

## Agenda

### City of Kalamazoo - Zoning Board of Appeals

December 14, 2017

**City Commission Chambers, City Hall**

**7:00 p.m.**

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A. Call to Order:

B. Communications and Announcements:

C. Approval of Meeting Minutes from November 9, 2017

D. Public Hearings:

1. ZBA #17-12-28: 1738 N. Westnedge Avenue. H & H Painting Company Inc., is requesting a use variance from Chapter 9, Section 9.2A, to allow the expansion of an existing nonconforming use (commercial / industrial painting business) for the proposed 3,200 square foot commercial building addition, where Zone CN-1 is intended to accommodate very small-scale retail sales and personal service uses within or very near residential neighborhoods

E. Other Business:

F. Adjournment:

**MINUTES  
CITY OF KALAMAZOO  
ZONING BOARD OF APPEALS  
November 9, 2017 - 7:00 p.m.  
CITY COMMISSION CHAMBERS**

**Members Present:** Nick Boyd, James Houston, Reed Youngs, Matt Lager, Chris Flach, Christina Doane

**Members Absent:** Matthew McClelland

**City Staff:** Pete Eldridge, Zoning Administrator; Clyde Robinson, City Attorney; Deanna Benthin, Recording Secretary

**Chair Boyd called the meeting to order at 7:04 p.m.**

**MINUTES:**

**Mr. Youngs moved to approve the minutes of September 14, 2017 as submitted, seconded by Mr. Houston.**

**Motion approved by voice vote unanimously.**

**NEW BUSINESS:**

**PUBLIC HEARINGS:** Chair Boyd summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures stating that a full board consists of six members and that approval requires four affirmative votes. If only four members are present the applicants would have the option to hold their requests over to the next meeting or present their requests with the hopes of getting all four affirmative votes.

Mr. Houston read the application for 620 Northampton Road, Parcel # 06-18-189-002:

**ZBA# 17-10-22: 620 Northampton Road: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Keyte Inc. on behalf of Westwood Christian Reformed Church. The request concerns the property at 620 Northampton Road, which is situated in use Zone RS-5, Residential – Single Dwelling District. The applicant is requesting the following to allow for a parcel split: 1) A dimensional variance from Chapter 5, Section 5.1, to authorize 69% impervious lot coverage, where 45% is the maximum impervious lot coverage for Zone RS-5. Please note the current site is at 52% impervious lot cover. 2) A dimensional variance from Chapter 9, Section 9.5, to allow for the relocation of a 59 square foot nonconforming freestanding sign with a 32.5% changeable copy area, where only a 32 square foot sign**

**with a 25% changeable copy area is permitted. These dimensional variances will allow for a land division to occur to divide off the W. Main Street frontage.**

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were sixty-eight notices of public hearing sent and two responses were received.

David Keyte, 329 Parkland Terrace, represented the variance; he referred to the impervious coverage on the north side, the proposed coverage and the parking to be removed, and the addition of four landscape islands to help for impervious area. He referred to the photograph showing where the new the sign location would be. The sign would be consistent with the commercial area, it won't affect the neighborhood. The church doesn't need the property and extra parking. It's zoned commercial office, and can be of a better use. He stated the reasons the Board should grant the variance. It's a split zone property with office up front and residential in the back. For commercial office zoning they are in compliance with the zoning requirements. The split meets the 70% maximum impervious coverage for commercial office, the owner would be deprived the same rights of others in commercial office zone, if they can't develop the property it'd be a hardship to them. It's not contrary to public interest, it's a commercial corridor. The variance is the minimum to make the land useable. There would be no impact on residential land. He feels it's a win-win opportunity for the community and the church.

Mr. Lager questioned the islands if they'd be landscaped. Mr. Keyte stated he'd prefer woodchips or rocks.

Mr. Youngs questioned the lot diagram provided and the parking spots, are they needed for the church. Mr. Keyte stated Mr. Eldridge said they met the parking requirements.

Mr. Eldridge stated he had spoken with Mr. Keyte regarding the green space requirements, and Mr. Keyte was encouraged by the City to add green space.

Speaking against the request:

Ruth Mankowski, 4300 Londonderry Avenue, spoke of her concerns regarding the traffic patterns, the church is not in compliance with the impervious coverage ratio, and they'd be over if approved. She spoke to the allowable sizes allowed and showed visual aids of what the church currently had and what the ordinance allowed. She stated the church knew the ratio's when they built and shouldn't be able to put up a sign that can be read a half a mile away. It's not being a good neighbor or being a friendly neighbor. The other businesses in the area have signs that are in compliance and they should be too.

Eric Dougal, 4127 Londonderry Avenue, read an email from a neighbor Jim Hess, a local realtor, who couldn't be in attendance, stating he's opposed to the proposal; it's a main entrance to the neighborhood and it would have a negative impact. Property values would decrease, it's a safety hazard for the corridor, he's sold homes in the Westwood area, and it's a quality of life issue. Mr. Dougal stated there's been no discussion from the church between them and neighbors; he feels the church is a great neighbor, but no communication exists. The

church has put themselves into the situation they are in, their already out of compliance. He doesn't want to see reduced green space, and asked the Board to vote against the request.

Scott Tompkins, 4113 Londonderry Avenue, stated he's been a resident there for over twenty years, and it's a welcoming neighborhood. He spoke of his concerns regarding property values, the quality of life, safety issues and traffic increases. He wants to keep the green space, and the entrance as it is. The church's previous choices have placed them in this situation.

Ron Huster, 1314 Coolidge Avenue, spoke regarding the green space and the need for parking. He questioned where they'd place their sign, it flashes 24/7 and would bother the neighbors.

Kristen Rice, 816 Newgate, spoke to the hardship requirement. The church is creating the hardship themselves. The spirit of the neighborhood is the charm of the neighborhood, by removing parking it will place the cars in the street.

Beth van den Hombergh, 1417 Northampton Rd., she spoke about the traffic concerns and overflow parking being on their streets. Cars already don't stop at the stop signs in the neighborhood.

Geanice Miller, 718 Northampton Rd., spoke to the traffic issues, commenting on the empty commercial spaces all around them and questioned the need for more. She spoke regarding a child being killed by a car near West Main and Northampton Rd., safety is a main concern. She spoke to other variances the church has obtained.

Mr. Eldridge stated there is a letter from Ruth Mankowski in opposition, and a letter from Nicholas Gooch in support. He commented on the sign issue and understands the concerns with the size. The records show the sign was approved as a commercial sign, and it's inconsistent to a degree for the use of the property, therefore requiring a variance. Regarding the off street parking requirements, the church has a 600 seat capacity and requires 100 parking spaces, with losing 42 parking spaces, and green space being added, they would still have 126 parking spaces.

Mr. Houston asked Mr. Keyte if the church purchased the property at the same time. Mr. Keyte stated church bought the properties separately. Mr. Eldridge stated they purchased the north property in early 2002, then later in the year the southern portion was purchased. Mr. Eldridge stated they combined the properties when they built the church. He discussed the non-conforming changeable copy board area, the 59 square foot i.d. sign is allowed though.

Chair Boyd closed the public hearing.

## **FINDING OF FACT**

Mr. Flach moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 620 Northampton Road shall include all information included in the notice of public hearing dated October 25, 2017.

- 2.) Sixty-eight notices of public hearing were sent and two responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: David Keyte mentioned the sign would be moved the church doesn't need the property, the church was willing to lose parking and add small islands to make green space, when they separate the parcels, the current parcel with the church will be non-conforming. Mr. Keyte stated approval would add value to the community, its unused space that could be used for commercial development; it is already zoned commercial office. Ruth Mankowski, stated it will not add value to the community, they already are over the sign allowance, they are non-conforming to the impervious coverage, and had traffic concerns. Eric Dougal, read an email from Mr. Hess stating the property values will go down due to the corridor being more commercialized and losing green space. Scott Tompkins, stated property values will go down, traffic will make it more unsafe in the neighborhood. Ron Huster, was against losing green space, the sign is a distraction, and it will lower property values. Kristen Rice, a ten year resident stated it's not in the spirit of the neighborhood, the corridor would be unsafe, had concerns where overflow parking would go. Beth van den Hombergh, had traffic concerns, it'd be unsafe; the corridor is unusable at times. Geanice Miller stated people don't stop at stop signs already and had concerns with safety and traffic issues. Mr. Eldridge stated the sign is in compliance where it's at in the commercial office district.

**Mr. Lager seconded the Finding of Fact.**

**Motion approved for the Finding of Fact by voice vote unanimously.**

**Mr. Youngs moved to approve the application for 1) a dimensional variance from Chapter 5, Section 5.1, to authorize 69% impervious lot coverage, where 45% is the maximum impervious lot coverage for Zone RS-5. Please note the current site is at 52% impervious lot cover, seconded by Mr. Lager.**

Mr. Youngs stated he didn't see a problem with the request, the church has a right to sell their property. He reviewed the criteria conditions that must be met to qualify and stated he was in favor.

Chair Boyd questioned Attorney Robinson the burden to the owner of not being able to sell the land. He stated the Board isn't supposed to look at the expense as an issue, but the criteria requirements.

Attorney Robinson replied the Board is to look at the variance requirements. All the requirements need to be met, not just a few of them, all six of them must be met. He asked if they meet these three standards. There are three other standards that you can reduce too: 1.) Does compliance with the strict letter of the applicable zoning code unreasonably prevent the petitioner from using the property for the intended purpose, or is conformity with the restriction unnecessarily burdensome. 2.) Would the granting the variance due substantial justice for the petitioner as well as other property owners in the district. 3.) Can relief be granted in such a fashion that the spirit of the ordinance can be achieved, public safety and welfare secured. In addition the necessity for the variance can't be self-created. From his legal perspective there are some problems from what the church is attempting to do, the variance is for the portion of the property in the R-5 zone, and they already have a non-conformance and are increasing the non-conformity by making the footprint smaller. They are increasing the non-conformity, by selling off the front of their property. He stated there have been a lot of comments from neighbors on traffic, and safety issues. However, the issue before the Board is on the impervious coverage, that's what needs to be analyzed.

Mr. Youngs questioned the parking remaining. Mr. Eldridge stated there would be 100 parking spaces required; they have 126 spaces that would remain.

Mr. Houston stated there's a non-conformity that exists already, and they propose to make it more non-conforming.

Mr. Flach stated the church purchased two lots, and they want to sell off the lot with the green space, it doesn't meet the standards and he's opposed.

Chair Boyd stated the request doesn't meet the variance requirements.

**Motion denied by roll call vote.**

**Yes: Youngs, Lager, Houston**

**No: Boyd, Flach, Doane**

**Mr. Eldridge stated with the denial of request 1, request 2 is nullified.**

**2) A dimensional variance from Chapter 9, Section 9.5, to allow for the relocation of a 59 square foot nonconforming freestanding sign with a 32.5% changeable copy area, where only a 32 square foot sign with a 25% changeable copy area is permitted. These dimensional variances will allow for a land division to occur to divide off the W. Main Street frontage.**

Mr. Houston read the application for 1407 Bryant Street, Parcel # 06-26-143-025:

**ZBA# 17-10-23: 1407 Bryant Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Chris Wahmhoff. The request concerns the property at 1407 Bryant Street, which is situated in use Zone RS-5, Residential – Single Dwelling District. The applicant is seeking relief from the following setback provision in Chapter 7 of the Code of Ordinances. The**

**application is requesting a dimensional variance from Chapter 7, Section 7-5 (Keeping of Rabbits and Poultry), to authorize an enclosed yard and coop for chickens and ducks which has a zero setback from the west side property line, zero setback from the north side property line along the alley and a three foot setback from the east side property line; where enclosed yards or coop are to be located not less than 30 feet from the street line or any adjacent property line.**

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were sixty-seven notices of public hearing sent and five responses were received.

Chris Wahmoff, 1407 Bryant St., the applicant for the variance, he gave the Board signatures he stated the ducks and chickens are personal pets, and he has a non-profit program called Edison Ducks in a Row. He wants to help kids in the area and had started this program in 2015 with the help of others. He suffered some losses, and had some serious issues with the City, stating communication was hard for him. His goal is to move the birds across the street. He's had problems with Animal Control, the City and the Police and just wants to create a non-profit for the kids in the neighborhood. Most of his birds are quiet.

Speaking in Favor:

Justin Sloan, 407 Bryant St. stated the ducks help him keep calm and work on his anger management.

Melissa Ray, 6666 West F. Avenue, she stated Chris is a freedom fighter, she wonder why someone isn't working with him to work with the ordinance. She stated the program gives the children an option to learn about sustainable options for their lives.

Jacquis Robertson, 120 W. Vine Street, stated Chris's program is wonderful and he had brought his ducks to the church, the kids like it. She thinks the kids in the community would benefit from the program.

Dylan LaForge, 710 Lovell Street, stated he sees the positive results from the Ducks in a Row program and asks the Board to approve it.

Katie Preece, 703 Highland, Lincoln Park, stated she teaches self-defense strategies; Chris is providing a program to underprivileged children, she asked the Board to approve the request.

Speaking in Opposition:

Joseph Hohler, 1428 Lane Blvd, stated he was sympathetic towards the program, noting that three of the people who spoke in favor don't live in the neighborhood. He commented on the "coop" that was a mass of fences that was tacked up in the front yard, it's currently not up, due to the fact that Animal Control came and took the ducks. Mr. Wahmoff is asking forgiveness after the fact. This mass of fences is in the front yard, 25 feet back would be in his living room. He's in favor of animals, but he needs to be in compliance. The chickens run up and down the alley, sitting on his cars. He would not be able to put up a garage on the front property line of his property. How can the Board approve a "coop" in the front yard with no setbacks. There's a reason for zoning restrictions, he needs to meet those requirements.

Martin Klemm, 1507 Lane Blvd., provided the Board with a couple letters with twelve signatures against the request. He has nothing against Mr. Wahmhoff stating this is about a variance request. He stated his concerns: The property values are slowly depreciating and it's affecting other homeowners in the area. There were approximately thirty to forty birds and the odor from them is not what is expected in a residential neighborhood. The risk of disease, there are approximately eight diseases humans can get from fowl. The runoff from the fecal matter when it rains goes into adjacent properties. The overpopulation, they have to be kept in a sanitary and clean environment, which is not occurring. The noise from these birds gets out of control. He's been ignoring of the ordinance, since January on 2009 has over \$4200 dollars in fines. The birds are not contained, they escape the "coop" and roam the neighborhood. Mr. Wahmhoff isn't listed as a property owner and his application should be dismissed.

Amy Hohler, 1428 Lane Blvd., stated the birds don't stay contained, they escape, he's asking to get a variance to continue to "not contain" the birds on his property. She can't enjoy sitting in her backyard do to the noise. They should be on a farm, not in a neighborhood.

Mr. Eldridge commented on the letters in opposition from Jeffrey Caron, 1324 Lane Blvd., April See, 1415 Lane Blvd., Simon Purdy, 1416 Lane Blvd., Todd Walker 1419 Lane Blvd., and Govindan Subramanian, 1939 March St.

Mr. Eldridge commented this started as an enforcement case in December of 2016, and has had several other enforcements since then. The lot is 44 feet wide and 90 feet in depth, there is a 30 foot setback from the front property line, that can be addressed by moving the "coop" out of the front yard, however there is a zero setback from the side and rear property lines for the enclosure and the garage that serves as the coop, it's only three feet from the property line that's an issue. The fencing is in rough condition, the enclosure the birds were in was discussed. He commented on the pictures taken of the property showing the location of the "coop" doesn't match the diagram submitted to the Board.

Chair Boyd questioned the allowable amount of chickens on a property. Mr. Eldridge stated it's dictated by the sanitary conditions they can be kept in as determined by Animal Control. But if you can't meet the required 30 foot setbacks for the fence and coop then the answer is zero.

Mr. Houston read the ordinance of "Keeping of rabbits and poultry". Stating, It shall be unlawful for any person to keep any rabbits, chickens, ducks, geese, or other poultry within the limits of the City, unless the same are kept in a sanitary condition, free of offensive odors, and in an enclosed yard, or coop which shall be located not less than 30 feet from the street line or any adjacent property line. This is definitely not in conformity.

Chair Boyd closed the public hearing.

## **FINDING OF FACT**

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1407 Bryant Street shall include all information included in the notice of public hearing dated September 26, 2017.

- 2.) Sixty-seven notices of public hearing were sent and five responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Chris Wahmhoff, 1407 Bryant Street the applicant stated he was asking for a variance to keep the ducks on the property, he runs a program called Edison Ducks in a Row, it's an effort started to support the neighborhood to provide opportunities for children started in 2015, his goal is ultimately not to keep the birds on the property, but to keep them across the street, to designate Ducks in a Row as a non-profit, he stated he doesn't want to keep the birds on his property out of concern for his neighbors. Justin Sloan, spoke in favor of Ducks in a Row as a program that has helped him personally. Melissa Ray spoke in favor of the applicant and in favor of creative solutions, the program is beneficial to the children in the neighborhood. Jacquis Robertson, spoke in favor of Ducks in a Row was a successful program. Dylan LaForge spoke in favor stating keeping the ducks would not negatively impact adjacent owners. Katie Preece, spoke in favor of the applicant and the program. Joseph Hohler, spoke against the request stating it's not about the Ducks in a Row program, but is a zoning issue, the property is out of compliance, there is no space on the property to keep the ducks, they get loose at times. Martin Klemm, provided twelve signatures and a letter in opposition to keeping the animals on the property and stated multiple reasons against, including decreasing property values, odor, risk of disease, run off of fecal matter, noise, past ignoring of the ordinance and containment of the animals. Amy Hohler stated that the animals do not stay contained on the site, their loud and there's too many of them. Mr. Eldridge commented on the several letters in opposition received and also noted the lot is only 44' wide by 90' deep, the current ordinance requires a setback of 30' from a property line for a coop for animals, the current location of the coop would put the coop three feet from a property line. There is a zero setback from the west and rear property line and three feet from the east side property line.

**Mr. Houston seconded the Finding of Fact.**

**Motion approved for the Finding of Fact by voice vote unanimously.**

**Mr. Youngs moved to approve the application, seconded by Mr. Houston.**

Mr. Youngs commented he appreciates the intent of the applicant, but there are rules for keeping ducks/chickens and they are not being met, there is no room on this property to meet compliance with the ordinance.

Mr. Houston stated he grew up on a farm and there's a proper way to keep and maintain property, animals need to be kept in a humane way, the space Mr. Wahmoff has doesn't allow for it.

Mr. Flach stated the Edison Neighborhood property values are starting to come back up. The Edison Ducks in a Row is beneficial to the children, but is in direct violation to the ordinance.

Mr. Wahmoff stated he didn't want them on this property, but wanted to be across the street and that the City wasn't communicating with him. He apologized to his neighbors. But he would definitely be back in contact with the City.

Chair Boyd stated he appreciates the efforts of reaching out to the community, but reviewed the criteria conditions that must be met to qualify and stated the request didn't meet any of the criteria.

**Motion denied by roll call vote unanimously.**

Mr. Houston read the application for 3921 Oakland Drive, Parcel # #06-32-438-001:

**ZBA# 17-10-24: 3921 Oakland Drive: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Sign Art Inc. on behalf of Lakeside Academy. The request concerns the property at 3921 Oakland Drive, which is situated in use Zone RS-5, Residential – Single Dwelling District. The applicant is requesting a dimensional variance from Chapter 7, Section 7.3-1, to authorize a freestanding sign structure with an overall freestanding sign height of ten feet; where at the Zoning Board of Appeals meeting on September 14, 2017, the Board approved an overall height of seven foot four inches. The maximum height per the Zoning Ordinance for freestanding signs is six feet in Zone RS-5.**

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were ninety-three notices of public hearing sent and one response was received.

Don Nitz, 2621 Applelane, CEO of Lakeside Academy, stated they celebrated their 110 year anniversary. They are part of the Building Blocks program, they are friends with neighbors bordering the property. He spoke of the proposed sign that was installed, but they want to be able to put the lantern cap on top of the sign. It's a landmark for them.

Joe Craven, of SignArt stated they were approved for the seven foot four inch structure; they are approaching the lantern in a different way tonight. He spoke to the photographs handed out and spoke in regards to the sign as it existed today. He spoke to the uniqueness of the property

and the quarter mile length of the property. The denial of the sign would diminish the potential of the sign. The lantern if it was a separate part of the structure, they wouldn't be before the Board.

Carol Robinson, 1912 Autumn Crest stated they have a sign in front of their condominium association that complies with the ordinance. She spoke about the Parkview and Oakland reconstruction a year and a half ago, and there's only a few monument signs placed along there, all are in compliance, it's not a business area at all, it is a residential area. She stated her concerns with the ground being built up and the sign was at street level now, the sign is going to be back lit. There are laws, they've already been granted an extra sixteen inches for the sign. She stated the sign is beautiful, and questioned why they need a light. It's a residential area, and she asked the Board to please keep it a residential area.

Mr. Eldridge stated staff only received Ms. Robinson's letter in opposition. He referred to the photographs of the sign constructed to the seven foot four inches allowed, the cap is covered pending the outcome of the hearing tonight.

Chair Boyd closed the public hearing.

## **FINDING OF FACT**

Mr. Youngs moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 3921 Oakland Drive shall include all information included in the notice of public hearing dated August 29, 2017.
- 2.) Ninety-three notices of public hearing were sent and one response was received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Don Nitz, CEO of Lakeside Academy provided insight into Lakeside and how they continue to work with the Oakland Neighborhood and stated the sign was in place. Joe Craven, SignArt, stated the last ZBA meeting they were approved for the seven foot four inch height structure, with the lantern being separate. He provided photos for the sign and mentioned the existing vapor light on the pole would be removed. Carol Robinson spoke in opposition and provided a letter in opposition.

**Mr. Lager seconded the Finding of Fact.**

**Motion approved for the Finding of Fact by voice vote unanimously.**

**Mr. Youngs moved to approve the application, seconded by Mr. Lager.**

Mr. Lager stated due to the size of the lot, the fact it's a landmark property, on a busy thoroughfare, but zoned residential, there's special circumstances, the literal interpretation of the ordinance would prevent the placing of a reasonable sized sign on the property, it's not the result of the applicant, it won't adversely affect land in a material way and he was in favor.

Chair Boyd questioned if it's an Institutional Campus. Mr. Eldridge stated no, it's in a residential zone with a house directly across the driveway.

Mr. Youngs stated no neighbors nearby had issues with the sign, only Ms. Robinson who is a quarter mile south from the location.

Chair Boyd commented they would be increasing the non-conformity of the sign.

Mr. Houston stated he had no problem with the sign, it would enhance the location easier, and it's not an offensive sign.

Mr. Flach discussed the other options, if the lantern was not attached to the structure it would be in conformity.

Mr. Eldridge stated the Board can grant a reduced variance, with a lesser cap with no light, there is a lack of hardship they need to prove, it's more than an aesthetic feature.

**Motion denied roll call vote.**

**Yes: Houston, Youngs, Lager**

**No: Flach, Doane, Boyd**

Mr. Houston read the application for 563 Portage Street, Parcel # 06-22-219-010:

**ZBA#17-11-25: 563 Portage Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Jakobson Management Company on behalf of MTP CRIBS, LLC. The request concerns the property at 563 Portage Street, which is situated in use Zone M-1, Manufacturing – Limited District. The applicant is requesting a use variance to authorize the conversion of a ground floor commercial space into an apartment in this building which already contains three other residential units. Where in Zone M-1 no new dwelling units are permitted.**

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were twenty-two notices of public hearing sent and two responses were received.

Hailey Siebenaler, 3414 Lovers Lane, stated her client purchased the property on September 8<sup>th</sup>, 2017 as an occupied four unit; it's been occupied that way for some time. During a rental inspection they were notified they weren't allowed to have four units. Their tenant is on a lease with them, they'd have to evict them, and make it into a commercial or retail space. They have support from the neighborhood to keep it residential. They take great care of the property, stating it was last used in 2010 as commercial.

Mr. Eldridge stated they are near the KVCC Campus and Bronson Hospital. The master plans intended direction is to transition this area to commercial zone districts that would allow mixed use and allow more residential uses in that area. Commercial is struggling in that area. No new residential units are permitted, the three there are legal non-conforming, the front one was illegally converted. The three units were inspected and approved years ago, during a certain time period this property dropped off the rental registration program, when the new purchaser came in, between 2010 and now there was an additional unit added. The City hopes to have more additional residential units on line in this area in the future.

Chair Boyd closed the public hearing.

## **FINDING OF FACT**

Mr. Flach moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 563 Portage Street shall include all information included in the notice of public hearing dated October 25, 2017.
- 2.) Twenty-two notices of public hearing were sent and two responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Hailey Siebenaler, stated her client purchased the property as a four unit rental with the intent to rent it as such, they currently have a tenant leasing the space and then found out the fourth unit was non-conforming due to zoning. If the variance isn't approved they will have to evict the tenant that has resided there for over two years. Mr. Eldridge referenced the future land development map.

**Mr. Houston seconded the Finding of Fact.**

**Motion approved for the Finding of Fact by voice vote unanimously.**

**Mr. Lager moved to approve the application, seconded by Mr. Houston.**

Chair Boyd reviewed the criteria conditions that must be met to qualify, it's already being used as a rental, it's not the applicant's fault, and they purchased it as a four unit and stated he was in favor.

**Motion approved by roll call vote unanimously.**

Mr. Houston read the application for 703 Locust Street, Parcel #06-21-276-008:

**ZBA# 17-11-26: 703 Locust Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Lukeman Properties LLC on behalf of Prytaneum Beta LLC. The request concerns the property at 703 Locust Street, which is situated in use Zone RM-15, Residential – Single Dwelling District. The applicant is requesting a dimensional variance to authorize two dwelling units in the existing structure where the lot area per dwelling unit is 2,178 square feet, when in Zone RM-15, 2,900 square feet is required (a 25% reduction). The structure was utilized as a nonconforming 2-unit rental property until 2000, when it was then converted to single-family occupancy.**

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were one hundred and six notices of public hearing sent and zero responses were received.

Joe Lukeman, of Lukeman Properties, 426 S. Westnedge St., stated he was the applicant, the property was purchased after it was converted to a single family residence. Portions of the building still sit as a duplex, multiple kitchens, multiple utilities, they removed one door at the top of the stairs to return it as a single family dwelling. They are short 1400 square feet for zoning requirements. He has enough parking, at least six spaces, he's not adding more people, as a duplex they'd lose a person. He'd just be returning it back into a duplex. It's a hard property to rent and there are more requests for smaller units.

Mr. Eldridge commented to the diagram in the packet showing surrounding rentals to this property. He noted on the west side, there are two, three and even a 4 unit rental, it's a densely populated area.

There were no comments from the public.  
Chair Boyd closed the public hearing.

## **FINDING OF FACT**

Mr. Youngs moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 703 Locust shall include all information included in the notice of public hearing dated October 25, 2017.

- 2.) One hundred and six notices of public hearing were sent and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Joe Lukeman of Lukeman Properties stated the property was a duplex, then converted to a single family home, it still has all the duplex utilities in the house. Mr. Eldridge provided a map in the packet showing the dual occupancy units on Locust Street.

**Mr. Lager seconded the Finding of Fact.**

**Motion approved for the Finding of Fact by voice vote unanimously.**

**Mr. Lager moved to approve the application, seconded by Mr. Youngs.**

Chair Boyd reviewed the criteria conditions that must be met to qualify and stated he was in favor. There are mostly students in the area, the market wants smaller units.

Mr. Flach stated he was in favor, the parking is sufficient, the utilities are all present.

Mr. Lager stated it's in a high density area, and keeps it in character with the area.

Mr. Eldridge stated at the ZBA meeting two months ago the 525 Sprague Avenue request, they increased the number of units, but reduced the number of bedrooms.

**Motion approved by roll call vote unanimously.**

Mr. Houston read the application for 4501 W. Main Street, Parcel #06-18-307-001:

**ZBA# 17-11-27: 4501 W. Main Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Steve Alkema on behalf of Carriage Holdings LLC. The request concerns the property at 4501 W. Main Street, which is situated in use Zone RM-15, Residential – Single Dwelling District. The applicant is requesting a dimensional variance to allow a total of 137 dwelling (apartment) units where the lot area per dwelling unit is 2,394 square feet (17.5% reduction) when in Zone RM-15, 2,900 square feet is required. Please note the existing apartment complex had 132 apartments until 2009 when a fire destroyed one of the four**

**buildings. Currently, there are 99 apartments and the proposed building will add another 38 apartments for a total of 137.**

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were twenty-two notices of public hearing sent and zero responses were received.

Steve Alkema, 1009 Pinehurst, owner of Carriage Green Apartments, built in 1966, stated in 2009 there was a fire that burnt one building to the ground. Mr. Alkema purchased the property in 2011 and has been improving it, now they want to replace the fourth building. The codes have changed since the original building was built, this one is similar to compliment the other buildings. They meet the parking requirements and exceed the greenspace, only the number of units exceeds today's code standards.

Mr. Eldridge stated the thirty-three units lost in the fire he understands the desire to replace them. The zoning ordinance changed since the 1960's, would still require them to request a variance to even replace the thirty-three units for the original building. The additional units he feels requires additional discussion.

There were no comments from the public.  
Chair Boyd closed the public hearing.

#### **FINDING OF FACT**

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 4501 W. Main Street shall include all information included in the notice of public hearing dated October 25, 2017.
- 2.) Twenty-two notices of public hearing were sent and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Steve Alkema, owner of the Carriage Green Apartments stated the original building was built in 1965 at which time there were four buildings. In 2009 one building was destroyed by fire. The applicant purchased the property in 2011 and has improved the property. He now wishes to rebuild the

fourth building. The fourth proposed building is complimentary and similar to the other three buildings except that it adds five additional units. Due to the ordinance changes since 1965 they would still require a variance to even replace the original thirty-three units.

**Mr. Youngs seconded the Finding of Fact.**

**Motion approved for the Finding of Fact by voice vote unanimously.**

**Mr. Youngs moved to approve the application, seconded by Mr. Lager.**

Mr. Lager stated he was in favor, there is a perceived need for new units in Kalamazoo, this adds back units to make the property whole again and five additional units will help with the need.

Mr. Youngs reviewed the criteria conditions that must be met to qualify and stated he was in favor.

**Motion approved by roll call vote unanimously.**

**OTHER BUSINESS:**

Mr. Eldridge stated Mr. McClelland notified him that he resigned from the Board, they will need to elect a new Vice-Chair. This will need to occur at the December regular meeting.

**ADJOURNMENT:**

**Motion approved by roll call vote unanimously.**

**The meeting was adjourned at 10:17 p.m.**

Submitted By \_\_\_\_\_ Date \_\_\_\_\_  
Recording Secretary

Reviewed By \_\_\_\_\_ Date \_\_\_\_\_  
City Staff

Approved By \_\_\_\_\_ Date \_\_\_\_\_  
Chair



**Community Planning and Development**  
415 Stockbridge Avenue  
Kalamazoo, MI 49001  
PH: (269) 337-8044  
FAX (269) 337-8429  
[www.kalamazoocity.org](http://www.kalamazoocity.org)

NOTICE OF PUBLIC HEARING

November 28, 2017

**RE: 1738 N. Westnedge Avenue**  
**Parcel #06-10-306-002**  
**ZBA #17-12-28**

Dear Property Owner:

An application for a variance from the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by H & H Painting Company Inc., the property owner. The request concerns the property at 1738 N. Westnedge Avenue, which is situated in use Zone CN-1, Commercial – Neighborhood District.

The applicant is requesting a use variance from Chapter 9, Section 9.2A, to allow the expansion of an existing nonconforming use (commercial / industrial painting business) for the proposed 3,200 square foot commercial building addition, where Zone CN-1 is intended to accommodate very small-scale retail sales and personal service uses within or very near residential neighborhoods.

Please note that this request will not change the zoning classification of the property. This is a request for variance only regarding the item described above.

A public hearing will be held on **Thursday, December 14, 2017 at 7:00 p.m.** in the City Commission Chambers in City Hall (241 W. South Street), at which time you may submit your views on this matter in person, by writing, or by representative. If you should know of any interested person who has not received a copy of this letter, please inform them of the time and place of the hearing.

Further information, including property diagrams and drawings are available at the Community Planning and Development Department at 415 Stockbridge Avenue. Meeting agenda packets will also be available to view on-line 10 days prior to the meeting at:  
[www.kalamazoocity.org/boards](http://www.kalamazoocity.org/boards)

If you have any questions, please call (269) 337-8026 or submit by email at [eldridgep@kalamazoocity.org](mailto:eldridgep@kalamazoocity.org).

Sincerely,  
ZONING BOARD OF APPEALS

Peter C. Eldridge, AICP  
Zoning Administrator

c: File



# Zoning Board of Appeals (ZBA) Application Form

Community Planning & Development Department

415 Stockbridge

Kalamazoo, MI 49001

Phone: 269-337-8026

www.kalamazoo.org

RECEIVED OCT 23 2017

Your fully completed application, fee, and all related documents must be submitted to the Community Planning & Development Department at least four (4) weeks prior to the Zoning Board of Appeals meeting.

**Applicant:** Name Chad Sisco President H+H Painting Company Inc.  
 Address 1738 North Westnedge Avenue  
 City, State, Zip Kalamazoo, MI 49007  
 Phone 269-342-2465 Cell 269-207-1714  
 Fax 269-342-2052 Email CSISCO@hhpainting.co.com

**Owner:** Name Sisco Properties LLC  
 Address 1738 North Westnedge Ave.  
 City, State, Zip Kalamazoo MI 49007  
 Phone 269-342-2465 Cell 269-207-1714  
 Fax 269-342-2052 Email CSISCO@hhpainting.co.com

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

### Property Information

Street or Street Address 1738 North Westnedge Avenue  
 This property is located between Hopkins street and Dunkley street, on the  
 north  south  east  west side of the street.  
 CCN# 06-10-306-002 Zone 201 Commercial

### Type of Request

Interpretation of Chapter(s) \_\_\_\_\_ Sections(s) \_\_\_\_\_  
 Paragraph(s) \_\_\_\_\_ of the City of Kalamazoo Zoning Ordinance.

- Use Variance:** Applicant must demonstrate that if the Zoning Ordinance is applied strictly, unnecessary hardship to the applicant will result. All Use Variance Requirements must be met. (See *Requirements List*.)
- Dimensional Variance:** Applicant must demonstrate that if the Zoning Ordinance is applied strictly, practical difficulties to the applicant will result. All Dimensional Variance Requirements must be met. (See *Requirements List*.)
- Appeal of an Administrative Decision**

Description 40' X 80' Addition to building to provide for additional warehouse space for equipment storage

### Attachments

- \$ 495<sup>00</sup> Fee
- Brief narrative (less than one type-written page) describing the nature of the request (2 copies)
- Sketch plan of the property in questions (2 copies)
- Additional attachments as needed e.g. (pictures, architectural drawings, petitions, etc. (2 copies)

Signature of Applicant [Signature] Date 10/23/17

Signature of Owner (if different than applicant) \_\_\_\_\_ Date \_\_\_\_\_

# H & H Painting Company, Inc.

Commercial – Institutional – Industrial

1738 N. Westnedge Avenue, Kalamazoo, MI 49007-1715

Phone: 269.342.2465 Fax: 269.342.2052

Kalamazoo – Grand Rapids

October 23, 2017

To: Zoning Board of Appeals

RE: Use Variance Request

Construction of a 40' X 80' Attached Metal Building Addition

As owner of H & H Painting Company, located at 1738 North Westnedge Avenue in Kalamazoo I am in need of additional storage space due to continued growth of our business. We have trailers sitting outside of our facility that I would like to store inside during winter months and we have outgrown the storage space we have.

I am requesting approval to construct a 40' X 80' addition connected to our existing building. This will allow us to store our trailers inside and give us proper room for the added equipment we have acquired over the last 3 years due to growth of the company.

Please consider this request and contact me with any questions.

Sincerely,

H & H Painting Co., Inc.



Chad Sisco

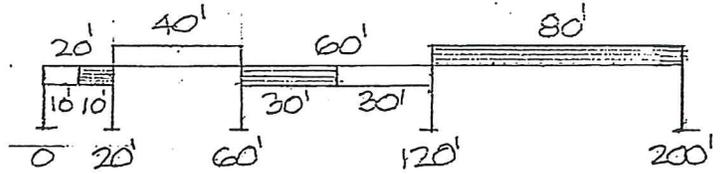
*Applied with Pride*

[www.hhpaintingco.com](http://www.hhpaintingco.com)

143.67

# SITE PLAN

SCALE 1" = 60'



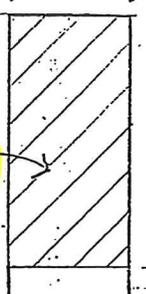
385.41'

419.54'

EXISTING BUILDING



PROPOSED ADDITION



EXISTING BUILDING



H + H PAINTING  
1738 N. WESTEDGE AVE  
KALAMAZOO, MI 49007

42.0'

64.81'

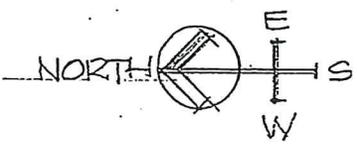
22.69'

83.40'

99.11'

74.53'

NORTH WESTEDGE AVENUE



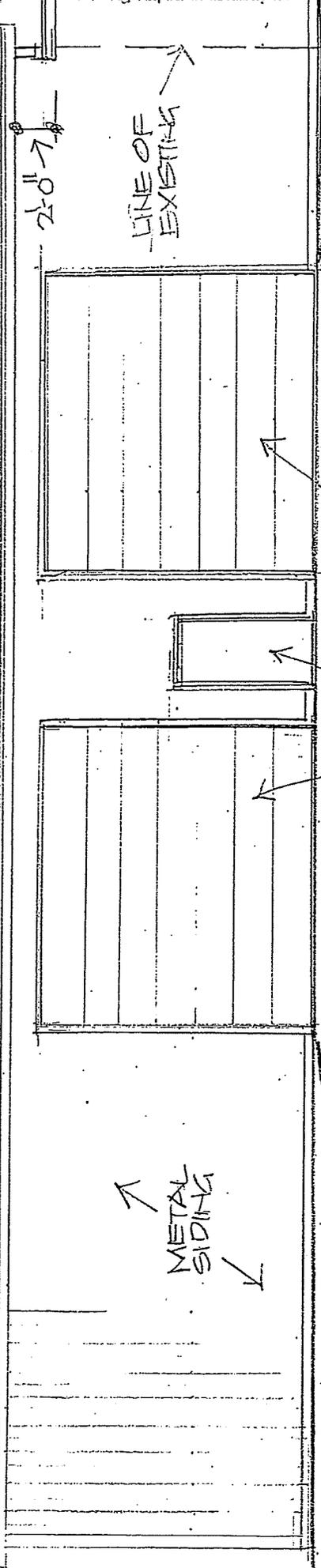
10/16/17

1/3

RIDGE VENT

A/12

1/2" = 1'-0"

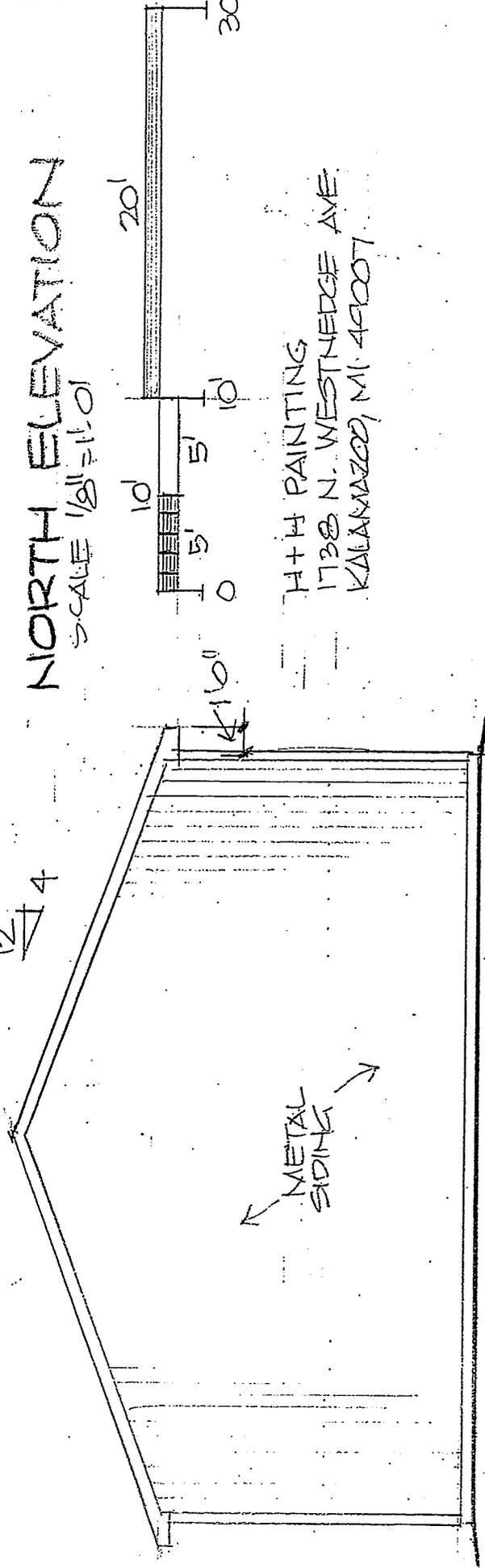


DOOR STYLES TO BE CHOSEN BY OWNER

12/4

NORTH ELEVATION

SCALE 1/8" = 1'-0"



METAL SIDING

EAST ELEVATION

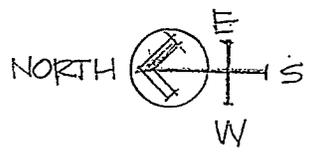
SCALE 1/8" = 1'-0"

H+H PAINTING  
1738 N. WESTHERGE AVE  
KALAMAZOO, MI 49007

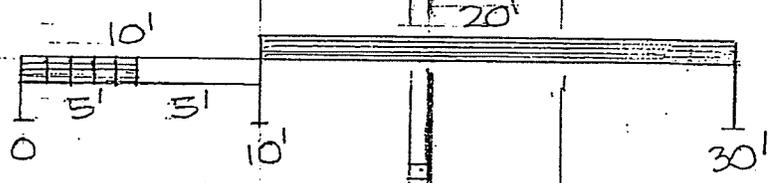
2/3

10/16/17

40'-0"



FLOOR PLAN  
SCALE 1/8" = 1'-0"



8'-0"

30°

16' x 14' HIGH  
OVERHEAD DOORS

H + H PAINTING  
1738 N. WESTNEDGE AVE.  
KALAMAZOO, MI 49007

10'-0" HIGH  
CEILING

OPENING TO BE CREATED  
IN EXISTING WALL

3/3

10'-6 1/2"

# 1738 N. Westledge Ave.

2017 Aerial Photo



This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The user of this map acknowledges that the State/County/Cities/Townships/Villages shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the State/County/Cities/Townships/Villages from any and all claims brought by the User, its employees or agents, or third parties which arise out of the User's access or use of data provided. Map Created: 11/28/2017

**1738 N. Westnedge Avenue  
November 29, 2017**



**H & H Painting Company Inc**



**Community Planning and Development**

415 Stockbridge Avenue  
Kalamazoo, MI 49001  
PH: (269) 337-8044  
FAX (269) 337-8429  
www.kalamazoocity.org

November 17, 2014

**COPY**

Chad Sisco  
H & H Painting Company Inc.  
1738 N. Westnedge Avenue  
Kalamazoo, MI 49007

**Re: ZBA #14-11-26  
1738 N. Westnedge Avenue  
Parcel #06-10-306-002**

Dear Mr. Sisco:

At the meeting of the Zoning Board of Appeals on Thursday, November 13, 2014, the Board granted a use variance from Chapter 9, Section 9.2A, to allow the expansion of an existing nonconforming use (commercial / industrial painting business) with the proposed construction of a 768 square feet storage building, where the CN-1 district is intended to accommodate very small-scale retail sales and personal service uses within or very near residential neighborhoods.

Please note that unless specified by the Board, all variances granted shall become null and void if not exercised within one (1) year of the date of granting. Additionally, Site Plan Review will be required before a Building Permit can be issued.

If you have any questions, please contact the Community Planning and Development Department at (269) 337-8026.

Sincerely,  
ZONING BOARD OF APPEALS

Peter C. Eldridge, AICP  
Project Coordinator

C: Rob Bauckham, Assistant City Planner  
Bobby Durkee, Zoning Inspector  
Property File



November 15, 2006

Curtis Haan  
H & H Painting Company Inc.  
1738 N. Westnedge Avenue  
Kalamazoo, MI 49007

COPY

Re: 1738 N. Westnedge Avenue  
CCN #: 06-10-306-002  
ZBA #:06-11-39

Dear Mr. Haan:

At the meeting of the Zoning Board of Appeals on November 9, 2006, the Board approved a use variance from Chapter 9, Section 9.2A, to allow the expansion of an existing nonconforming use (commercial / industrial painting business) of 1,200 square feet for additional warehouse area, where by Ordinance the CN-1 district is intended to accommodate very small-scale retail sales and personal service uses within or very near residential neighborhoods.

Please note that unless specified by the Board, all variances granted shall become null and void if not exercised within one (1) year of the date of granting.

If you have any questions, please contact the Department of Community Planning and Development at (269) 337-8026.

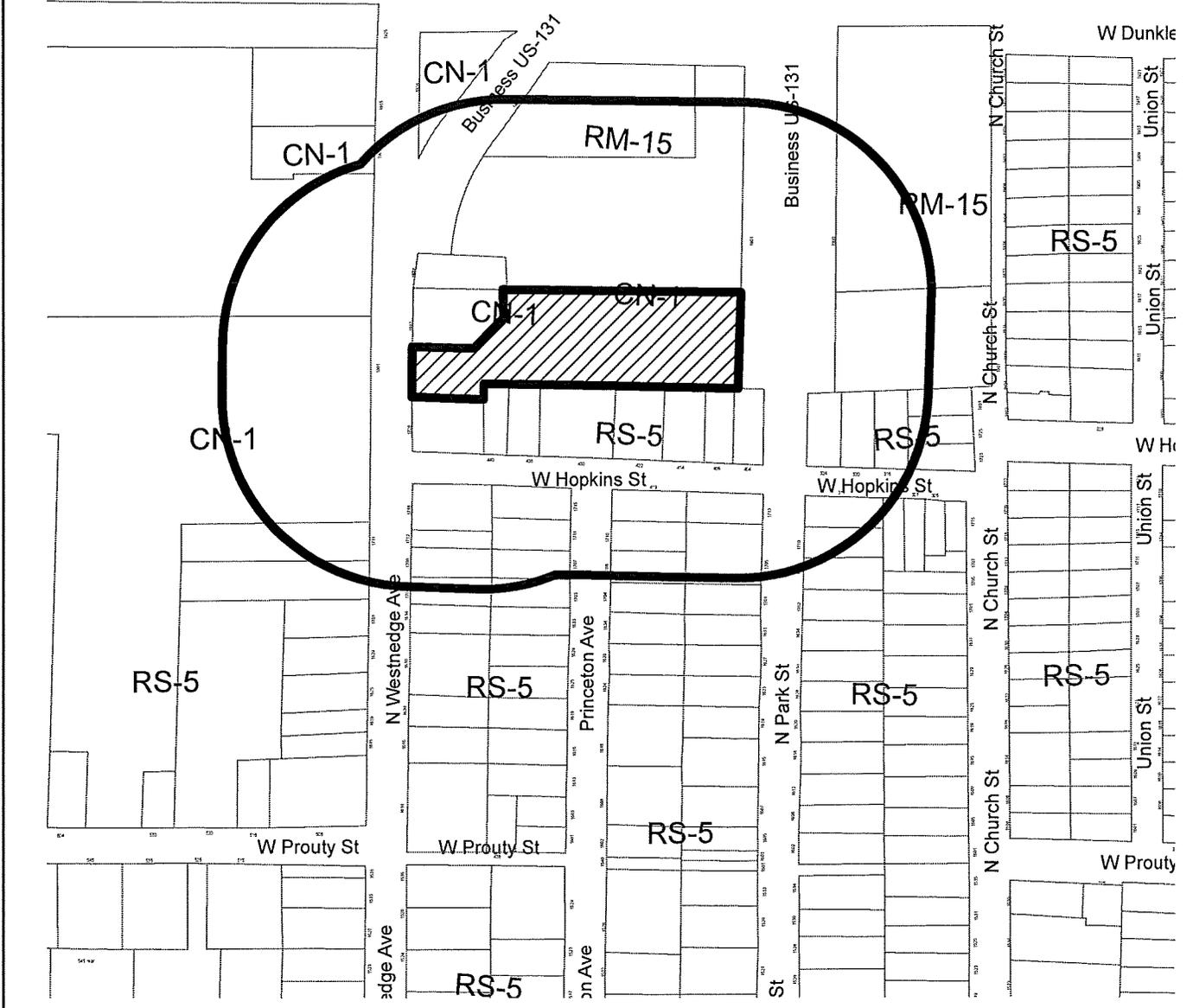
Sincerely,

ZONING BOARD OF APPEALS

A handwritten signature in cursive script, appearing to read 'Peter C. Eldridge'.

Peter C. Eldridge, AICP  
Project Coordinator

c: Robert Bauckham, Assistant City Planner  
Property File



300' Mailing Boundary  
 1738 N. Westnedge

