



**AGENDA**  
**KENTWOOD ZONING BOARD OF APPEALS**  
**KENTWOOD CITY HALL**  
**COMMISSION CHAMBERS**  
**4900 BRETON AVENUE, SE**  
**FEBRUARY 19, 2024, 7:00 P.M.**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Declaration of Conflict of Interest
5. Approval of Minutes of January 17, 2024
6. Acknowledge visitors and those wishing to speak to non- agenda items.
7. Public Hearing

**Appeal #V-23-10 (Applicant has requested to postpone to March 18, 2024)**

Applicant: Church of Jesus Christ of Latter-day Saints  
Location: 2400 Forest Hill Avenue, SE

Request: The applicant wishes to construct a 112-foot high spire as part of a proposed temple. Section 3.03.A of the Kentwood Zoning Ordinance limits the height of the spire to 50-feet. The requested variance is for an increase in height of 62-feet to the maximum height permitted by the Zoning Ordinance

**Appeal #V-24-01**

Applicant: Lynn Garreau  
Location: 1677 Gentian Drive

Request: The applicant wishes to install a second driveway off of Gentian Drive for the property. Section 17.11.B of the Kentwood Zoning Ordinance limits the number of driveways to one (1). The requested variance is to permit a second driveway for the property.

**Appeal #V-24-02**

Applicant: Calvin University  
Location: 1661 East Paris Avenue & 3770 Lake Drive

Request:                   The applicant wishes to install an eight (8) foot high chain link/metal mesh fence on the property. Section 3.19.B.3 restricts the height to six (6) feet. The requested variance is for a two (2) foot increase in height over the maximum allowed by ordinance.

8.     Commissioners Comments
9.     Adjournment

**PROPOSED MINUTES OF THE REGULAR MEETING  
OF THE KENTWOOD ZONING BOARD OF APPEALS  
CITY COMMISSION CHAMBERS  
JANUARY 17, 2024, 7:00 P.M.**

1. Vice-Chair Spalding called the meeting to order.
2. Pledge of Allegiance (VanNoord)
3. Roll Call  
MEMBERS PRESENT: Joshua Elliott, Amanda Le, Robert Spalding, David Fant, Mary VanNoord and Susan West  
MEMBERS ABSENT: Les Derusha and Robert Houtman (absent with notification)  
OTHERS PRESENT: Planner Joe Pung, Planning Assistant Monique Collier-Johnson,

**Motion by Fant, supported by West, to excuse Derusha and Houtman from the meeting.**

- Motion Carried (6-0) –
- Derusha and Houtman absent -

4. 6:30p.m. Closed Session  
Motion to enter closed session to discuss a written legal opinion which is exempt from discussion or disclosure under state law as permitted under Section 8(h) of PA 267 Michigan Open Meetings Act of 1976. (roll call vote)

**Motion by West, supported by VanNoord, to enter closed session.**

- Motion Carried (6-0) –
- Yays: Spalding, Lee, Elliott, Fant, VanNoord, West -

5. Motion to Reconvene from Closed Session

**Motion by Elliot, supported by West, to reconvene from the closed session meeting.**

- Motion Carried (6-0) –
- Yays: Spalding, Lee, Elliott, Fant, VanNoord, West -

6. Declaration of Conflict of Interest

There was no conflict of interest expressed.

7. Approval of the Minutes and Findings of Fact

**Motion by VanNoord, supported by West, to approve the minutes of December 18, 2023.**

- Motion Carried (6-0) –
- Derusha and Houtman absent

8. Acknowledge visitors and those wishing to speak to non-agenda items.

There was no public comment.

9. Old Business

**Consideration to table action on Resolution to deny request V-23-10.**

Appeal #V-23-10

Applicant: Church of Jesus Christ of Latter-day Saints  
Location: 2400 Forest Hill Avenue, SE

Request: The applicant wishes to construct a 112-foot high spire as part of a proposed temple. Section 3.03.A of the Kentwood Zoning Ordinance limits the height of the spire to 50-feet. The requested variance is for an increase in height of 62-feet to the maximum height permitted by the Zoning Ordinance

**Motion by Fant, supported by West, to table V-23-10 to the February 19, 2024 meeting.**

- Motion Carried (6-0) –
- Derusha and Houtman absent -

10. Public Hearing

Appeal #V-24-01

Applicant: Lynn Garreau  
Location: 1677 Gentian Drive

Request: The applicant wishes to install a second driveway off of Gentian Drive for the property. Section 17.11.B of the Kentwood Zoning Ordinance limits the number of driveways to one (1). The requested variance is to permit a second driveway for the property.

The applicant was not present.

**Motion by Fant, supported by West, to table V-24-01 to the February 19, 2024 meeting.**

- Motion Carried (6-0) –
- Derusha and Houtman absent -



11. Commissioners Comments
12. Adjournment

**Motion by West, supported by Fant, to adjourn the meeting.**

- Motion Carried (6-0) –
- Houtman and Derusha absent -

Meeting adjourned at 7:15 p.m.

Respectfully submitted,

Robert Houtman, Secretary

# VARNUM

Bridgewater Place | Post Office Box 352  
Grand Rapids, Michigan 49501-0352  
Telephone 616 / 336-6000 | Fax 616 / 336-7000 | [www.varnumlaw.com](http://www.varnumlaw.com)

David T. Caldon

Direct 616 / 336-6232  
[dtealdon@varnumlaw.com](mailto:dtealdon@varnumlaw.com)

February 12, 2024

## VIA EMAIL & U.S. MAIL

[schweitzert@kentwood.us](mailto:schweitzert@kentwood.us)

Mr. Terry Schweitzer  
Community Development Director  
City of Kentwood  
P.O. Box 8848  
Kentwood, Michigan 49518

**Re: Request for Further Postponement of Action on Variance Application for  
2400 Forest Hill Avenue SE**

Dear Mr. Schweitzer:

We represent The Church of Jesus Christ of Latter-day Saints (the "Church") relative to its application for a steeple height variance for the Church's proposed new temple to be located at 2400 Forest Hill Avenue, SE, Grand Rapids, Michigan 49546 (the "Application").

As you know, the Church and its counsel have been engaged in discussions with City Staff and the City Attorney's office regarding the Application. Accordingly, I am writing to you today to request that the Zoning Board of Appeals ("ZBA") further table its proposed action on the Application until the ZBA's March meeting to allow the Church and the City additional time to continue discussions regarding the Application.

Very truly yours,

**VARNUM**



David T. Caldon

DTC/tmb

cc: Jeff Sluggett, Bloom Sluggett, PC  
Greg Rasmussen, The Church of Jesus Christ of Latter-day Saints  
Daniel Holt, The Church of Jesus Christ of Latter-day Saints  
David Case, Jacobs  
Loyal Hulme, Kirton McConkie

22426855.1

STAFF REPORT: January 10, 2024  
PREPARED FOR: Kentwood Zoning Board of Appeals  
PREPARED BY: Joe Pung  
CASE NO.: V-24-01

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#### GENERAL INFORMATION

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APPLICANT: Lynn Garreau  
1677 Gentian Drive, SE  
Kentwood, MI 49508

STATUS OF  
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to install a second driveway off of Gentian Drive for the property. Section 17.11.B of the Kentwood Zoning Ordinance limits the number of driveways to one (1). The requested variance is to permit a second driveway for the property.

EXISTING ZONING OF  
SUBJECT PARCEL: R1-C Single Family Residential

GENERAL LOCATION: 1677 Gentian Drive, SE

PARCEL SIZE: 35,039 square feet (.8 acres)

EXISTING LAND USE  
ON THE PARCEL: Single Family Residence

ADJACENT AREA  
LAND USES: N: Single Family Homes  
S: Gentian Drive ROW  
E: Single Family Home  
W: Single Family Home

ZONING ON ADJOINING  
PARCELS: N: R1-C Single Family Residential  
S: R1-C Single Family Residential  
E: R1-C Single Family Residential  
W: R1-C Single Family Residential

Staff Comments:

1. The applicant wishes to install a second driveway off of Gentian Drive for the property. Section 17.11.B of the Kentwood Zoning Ordinance limits the number of driveways to one (1). The requested variance is to permit a second driveway for the property.
2. Section 17.11.B of the Kentwood Zoning Ordinance reads as follows:

**B. Number.** The number of driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles. Typically, one (1) access point may be provided per lot.

*Last year the applicant appealed the Zoning Administrator's determination that one (1) driveway is sufficient to provide reasonable access to the property (Case V-23-19). The Zoning Board of Appeals upheld the Zoning Administrator's determination, and the applicant has subsequently filed a variance request to have a second driveway.*

3. The existing home and 624 square foot attached garage were constructed in 1961. The existing 384 square foot detached accessory structure was constructed in 2009 (Case V-09-03).
4. Lots 39 & 40 of Pine Bluff Homesite No. 1 (see Exhibit 2) were combined in May of 1978 to create the current configuration of 1677 Gentian Drive.
5. The following variances have been granted for this property:

Case V-08-22: Variances to permit a detached accessory structure in the side yard and for an increase in area of seventy (70) square feet.

Case V-09-03 Variance for an increase in area of one hundred thirty-four (134) square feet for a detached accessory structure.

The minutes from the 2008 and 2009 Zoning Board of Appeals meetings for Case V-08-22 and Case V-09-03 reflect that the applicant stated that the intended use of the detached accessory structure was for the storage of a lawn mower, snow blower, and a 1950 Chevy truck. Based on the intended and allowable use of the detached accessory structure, the installation of a second driveway to serve the structure would not be warranted.

6. The existing driveway and attached garage appear to be able to provide parking for upwards of six (6) passenger vehicles, which should be sufficient for a typical single family home. There is a provision in the Zoning Ordinance which makes allowance for the expansion of residential driveways which could provide parking for an additional two (2) vehicles.
7. The Kentwood Zoning Ordinance makes allowance for the limited expansion, with Zoning Administrator approval, of residential driveways. The applicant was notified in an email (see Exhibit 3) from the Kentwood Engineering Department on April 20, 2023, that approval from the Kentwood Planning & Zoning Department would be required to install a second driveway to serve the detached accessory structure. The property owner applied for Zoning Administrator approval for a second driveway and concrete approach; the

request was denied on September 21, 2023 (see Exhibit 4). An inspection by the Kentwood Engineering Department on October 3, 2023, verified that a driveway from sidewalk to the detached accessory structure had been installed (see Exhibit 5) without city approval. The applicant was notified in a letter dated October 4, 2023 (see Exhibit 6) that the installation of the driveway was in violation of the Kentwood Zoning Ordinance and would have to be removed.

8. In 2010 the applicant received approval to operate a home occupation business with the restrictions that the home would only be used for office functions, there could be only one truck parked outdoors, and a small trailer could be stored in the garage. In a residential area the Zoning Ordinance allows as an accessory use the open off street parking of one commercial vehicle operated by the occupant of the lot; such vehicles (which does not include equipment such as trailers) are restricted to a gross vehicle weight of no more than ten thousand (10,000) pounds.

The requirements/restrictions for a home based occupation business are as follows:

- a. Home occupations shall be approved by the Zoning Administrator, who may issue an approval upon receipt of a letter from the applicant stating an intent to comply with the requirements of this Section and the specific measures by which compliance will be maintained.
  - b. No person other than members of the immediate family residing on the premises shall be engaged in the home occupation.
  - c. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty percent (20%) of the floor area of the dwelling shall be used in the conduct of the home occupation.
  - d. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one (1) sign not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the main building.
  - e. The home occupation shall be operated in its entirety within the main building.
  - f. There shall be no sale of products or services except as are produced on the premises by the home occupation.
  - g. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in the Residential District in which it is located, and any need for parking generated by the conduct of the home occupation shall be met off the street on the property's driveway.
  - h. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single family dwelling, or outside the dwelling unit if conducted in other than a single family residence. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.
9. At the December 18, 2023, hearing for Case V-23-19, the applicant stated that the existing detached accessory structure and proposed driveway would not be used for a home based business.

In the applicant's initial discussion with the Engineering Department about an additional driveway, they indicated that it was needed for commercial use on the property. In addition, based on aerial photos (see Exhibits 7 through 11), on multiple occasions trailers and other equipment have been parked/stored adjacent to the detached accessory structure..

10. The Zoning Board of Appeals has heard four (4) variance requests related to the number of driveways serving a property; three (3) of the requests were for commercially zoned properties and one (1) request was for a residentially zoned property. The single residential request was:

Case #	Address	Action
V-04-15	4511 Shiloh Way Drive	Denied ( request for two driveways)

Whether the variance was approved or denied depended on its ability to meet the non-variance standards of the City of Kentwood Zoning Ordinance.

11. 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 **ALL** of the following conditions are met:

**In light of advice received by the City Attorney's office based on prevailing law, interpretive guidance to each variance standard is provided in parenthesis.**

- 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.

(provided that this standard may be met, notwithstanding the Zoning Ordinance language, when a literal application of the Zoning Ordinance would result in practical difficulties to the applicant. Practical difficulties may be found when either: 1) a denial of the variance deprives an owner of the use of the property, 2) literal application of the Zoning Ordinance would be unnecessarily burdensome, or 3) granting the variance would do substantial justice to the applicant. Practical difficulties need not be inherent to the land)

**The property is a residential lot resulting from the combination of two (2) platted lots (see Exhibit 2). There are other residential properties in Kentwood that are the result of the combination of platted lots, so the situation is not unique.**

**There is an open drain and drainage easement (see Exhibit 12) that encumbers**

**the northern portion of the property. Residential properties with drainage easements are common. The extent to which the drainage easement encumbers the property may be exceptional and restrict where a detached accessory structure could be placed on the property, but it would not necessarily warrant the need for a second driveway.**

- 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.

**A residential property resulting from the combination of platted lots is not unique. Residential properties containing drainage easements are not unique; the extent of the encumbrance may be exceptional but not necessarily as it relates to number of driveways needed to serve the property.**

- 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.

**(provided that this standard may be met, notwithstanding the Zoning Ordinance, when practical difficulties are established pursuant to standard number 1)**

**The applicant identified locations of other properties having two (2) driveways; all but one (1) of the properties are unplatted lots and all but two of the homes were constructed prior to 1970. Failure to receive a variance would not deprive the applicant of property rights commonly enjoyed by other properties in the same zone district. The property will continue to have reasonable access.**

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

**Depending on the use of the second driveway it could be detrimental to adjacent property and the surrounding neighborhood from increased traffic, etc.**

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

**Based on the existing circumstances the variance could impair the intent and purpose of the Zoning Ordinance as it relates to limiting the number of driveways serving 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.

**(provided that this standard may be met, notwithstanding the Zoning Ordinance,**

when the practical difficulty does not arise from the actions of the applicant. The actions of the applicant do not involve purchasing the property with knowledge of the Zoning Ordinance restrictions)

**Exceptional conditions or circumstances identified by the applicant were not the result of the actions of the applicant but also do not warrant granting a variance for an additional driveway.**

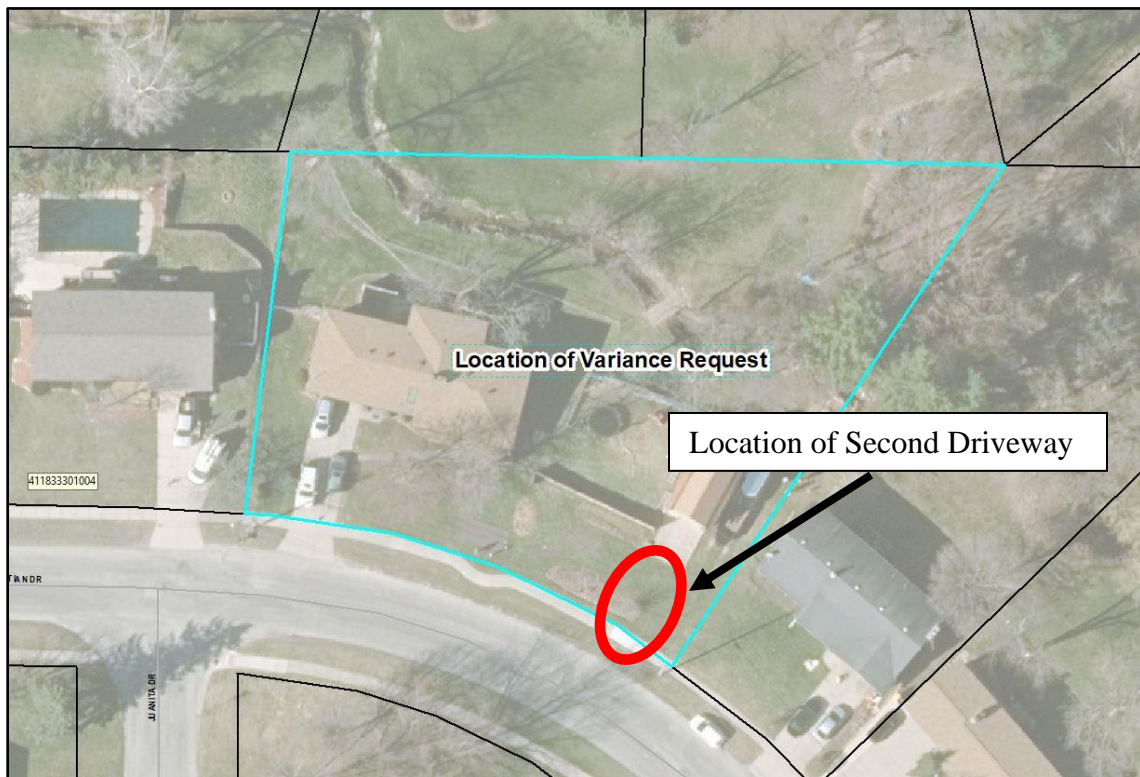
12. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in the Zoning Ordinance, attach other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of the Ordinance and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

**If approved the variance should be conditioned on the second driveway not being used for any home occupation or other commercial purpose.**

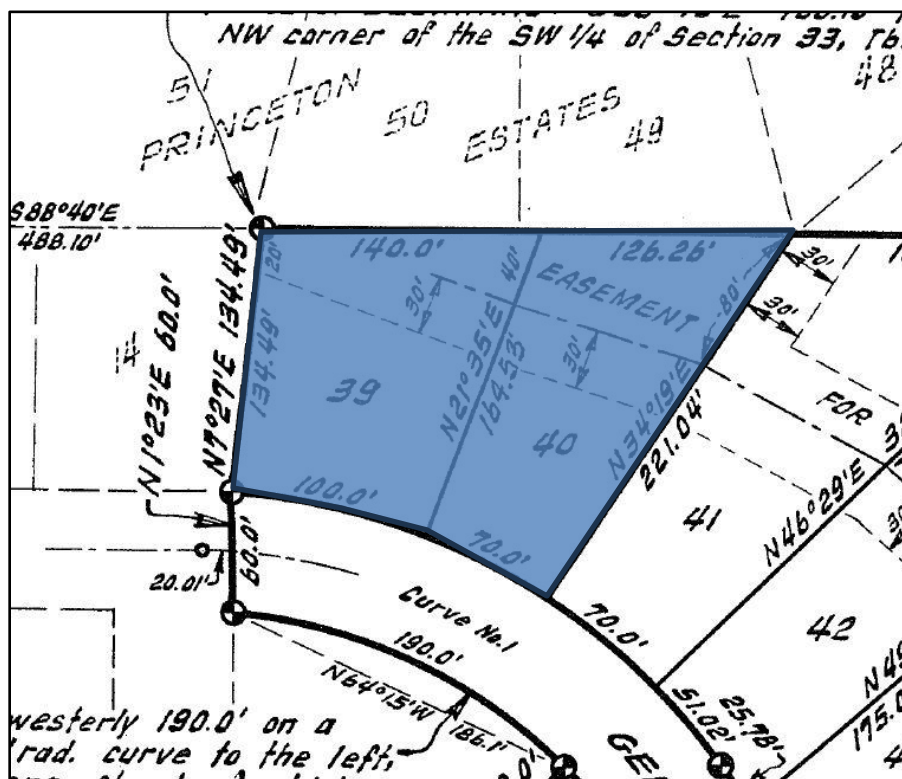
13. A majority vote by at least four members of the Zoning Board is necessary to approve the requested variance.



**Exhibit 1: Location of Variance Request (2020 Aerial Photo)**



**Exhibit 2: Platted Lots Combined to Create Current Parcels**



### Exhibit 3: Engineering Department Email

**Pung, Joe**

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**From:** Beke, Jim  
**Sent:** Wednesday, September 20, 2023 9:14 AM  
**To:** tom.stellema@aol.com  
**Cc:** Schweitzer, Terry; Pung, Joe; Hargrave, Renee; Urena, David  
**Subject:** FW: 1677 Gentian Dr - 2nd Driveway  
**Attachments:** Drive Permit Application Package.pdf

Tom,  
I will be out in & out of the field this morning but wanted to make you aware of a previous discussion I had with Lynn Garreau back in April concerning the second driveway to the barn on the east side of the property.  
Before Engineering can issue a driveway permit for its construction, the property owners will either need a variance from Planning & Zoning for the second driveway if it is currently being used commercially, and it will be required to concrete versus HMA. If you have any questions feel free to call me, but following up with an email may be best as I cannot guarantee I will be in the office to answer your call.  
Jim

*James M Beke*  
*Kentwood Engineering Dept.*  
*4900 Breton Ave SE*  
*Kentwood, MI 49508*  
*Phone: (616) 554-0737*  
*Fax: (616) 698-7118*  
[bekej@ci.kentwood.mi.us](mailto:bekej@ci.kentwood.mi.us) 

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**From:** Beke, Jim  
**Sent:** Thursday, April 20, 2023 2:50 PM  
**To:** lynngarreau@gmail.com  
**Cc:** ePlanning <eplanning@kentwood.us>  
**Subject:** 1677 Gentian Dr - 2nd Driveway

Lynn,  
As requested, here is the City of Kentwood's driveway application packet for the proposed 2<sup>nd</sup> driveway at 1677 Gentian Dr.  
As we discussed, the drive entrance would need to either be concrete or asphalt, and the sidewalk through the driveway would need to be removed and replaced at 6" thick.  
In order to place a second driveway to serve the pole barn on the east side of your property, you would need approval from the Kentwood Planning & Zoning Dept (616) 554-0707.  
Upon receipt of their authorization and the attached bond and a certificate of insurance naming the City as additionally insured for work performed within the public ROW, Engineering can issue permits to Cardinal Remodeling throughout calendar year 2023.  
Please note, that if the authorization for the second driveway is granted as a use of a commercial property (currently zoned residential by our Assessor), then you would be required to construct your driveway in concrete, as asphalt is only permitted for residential units.  
If I can be of any additional assistance do not hesitate to contact me at one of the numbers below.  
Jim

*James M Beke*  
*Kentwood Engineering Dept.*

**Exhibit 4: Zoning Administrator Review Application**

**ZONING ADMINISTRATOR REVIEW  
KENTWOOD PLANNING DEPARTMENT**

**A. Check appropriate request**

ASSESSORYBLDG/ SHED ☐

DRIVEWAY ☒

OTHER (DESCRIBE) ☒

Concrete approach between sidewalk and Street.

**B. Description of Property**

1677Gentian Dr SE  
1. Address \_\_\_\_\_

33-301-040  
2. Permanent Parcel Number 41-18- \_\_\_\_\_

**B. Owner**

Garreau, Lynn  
Owner \_\_\_\_\_

Same  
Address \_\_\_\_\_

616-827-1200  
Phone \_\_\_\_\_

Lgarreau@sbcglobal.net  
Email \_\_\_\_\_

(\*Please provide email for correspondence\*)

Signature Lynn Garreau

**D. Authorization for city staff to enter the property for evaluation.**

YES ☒

NO ☐

Approved ☐

Denied ☒

Conditions Can appeal interpretation to  
Zoning Board of Appeals

[Signature]  
Staff Signature

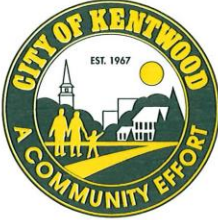
9/21/23  
Date



**Exhibit 5: Picture of Driveway (October 3, 2023)**



**Exhibit 6: Zoning Violation Letter**



October 4, 2023

Lynn Garreau  
1677 Gention Drive, SE  
Kentwood, MI 49508

RE: Illegal Installation of Second Driveway and Additional Parking Lane

Mr. Garreau:

On September 21, 2023, you met with city planning staff seeking administrative authorization to install a second driveway for your property at 1677 Gention Drive, SE. Based upon I report I received yesterday from the Kentwood Engineering Department; it appears you went ahead and installed a concrete driveway from the public sidewalk up to your accessory structure on the eastern portion of your property even though your request for authorization was denied.

Section 17.11B of the Kentwood Zoning Ordinance specifies that the number of driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles and typically one (1) access point may be provided per lot. In addition, Section 5.03.D.2a of the Zoning Ordinance specifies that the off-street parking facilities required for single family dwellings shall be located on the same lot as the building they are intended to serve. Parking is limited to the garage and driveway only. One (1) additional parking lane may be allowed with Zoning Administrator approval.

You have until October 19, 2023, to remove the new concrete driveway. Failure to comply with these requirements may result in the issuance of a Municipal Civil Infraction Notice of Violation and associated fines. Payment of the fine would not relieve you of the responsibility to remove the new driveway.

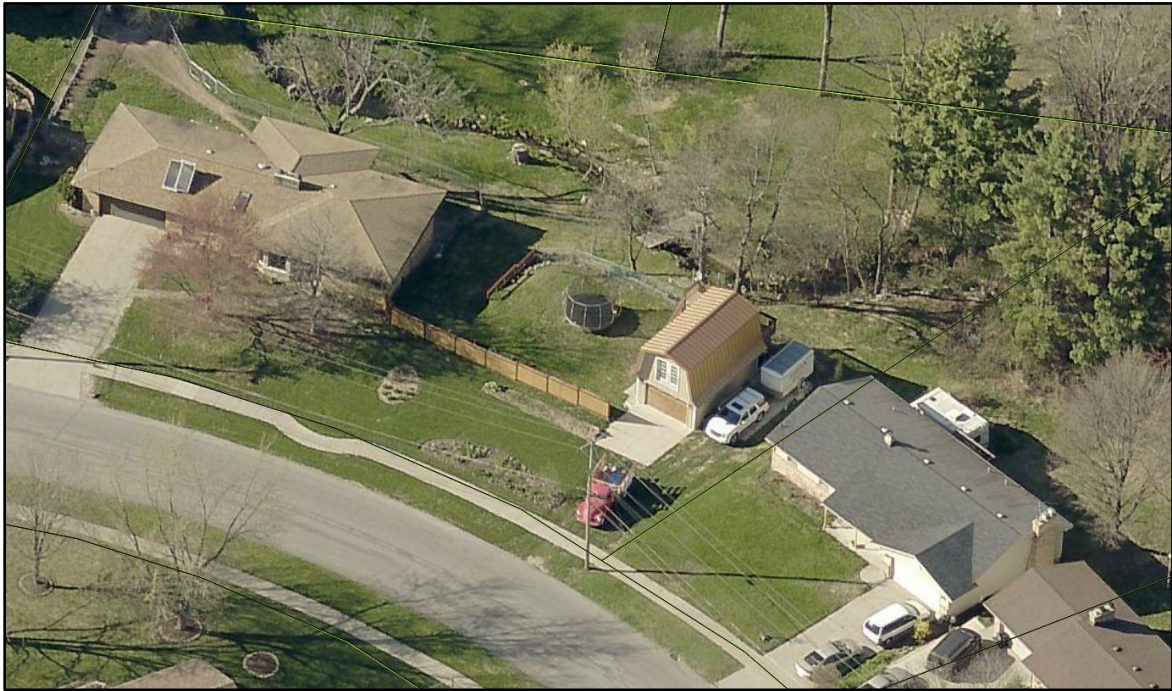
Please contact me with any questions.

Sincerely,

Terry Schweitzer  
Community Development Director  
Phone: (616) 554-0710  
[schweizert@kentwood.us](mailto:schweizert@kentwood.us)



**Exhibit 7: May 2014 Pictometry Photo (view from the south)**



**Exhibit 8: April 2017 Pictometry Photo (view from the south)**

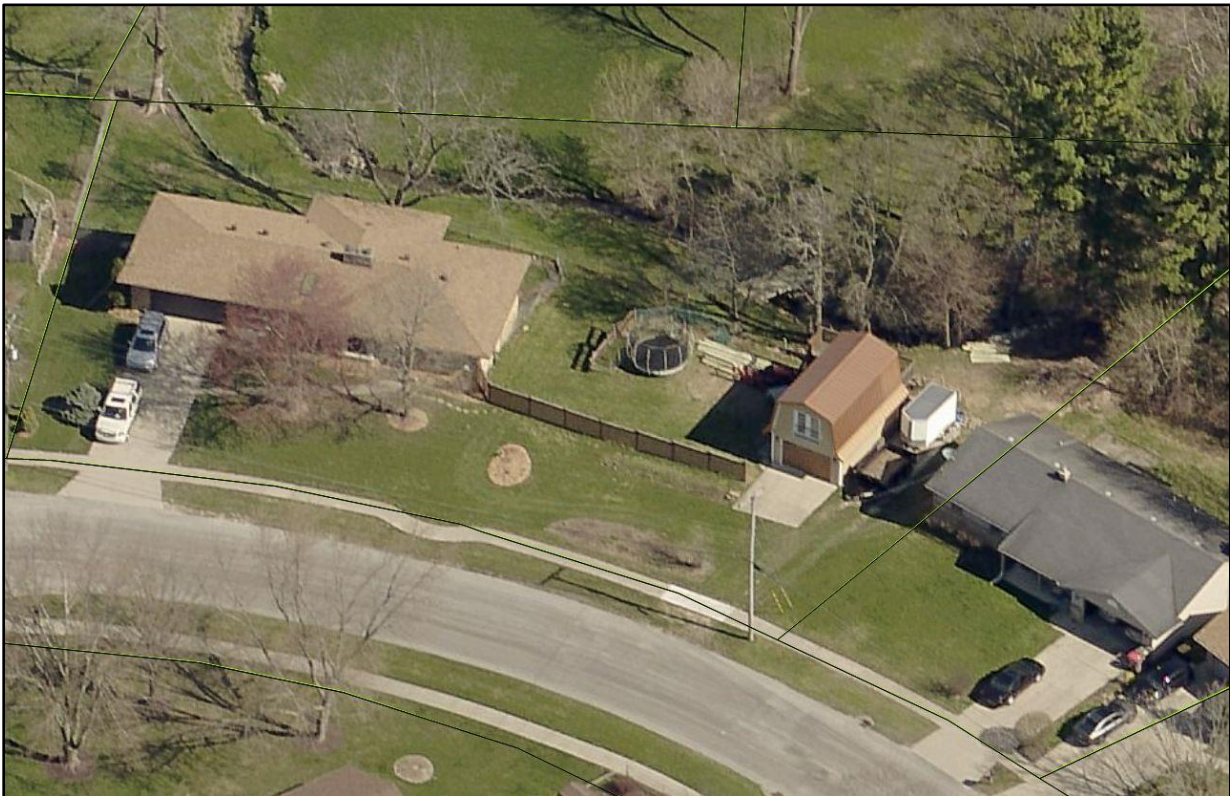




**Exhibit 9: April 2018 Pictometry Photo (view from the south)**



**Exhibit 10: April 2020 Pictometry Photo (view from the south)**





**Exhibit 11: April 2023 Pictometry Photo (view from the south)**



**Exhibit 12: Drain and Drainage Easement**







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

APPEAL # V-24-01  
HEARING DATE January 17, 2024 (Wednesday)  
PHONE # (616) 827-1200  
APPLICANT: Garreau, Lynn  
ADDRESS: 1677 Gentian Dr SE  
PROPERTY OWNER: Garreau, Lynn PHONE # (616) 827-1200  
ADDRESS: 1677 Gentian Dr SE  
LOCATION OF VARIANCE (If applicable) Same  
ZONING DISTRICT OF PROPERTY: R1-C  
ZONING ORDINANCE SECTION (S) APPEALED: 17.11.B

NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit)

Installation of additional driveway

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): Please see attached page.

STANDARD (2):

STANDARD (3):

STANDARD (4):

STANDARD (5):

STANDARD (6):

Zoning Board of Appeals  
Non-Use Variance Application  
Page 2

I hereby certify that all of the above statements and any attachments are correct and true to the best of my knowledge.

Authorization for city staff and board members to enter the property for evaluation.

Yes LM No \_\_\_\_\_

NAME OF APPLICANT: Lynn Garreau  
(Please print)

SIGNATURE OF APPLICANT: Lynn Garreau DATE: 12/5/23

NAME OF PROPERTY OWNER: Lynn Garreau  
(Please print)

SIGNATURE OF PROPERTY OWNER: Lynn Garreau DATE: 12/5/23

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

Filing Fee \$ \_\_\_\_\_

Escrow Fee (if applicable) \$ \_\_\_\_\_ Escrow fee to cover extraordinary fees directly attributable to the project review. Applicant will also be responsible for any other extraordinary fees in excess of the original escrow fee.

Lynn Garreau  
1677 Gentian DR SE

Standard #1 Exceptional conditions not applying to others:

- A. Pine creek drain runs East to West on the property making the back yard unsuitable for use do to regular flooding.
- B. The property is wider than deep. Two lots were combined into one. It's a double wide lot.

Standard #2 Frequency of the situation:

- A. Double wide lots with a 100% active and seasonally flooding creek running through the property are presumably rare.

Standard #3 Rights enjoyed by others:

- A. Double driveways are common in Kentwood. There are three on Wing ave and nine more on 52<sup>nd</sup> very close to the Kentwood city center.  
A neighboring property within 100 feet of 1677 Gentian enjoys a second driveway.

Standard #4 Surrounding property value:

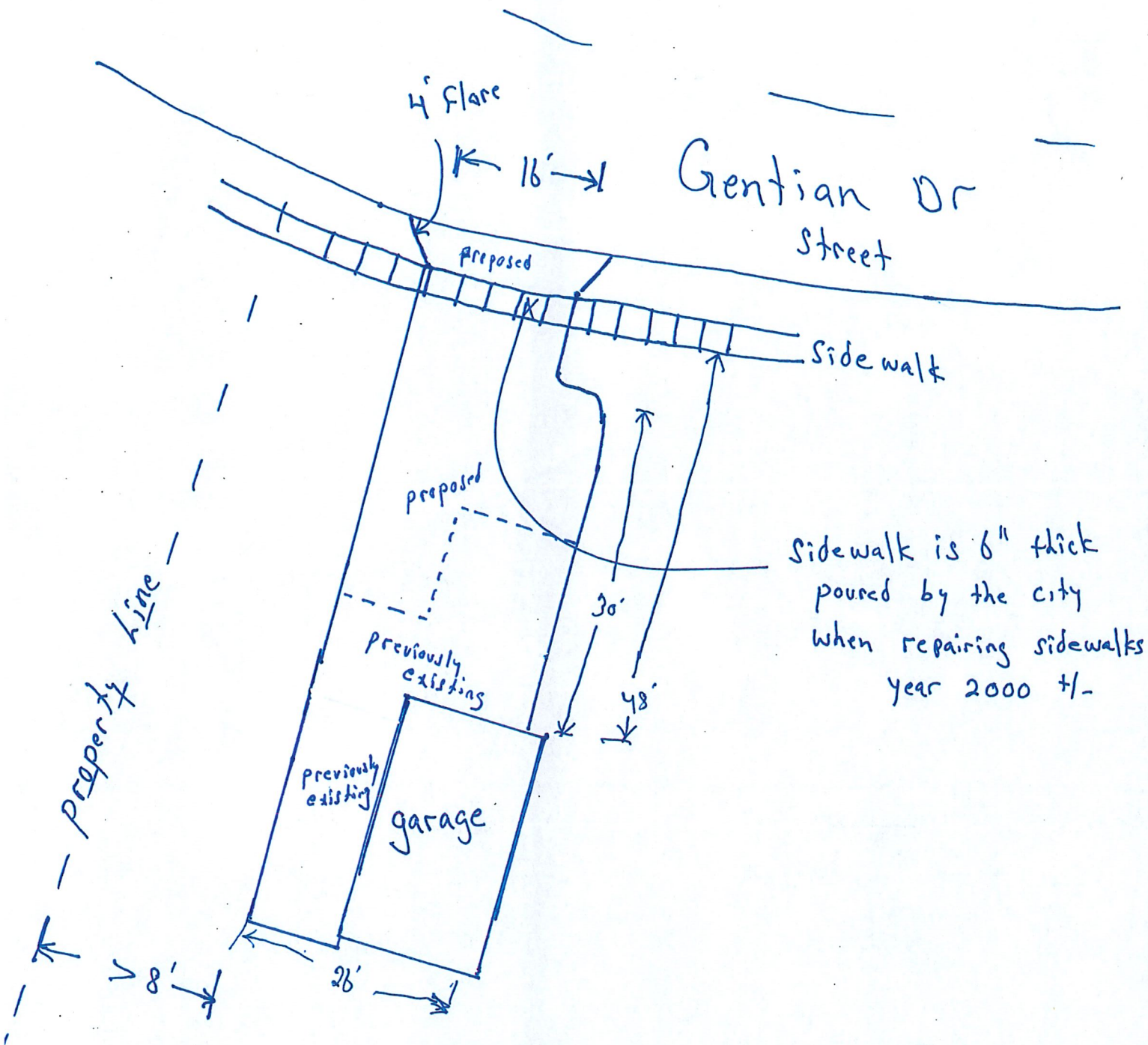
- A. Adequate off street parking is one of the most beneficial reasons for increased property values of neighborhoods. Having off street parking is a tremendous asset. Reports state that properties with their own parking facilities fetch up to Thirteen percent more than similar homes without.

Standard #5 Intent and purpose.

- A. The ordinance can remain intact and similar future requests can be assessed individually as they arise.

Standard #6 Exceptional conditions

- A. Simply stated, the conditions described above (double wide lot, flooding creek on property, unusable back yard) were not created by the applicant.



owners and  
Property location

Lynn & Diane Garreau  
1677 Gentian Dr SE  
Kentwood, MI 49508





COOPER MOLLY  
1882  
WATERBURY DR SE

NELSON JAMES H  
1684  
WATERBURY DR SE

HARRIS KRYSTA  
1700  
WATERBURY DR SE

COLLINS ADD  
1710  
WATERBURY DR SE

BEHRENS FELICIA  
1653  
GENTIAN DR SE

JOSEPH BIL  
1798  
WILMONTA DR SE

GEN

COOK TYLER  
1705  
GENTIAN DR SE

VIGH JULIUS & ZITA TRUST  
1717  
GENTIAN DR SE

MILLER STEPHEN  
5642  
QUANITA DR SE

JOHNSON REGINALD L TRUST  
1720  
GENTIAN DR SE

MARSH GRE  
1727  
GENTIAN DR SE



STAFF REPORT: February 13, 2024  
PREPARED FOR: Kentwood Zoning Board of Appeals  
PREPARED BY: Joe Pung  
CASE NO.: V-24-02

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#### GENERAL INFORMATION

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APPLICANT: Calvin University  
3201 Burton Street, SE  
Grand Rapids, MI 49546

STATUS OF  
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to install an eight (8) foot high chain link/metal mesh fence on the property. Section 3.19.B.3 restricts the height to six (6) feet. The requested variance is for a two (2) foot increase in height over the maximum allowed by ordinance.

EXISTING ZONING OF  
SUBJECT PARCEL: R1-C Single Family Residential

GENERAL LOCATION: 1661 East Paris Avenue & 3770 Lake Drive, SE

PARCEL SIZE: 144 acres

EXISTING LAND USE  
ON THE PARCEL: Calvin University Ecosystem Preserve

ADJACENT AREA  
LAND USES: N: Lake Drive ROW  
S: Single Family Homes  
E: Single Family Residence & East Paris Avenue ROW  
W: Vacant Land & Calvin University

ZONING ON ADJOINING  
PARCELS: N: R1-C Single Family Residential  
S: R1-C Single Family Residential & C4 Office  
E: R1-C Single Family Residential & C4 Office  
W: R1-C Single Family Residential & Calvin University Property in Grand Rapids

Staff Comments:

1. The applicant wishes to install an eight (8) foot high chain link/metal mesh fence on the property. Section 3.19.B.3 restricts the height to six (6) feet. The requested variance is for a two (2) foot increase in height over the maximum allowed by ordinance.
2. The area which would be enclosed by the proposed fencing would be utilized by the applicant as a native tree nursery and represents just a small portion (less than .6 acres) of the overall 144 acre site. The majority of the site is used for athletic fields, a cross country course, an ecosystem preserve, and other activities.
3. In 2007 a variance (Case V-07-01) was granted to allow for a thirty (30) foot high wind turbine.
4. Since 1985, the Zoning Board of Appeals has heard over forty (40) requests for variances to maximum fence height. Most of the requests were for fences located in a residential front yard or street side yard. Of the requests, only seven (7) were for residential fences in a rear or side yard. The requests were as follows:

Case #	Address	Action
V-17-10	4861 Eastern Avenue	Granted (8 ft. fence in rear yard)
V-05-24	4859 Eastern Avenue	Granted (8 ft. fence in rear yard)
V-05-23	1949 – 60 <sup>th</sup> Street	Denied (8 ft. fence in rear, side, and front yards)
V-95-07	4445 Marshall Avenue	Denied (8 ft. fence in rear yard)
V-94-10	1480 Hidden Valley Drive	Granted (6 ft. fence in rear yard)
V-88-28	4040 Shaffer Avenue	Granted (10 ft. fence around mine vent)
V-87-34	5858 Kalamazoo Avenue	Denied (8 ft. in rear yard)

Whether a variance was approved or denied depended on its ability to meet the non-variance standards of the City of 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 **ALL** of the following conditions are met:

**In light of advice received by the City Attorney's office based on prevailing law, interpretive guidance to each variance standard is provided in parenthesis.**

- 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.

(provide that this standard may be met, notwithstanding the Zoning Ordinance language, when a literal application of the Zoning Ordinance would result in practical difficulties to the applicant. Practical difficulties may be found when either: 1) a denial of the variance deprives an owner of the use of the property, 2) literal application of the Zoning Ordinance would be unnecessarily burdensome, or 3) granting the variance would do substantial justice to the applicant. Practical difficulties need not be inherent to the land)

**The site is one hundred and forty four (144) acres in area and is owned by Calvin University. Only a small portion of the site will be fenced in for the tree nursery; the majority of the site is used for athletic fields, a cross country course, an ecosystem preserve, and other activities. This is the only large property in Kentwood owned by a university with such a range of uses. The property is zoned R1-C Single Family residential but is not developed as single family residential. If the property were in a commercial, office, or industrial district an eight (8) foot high fence would be permitted. There is a significant amount of wildlife in the area due to the fact that a substantial portion of the site is utilized as an ecosystem preserve.**

- 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.

**This is the only large residentially zoned property in Kentwood owned by a university. It is the only site in Kentwood with such a range of uses (athletic fields, cross-country course, ecosystem preserve, and tree nursery).**

- 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.

**(provided that this standard may be met, notwithstanding the Zoning Ordinance, when practical difficulties are established pursuant to standard number 1)**

**Without a variance the applicant can still install a six (6) foot high fence similar to what other residential properties would be allowed. A shorter fence would offer less protection from wildlife for the tree nursery.**

- 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 the adjacent property or the surrounding area. The section fence nearest Lake Drive will be setback over three hundred (300) feet from Lake Drive. It is not anticipated that the fence will be visible to adjacent property owners; the applicant owns the adjacent lots on either side of 3770 Lake Drive.**



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

**Based on the unique and exceptional circumstances and anticipated lack of detrimental impacts on adjacent properties or the surrounding area, it is not anticipated that granting the variance would impair the intent and purpose of the Zoning Ordinance.**

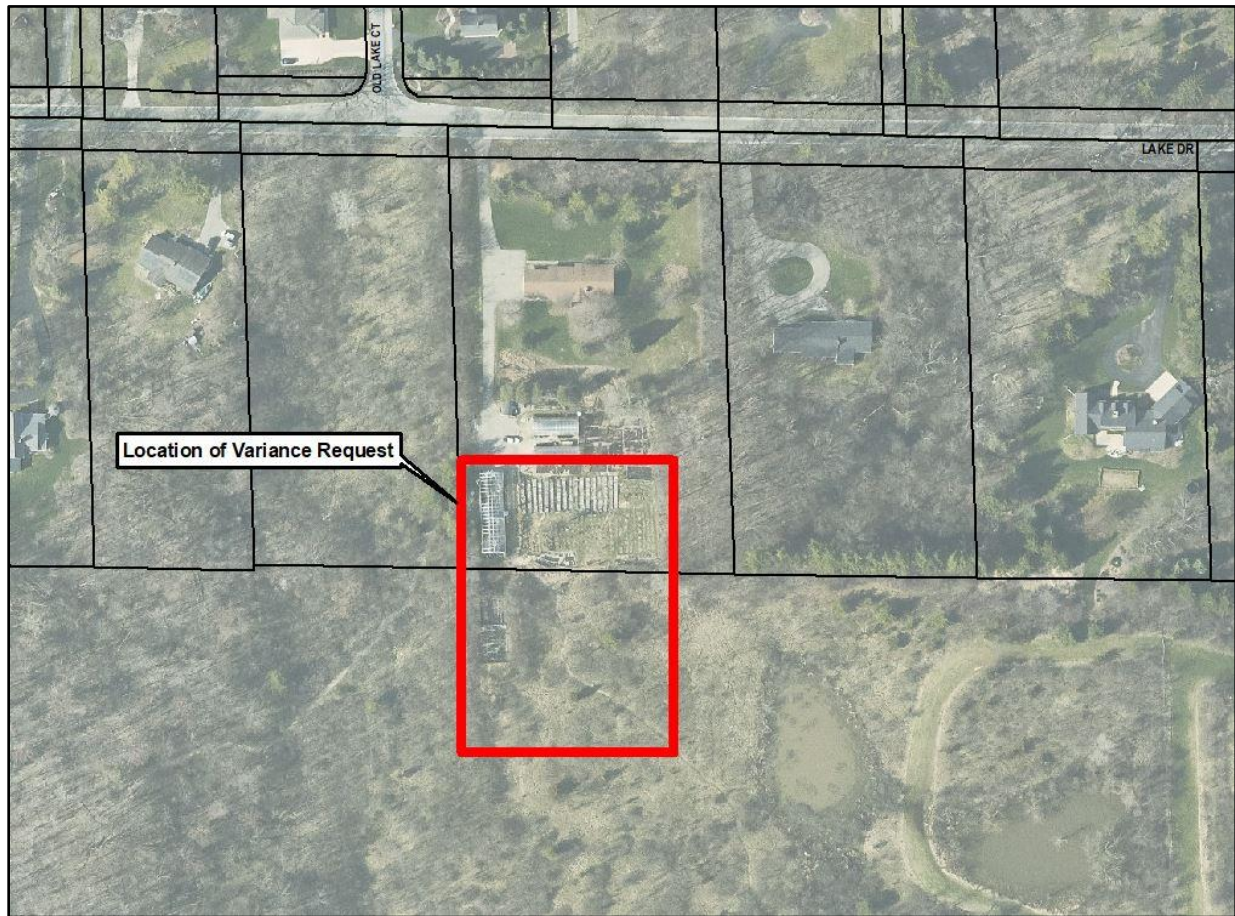
- 6) The exceptional conditions or circumstances do not result from the actions of the applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of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

(provided that this standard may be met, notwithstanding the Zoning Ordinance, when the practical difficulty does not arise from the actions of the applicant. The actions of the applicant do not involve purchasing the property with knowledge of the Zoning Ordinance restrictions)

**Exceptional conditions or circumstances were not the result of the actions of the applicant.**

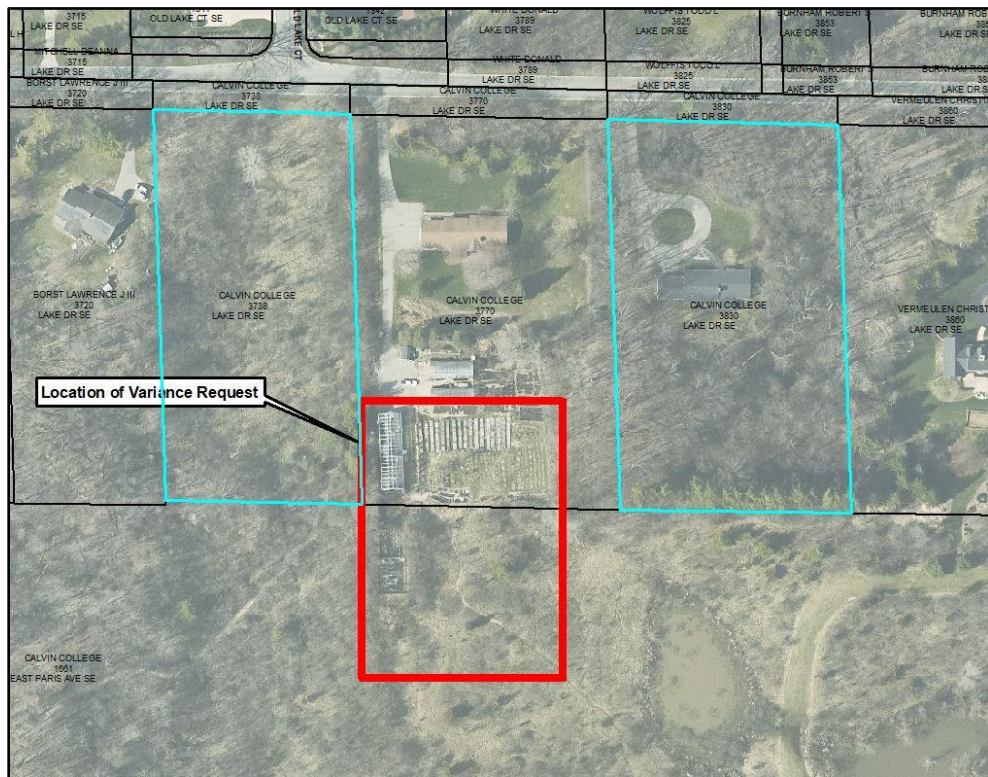
6. In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in the Zoning Ordinance, attach other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of the Ordinance and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

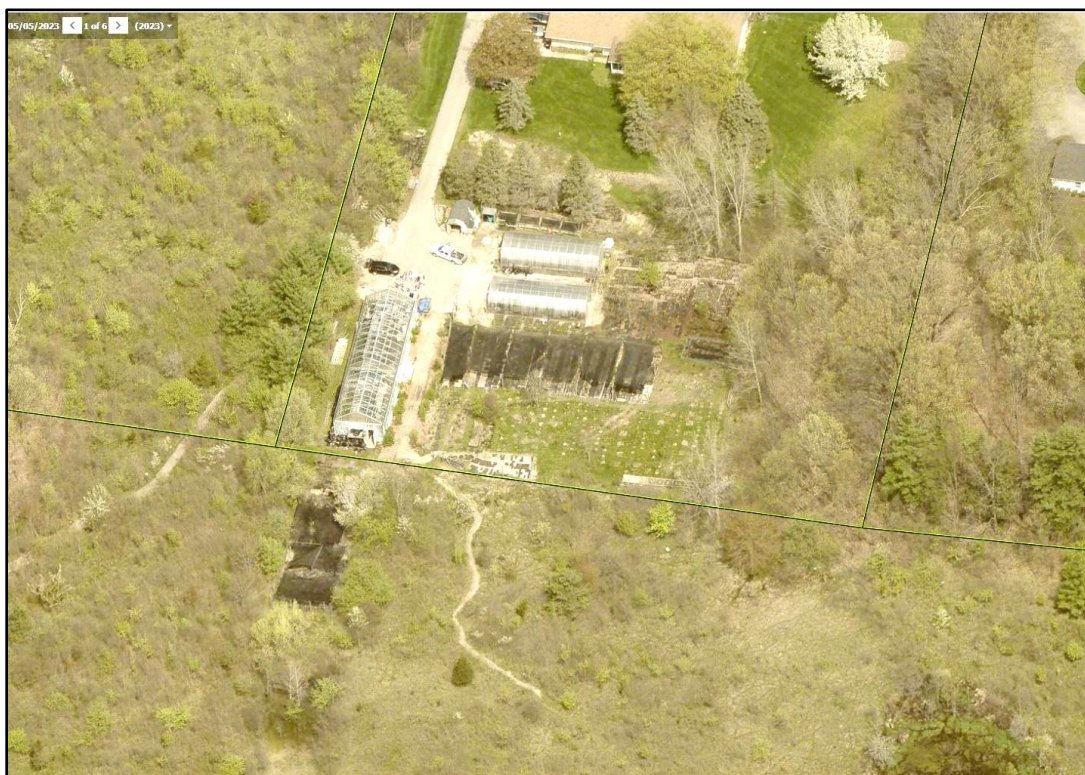




## Exhibit 2: Adjacent Lake Drive Properties Owned by Calvin University

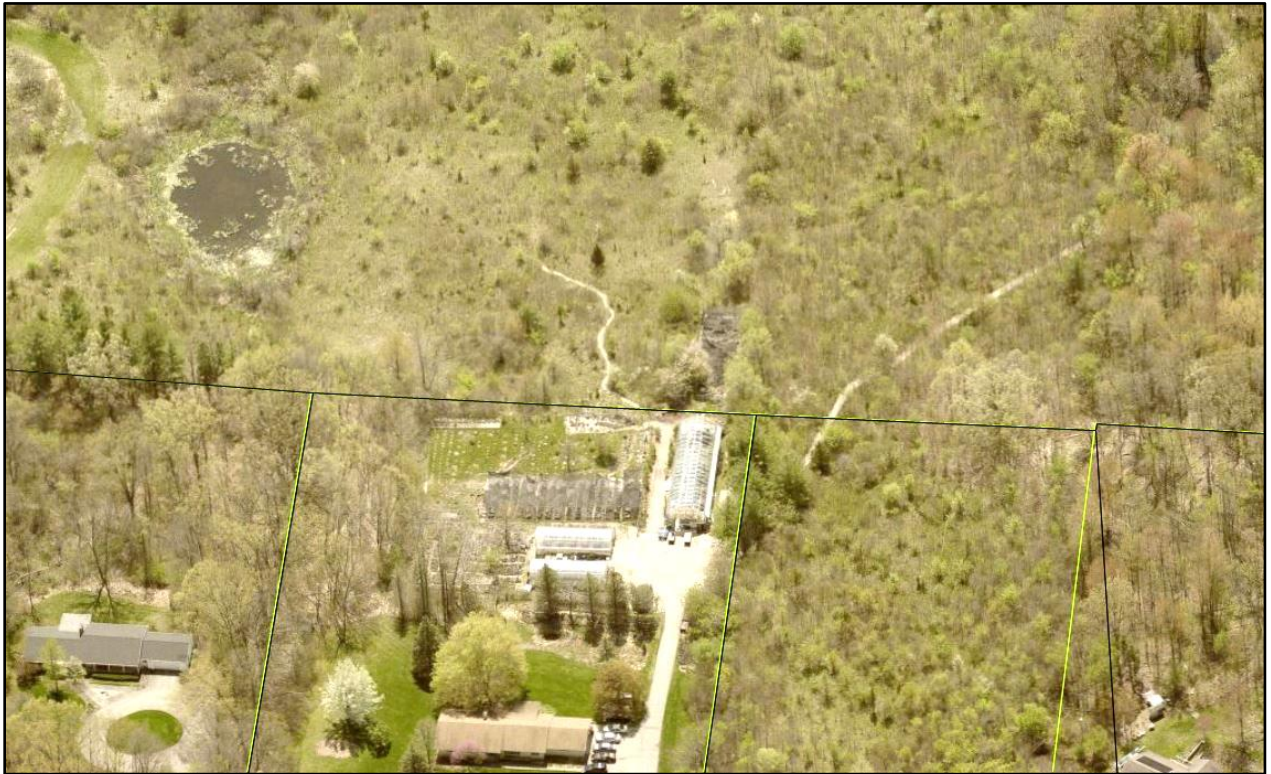


**Exhibit 3: May 2023 Pictometry Photo (view from the south)**





**Exhibit 4: May 2023 Pictometry Photo (view from the north)**



**Exhibit 5: May 2023 Pictometry Photo (view from the north)**



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

APPLICANT: <u>Calvin University, Andrea Lubberts</u>	APPEAL # <u>V-24-02</u> HEARING DATE <u>February 19, 2024</u> PHONE # <u>616-526-7024</u>
ADDRESS: <u>3201 Burton St SE</u>	
PROPERTY OWNER: <u>Calvin University</u>	PHONE # _____
ADDRESS: <u>3201 Burton St SE</u>	
LOCATION OF VARIANCE (If applicable) <u>1661 East Paris Ave, 3770 Lake Drive SE</u>	
ZONING DISTRICT OF PROPERTY: <u>R1-C</u>	
ZONING ORDINANCE SECTION (S) APPEALED: <u>3.19.B.3 Fence ordinance</u>	
NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit) <u>does not permit fences over 6 ft tall in R1-C zones. Calvin University would like permission to build an 8</u> <u>ft deer-proof fence around a tree nursery, not visible to the road or any neighbors.</u>	
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): <u>Please see attached document.</u>	
STANDARD (2): <u>Please see attached document.</u>	
STANDARD (3): <u>Please see attached document.</u>	
STANDARD (4): <u>Please see attached document.</u>	
STANDARD (5): <u>Please see attached document.</u>	
STANDARD (6): <u>Please see attached document.</u>	

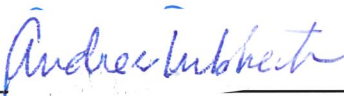
Zoning Board of Appeals  
Non-Use Variance Application  
Page 2

I hereby certify that all of the above statements and any attachments are correct and true to the best of my knowledge.

Authorization for city staff and board members to enter the property for evaluation.

Yes ☒ No ☐

NAME OF APPLICANT: Andrea Lubberts  
(Please print)

SIGNATURE OF APPLICANT:  DATE: 1/8/24

NAME OF PROPERTY OWNER: Dirk J. Prais  
(Please print)

SIGNATURE OF PROPERTY OWNER:  DATE: 1/8/24

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



## Statements

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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:
  - 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 fence will be installed primarily on the 1661 East Paris parcel (small sections will be on the 3770 Lake Dr parcel), which, despite being zoned for residential development, presently serves as an ecosystem preserve within a larger tract utilized by Calvin University for diverse purposes, including a cross-country course, athletic fields, and other activities. No residences, aside from those owned by Calvin University, are adjacent to the designated fenced area. The exceptional conditions that apply are amount of wildlife utilizing and surrounding the property which creates the need to protect plants and trees being grown in the preserve from such wildlife in the area. This requires a slightly higher fence than the existing zoning district allows. However, there are no parcels adjacent not owned by the applicant and the nearest parcel not owned by the applicant has no visibility to the fence in question.**

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.

**While the land in question is zoned as R1-C residential, it is under the ownership of Calvin University and is primarily utilized for an ecosystem preserve and athletic fields. This scenario is sufficiently uncommon to prevent the need for a new zoning provision. The unique nature of this situation is also underscored by the absence of any other colleges or universities within the City of Kentwood. (It is not the norm for parcels in R1-C zones to have properties expansive enough for fenced tree nurseries.)**

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.

**A six-foot fence as allowed in the fence permit would not protect investments in plants from wildlife damage. The intended purpose of this fence is to create a deer enclosure, and a fence with a height of six feet is insufficient to effectively prevent deer from entering the enclosure and damaging what is inside the fence.**

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

**The proposed fence location will not be visible to neighbors or from Lake Drive, and therefore poses no problems to the surrounding neighborhood. Additionally, Calvin University owns properties immediately adjacent to the designated fenced area, at 3738 Lake Dr SE, 3770 Lake Dr SE, and 3830 Lake Dr SE.**

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

**The zoning ordinance is designed to foster respect and cooperation in residential communities and prevent interference with the rights of neighboring properties. Given that this portion of the property at 1661 East Paris is not surrounded by immediate neighbors and is utilized in a unique way by Calvin University as previously explained, the installation of a taller fence does not compromise the intent or purpose of the residential zoning ordinance.**

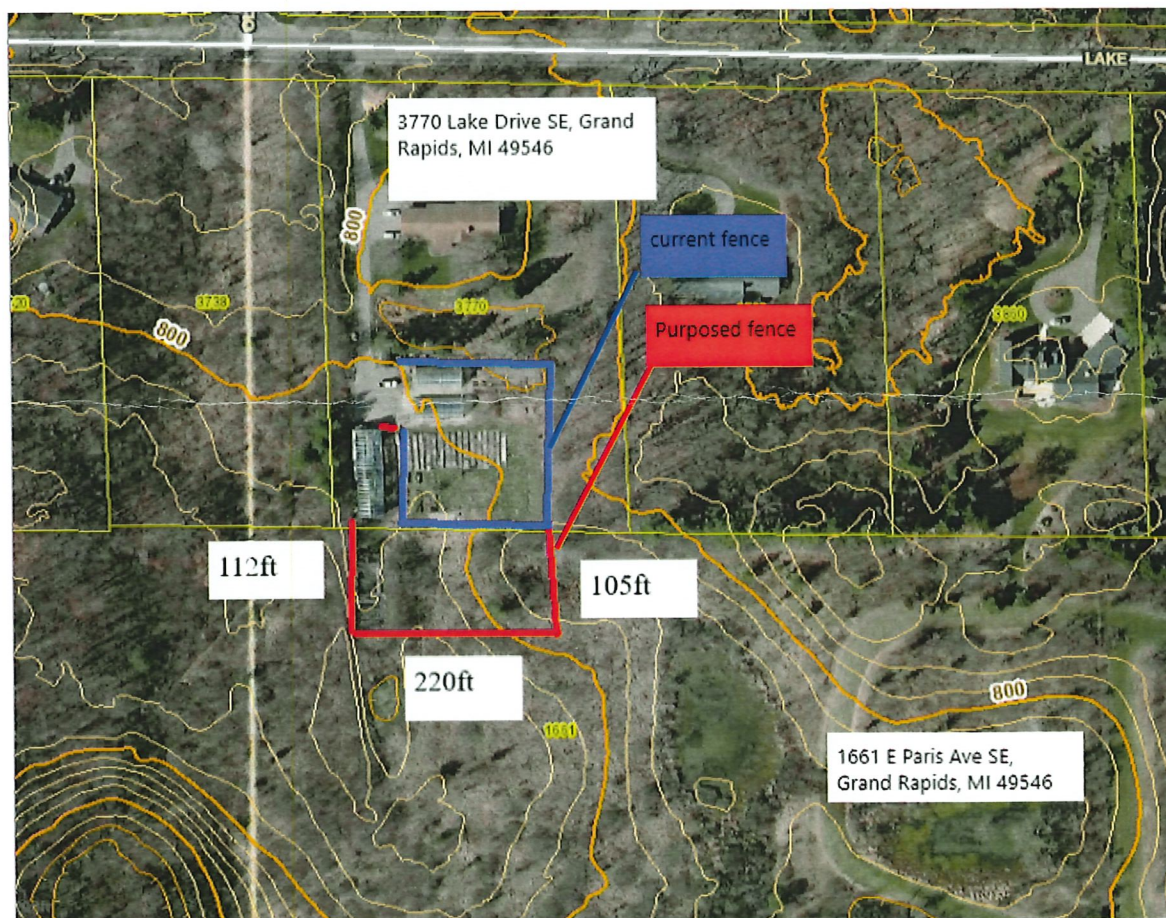
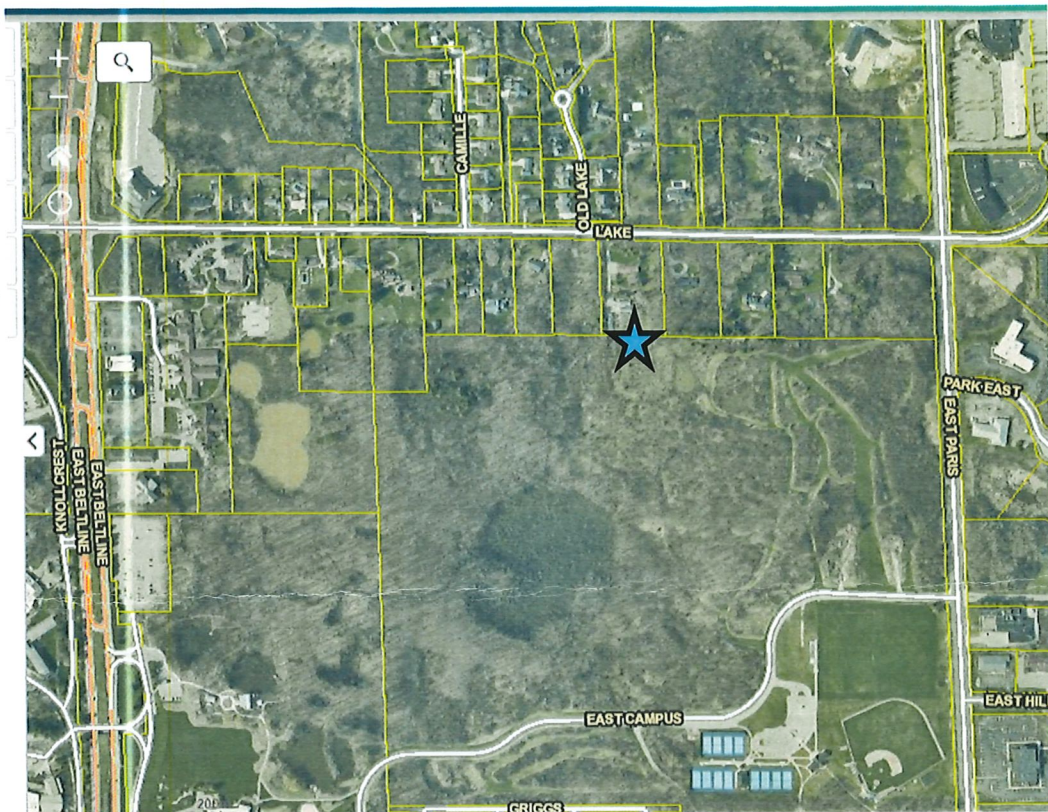
6. The exceptional conditions or circumstances do not result from the actions of the applicant. Thus, by way of example, the exceptional circumstances result from uses or development on an adjacent property or the exceptional shape of the property is the result of an unrelated predecessor's split of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

**The large wildlife population is native to the area and was present prior to owner's acquisition of the parcel and owner has taken no actions related to such population. The zoning of the property as residential, thus existing zoning conditions related to fence height is not a result of the actions of the applicant.**



**Site Maps and location of fence:**

**Below: Detailed location of proposed fence.**







To whom it may concern,

January 8, 2024

We are requesting permission to install a fence around an area of Calvin University property to keep deer out of a native tree nursery. The fence would be built 450 ft back from Lake Drive, so it is not visible to neighbors or blocking anyone's vision. A fence of 8ft metal mesh fencing with wood posts would be installed. There would be three gates for access to the trees and the preserve for management. The area is currently scrub and brush following years of fallow after pasture. This is a small portion of the preserve but will make an excellent place to foster new native trees for the preserve, the Calvin community, and the Plaster Creek watershed.

The minor proposed construction will be stabilized from erosion within 24 hours of construction and will not contribute to erosion in the marshy pond to the southeast.

**Legal description of the property:**

PART OF E 1/2 OF SEC COM AT E 1/4 COR TH S 0D 34M 02S E ALONG E SEC LINE 1325.07 FT TO SE COR OF NE 1/4 SE 1/4 TH N 87D 52M 29S W 1317.49 FT TO SW COR OF NE 1/4 SE 1/4 TH S 0D 34M 54S E 5.50 FT TO NE COR OF KEY HILL PLAT TH N 88D 00M 00S W ALONG N LINES OF KEYHILL PLAT & COLLEGE HEIGHTS NO. 2 & COLLEGE HEIGHTS 1343.71 FT TO N&S 1/4 LINE TH N 0D 00M 24S W 1341.16 FT TO CEN OF SEC TH N 0D 17M 14S W ALONG N&S 1/4 LINE 552.52 FT TH S 89D 10M 39S E 243.80 FT TH N 1D 45M 50S W 263.0 FT TO S LINE OF N 7.0 FT OF S 50 A. OF NE 1/4 TH S 87D 41M 51S E PAR WITH S LINE OF N 7.0 FT OF S 50 A. OF NE 1/4 590.70 FT TH N 0D 17M 14S W 6.25 FT TO A PT 472.86 FT S FROM CL OF LAKE DR & S LINE OF N 102.29 A. OF NE 1/4 TH S 87D 42M 50S E PAR WITH S LINE OF SD N 102.29 A. 1810.35 FT TO E SEC LINE TH S 0D 32M 54S E ALONG E SEC LINE 814.91 FT TO BEG ALSO N 1/2 SE 1/4 SE 1/4 EX S 275.0 FT OF W 791.32 FT ALSO S 275.0 FT OF E 536.50 FT OF N 1/2 SE 1/4 SE 1/4 EX S 100 FT OF E 170 FT \* SEC 2 T6N R11W 143.75 A.

Thank you for your consideration,

Andrea Lubberts, Program Manager with Plaster Creek Stewards  
On behalf of the Calvin Ecosystem Preserve and Native Gardens and Plaster Creek Stewards  
e. [Andrea.lubberts@calvin.edu](mailto:Andrea.lubberts@calvin.edu)  
ph. 616-526-7024