

AGENDA KENTWOOD ZONING BOARD OF APPEALS KENTWOOD CITY HALL CITY COMMISSION CHAMBERS MARCH 20, 2023, 7:00 P.M.

- 1. Call to Order
- 2. Pledge of Allegiance (Susan West)
- 3. Roll Call
- 4. Approval of Minutes of November 21, 2022 and February 20, 2023
- 5. Acknowledge visitors and those wishing to speak to non- agenda items.
- 6. Public Hearing

Appeal #V-23-03

Applicant: Location:

Josadac & Catherine Aria 4868 Raymond Avenue, SE

Request:

The applicant wishes to construct a new 672 square foot detached garage in the same location and using the same foundation as a previous detached garage. The new garage would have a side yard setback of two (2) feet and a rear yard setback of twenty-four (24) feet; Section 3.15.C.2.b requires a minimum side yard setback of five (5) and a minimum rear yard setback of thirty (30) feet. The requested variances are for a reduction of three (3) feet to the required side yard setback and six (6) feet to the required rear yard setback.

Appeal #V-23-04

Applicant:

Michael Bykerk

Location:

4879 Kalamazoo Avenue, SE

Request:

The applicant wishes to construct an addition off of the rear of their existing home. The existing detached garage is currently located in the rear yard, but with the proposed addition the structure would be located in the side yard. Zoning Ordinance Sections 3.15.C.1.a.and 3.16.C.7 require that the garage be located in the rear yard. The requested variance is to permit the detached

garage to be located in the side yard.

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- 7. Commissioners Comments
- 8. Adjournment

PROPOSED MINUTES OF THE REGULAR MEETING OF THE KENTWOOD ZONING BOARD OF APPEALS CITY COMMISSION CHAMBERS NOVEMBER 21, 2022, 7:00 P.M.

- 1. Vice-Chair Lipner called the meeting to order.
- 2. Pledge of Allegiance (VanNoord)
- 3. Robert Spaulding was sworn in as Zoning Board of Appeals Commissioner.
- 4. Roll Call
 MEMBERS PRESENT: Robert Houtman, Alan Lipner, Robert Spaulding Mary
 VanNoord and Susan West
 MEMBERS ABSENT: Les Derusha and Aaron Johnson absent with notification
 OTHERS PRESENT: Planner Joe Pung, Planning Assistant Monique Collier, the
 applicants.

Motion by Houtman, supported by VanNoord, to excuse Derusha and Johnson from the meeting.

- Motion Carried (5-0) -

- Derusha and Johnson absent -

5. Approval of the Minutes and Findings of Fact

Motion by Houtman, supported by West, to approve the minutes of October 17, 2022

- Motion Carried (5-0) -
- Derusha and Johnson absent -
- 6. Acknowledge visitors and those wishing to speak to non-agenda items.

There was no public comment.

7. Public Hearing

Appeal #V-22-14

Applicant:

Randy & Robin Rothley

Location:

928 – 48th Street, SE

Proposed Minutes Zoning Board of Appeals November 21, 2022 Page 2

Request:

The applicant wishes to replace and existing detached garage with a new detached garage in the same location. The new garage would have a side yard setback of two (2) feet to the drip edge of the roof; Section 3.15.C.2.b requires a minimum setback of three (3) feet to the drip edge of the roof. The requested variance is for a reduction of one (1) foot to the required side yard setback.

Randy and Robin Rothley, 928 48th Street were present. She stated they are requesting to build a garage on the existing foundation. She stated the new garage would have a sideyard setback of two feet from the drip edge instead of the required 3 feet. She stated their home was built in 1955. She stated they did look at getting a hipped roof which would have brought the drip edge even to the wall, but they would have had to go larger or smaller. She stated if they were to go larger they have a massive oak tree they would have had to cut that down or come closer to the house then they would have needed a variance to be closer to their house. She stated they don't want to go smaller than what they already have.

Robin Rothley displayed photos of renderings of what the garage is going to look like.

Lipner questioned when the previous garage was taken down. Rothley stated in the summer.

Spaulding questioned if the topography on the neighbor's property is at the same level as her property. She stated yes.

Lipner opened the public hearing.

Houtman read a letter from Cindy and Jake Thompson 918 48th Street in support of the garage being built.

Motion by Houtman, supported by Spaulding to close the public hearing.

- Motion Carried (5-0) –
- Derusha and Johnson absent –

VanNoord stated that point 1 was met due to placement of the prior garage and the lot did meet the width requirement at the time that it was developed. VanNoord stated point 2 is met. VanNoord stated point 3 is met.

West, Houtman, Spaulding, Lipner concurred that points 1, 2 and 3 have been met.

VanNoord stated point 4 is met based on the new garage being the same size and in the same location as the prior garage. VanNoord stated point 5 is met based on the history and the original detached garage. VanNoord stated point 6 is met.

Proposed Minutes Zoning Board of Appeals November 21, 2022 Page 3

West, Houtman, Spaulding, Lipner concurred that points 4, 5 and 6 have been met

Motion by VanNoord, supported by Houtman, to approve V-22-14 based on prior discussion.

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include by way of example:
- 2. The condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.
- 3. The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.
- 5. Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.
- 6. The exceptional conditions or circumstances do not result from the actions of the applicant.
 - Motion Carried (5-0)-
 - Derusha and Johnson absent -
- 8. Commissioners Comments
- 9. Adjourmnet

Motion by Houtman, supported by West, to adjourn the meeting.

- Motion Carried (5 -0) -
- Derusha and Johnson absent -

Meeting adjourned at 7:20 p.m.

Respectfully submitted,

Robert Houtman, Secretary

PROPOSED MINUTES OF THE REGULAR MEETING OF THE KENTWOOD ZONING BOARD OF APPEALS CITY COMMISSION CHAMBERS FEBRUARY 20, 2023, 7:00 P.M.

- 1. Commissioner VanNoord called the meeting to order.
- 2. Pledge of Allegiance
- 3. Roll Call

MEMBERS PRESENT: David Fant, Aaron Johnson, Robert Spaulding, Mary VanNoord and Susan West

MEMBERS ABSENT: Les Derusha, Alan Lipner, Robert Houtman (with notification)

OTHERS PRESENT: Planner Joe Pung, Planning and the applicants

- 4. Approval of the Minutes and Findings of Fact
- 5. Acknowledge visitors and those wishing to speak to non-agenda items.
- 6. Public Hearing

Appeal #V-23-01

Applicant:

Drive & Shine

Location:

3277, 3311, & 3343 Woodland Drive, SE

Request:

The applicant wishes to develop a carwash/oil change facility on the site. The building would have a rear yard setback of 2 feet and be setback 87 feet from an adjacent residential district. Section 8.03.B of the Zoning Ordinance requires a rear yard setback of 30 feet, Section 19.03.C requires a 10-foot buffer zone adjacent to the office zone to the north, and Section 15.04.F.11 requires a building setback of 100 feet from the residential district to the north. The requested variances are for a reduction of 28 feet to the required rear yard setback, waiver of the buffer requirement, and a reduction of 13 feet to the required setback from a residential district.

Tehrani (property owner) and Andrew Rossell (AR Engineering) were present. Tehrani stated they are proposing a car care facility. He stated it is not only a carwash, but it also has several other components. He stated they have several and this one will be the 16th. He stated this will have an interior self-vacuum where you pull your car in and park on either side to vacuum, wash floor mats etc. They also have towels.

He stated moving north they will have the interior belt which where you pull your car in and exit the vehicle. He stated it is on a moving belt while you wait your car is detailed in 7 minutes. He stated the next bay to the north is the actual carwash tunnel where it is automated and you stay in your vehicle to get your car washed.

He stated the far north where they are seeking the variance on the north property line is the Lube Center where you get your oil changed. He stated the building is quite wide and they are constrained by the north property line. He stated they own the adjacent WMU property therefore they can dedicate a permanent easement that would suffice a setback but in the way of an easement. He stated the existing WMU building and parking would remain other than the slight modification for emergency egress drive.

He stated in the back there is the auto attendant canopy, where you drive through and pay (or if you have a subscription it is an automated gate) and employee parking. He stated the reason for the positioning of the building where it is, there is a very steep bank so they would have to construct a retaining wall along the south edge of pavement where the existing pavement is now and because of the limited access they would construct a drive coming westerly up the hill and then enter the site. He stated if you want to get a carwash then you go through the auto attendant. If you want to get an oil change you go around and go through the lube center.

He stated the second variance they are requesting is the 100 feet to a residential property. He stated they are 87 feet to the property line; however, the actual apartment complex is approximately 250 feet away. He stated the area has a treeline with mature trees and screening therefore they feel that is more than adequate for the buffer yard required being that they can't shift it anymore east because of the steep bank. He stated there are some challenges on the site, but they have thought it through for the least amount of variances. He stated there is a very large slope on the south side making it difficult. He stated this is the existing access that is already on their property that they have given easement access to Anna's House to use. They were going to use the same access point.

He stated as far as the flow of traffic, as you come in you get to an automated cashier. He 70% of the population is unlimited wash customers. A three second gate goes up and you go through. Discussion ensued regarding the circulation of the site.

Fant questioned if they own entrance that leads into Anna's House. Teharni stated it has been grandfathered in, there is no recorded easement.

VanNoord stated when they go up the road by Anna's House do they have an out to the East Beltline. Teharni stated they do have an exit out only that they can let people drive through. They don't think it will be necessary. He stated all of their sites have the same entrance and exit. He stated they have something for fire. VanNoord's concern was if you are coming from the mall you almost have to do a U-turn and it is hard. She stated you can leave that way but turning from there would be hard. Teharni stated on the East Beltline that road is about 40,000 cars and that is about 99% of their volume.

VanNoord stated if they plan on taking down the grassy hill area because it is tall and steep. Turano stated that will end up being where the parking area will be and they wouldn't touch that. VanNoord questioned if there would be any water problems. Tehrani stated the parking lot exists right now and they are required by regulation to maintain all of the water they create on their asphalt. Discussion ensued.

Spaulding stated he has been out on the site a few times. He stated the exit to the north property, why does he have that emergency exit and what is going to prevent anybody from coming off the drive north of the WMU building and entering there even though it is an exit only. Tehrani stated there is an electronic gate there to prevent people from driving through. Discussion ensued.

Spaulding stated the proposed entrance off of Mall Drive that they are going to share with Anna's House, that is a heavy traffic area and it concerns him greatly. Teharni stated this will be far easier in terms of traffic management because you are already off a state highway before you come to their facility; it is not even close to being overwhelming.

Spaulding's concern was the private property are they going to have problems or have they talked to anyone. Pung stated there should be easements allowing use of the private road. Pung stated there should be easements for all of the properties to access that site. Pung stated if the variances are granted they will have to go to the Planning Commission for the use and the site plan. Pung stated as part of the Planning Commission review there is going to be a traffic analysis. He stated just because they get the variance it still has to go to the Planning Commission for both the special land use and the site plan. The Planning Commission will have the final say on the design of the site. Pung stated this just gives them the right to be able to design it like they have proposed. Pung stated if they didn't get the variance they would have to redesign the site but they can still put it there if they got permission from the Planning Commission for the use. Pung stated the Planning and City Commission did approve the rezoning of the property to allow for this type of development.

Spaulding stated he has a concern of them asking to waive the buffer zone to the north. He stated his understanding is that they would establish a buffer zone along the north side of the existing sidewalk that is there. Now they are saying they are not going to put a buffer zone that is required. Pung stated they can't put the buffer zone on this property. He stated they are asking for a waiver for a buffer zone but have offered to put the buffer on the property to the north that they own. Even with the easement it is on a different property. They can do the easement to have that buffer zone on the property to the north, but they are still getting a waiver because they can't do it on the existing property. They can't move the property line due to the municipal and school district boundaries.

Tehrni stated they shrunk the self vacuum down by 10 feet. They compromised to shrink that down to be able to give enough room to fit the 20 foot drive along the south to allow

for emergency vehicles and consolidate as much as the owner can internally to make this work.

VanNoord opened the public hearing.

Motion by West, supported by Johnson, to close the public hearing.

West stated that point 1 has been met. West stated point 2 is met there are very few commercial properties in Kentwood which abut municipal and school district boundary. West stated point 3 has been met.

Johnson, Spaulding, Fant, VanNoord concurred that points 1, 2 and 3 have been met.

West stated point 4 has been met. West stated point 5 is met. West stated point 4 has been met.

Johnson, Spaulding, Fant, VanNoord concurred that points 4,5 and 6

Motion by West, supported by Johnson, to approve V-23-01 based on prior discussion adding the condition the Planning Commission approval special land use vehicle wash establishment and site plan and the creation of a permanent easement on the adjacent property to the north with the final dimensions to be approved by staff and the Planning Commission

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. The topography of the property and the adjacent municipal and school district boundaries
- 2. The condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.
- 3. The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.
- 5. Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.
- 6. The exceptional conditions or circumstances do not result from the actions of the applicant.

Appeal #V-23-02

Applicant:

Benjamin Bauer

Location:

5120 East Paris Avenue, SE

Request:

The applicant wishes to locate a major vehicle repair establishment within a tenant space in the existing building. The tenant space has an overhead door facing East Paris Avenue; Section 15.04.E.6 does not permit the proposed use to have an overhead door facing the street. The requested variance is to permit the proposed vehicle repair establishment to have an overhead door facing the street.

Ben Bauer, 4216 Unity Dr. was present. He stated he is looking to open a major vehicle service center. He stated this will be dry ice cleaning of vehicles. Everything will be done inside of the building. This will be unique vehicles (hot rods, exotic cars, sports cars, and collector vehicles). He stated leaving them outside while in his care he is not comfortable with for security reasons. He stated vehicles arrive for service they will be pulled right into the building. Bauer stated the space is about 4400 square feet he is going for a larger space so that all vehicles can be inside at all times. He stated this will be a totally different type of business from a normal vehicle service center. He stated he will probably see 4-6 vehicles per week. He stated this is not your typical vehicle service type of center. He stated the distance from the door to the road is about 230 feet. He stated standing at the edge of the property it is a loud road any sort of noise from his business he doesn't see as being any issue.

Johnson questioned if the overhead door was there when the building was built. Pung stated the prohibition of an overhead door facing the street is based on the use.

Spaulding questioned if the vehicles will be coming in on a truck or semis. Bauer stated most people will be driving their vehicles in to them or someone pulling their vehicle in behind their truck. However, there is a huge parking lot that has a loading dock for semis.

Spaulding questioned if he will have air conditioning. Bauer stated no. He questioned what kind of ventilation he has on the backside of the building. Bauer stated two regular doors.

VanNoord questioned if he has any other businesses like this one. Bauer stated no this will be the second one in the state.

VanNoord opened the public hearing.

There was no public comment.

Motion by Wet,, supported by Johnson, to close the public hearing.

Johnson stated point 1 is met. Johnson stated point 2 because the building sits so far back. Johnson stated point 3 is met.

Spaulding, West, Fant, VanNoord stated points 1, 2 and 3 have been met.

Johnson stated point 4 is met. Johnson stated point 5 has been met. Johnson stated point 6 has been met

Spaulding, West, Fant, VanNoord stated points 4,5 and 6 have been met.

Motion by Johnson, supported by Spaulding, to approve V-23-02.

- 1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include by way of example:
- 2. The condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.
- 3. The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.
- 5. Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.
- 6. The exceptional conditions or circumstances do not result from the actions of the applicant.
 - Motion Carried (5-0)-
 - Derusha, Lipner, Houtman absent -

Motion by VanNoord, supported by West, to adjourn the meeting.

- Motion Carried (5-0) -
- Derusha, Lipner, Houtman absent -

Meeting adjourned at 8 p.m.

Respectfully submitted,

Robert Houtman, Secretary

STAFF REPORT: March 13, 2023

PREPARED FOR: Kentwood Zoning Board of Appeals

PREPARED BY: Joe Pung

CASE NO.: V-23-03

GENERAL INFORMATION

APPLICANT: Josadac & Catherine Aria

4868 Raymond Avenue, SE

Kentwood, MI 49508

STATUS OF

APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to construct a new 672 square foot detached

garage in the same location and using the same foundation as a previous detached garage. The new garage would have a side yard setback of two (2) feet and a rear yard setback of twenty-four (24) feet; Section 3.15.C.2.b requires a minimum side yard setback of five (5) and a minimum rear yard setback of thirty (30) feet. The requested variances are for a reduction of three (3) feet to the required side yard setback and six (6) feet to the required rear yard

setback.

EXISTING ZONING OF

SUBJECT PARCEL: R1-C Single Family Residential

GENERAL LOCATION: 4868 Raymond Avenue, SE

PARCEL SIZE: .23 acres (10,074 square feet)

EXISTING LAND USE

ON THE PARCEL: Single Family Home

ADJACENT AREA

LAND USES: N: Single Family Home

S: Single Family HomesE: Single Family HomeW: Raymond Avenue ROW

ZONING ON ADJOINING

PARCELS: N: R1-C Single Family Residential

S: R1-C Single Family ResidentialE: R1-C Single Family ResidentialW: R1-C Single Family Residential

Staff Comments:

- 1. The applicant wishes to construct a new 672 square foot detached garage in the same location and using the same foundation as a previous detached garage. The new garage would have a side yard setback of two (2) feet and a rear yard setback of twenty-four (24) feet; Section 3.15.C.2.b requires a minimum side yard setback of five (5) and a minimum rear yard setback of thirty (30) feet. The requested variances are for a reduction of three (3) feet to the required side yard setback and six (6) feet to the required rear yard setback.
- 2. The existing home and a detached garage (which has been demolished) were constructed in 1959. When the detached garage was constructed, the minimum required setback from the rear and side property lines was three (3) feet (measured to the building wall).
- 3. The proposed garage would be constructed in the same location and with the same footprint as the original garage. The new garage would utilize the same foundation as the original garage.
- 4. Since 1985, the Zoning Board of Appeals has heard many requests for setback (front, side, and rear) variances for attached and detached garages in residential districts. Some of the recent requests were as follows:

Appeal No.	Address	Action
V-22-14	928 – 48 th Street	Granted (↓of 1' to side yard setback)
V-22-08	5840 West Grove Drive	Granted (\downarrow of 5' to setback from the home and \downarrow 10' 1" from setback from front wall)
V-22-02	2918 – 32 nd Street	Granted (↓of 15' to side yard setback)
V-19-08	130 Murray Street	Granted (↓of 27' to rear yard setback)
V-19-05	3643 Long Grove Drive	Denied (\lof 5' to side yard setback)
V-18-09	4829 Mildred Avenue	Granted (↓of 2' to side yard setback)
V-18-04	5475 Settlers Pass	Granted (↓of 3' to side yard setback)
V-17-05	3364 Southbury Drive	Granted (\lof 18' to street side yard setback)
V-17-04	5241 Burgis Avenue	Granted (↓of 8' to rear yard setback)
V-15-09	5041 Kalamazoo Avenue	Granted (\log of 7' to side yard setback for a deck)
V-15-06	5380 Eastern Avenue	Granted (↓of 22' to rear yard setback & ↓ 11 to street side yard setback)
V-11-13	5407 Claudia Avenue	Granted (↓of 25' to rear yard setback)
V-08-14	5087 Mildred Avenue	Denied (\lof 25' to rear yard setback)
V-05-22	228 Regent Street	Granted (↓of 3.5' to side yard setback)
V-05-09	4639 Potter Avenue	Denied (↓of 19' to front yard setback)
V-04-17	1913 Stanford Drive	Granted (↓ in street side yard setback)
V-03-31	5531 Kalamazoo Avenue	Denied (↓ in side and rear yard setbacks)
V-03-27	5071 Mildred Avenue	Denied (↓ of 27' to rear yard setback)
V-02-15	4752 Millhaven Avenue	Granted (↓ in side and rear yard setbacks)

V-02-09	5501 Eastern Avenue	Granted (↓ in side and rear yard setbacks)
V-02-06	5994 Wind Brook Avenue	Granted (↓ in street side yard setback)

Whether or not a variance was approved or denied depended on its ability to meet the non-use variance standards of the Kentwood Zoning Ordinance.

- 5. A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is evidence of practical difficulty in the official record of the hearing and that <u>ALL</u> of the following conditions are met:
 - 1) That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include by way of example:
 - a) Exceptional narrowness, shallowness or shape of the property on the effective date of this ordinance; or
 - b) Exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure.

The property is zoned R1-C Single Family residential. The lot, along with most other lots along Raymond Avenue and in the adjacent subdivisions, is legal non-conforming with respect to lot width (lot is 73 feet wide and the minimum width is 80 feet under the current zoning); the lot did meet the width requirements at the time it was formed. The original detached garage was built prior to current setback requirements; when the original detached garage was constructed, the minimum setback from the side and rear lot lines was three (3) feet as measured to the wall of the building (current setback requirements are five (5) feet and thirty (30) feet as measured to the building wall). The applicant has indicated that there is a septic tank and drain field on the property which is unique for a property this size. The location of the driveway, home, septic tank & drain field, and the foundation for the original detached garage are all pre-existing conditions.

2) That the condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.

There are other residential properties in Kentwood that have detached garages with non-conforming setbacks as a result of being constructed prior to current Zoning Ordinance requirements. The exact number of such existing structures is not known, but the overall number is limited, even more so for detached structures with non-conforming side yard and rear yard setbacks.

3) The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.

Without the requested variances, the applicant would have to modify the location or dimensions of the garage without encroaching into the drain field and still maintaining a setback of at least five (5) feet from the home. Another option would be to reduce the

size of the garage to a point where the minimum required setbacks can be met. There are other residential properties with similar setbacks for detached garages.

4) The variance will not be detrimental to adjacent property and the surrounding neighborhood.

It is not anticipated that the variance would be detrimental to adjacent property or the surrounding neighborhood. The new garage will be the same size and in the same location as the original garage. The setback will be the same setback as the original structure. There are other detached accessory structures in the area that have comparable setbacks and staff is not aware of any issues or complaints regarding these structures.

5) Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.

Based on the circumstances and history applying to the property and original detached garage, it is not anticipated that granting the variance would impair the intent and purpose of Zoning Ordinance.

6) The exceptional conditions or circumstances do not result from the actions of the applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of the parcel.

The exceptional circumstances were not the result of an action by the applicant.

- 6. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in the Zoning Ordinance, attach other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of the Ordinance and the protection of the public interest or as otherwise permitted by law.
- 7. A majority vote by at least four members of the Zoning Board is necessary to approve the requested variance.

Exhibit 1: Location of Variance Request



Exhibit 2: Location of 30-foot Rear Yard Setback



Exhibit 3: June 2011 Google Street View of Original Garage



Exhibit 4: April 2020 Pictometry Photo (view from the south)



Exhibit 5: April 2020 Pictometry Photo (view from the west)





CITY OF KENTWOOD ZONING BOARD OF APPEALS NON-USE VARIANCE APPLICATION

APPEAL# V- 23-03
APPLICANT: Josadac Arias Catherine Arias PHONE #
Marco O N CT
, C10.529.5252
PROPERTY OWNER: Catherine Anias Josadac Arias PHONE # 616.540.3672
ADDRESS: 4869 Kaymond Ave St
LOCATION OF VARIANCE (If applicable)
ZONING DISTRICT OF PROPERTY: R1-C
ZONING ORDINANCE SECTION (S) APPEALED: 21.04B
NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit) does not permit our garage to be rebuilt upon an existing Cement slab from previous garage.
JUSTIFICATION OF APPEAL: Briefly describe how your appeal meets the Standards of Section 21.04B of the Kentwood Zoning Ordinance. Each standard must be met.
STANDARD (1): Or parcel is both shallow and narrow enough that adherence to this ordinance is not possible. We also have a septic tank and field which makes maving the garage's location difficulties.
STANDARD (2): We are wanting to build just one garage, SO this situation or condition should not be repeated more than once, so the Zoning ordinance doesn't need to Change.
STANDARD (3): Baced on our surrounding neighbors, we would be deprined of the right to have a usable detached or attached garage or attouitling commonly enjoyed by most, It not all, our surrounding heighbors and other properties in
STANDARD (4): Our presions garage sort on the same cement slab and did district not ninker the property rest door from using their sun proporty as they saw fit, and the surranding reighbor hood was not affected.
STANDARD (5) This variance would not impair the intent and purpose of the zoning ordinance since other lots should have the space to follow the
Current Zoning ordinance.
STANDARD (6) Or lot was split from the lot next door before we purchased
it by our predecessor and the garage was already built.

Zoning Board of Appeals Non-Use Variance Application Page 2



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Local Governmental Agency to Complete This Section **ENVIRONMENTAL CONTROL APPROVALS** BY NUMBER **APPROVED** DATE REQUIRED? A - Zoning ☐ Yes ☐ No ☐ NA B - Fire District ☐ Yes ☐ No ☐ NA C - Health Department Yes No No NA ☐ Yes ☐ No ☐ NA E - Soil Erosion F - Flood Zone ☐ Yes ☐ No ☐ NA

The specification for the building or structure, and full and complete copies of the plans drawn to scale of the proposed work. A site plan showing the dimensions and the location of the proposed building or structure and the other buildings or structures on the same premises shall be submitted.

Expiration of Permit: A permit remains valid as long as work is progressing and inspections are requested and conducted. A permit shall become invalid if the authorized work is not commenced within 180 days after issuance of the permit or if the authorized work is suspended or abandoned for a period of 180 days after the time of commencing the work. A PERMIT WILL BE CLOSED WHEN NO INSPECTIONS ARE REQUESTED AND CONDUCTED WITHIN 180 DAYS OF THE DATE OF ISSUANCE OR THE DATE OF A PREVIOUS INSPECTION. CLOSED PERMITS CANNOT BE REFUNDED. THE CHARGE TO RE-OPEN A CLOSED PERMIT IS \$100.00.

General: Building work shall not be started until the application for permit has been filed with the Bureau of Construction Codes. All installations shall be in conformance with the Michigan Building Codes. No work shall be concealed until it has been inspected. The telephone number for the inspector will be provided. When ready for an inspection, call the inspector providing as much advance notice as possible. The inspector will need the job location and permit number. Schedule permitting, an inspector will respond to an inspection request within 2 business days to schedule the inspection. The inspector will typically perform the inspection within 5 business days as his or her schedule permits.

Date: 9/24/2022 - 2:57 PM Design ID: 314455297168 Estimated Price: \$11,034.01

*Today's estimated price. Future pricing may go up or down. Tax, labor, and delivery not included.

Design & Buy

GARAGE

How to recall and purchase your design at home:

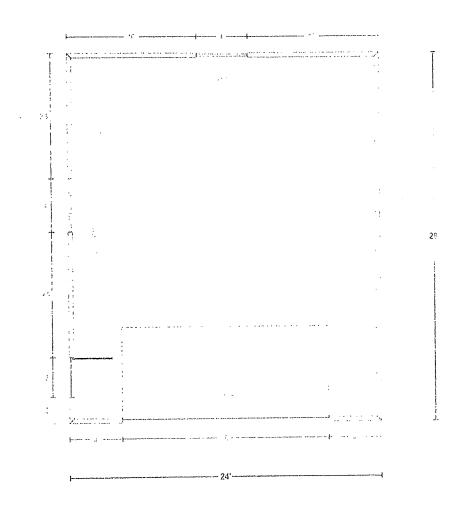


- 1. On Menards.com, enter "Design & Buy" in the search bar
- Select the Garage Designer
 Recall your design by entering Design ID: 314455297168
 Follow the on-screen purchasing instructions

How to purchase your design at the store:

- 1. Enter Design ID: 314455297168 at the Design-It Center Kiosk in the Building Materials Department
 2. Follow the on-screen purchasing instructions

Garage Image



4868 RAYMOND AVE SE KENTWOOD, MI 49508 (Property Address) Parcel Number: 41-18-29-326-031 Account Number: 103-0380-00-00 **Property Owner: ARIAS CATHERINE Summary Information** > Assessed Value: \$89,200 | Taxable Value: \$60,124 > Residential Building Summary Year Built: 1959 Bedrooms: 3 > Property Tax information found Full Baths: 1 Half Baths: 0 > 10 Building Department records found Sq. Feet: 1,260 - Acres: 0.226 > Utility Billing information found 1 197 Item 4 of 4 3 Images / 1 Sketch Owner and Taxpayer Information SEE OWNER INFORMATION ARIAS CATHERINE Taxpayer Owner ARIAS JOSADAC 4868 RAYMOND AVE SE KENTWOOD, MI 49508 General Information for Tax Year 2022 **65 CITY OF KENTWOOD** 401 RESIDENTIAL-IMPROVED **Property Class** Assessed Value \$89,200 Kentwood Public Schools **School District** \$60,124 Not Available Taxable Value NOTES State Equalized Value \$89,200 **USER NUMBER IDX** Not Available 11/02/2015 **INACTIVE YR** Not Available **Date of Last Name Change** Not Available VET EXEMPTION Not Available Notes Not Available **Historical District** Not Available **Census Block Group** Not Available Exemption No Data to Display **DUPLEX FIELD Principal Residence Exemption Information** 09/17/2015 **Homestead Date** Final Principal Residence Exemption June 1st 100.0000 % 100.0000 % 2022 Previous Year Information Final Taxable Final SEV Year MBOR Assessed \$58,204 2021 \$80,400 \$80,400 \$57,401 \$74,800 \$74,800 2020 \$56,331 \$69,800 \$69,800 2019 Land Information **Total Acres** 0.226 **Zoning Code** R1-C

Land Value

Renaissance Zone

\$40,000 No

Land Improvements

\$1,840

Renaissance Zone Expiration No Data to Display Date

ECF Neighborhood

Lot(s)

MEADOWLAWN PLATS, SEC 29 Mortgage Code SW 1/4

Not Available

Lot Dimensions/Comments

No Data to Display

Neighborhood Enterprise

Frontage

No

Depth 135.00 ft

73.00 ft Lot 1 Total Frontage: 73.00 ft

Average Depth: 135.00 ft

Legal Description

S 73 FT OF N 528 FT OF W 165 FT OF E 1089 FT OF SW 1/4 * SEC 29 T6N R11W 0.27 A.

Land Division Act Information

Split Number Courtesy Split Not Available No Data to Display **Parent Parcel** Sale History Sale Price Adj. Sale Price Instrument Grantor Grantee Terms of Sale Liber/Page Sale Date No sales history found. Building Information - 1260 sq ft RANCH (Residential) General Floor Area 1,260 sq ft **Estimated TCV** \$145,940 672 sq ft **Basement Area** 1,176 sq ft Garage Area 1,176 sq ft **Foundation Size Year Built** 1959 Year Remodeled No Data to Display Single Family Class CD Occupancy **Effective Age** 30 yrs Tri-Level No 100% Heat Forced Heat & Cool **Percent Complete** Wood Stove Add-on AC w/Separate Ducts No No Not Available Water Not Available **Basement Rooms** Not Available Sewer 1st Floor Rooms Not Available **2nd Floor Rooms** Not Available Style **RANCH** Bedrooms Area Detail - Basic Building Areas Area Heated Height Foundation Exterior 1,176 sq ft 1 Story 1 Story Basement Siding Area Detail - Overhangs Included in Size for Rates Area Story Height Exterior 84 sq ft 1 Story Siding Yes **Basement Finish** 0% **Recreation % Good** 0 sq ft Recreation Living Area 0 sq ft Living Area % Good 0% Walk Out Doors No Concrete Floor Area 0 0 sq ft **Plumbing Information** 1 3 Fixture Bath **Built-In Information** Vented Hood 1 Oven 1 Garage Information 672 sq ft Exterior Siding Area Detached **Foundation** 42 Inch **Common Wall** Finished No Year Built 1959 0 **Auto Doors** 0 **Mech Doors** Porch Information

Number of Splits Left

Unallocated Div.s of Parent

Rights Were Transferred

Unallocated Div.s Transferred 0

Not Available

Not Available

0

Date of Last Split/Combine

Date Form Filed

Acreage of Parent

Date Created

CPP

CPP

20 sq ft

16 sq ft

No Data to Display

No Data to Display

01/01/0001

0.00

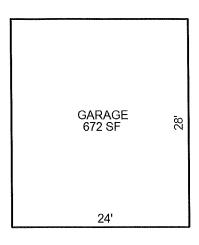
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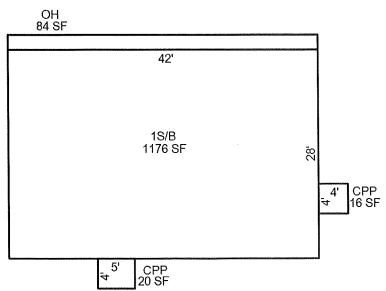
Foundation

Standard

Standard

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STAFF REPORT: March 15, 2023

PREPARED FOR: Kentwood Zoning Board of Appeals

PREPARED BY: Joe Pung

CASE NO.: V-23-04

GENERAL INFORMATION

APPLICANT: Michael Bykerk

4879 Kalamazoo Avenue, SE

Kentwood, MI 49508

STATUS OF

APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to construct an addition off of the rear of their

existing home. The existing detached garage is currently located in the rear yard, but with the proposed addition the structure would be located in the side yard. Zoning Ordinance Sections 3.15.C.1.a.and 3.16.C.7 require that the garage be located in the rear yard. The requested variance is to permit the detached garage to be located in

the side yard.

EXISTING ZONING OF

SUBJECT PARCEL: R2 Two Family Residential

GENERAL LOCATION: 4879 Kalamazoo Avenue

PARCEL SIZE: 1.03 acres

EXISTING LAND USE

ON THE PARCEL: Single Family Home

ADJACENT AREA

LAND USES: N - Single Family Homes & Duplex

S - Duplex

E - Kalamazoo Avenue ROWW - Single Family Home

ZONING ON ADJOINING

PARCELS: N - R2 Two Family Residential

R2 Two Family Residential
R - R2 Two Family Residential
R - R2 Two Family Residential
W - R1-C Single Family Residential

Staff Comments:

- 1. The applicant wishes to construct an addition off of the rear of their existing home. The existing detached garage is currently located in the rear yard, but with the proposed addition the structure would be located in the side yard. Zoning Ordinance Sections 3.15.C.1.a.and 3.16.C.7 require that the garage be located in the rear yard. The requested variance is to permit the detached garage to be located in the side yard.
- 2. The existing home was constructed in 1880. Staff could not locate a record of a building permit for the detached garage; the applicant has indicated that the detached garage has been there for at least 75 years. The detached garage is setback approximately thirty (30) feet from the existing home; the setback from the proposed addition would also be approximately thirty (30) feet.
- 3. The Zoning Board has reviewed thirty (30) requests for location variances for accessory buildings since 1985. Of the thirty (30) requests, sixteen (16) involved locating accessory structures in a side yard, the requests were as follows:

Appeal	Address	Action
V-20-10	2069 Bayham Drive	Withdrawn (accessory bldg. in side yard)
V-18-14	3236 – 52 nd Street	Granted (accessory bldg. in side yard
V-18-04	5475 Settler Pass	Granted (accessory bldg. in front and
		side yards
V-12-15	2100 Highlander Drive	Granted (shed in side yard)
V-12-14	3380 – 52 nd Street	Granted (accessory bldg. in side yard)
V-11-06	3694 Lake Drive	Granted (gazebo in front and side yards)
V-09-06	3130 Lindenwood Drive	Granted (accessory bldg. in side yard)
V-08-22	1677 Gentian Drive	Granted (accessory bldg. in side yard)
V-08-01	3130 Lindenwood Drive	Granted (accessory bldg. in side yard)
V-04-18	3291 – 60 th Street	Denied (accessory bldg. in side yard)
V-99-16	1120 Falling Brook Drive	Denied (accessory bldg. in side yard)
V-98-13	3554 Breezewood Drive	Granted (pool in front and side yards)
V-88-33	3909 Lake Drive	Granted (accessory bldg. in side yard)
V-87-32	East Paris Avenue	Granted (accessory bldg. in side yard)
V-87-25	East Paris Avenue	Denied (accessory bldg. in side yard)
V-87-06	5700 Promise Drive	Withdrawn (swimming pool)

Whether or not the requests were approved or denied depended on the ability to meet the nonuse variance standards of the Kentwood Zoning Ordinance.

Each of the sixteen (16) variance requests identified above was related to the construction of a new detached accessory structure; this request is the first where the requested variance is the result of an expansion of the primary structure on the property.

4. Addresses submitted by applicant.

Address	Comments
1844 Gerda Street	Garage was built in 1973
1509 – 52 nd Street	Home built in 1944 (no bldg. permit record for home or
	garage)
$1149 - 52^{\rm nd} \text{ Street}$	18x20 garage built in 1993
$1234 - 52^{\text{nd}}$ Street	24x24 garage built in 1985
5114 – 51 st Street (Blaine)	Corner lot
5116 Mildred Avenue	14x22 garage built in 1960/12x12 family room addition in 1969
441 Marlow (52 nd Street)	Corner lot
340 – 58 th Street	22x26 garage built in 1966
1822 – 60 th Street	Not in Kentwood (south side of 60 th Street)
2500 – 32 nd Street	2-stall garage built in 1988
$2480 - 32^{\text{nd}}$ Street	Home built in 1945 (no bldg. permit record for home or
	garage)
$2609 - 32^{\text{nd}}$ Street	20x20 garage built in 1994
$2730 - 32^{\text{nd}}$ Street	Attached garage
123 Montebello Street	24x30 garage built in 1994
5475 Settlers Pass	Variance granted in 2018 (V-18-04)
5301 Wing Avenue	24x24 garage built in 1989
1677 Gentian Drive	Variance granted in 2008 (V-08-22)
2239 – 60 th Street	20x20 garage built in 2002
5789 Kalamazoo Avenue	24x32 garage built in 2003 (appears to be in rear yard)
4117 Kalamazoo Avenue	Not in Kentwood (Grand Rapids)
5429 Kalamazoo Avenue	22x22 garage built in 1971
5357 Kalamazoo Avenue	22x22 garage built in 1963/expanded in 2008

- 5. A non-use variance may be allowed by the Zoning Board of Appeals only in cases where the applicant demonstrates through competent material and substantial evidence on the record that ALL of the following exist:
 - 1) That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include by way of example:
 - a) Exceptional narrowness, shallowness or shape of the property on the effective date of this ordinance; or
 - b) Exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure.

The area of the property (over an acre) is fairly exceptional for parcels zoned R2 Two Family Residential and developed with a single or two-family residence. Based on research by staff there are only a handful (less than 10) of such properties in

Kentwood. The age of the existing structures is exceptional for Kentwood. The distance between the existing home and the detached garage is exceptional for similarly zoned properties.

2) That the condition or situation on which the requested variance is based does not occur often enough to make more practical adoption of a new zoning provision.

The size of the property, age of existing structures, and distance between the home and detached garage are exceptional for properties zoned R2 Two Family Residential in Kentwood.

3) The literal application of the provisions of the Zoning Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zone district.

Without a variance, several options available to construct an addition would be 1) demolished the existing garage and construct a new one behind the proposed addition, 2) connect the detached garage to the main structure, or 3) modify the addition so that the detached garage remains in the rear yard.

4) The variance will not be detrimental to adjacent property and the surrounding neighborhood.

It is not anticipated that the variance would be detrimental to adjacent property or the surrounding neighborhood. There would be no change in the location of the existing detached garage, or modify the addition so that the detached garage remains in the rear yard.

5) Taken as a whole, the variance will not impair the intent and purpose of the Zoning Ordinance.

Based on the circumstances and conditions applying to the property and with a condition that such variance would only apply to the existing structure, granting the variance may not impair the intent and purpose of the ordinance to limit where detached accessory structures can be placed on residential properties.

6) The exceptional conditions or circumstances do not result from the actions of the applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of the parcel.

The exceptional conditions and circumstances applying to the property did not result from the actions of the applicant.

6. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in the Zoning Ordinance, attach other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of the Ordinance and the protection of the public interest or as otherwise

permitted by law.

If the variance is granted, it should apply only to the existing detached garage. Construction of a new detached accessory structure would have to comply with Zoning Ordinance regulations.

7. A majority vote by at least four members of the Zoning Board is necessary to approve the requested variance.

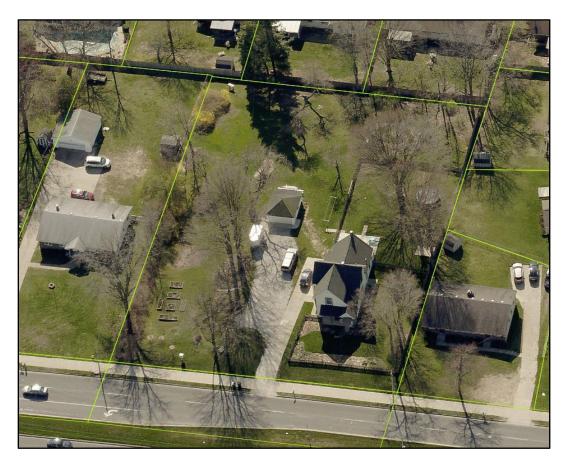
Exhibit 1: Location of Variance Request



Exhibit 2: April 2020 Pictometry Photo (view from the south)



Exhibit 3: April 2020 Pictometry Photo (view from the east)



CITY OF KENTWOOD ZONING BOARD OF APPEALS NON-USE VARIANCE APPLICATION

APPEAL # 1-23-09
APPLICANT: Michael Bykerk HEARING DATE Morch 20, 2003 PHONE # 616-291-8346
ADDRESS: 4879 Kalamazoo SE Kentwood, MI
PROPERTY OWNER: Michael Bykerk PHONE # 616-291-8346
ADDRESS: 4879 Kalamazoo SE Kentwood, MI
LOCATION OF VARIANCE (If applicable) 4879 Kalamazoo SE
zoning district of property: R2
ZONING ORDINANCE SECTION (S) APPEALED: 3-15-C-1
NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit) Addition on the rear of house when built will violate 3-15-C Garage accessory building not in the rear yard 375 sq.t
JUSTIFICATION OF APPEAL: Briefly describe how your appeal meets the Standards of Section 21.04B of the Kentwood Zoning Ordinance. Each standard must be met.
STANDARD (1): See attached
STANDARD (2): See attached
STANDARD (3): See attached
STANDARD (4): See attached
STANDARD (5) See at-tached
STANDARD (6) See attached
T year

Justification of appeal

4879 Kalamazoo SE

Standard #1

The addition was designed to have minimal contact with the original house. The original foundation is stone rubble and 143 years old. Turning the addition to fit the ordinance would require us to excavate along this foundation more than what anyone is comfortable with. Attaching the addition in any other area is going to encroach on the side yard setback, neighbors' views or access to the detached garage. If we had to attach the addition in any other area it is going to negatively affect the charm of the original farm house that the owners are so proud of.

Standard #2

Not many houses in Kentwood are 143 years old. Preserving this farm house is a big concern of ours. Turning the addition to meet the ordinance and jeopardizing the foundation is not a risk we are willing to take.

Standard #3

Throughout Kentwood many homes have detached accessory buildings in side yards. See example list.

Standard #4

This parcel is 1.24 acres. Given its size and the direction of the addition we are proposing we do not believe it will be detrimental to the neighborhood. In fact we believe that the addition location could not be any better located while minimally affecting the neighbors

Standard #5

The detached building has been in its location for about 75 years. It is 126' off from the sidewalk. We understand that the ordinance is there to keep accessory buildings from being too close to the road or too close to the front of the house. Its location does not change and therefore we believe that the intent of the ordinance will not be changed by our actions.

Standard #6

The detached building has been there much longer than the homeowners. It has not been a problem for the past 75 years. Building an addition should not change what has been accepted for the past 75 years. We would understand the issue if we were asking to build a detached building in a nonconforming location.

Return to Planning Department PHONE: 554-0707, FAX NO. 698-7118

Zoning Board of Appeals

Addresses of houses with detached buildings not in the rear yard



