

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
July 12, 2018 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

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

Members Absent: Jeff Carroll

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

Chair Youngs called the meeting to order at 7:00 p.m.

COMMUNICATIONS AND ANNOUNCEMENTS:

Mr. Eldridge stated the agenda item for 1101 Portage St. is postponed until the August 9th meeting due to development plans in flux. The agenda item for 1311 Portage St. has moved to the August 9th agenda due to the fact one member would be abstaining from voting on that request leaving only four voting members.

Mr. Houston moved to approve the minutes of June 14, 2018 as submitted, seconded by Mr. Lager.

Motion approved by voice vote unanimously.

NEW BUSINESS:

PUBLIC HEARINGS: Chair Youngs 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 615 W. Kalamazoo Avenue, Parcel #06-16-437-104:

ZBA# 18-07-17: 615 W. Kalamazoo Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by 615 Holdings LLC and 10th Street Enterprises LLC. The request concerns the property at 615 W. Kalamazoo Avenue, which is being rezoned to CMU, Commercial – Mixed Use District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q 3, to allow dwelling units on the ground floor level for a proposed mixed-use development

project, where retail or other commercial floor space is required on the entire ground floor level in Zone CMU.

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 four notices of public hearing sent and one response was received.

William Murphy, an Attorney and member of 615 Holdings LLC & 10th Street Enterprises LLC, represented the variance request, stating they proposed to convert the former auto body shop into two mixed use buildings. They will be three stories tall; will not have elevators, only a staircase, two floors of four apartments each above the commercial portion and plan on one ADA compliant apartment in each building for a total of nine apartments per building along with the commercial space. The Stuart Neighborhood Association is in support and has had several meetings regarding this plan; they went door to door talking with neighbors. He will be moving his law office into this building with plans for other financial/office type uses, there will not be any restaurants style businesses within the building. They need the variance to place the ADA unit on the first floor, it will be approximately 680 sq. ft., the apartments above will range about 800 sq. ft. with balconies, with green spaces for the two ground floor apartments.

Mr. Eldridge questioned the percentage of residential to commercial floor space. Mr. Murphy stated it would be approximately a 20% residential to 80% commercial.

Mr. Lager clarified they would be demolishing the garage. Mr. Murphy replied yes, and building two new identical buildings.

Mr. Flach commented the ADA apartment on the first floor is an alternative to installing an elevator and less expensive. Mr. Murphy replied correct.

Dana Underwood commented as a resident of the neighborhood, she understood because they only have three floors they don't require an elevator, all of the original plans showed the apartments on the second and third floor and none were ADA accessible. She questioned if the Board should allow this request and create an exception for a use variance to accommodate an ADA request he doesn't have to accommodate. She appreciates the willingness to create an ADA accessible space.

Speaking against the request:

Mark Dunham, 717 Eleanor Street, a 33 year resident, stated the residents of the Stuart Neighborhood have been supportive of the proposal, this is more compatible with the character of the neighborhood, and this development would benefit the City as a whole. However, the residents of the entire block of Eleanor Street have serious concerns with certain aspects of the project. His main concern was traffic, and the adverse effects of the loss of green space to the area.

Cynthia Streeter, 713 Eleanor Street, a 32 year resident, spoke to the criteria needed to be met for the variance, the unnecessary hardship she sees in in the design of the parking lot of the gate at Eleanor Street. This is a quiet street for her children to play.

Tammy Daniels, 715 Eleanor Street, her concern is with the safety of the children; it's a calm short street. She questioned why they don't turn the building and change the parking and an entry way from Michikal Rd. and not Eleanor Street.

William Murphy commented they went door to door on Eleanor Street and discussed the parking, he submitted the petition to the Board signed by the residents on Eleanor Street in approval, and all except Mr. Dunham, stating Mrs. Streeter had even signed the petition.

Mr. Eldridge commented there was a letter of opposition from Lizabeth Morin, 718 Eleanor Street.

Dana Underwood, spoke again on behalf of the Stuart Neighborhood Association, neither in support nor against, just giving the history. Mr. Murphy approached the Association in August, 2017, with an idea of this proposal. They wanted the neighbors input from who would be impacted by this. They had meetings in September and November 2017 where residents were in favor of the development. Then Mr. Murphy in discussions with the City came across some items that caused them to redesign the project and returned to the Association in February, April and another one in July of 2018.

Mr. Eldridge commented this project has several hurdles; the property is in the process of being rezoned from M1 to Commercial Mixed Use at the July 19th meeting delayed by the July 4th holiday. This rezoning is supported by the City Staff. If a motion to approve is made this should have the condition of the approval of the rezoning process by the City Commission. He gave a brief history on the property, its .8 acres; property surrounding it was rezoned last year, and is being used as a modified Bed and Breakfast. The proposed rezoning will allow for this proposal. The Historical District has approved this in concept. The variance before the Board is to allow for accessible ADA accessible apartments on the first floor. Only approximately 20% of the ground floor area is being used for residential, the intent of the ordinance is being met. He spoke to the numerous comments on the access to Eleanor Street and that the Zoning Board of Appeals can only respond to the request as presented. The access issue would be discussed at the site plan review level, possibly in the Planning Commission meeting also. Those comments need to go to the Economic and Planning Development Division. The ZBA will be addressing the use variance related to the ground floor level of the buildings, not the access to the project.

Chair Youngs closed the public hearing.

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 615 W. Kalamazoo Avenue shall include all information included in the notice of public hearing dated June 27, 2018.
- 2.) One hundred and four 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: William Murphy, a member of 615 Holdings LLC stated the applicant is converting the current garage building into two buildings, mixed use, three stories tall, upper two floors will have four apartments each, and ground floor will have two commercial units and one ADA accessible apartment, the applicant indicated that they had meet over three times with the Stuart Neighborhood Association and received feedback from residents along Eleanor Street and Kalamazoo Avenue, and had support by all adjacent neighbors. The commercial space in the buildings will be professional offices. The ADA accessible apartments will have outdoor green spaces, the garage space on the property last year was deemed blighted by the City. They intend for the project to redevelop and improve this property. The ADA access on the first floor saves the expense of an elevator, and indicated there had been signatures of support from property owners on Eleanor Street. Dana Underwood, resident of Stuart Neighborhood spoke in favor as it allows for ADA accessible units. Mark Dunham, 717 Eleanor Street, spoke in opposition, indicating the residents of the 700 block of Eleanor have concerns regarding the loss of green space and increased traffic. Cynthia Streeter, 713 Eleanor Street, indicated she also had concerns with increased traffic. Tammy Daniels, 715 Eleanor Street, expressed concerns with the safety of children and access to the property along Eleanor Street. Dana Underwood spoke again on behalf of the Stuart Neighborhood Association and provided historical context. Mr. Eldridge commented the property is in the process of being rezoned from M1 to Commercial Mixed Use and the rezoning is supported by City Staff and matches the use trends of the adjacent properties. The property to the west is a modified Bed & Breakfast. The ground floor use variance is to allow for an ADA accessible unit, 20% of the square footage of the first floor will be residential use. He commented because of the mixed use of the first floor this meets the intent of the ordinance. He indicated the issue of access on Eleanor Street is outside the scope of the ground floor variance before the ZBA, but could be heard by the Planning Commission.

Mr. Houston seconded the Finding of Fact.

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

Chair Youngs moved to approve the application with the condition that the rezoning in process is approved by the City Commission for this property to Zone CMU, seconded by Mr. Lager. Chair Youngs modified the motion to add the ground floor units must be ADA compliant in both buildings seconded by Mr. Lager.

Mr. Houston commented the applicant meets the requirements of the requests, they are updating the zoning, and the access off Eleanor Street is beyond the Zoning Boards purview.

Chair Youngs reviewed the criteria conditions that must be met to qualify, Other City Staff will discuss the access off Eleanor Street, the request is dwelling units on the ground floor, and he stated he was in favor.

Motion approved by roll call vote unanimously.

Mr. Houston read the application for 500 Golden Drive, Parcel #06-27-425-002:

ZBA #18-07-19: 500 Golden Drive: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by the Heritage Community of Kalamazoo. The request concerns the property at 500 Golden Drive, which is situated in use Zone RM-15, Residential – Multi Dwelling District. The applicant is requesting a dimensional variance from Chapter 5, Section 5.1, to authorize a new 60 unit multi-tenant building which will be 68.5 feet in height, where the maximum height for structures in Zone RM-15 is 35 feet. This is a variance of 33.5 feet.

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 forty-one notices of public hearing sent and zero responses were received.

Jay Prince, President and CEO of Heritage Community gave a brief history of Heritage Community, stating currently they have 700 to 800 square foot units, which are too small. Seniors are looking for walkability in their living space, their proposing a four story building, long hallways are extremely difficult, and building compact is the better way to go. They will close the eight obsolete buildings and the new building will create more green space. They are a part of the neighborhood and had many discussions with the neighbors and plan to improve the neighborhood. They've had meetings with Ken Horton, President of the Milwood Neighborhood Association and follow up meetings also. They provided flyers and letters to adjacent owners to attend the meetings.

Dennis Ryan, Perkins Eastman Architects, commented this project is targeted towards an older market. The older adult market is expecting closer to 1,400 square foot, taller ceilings, larger windows and a sense of community, getting away from the long sprawling buildings. This will be closer to the rest of the campus; the first floor will have 12 units, the remainder of that floor having a new dining room, kitchen, wellness area and other amenities. He spoke to another Wyndham building on the property that was even taller that he felt set a precedent. They have a sloping roof to have the building blend into the neighborhood better. He spoke to the topography, significant drop and grade change on the site. They meet the setback on the south

of the 25 foot setback and added an additional 23 foot of additional space, and spoke of the tree buffer.

Bill Millard, 211 E. Water Street, a Board Member of Heritage Community, stated this was an important project, they are a non-profit organization. The seniors expect larger living spaces.

Matt Shankle, Marketing Director, stated currently they have risen from mid-70% to a mid-90% occupancy level demand for retirement living.

Speaking in opposition:

Greg Peck, lives on the corner of Homecrest Avenue and Portage Rd., he complained of the Heritage Community employees smoking in his yard/neighborhood, the extra traffic and trash this construction will bring.

Daniel Davie, 609 Norton Drive, spoke to the fact the height is too extreme, they doubled the height allowed. This will change the neighborhood just by its large presence.

Damien Garrylee McCormick, 509 Homecrest Avenue, stated they fail to meet the requirements, the special circumstances are self-created; their design may meet an age specific demographic, but has nothing to do with meeting the variance request. They can create a design to meet the requirements.

Mary Montague, 730 Norton Drive, had concerns with traffic, lighting, noise and a vacant home Heritage Community owns with a pool they don't maintain.

Peter Wilkins, 708 Homecrest Avenue, stated Heritage Community states how well they get along with the neighborhood, but having a four story building less than 50 feet away from property lines is an intrusion. They can redesign the building to fit requirements.

Nathan Richards, 431 Homecrest Avenue, owns property adjacent to this property; his concern is with the proposal exceeding the maximum by double the allowable. His privacy will be gone.

Christine Wilkins, 708 Homecrest Avenue, her concern was at the May Milwood Neighborhood meeting the placement of the building was in a different location than the one presented tonight. This is closer to the neighborhood than proposed.

Larry Delach, 613 Homecrest Avenue, sympathizes with the neighbors most impacted, he doesn't like the location, and he does like the concept. They don't need to have nine foot ceilings.

Katherine Martin, 538 Homecrest Avenue, she commented she supports her neighbors and is in opposition.

Susan Gaters-Bradshaw, 640 Homecrest Avenue, she's supportive of a community for the elderly, but opposes the height of the building. Destroying 73 HUD units to build 60 market rate units, not all elderly people will be able to afford them.

Michelle Zorich, 538 Homecrest Avenue, commented on the families living in the neighborhood, she had concerns with the workers walking through their neighborhood and smoking. She feels an architect could create a building to meet requirements.

Sandra Johnson, 627 Homecrest Avenue, commented on her concerns with the noise, and traffic increase, and lack of privacy with a four story building looking down into their back yards.

Jay Prince spoke again thanking the neighbors for their kind words towards Heritage Community and their mission. They designed the building to not have a negative impact on the neighborhood, they have a tree buffer, and there are three houses behind it. He commented as a non-profit they've showed the same building plans all along; they don't have the funds to make different drawings. He mentioned during the Milwood Neighborhood Association meetings they didn't hear any opposition. He has had an open door policy and was available to answer any questions.

Mr. Houston questioned if they could design the structure go to outward rather than upwards. Mr. Prince commented by stretching out the buildings they are no longer a senior friendly community. They've hired expert designers who only focus on senior friendly buildings. Mr. Houston commented on the limited size of the property, in other senior retirement facilities the residents appear happy, their spread out and navigate the facilities.

Dennis Ryan, Architect spoke again, stating the longer broader communities don't work for engaging the residents; they want to keep the people engaged and active. Research shows broader communities keeps the residents more secluded.

Mr. Flach commented the height is a main concern and the neighbors are impacted, and questioned if the building could be moved forward.

Mr. Ryan commented there was a large sub-station across from them they are working with avoiding the sight of it.

Mr. Flach questioned removing the sloped roof to lessen the height.

Chair Youngs and the Board discussed other options for placement and height issues. Mr. Ryan discussed the estimation of lowering the ceiling heights and what that could gain them.

Mr. Eldridge commented they have 73 units and are reducing that to 60 larger units, they have doubled the setback on the south property line, but the height is almost doubled. The Wyndham building discussed was built in the late 1950's or early 1960's and there was no variance located for the 51' high building. There was a variance granted in 2009 for an increase in unit density for Director's Hall renovation and a variance granted in 2014 to consolidate the signage on Portage Street. This is a RM-15 Zone District, a medium density, residential, and the Board has to decide what is best for this location with the feedback from the neighborhood.

Chair Youngs closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 500 Golden Drive shall include all information included in the notice of public hearing dated June 27, 2018.
- 2.) Forty-one 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: Jay Prince, CEO of Heritage Community spoke to the compact design geared for seniors living in the building. They had two meetings with the Milwood Neighborhood Association. Dennis Ryan, Architect spoke to the design geared towards senior comfort and gave an example of the building on Phililps that's 51' tall, the height seems related to the compact nature and desire for high ceilings, the design is in keeping with surrounding buildings. There is an additional 23' setback beyond what is asked for in the ordinance. Bill Millard, Board Member of Heritage Community spoke in favor, stating he was excited for the project and what it could bring to the seniors. Matt Shankle, Marketing Director of Heritage Community spoke to the demand for senior housing. Speaking in opposition: Greg Peck, spoke to the concern about extra traffic and people in the neighborhood. Daniel Davie, 609 Norton Drive, concerns with the height being too extreme an exception and should not be approved. Damien McCormick, 509 Homecrest Avenue, covered the main points why this project doesn't meet them. Mary Montague, 730 Norton Drive, spoke to the concerns of extra traffic, lighting, noise and other related changes. Peter Wilkins, 708 Homecrest Avenue, spoke to the height being an intrusion; no other building over the 33.5' height is as high as this proposed project. Nathan Richards, 431 Homecrest Avenue, spoke to the extreme nature of the height variance request and named privacy concerns and view blockage. Christine Wilkins, 708 Homecrest Avenue, spoke to concerns about height and updated location; extra lighting was a concern as well. Larry Delach, 613 Homecrest Avenue, spoke to concerns of location and height. Katherine Martin 538 Homecrest Avenue, spoke to concerns over height request and feels it should be denied. Susan Gaters-Bradshaw, 640 Homecrest Avenue, had concerns over the height of building overlooking other people's properties and it would destroy 73 HUD apartments in favor of

market rate apartments. Michelle Zorich, 538 Homecrest Avenue, spoke to concerns of height related issues and privacy. Sandra Johnson 627 Homecrest Avenue, spoke to concerns about height, traffic and noise, she would be adversely affected and had concerns with privacy issues due to the height. Jay Prince returned to the podium in support of the project stating the design, and the company's attempt to be transparent has stayed the same. Mr. Ryan spoke in support of the research that indicates that compact, but tall is the future of senior living and spoke to the mature tree line and underground parking. Mr. Eldridge spoke in relation to the 73 units existing versus the 60 units that would be built, stating the setback is almost double, but so is the height. The previously mentioned Wyndham building had no variance, most likely due to age of the building.

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. Mr. Lager modified the motion to include the condition the setback would be an additional 23' beyond the original 25' setback of the property line, and the tree buffer on Homecrest Avenue be maintained and not reduced, seconded by Mr. Houston.

Mr. Flach commented Heritage Community has taken great care creating this building and talking with the neighbors and doubling the setbacks. However, there have been almost eleven people directly affected who live adjacent or behind in opposition. It's almost double the height requirement. He feels there are other options for the design, in good conscious; he didn't feel he could support the proposal.

Mr. Houston commented the applicant has shown due diligence in their plans and preparation. He has concerns with the providing the elderly more accommodations.

Chair Youngs reviewed the criteria conditions that must be met to qualify and stated the Board is to ensure the spirit of the ordinance is being observed, public safety secured and substantial justice is being done. The Board is to approve the requests if all seven required standards are met. He only sees one requirement that is met, that the building is setback beyond the minimum required setback, he stated he couldn't approve it failing all the other requirements.

Mr. Lager commented it's challenging, the zoning laws are impeding the marketability for the building. One criterion is the granting of the variance will not adversely affect adjacent land owners in a material way. The setback being exceeded and a tree line don't mitigate the adverse effect on the adjacent land owners as hear tonight.

Ms. Doane commented it's an excellent project the adverse effect to the area is too extreme.

Motion denied by roll call vote.

Yes: Houston

No: Flach, Youngs, Lager, Doane

Mr. Houston read the application for 400 E. Cork Street, Parcel #06-34-208-001:

ZBA #18-07-20: 400 E. Cork Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by LED Lighting Wholesalers Inc. The request concerns the property at 400 E. Cork Street, which is situated in use Zone M-2, Manufacturing –General District. The applicant is requesting a dimensional variance from Chapter 7, Section 7.2 D, to allow 75% of the wall sign area to be changeable copy where in the M-2 District only 25% of the wall sign area may be changeable copy.

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-four notices of public hearing sent and one response was received.

Erich Adalbert, 1517 Spruce Drive, represented the variance stating the request was for the changeable copy area, the building sets back over 40' and they need a larger sign for it to be seen. They sell signs and want to display their sign on the building. There are no residences in the area to be affected. They have a two square foot by four square foot sign currently and this would be 75% larger, with a four square foot by six square foot changeable area below.

Mr. Eldridge commented the building would allow for a maximum of 80 square foot of total signage and could have 25% of that could be changeable copy. That's a large amount of signage.

Mr. Lager clarified he would have to place an enormous sign up on the building to accommodate the 25% rule. Mr. Eldridge commented it seems counter intuitive for the ordinance to motivate an owner to put up a larger sign to advertise their business. He asked if there was signage by the road. Mr. Adalbert stated the only sign is on the building.

Mr. Eldridge commented this leased space has no freestanding signage, only what they can place on the building. The applicant could have a larger sign to allow someone to have more changeable copy area. There are a lot of commercial businesses in the area.

Attorney Robertson commented the applicant leases the building, he advised if the Board were to grant the request they consider restricting this variance to the tenant rather than with the land, the next tenant may want to put a huge sign up. The variance would be unique to this tenant.

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

FINDING OF FACT

Mr. Flach moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 400 E. Cork Street shall include all information included in the notice of public hearing dated June 27, 2018.
- 2.) Twenty-four 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: Erich Adalbert, stated the building sits over 40' back from the road. He wanted to advertise by having one of his own signs on the building, in order to do that he would have to max out the sign ordinance and that would be counter to the spirit of the ordinance. Staff noted there are no residential houses around the area.

Mr. Lager seconded the Finding of Fact.

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

Chair Youngs moved to approve the application, for the leased space only at 400 E. Cork Street only, seconded by Mr. Lager.

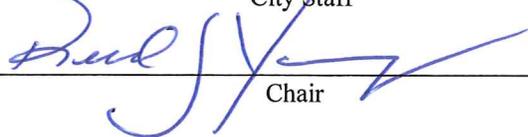
Motion approved by roll call vote unanimously.

ADJOURNMENT:

The meeting was adjourned at 9:16 p.m.

Submitted By  Date 8-9-18
 Recording Secretary

Reviewed By  Date 8/9/2018
 City Staff

Approved By  Date 8-9-18
 Chair