



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334
269-216-5220 Fax 375-7180 TDD 375-7198
www.oshtemo.org

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS - REGULAR MEETING**

**OSHTEMO TOWNSHIP HALL
7275 WEST MAIN STREET**

**TUESDAY, AUGUST 20, 2024
3:00 P.M.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes: June 25, 2024
6. **Non-Motorized Facility Variance: Scott Williams (Complete Team Outfitters)**
The applicant is requesting a variance from Section 57 of the Zoning Ordinance to eliminate the requirement that a non-motorized facility be established at 1560 South 8th Street.
7. **Setback Variance: Michael Shields (Blackberry Systems)**
The applicant is requesting a variance from Section 50 of the Zoning Ordinance to allow a 15-foot side yard setback for building additions where the ordinance requires a 20-foot setback in the I-1, Industrial District. Subject property is 6477 West KL Avenue.
8. Other Updates and Business
9. Adjournment

(Meeting will be available for viewing through <https://www.publicmedianet.org/gavel-to-gavel/oshtemo-township>)

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

- a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.
- b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday, 8 a.m.-1 p.m. and 2-5 p.m., and on Friday, 8 a.m.–1 p.m. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Cheri Bell	216-5220	cbell@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Clare Buszka	216-5260	cbuszka@oshtemo.org
<u>Trustees</u>		
Neil Sikora	760-6769	nsikora@oshtemo.org
Kristin Cole	375-4260	kcole@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Michael Chapman	375-4260	mchapman@oshtemo.org

Township Department Information			
<u>Assessor:</u>			
Kristine Biddle	216-5225	assessor@oshtemo.org	
<u>Fire Chief:</u>			
Greg McComb	375-0487	gmccomb@oshtemo.org	
<u>Ordinance Enforcement:</u>			
Rod Rought	216-5222	rrought@oshtemo.org	
<u>Parks Director:</u>			
Vanessa Street	216-5233	vstreet@oshtemo.org	
Rental Info	216-5224	oshtemo@oshtemo.org	
<u>Planning Director:</u>			
Jodi Stefforia	375-4260	jstefforia@oshtemo.org	
<u>Public Works Director:</u>			
Anna Horner	216-5228	ahorner@oshtemo.org	

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD JUNE 25, 2024

Agenda

Site Plan Review: Revitalize Church

Bosch Architecture on behalf of Revitalize Church is requesting site plan approval of an approximately 1,200 square foot addition to the existing building at 2901 North 10th Street.

Presentation by GIS Specialist: Charter Township of Oshtemo Online Map

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held Tuesday, June 25, 2024, beginning at 3:00 p.m.

MEMBERS PRESENT: Louis Williams, Chair
Dusty Farmer
Fred Gould
Harry Jachym, Vice Chair
Al Smith

MEMBERS ABSENT: Rick Everett

Also present were Jodi Stefforia, Planning Director; Leeanna Harris, Zoning Administrator; Jim Porter, Township Attorney; Scott Fitzgerald, GIS Specialist; and 3 interested persons.

Call To Order and Pledge Of Allegiance

Chair Williams called the meeting to order at 3:00 p.m. Those in attendance joined in reciting the Pledge of Allegiance.

Approval Of Agenda

Ms. Farmer **made a motion** to approve the agenda as presented. Vice Chair Jachym **seconded the motion**. The motion was **approved unanimously**.

Public Comment on Non-Agenda Items

There were no comments on non-agenda items.

Approval Of the Minutes Of May 21, 2024

Chair Williams asked for additions, deletions, or corrections to the Minutes of the meeting held on May 21, 2024.

Mr. Gould noted one correction to the minutes. On page 13, paragraph four, second sentence, Mr. Gould recommended the word “to” be added after the word like.

Ms. Farmer **made a motion** to approve the minutes of the meeting held on May 21, 2024, with the correction on page 13, paragraph four, second sentence, adding the word “to”. Mr. Gould **seconded the motion**. The **motion was approved** unanimously.

Site Plan Review: Revitalize Church

Ms. Harris presented a site plan review for Revitalize Church per her staff report from June 20, 2024, and is incorporated herein. Mr. Seth Baar, on behalf of Revitalize Church, is requesting site plan approval for an expansion on the south side of the existing building on site to accommodate a larger area for children’s group activities.

Project summary:

The expansion is proposed to add 1,223 square feet to the existing 3,968 square foot building. 2901 N 10th Street is located on the west side of N 10th Street, south of West H Avenue. Ms. Harris shared an aerial view map of the property.

Recommendation:

Planning Department staff recommend the approval of the proposed 1,223 square foot addition onto the south side of the existing building located at 2901 N 10th Street with the following condition:

1. Finalization of details pertaining to ADA parking spaces shall be subject to administrative review and approval.

Ms. Farmer asked for clarification on the parking and the ADA spaces.

Ms. Harris provided additional details on the parking and the ADA spaces. The onsite parking is not proposed to change except for the ADA parking. During a site visit Ms. Harris noted the ADA spaces were not located as identified on the submitted site plan. Their location was slightly different, but the number of spaces does meet with requirements.

Mr. Seth Baar with Bosch Architecture advised this is a small addition to the property with minimal work to be done, but it does include the moving of storm pipe to go around the addition.

Pastor Jordan Wall from Revitalize Church thanked the Board for their consideration and their partnership.

Mr. Noah Herron, a member of Revitalize Church and the construction manager for the project thanked the Board.

Ms. Farmer **made a motion** that the Zoning Board of Appeals approve the Site Plan for the proposed 1,223 square foot addition onto the south side of the existing building located at 2901 N 10th Street with the following condition:

1. Finalization of details pertaining to ADA parking spaces shall be subject to administrative review and approval.

Vice Chair Jachym **seconded the motion**. The **motion was passed** unanimously.

Presentation by GIS Specialist: Charter Township of Oshtemo Online Map

GIS Specialist Mr. Scott Fitzgerald showcased the GIS work that has been done so far this year. There are many new tools for both staff and residents to use within the interactive map available on the Oshtemo website.

Chair Williams thanked Mr. Fitzgerald for his demonstration.

Other Updates and Business

The Chair called for other updates and business.

Adjournment

There being no further business, the Chair called for a motion to adjourn the meeting at 3:36 p.m. Mr. Gould **made a motion** to adjourn. Vice Chair Jachym **seconded the motion**. The **motion was passed** unanimously.

Minutes Prepared: June 26, 2024

Minutes Approved:

[This page is left intentionally blank]



August 14, 2024

Mtg Date: August 20, 2024

To: Oshtemo Township Zoning Board of Appeals

From: Leeanna Harris, Zoning Administrator

Applicant: Scott Williams, 1560 South 8th Street, LLC

Owner: Scott Williams, 1560 South 8th Street, LLC

Property: 1560 South 8th Street, Parcel Number 3905-22-485-030

Zoning: I-1: Industrial District

Request: A variance to not be required to install the non-motorized facility adjacent to South 8th Street per Section 57.90 of the Zoning Ordinance.

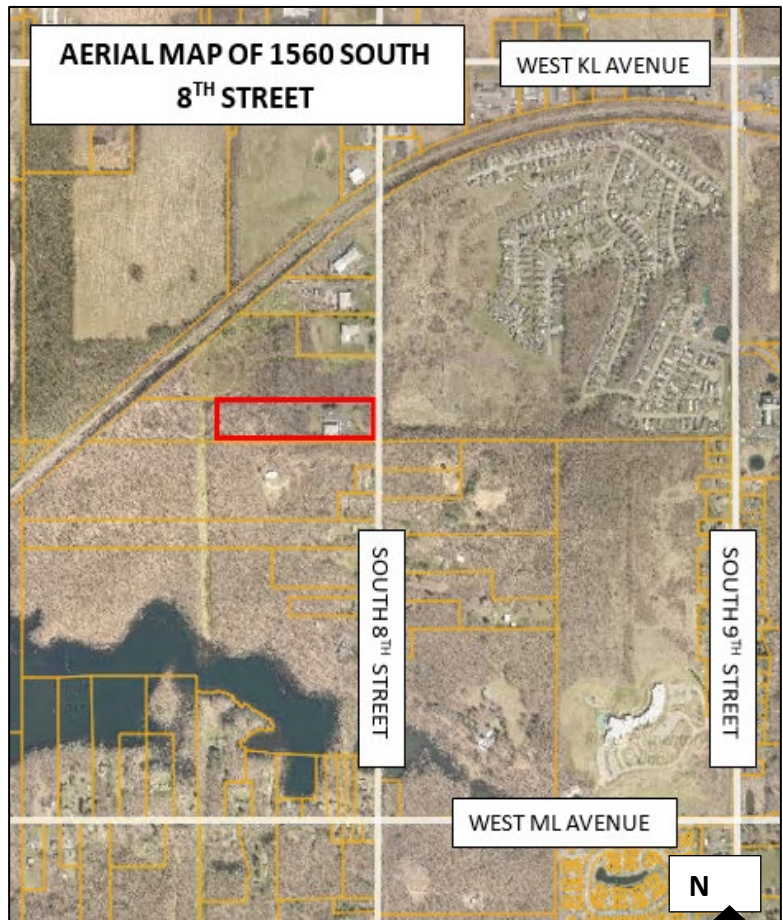
Section(s): Section 57 – Miscellaneous Protection Requirements

OVERVIEW:

Scott Williams is requesting a variance from the requirement to install a non-motorized facility adjacent to South 8th Street, per Section 57.90 of the Zoning Ordinance.

The applicant previously applied for Site Plan Review and a variance request to construct a new 6,684 square foot building with a connecting breezeway to the existing building on site. Since that approval on February 20, 2024, the applicant has made good progress and is nearing completion. However, as a condition of approval for the site plan review, the applicant was required to enter into an escrow agreement in lieu of installing the non-motorized facility and deposit funds of \$45,000 to an escrow account with the Township for future use.

The subject property is outlined in red in the aerial map to the right. The property is located on the west side of South 8th Street, between West ML Avenue and West KL Avenue.



STANDARDS OF REVIEW – STAFF ANALYSIS

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.
- Public safety and welfare.

Staff has analyzed the request against these principles and offers the following information to the Zoning Board of Appeals.

Standards of Approval of a Nonuse Variance (practical difficulty)

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

Comment: The applicant indicated with the previous submission that there are unique physical limitations or conditions, such as the proposed sidewalk would be bisecting a stormwater basin and existing utilities, steep terrain along the perimeter of the site, and significant site work such as regrading would be required. See applicant’s support letter for this standard.

Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

Comment: It could be considered unreasonable to expect the property owner to deposit the funds into an escrow account given that the Township does not have any future plans at this time to construct non-motorized facilities in this area. And, the width of the bridge over the railroad does not allow for a non-motorized facility and there are no known plans to replace the bridge.

As a part of the Comprehensive Master Plan that is presently being prepared, a close look will be taken at the non-motorized transportation plan and recommendations will arise with the completion and implementation.

Minimum Necessary for Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).

Comment: In researching past Zoning Board of Appeals decisions for similar requests, none were found.

This conditions associated with this request, as described in the above standards, can be found unique.

Self-Created Hardship

Are the conditions or circumstances which resulted in the variance request created by actions of the applicant or a previous owner?

Comment: The applicant’s request to neither be required to install the non-motorized infrastructure nor deposit funds into an escrow account are causing the variance request.

It could be argued that this request is not self-created given that the area abutting the parcel’s frontage would not support non-motorized infrastructure at this time, there would be no connecting path along almost the entirety of South 8th Street, the bridge to the north does not have the capacity to accommodate a non-motorized path, and there is limited residential development along this street. Prior to an amendment to the Ordinance in 2021, the applicant would have been able to consent to a Special Assessment District and would not have to come forward with this request. See applicant’s support letter for his comments on this factor.

Public Safety and Welfare

Will the variance request negatively impact the health, safety, and welfare of others?

Comment: It is not expected that the variance request would negatively impact the health, safety, or welfare of others.

POSSIBLE ACTIONS

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
 - There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - Conformance to the Ordinance is unnecessarily burdensome.
 - The request would not be considered a self-created hardship.
 - It is not expected that the variance request would negatively impact the health, safety, or welfare of others.

- Support of variance denial
 - Minimum necessary for substantial justice is not met.

Possible motions for the Zoning Board of Appeals to consider include:

1. Variance Approval

The Zoning Board of Appeals approves the variance request.

If the variance were approved, staff also recommend the Zoning Board of Appeals attach the following conditions:

- The applicant consents to a Special Assessment District.

2. Variance Denial

The Zoning Board of Appeals denies the variance request.

Attachments: Application
Applicant's Letter of Intent
February 20, 2024 ZBA Meeting Minutes
Letter from Township Attorney
Letter from Public Works Director



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
 Phone: 269-375-4260 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS

Complete Team Outfitters/1560 S. 8th St

PLANNING & ZONING APPLICATION

Applicant Name: Scott Williams

Company: 1560 S. 8th St., LLC

Address: 703 Treasure Island Dr
Mattawan, MI 49071

E-mail: swilliams@twelve59llc.onmicrosoft.com

Telephone: 269.598.6928 Fax: NA

Interest in Property: Owner

OWNER*:

Name: Same as above

Address: _____

E-mail: _____

Phone & Fax: _____

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

Fee Amount _____

Escrow Amount _____

NATURE OF THE REQUEST: (Please check the appropriate item(s))

- | | |
|---|---|
| <input type="checkbox"/> Pre-Application Review | <input type="checkbox"/> Accessory Building Review – I083 |
| <input type="checkbox"/> Site Plan Review – I088 | <input type="checkbox"/> Rezoning – I091 |
| <input type="checkbox"/> Administrative Site Plan Review – I086 | <input type="checkbox"/> Subdivision Plat Review – I089 |
| <input type="checkbox"/> Special Exception Use – I085 | <input type="checkbox"/> Interpretation – I082 |
| <input checked="" type="checkbox"/> Zoning Variance – I092 | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Site Condominium – I084 | |

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): We are requesting that the township not require the addition of a sidewalk along 8th St associated with our construction at 1560 S. 8th St. Additional narrative attached with rationale.

*This is a request for a variance from the requirements of Section 57.90.

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

1560 S. 8th St, Kalamazoo, MI 49009

PARCEL NUMBER: 3905- 05-22-485-030 and 05-22-485-020

ADDRESS OF PROPERTY: 1560 S. 8th St, Kalamazoo, MI 49009

PRESENT USE OF THE PROPERTY: Previously as a church. Currently moving to light industrial

PRESENT ZONING: Industrial **SIZE OF PROPERTY:** 13 acres between both parcels

NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:

Name(s)	Address(es)
1560 S. 8th St, LLC	703 Treasure Island Dr., Mattawan, MI 49071

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.



7/24/24

Owner's Signature (*If different from Applicant)

Date



7/24/24

Applicant's Signature

Date

- Copies to:
- Planning - 1
- Applicant - 1
- Clerk - 1
- Deputy Clerk - 1
- Attorney - 1
- Assessor - 1
- Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS

July 24, 2024

Charter Township of Oshtemo
Attn: Zoning Board of Appeals
7275 W. Main St.
Kalamazoo, MI 49009

To the Leaders of Oshtemo Zoning Board:

Following, please find a supporting letter respectfully addressing the township's request for a sidewalk located on the west side of 8th Street and additionally perpendicular from 8th Street to the building (1560). I request relief from this request.

The Township most recently tabled this topic pending further review after the initial Zoning Variance was requested in the spring of 2024. It was generally determined that a \$45,000 escrow may be requested by the township for purposes of potential future sidewalk construction. The \$45,000 escrow would represent approximately 7% of the total cost of our overall construction project. Albeit attainable, it would create a financial burden for a new and growing company that is aiming to invest their funds toward growth initiatives.

In speaking with other neighboring business owners, most are not aware of a potential future sidewalk request for their properties that would run towards the railroad tracks, which raises questions about its necessity and impact. Along with this, it is understood that there is no plan for the residential area to the south of 1560 8th Street to participate in this project. These two items would leave a large gap and make the sidewalk unused for many years to come.

Furthermore, the proposed sidewalk causes concerns not limited to: running through an existing water run-off area on the site which was requested to be designated on the property by the township prior to our purchase of the site; steep terrain specifically on the west side of 8th Street being not suitable considering potential ramping, leveling required to meet code for construction of the sidewalk that may mean significant site rework; sidewalk would have to weave around existing utility poles presenting a choppy look; and difficulty providing a safe separation between pedestrian and vehicular traffic speeds in a small corporate area. I highly encourage a brief site visit as the above-mentioned concerns will be apparent.

Should you have any questions, please do not hesitate to contact me as needed.

Sincerely,



Scott M. Williams
Owner
1560 S. 8th St, LLC

**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
DRAFT MINUTES OF A REGULAR MEETING HELD FEBRUARY 20, 2024 AT
OSHTEMO TOWNSHIP HALL, 7275 WEST MAIN STREET**

Agenda

ELECTION OF 2024 OFFICERS

PUBLIC HEARING – SITE PLAN REVIEW AND VARIANCE: 1560 S. 8th STREET, LLC
Scott Williams, on behalf of 1560 S 8th Street, LLC, is requesting relief from the setback provisions of Section 50.70 of the Zoning Ordinance in order to construct a 6,684 square foot building with a connecting breezeway to an existing building on-site.

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held Tuesday, February 20, 2024, beginning at 3:00 p.m.

MEMBERS PRESENT: Louis Williams, Vice Chair
 Rick Everett
 Fred Gould
 Harry Jachym

Also present were Colten Hutson, Zoning Administrator; Leeanna Harris, Zoning Administrator; Jim Porter, Township Attorney; Ann Homrich, Recording Secretary and seven guests.

Call to Order

Vice Chair Williams called the meeting to order. Those present joined in reciting the Pledge of Allegiance.

Approval of Agenda

Mr. Hutson indicated there were no changes to the agenda.

Mr. Jachym **made a motion** to approve the agenda as presented. Vice Chair Williams called for a vote. **The motion was approved** unanimously.

The Vice Chair moved to the next agenda item.

Public Comment on Non-Agenda Items

There were no comments on non-agenda items.

Approval of the Minutes of December 12, 2023

Vice Chair Williams asked for approval of the minutes of December 12, 2023. Mr. Everett **made a motion** to approve the minutes as presented. Mr. Jachym **seconded the motion**. The Vice Chair called for a vote. The **motion was approved** unanimously.

Election of 2024 Officers

The Vice Chair moved to the next agenda item, election of officers: Chair, Vice Chair, and Recording Secretary. Attorney Porter noted for the record that a Recording Secretary is simply an honorary position, and there has always been an individual preparing the recordings, however statute requires that a member of the Board has to be appointed as the Recording Secretary.

Mr. Jachym **nominated** Mr. Williams as Chair. Mr. Everett **seconded the motion**. Vice Chair called for a vote. **Motion was approved** unanimously.

Mr. Gould **nominated** Mr. Jachym as Vice Chair, due to his many years of service. Chairperson called for a vote. **Motion was approved** unanimously.

Mr. Jachym **nominated** Mr. Gould as Recording Secretary. Mr. Williams **seconded the motion**. Chairperson called for a vote. **Motion was approved** unanimously.

Chairperson Williams moved to the next agenda item.

Public Hearing – Site Plan Review and Variance: 1560 S. 8th Street, LLC

The Chair opened the meeting for public hearing, site plan review and variance request for 1560 S. 8th Street.

Ms. Harris presented the site plan review and variance request for 1560 S. 8th Street (parcel 05-22-485-030). The applicant, 1560 S. 8th Street, LLC, is requesting site plan review and relief from Section 50.70.B of the Zoning Ordinance in order to construct a 6,684 square foot building with a connecting breezeway to an existing building on site. If approved, the variance would permit construction of a building 65 feet south of the property line where the ordinance requires a 100-foot setback. If the variance is not approved, Ms. Harris stated the site plan could not be approved and would need to be redesigned to adhere to the required 100-foot setback.

The property currently zoned I-1 Industrial is located in the SE quadrant of the Township. The property currently possesses a 7,803 square foot building. A church previously occupied the building, however in 2003 the property was successfully rezoned from R-3 to I-1 to allow for future industrial land uses. The current owners have an office at said property but wishes to expand the business adding a 6,684 square foot to serve for manufacturing printing and embroidery of pre-manufactured items and supplies. To facilitate the expansion, the intent is to place the proposed building NE of the existing building along the parcel's south boundary line. Generally, the required setback for I-1 Industrial zoning is 20 feet of the height of the abutting side of the building at its highest point. However, the presence of a residential land use to the subject property's immediate south, the supplemental setback provisions outlined in Section 50.70.B of the Zoning Ordinance states that an industrial property requires a setback of 100 feet when abutting a residential property. For this reason, the applicant has requested relief from this side yard setback requirement, to be 65 feet. There are two sets of criteria to be considered. The first is the site plan review criteria outlined in Section 64. The second is the supplemental setback provisions pertaining to industrial land uses neighboring residential properties outlined in Section 50.70.B.

1560 S. 8th Street currently possesses 300 feet of frontage and is approximately 8 acres in size. Adjacent to the north is I-1 Industrial zoned property, adjacent to the south is RR rural residentially zoned property, and across S. 8th are R-5 zoned and R-3 zoned properties. The proposed warehousing and office use are considered permitted uses within the I-1 Industrial district. The subject property currently has an existing drive into the site on S. 8th Street and all drives will be used similar to previous use. The circulation aisle is proposed to be 24 feet in width, which meets the minimum requirements for two-way travel. There are 32 planned parking spaces, nine are newly proposed and two designated to be ADA accessible and concrete. All spaces are designated to be 10 feet by 20 feet. After calculations based on the square footage and floor plan for the proposed uses on-site, a total of 34 spaces will be required on site. Two spaces can be added, reviewed, and approved administratively prior to issuance of a building permit. Lastly, all easements have been illustrated, and are present along the eastern property line for Consumers Energy and for Michigan Bell Telephone.

Request for Deviations:

The applicant has also applied for two deviations: one for the shared use path and one for the internal sidewalk network. These requirements are outlined in Section 57.90 of the Township Zoning Ordinance as well as the nonmotorized transportation plan. There is connection to and establishment of a six-foot wide shared use path along the west side of S. 8th Street. The applicant has indicated the reason for requesting such, is that the proposed sidewalk would be running through an existing water runoff area and under existing utilities where there is steep terrain along this area and would require significant site rework.

Per Section 57.90, unique circumstances may exist for the installation of non-motorized facilities in compliance with Article 50 may not be appropriate at the time of development. Accordingly, in lieu of constructing the required facility, they may request to enter into an escrow agreement with the Township as outlined in the Ordinance. The reviewing body is authorized to approve an escrow agreement in lieu of the required non-motorized facility when strict application would result in extraordinary difficulty including but not limited to severe variations of topography, unsuitable soils where difficulty in providing safe separation between pedestrian and vehicular traffic due to site location layout or existing building arrangements. In addition to considering these, the Oshtemo Public Works department provided a letter (in the packet) supporting the two deviations for the shared use path and for the internal sidewalk network. With the support of the Public Works department, Staff recommend that the Zoning Board of Appeals grant the requested deviations to permit the applicant to enter into an escrow agreement with the Township outlined in the non-motorized facilities/sidewalk ordinance in lieu of constructing the non-motorized facilities and not be required to construct the connecting internal sidewalk network.

Site Plan Review:

The proposed 6,684 square foot building is proposed to be approximately 26 feet east of the existing building connected by a breezeway and a proposed height of 18 feet. All frontage and area requirements for non-platted parcels carrying an I-1 Industrial District designation have been met. Building setbacks from the northeast and west property lines have been met as the proposed building is set back an excess of 100 feet from those property lines. However, the proposed building location does not meet the minimum side yard setback 100-foot requirement from the south property line. Per Section 50.70.B of the Ordinance, an enhanced setback is required when an industrially zoned property abuts a property with a residentially zoned designation. Due to this provision, the applicant has requested a variance requesting that the

proposed side yard building setback from the south property line be reduced from the required 100 feet in the Ordinance, down to 65 feet.

1. A landscaping plan was provided but a number of details are still missing. An updated landscaping plan meeting all applicable requirements of Article 53, of the Zoning Ordinance shall be submitted to the Township and can be reviewed and approved administratively. A lighting and photometric plan has also been submitted, however, some details are missing or need to be slightly adjusted. An updated lighting plan meeting all applicable requirements of Article 54 shall be submitted to the Township. Staff are confident that a revised lighting plan can be reviewed and approved administratively and recommend that the ZBA include as a condition of approval.
2. Prein & Newhof and the Oshtemo Public Works department have reviewed the proposal and noted there are some engineering concerns that have not been addressed. However, they do feel that the remaining engineering concerns are minor enough to where they can be reviewed and approved administratively and recommend that the ZBA include as a condition of approval.
3. Lastly, the Oshtemo Fire Marshal has reviewed the site plan and for the most part is satisfied with the site plan, however he does have concerns about the breezeway connecting the existing building to the proposed building. The Fire Marshal provided three different courses of action that the applicant could take to address the concerns. Staff are confident that these are something that could be reviewed and approved administratively and recommend the ZBA include as a condition of approval.

Standards of Approval:

Moving on to the previously referenced variance portion of the presentation, the applicants have provided rationale for this request, and is attached to the packet. The Michigan courts have provided the principles for dimensional variance which collectively amount to demonstrating approximate practical difficulty. Staff have analyzed the requests against these principles and offer the information in the Staff Report to the Zoning Board of Appeals.

Standard: Unique Physical Circumstances: Are there unique physical limitations or conditions which prevent compliance?

Comment: The applicant conveyed that the unique circumstances are the size and location of the existing parking lot, the existing location of the septic tank and drain field, the setback of the existing building and location of the entrances of the existing building. However, the location of the existing building is discretionary and could be placed elsewhere, even with the previously mentioned site elements. The property is 300 feet in width and has an average depth of 1,200 feet and is approximately 360,000 square feet in size not including the unaddressed uncombined parcel to the rear.

Standard: Conformance Unnecessarily Burdensome: Are reasonable options for compliance available? Does reasonable use of the property exist with denial of the variance?

Comment: The applicants indicated the location of the proposed building was chosen largely for the location of the existing 7,803 square foot building, existing building

entrances and existing septic and drain field, existing parking lots, existing driveways, and to encourage traffic flow and promote an attractive curb appeal. However, as a matter of building an additional structure is discretionary and reasonable use on the property does still exist whether in its present state or in a different configuration even with the enhanced setbacks abutting the residential zoning on the south property line. The proposed building could be placed elsewhere especially given the property to the immediate west, giving more options for reasonable compliance.

Standard: Minimum necessary for substantial justice.

Comment: This is applied both to the applicant and other property owners in the district. We have reviewed past decisions of the ZBA for consistency and a check for precedence. In researching past decisions regarding the request for relief from enhanced setback requirements, Planning department Staff were able to identify three different cases with the most recent one being on November 14, 2023. *Information showing these decisions were in the packet.*

Standard: Self-Created Hardship: Are the conditions or circumstances which resulted in the variance request, created by the actions of the applicant?

Comment: In 2023, the current property owners elected to rezone this property from R-3, to I-1 Industrial. With a current configuration of the site, it could be argued that the need for the variance is self-created since the previous setbacks of the south were 50 feet with the R-3 zoning classification abutting Rural Residential zoning classification, but due to the rezoning, now it's subject to an increased setback requirement. The applicants did indicate this would not be a self-created hardship since they were not the original developer of the property however, it is the owner's desire to expand and construct a new 6,684 square foot building.

Standard: Public Safety and Welfare: Will the variance request negatively impact the health, safety, and welfare of others?

Comment: Regarding setbacks, they serve as a crucial part for any type of structure to provide security and privacy between adjacent uses especially between property owners of industrial uses and residential uses. Setbacks are considered the breathing room between properties where building restrictions apply. The applicants did indicate careful planning was utilized in order to preserve the greenbelt along the south property line in between the existing building and residential property to the south. It should also be noted there is currently a legally nonconforming 7,803 square foot building located approximately 47 feet from the southern property line. In addition, the applicants conveyed the property owner to the immediate south has no issues with the placement of the proposed building, however it is still important to note that ownership of property is not static, and the current property owner could be okay with the proposed layout but that does not mean that such would continue with future landowners.

Possible Actions:

The motion from the Zoning Board of Appeals should include the findings of fact relevant to the requested variance. Based on Staff analysis, the following findings of fact are presented:

- Support of variance approval considers substantial justice being met. The Zoning Board of Appeals has approved setback variances for two similar cases in the past:
 - *These case reports were presented in the packet.*
 - Support of variance denial includes the necessity of the variance from the enhanced 100-foot setback, being a self-created hardship with the following stated:
 - There are no unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
 - Conformance to the Ordinance is not unnecessarily burdensome.
 - Allowing the variance may have a negative impact to the health, safety, and welfare of the public by allowing the building to be built within the required enhanced setback.
1. The ZBA approves the site plan and variance request due to substantial justice being met with the following conditions as well as other conditions assigned by the Board:
 - The ZBA grant deviations from the requirements in 57.90 for internal sidewalk network and shared use path.
 - An updated landscaping plan meeting the requirements in Section 53 of the Zoning Ordinance be submitted to the Township for review and approval prior to issuance of a building permit.
 - A revised lighting plan meeting the requirements outlined in Section 54 of the Zoning Ordinance be submitted to the Township for review and approval before issuance of a building permit.
 - The finalization of grading details and any other engineering details shall be subject to the administrative review and approval of the Township engineer prior to issuance of a building permit.
 - There are some annotations on sheet 1 of the site plan indicating the setbacks to the south property line are 20 feet, and these just need to be eliminated from the site plan prior to building permit issuance.
 - Verification of floor plan area calculations in relation to the parking need to be reviewed and approved administratively prior to building permit issuance.
 - A soil erosion and sedimentation control permit from the Kalamazoo County Drain Commissioner's Office will be required prior to building permit issuance.
 2. Alternatively, the ZBA can deny the site plan and variance request due to:
 - Proposal being a self-created hardship.
 - The lack of unique physical limitations on site.
 - Conformance to the Ordinance is not unnecessarily burdensome, as reasonable use of the property will still remain if denied.
 - Allowing the variance may have a negative impact to the healthy, safety, and welfare of the public.

Ms. Harris offered to answer any questions the Board may have and communicated the applicants were present, if the Board has any questions for them directly.

The Chair asked if any of the applicant's representatives would like to add anything. Mr. Matt Gibson approached the podium and stated he represents the property, and that Mr. Stoops is present as the residential owner to the south of the property. Mr. Gibson stated he spoke extensively with Mr. Stoops, and took him through the building, shared the plans of the work they're doing as well as the proposed plans for the property, to be transparent to Mr. Stoops and his wife of plans for this neighboring property. Mr. Gibson asked the Board if he could address any questions or concerns or articulate more detail regarding the property. Mr. Gibson stated

the reason they want to build where proposed is to keep further away from Mr. Stoops' house. The traffic flow was a big part of it as well, to minimize the impact to the topography.

Mr. Jachym asked for clarification of the stated main reason for wanting to construct the new building as proposed to the north of the existing building, if this would cause them to remove the existing parking lot and rebuild a new one, which Mr. Gibson confirmed. Mr. Gibson stated they would also need to build another retention pond due to the current frontage of the existing building and the terrain in that area. Mr. Gibson reiterated they want to make the least amount of impact. Mr. Jachym asked for clarification due to this statement, if it would be difficult to take the proposed building and shift it to the north a little? Mr. Gibson confirmed this would create an odd aesthetic and were also considering the topography and retention pond that exists between the current building and parking lot.

Mr. Gould asked about the amount of traffic flow owners might expect to this site, if anticipating significant traffic on a daily basis, as Mr. Gibson expressed their concern for Mr. Stoops' property and making as little disruption as possible. Mr. Gibson affirmed they will have UPS shipments about 10 a.m. every morning to ship product to customers; they are an 8 a.m. – 4 p.m. business Monday through Friday, unless someone makes an appointment for an alternate day/time. Mr. Gibson added they are by no means a retail operation and a business-to-business operation only.

Chairperson Williams asked if anyone else present would like to comment at this public hearing. Mr. Matthew Stoops stepped to the podium and stated his residence as 1724 S. 8th Street, the property to the south of this proposed development. Mr. Stoops asked for the map visual, to better illustrate and commented that Mr. Gibson had approached his family about the project and that the owners would need to apply for a variance. Mr. Stoops provided a history of said property where in past years, he and his family worked to have this property rezoned as it was a buffer zone abutting his mother's property. Mr. Stoops stated his property is another 300 to 450 feet further west and appreciates Mr. Gibson's efforts to have the proposed building placed to the north. Otherwise, the structure would be much closer to his private property. Mr. Stoops noted that the setback of the current structure was set many years ago and does not see why the 100-foot setback requirement would need to be imposed now or in the future with the difference being only 35 feet and agrees with Mr. Gibson's statements of the proposed aesthetics for the front facing of the new structure. Mr. Stoops also stated that requiring owners to have the building moved to the north to achieve the 100-foot setback would compromise the parking lot traffic for supply deliveries and shipments. Mr. Stoops commented that the sidewalk should be under closer scrutiny as the drop off from the road in this area is somewhere between 10 – 15 feet. Mr. Stoops further stated he approves of this site plan and variance wholeheartedly as presented and hopes that it is granted.

The Chair thanked Mr. Stoops for his comments and asked if there were anyone else who wanted to share comments. Hearing none, Chairperson Williams closed the floor for public comment and moved to Board deliberations.

Mr. Jachym commented from all site plans and variances he has reviewed, he had to review this one several times. Mr. Jachym further stated he could easily pick any one of these criteria to deny or approve. From listening to Mr. Stoops concerning moving the new building to the back, beyond the septic field, would put the proposed building close to his house. Mr. Jachym asked Mr. Stoops if he knew how far back his home is from the road; Mr. Stoops provided an estimate of 968 feet. Mr. Jachym indicated there is a huge green buffer of thick woods, so is leaning to approve on this basis. The statement made earlier in the presentation,

since the property is not static and may sell someday, if the site plan and variance are approved, the potential future buyer of this residential property would need to take into consideration as an existing adjacent property. With similar past approved decisions by the ZBA, this situation comes close. Mr. Jachym stated one of his biggest concerns he has is that the proposed building location is to the north side, though from the explanation having to otherwise replace the parking lot as well as the retention pond. In considering, Mr. Jachym expressed he would tend to approve this.

Chairperson Williams thanked the Vice Chair for his comments.

Attorney Porter stated, based on the comments Mr. Jachym made, just to be sure we have a clear record, the Board has five criteria to consider and for clarification asked if Mr. Jachym could verbalize those criteria in the way of making a motion. Further stating the Planning Department has expressed their opinion as to those, but the Board is the finder of fact, so asking if Mr. Jachym can articulate for the record how he would view some of the findings of fact. In other words, is Mr. Jachym saying that since the drainage basin is preexisting, the pavement is preexisting, to clarify if Mr. Jachym is looking at this as not being a self-created hardship due to the preexisting building? Mr. Jachym confirmed this is what he was articulating as well as the retention pond issue being a difficult change, so does not see this as self-created. Mr. Jachym communicated for substantial justice, there were two previous similar cases approved and sees the retention pond as the unique physical circumstance. Attorney Porter indicated this is helpful for clarity of the record and iterated each Board member does not have to find all five of the criteria, but a minimum of two or three. Only for purpose of a clear record, Attorney Porter asked if Mr. Jachym is stating he doesn't see the site plan and variance as a safety and health risk for the public, which Mr. Jachym affirmed.

Mr. Everett shared his comments regarding substantial justice, looking at past approved examples provided. D&R Sports was granted since it neighbored other commercial properties. In this case, the industrial planned use abuts to an established residential area. In the case of the dental variance, the owner didn't have enough property to afford him the proper setbacks, and the adjacent properties were also commercial in nature and activity, whereas S. 8th Street is residential activity. Mr. Everett further noted that Friendship Animal Hospital was recently denied due to 8th Street residential borders surrounding this area. Mr. Everett requested and received permission to ask Planning Staff a question. Mr. Everett asked Planning Staff regarding sidewalks for this development, and understands owners do not want to install connecting sidewalk to 8th presently, but are enough escrow funds collected for things that need addressing like soils, topography, etc.? Mr. Hutson affirmed escrow funds would include grading, etc., for future construction of connecting sidewalk to 8th Street. Mr. Everett stated in the case of setback conformance being unnecessarily burdensome, if the building were moved 33 feet north to meet the required 100-foot setback, understanding the issue of replacing a parking lot and retention pond issue, however, no costs for performing changes to come into compliance with the Ordinance were provided, and would like to know what the costs might be for considering suitable soils, for example.

Mr. Gould commented he would have a hard time denying this action based on our denial of the potential animal hospital that came before the ZBA. The impact the animal hospital would have had on the residential neighborhood was going to be detrimental to many, but in this situation with this land, this owner, and this residential neighbor adjacent to this property, it is not an issue since there is more than ample space between the residence and the business with the proposed site plan. Mr. Gould stated he would be in favor of approval.

Chairperson Williams called for any other comments from the Board or for a motion. Mr. Jachym **made a motion** to grant the variance as requested on the basis there are unique physical circumstances with the parking lot and retention basin that would make it unnecessarily burdensome for the owners to relocate the building. There is substantial justice in that there are at least two very similar past approved cases and is not a self-created hardship in that they bought the property and now want to do something with it. With regards to safety, health, and welfare, the fact that the neighboring home is several hundred feet away from the proposed building site, and there is a large greenbelt in between, Mr. Jachym stated there is no detriment to health, safety, and welfare.

The Chairperson called for a second. Mr. Gould **seconded the motion**. The Chair called for a vote. Mr. Jachym – yes, Mr. Gould – yes, Mr. Williams - yes, Mr. Everett - no, and 0 abstentions. The **motion was approved**.

Attorney Porter noted the site plan before the Board has been reviewed by Staff and given certain conditions as well as a deviation request for the internal sidewalk network and shared use path. If the Board chooses, they could approve the site plan and then the deviation as set forth in subsection A of the Staff Report and retain positions 1 through 7.

The Chair called for a motion concerning the site sidewalk deviation request. Mr. Jachym **made a motion** to approve the deviation from having the sidewalk along 8th Street due to the physical constraints of the area, and necessary funds be put in escrow for future sidewalk to be built. Mr. Everett **seconded the motion**. The **motion was approved** unanimously.

For approval of the site plan, Mr. Williams **made a motion** to approve the site plan as proposed with the recommended conditions 1 through 7 in the Staff Report. Mr. Jachym **seconded the motion**. The **motion was approved** unanimously.

Chairperson Williams moved to the next agenda item.

Other Updates and Business

Chairperson Williams called for any other updates and business.

Adjournment

The Chair stated there being no other business, he adjourned the meeting at approximately 3:54 p.m.

Minutes prepared:
February 28, 2024

Minutes approved:
March 26, 2024



TOWNSHIP ATTORNEY'S OFFICE
7275 WEST MAIN STREET
KALAMAZOO, MI 49009-9334
PHONE: 269-375-7195
FAX: 269-233-5410

August 8, 2024

Zoning Board of Appeals
Board Members
7275 West Main St.
Kalamazoo, MI 49009

Re: Team Outfitters Deviation

Letter to the zoning Board of appeals

Dear Board Members,

On February 20, 2024, you approved a sidewalk deviation to waive the requirement to construct a nonmotorized facility by Team Outfitters on S. 8th St. The deviation was approved subject to the property owner agreeing to enter into an escrow agreement with the Township for the future cost of the development of that side. However, after reviewing this matter with our Planning Department and the Public Works Department, I strongly recommend that the requirement for establishing the escrow be waived.

Our Planning Department has verified that we have no plans, now, or in the future, to develop a nonmotorized pathway along this portion of S. 8th St. In addition, based on the topography, a nonmotorized path would likely never be developed on the Team Outfitters side of the road and would likely be constructed on the opposite side of the road. I believe that the Public Works Department would confirm the determination that it is not practical to build a nonmotorized pathway on the west side of S. 8th St.

Given the impracticability and the exorbitant cost of requiring an escrow for a nonmotorized pathway, which is likely to never be developed, I would recommend that the Zoning Board of Appeals grant complete deviation or variance from the nonmotorized pathway and the escrow requirement for Team Outfitters. I believe that requiring an escrow agreement under the current circumstances would be confiscatory and contrary to Michigan law.

Respectfully Submitted,

James W Porter

James W. Porter
Township Attorney
jposhtwp@oshtemo.org

From: [Anna Horner](#)
To: [Leeanna Harris](#); [James Porter](#)
Cc: [Sierra Lucas](#); [Colten Hutson](#); [Jodi Stefforia](#)
Subject: RE: Complete Team Outfitters - Sidewalk variance request
Date: Thursday, August 15, 2024 9:37:18 AM
Attachments: [image001.png](#)

Leeanna,

Public Works supports the variance request based on professional engineering judgement and experience as it relates to *unique circumstances* as described in Section 57.90A of the Zoning Ordinance:

1. Constructability:
 - a. To follow natural topography, would compromise integrity of sidewalk and potentially safety of users if submerged in stormwater runoff as it would be construction through and long the bottom of a retention pond essentially.
 - b. Adding fill to construct to a more appropriate grade would disrupt existing natural features and retention area which is also called to be preserved in other sections of Ord.
 - c. Low, retention area also collects public road runoff and construction of acceptable non-motorized facilities would require extensive work to create defined ditch, add drive culvert, etc. to accommodate public road standards if any impacts which I estimate would cost thousands of dollars (\$50k-\$100k).
2. Safety:
 - a. It is unknown when connections would be installed on 8th St, largely because of bridge over Amtrak to the north of this site does not have adequate facilities for non-motorized at this time. There is concern that building non-motorized to this bridge and then not only not having proper bridge crossing facilities including designated area with pavement markings and proper 8' high barrier fencing, would force users in vehicle travel lanes on a 55mph road.

Please let me know if you have any questions or need anything else,

Anna E. Horner, P.E.
Ahorner@oshtemo.org

Public Works Director
Oshtemo Charter Township
[7275 W. Main Street](#)
[Kalamazoo, MI 49009](#)

Direct: (269) 216-5228
Office: (269) 375-4260
Fax: (269) 375-7180



August 14, 2024

Mtg Date: August 20, 2024

To: Oshtemo Township Zoning Board of Appeals

From: Leeanna Harris, Zoning Administrator

Applicant: Michael Shields, Blackberry Systems

Owner: SHIELDS MJ LLC

Property: 6477 West KL Avenue, Parcel Number 3905-23-405-013

Zoning: I-1: Industrial District

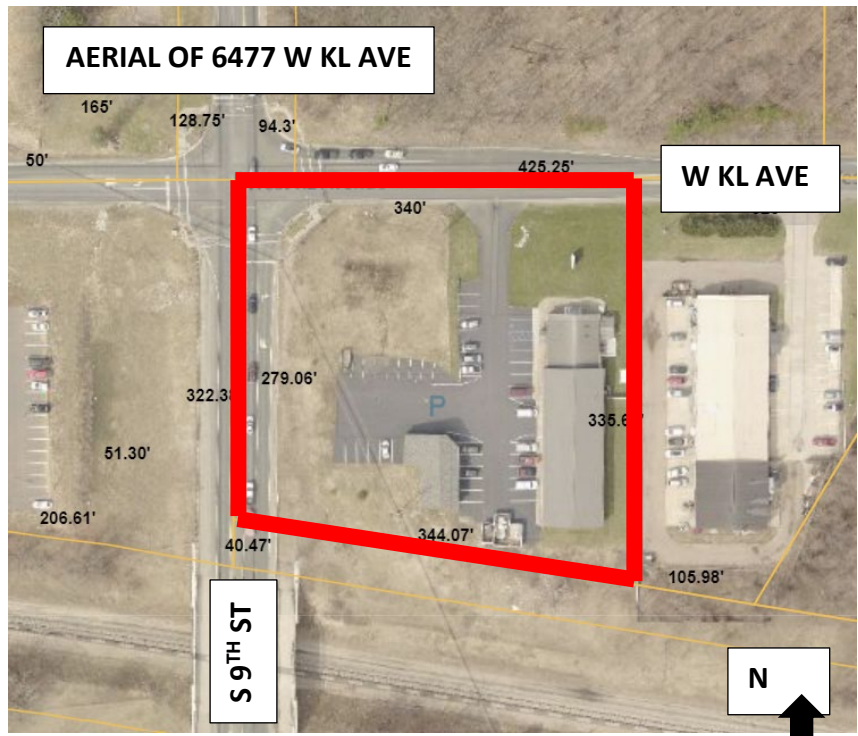
Request: A variance from setback requirements outlined in Section 50.60.C. of the Zoning Ordinance to allow for a reduced setback of 15 feet where the Zoning Ordinance requires 20 feet, or the height of the building, whichever is greater, for building additions.

Section(s): Section 50.60 – Setback Provisions

OVERVIEW:

SHIELDS MJ LLC is requesting a variance from setback requirements outlined in Section 50.60.C. of the Zoning Ordinance to allow for a reduced setback of 15 feet along the east property line where the Zoning Ordinance requires 20 feet, or the height of the building, whichever is greater, to allow for additions on the east side of the building.

The subject property is outlined in red in the aerial map to the right. The property is located at the southeast corner of the intersection of South 9th Street and West KL Avenue. The property is zoned I-1: Industrial District. The applicant’s intent is to submit full site plan review for planned site modifications once they have completed the variance process.



STANDARDS OF REVIEW – STAFF ANALYSIS

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.
- Public safety and welfare.

Staff has analyzed the request against these principles and offers the following information to the Zoning Board of Appeals.

Standards of Approval of a Nonuse Variance (practical difficulty)

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

Comment: 6477 West KL Avenue is presently developed with two buildings. The property size and frontage meet Ordinance requirements for parcels with the I-1: Industrial District zoning designation. As far as unique physical circumstances are concerned, there is a large easement across the southwest portion of the property. The site is also subject to the enhanced setback provisions for properties along West KL Avenue and South 9th Street of 70 feet on both the north and west property lines, preventing buildings in these areas. See both the easement location and the enhanced setbacks on the Site Concept attachment. See applicant’s comments on this factor.

Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

Comment: Reasonable options for compliance are available by continuing to operate the property in its present state. Use is presently being made of the property and denial of the variance would not prevent continuing reasonable use. See applicant’s comments on this factor.

Minimum Necessary for Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).

Comment: In researching past Zoning Board of Appeals decisions, no similar requests were found specifically for industrial zoned properties requesting side yard setback variances for building additions.

Self-Created Hardship
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant or a previous owner?

Comment: The applicant’s interest in expanding the business at this location is what is creating the request. While it could be argued that the conditions are self-created, there are unique conditions or circumstances (easements on the property/enhanced setbacks from W KL Ave and S 9th St) which leave this corner property with a reduced building area. See applicant’s comments on this factor.

Public Safety and Welfare

Will the variance request negatively impact the health, safety, and welfare of others?

Comment: It is not expected that granting the variance request would negatively impact the health, safety, or welfare of others. Presently a 6-foot-tall white opaque fence runs the entire east property line, which obscures the future additions from view. The Fire Department and Public Works will review the site plan at the time that the project is presented for approval to ensure the health, safety, and welfare of others are protected.

Photos of the current fencing are included in the attachments. See applicant’s comments on this factor.

POSSIBLE ACTIONS

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
 - It is not expected that granting the variance would negatively impact the health, safety, or welfare of others.
 - The conditions or circumstances which created the variance request are not entirely self-created.
 - There are unique physical circumstances that prevent strict compliance with the Zoning Ordinance.
- Support of variance denial
 - Minimum necessary for substantial justice is not proven.
 - Compliance with the Ordinance is not unnecessarily burdensome as the property could continue to be utilized in its present state and constructing additions on the site is entirely discretionary.

Possible motions for the Zoning Board of Appeals to consider include:

1. Variance Approval
The Zoning Board of Appeals approves the variance request.
2. Variance Denial
The Zoning Board of Appeals denies the variance request.

Attachments: Application
Applicant’s Letter of Intent
Site Concept Plan
Fencing Photos

[This page is left intentionally blank]



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-375-4260 Fax: 269-375-7180

PLEASE PRINT

PROJECT NAME & ADDRESS

Office Addition

6477 West KL Ave

Kalamazoo, MI 49009

PLANNING & ZONING APPLICATION

Applicant Name: Michael K Shields
Company: BlackBerry Systems

Address: 6477 West KL Ave
Kal. MI 49009

E-mail: MIKE@blackberrysystems.com
Telephone: 353-8844 Fax: NA

Interest in Property: Owner

THIS SPACE FOR TOWNSHIP USE ONLY

OWNER*:

Name: MI Shields LLC

Address: 2651 Woody Noll Dr.
Portage, MI 49002

E-mail: MIKE@blackberrysystems.com
Phone & Fax: 269-207-5124

Fee Amount _____

Escrow Amount _____

NATURE OF THE REQUEST: (Please check the appropriate item(s))

- Pre-Application Review
- Site Plan Review – I088
- Administrative Site Plan Review – I086
- Special Exception Use – I085
- Zoning Variance – I092
- Site Condominium – I084
- Accessory Building Review – I083
- Rezoning – I091
- Subdivision Plat Review – I089
- Interpretation – I082
- Other: _____

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): We are applying for a variance from Section 50.60C of the Zoning Ordinance to allow a 15 foot setback to the east property line where the ordinance requires 20 feet, or height of the building, whichever is greater.

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

PARCEL NUMBER: 3905- 90-216-000

ADDRESS OF PROPERTY: 6477 West KL Ave, Kal, MI 49009

PRESENT USE OF THE PROPERTY: Construction Business

PRESENT ZONING: I-1 SIZE OF PROPERTY: _____

NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:

Name(s)	Address(es)
<u>None</u>	_____
_____	_____

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.

<p>_____ Owner's Signature (*If different from Applicant)</p> <p><u>MIC Shields</u> Applicant's Signature</p>	<p>_____ Date</p> <p><u>7/24/2024</u> Date</p>
---	--

- Copies to:
 - Planning - 1
 - Applicant - 1
 - Clerk - 1
 - Deputy Clerk - 1
 - Attorney - 1
 - Assessor - 1
 - Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS



7/24/2024

To: Oshtemo Zoning Board of Appeals

From: Michael Shields Owner of BlackBerry Systems and the property 6477 West Kl , Kalamazoo

BlackBerry Systems has been located at our current location since 1997. We have had continued growth as a company since then; on this property we have added an addition of a second warehouse and additional parking spaces. Currently we are continuing to grow our business and are in need of expanded space for 1. Warehousing, Showroom, and Office area. We appreciate our location here in Oshtemo and enjoy being part of the community. The need for expanded space has led us to look for a new location or expand our facilities on 6477 West KL; we worked with Callander Commercial Real Estate looking at existing structures as well as vacant property. In the past 18 months we have not found an appropriate location in the general area to move to, so now we are looking to see if we can remain in our present location and add to what we have to meet our needs. The additional space for people and product has become a critical situation in trying to service our expanding customer base. We hope we can stay here in the township and our current location. Please consider our request in adding the warehouse, showroom, and office space.

Thank you for your consideration.
Michael Shields
President/Owner



7/24/2024

To: Oshtemo Zoning Board of Appeals

From: Michael Shields Owner of BlackBerry Systems and the property at 6477 West KL Ave, Kalamazoo, MI.

Re: Variance Request Review Form

Criteria 1: Conformance Unnecessarily Burdensome. No, there is not an alternative location to put the propose building addition One of the constraints that restricts our flexibility is the required setback of the utility lines easement on the west side of our property. This limits the buildable area we have to work with. There is room on our east side that will connect to our current office space in our main building.

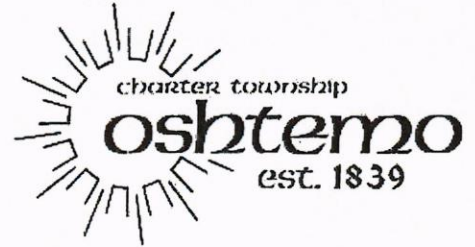
Criteria 2: Substantial Justice: Please refer to the Planning Administrator.

Criteria 3: Yes, the location of the existing building, parking lot, and utility easement to the west is forcing the proposed location of the office addition. When considering our plan to for the expansion of our showroom and an additional 2,100 Sq. Ft warehouse on the west side of our property, the only available space adequate for the office addition is on the east side our property. The current distance from the east property line is 30' from the existing warehouse, office, and showroom building. Our current setback is 20' leaving only 10' in length for the width of the addition. We estimate we need 15' which would require reducing this setback down to 15'. So, our request is a 5' variance. Our neighbor to the east is Midwest Collision Center, and I have included a letter from them showing their full support for this variance. Both of our properties are zoned similarly, we have a 6' fence running the full length between our properties, as well as a 7' fence running across the width our building and the east boundary line, blocking visibility of the proposed structure from the road. We hope there is enough information presented here show this will not pose a hindrance to our neighbor or the Township if this variance is approved. Note, photos are attached show the location of the building addition.

Criteria 4: Self-Created Hardship: This could be answered yes, based on our growth. But considering the purpose of any business is to succeed and grow, it is simply the result of our intentions and execution of our service. Likewise, the answer is no since the main site constriction is the existing overhead electric lines and the easement which prevent further additions to the west.

Criteria 5: Public Safety and Welfare: If granted, I don't believe there is any evidence that the public safety and welfare will be diminished or compromised. Oshtemo is a great community to do business and we simply hope we can continue to remain and grow here.

Architectural • Historical • Commercial Window and Door Systems



ZONING BOARD OF APPEALS - VARIANCE REQUEST REVIEW FORM

The Board is required by law to consider the following, and only the following, criteria when deciding on an application for a nonuse variance. When making a motion on a variance, each of the following criteria must be clearly addressed in order to document how the Board's decision was made. Please fill in the lines below and verbally state how these criteria are, or are not, met.

Case: BlackBerry Systems Inc. Date: 7/24/2024

Criteria 1: Conformance Unnecessarily Burdensome

Are reasonable options for compliance available? Please note that economic hardship cannot be considered.

Yes: See Attachment

No: _____

Criteria 2: Substantial Justice

Is the decision consistent with past decisions of the ZBA (precedence)?

Yes: See Attachment

No: _____

Criteria 3: Unique Physical Circumstances

Are there unique physical limitations or conditions which prevent compliance?

Yes: See Attachment

No: _____

Criteria 4: Self-Created Hardship

Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Yes: See Attachment

No: _____

Criteria 5: Public Safety and Welfare

If granted, will the spirit of the ordinance be observed, and public safety and welfare secured?

Yes: See Attachment

No: _____

Based on the review of the criteria listed above the Zoning Board of Appeals rules to Approve / Deny the variance request.

[This page is left intentionally blank]



7/24/2024

To: Oshtemo Zoning Board of Appeals

From: Michael Shields Owner of BlackBerry Systems and the property at 6477 West KL Ave, Kalamazoo, MI.

Re: Variance Request Review Form

Criteria 1: Conformance Unnecessarily Burdensome. No, there is not an alternative location to put the propose building addition One of the constraints that restricts our flexibility is the required setback of the utility lines easement on the west side of our property. This limits the buildable area we have to work with. There is room on our east side that will connect to our current office space in our main building.

Criteria 2: Substantial Justice: Please refer to the Planning Administrator.

Criteria 3: Yes, the location of the existing building, parking lot, and utility easement to the west is forcing the proposed location of the office addition. When considering our plan to for the expansion of our showroom and an additional 2,100 Sq. Ft warehouse on the west side of our property, the only available space adequate for the office addition is on the east side our property. The current distance from the east property line is 30' from the existing warehouse, office, and showroom building. Our current setback is 20' leaving only 10' in length for the width of the addition. We estimate we need 15' which would require reducing this setback down to 15'. So, our request is a 5' variance. Our neighbor to the east is Midwest Collision Center, and I have included a letter from them showing their full support for this variance. Both of our properties are zoned similarly, we have a 6' fence running the full length between our properties, as well as a 7' fence running across the width our building and the east boundary line, blocking visibility of the proposed structure from the road. We hope there is enough information presented here show this will not pose a hindrance to our neighbor or the Township if this variance is approved. Note, photos are attached show the location of the building addition.

Criteria 4: Self-Created Hardship: This could be answered yes, based on our growth. But considering the purpose of any business is to succeed and grow, it is simply the result of our intentions and execution of our service. Likewise, the answer is no since the main site constriction is the existing overhead electric lines and the easement which prevent further additions to the west.

Criteria 5: Public Safety and Welfare: If granted, I don't believe there is any evidence that the public safety and welfare will be diminished or compromised. Oshtemo is a great community to do business and we simply hope we can continue to remain and grow here.

Architectural • Historical • Commercial Window and Door Systems



Midwest Collision Center, Inc.

6415 West K L Ave.

Kalamazoo, MI 49009-9197

Phone (616) 372-1337 • FAX # (616) 372-2230

July 22, 2024

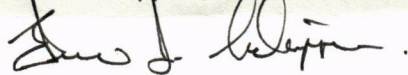
To the Oshtemo Zoning Board of Appeals,

Mike Shields, owner of BlackBerry Systems and the property at 6477 West KL Ave, our neighbor on our west property line, has explained his interest in getting a variance for offices to be constructed on the east side of his property. We are comfortable with his request and we have no objection to his request or constructing offices in the location proposed. In no way do we see this addition having a negative effect on our property. He has our full support.

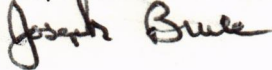
Any questions please contact us at (269) 372-1337.

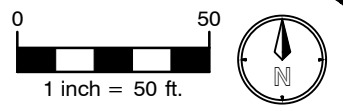
Thank You,

Edwin Schippers, President



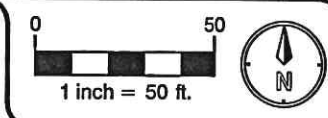
Joseph Brule, Vice-President





BLACKBERRY SYSTEMS
7/08/2024





BLACKBERRY SYSTEMS
 SITE CONCEPT
 07/23/2024

