MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
DECEMBER 10, 2020 - 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, 2020.

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.

Members Present: Matt Lager, Kalamazoo, MI; Dick Skalski, Kalamazoo, MI; Christina Doane, Kalamazoo, MI; Chris Flach, Portage, MI; Jeff Carroll, Kalamazoo, MI; Beth van den Hombergh, 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.

NEW BUSINESS:

Mr. Eldridge stated he’d received two items of correspondence, he forwarded onto the Board Members, one from Richard Stewart and one from Nancy Troff. There’d be discussion of the interviews by some of the Board Members at the end of the meeting since tonight would be Mr. Skalski’s last meeting, and discussion on the new year’s meeting dates.

MINUTES:

Ms. van den Hombergh, moved to approve the minutes of November 12, 2020 as submitted, seconded by Mr. Skalski.

Motion approved by voice vote unanimously.
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 210, 216, 220, 302, 302 (Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue, Parcel #06-22-344-262, #06-22-344-261, #06-22-415-001, #06-22-415-260, #06-22-415-002, #06-22-415-259, #06-22-410-002, #06-22-349-001 and #06-22-349-003:

ZBA# 20-12-24: 210, 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board by the LIFT Foundation. The request concerns the properties at 216, 220, 302, 302(Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue; which are situated in use Zone CC, Commercial – Community District; Zone CN-1, Commercial – Neighborhood District; and M-1, Manufacturing – Limited District. The applicant is requesting a use variance from Chapter 4, Section 4.2 Q.3, to allow residential dwelling units on the ground floor level of each of the three proposed apartment buildings (60 residential units total), where retail or other commercial floor space is required on the ground floor. Please note that this is a renewal of the same variance granted on February 21, 2019 which has expired.

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

Lisa Wilcutt, a representative from the LIFT Foundation stated they are an affordable housing provider, currently the only non-profit multi-family housing developer in Kalamazoo, commenting on the need for affordable housing downtown. Site plan approval has been given already; wastewater can handle the infrastructure of the additional 60 units. It won’t create a large loss of green space; they have a walking path laid out. They have the necessary prior approvals already. This is not in the 100-year flood plain, stating it does not flood. This is on a neighborhood edge, there are two buildings, they’d have units on all floors, they’ll have accessible units on the first floor and other floors will be convertible. The other building on Stockbridge will have commercial on the first floor of it, a 3,700 sq. ft, non-profit proposed daycare open to the community. A community garden is proposed and will be open to the neighbors also.
Jeff Swenarton stated the project was previously approved for this variance, it will utilize green space, have affordable housing, they need a minor use variance. This Board approved the variance before, and they are asking it again. They didn’t get the tax credits so had to apply again.

Mr. Skalski asked about the surface parking and where it drains too. Ms. Wilcutt stated the mitigation ponds will handle that water.

Mr. Eldridge commented on Mr. Stewart’s email that the Board members were provided. Mr. Eldridge mentioned the initial design from early January 2019. The Planning Commission had questions and was unsettled about the undetermined items and that rezoning was denied, the project was revamped, the ground floor residential use for residential units on the ground floor level was needed, the other building will have a daycare, this variance was granted in February 2019. They’ve been through site plan review with three buildings, now they only have two buildings. This variance is to allow ground floor units only. They have permits from the State, EGLE, and are moving forward.

Public comments:

Sharday Chambers, a resident on the Eastside, stated she wanted to make sure the Natural Features are considered, the flooding issues, that the residents’ concerns are being heard, and the South side isn’t forgotten about that the neighborhood concerns are being heard.

Bhaskar Pisipati owner of 206/208 Lake Street stated he was against this request, stating his concerns with the wetland, it will cause more flooding in the area.

Richard Stewart, of 828 Portage, in the Southtown neighborhood, also an organizer for the Southtown Neighborhood Association stated they are in unanimous opposition against this request. He thought in January 2019 this request had failed when the zoning was denied and spoke to reflect the minutes from that meeting. The Board Members had even agreed this site was not a good location for this project. He stated the LIFT Foundation didn’t give an appropriate narrative in his opinion and he has flood concerns still. He spoke to the unnecessary hardship, and feels the developer is creating the issues. The properties have been accepted into NFP Committee; this project will not benefit the neighborhood. He spoke to the parking spaces being added taking away the green space also.

Tina McClinton, 310 Lake Street, spoke to the wildlife and green space, the neighborhood needs the land to survive, and spoke to her concerns with the KVCC building there and the flooding it caused, and spoke to the wetlands asking the Board to deny the request.

Michael Corso, owns property at 627 Lake Street, he spoke to his concerns with open spaces in the area and overbuilding it.

Mr. Eldridge clarified a comment on the NFP Ordinance, because this project has site plan review and that process started before the NFP Ordinance was in place and the step was added to the site plan review process. Therefore, this project is not subject to the NFP Ordinance. Any projects coming in now would require that review.
Mr. Skalski commented regarding the building site being in a flood plain, he thought it was outside the flood plain area. Mr. Eldridge replied the building to his understanding is outside the flood plain area and put the flood plain map up for the Board Members to see and verify it was.

Mr. Carroll questioned the flood plain area. Mr. Eldridge stated it's the 100-year flood plain area. Mr. Carroll questioned the timeline of the maps. Mr. Eldridge stated the applicant could answer the floodplain concerns.

Ms. Wilcutt stated Mr. Anderson goes to the site when flooding occurs, and that this area has never flooded.

Mr. Flach questioned why the variance was denied. Mr. Eldridge clarified the original request was for a rezoning which was denied by the Planning Commission. The project was then modified and came before the Zoning Board of Appeals in February 2019, for a use variance, as this was the only item that fell short for compliance with the regulations. Mr. Flach clarified the only variance they are asking for is residential units on the first floor. Mr. Eldridge stated they would have been eligible for permits if they had commercial on the first floor of both buildings. Mr. Flach questioned if the community could have tried to stop this project then if they had had commercial on the first floors of both buildings. Mr. Eldridge stated no. EGLE even issued the environmental permit for this project.

Mr. Flach questioned if the LIFT Foundation purchased the properties. Mr. Swenarton stated they are under contract to purchase.

Chair Lager closed the public hearing.

**FINDING OF FACT**

Mr. Carroll moved the Finding of Fact as follows:

1.) The Finding of Fact for 210, 216, 220, 302, 302 (Rear), 308, 308 (Rear) and 316 Lake Street / 205 and 209 E. Stockbridge Avenue shall include all information included in the notice of public hearing dated November 25, 2020.

2.) Fifty-seven notices of public hearing were sent, and one response was received by Mr. Stewart and is part of the record.

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: Ms. Wilcutt and Jeff Swenarton spoke on behalf of the request. This request is a renewal request of the variance request approved on February 21, 2019, since the original variance was granted the site plan approval was given, the water system has been approved by the City. Staff clarified that the NFP Ordinance does not apply to this project since the site plan approval was approved prior to the NFP Ordinance. There were six residents speaking in opposition, stating their concerns with flooding, lack of infrastructure on the City’s part to handle current water issues, NFP issues and the loss of the last green space in the Southtown neighborhood. Some were frustrated with the City, such as the Arcadia neighborhood with the ability over not being able to submit their own neighborhood plan.

Mr. Skalski seconded the Finding of Fact.

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

Ms Doane moved to approve the application, seconded by Mr. Skalski.

Mr. Flach stated he was in favor of the variance, not necessarily in favor of the project, it’s for residential use on the ground floor, they’ve given that approval unanimously to other applicants, the applicant has met every other measure required. The City does need affordable housing and daycare.

Chair Lager stated he was in favor, they approved it in February 2019 and they’ve consistently approved substituting residential for commercial.

Mr. Skalski stated his approval for the affordable housing in the downtown area.

Motion approved by roll call vote unanimously.

Ms. Doane read the application for 522 and 530 S. Rose Street, Parcel # 06-22-114-027 and #06-22-119-026:

ZBA #20-12-25: 522 and 530 S. Rose Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of by PGJ Development. The request concerns the properties at 522 and 530 S. Rose Street, which are situated in use Zone LW-1, Live Work 1 District. The applicant is requesting the following: 1) a dimensional variance from Chapter 50 -5.6 C, for a 12% increase in impervious cover from 75% to 87%, 2) a dimensional variance from Chapter 50 -7.4 (2)a, to authorize a vehicular entrance for the proposed building on the building’s front façade, where garage bays or loading areas of all types are to be located in the side or rear yard, 3) a dimensional variance from Chapter 50 -5.6 C, of two-stories to allow a five-story building and 4) a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of five off-street parking spaces to allow for a total of 40 off-street parking spaces where 35 is the maximum spaces for the 64 senior apartments proposed.
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 twenty-five notices of public hearing sent and one response was received.

Jon Durham stated they are asking for an impervious variance, this fell between their first request and a change in the ordinance, instead of the previously approved variances they are asking for different variances now. For the impervious variance it is a service lot, they are not making it any worse, they only have frontage on Rose St for vehicular entrances. Their parking is all contained within the building. This project is an affordable senior project. This is 64 units for senior people that live in the neighborhood, the seniors will move into here, then the homes open to the younger generation in the neighborhood. They’ve worked on the overall look of this project with Christina Anderson from the City.

Chair Lager asked for them to explain the parking, is all of it enclosed. Mr. Durham stated yes, it adds one floor to the building height. Enclosed parking makes it safer for the seniors. Height is the issue now with the parking. The zoning changed and now they need a variance.

Mr. Flach questioned the impervious soil. Mr. Durham stated currently the area is a solid paved parking lot today. They are not adding any impervious soil to it.

Mr. Eldridge stated there are four variances, in 2019 the property was under the CC Zoning, now it’s under LW1 Zone, which allows for up to three stories in height, the zoning change made the height an issue, where before five stories was allowable. The impervious coverage changed with the zoning, they’re over the 10% allowable adjustment by City staff, the parking requirements have been altered to avoid large parking lots. They have five spaces shown over the limit. The last item is the garage bay, it’s a requirement that’s been in place, it’s the ingress/egress it’s essentially a garage bay and doesn’t meet the standard. There’s not a lot of leeway on this site for a driveway other than a front entrance.

Mr. Flach questioned the original variance. Mr. Durham stated it was granted in December of 2019.

Public Comments:

Zac Bower, Hillshire Avenue resident stated his support of the project. He’s worked with the developer and they are providing affordable housing which is needed.

Chair Lager closed the public hearing.

**FINDING OF FACT**

Mr. Flach moved the Finding of Fact as follows:

1.) The Finding of Fact for 522 and 530 S. Rose Street shall include all information included in the notice of public hearing dated November 25, 2020.
2.) One hundred twenty-five notices of public hearing were sent, and one response was received from Nancy Troff in support.

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: Jon Durham stated they were requesting four variances, they were in front of the Board in December, 2019, after the zoning ordinance changed. This changed the variance requests they needed. They plan to have off-street parking within the footprint of the property. The layout of the building makes ingress/egress a necessity, they only have road frontage on Rose St. They have good community support and believe that it will have a positive affect on the community for the older seniors that will moving in, opening more housing for new families in the neighborhood. Mr. Flach asked about the impervious soil, it won’t add more impervious soil. Mr. Eldridge noted zoning has changed from CC to LW1 and required the applicant to request a new set of variances, there isn’t a lot of leeway in other ingress/egress points due to layout of the building and the lot, although a garage bay door does not comply with zoning, it is necessary for their plan. There was only one public comment in support and that it would benefit the community and he’d had good professional experience with the company.

Mr. Skalski seconded the Finding of Fact.

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

Mr. Skalski moved to approve the application for 1) a dimensional variance from Chapter 50 -5.6 C, for a 12% increase in impervious cover from 75% to 87, seconded by Ms. van den Hombergh.

Chair Lager stated he’d be in favor of this motion and all the others, the variances are different, but the project isn’t, it’s currently a parking lot, a building is an improvement of use to him.

Motion approved by roll call vote unanimously.

Mr. Skalski moved to approve the application 2) to authorize a vehicular entrance for the proposed building on the building’s front façade, where garage bays or loading areas of all types are to be located in the side or rear yard, seconded by Mr. Flach.
Mr. Skalski stated he was in support, commenting on another downtown building on the mall with the same layout.

Motion approved by roll call vote unanimously.

Mr. Skalski moved to approve the application for 3) a dimensional variance from Chapter 50-5.6 C, of two-stories to allow a five-story, seconded by Ms. Doane.

Mr. Flach commented the project was previously approved, it’s a reasonable concession.

Ms. Doane stated her approval also commenting it was only two stories.

Motion approved by roll call vote unanimously.

Mr. Skalski moved to approve the application 4) a dimensional variance from Chapter 50, 50-7.2 A, to authorize a variance of five off-street parking spaces to allow for a total of 40 off-street parking spaces where 35 is the maximum spaces for the 64 senior apartments proposed, seconded by Mr. Flach.

Chair Lager commented the parking solution being within the building is providing the adequate parking for the project.

Mr. Skalski commented on the seniors having the safety of indoor parking and the need for additional spaces.

Motion approved by roll call vote unanimously.

Ms. Doane read the application for 508 Harrison Street and 660 Gull Road, Parcel #06-15-295-101 and #06-15-287-030:

**ZBA #20-12-26: 508 Harrison Street and 660 Gull Road: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by River Caddis Development, LLC. The request concerns the properties at 508 Harrison Street and 660 Gull Road, which are situated in use CMU, Commercial – Mixed Use District (Subarea 4). The applicant is requesting the following: 1) a use variance from Chapter 4, Section 4.2 Q.3, 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, 2) a dimensional variance from Chapter 3, Section 3.7 Table RF-O.1, to reduce the lot area per dwelling unit from 1,500 square feet to 1,234 square feet for 222 dwelling units, and 3) a dimensional variance from Chapter 3, Section 3.7 Table RF-0.1, to allow up to a 30 foot setback from the required 0 to 10 foot front build-to requirement for the primary building façade.**

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 seventeen notices of public hearing sent and zero responses were received.
Mike Flynn, the architect from Byce Architects and Engineers, on behalf of Kevin Mcgraw from River Caddis, stated it includes 222 units of affordable housing, he gave a brief overview of the project, with four buildings, the concept was for two four-story buildings with 111 affordable apartments in each building. Another building as a leasing building with amenities, fitness center and gatherings, a green park area, and a flood water control area, they are adjacent to the Kalamazoo River Valley Trail pathway. A fourth building is for a future commercial building. They need a first-floor residential variance for residential use. Mr. Flynn spoke to meeting the current zoning and then meeting the future zoning requirements also. The first-floor residential units, they’ll have a live work aspect in one building. The second variance is a dimensional one, for dwelling density per lot. The third variance is for the setback from the street. He spoke to the roundabout and meeting the setbacks with a rectangular linear building with the curvilinear street. The hardship is MISHDA’s requirements; the railroad setback, the flood plain area, and the driveway crowd them and cause them to arrange the buildings to have mini courtyards. The first floors will be above ambient grade, giving them some privacy and security.

Bryan Webster, mentioned on the minimum lot area per dwelling, one of the obstacles they currently have, the ordinance will likely change in the future and they won’t be required to meet those.

Chair Lager questioned if the density requirement will be the same. Mr. Webster understood the LW2 won’t have that requirement.

Mr. Flach asked if the roundabout was not there when they designed it. Mr. Flynn stated the roundabout was there, the issue is with designing a curvilinear building. Mr. Flynn commented on the four-story building moving it to meet setbacks creates other issues in another area with property lines.

Mr. Eldridge commented on the memo in the Board’s packet on the affordable housing tax credits their trying to obtain in February 2021. He spoke to the ground floor use variance, there is some commercial buildings along the cul-de-sac, it’s a mixed-use project, but has residential use on the ground floor in two buildings. The City is working with the owner to rezone this property to LW 2 and it will take away the need for ground floor residential variances, he spoke to the node rezoning. They are in agreement with City Staff for the rezoning to achieve a parallel with the future land use map. The second request per lot area of dwelling unit the density increase with smaller units isn’t handled well by the ordinance. When rezoned to LW2 this requirement will go away. The third request of 0’ to 10-foot build to line, this is a practical difficulty as the utility easement and waterline run along the frontage of the property.

There were no comments from the public.
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 508 Harrison Street and 660 Gull Road shall include all information included in the notice of public hearing dated November 25, 2020.
2.) Seventeen 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: Kevin Mcgraw of River Caddis Development is requesting a use variance and two dimensional variances, Mike Flynn from Bye Architects and Engineers spoke on behalf of the project, stating there will be 222 units, with three buildings, an outdoor patio and a large green space as a buffer for the Kalamazoo River Valley Trail way. The site plan meets current and future zoning requirements. One significant hardship is because of the railroad and flood plain. Mr. Webster also mentioned the hardship with the railroad tracks and flood plain, along with the zoning is slated to change. Mr. Flach asked if the roundabout was there before the project started. Yes, it was. Mr. Flynn talked about the curvilinear building and the fact that to meet that frontage it’s cost prohibitive and that kept those buildings as close to the facade as possible. Mr. Eldridge stated staff was in favor of this, the spirit of the ordinance is being met. The City is working with River Caddis, the zoning is being changed to LW2 and referred them to look at staff’s memo. Chair Lager stated there are 222 units, 111 units per building of affordable housing units. Mr. Mcgraw clarified, the one building to the north is a 9% MISHDA project and the one to the south is a 4% MISHDA project with proposed rent rates at 40% to 60% of area median income giving them extra points for providing them.

Mr. Skalski 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 use variance from Chapter 4, Section 4.2 Q.3, 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, seconded by Mr. Skalski.

Chair Lager commented their balancing the need for affordable housing, it has a mixed-use character and meets the character of LW2 that it will become.
Motion approved by roll call vote unanimously.

Ms. van den Hombergh moved to approve the application, 2) a dimensional variance from Chapter 3, Section 3.7 Table RF-0.1, to reduce the lot area per dwelling unit from 1,500 square feet to 1,234 square feet for 222 dwelling units, seconded by Mr. Skalski.

Mr. Skalski commented with affordable housing that comes with that, they are not building large units.

Chair Lager stated he was in favor also.

Motion approved by roll call vote unanimously.

Ms. van den Hombergh moved to approve the application 3) a dimensional variance from Chapter 3, Section 3.7 Table RF-0.1, to allow up to a 30 foot setback from the required 0 to 10 foot front build-to requirement for the primary building façade, seconded by Mr. Skalski.

Mr. Flach commented he was in favor.

Chair Lager stated he was in favor of the request, with the layout.

Motion approved by roll call vote unanimously.

OTHER BUSINESS:

Mr. Eldridge commented on the outcome from the interview team, they interviewed three individuals and the team came up with a recommendation and wanted the Board to see the information on all three of them.

Chair Lager stated they had three applicant’s and they all lived in the Vine Neighborhood, Jeremy Terpening and Remi Harrington stood out. He commented that Remi Harrington had been before the Board for a request. Marshal Kilgore seemed to have interests more aligned the Planning Commission.

Chair Lager made a motion to approve the recommendation for Remi Harrington to the vacant seat, and Jeremy Terpening to the alternate seat, seconded by Mr. Flach.

Ms. Doane liked Mr. Terpening’s eagerness, but agreed Ms. Harrington was the best choice for the vacant seat.

Motion approved by voice vote unanimously

Mr. Eldridge thanked Dick Skalski for his time on the Board, commenting this was his last meeting.
Ms. Van den Homberg made a motion to accept the meeting dates for 2021, seconded by Mr. Carroll.

Motion approved by voice vote unanimously.

ADJOURNMENT:

The meeting was adjourned at 9:03 p.m.

Submitted By ______________________ Date ______/______/______
Recording Secretary

Reviewed By ______________________ Date ______/______/______
City Staff

Approved By ______________________ Date ______/______/______
Chair