

Meeting Agenda

City of Kalamazoo - Zoning Board of Appeals

October 8, 2020

Electronic Meeting: Streamed on the City of Kalamazoo YouTube Channel and Facebook 7:00 p.m.

- A. Call to Order:
- B. Communications and Announcements:
- C. Approval of the Meeting Minutes for September 10, 2020
- D. Public Hearings:
 - 1. ZBA #20-10-20: 833 W. South Street. Rebecca Macleery is requesting a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of three (3) off-street parking spaces which would result in one off-street parking space for the proposed art studio where four (4) off-street parking spaces are required.
- E. Other Business:
- F. Adjournment:

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
September 10, 2020 - 8:00 p.m.**

This meeting was held as an electronic meeting under the authority of Executive Order 2020-15 issued by Governor Gretchen Whitmer.

Members Present: Matt Lager, Dick Skalski, Chris Flach, Christina Doane, Jeff Carroll, Beth van den Hombergh

Members Absent:

City Staff: Pete Eldridge, Assistant City Planner; Clyde Robinson, City Attorney; Deanna Benthin, Recording Secretary

Chair Lager called the meeting to order at 8:00 p.m.

Chair Lager noted the meeting was being streamed live on Facebook and the City's You Tube channel.

Mr. Eldridge stated the public had the ability to call in for audio and the public could call in to 269-226-6573 to leave comments for either of the properties on the agenda.

MINUTES:

Mr. Skalski moved to approve the minutes of August 13, 2020 as submitted, seconded by Ms. van den Hombergh.

Motion approved by voice vote unanimously.

NEW BUSINESS:

PUBLIC HEARINGS: Chair Lager summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to present their comments, followed by public comments received via phone will be aired for the panelist and audience. Then the public hearing would be closed on the request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you here is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is now closed. Once discussion has ended the Board moves onto a roll call

vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Ms. Doane read the application for 2026 S. Westnedge Avenue, Parcel #06-28-249-002:

ZBA #20-09-18: 2026 S. Westnedge Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Jennifer Burton owner of 2026 S. Westnedge Avenue, which is situated in Zone RM-15, Residential – Multi Dwelling District. The applicant is requesting a use variance from Chapter 4, Section 4.1, to utilize this property for short-term rentals or lodging as defined by the Zoning Ordinance. This use variance would allow for renting of the house for periods of time less than 30 days which is not permitted in Zone RM-15.

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

Jennifer Burton, the applicant for the variance, was requesting to continue to use Everyman's House as a short-term rental. She wants to use it as an Air B&B, it's an investment property for her. There is a unique history to the house; it was built with labor from the community of Kalamazoo. Ms. Burton stated most of the people who stay there are families or professionals and responsible individuals. There's an apartment complex on one side and a rental house on the other side. She hasn't had complaints on the house and has good relationships with the neighbors. She has some long term stays but it's mainly weekends. There's a ring doorbell, so she keeps an eye on the people to limit the amount of people staying there.

Mr. Carroll questioned if it's a registered rental and what the reason for the variance was. Ms. Burton stated yes, it's a registered rental. Mr. Eldridge stated the renters stay less than thirty days; it's then a short-term stay category.

Mr. Skalski asked what the average stay is. Ms. Burton stated most people stay an average of three days, some have stayed up to thirty days. She's been renting it this way for approximately three years. Mr. Carroll replied she's been doing this for three years now without proper approval.

Mr. Flach asked why the city is now watching these Air B& B's. Mr. Eldridge stated in reaction to the complaints that groups of people are coming in for the micro-brewery bar hops and parties and being disruptive to residents nearby. It was complaint driven. Our ordinances are heavily influenced by student rentals which spread from the WMU campus years ago. Additionally, short-term rentals weren't registered as rentals and over occupied.

Mr. Flach questioned how close Ms. Burton lived away. Ms. Burton stated she lives three blocks away so she can respond quickly to any complaints.

Mr. Flach asked about RS-5 zone district to the south. Mr. Eldridge replied these are all residential zone districts and are considered detached dwelling units or duplexes. The ordinance has two categories, one is household living and then there is lodging like Bed and Breakfast uses. He explained the differences between them.

Chair Lager asked about other short-term rental requests before the ZBA. Mr. Eldridge spoke to one from Bobby & Barbara Shell, the short-term rental was in the house next to theirs so they couldn't meet the standards for Bed and Breakfast because they didn't live in the dwelling. He spoke to one on Inkster Street being used for a short-term rental that will be coming before the Board in the future.

Mr. Carroll asked if this could be used as a normal rental property. Ms. Burton replied yes.

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

FINDING OF FACT

Mr. Carroll moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 2026 S. Westnedge Avenue shall include all information included in the notice of public hearing dated August 26, 2020.
- 2.) Nineteen 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: Jennifer Burton spoke on behalf of the request, she's a realtor focusing on investments and lives in another house close by, the average length of stay in the Air B&B listed short-term rental is estimated to be three days over the last three years and is a registered rental with the City of Kalamazoo.

Mr. Flach seconded the Finding of Fact.

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

Mr. Flach asked Attorney Robinson for clarification if a ruling had been made on short-term lodgings. Attorney Robinson stated there has been a few cases that are fact driven, it's gone before the legislature, and the Real Property section, realtors and other people are trying to push the state legislation that would authorize short term rentals, there's push back from people who live on the lake shore communities and college towns also. He gave some

examples. Mr. Flach commented the applicant lives within walking distance of the house and feels it functions like a short-term rental. It's been under the radar for over three years, with zero complaints. Some tenants have been staying long term even, he's in favor of the request.

Mr. Skalski and Chair Lager both stated they were in favor of the request.

Mr. Carroll stated having a historical significance doesn't factor into his opinion, he'd like to approve it, but it doesn't meet the variance requirements. It can be used for a normal rental. He feels it opens up the option for others who will want to use their homes and Air B&B's also.

Mr. Eldridge commented there's attributes of looking at the adjacent properties around this, the apartment complex with 72 units and Crane Park. They haven't received any complaints here and it's on a commuter corridor.

Chair Lager stated these cases are fact specific, he is persuaded by the historic character of it, and is in favor.

Ms. Doane moved to approve the application, seconded by Ms. van den Hombergh.

Yes. Skalski, van den Hombergh, Lager, Flach, Doane

No: Carroll

Motion approved by roll call vote.

Ms. Doane read the application for 423, 427 and 429 S. Park Street / 234 and 314 W. Cedar Street, Parcel #06-22-107-001, 06-22-107-002, 06-22-107-008, 06-22-107-010 and 06-22-108-009:

ZBA #20-09-19: 423, 427 and 429 S. Park Street / 234 and 314 W. Cedar Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by 234 West Cedar, LLC and Park @Rose, LLC owners of 423, 427, 429, 433 S. Park Street / 234 W. Cedar Street, which are situated in Zone CC, Commercial – Community District. The applicants are requesting the following: 1) A use variance from Chapter 4, Section 4.2 Q.3, to authorize dwelling units on the ground floor level, where retail or other commercial floor space is required on the ground floor level in Zone CC; 2) A dimensional variance from Chapter 5, Section 5.2 to authorize the construction of 101 dwelling units with 475 square feet of lot area per dwelling unit where Zone CC requires 1,350 square feet of lot area per dwelling unit; and 3) A dimensional variance from Chapter 50, 50-7.2 A, to authorize 176 off-street parking spaces where 111 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 fifty-eight notices of public hearing sent and zero responses were received.

Curt Aardema, the applicant for the variance stated he was before the Board for a house move, but it fell apart just prior to the move, they were able to salvage a lot of the home and repurpose a lot from within the house. Most of the houses are gone; the site is being prepared and moving forward. Mr. Aardema shared a plan of the proposed layout of the Phase II of the 400 Rose project at Park and Cedar Street. They want to invest into another building, it's four stories, with residential apartments and a small commercial area. They propose a similar one to the Phase I build; it will be more centered into the Vine Neighborhood. Mr. Aardema showed the Phase II rendering with the balconies proposed for the residential units on the site plan. They have three variances before them, one is first floor residential, one is for density, and the third is for a parking request. Mr. Aardema commented the parking is pushed to the back and not visible to the public, most parking is underground. He discussed the layout of the apartments and the needs for parking. Most tenants want to bring a car with them, and they need 176 spaces the way he calculated them with an office use. Discussions with neighbors brought up their main concern was they didn't want the tenants parking to spill out onto the streets but stay on their site. He discussed the urban density and the intent to meet those requirements.

Chair Lager questioned the underground parking and how many spaces were underground. Mr. Aardema stated 112 spaces are underground. The surface ones are less than are visible now.

Mr. Skalski asked how many units are in each building. Mr. Aardema stated 101 units in Phase II versus 135 units in Phase 1. These are geared towards studio apartments where the demand is.

Ms. van den Hombergh asked what the rent for the units would be. Mr. Aardema stated it'd be like the Phase 1 at around \$900 a unit, Phase II will be around market rate, it's undetermined at this point, they have over twenty floor plans currently that will set fees. Ms. van den Hombergh questioned the gentrification going on and the rent being charged for the units. The five apartments that existed before, with the affordable housing that no longer exists, since the houses were tore down. Most people won't be able to afford the rates of the new buildings. Mr. Aardema stated he feels the new units being built are better than the sub-standard units that existed. Their getting the supply of units higher for the community by adding 101 more. Mr. Aardema stated he served on the Historic District Society and is a proponent of preservation, and offered non-profits the house, but just couldn't make it work. They had offered the older houses to be moved off site to preserve them but had no one offer to take them.

Mr. Skalski asked if the utilities are included. Mr. Aardema stated the washer/dryer, dishwasher and amenities are included in the studios. Ms. van den Hombergh questioned if heat was included. Mr. Aardema stated they are too early in the design phase for that answer yet.

Mr. Flach asked if the new zoning on the base floor wouldn't have to be commercial. Mr. Aardema commented the movement is to change the blanket downtown zoning into a live work zone. It would allow residential use. Mr. Eldridge commented citizen feedback and surveys would bring this block into the downtown, the Commercial Central Business District and would be broken up into different zones to provide a more customized language. This area is slated for rezoning. Mr. Flach questioned if the first two requests wouldn't really be needed. Mr. Eldridge clarified he couldn't say for sure, they are trying to strike a balance in the zoning, there's no allowances for residential on the first floor as long as you have 25% and commercial, there's no balance in place with the current setup. The rezoning would help with

the first two requests but would still require a use variance. They discussed the downtown parking if the rezoning goes through.

Mr. Flach asked if there were any problems with parking in Phase 1. Mr. Aardema stated no, and they designed the ratio the same, but they have needed all their spots, especially if the tenants have overnight guests.

Mr. Eldridge commented the first request for ground floor residential use the first phase was before the Board on May 10, 2018 they granted a use variance allowing the residential units, in addition to the commercial spaces. Now the new rezoning change for downtown will include this block and will provide a new zoning regulation and will be addressed. The second variance regarding the lot area per dwelling unit, they will have to deal with the lot are per apartment building unit count, it works against the developer. The off-street parking they've changed those regulations, this property is technically in the parking exempt zone, they are not required to add parking, however, if they add parking, they must add it to meet the zoning ordinance. He mentioned there isn't a public parking ramp nearby.

There were no comments called in from the public. One late addition was a written response received from Rodger Storteboom, 231 W Cedar Street. He expressed support for the project but was concerned about daily semi-truck deliveries to his business and if on-street parking would impact maneuvering area in W Cedar Street.

Chair Lager closed the public hearing.

FINDING OF FACT

Ms. van den Hombergh moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 423, 427 and 429 S. Park Street / 234 and 314 W. Cedar Street shall include all information included in the notice of public hearing dated August 26, 2020.
- 2.) Fifty-eight 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: Curt Aardema spoke to preparing the site, and had a slide show presentation for the Cedar and Park Street Phase II project. The first floor is residential, for rentals, the transition is blending into the Vine Neighborhood, there

were questions about the 176 parking spots. Mr. Skalski asked about the 135 units from Phase 1, the rent is approximately \$900 for studio apartments, with over 20 floor plans. Ms. van den Homberg asked about the affordable housing and the income and if \$900 is considered affordable. Mr. Aardema spoke to being on the Historical District Board and working with non-profit groups to get the houses moved, but couldn't. Mr. Skalski asked if utilities were included, the other homes didn't have those amenities, these will have those updated amenities. Ms. van den Hombergh asked if they included heat but that had not been determined. First floor is residential, downtown is transitioning into the Vine Neighborhood, renderings of Phase II and images of the Rose and Lovell Phase 1 were shown, urban format with parking to the back, the majority of parking is underground, they are trying to meet the needs of the downtown residents who may need a car. First floor if not residential but was offices would equate to having one parking space for every 300 sq. ft. for the office is a very similar equation to what they are presenting now of 82 parking spaces for the office 78 parking spaces for the apartments with 10% bonus left over. Mr. Flach asked about the new zoning changes and if it's in the alignment with what is currently downtown, the answer was yes. Mr. Eldridge spoke to the customization of the downtown area and meeting the needs of each segment of downtown with the establishment of the new downtown zone districts. The Phase II development is just outside the core area of downtown and presents a few challenges, but variance requests one and two would not be required with the new zoning. Mr. Flach asked if there were any issues with parking in Phase 1, no there is some overnight parking in the Vine Neighborhood which is nearby but with the underground parking it won't be any impact on the neighbors. Mr. Eldridge spoke to the ground floor residential unit variance granted on May 10, 2018 for Phase 1 of this project.

Mr. Flach seconded the Finding of Fact.

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

Ms. Doane moved to approve the application for 1) A use variance from Chapter 4, Section 4.2 Q.3, to authorize dwelling units on the ground floor level, where retail or other commercial floor space is required on the ground floor level in Zone CC, seconded by Mr. Skalski.

Ms. Doane stated she was in favor; the new zoning will be changing to meet this requirement anyway.

Motion approved by roll call vote unanimously.

Ms. Doane moved to approve the application for 2) A dimensional variance from Chapter 5, Section 5.2 to authorize the construction of 101 dwelling units with 475 square

feet of lot area per dwelling unit where Zone CC requires 1,350 square feet of lot area per dwelling unit seconded by Mr. Flach .

Chair Lager stated this is where the new zoning is going, and new density is a good answer to that and he's in favor.

Motion approved by roll call vote unanimously.

Ms. Doane moved to approve the application for 3) A dimensional variance from Chapter 50, 50-7.2 A, to authorize 176 off-street parking spaces where 111 are permitted seconded by Mr. Skalski.

Ms. Doane commented she likes the underground parking and the design of it. Chair Lager stated he likes the required parking being met and is in favor also.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

Mr. Eldridge stated there is already one application for the October meeting.

ADJOURNMENT:

The meeting was adjourned at 9:24 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

September 23, 2020

**RE: ZBA #20-10-20
833 W. South Street
Parcel #06-16-474-003**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Rebecca Macleery owner of 833 W South Street which is situated in Zone CC, Commercial – Community District.

The applicant is requesting a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of three (3) off-street parking spaces which would result in one off-street parking space for the proposed art studio where four (4) off-street parking spaces are required.

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

The meeting will be held on Thursday, October 8, 2020 at 7 p.m. Due to COVID-19 this public meeting will be held electronically and streamed live on the [City's Facebook page](#) and [YouTube Channel](#). Check www.kalamazoocity.org for details on providing public comments.

To examine documents related to this request or provide written comments, please contact Pete Eldridge at eldridgep@kalamazoocity.org or call (269) 337-8806. The agenda will be posted at <https://www.kalamazoocity.org/boards>

Sincerely,
ZONING BOARD OF APPEALS

Peter C. Eldridge, AICP
Assistant City Planner

c: Property File



Zoning Board of Appeals (ZBA) Application Form

Community Planning & Development Department

415 Stockbridge

Kalamazoo, MI 49001

Phone: 269-337-8026

www.kalamazoocity.org

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 Rebecca Macleery
 Address 833 W South St
 City, State, Zip Kalamazoo, MI 49007
 Phone 269-365-2765 Cell 269-365-2765
 Fax n/a Email rebecca@loosepartsstudio.com

Owner: Name same as above
 Address _____
 City, State, Zip _____
 Phone _____ Cell _____
 Fax _____ Email _____

(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 833 W South St, Kalamazoo, MI 49007

This property is located between West Michigan street and Oak street, on the

north south east west side of the street.

CCN# _____ Zone _____

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 _____

Attachments

\$ _____ 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)

Rebecca L. Macleery
Signature of Applicant

9/9/2020

Date

Signature of Owner (if different than applicant)

Date

Loose Parts Studio is an emerging small business located at 833 W South Street near downtown Kalamazoo. The commercial property was previously used as a daycare. I purchased the property in 2017 and have been working to transform the existing 1600 square foot building into a mixed-use business with retail space, an art studio and a coffee kitchen with an urban garden and outdoor art studio space. Working with the City of Kalamazoo during the site planning process I learned that I will be required to provide 5 parking spaces. One on-street space can be used (based on zoning ordinances), leaving an additional 4 required spaces to be located on my small commercial lot. I respectfully request a parking variance from the Zoning Board of Appeals to reduce the number of spaces required.

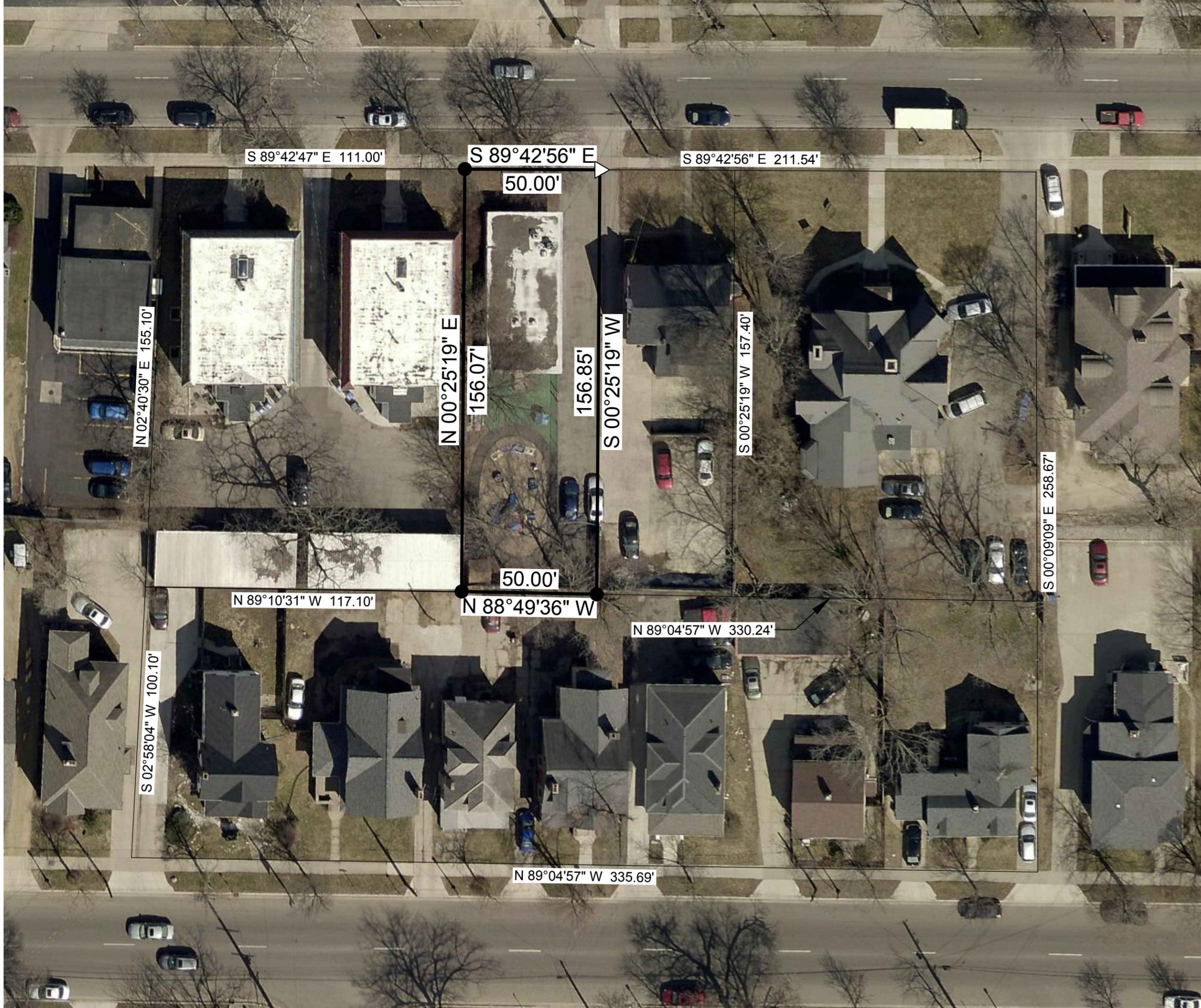
The property has a single lane driveway shared with the multi-family residential unit immediately to the east of my property, making the driveway suitable for only 1 space. The rear of my building was previously paved, but the pavement was removed sometime between 1997 and 2004 to make way for playground equipment for the daycare. When I purchased the building I removed the playground equipment and installed a large perennial garden in the unpaved area. This urban garden and outdoor art area are central to the business I have developed and are consistent with the vision of the vibrant businesses the city has stated it would like to see developed in its 2025 Master Plan.

Ample on-street parking exists along on South Street and all nearby commercial and residential properties utilize off-street parking, making current use of the on-street parking negligible. I am able to offer one barrier-free space in the existing driveway to meet ADA guidelines. However, I am requesting a variance because providing the 3 additional spaces deemed necessary by current ordinances would be detrimental to my business and to the natural environment and would be inconsistent with the stated goals outlined within the city's 2025 Master Plan.

A denial of this requested parking variance would have the following major impacts:

1. Additional paving would have negative environmental consequences through additional storm water runoff into nearby Arcadia Creek or through the already overburdened storm drains;
2. Removing the large existing garden would eliminate a natural, native habitat that attracts pollinators and serves as a waystation for monarchs and other important parts of our delicate ecosystem;
3. The business plan envisions using the backyard for art workshops, drinking coffee, and as an urban garden and retreat space. Paving this area and eliminating the garden would drastically impact the business plan and creative use of this space, reducing revenue and also eliminating future jobs that will be created through full realization of the business vision;
4. Eliminating use of the outdoor area as an unique, creative space to create yet another parking lot is contrary to the progressive, vibrant vision of small businesses that the city's leaders have expressed support for in recent updates to the city's zoning ordinances and Master Plan;
5. Paving would be extremely costly. While other developers of this property would be able to absorb the cost, it is just not feasible for me as the current owner.

I have searched for additional parking within 660 feet of this property. However, most surrounding properties are residential and the commercial properties are fully utilizing the existing commercial lots to meet their own minimum parking requirements. Therefore, I respectfully appeal to the Zoning Board of Appeals to grant a variance to eliminate the requirement to develop additional parking on my property.



S 89°42'47" E 111.00'

S 89°42'56" E

S 89°42'56" E 211.54'

50.00'

N 02°40'30" E 155.10'

N 00°25'19" E

156.07'

156.85'

S 00°25'19" W

S 00°25'19" W 157.40'

50.00'

N 89°10'31" W 117.10'

N 88°49'36" W

N 89°04'57" W 330.24'

S 00°09'09" E 258.67'

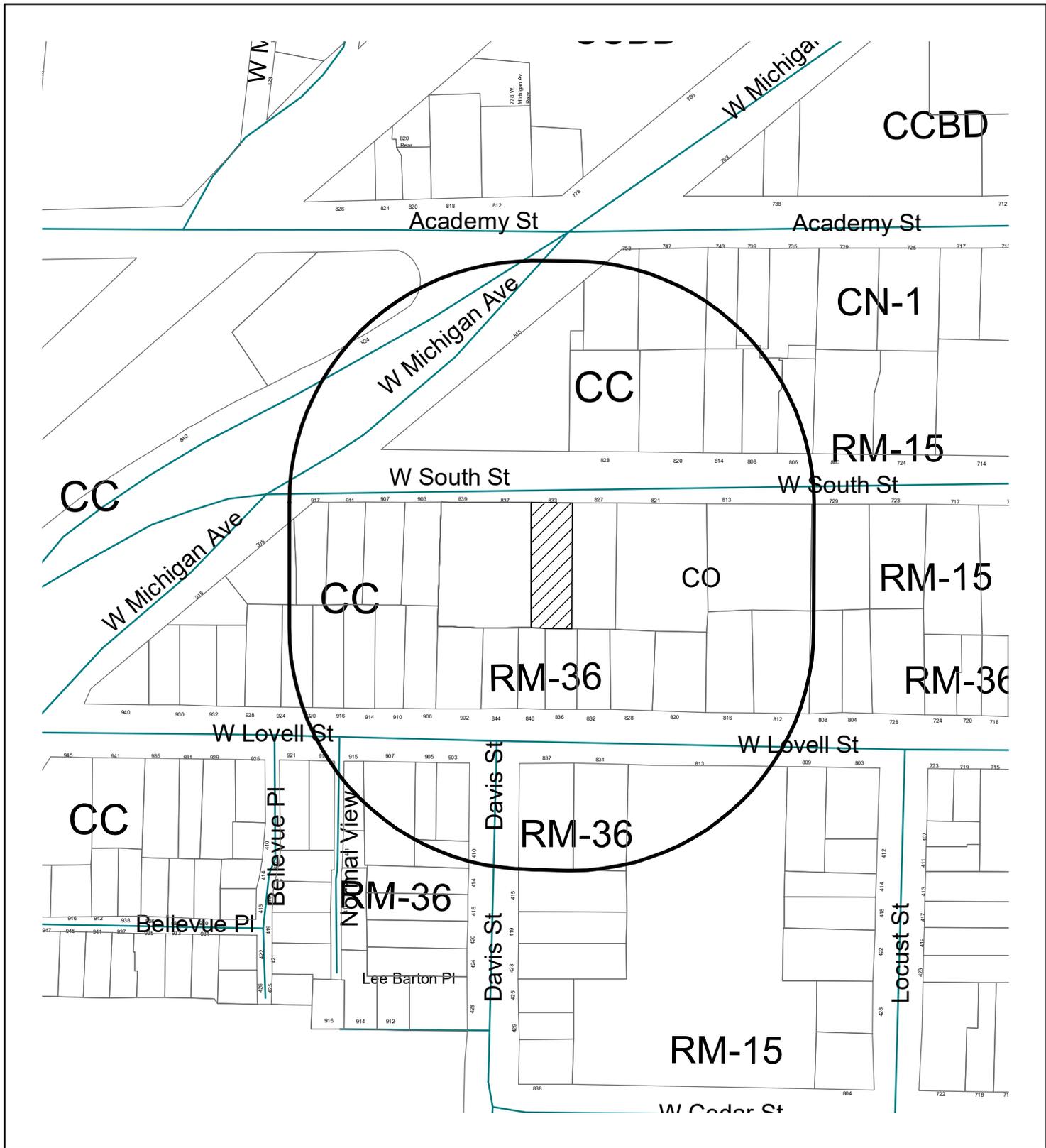
S 02°58'04" W 100.10'

N 89°04'57" W 335.69'

833 W. South Street
September 24, 2020







300' Mailing Boundary
833 W. South Street



0 20 40 80 Feet