



AGENDA
KENTWOOD ZONING BOARD OF APPEALS
KENTWOOD CITY HALL
COMMISSION CHAMBERS
4900 BRETON AVENUE, SE
JULY 15, 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 June 17, 2024
6. Acknowledge visitors and those wishing to speak to non- agenda items.
7. Public Hearing

Appeal #V-24-09

Applicant: Equipment Share (Scott Woldman)
Location: 4250 – 52nd Street

Request: The applicant wishes to install a six (6) foot high chain link fence in the front yard, but outside of the required front yard setback. Section 3.19.B.1 of the Kentwood Zoning Ordinance restricts the height of fences in the front yard. The Zoning Administrator has made the determination that only a four (4) foot high chain link fence is permitted in the front yard. The applicant is appealing the interpretation that the height restriction of four (4) feet applies to chain link fencing located outside of the required front yard setback

8. Commissioners Comments
9. Adjournment

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

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

Motion by Fant, supported by West, to excuse VanNoord from the meeting.

- Motion Carried (6-0) –
- VanNoord absent -

4. Declaration of Conflict of Interest

There was no conflict of interest expressed.

5. Approval of the Minutes and Findings of Fact

Motion by Spalding, supported by Fant, to approve the minutes of May 20, 2024

- Motion Carried (6-0) –
- VanNoord absent -

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

There was no public comment.

7. Public Hearing

Appesl#V-24-07

Applicant: Aida and Adnan Dizdarevic

Location: 1213 Forest Hollow Court, SE

Request: The applicant wishes to replace an existing privacy fence with a new 6-foot high privacy fence in the same location. The property is a corner lot, and the fence

would be located on the street side yard property line and would also encroach into the clear vision area at Hall Street and Forest Hill Avenue. Section 3.19.A.2 of the Zoning Ordinance prohibits fencing within a clear vision area and Section 3.19.B.2 limits the height of a privacy fence within 17 feet of a street side yard property line to 3 feet. The requested variances are to permit a fence within the clear vision area and for an increase in fence height of 3 feet over what is allowed by ordinance.

Aida and Adnan Dizdarevic, 1213 Forest Hollow were present. He stated they would like to replace an existing fence that they installed back in 2006. He stated they spoke to staff and realized they have to stay 17 feet away from the right-of-way. He stated the street at the time when they installed their existing fence was different; they were more than 20 feet away. He stated around 2012 the intersection was widened, and their fence became closer to the street and a bicycle trail was added. He stated they don't think it will be an issue with traffic safety. There is more than sufficient view. He stated they have issues with trash coming into their yard that people throw in their backyard. He stated they have a grandchild, and they need the fence for their safety. He stated they have had the fence 18 years, and it doesn't look nice anymore and they want to replace it. He stated they have already purchased the fence and hired a contractor.

Houtman questioned if prior to the change at the intersection was it a clear vision issue. Pung stated if the road was further away, it may not have been. Pung stated they added another lane to the road. It went from a two lane to a three lane cross section with the center lane. Pung stated when the fence was installed, we didn't require a permit at that time. Pung stated there were no complaints or issues regarding the clear vision that staff knows of.

Fant questioned if they were going to replace the existing fence exactly where the current fence is now. Mr. Dizdarevic stated they are going to replace the fence exactly how it is now.

Mrs. Dizdarevic stated they want the fence for the safety of themselves, granddaughter, dog, and pedestrians. She stated it would be a vinyl fence. She stated they chose a gray fence so it will look more appealing. She stated they have never had any complaints, issues, or accidents that they are aware of on that corner.

Houtman opened the public hearing.

There was no public comment.

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

- Motion Carried (6-0) –
- VanNoord absent -

Fant stated point 1 is met based on the history of the site and existing fence. Fant stated point 2 is met. Fant stated point 3 is met

Spalding, Derusha, Elliott, West and Houtman concurred that points, 1,2 and 3 have been met

Fant stated point 4 has been met. Fant stated point 5 has been met. Fant stated point 6 has been met since this is part of Kentwood's street widening.

Spalding, Derusha, Elliott, West and Houtman concurred that points 4, 5 and 6 have been met

Motion by Fant, supported by West to approve V-24-07.

- 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.**
- 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 (6-0) –
- VanNoord absent -

Appeal #V-24-08

Applicant: Merit Hill Capital

Location: 4115 – 36th Street, SE

Request: The applicant wishes to expand the on-site outdoor storage for recreational vehicles. The new recreational vehicle storage area would be located between two existing buildings. Section 15.04.I.2 of the Kentwood Zoning Ordinance requires that the recreational vehicle storage occur in the rear yard. The requested variance is to permit recreational vehicles to be stored in a location (between two buildings) that is not the rear yard

Glen Ily, with Merit Hill Capital was present. He stated they have the same landscaping plan and will be paving the existing gravel in between the two left side buildings. Houtman questioned if the ownership changed. Ily stated Merit Hill Capital purchased the property about two years ago. They have not changed, but the project manager that was in charge left and never acted upon the approved variance.

Fant stated as he was driving by the storage facility, he saw in one of the rows a lot of rv's and boats parked in between two of the buildings. Ily stated they were not supposed to be parking in there. Ily stated he drove by and visited and let them know that they were parking where there is no approval yet. Ily stated they are going to have to remove of all the vehicles because they are going to pave there and install the landscape on the outside of the fence line.

Spalding questioned if the ordinance applies more to residential property as opposed to commercial. Pung stated for the RV storage it is only allowed as a special land use in the industrial district and one of the requirements is that the vehicles have to be stored in the rear yard.

Houtman opened the public hearing,

There was no public comment.

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

- Motion Carried (6-0) –
- VanNoord absent -

Elliott stated point 1 is met. Elliott stated point 2 is met. Elliott stated point 3 is met.

Spalding, Derusha, Fant, West, Houtman concurred that points, 1,2 and 3 have been met

Elliott stated point 4 is met. Elliott stated point 5 is met. Elliott stated point 6 is met.

Spalding, Derusha, Fant, West, Houtman concurred that points 4, 5 and 6 have been met

Motion by Elliott, supported by Fant, to approve V-24-08

- 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.**
- 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.**

- Moton Carried (6-0) –
- VanNoord absent -

Motion by Spalding, supported by Fant, to adjourn the meeting.

- Motion Carried (6 -0) –
- VanNoord absent -

Meeting adjourned at 7:28p.m.

Respectfully submitted,

Robert Houtman, Secretary

STAFF REPORT: July 9, 2024

PREPARED FOR: Kentwood Zoning Board of Appeals

PREPARED BY: Joe Pung

CASE NO.: V-24-09

GENERAL INFORMATION

APPLICANT: Equipment Share
4250 – 52nd Street, SE
Kentwood, MI 49512

STATUS OF
APPLICANT: Property Owner

REQUESTED ACTION: The applicant wishes to install a six (6) foot high chain link fence in the front yard, but outside of the required front yard setback. Section 3.19.B.1 of the Kentwood Zoning Ordinance restricts the height of fences in the front yard. The Zoning Administrator has made the determination that only a four (4) foot high chain link fence is permitted in the front yard. The applicant is appealing the interpretation that the height restriction of four (4) feet applies to chain link fencing located outside of the required front yard setback.

EXISTING ZONING OF
SUBJECT PARCEL: I-PUD Industrial Planned Unit Development

GENERAL LOCATION: 4250 – 52nd Street, SE

PARCEL SIZE: 26.49 acres

EXISTING LAND USE
ON THE PARCEL: Construction Equipment Rental

ADJACENT AREA
LAND USES: N - 52nd Street ROW
S - Industrial
E - Industrial
W - Industrial

ZONING ON ADJOINING
PARCELS: N - I1 Light Industrial
S - I-PUD Industrial Planned Unit Development
W - I1 Light Industrial
E - I-PUD Industrial Planned Unit Development

1. The applicant wishes to install a six (6) foot high chain link fence in the front yard, but outside of the required front yard setback. Section 3.19.B.1 of the Kentwood Zoning Ordinance restricts the height of fences in the front yard. The Zoning Administrator has made the determination that only a four (4) foot high chain link fence is permitted in the front yard. The applicant is appealing the interpretation that the height restriction of four (4) feet applies to chain link fencing located outside of the required front yard setback.
2. Section 3.19.B.1 of the Kentwood Zoning Ordinance reads as follows:

Solid-type fences in the required front yard shall not exceed a height of three (3) feet. A decorative open type fence with spacing between boards equivalent to the board width of the fence may be permitted within the front setback area provided it does not exceed a height of four (4) feet. No chain link or wire fencing shall be located within any residential front yard.
3. The applicant wishes to place six (6) foot high chain link fence eighty (80) feet from the front property line (the minimum required front yard setback is thirty-five (35) feet) behind a berm.
4. The ordinance is unclear as to where a chain link fence can be permitted in the industrial and commercial zones. The intent is to not allow for tall chain link fences in the front yard of the industrial zone.

The interpretation for fencing in an industrial district is as follows:

In an industrial district, a distinction is made between the *front yard* and the *required front yard*. The *required front yard* is the minimum required building setback stated within the zoning ordinance.

Fencing in an industrial zone is based on the required front yard setback, which depends on the width of the main building, and whether parking is in front of the building. The required front yard setback in the industrial zone is generally 35'-45'. Only solid fences of 3' or less, or open style decorative fencing of 4' or less can be located in the required front yard setback. Chain link fencing is not allowed in the required front yard setback. A decorative open fence of up to 4' is permitted in the required front yard setback. At or behind the required front yard setback, chain link fence may be permitted, but it is limited to 4' in height. A decorative open fence of up to 6' may be permitted.

5. Since 1985, the Zoning Board of Appeals has heard approximately thirty-five (35) appeals to Zoning Administrator determinations and interpretations. More recent appeals are as follows:

Case #	Address	Sign Issue
V-23-19	1677 Gentian Drive	Denied (number of driveways)

V-22-07	4208 Haralson Court	Denied (short-term rental)
V-21-14	5170 Division Avenue	Denied (product display along street)
V-21-09	5945 Christie Avenue	Denied (utility cabinet height)
V-21-08	426 Pine Vista Drive	Denied (utility cabinet height)
V-21-07	1539 Pickett Street	Denied (utility cabinet height)
V-17-20	3333 – 28 th Street	Withdrawn (interpretation that a mural on an exterior wall is an art display venue and not permitted)
V-16-07	241 – 44 th Street	Denied (residential parking addition exceeding what is allowed)
V-16-02	12 Daniel Street	Denied (appeal requirement to modify existing front yard fence to provide clear vision)
V-13-04	3017 – 52 nd Street	Withdrawn (number of permitted accessory buildings)
V-10-18	3110 – 28 th Street	Denied (upheld determination that the statue was considered a sign)
V-06-22	1950 – 44 th Street	Withdrawn (related to signage and determination of street frontage)
V-00-16		Denied (upheld determination that a cell tower be located on its own parcel)
V-00-07	4860 Broadmoor Avenue	Granted (reversed decision that drive-thru lanes are not permitted in industrial districts)
V-00-02	2757 Ridgemoor Drive	Denied (upheld the determination that a proposed business was a regulated use)
V-00-01	3160 – 28 th Street	Denied (upheld determination that wall graphics were considered signage)
V-99-24	2757 Ridgemoor Drive	Granted (reversed determination of minimum number of signatories required to permit a regulated use)
V-99-22		Dismissed (related to graphics as signage/the applicant failed to appear for two meetings)

6. The Zoning Board has an obligation to review alleged misinterpretations made by administrative officers. Rational review of the Zoning Ordinance provisions guides the Board's decision.
7. A majority vote by at least four members of the Zoning Board is necessary to reverse a determination by the Zoning Administrator.

Exhibit 1: Location of Appeal

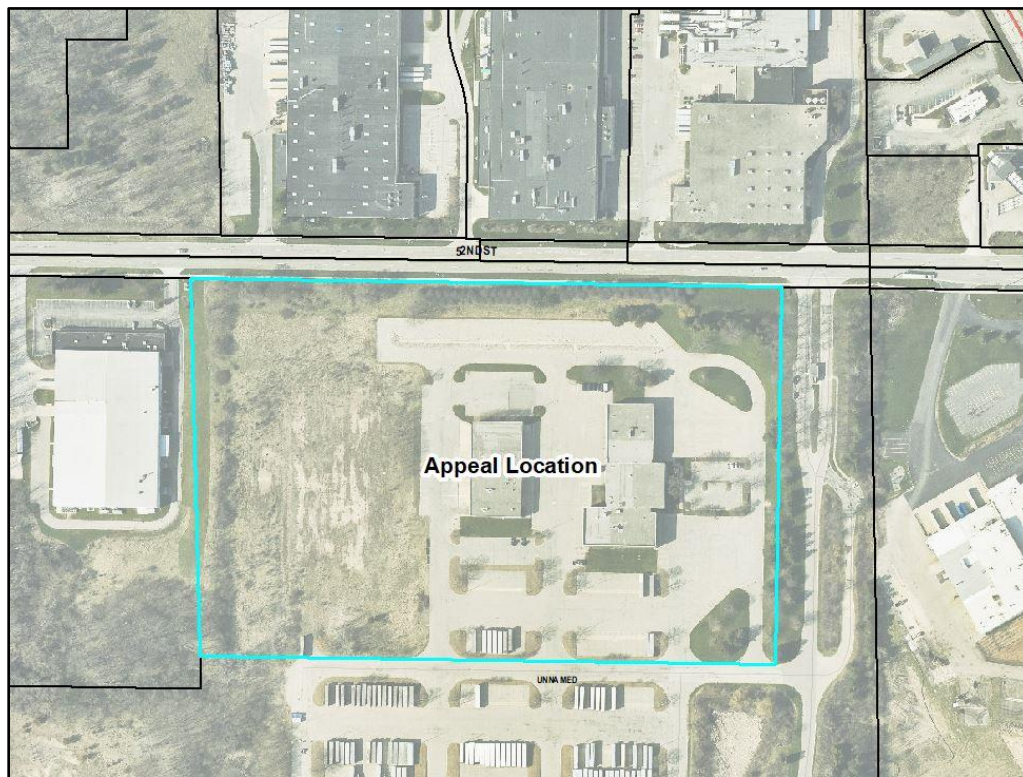


Exhibit 2: April 2023 Pictometry Photo (view from the north)



CITY OF KENTWOOD
ZONING BOARD OF APPEALS
APPEALS OF ADMINISTRATIVE RULINGS APPLICATION

APPEAL # V-24-09
HEARING DATE July 15, 2024
APPLICANT: Scott Woldman PHONE # _____
ADDRESS: 4250 - 52nd Street
PROPERTY OWNER: EquipmentShare PHONE # _____
ADDRESS: 4250 - 52nd Street
LOCATION OF APPEAL (If applicable) 4250 - 52nd Street
ZONING DISTRICT OF PROPERTY: Industrial
ZONING ORDINANCE SECTION (S) APPEALED: 3.19 B1

NATURE OF APPEAL: The Zoning Ordinance (requires/allows/does not permit)
Appeal of administrative ruling of section 3.19B1 concerning a 6' fence in the front yard

JUSTIFICATION OF APPEAL: Briefly describe how you are affected or aggrieved by the administrative ruling.


See attached

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 (if applicable).

Yes ☒ No ☐

NAME OF APPLICANT: Scott Woldman
(Please print)

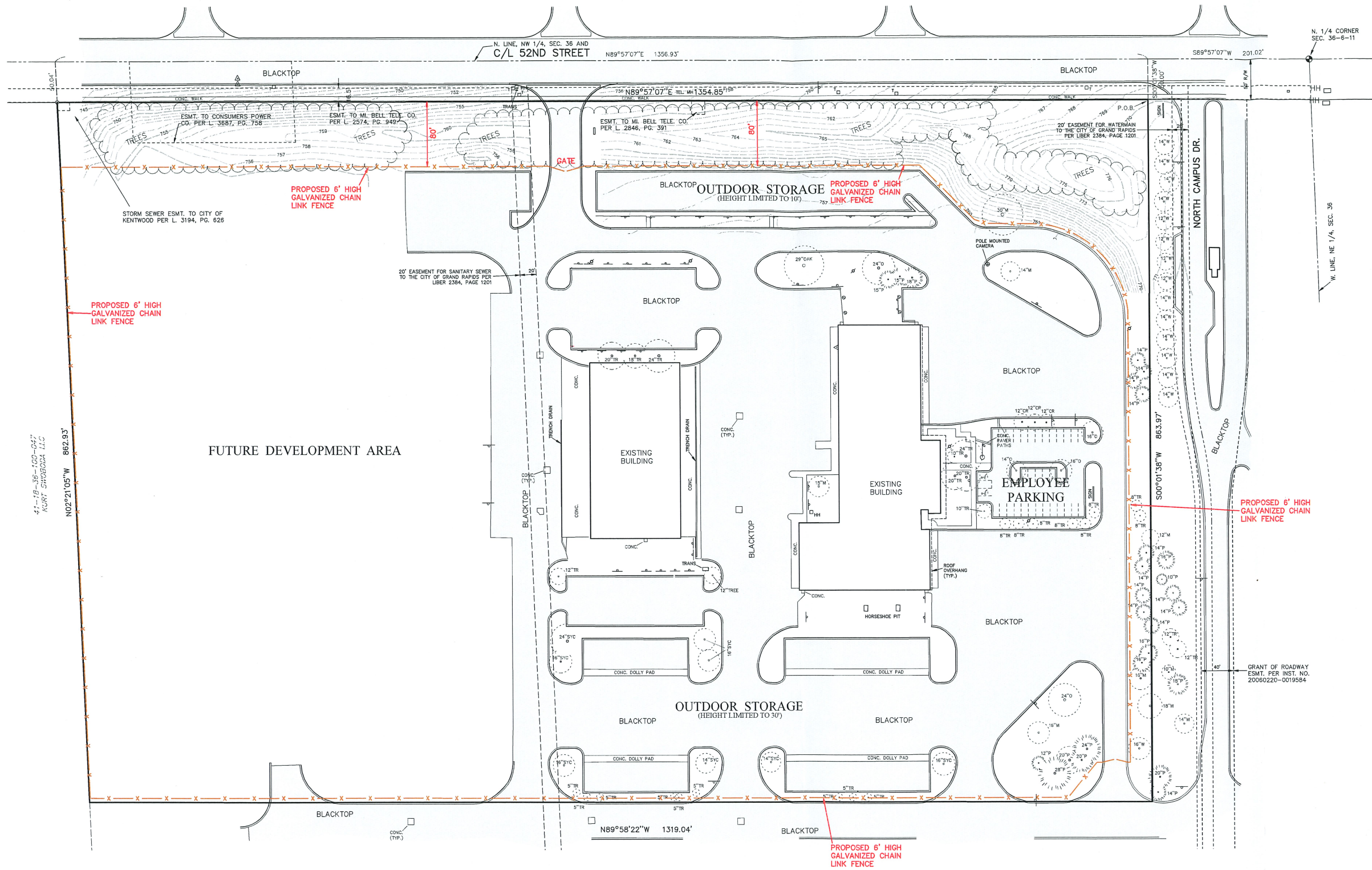
SIGNATURE OF APPLICANT:  DATE: 6/24/24

NAME OF PROPERTY OWNER: Scott Woldman
(Please print)

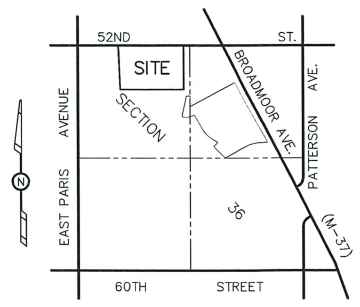
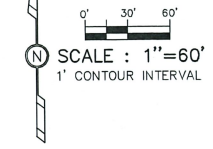
SIGNATURE OF PROPERTY OWNER:  DATE: 6/24/24

Return to Planning Department
PHONE: 554-0707, FAX NO. 656-5292

By zoning ordinance definition, the front yard is the "MINIMUM prescribed horizontal setback distance" from the front lot line to the building. Section 3.19B1 states a 4' open fence may be permitted within the "front setback area". Staff has interpreted this to mean the distance between the front lot line and the existing building which we disagree with. EquipmentShare is an equipment rental business where security against theft and vandalism is very important. The proposed 6 foot fence will be 80 feet from the front lot line (45 foot beyond the minimum required front yard setback) and behind a 5 foot to 14 foot earthen berm relative to 52nd Street elevation.



- LEGEND**
- = IRON STAKE FOUND
 - = IRON STAKE SET
 - = UTILITY POLE & GUY WIRE
 - ⊙ = LIGHT POLE
 - = SIGN
 - ⊖ = ELECTRIC OUTLET
 - ⊕ = HYDRANT
 - ⊖ = WATERMAIN VALVE
 - ⊕ = HANDHOLE
 - ⊖ = IRRIGATION VALVE
 - ⊕ = POST INDICATOR VALVE
 - TRANS = TRANSFORMER
 - ⊖ = CATCH BASIN
 - ⊕ = MANHOLE
 - ⊖ = CLEAN OUT
 - ⊕ = FLAGPOLE
 - ⊖ = TELEPHONE BOX
 - ⊕ = BURIED GAS LINE MARKER
 - = OVERHEAD WIRES
 - = OAK TREE
 - P = PINE TREE
 - TR = UNKNOWN TREE
 - M = MAPLE TREE
 - SYC = SYCAMORE TREE
 - W = WALNUT TREE



***PROPERTY DESCRIPTION:**
Part of the NW 1/4 of Section 36, T6N, R11W, City of Kentwood, Kent County, Michigan, described as: Commencing at the North 1/4 corner of said Section 36; thence S89°57'07"W 201.02 feet along the North line of said NW 1/4; thence S00°01'38"W 50.00 feet to the Southerly line of 52nd Street and the PLACE OF BEGINNING of this description; thence S00°01'38"W 863.97 feet; thence N89°58'22"W 1319.04 feet; thence N02°21'05"W 862.93 feet to the Southerly line of 52nd Street (the Northerly extension of said line would intersect the North line of said NW 1/4 N89°57'07"E 1107.67 feet from the NW corner of said Section 36); thence N89°57'07"E 1354.85 feet along said Southerly line to the Place of Beginning.

***PROPERTY ADDRESS:** 4250 52ND STREET SE
***PERMANENT PARCEL NUMBER:** 41-18-36-100-052
***PARCEL SIZE:** 26.5 ACRES (EXCLUDING R/W)

FENCE EXHIBIT
4250 52ND STREET SE
FOR: EQUIPMENTSHARE
4250 52ND ST SE
KENTWOOD, MI 49512

PART OF THE NW 1/4, SECTION 36, T6N, R11W, CITY OF KENTWOOD, KENT COUNTY, MICHIGAN

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Phone: (616) 531-3660 www.exxelengineering.com

DRAWN BY: MK
APPROVED BY: DDG
FILE NO.: 221886E

PROJ. ENG.: DJS
PROJ. SURV.: BMF
DATE: 06/21/24

SHEET
1 of 1

52nd St SE

52nd St SE

52nd St SE

52nd St SE

Gate

EquipmentShare

Steelcase Rentwood
Manufacturing Plant

