

**MINUTES  
CITY OF KALAMAZOO  
ZONING BOARD OF APPEALS  
MARCH 14, 2019 - 7:00 p.m.  
CITY COMMISSION CHAMBERS**

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

**Members Absent:**

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

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

**NEW BUSINESS:** Mr. Eldridge commented on the supplemental information on the 2018 annual report for the Board in their packet.

**MINUTES:**

**Mr. Lager moved to approve the minutes of February 21, 2019 as submitted, seconded by Mr. Houston.**

**Motion approved by voice vote unanimously.**

**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 4303 W. Michigan Avenue, Parcel # 06-19-386-002:

**ZBA# 19-02-05: 4303 W. Michigan Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Bosch Architecture on behalf of the developer. The request concerns the property at 4303 W. Michigan Avenue, which is situated in Zone CN-1, Commercial – Neighborhood District. The applicant is requesting the following: 1) A use variance from Chapter 4, Section 4.2 Q.3, to authorize residential use of the ground floor level of each building for a 12-unit multi-family residential development, where retail or other commercial floor space is required on the ground floor level in Zone CN-1; and 2) A dimensional variance from Chapter 50-72 1, to authorize 22 parking spaces above allowed maximum number of off-street parking spaces of 26 for a total of 48 off-street parking spaces.**

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

John Lovely, Bosch Architects spoke on behalf of the applicant, stating they are proposing two student townhouses with six units in it, but each unit has four leasable rooms. Therefore, they are asking for a parking variance for one parking stall per leasable room. Each leasable space is considered a unit. The use variance is to allow residential on the first floor. There are other duplexes in the area, apartment complexes down the street to the east.

Matt O'Connor, proposed owner of the property stated there's similar uses in close proximity, the property is underutilized currently. There is an older obsolete house on the property now. They are on a bus line and in walkable distance to campus. They've been through the pre site plan process and had good feedback from the City.

Mr. Carroll questioned if they owned the property. Mr. O'Connor stated its contingent upon approval of the variance outcome.

Mr. Houston questioned the existing house on the property. Mr. O'Connor stated that house would be demolished.

Chair Youngs questioned the site plan process. Mr. O'Connor stated they've been through pre site plan and have a goal of fall construction with a spring completion date.

Mr. Lager questioned the leasing of the units, if it's per townhouse or four separate leases per unit. Mr. Lovely stated they are still discussing the leasing options and haven't finalized everything yet.

Mr. Eldridge commented on the handout in the Board's packet of the layout of other residential uses in the area, to show if it's consistent with the uses around it. There are other residential only uses in the CN 1 zone district. This is not the long range intent. However; it's about a mile from WMU's Campus. He referred to Hidden Hills apartments, single family and duplex rentals, and other complexes in the area.

Mr. Carroll questioned if there's a demand for more housing, mentioning the large new WMU housing that's being built. Mr. O'Connor commented the size of this complex is a smaller, this appeals to people who want to live in a smaller quieter unit.

Mr. Flach questioned if there were any commercial units adjacent to this property. The applicant stated no, there's a power station to the east and a single family house to the west.

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

## **FINDING OF FACT**

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 4303 W. Michigan shall include all information included in the notice of public hearing dated February 26, 2019.
- 2.) Twenty-three 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: John Lovely of Bosch Architects spoke on behalf of the applicant, the property is to be a site for a student housing project which will consist of twelve townhouses with four rooms each, with a bathroom attached, it would be 48 leasable units. The applicant is asking for a parking space for each of the 48 units. With regards to residential on the first floor there are currently multiple residential properties in close proximity so it's consistent with the uses in the area. Matt O'Connor, owner noted the building on the site is a four bedroom rental home that is underutilized. Mr. Eldridge commented that other residential uses are prominent and in close proximity to the applicant's site.

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

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

**Chair Youngs moved to approve the application for 1) A use variance from Chapter 4, Section 4.2 Q.3, to authorize residential use of the ground floor level of each building for a 12-unit multi-family residential development, where retail or other commercial floor space is required on the ground floor level in Zone CN-1, seconded by Mr. Houston.**

Mr. Lager commented he was in favor of granting the variance, they have recently had similar requests for a desire for residential on the first floor in a commercially zoned area. There's a need in the market for it. There's pure residential in the area also.

Mr. Houston and Mr. Flach both agreed and he stated it conforms to the Master Plan.

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

**Mr. Lager moved to approve the application for 2) A dimensional variance from Chapter 50-72 1, to authorize 22 parking spaces above allowed maximum number of off-street parking spaces of 26 for a total of 48 off-street parking spaces, seconded by Mr. Houston.**

Mr. Carroll questioned why they need more parking, was it due to the number of units. Mr. Eldridge commented it comes from the December ordinance changes, one adjustment was to reduce the parking calculations for certain land uses, for residential like this, it would be one per multi-family, 1.5 parking spaces per dwelling unit with no cap on it. Now they have a cap on it of 10% above whatever the maximum requirement is. In this case they want more parking than the ordinance will allow. Mr. Carroll questioned, is it to lessen the amount of paving. Mr. Eldridge replied it's to make the ordinance more "green" in not requiring more asphalt than necessary. Second, the numbers in the ordinance were deemed burdensome to development projects for requiring more off-street parking. This circumstance with having an apartment complex, with four bedrooms increases the occupant load. This is geared toward students, it's unique. Mr. Carroll questioned what the site plan committee's comments were too the green space ratio. Mr. Lovely commented they are at the maximum, they are complying with it.

Chair Youngs commented they will have to meet all site plan requirements. The applicant replied yes.

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

**Motion approved by roll call vote.**

Yes: Doane, Lager, Youngs, Houston, Flach

No: Carroll

Mr. Houston read the application for 3717 E. Cork Street, Parcel # 06-25-477-001:

**ZBA #19-03-09: 3717 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 Tapan Patel of ENAS Hospitality. The request concerns the property at 3717 E. Cork Street, which is situated in Zone CC, Commercial – Community District. The applicant is a dimensional variance from Chapter 50-72-1, to authorize 17 parking spaces above allowed maximum number of off-street parking spaces of 43 for a total of 60 off-street parking spaces for the proposed restaurant with drive thru service.**

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 eighteen notices of public hearing sent and zero responses were received.

Tapan Patel, Developer with ENAS Hospitality spoke to the request, they are requesting a variance for parking. They have 82 rooms and want 90 parking spaces for guests and employees/staff. The hotel caters to people who come off the freeway and stay overnight, driving their own vehicles. The guests will drive there, if they don't have enough parking spaces it will be a burden to the guests. They will demolish the existing restaurant. The hotel is AVID, the company that owns the Holiday Inn Express, this is a short term overnight style stay.

Mr. Eldridge supplied the Board with a table of comparable parking for other hotels in the 1.1 ratio that was mentioned by Mr. Patel. The franchise requires that amount of parking. Mr. Carroll commented he could reduce the number of rooms in the hotel to fit the ratio. Mr. Patel commented by reducing the number of rooms, the percentage of parking spaces still reduces in relationship. Mr. Carroll questioned what the site plan committee had to say. Mr. Patel stated they said it's a minimum of 20% green space; they have 25% green space. Mr. Eldridge commented it's an internal site plan review process. He clarified the parking allowances and that they are asking for 45 more parking spaces than the permitted parking spaces. Based on what the table shows it's clear the hotels near the interchanges that serve a different type of transient type of clientele.

Mr. Flach questioned if the Board is going to be expected to give variances for parking for hotels in an urban area. Mr. Eldridge commented these are new ordinances that were passed; they'll evaluate the fit to the standards.

Mr. Patel stated he's been in the hotel business for over 15 years and if they don't have enough parking spaces it creates a lot of issues for the guests.

There were no comments from the public.

## **FINDING OF FACT**

Mr. Flach moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 3717 E. Cork Street shall include all information included in the notice of public hearing dated February 26, 2019.
- 2.) Eighteen 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, staff provided a list of hotels and parking spaces they have.
- 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: Mr. Patel requested a variance to allow for more parking, they want 90 parking spaces, his business model is set up for clients that are more transient and need a place to park, he wants a one to one parking ratio. They will demo the existing building on the property. The franchise requires 1.1 parking spaces per unit. They have 25% green space. Mr. Eldridge

mentioned the ordinance is not set up for suburban areas, and they will make potential changes to the ordinance.

Chair Youngs closed the public hearing.

**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. Carroll commented he would have been inclined to vote no, but feels the ordinance is a no win situation, to lower the amount of rooms they can't even meet the requirements of more green space.

Mr. Eldridge commented there's no on-street parking to supplement a reduction of off-street parking at this location.

Mr. Flach commented it would be an unsustainable business model without the one to one parking ratio. The applicant wouldn't be able to use the structure as intended, other properties similar in design have a higher parking ratio.

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

Mr. Houston read the application for 210, 212, 214, 218 E. Vine St. / 812, 816, 820, 824, 828 Boerman Ave., Parcel # #06-22-188-224, #06-22-184-007, #06-22-184-006, #06-22-184-008, #06-22-189-007, #06-22-189-006, #06-22-189-005, #06-22-189-001, #06-22-189-002:

**ZBA #19-03-10: 210, 212, 214, 218 E. Vine St. / 812, 816, 820, 824, 828 Boerman Ave.: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Bronson Methodist Hospital. The request concerns the properties at 210, 212, 214, 218 E. Vine St. / 812, 816, 820, 824, 828 Boerman Ave., which are situated in Zone CCBD, Commercial Central Business District and Zone RM-36, Residential – Multi Dwelling District. The applicant is requesting a variance from Chapter 6, Section 6.3 D, to authorize the screened waste receptacle (dumpster) to be located in the front yard for the proposed medical office building, where screened waste receptacles are required to be located in the rear or side yard.**

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 ten notices of public hearing sent and zero responses were received.

Dan Lewis, AR Engineering, Susan Blanc, Bronson representative, and Steve Dickerson, Designer were all present. Mr. Lewis stated this will be a five story, 85,000 sq. ft. medical office building connected to the office pavilion across the street on Vine St. There is a need, the existing offices in the South Campus are full, and this is an expansion of that use. They need a variance for a dumpster in the front yard. They have three front yards, and one rear yard. They looked at all orientations with City Staff for the placement of the dumpster. The

ordinance wants the building to be as close to Vine St. and John St. as part of the DDR process. The use of the building needs a private safe covered canopy area for drop offs, for services. This was the only placement for the dumpster; they need a mechanical courtyard for the generator and transformer, etc. Boerman Street is the least traveled street so was the best option for the placement, it will be a brick enclosure and the dumpster was placed there also. Their neighbors that would be affected are Bronson's own valet parking lot and a consumer's substation. It won't adversely affect any neighbors by the dumpster placement. The brick wall will be tall enough and matches the rest of the building. He discussed the 15' wall around the mechanical area and the 8' wall around the dumpster. This is not a self-created problem, it's a unique lot and they meet the spirit of the ordinance.

Chair Youngs questioned the height of the 15' wall. Mr. Lewis stated the height of the generator requires the 15' wall to hide the equipment.

Mr. Eldridge commented the ordinance requires the mechanical equipment be screened from view of the public street; a hospital has a lot of equipment needs for a building. Mr. Lewis stated this is the minimum height to screen the generator. Mr. Eldridge spoke to last month's request of a dumpster that one was in the parking lot; this enclosure is tucked in behind the mechanical equipment screening.

Susan Blanc, with Bronson Hospital commented Boerman St. is a small road with the least traffic and was the best choice.

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

## **FINDING OF FACT**

Mr. Carroll moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 210, 212, 214, 218 E. Vine St. / 812, 816, 820, 824, 828 Boerman Ave. shall include all information included in the notice of public hearing dated February 26, 2019.
- 2.) Ten 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, and a digital presentation by the applicant.
- 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: Dan Lewis,

AR Engineering, spoke on behalf of the applicant, Susan Blanc was the representative from Bronson, Steve Dickerson, Designer. Mr. Lewis stated this is a unique property with three road frontages on the sides of the property. They explored locating the dumpster on the southeast side of the property, but distance, safety and aesthetics became a concern, they will screen the dumpster with a wall and landscaping, and don't believe the request will adversely affect their neighbors.

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

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

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

Chair Youngs reviewed the criteria conditions that must be met to qualify, he commented on the unusual lot with three frontages, it's not a heavily traffic street and stated he was in favor.

Ms. Doane commented they already have a screened area for the mechanicals so a dumpster area won't be out of place.

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

Mr. Houston read the application for 504, 518 and 604 N. Drake Road, Parcel # #06-18-170-001, #06-18-165-001, #06-18-165-002:

**ZBA #19-03-11: 504, 518 and 604 N. Drake Road: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Progressive AE on behalf of Chick-fil-A, Inc. The request concerns the properties at 504, 518 and 604 N. Drake Road, which are situated in Zone CC, Commercial – Community District and Zone RS-5, Residential – Single Dwelling District. The applicant is requesting a dimensional variance from Chapter 50-72-1, to authorize 17 parking spaces above allowed maximum number of off-street parking spaces of 43 for a total of 60 off-street parking spaces for the proposed restaurant with drive thru service.**

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

Cheryl Scales, Progressive AE, and Jenn Santelli with Chick-fill-A, were present for the request. Ms. Scales spoke to the variance request needed for parking. They want 60 total spaces. They meet the 20% green space required. Chick-fill-A is experienced with the number of parking spaces required for success. They spoke to their store in Portage. This site would be a more standard site. Her concern if not getting the parking, the customers would park in the neighbors parking area. She spoke to the parking site study included in the Boards packet.

Chair Youngs questioned the layout diagram.

Mr. Carroll clarified the main drive will shift to the north. Ms. Scales replied correct.

Ms. Scales clarified the layout on the site plan. They propose a right in –right out drive, but they need to have MDOT approval. They'll be connecting the sidewalks in the area.

Ron Huster, President of the Westwood Neighborhood Association, stated the residents of the neighborhood were in favor. Chick-fill-A has planned ahead for the parking requirements. It's a good use of the property.

Mr. Eldridge commented on the parking comparison provided for the other sites, he contacted the City of Portage regarding the Chick-fill-A on Westnedge it's almost the same size, building for off street parking spaces they have 32 spaces compared with the 60 shown on our site. They have shared parking in the Mall parking lot. The drive thru parking has two additional stacking spaces, and it's away from the building. The traffic circulation is definitely approved at this location. This site has three access points. They have 20 to 25 employees on shift and their site should hold all their parking requirements. There's no on-street parking or shared parking arrangements.

Chair Youngs closed the public hearing.

## **FINDING OF FACT**

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 504, 518 and 604 N. Drake Road shall include all information included in the notice of public hearing dated February 26, 2019.
- 2.) Twenty-three 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: Cheryl Scales from AE Progressive on behalf of the applicant is asking for 17 additional parking spaces for a total of 60 spaces. They meet the 20% green space requirements. They feel the request is the minimum required for successful business. They also wish to avoid customers parking in other nearby business lots. Ron Huster spoke in favor, off site parking would help with traffic flow and it's good for the area. Mr. Eldridge reports the Chick-fill-A on Westnedge has less parking, but more parking options on the surrounding properties with the same

owners. North Drake site will be better due to parking plan and exits. Extra parking being warranted and there is no on-street parking available.

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

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

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

Ms. Doane commented she was in the area when another restaurant Popeye's opened, parking is needed.

Chair Youngs commented Chic-fill-A has police directing traffic for the grand opening, it's a busy intersection, and 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 if the ordinance changes aren't incorporated into the Code of Ordinances he will provide the Board with summary sheets of all the changes. They are incorporating the new language in and that still isn't done. The bulk is the live work district changes creating new zone districts that, and changed some parking standards.

Mr. Carroll made a motion to approve the 2019 meeting schedule, seconded by Ms. Doane.

**Motion approved by voice vote unanimously.**

Mr. Eldridge spoke to the 2018 annual report in the Boards packet for review. It reflects the issue with residential on the ground floor in commercial zone districts. They are intending to address that.

Attorney Robinson mentioned an update on the one appeal to Circuit Court for the denial of a use variance at the South Westledge Market they wanted to add a SDD packaged liquor at that site. The applicant appealed to the Kalamazoo County Circuit Court and filed their brief, the City filed their brief in response. Attorney Robinson gave a brief review of how the process goes and he felt the case centers on the need for them to show the unnecessary hardship. There was discussion on how they measured the half mile and how the City ordinance and the City measures the half mile distance.

Mr. Houston thanked everyone he served with during his six years on the Board and stated it was an honor to serve.

#### **ADJOURNMENT:**

**The meeting was adjourned at 8:30 p.m.**

Submitted By *Dianne Benhua* Date *5-9-19*  
Recording Secretary

Reviewed By *Peter C Edbridge* Date *5/9/2019*  
City Staff

Approved By *Rene J. [Signature]* Date *5-9-19*  
Chair