASSESSMENT DISTRICT FOR FUTURE PATH CONSTRUCTION.

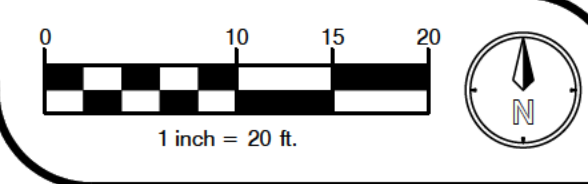
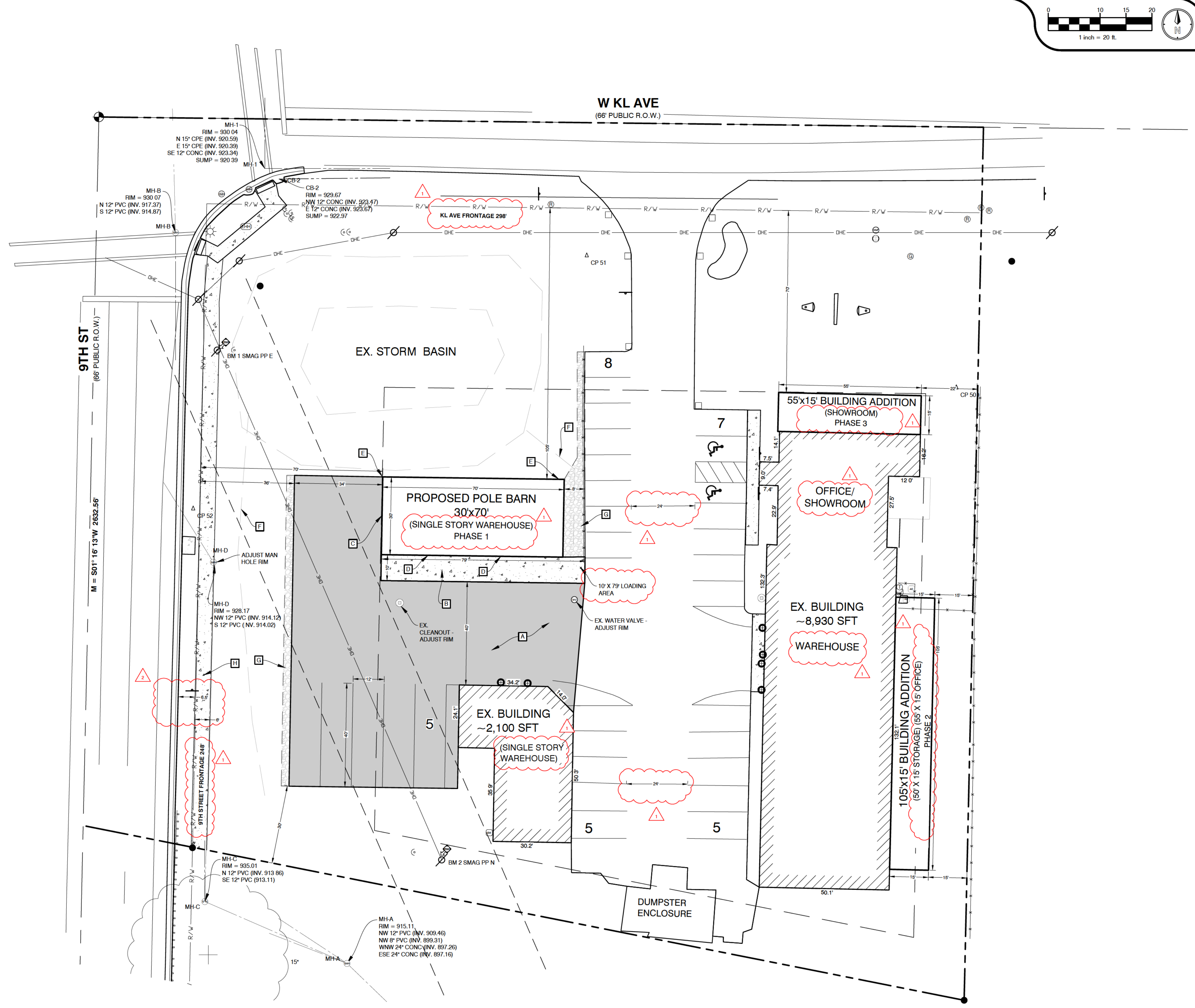
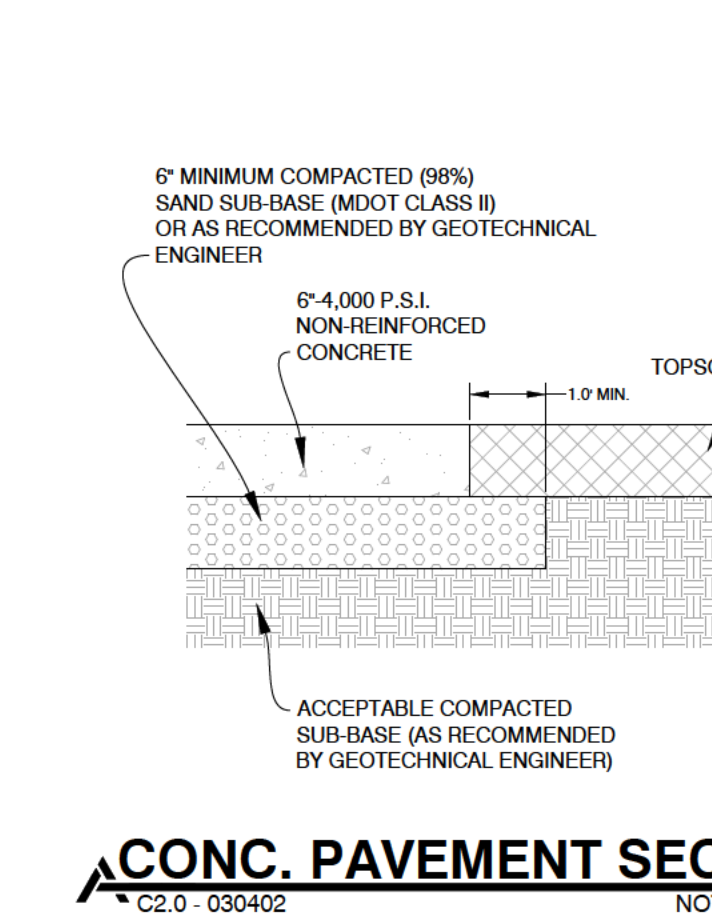
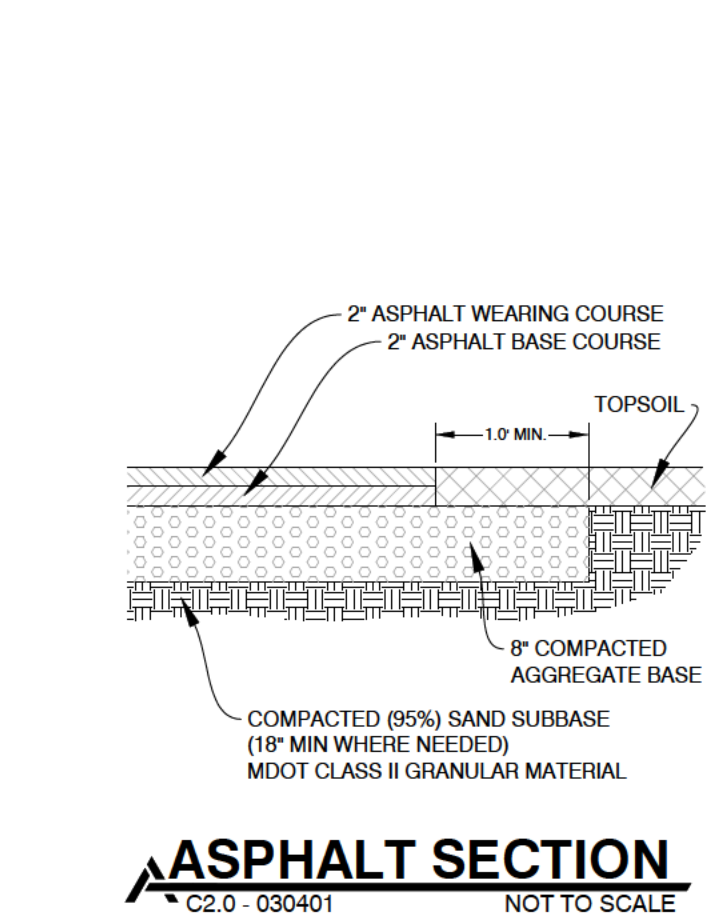
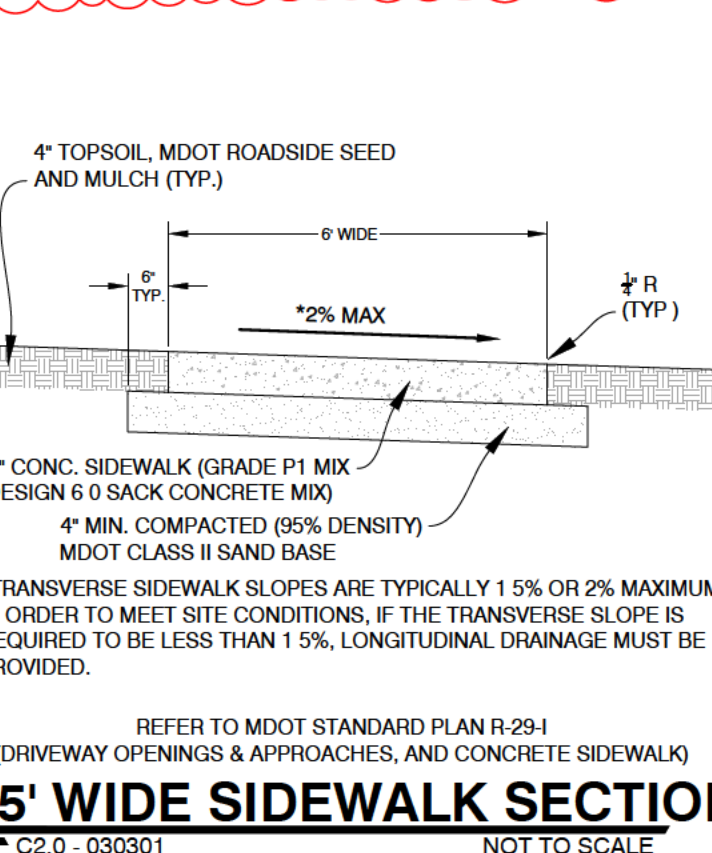
STORM WATER CALCULATIONS

THE EXISTING SITE MANAGES STORM WATER RUNOFF VIA AN EXISTING ONSITE RETENTION BASIN (VOLUME = 14,738 CFT). THE CALCULATIONS BELOW ONLY CONSIDER MANAGEMENT OF ADDITIONAL RUNOFF CREATED BY THE PROPOSED IMPROVEMENTS AND ARE LIMITED TO THE DISTURBED AREA.

EXISTING RUNOFF (DISTURBED AREA) (100-YR. 24-HR)
 IMPERVIOUS AREA: 0.19 ACRES
 PERVIOUS AREA: 0.13 ACRES
 EXISTING DISCHARGE RATE = 0.051 CFS
 EXISTING RUNOFF VOLUME = 4,449 CFT

PROPOSED RUNOFF (DISTURBED AREA) (100-YR. 24-HR)
 IMPERVIOUS AREA: 0.26 ACRES
 PERVIOUS AREA: 0.06 ACRES
 PROPOSED DISCHARGE RATE = 0.064 CFS
 REQUIRED STORAGE VOLUME = 3,515 CFT
 PROVIDED STORAGE = 14,738 CFT
 INFILTRATION VOLUME = 4,193 CFT

- GENERAL NOTES**
- DIMENSIONS TAKE PRECEDENCE OVER SCALE. CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD.
 - IF ANY ERRORS, DISCREPANCIES, OR OMISSIONS BECOME APPARENT, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER PRIOR TO CONSTRUCTION OF ANYTHING AFFECTED SO THAT CLARIFICATION OR REDESIGN MAY OCCUR.
 - ALL CURB RADII AND DIMENSIONS ARE TO FACE OF CURB. CURB TO BE PROVIDED WHERE SHOWN AND INTEGRAL WITH SIDEWALK AT PAVING EDGE.
 - SLOPE GRADES UNIFORMLY BETWEEN ELEVATIONS SHOWN. NOMINAL GRADING, SLOPE SIDEWALKS AWAY FROM BUILDING AT 1/4" PER FOOT ON ENTRY WALK.



PLANS PREPARED BY:

AR ENGINEERING
 CIVIL ENGINEERING & SURVEYING
 MICHIGAN | INDIANA | ILLINOIS | OHIO
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 www.ar-engineering.com

DRAWN: MT
 CHECKED: SO

SPENCER O'DELL, P.E.
 No. 6201309325

No.	ISSUED FOR:	DATE	BY:
0	OWNER REVIEW	10/31/2024	SAO
1	PRELIM BID SET (NO SITE PLAN APPROVAL)	11/13/24	SAO
2	SITE PLAN REVIEW	03/04/25	SAO
3	TWP. COMMENTS	03/27/25	SAO
4	TWP. COMMENTS	04/15/25	SAO

REPRODUCTION, COPYING OR OTHER USE OF THIS DRAWING WITHOUT WRITTEN CONSENT IS PROHIBITED BY AN ENGINEERING BOARD.

SITE LAYOUT-UTILITY PLAN
 BLACKBERRY SYSTEMS POLE BARN & ADDITION
 MICHAEL SHIELDS
 6477 W KL AVE, KALAMAZOO, MI
 SECTION 23 T02S, R12W

PROJECT:
 CLIENT:
 SITE ADDRESS:
 SITE SECTION:

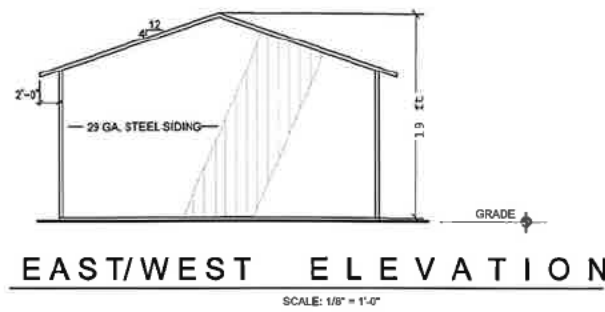
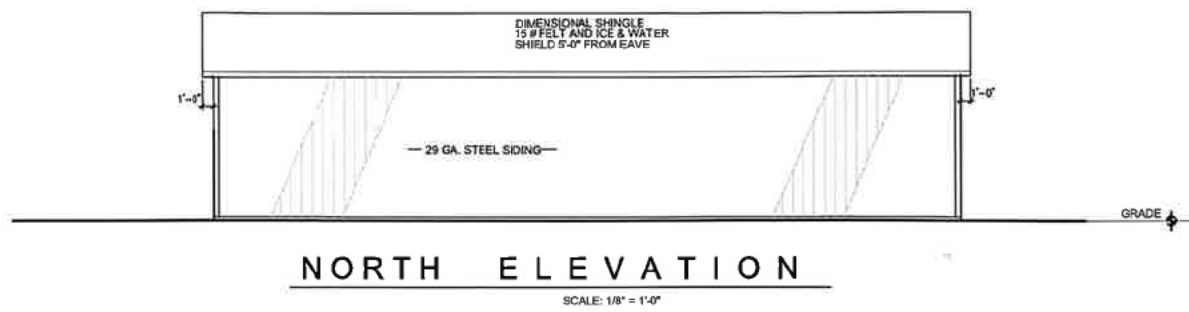
JOB NUMBER
24186001

DATE
04/15/2024

SHEET NUMBER
C2.0

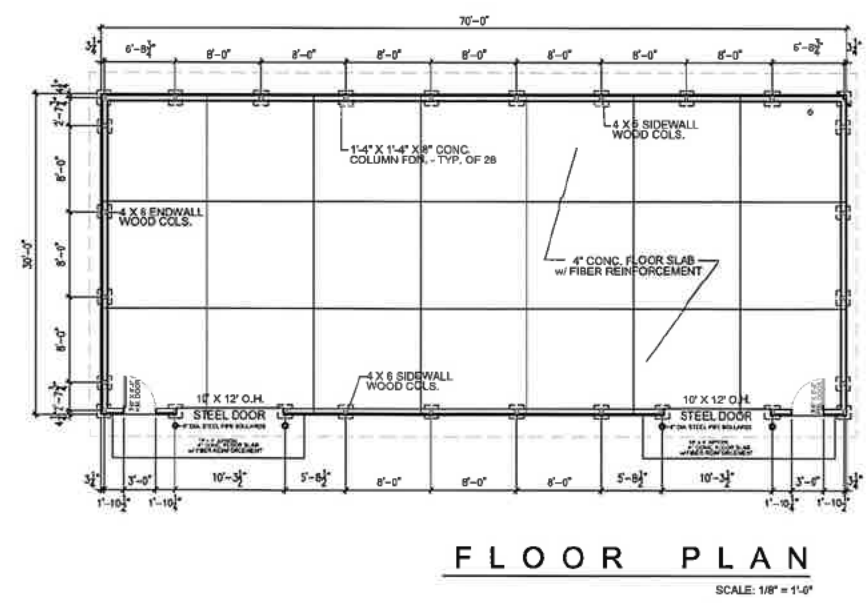
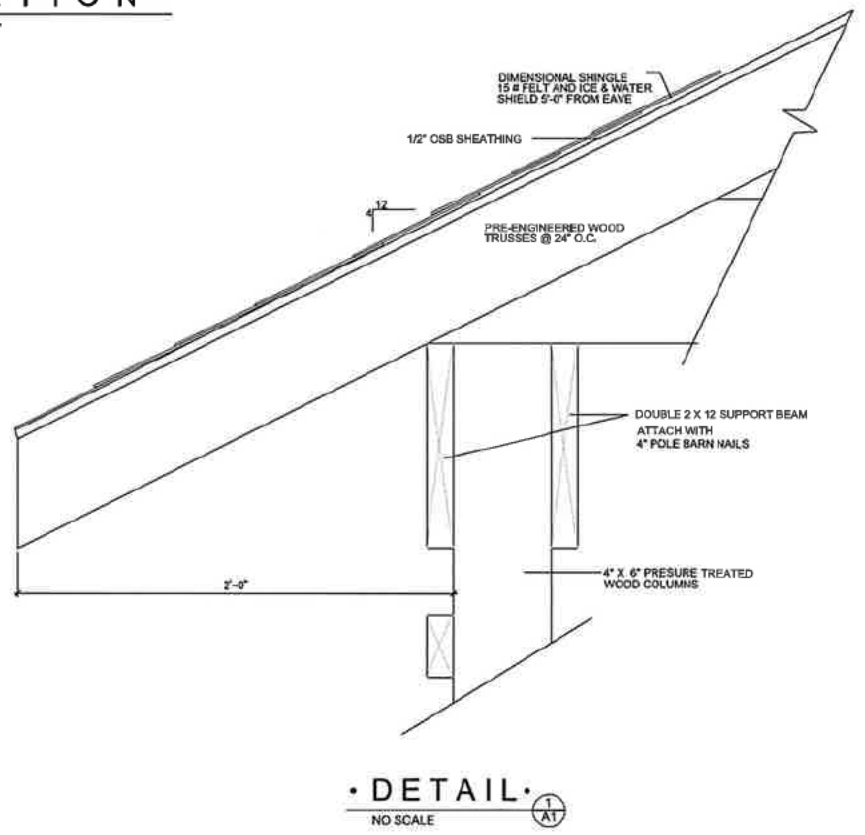
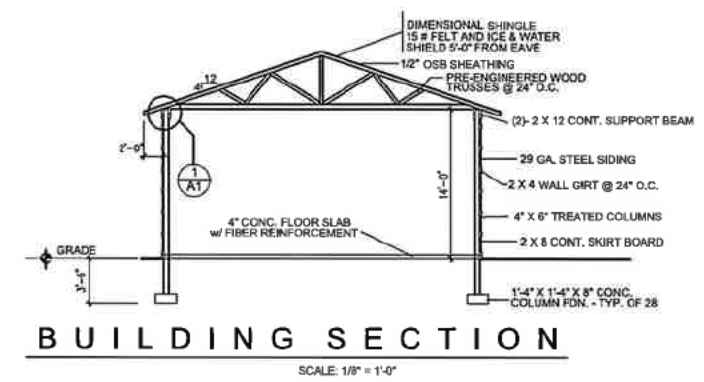
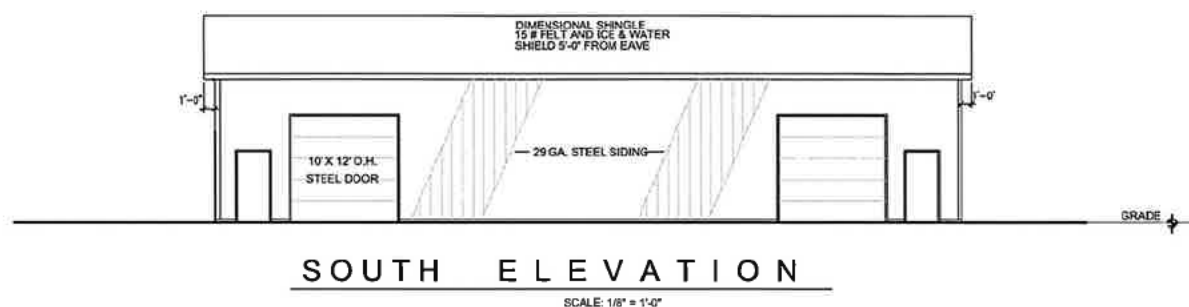


ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA. FIELD WORK PERFORMED BY: AR ENGINEERING.



- FOUNDATION & POLE BLDG. NOTES:**
1. ALL CONSTRUCTION SHALL MEET REQUIREMENTS OF 2015 MICHIGAN BUILDING CODE.
 2. ALL SUPPORT COLUMNS SHALL EXTEND TO MIN. 42" BELOW FINISHED GRADE.
 3. ALL SUPPORT COLUMNS SHALL BEAR ON CONC. FOOTING FOUNDATION.
 4. CONC. FOOTING SHALL BE PLACED ON UNDISTURBED OR COMPACTED FILL AND SET LEVEL/PLUMB TO RECEIVE BEARING COLUMN.
 5. ALL WOOD IN CONTACT WITH SOIL OR CONC. SHALL BE PRESSURE TREATED PER BUILDING CODE. (60)
 6. PROVIDE FLASHING AT ALL HORIZ. PROTRUSIONS & DOOR HEADERS.

- TRUSS NOTES:**
- ALL PRE-ENGINEERED TRUSSES SHALL BEAR SEAL OF REGISTERED ENGINEER LICENSED IN THE STATE OF MICHIGAN
- ALL TRUSSES SHALL BE BUILT BY A CERTIFIED FABRICATOR IN THE STATE OF MICHIGAN
- PROVIDE BRACING/BRIDGING AS CALLED FOR BY ENGINEER/TRUSS MANUFACTURER
- TRUSS DESIGN CRITERIA:
ROOF LIVE LOAD - 30 LBS/SF



LBD&D
LARRY BISHOP DESIGN & DRAFTING
2493 Arctic Avenue Kalamazoo, Michigan 49004 PH: (269) 962-6272 lbbishop0@gmail.com

Project: **BLACKBERRY WAREHOUSE**
6477 WEST KL AVENUE KALAMAZOO, MICHIGAN

SHEET TITLE
BASEMENT PLAN

FILE NAME
ISSUED
11-8-2024

JOB NUMBER
LBDD 202408

A1



Memorandum

Date: April 17th, 2025
To: Planning Department
From: Sharon Lowhim, P.E., Township Engineer
Subject: 6477 W KL Avenue, Blackberry

The proposed sidewalk location complies with the standards set by the Road Commission of Kalamazoo County (RCKC), which require sidewalks to be placed at least 6.5 feet from the curb or edge of the gravel shoulder and Oshtemo Township sidewalk standards. However, we have some concerns regarding the existing grades in this area.

The applicant should be aware that installing a sidewalk will require regrading adjacent to the stormwater basin, which could affect its functionality. This work may also result in additional costs and could necessitate updates to the stormwater management plans and calculations. As the property is being considered for inclusion in a Sidewalk Agreement District (SAD), the Township would assume responsibility for constructing the sidewalk at a future date. When that occurs, regrading will likely still be necessary, and any resulting impacts to the stormwater system, as well as associated costs, will need to be addressed by the property owner.

We're providing this information now to help inform the applicant/property owner for long-term planning purposes.

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD AUGUST 20, 2024

Agenda

Non-Motorized Facility Variance: Scott Williams (Complete Team Outfitters)

The applicant is requesting a variance from Section 57 of the Zoning Ordinance to eliminate the requirement that a non-motorized facility be established at 1560 South 8th Street.

Setback Variance: Michael Shields (Blackberry Systems)

The applicant is requesting a variance from Section 50 of the Zoning Ordinance to allow a 15-foot side yard setback for building additions where the ordinance requires a 20-foot setback in the I-1, Industrial District. Subject property is 6477 West KL Avenue.

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held Tuesday, August 20, 2024, beginning at 3:00 p.m.

MEMBERS PRESENT: Rick Everett
 Dusty Farmer
 Fred Gould
 Harry Jachym, Vice Chair
 Al Smith

MEMBERS ABSENT: Louis Williams, Chair

Also present were Jodi Stefforia, Planning Director; Leeanna Harris, Zoning Administrator; Jim Porter, Township Attorney; and 3 interested persons.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Vice Chair Jachym called the meeting to order at 3:03 p.m. Those in attendance joined in reciting the Pledge of Allegiance.

APPROVAL OF AGENDA

Ms. Farmer **made a motion** to approve the agenda as presented. Mr. Smith **seconded the motion**. The motion was **approved unanimously**.

PUBLIC COMMENT ON NON-AGENDA ITEMS

There were no comments on non-agenda items.

APPROVAL OF THE MINUTES OF JUNE 25, 2024

Vice Chair Jachym asked for additions, deletions, or corrections to the Minutes of the meeting held on June 25, 2024.

Mr. Smith **made a motion** to approve the minutes of the meeting held on June 25, 2024, Ms. Farmer **seconded the motion**. The **motion was approved** unanimously.

NON-MOTORIZED FACILITY VARIANCE (1560 SOUTH 8TH STREET)

Ms. Harris presented her staff report dated August 14, 2024, and incorporated herein, regarding a variance to not be required to install the non-motorized facility adjacent to South 8th Street.

Project Summary:

Mr. Scott Williams, owner of 1560 S. 8th St., is requesting a variance from the requirement to install a non-motorized facility adjacent to South 8th Street, per Section 57.90 of the Zoning Ordinance.

The applicant previously applied for Site Plan Review and a variance request to construct a new 6,684 square foot building with a connecting breezeway to the existing building on site. Since that approval on February 20, 2024, the applicant has made good progress and is nearing completion. However, as a condition of approval for the site plan review, the applicant was required to enter into an escrow agreement in lieu of installing the non-motorized facility and deposit funds of \$45,000 to an escrow account with the Township for future use. Ms. Harris shared an aerial view map of the property.

Recommendation:

Planning Department staff recommended that the motion of possible action should include the findings of fact relevant to the requested variance. Letters of support are incorporated herein by Township Attorney Porter and Township Public Works Director Ms. Anna Horner.

Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
 - o There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - o Conformance to the Ordinance is unnecessarily burdensome.
 - o The request would not be considered a self-created hardship.
 - o It is not expected that the variance request would negatively impact the health, safety, or welfare of others.

- Support of variance denial
 - o Minimum necessary for substantial justice is not met.

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

1. Variance Approval

The Zoning Board of Appeals approves the variance request.

If the variance were approved, staff also recommend the Zoning Board of Appeals attach the following conditions:

- The applicant consents to a Special Assessment District.

2. Variance Denial

The Zoning Board of Appeals denies the variance request.

Discussion was held around the Special Assessment District (SAD). Vice Chair Jachym requested more information about the Special Assessment District. Mr. Porter stated that historically they would ask an applicant to sign an agreement that if and when a SAD is established, they would support it. This would run with the property.

Ms. Farmer stated that this Ordinance was recently amended, but recommends that it be reviewed again by the Township Planning Commission for recommendation to take into consideration scenarios like this request.

Ms. Stefforia shared that with the work on the comprehensive master plan, there will be a strong transportation component, and the non-motorized plan will be revisited to craft language for streets like this verses S. 9th Street which will see development happening along it and would want the facilities built or escrowed.

Mr. Matt Gibson, from Complete Team Outfitters, the tenant and business partner of Mr. Williams, spoke in support of the variance and offered to address any questions. Mr. Gibson informed the Board they are happy to sign any document or agreement for beautification in the future to put sidewalks in if that is required from the Township, but at this time they would be the only business with a sidewalk.

Vice Chair Jachym inquired about the sign posted out front, “build to suit” and if they were seeking new tenants. Mr. Gibson advised that they had previously planned to build additional spaces, but due to the downturn with commercial real estate, they are not actively seeking new tenants. If that changes, they would come back before the Township and start the process again.

Ms. Farmer **made a motion** that the Zoning Board of Appeals approve the variance request with the following condition:

- The applicant consents to a Special Assessment District.

Mr. Gould **seconded the motion**. The **motion was passed** unanimously.

SETBACK VARIANCE: MICHAEL SHIELDS (6477 W KL AVENUE)

Ms. Harris presented per her staff report from August 14, 2024, and is incorporated herein for a variance from Section 50 of the Zoning Ordinance to allow a 15-foot side yard setback for building additions where the ordinance requires a 20-foot setback in the I-1, Industrial District. The subject property is 6477 West KL Avenue.

Project summary:

SHIELDS MJ LLC is requesting a variance from setback requirements outlined in Section 50.60.C. of the Zoning Ordinance to allow for a reduced setback of 15 feet along the east property line where the Zoning Ordinance requires 20 feet, or the height of the building, whichever is greater, to allow for additions on the east side of the building. The applicant’s intent is to submit for full site plan review for planned site modifications once they have completed the variance process. Ms. Harris shared an aerial view map of the property.

Recommendation:

Planning Department staff recommended that the motion of possible action should include the findings of fact relevant to the requested variance.

- Support of variance approval
 - o It is not expected that granting the variance would negatively impact the health, safety, or welfare of others.
 - o The conditions or circumstances which created the variance request are not entirely self-created.
 - o There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.

- Support of variance denial
 - o Minimum necessary for substantial justice is not proven.
 - o Compliance with the Ordinance is not unnecessarily burdensome as the property could continue to be utilized in its present state and constructing additions on the site is entirely discretionary.

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

1. Variance Approval
The Zoning Board of Appeals approves the variance request.

2. Variance Denial
The Zoning Board of Appeals denies the variance request.

Ms. Harris advised that the addition would be a single-story addition.

Mr. Mike Shields, owner of Blackberry Systems, shared with the Board that the business has been growing and they enjoy the location and the being part of the Oshtemo Township community. With their growth, they need additional warehouse and office space.

Mr. Everette asked Mr. Shields if they had considered going to the South or building higher. Mr. Shields advised there is not enough room for them to build to the South and confirmed that the section being added is a one-story section.

Mr. Gould asked if this would make it impossible to expand again on this current site. Mr. Shields confirmed that with the three elements they are considering, they would not be able to expand further. They have previously looked for commercial property to build on or leasing options for additional space for warehousing but have been unsuccessful. With this addition, they anticipate they will remain at the current location at least 10 to 15 years.

Ms. Farmer shared that it is good to hear that businesses are expanding.

Mr. Smith **made a motion** that the Zoning Board of Appeals approve the variance request. Mr. Gould **seconded the motion**. The **motion was passed** unanimously.

Vice Chair Jachym thanked Mr. Shields. Mr. Shields thanked the Township staff for the assistance they received. The Board recognized staff for their work.

OTHER UPDATES AND BUSINESS

Vice Chair Jachym called for other updates and business.

Ms. Stefforia shared that on October 15th at 6:00 p.m., there will be a joint meeting of all the Township Boards with a presentation by Progressive AE to share the comprehensive master plan. They are starting to flush out the future use master plan and starting to talk about if are there any additional sub areas that will warrant a closer look in this process.

ADJOURNMENT

There being no further business, Vice Chair Jachym adjourned the meeting at 3:46 p.m.

Minutes Prepared: August 21, 2024
Minutes Approved: September 24, 2024

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD FEBRUARY 25, 2025

Agenda

Non-Motorized Facility Variance: Yes Fountain Springs, LLC (1410 S 8th Street, 3905-23-355-011)

The applicant is requesting a variance from Section 57.90 of the Zoning Ordinance to eliminate the requirement that a non-motorized facility be established along South 8th Street and South 9th Street (partial) when the Fountain Springs development is expanded at 1410 South 9th Street.

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held Tuesday, February 25, 2025, beginning at 3:00 p.m.

MEMBERS PRESENT: Dusty Farmer
 Fred Gould
 Harry Jachym, Vice Chair
 Al Smith
 Louis Williams, Chair

MEMBERS ABSENT: Rick Everett

Also present were Jodi Stefforia, Planning Director; Colten Hutson, Zoning Administrator; Jim Porter, Township Attorney; and 3 interested persons.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 3:00 p.m. Those in attendance joined in reciting the Pledge of Allegiance.

ELECTION OF OFFICERS

Mr. Gould **made a motion** for Mr. Williams to remain as the Chair of the Zoning Board of Appeals. Mr. Jachym **supported the motion**. The motion was **approved unanimously**.

Ms. Farmer **made a motion** for Mr. Jachym to remain as the Vice Chair of the Zoning Board of Appeals. Chair Williams **supported the motion**. The motion was **approved unanimously**.

APPROVAL OF AGENDA

Ms. Farmer **made a motion** to approve the agenda as presented. Mr. Jachym **seconded the motion**. The motion was **approved unanimously**.

PUBLIC COMMENT ON NON-AGENDA ITEMS

There were no comments on non-agenda items.

APPROVAL OF THE MINUTES OF SEPTEMBER 24, 2024

Chair Williams asked for additions, deletions, or corrections to the Minutes of the meeting held on September 24, 2024. There were none.

Ms. Farmer **made a motion** to approve the minutes of the meeting held on September 24, 2024. Mr. Smith **seconded the motion**. The **motion was approved** unanimously.

NON-MOTORIZED FACILITY VARIANCE: YES FOUNTAIN SPRINGS, LLC

Mr. Hutson presented his staff report dated February 20, 2025, and incorporated herein, regarding a variance to not be required to construct the non-motorized facility adjacent to S 8th Street and S 9th Street per Section 57.90 of the Zoning Ordinance.

Project Summary

The property owner, Yes Fountain Springs, LLC, is requesting a variance from Section 57.90 of the Zoning Ordinance to not be obligated to install non-motorized facilities along the property's frontage. The site encompasses a manufactured housing community proposed to expand with an additional 270 lots/dwelling units.

Section 57.90 of the Zoning Ordinance states that if a project requires formal site plan review and approval from a reviewing body and there is a non-motorized facility identified within the Township's Non-Motorized Transportation Action Plan along the road frontage of where the project is planned to take place, said non-motorized facility must be constructed along the respective site's frontage at time development commences.

The site in question possesses frontage adjacent to S 9th Street and S 8th Street. The Township's Non-Motorized Transportation Action Plan envisions 6-foot-wide sidewalk adjacent to both frontages. With each road frontage having different existing conditions and unique profiles, staff will provide an analysis against the standards for a variance for each road frontage separately. The property is situated between S 8th Street and S 9th Street, south of W KL Avenue and west of Quail Run Drive. An aerial image was shared.

STANDARDS OF REVIEW – STAFF ANALYSIS

The Michigan courts have applied the following principles for a 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.
- Public safety and welfare.

Staff have 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: **S 9th Street** – The applicant provided reasoning in the attached narrative along with visuals and other documentation which support that unique physical limitations or conditions are present along the S 9th Street frontage. As captured in Exhibit A, the construction of sidewalk along this frontage presents significant grading challenges with the existing terrain. The entire frontage where sidewalk would be placed has a steep slope. The installation of a sidewalk would require significant re-grading, clearing of trees, as well as the need to install retaining walls throughout most of the frontage.

S 8th Street – There are several severe variations in topography along the S 8th Street frontage. Not only do the elevation changes present difficulties in terms of constructability, but there would also be challenges with trying to accommodate a 6-foot-wide concrete sidewalk and creating separation between the pedestrians and motorists given how narrow it would be from edge of pavement to the front of the sidewalk in some areas.

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

Comment: **S 9th Street** – It would be unreasonable to require a sidewalk to be installed that does not connect to another non-motorized facility nearby. Given the recent changes in the law, constructing a ‘sidewalk to nowhere’ violates the new Public Right-Of-Way Accessibility Guidelines (PROWAG) statute. It could be argued that installing a sidewalk on the westside of S 9th Street would be doing path users a disservice as the sidewalk would terminate at the bridge and pedestrians would be forced to cross the street mid-block since the existing non-motorized facility is located on the east side of the bridge, which would be hazardous and unsafe. Additionally, as a part of the Comprehensive Master Plan, a close look

will be taken at the non-motorized transportation plan and recommendations for revisions will arise with the completion and implementation. See also applicant’s reasoning for this criterion in the attached narrative.

S 8th Street – The same would apply to the non-motorized facility on S 8th Street as was stated for S 9th Street. South 8th Street is also burdened by a bridge crossing the AMTRAK railway. Building a non-motorized facility that terminates immediately south of the bridge would be unsafe. Additionally, installing a sidewalk that does not connect to a designed sidewalk network north of the bridge or to the south would be in violation with the new PROWAG legislation. As a part of the Comprehensive Master Plan, a close look will be taken at the non-motorized transportation plan and recommendations will arise with the completion and implementation.

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 ZBA decisions regarding variance relief from the non-motorized facilities requirements of Section 57.90 of the Zoning Ordinance, Planning Department staff were able to identify one similar request where such Ordinance requirement was waived since the provision was adopted in 2021. A summary of said findings was described.

S 9th Street & S 8th Street – Complete Team Outfitters, 1560 S 8th Street, August 20, 2024: The applicant requested a variance to not be required to install a 6-foot-wide concrete sidewalk along the S 8th Street frontage. The applicant argued the request is not self-created and that the sidewalk requirement would be unnecessarily burdensome. Information was also provided detailing that the Ordinance provision requiring the installation of sidewalk would present a significant grading challenge given the topography where the sidewalk would be placed. It was also mentioned that the surrounding area cannot support the subject sidewalk given there are no other non-motorized facilities to connect to and that the bridge crossing the AMTRAK railway currently does not have the capacity for a sidewalk or pedestrian boardwalk at this time. The ZBA granted the variance with a condition that requires the property owner to consent to a Special Assessment District (SAD) agreement for the sidewalk, which essentially allows for the construction of the sidewalk to be deferred until the Township finds it appropriate to create a SAD to implement such public improvements. By the property owner executing said agreement, he consented to not oppose the creation of a SAD and to pay the appropriate assessment in the future when the district is established.

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

Comment: **S 9th Street** – The applicant’s request for relief to not be obligated to install the subject non-motorized infrastructure is what is causing the variance request. However, it could be argued that this request is not entirely self-created given that the area abutting the parcel’s frontage along the west side of S 9th Street does not support non-motorized infrastructure at this time. Prior to an amendment to the Zoning Ordinance in 2021, the applicant would have been able to consent to a Special Assessment District and would not have to come forward with this request. See applicant’s reasoning for this criterion in the attached narrative.

S 8th Street – The applicant’s request for a variance could be considered self-created. The applicant is not required to expand the development. That said, the property owner did not create the existing conditions along the S 8th Street frontage. The constructability issues as noted in the applicant’s narrative and grading challenges as captured in Exhibit B are not man-made.

Standard: Public Safety and Welfare
Will the variance request negatively impact the health, safety, and welfare of others?

Comment: **S 9th Street & S 8th Street** – It is not expected that the variance request would negatively impact the health, safety, or welfare of others. See applicant’s reasoning for this criterion in the attached narrative.

Recommendation

Planning Department staff recommend that the motion of possible action should include the findings of fact relevant to the requested variance.

Based on the staff analysis, 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 for S 9th Street
 - There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - Conformance to the Ordinance is unnecessarily burdensome.
 - Minimum necessary for substantial justice is met.
 - The request is not entirely self-created.

- It is not expected that the variance request would negatively impact the health, safety, or welfare of the public.
- Support of variance denial for S 9th Street
 - The applicant’s request to have the sidewalk requirement waived can be considered as a self-created hardship.
- Support of variance approval for S 8th Street
 - There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - Conformance to the Ordinance is unnecessarily burdensome.
 - Minimum necessary for substantial justice is met.
 - The request is not entirely self-created.
 - It is not expected that the variance request would negatively impact the health, safety, or welfare of the public.
- Support of variance denial for S 8th Street
 - The applicant’s request to have the sidewalk requirement waived can be considered as a self-created hardship.

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

1. Variance Approval for S 9th Street

The Zoning Board of Appeals approves the variance request.

If the variance were approved, staff also recommend the Zoning Board of Appeals attach the following condition:

- The applicant consents to a Special Assessment District for a future non-motorized facility.

2. Variance Denial for S 9th Street

The Zoning Board of Appeals denies the variance request.

3. Variance Approval for S 8th Street

The Zoning Board of Appeals approves the variance request.

If the variance were approved, staff also recommend the Zoning Board of Appeals attach the following condition:

- The applicant consents to a Special Assessment District for a future non-motorized facility.

4. Variance Denial for S 8th Street

The Zoning Board of Appeals denies the variance request.

Chair Williams invited the applicant to speak on the request.

Mr. Alex Phalen, Project Manager with Hurley Stewart Civil Engineers, spoke regarding the variance requests for S 9th Street and S 8th Street reiterating the comments of Mr. Hutson, and offered to address any questions the Zoning Board of Appeals (ZBA) may have.

Mr. Jachym inquired about the project timeline. Mr. Phalen responded that, once approval for the variance requests is received, the team will proceed with the site plan review, with construction anticipated to begin in June.

Chair Williams opened the floor to public comments. There were none.

Mr. Smith raised concerns about the future use and development of the surrounding area.

Ms. Farmer inquired about how this variance request aligns with the non-motorized improvements planned for 9th Street this year. Ms. Stefforia explained that the sidewalk project will be constructed on the west side of the road, extending from Stadium Drive to Quail Run Drive. It will then cross over to the east side but will not extend north to KL Avenue at this time.

Mr. Porter reminded the Board that, regarding 9th Street, the applicant has agreed to be included in a special assessment district, meaning they will be assessed when the project proceeds.

Mr. Jachym asked about the project timeline to build north to KL Avenue. Ms. Stefforia responded that a timeline has not yet been established.

Ms. Stefforia shared that the Planning Department is not aware of any plans to rebuild the bridge over the Amtrak railroad on 8th Street.

Mr. Jachym inquired whether granting the variance with the special assessment district would mean that the non-motorized path would be required in the future. Mr. Porter agreed. Mr. Porter also shared that the Township Engineer recommended delaying the installation of the non-motorized path until the issue with the bridge is resolved.

Mr. Jachym **made a motion** to grant the variance request for 8th Street, citing the unique physical circumstances, the Township's "sidewalk to nowhere" ordinance, and the substantial evidence that the situation is not self-created. The motion also supports requiring consent to the establishment of a Special Assessment District for the property owners now for if and when the sidewalks are constructed on 8th Street, at which point they would be required to participate.

Mr. Gould **seconded the motion**. The **motion was passed** unanimously.

Mr. Jachym **made a motion** to grant the variance request for 9th Street, citing the unique physical circumstances, the Township's "sidewalk to nowhere" ordinance, and the substantial evidence that the situation is not self-created. The motion also supports requiring consent to the establishment of a Special Assessment District for the property owners now for if and when the sidewalks are constructed on 9th Street, at which point they would be required to participate.

Mr. Gould **seconded the motion**. The **motion was passed** unanimously.

~~Vice Chair~~ Mr. Gould shared a concern with the bridge over the railroad and making it safe for pedestrians when it is rebuilt.

OTHER UPDATES AND BUSINESS

Chair Williams announced that the meeting dates for 2025 had been emailed to the Board.

Ms. Farmer **made a motion** to adopt the ZBA meeting dates for 2025 as presented. Mr. Jachym **seconded the motion**. The **motion was approved** unanimously.

ADJOURNMENT

There being no further business, Chair Williams adjourned the meeting at 3:32 p.m.

Minutes Prepared: February 27, 2025

Minutes Approved:



EASEMENT FOR ELECTRIC FACILITIES

Master Tract# ROW000916070520
SAP# 1060046522
Design# 11336962
Agreement# MI00000060557

MJ SHIELDS, LLC, a Michigan limited liability company, whose address is 2651 Woody Noll Drive, Portage, Michigan 49002 (hereinafter "Owner")

for \$1.00 and other good and valuable consideration [exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to MCLA 207.526(f)] grants and warrants to

CONSUMERS ENERGY COMPANY, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201 (hereinafter "Consumers")

a permanent easement to enter Owner's land (hereinafter "Owner's Land") located in the Township of Oshtemo, County of Kalamazoo, and State of Michigan as more particularly described in the attached Exhibit A to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a line or lines of electric facilities in, on, over, under, across, and through a portion of Owner's Land (hereinafter "Easement Area") as more fully described in the attached Exhibit B, together with any pole structures, poles, or any combination of same, wires, cables, conduits, crossarms, braces, guys, anchors, transformers, electric control circuits and devices, location markers and signs, communication systems, utility lines, protective apparatus and all other equipment, appurtenances, associated fixtures, and facilities, whether above or below grade, useful or incidental to or for the operation or protection thereof, and to conduct such other activities as may be convenient in connection therewith as determined by Consumers for the purpose of transmitting and distributing electricity.

Additional Work Space: In addition to the Easement rights granted herein, Owner further grants to Consumers, during initial construction and installation only, the right to temporarily use such additional work space reasonably required to construct said lines. Said temporary work space shall abut the Easement Area, on either side, as required by construction.

Access: Consumers shall have the right to unimpaired access to said line or lines, and the right of ingress and egress on, over, and through Owner's Land for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder.

Trees and Other Vegetation: Owner shall not plant any trees within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, or other vegetation located outside of the Easement Area which are of such a height or are of such a species whose mature height that in falling directly to the ground could come into contact with or land directly above Consumers' facilities.

Buildings/Structures: Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, or on said Easement Area, whether temporary or permanent, natural or man-made, without a prior written agreement executed by Consumers' Real Estate Department expressly allowing the aforementioned.