Meeting Agenda

City of Kalamazoo - Zoning Board of Appeals

February 11, 2021

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

A. Call to Order:

B. Roll Call

C. Communications and Announcements:

D. Approval of the Meeting Minutes for January 14, 2021

E. Public Hearings:

F. Other Business:

   1. 2020 Annual Zoning Board of Appeal Report

   2. Election of Board Officers

G. Adjournment:
MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
January 14, 2021 - 7:00 p.m.

This meeting will be conducted electronically in order for members, staff, and the public to comply with the Emergency Order Under MCL 333.2253 – Gathering Prohibition and Mask Order issued by Robert Gordon, Director of the Michigan Department of Health and Human Services, on October 29, 2021.

Members Present: Matt Lager, City of Kalamazoo, MI; Chris Flach, City of Portage, MI; Christina Doane, City of Kalamazoo, MI; Jeff Carroll, City of Kalamazoo, MI; Beth van den Hombergh, City of Kalamazoo, MI; Remi Harrington, City of Kalamazoo, MI

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 7:00 p.m.

Chair Lager noted the meeting was being streamed live on Facebook and the City’s You Tube channel. (Chair Lager lost his connection to the meeting and Vice Chair Carroll took over the meeting.)

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.

NEW BUSINESS:

Mr. Eldridge stated the agenda changes for 1007 E. Alcott Street and remaining parcels associated, there were five variance requests, variance request # 2 for the removal of the required sidewalk along Bryant Street has been removed from the agenda, there will now be a sidewalk along Bryant Street. The other change to the agenda is the second application for 2413 Parkview Avenue has been removed from the agenda. The sign alterations have been deemed to be content-based changes to the image and text only. He also introduced the newest Board member Remi Harrington.

MINUTES:

Ms. Doane moved to approve the minutes of December 10, 2020 as submitted, seconded by Ms. van den Hombergh.
Motion approved by voice vote unanimously.

PUBLIC HEARINGS: Vice Chair Carroll 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 1007, 1015 and 1019 E. Alcott Street / 1000, 1014, 1022, 1026, 1106 Bryant Street, Parcel #: 06-26-122-103, 06-26-123-004, 06-26-123-005 / 06-26-117-301, 06-26-118-302, 06-26-118-303, 06-26-118-304, 06-26-119-305:

ZBA #21-01-02: 1007, 1015 and 1019 E. Alcott Street/1000, 1014, 1022, 1026, 1106 Bryant Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by the Kalamazoo Department of Public Safety. The request concerns the properties at 1007, 1015 and 1019 E. Alcott Street / 1000, 1014, 1022, 1026, 1106 Bryant Street, which are situated in use Zone RS-5, Residential – Single Dwelling District. The applicant is requesting the following: 1.) A dimensional variance from Chapter 5, Section 5.3 D 5, to authorize a zero-building setback where the Zoning Ordinance permits a canopy, eave or architectural feature within 9.5 feet of the front property line on the long side of a corner lot. To clarify, the required building setback on the long side of this corner lot on Bryant Street in Zone RS-5 is 12.5 feet and the canopy proposed may extend 2.5 feet into the required setback resulting in a building setback of 9.5 feet. 2.) A dimensional variance from Chapter 6, Section 6.2 E, to authorize two trees for the required landscaping for front yard setbacks without parking or paved areas along Race Street where the Zoning Ordinance requires seven trees. 3.) A dimensional variance from Chapter 6, Section 6.2 F, to authorize a reduction in landscaping for required building perimeter landscaping along the Bryant Street from 23 to six shrubs and no landscaping on the E. Alcott Street where 20 shrubs are required. 4.) A dimensional variance from Chapter 6, Section 6.2 G to authorize four trees for required parking lot landscaping along Bryant Street where the Zoning Ordinance requirement is eleven trees.

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

Jason Vetne, of DLZ Architects, stated he’s working with Public Safety on this project, the first portion of the request has to deal with the construction of a canopy over the parking area
on the northside of the facility along Bryant Street and would be built up to the property line to cover the first responders parking area. The other request relates to the reduction of trees required along Race and Bryant Streets, this is to promote visibility for fire truck apparatus entering and exiting the facility. Mr. Vetne showed the Board Members the site plan and reiterated the setback for the proposed canopy is to cover the sidewalk and the first responders parking. The second part is limiting the trees along Race and Bryant Streets for promoting visibility.

Mr. Eldridge clarified Mr. Vetne stated the tree plantings cause a visibility issue, but all the shrubs will be planted.

There was one letter of support from the President of the Milwood Neighborhood Watch Association in support.

Mr. Eldridge commented on the challenges of the topography on the site with the grade differences. The elevation views show the sloping of the land. The first responder parking is along Bryant Street for easy ingress and egress of the emergency vehicles. The public parking lot is separated and only accessible from Alcott Street. A separate exit from Race Street is for fire apparatus. The community room can be used for community meetings and is on the southwest where the public parking is located. The first variance is for the setback of the canopy, the building is setback 20' from the property line, the building is compliant, the awning is cantilevered out for shelter for the vehicles. The second request for the trees and shrub plantings will be reduced due to the visibility for clear lines. The third is for the trees along Bryant and Alcott Street for visibility, some shrubs have been added. The Alcott Street frontage has required screening and has a handicap ramp, there’s no green space. There’s practical difficulty on the site, they have three street frontages.

Vice Carroll closed the public hearing.

FINDING OF FACT

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

1.) The Finding of Fact for 1007, 1015 and 1019 E. Alcott St /1000, 1014, 1022, 1026, 1106 Bryant Street shall include all information included in the notice of public hearing dated December 23, 2020.

2.) Seventy-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, presented a blue print layout of the parcel.
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: Jason Vetne, DLZ Architects, presented a blue print layout of the parcels along Bryant, Alcott and Race Streets, there are looking for a dimensional variance for a canopy over the parking lot area for the first responders and a sidewalk area. There was concerns with vision, site lines and safety issues along Bryant Street. The second variance deals with the trees, they are proposing two trees on Bryant Street versus the seven trees required and then four trees versus the eleven required, they are planting all the required shrubs. They received a letter of support from the Milwood Neighborhood Watch Association in support.

Ms. Doane seconded the Finding of Fact.

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

Ms. van den Hombergh moved to approve the application, 1.) A dimensional variance from Chapter 5, Section 5.3 D 5, to authorize a zero-building setback where the Zoning Ordinance permits a canopy, eave or architectural feature within 9.5 feet of the front property line on the long side of a corner lot, seconded by Mr. Flach.

Ms. Doane stated the need to protect the equipment and supplies and that she was in favor of the request.

Motion approved by roll call vote unanimously.

Ms. Doane moved to approve the application, 2.) A dimensional variance from Chapter 6, Section 6.2 E, to authorize two trees for the required landscaping for front yard setbacks without parking or paved areas along Race Street where the Zoning Ordinance requires seven trees seconded by Ms. van den Hombergh.

Ms. Harrington asked for clarification why the seven trees were required, if it was because of the NFP requirements. Mr. Eldridge stated this property is not in the NFP area, but trees are required per the landscaping requirements and is determined per distance of street frontage.

Vice Chair Carroll stated he was in favor, it’s reasonable and been well thought out.

Motion approved by roll call vote unanimously.

Ms. Doane moved to approve the application, 3.) A dimensional variance from Chapter 6, Section 6.2 F, to authorize a reduction in landscaping for required building perimeter landscaping along the Bryant Street from 23 to six shrubs and no landscaping on the E. Alcott Street where 20 shrubs are required seconded by Ms. van den Hombergh.

Public comment:
Michael Wilson, 1105 Bryant Street, asked for clarification if there would be a sidewalk along Bryant Street, stating he likes walking in the grass. He applauded the City for addressing his concerns regarding the fence, he wants to preserve as much green space as possible.

Mr. Eldridge clarified Mr. Wilson was referring to the sidewalk, it will go in front of the facility and will terminate after the staff parking lot. The second item was the fence detail of a wrought iron fence and suggested it could look more like other locations along Portage Street with brick pillars. Vice Chair Carroll clarified the sidewalk request had been removed from the agenda. Mr. Eldridge stated the sidewalk will go in.

Vice Chair Carroll stated he was in favor due to the practical difficulties of the property. Mr. Flach agreed.

Motion approved by roll call vote unanimously.

Ms. Doane moved to approve the application, 4.) A dimensional variance from Chapter 6, Section 6.2 G to authorize four trees for required parking lot landscaping along Bryant Street where the Zoning Ordinance requirement is eleven trees seconded by Ms. van den Hombergh.

Public Comment:

No name given: Male resident stated they hoped to not have a curbside sidewalk along Bryant Street, he stated a curbside sidewalk wasn’t an option over the last couple years.

Vice Chair Carroll stated he was in favor due to the practical difficulties to the site.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

The February meeting would be the annual meeting, they’d go over the annual report and the voting of members.

ADJOURNMENT:

The meeting was adjourned at 7:45 p.m.
Introduction:
The Zoning Board of Appeals (ZBA) is a quasi-judicial body, whose duty is to balance protection of the public interest through zoning regulations with property rights of landowners.

Purpose:
The ZBA is a required appeals mechanism established by the State of Michigan’s Zoning Enabling Act. Any community adopting a zoning ordinance must also establish an appeals board of review for circumstances in which landowners may be unjustly burdened by the ordinance.

Membership:
Other than residency, the ZBA has no specific membership requirements. However, staff and the ZBA officers work together to maintain membership that brings expertise, professionalism, and a broad geographic cross-section of the community to this decision-making process. The ZBA includes six members and two alternate positions, with quorum being four members. The alternates are intended to ensure that a full board is present at each meeting. The 2020 Membership included:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matt Lager</td>
<td>Chair</td>
<td>Second Full Term</td>
</tr>
<tr>
<td>Jeff Carroll</td>
<td>Vice Chair</td>
<td>First Full Term</td>
</tr>
<tr>
<td>Christina Doane</td>
<td>Secretary</td>
<td>Partial Term</td>
</tr>
<tr>
<td>Chris Flach</td>
<td></td>
<td>First Full Term</td>
</tr>
<tr>
<td>Beth van den Hombergh</td>
<td></td>
<td>Partial Term</td>
</tr>
<tr>
<td>Dick Skalski</td>
<td></td>
<td>Resigned from Board in Dec. 2020</td>
</tr>
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Meetings:
The ZBA meets on the second Thursday of the month at 7:00 pm at City Hall. In 2020, 10 regular meetings and one special meeting were held.

New Initiatives Undertaken:
- Learned to utilize Zoom video conference platform to hold electronic meetings.
- Approved two new ZBA members in December of 2020: Remi Harrington and Jeremy Terpening.
- First time variance request for Natural Features Protection Overlay standards were brought before the ZBA. The procedure established states an applicant must first go before the NFP Board and then the NFP Board will provide a written recommendation to the ZBA for the particular development.

Summary of 2020 Activity:
The following is a summary of the ZBA activities. A total of 20 applications were brought before the ZBA. Some of the applications involved multiple variance requests.
<table>
<thead>
<tr>
<th>Use Variances</th>
<th>APPROVED</th>
<th>DENIED</th>
<th>WITHDRAWN</th>
<th>TOTAL</th>
</tr>
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<tbody>
<tr>
<td>Dimensional Variances</td>
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<td>28</td>
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<tr>
<td>Temporary Use</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>37</td>
<td>4</td>
<td>0</td>
<td>41</td>
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</table>

**Use Variances:**

Five of the ten use variances granted in 2020 were related to ground floor residential use of buildings in commercial zone districts. These use variances correlate with the trend of increased demand for more dwelling units being developed closer to commercial amenities and jobs.

1. **725 Academy Street**, 6/11/20, the Board approved a use variance to allow the relocation of a single family dwelling to the rear of this parcel for residential occupancy where in Zone CN-1 retail or other commercial floor space is required on the ground floor level in Zone CN-1.

2. **423, 427 and 429 S. Park Street / 234 and 314 W. Cedar Street**, 9/10/20, The Board approved a use variance 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.

3. **1211 S. Westnedge Avenue**, 11/12/20, the Board approved a use variance 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 CN-1.

4. **210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue**, 12/10/20, the Board approved a use variance to allow residential dwelling units on the ground floor level of each of the proposed apartment buildings (60 residential units total), where retail or other commercial floor space is required on the ground floor level in Zone CC. (Renewal of use variance originally granted 2/21/19)

5. **508 Harrison Street and 660 Gull Road**, 12/10/20, the Board approved a use variance for residential units on the ground floor in the proposed apartment complex where retail or other commercial floor space is required on the ground floor in Zone CMU. (Renewal of use variance originally granted 6/14/18)

Three of the ten use variances approved in 2020 touched on the emerging trend for more urban gardening opportunities or urban agriculture.

1. **736 Jackson Street**, 5/14/20, the Board approved a use variance to allow for a commercial agricultural use and educational programs on this residentially zoned property.

2. **1316 Mills Street**, 5/14/20, the Board approved a use variance to allow for a commercial agricultural use on this residentially zoned property. This includes a greenhouse and raised planting beds.

3. **1503 Washington Avenue**, 5/14/20, the Board approved a use variance to allow for a commercial agricultural use on this residentially zoned property. This includes a structure with vertical planting beds and other raised planting beds on the property.

The remain two use variances approved were for the following:

1. **1705 Lay Boulevard**, 8/13/20, the Board approved a use variance to allow this residential structure originally built as a duplex to be utilized as duplex again after single family occupancy in Zone RS-5.

2. **2026 S. Westnedge Avenue**, 9/10/20, the Board approved a use variance to utilize this property for short-term rentals or lodging as defined by the Zoning Ordinance. This use variance allowed for renting of the house for periods of time less than 30 days which is not permitted in Zone RM-15.
Other Trends and Observations:

- Trends of Board Activity:
  
<table>
<thead>
<tr>
<th>Year</th>
<th>Applications</th>
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<tbody>
<tr>
<td>2011–20</td>
<td>35 Applications</td>
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<tr>
<td>2012–21</td>
<td>28 Applications</td>
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<td>2013–21</td>
<td>32 Applications</td>
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<td>2014–32</td>
<td>39 Applications</td>
</tr>
<tr>
<td>2015–34</td>
<td>41 Applications</td>
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</tbody>
</table>

- One observation found in the 2019 annual report that continues to hold true is projects are getting more complex and some applications have two or three separate variances.

- 83% of use variances were approved in 2020, where 95% were granted in 2019.

- 93% of the dimensional variances were granted in 2020, where 55% of dimensional variances were granted in 2019.

- Natural Feature Protection Overlay variances:
  
  - **3401 Nazareth Road**, 8/13/20, the Board approved a variance for the Bow in the Clouds Nature Preserve two authorize the development of trails in the preserve which will encroach into the protected slopes which have a grade greater than 20%.
  
  - **500 Golden Drive**, 11/12/20, the Board approved variances for the Heritage Community of Kalamazoo to authorize a number of plantings to be non-native plants and the planting of a non-native tree species of arborvitae known as Spring Grove in place of Hetz Wintergreen.