

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS AGENDA
FEBRUARY 11, 2020 AT 7:00 PM
VAN BUREN TOWNSHIP HALL
46425 TYLER ROAD**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

| | |
|--|-------|
| BZA Chair Aaron Sellers | _____ |
| BZA Vice-Chair Amos Grissett | _____ |
| BZA Secretary / Planning Commission Representative Bryon Kelley | _____ |
| BZA Member / Trustee Kevin Martin | _____ |
| BZA Member John Haase | _____ |
| BZA Alternate Member Charles Larocque | _____ |
| BZA Alternate Member Carmen Stovall | _____ |
| Planning Commission Alternate Representative Donald Boynton, Jr. | _____ |
| Recording Secretary Karen Pecsénye | _____ |
| Director Dan Power | _____ |
| Executive Assistant Elizabeth Renaud | _____ |
| Director Matt Best | _____ |

ELECTION OF OFFICERS FOR 2020

ACCEPTANCE OF AGENDA

APPROVAL OF MINUTES: Approval of minutes from November 12, 2019

CORRESPONDENCE

PUBLIC HEARING (for non-new business items)

- A. Open Public Hearing.
- B. Public Comment.
- C. Close Public Hearing.

UNFINISHED BUSINESS

NEW BUSINESS

1. 2020 Meeting Schedule

2. Election of Officers for 2020

- **ITEM #1: CHAIRPERSON**
- **ITEM #2: VICE-CHAIRPERSON**
- **ITEM #3: SECRETARY**

3. Case Number: 19-039

Location: 11511 Belleville Road (Mike's Kitchen Restaurant) Parcel ID# 83-086-99-0012-001.

Request: The applicant is requesting a variance from the following section of the Charter Township of Van Buren Zoning Ordinance:

Section 3.112(E) Dimensional Regulations for C-2 Extensive Highway Business District:

Side (South) Yard Setback:

- Required: 25.00 feet
- Existing: 5.00 feet
- Proposed (to addition): 5.00 feet
- Variance requested: 20.00 feet

- A. Open Public Hearing.
- B. Presentation by the Applicant.
- C. Presentation by Township Staff.
- D. Public Comment.
- E. Close Public Hearing.
- F. Board of Zoning Appeals Discussion.
- G. Board of Zoning Appeals Action.

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

1. Discussion: Upcoming training opportunities

ADJOURNMENT

CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Tuesday – November 12, 2019
DRAFT MINUTES

The Meeting was called to order at 7:01pm in the Board of Trustees room by Chairperson Grissett.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: Kelley, Haase, Grissett, Martin, Larocque

Absent Excused: Sellers, Senters, Stovall, McKenna

Staff: Krishnan, Renaud, Halstead

Audience: 3

ACCEPTANCE OF AGENDA: Motion to accept agenda Kelley, Seconded by Martin.
Motion Carried

APPROVAL OF MINUTES: Motion to approve minutes from October 8, 2019 Kelley, Seconded by Haase. Motion Carried

CORRESPONDENCE: None

PUBLIC HEARING (for non-new business items):

Motion to open Public hearing at 7:05pm Kelley, Seconded by Haase. Motion Carried.

No public comment

Motion to close Public Hearing at 7:06PM Kelley, Seconded by Haase. Motion Carried.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Motion to open Public Hearing at 7:08pm Kelley, Seconded by Martin. Motion Carried

1.) Case Number: 19-035

Location: Parcel ID # 83-040-02-0091-000 (9060 Walden Drive). The side is located on the west side of Walden Drive which is between Bellville and Morton Taylor Roads.

Request: The applicant is requesting a variance from the following section of the Charter Township of Van Buren Zoning Ordinance:

Section 3.106(D) Dimensional Regulations for R-1B District: Rear Yard Setback: Required: 35'; Proposed: 22.76'; Variance requested: 12.24'.

Dhaval Patel, Son-in-law to the applicant, presented to the board the request for the variance at 9060 Walden Dr.

Mr. Patel told the board of the applicant's health condition and the reason for needing the variance to make the downstairs handicap accessible and to accommodate his daily living.

Krishnan presented to the board the letter of recommendation from McKenna. She also noted a few pieces of correspondence that were in the packet.

No Public Comment

Motion to close Public Hearing at 7:18pm Kelley, Seconded by Haase. Motion Carried.

Motion to approve variance request based off of McKenna Recommendation letter dated October 28, 2019 Martin, Seconded by Kelley. Motion Carried.

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION: None

Motion Kelley, seconded by Haase to adjourn at 7:21 p.m.

Motion Carried

Respectfully submitted,

Anna Halstead, Recording Secretary

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
MEETING SCHEDULE 2020**

The Board of Zoning Appeals Meetings are held on the 2nd Tuesday of the month at 7:00 p.m. in the Board of Trustees Room at Township Hall, 46425 Tyler Road, Van Buren Township, MI 48111.

January 14, 2020

February 11, 2020

April 14, 2020

May 12, 2020

June 9, 2020

July 14, 2020

August 11, 2020

September 8, 2020

October 13, 2020

November 10, 2020

December 8, 2020

In Compliance with the Americans with Disabilities Act, reasonable accommodations will be made available with advance notice.



Memo

TO: Board of Zoning Appeals

FROM: Dan Power, AICP
Director of Planning and Economic Development

RE: Election of Officers

DATE: January 10, 2019

Per the BZA rules of procedure, the BZA is required to select from its membership at the first meeting of the calendar year a Chairperson, Vice-Chairperson, and Secretary. The 2019 Officers are as follows:

Chairperson – Aaron Sellers
Vice-Chairperson – Amos Grissett
Secretary - Bryon Kelley

Typically the process for electing officers requires a nomination, a support of that nomination, and a vote on the nomination. I have attached the rules of procedure for your review. Please feel free to contact me with any additional questions.

CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS RULES OF PROCEDURE
Effective: June 5, 2018

ARTICLE 1: AUTHORITY

These rules of procedure are adopted by the Charter Township of Van Buren Board of Zoning Appeals (hereinafter referred to as the "BZA"), to facilitate the duties of the BZA as outlined in Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.) and the Charter Township of Van Buren Zoning Ordinance.

ARTICLE 2: MEMBERSHIP

Section 1. The BZA shall consist of seven (7) regular members and two (2) alternate members appointed by the Charter Township of Van Buren Board of Trustees as follows:

- A. Planning Commission Liaison.** One (1) member shall be a member of the Township Planning Commission.
- B. Township Board Liaison.** One (1) member of the Township Board may be a regular member or alternate member of the BZA, but shall not be the chairperson of the BZA.
- C. Other Members.** The remaining members shall be electors of the Township selected and appointed by the Township Board from among the electors, residing in the unincorporated area of the Township, who shall be representative of the population distribution and of the various interests present in the Township. No employee or contractor of the Township Board may serve simultaneously as a member or employee of the BZA.
- D. Alternates.** The Township Board shall appoint two (2) alternate members to the BZA who shall have authority to vote on appeals that come before the BZA. The alternate members shall only be allowed to sit in place of a regular member of the BZA. The alternate members shall only be allowed to sit as members of the BZA and/or vote when a regular member of the BZA is absent. Alternates shall be expected to attend all BZA meetings regardless as to whether they are sitting as members or not.
- E. Terms.** Terms of members and alternates of the BZA shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them. When members and alternates are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- F. Removal.** Appointed members may be removed for misfeasance, malfeasance, or nonfeasance in office by the Township Board only after misconduct of written charges and a public hearing by the Township Board, pursuant to Public Act 110 of 2006 as amended. Failure of a member to disqualify him/herself from a vote in which he has a conflict of interest shall constitute malfeasance in office.

- G. Resignation.** A member may resign from the BZA by sending a letter of resignation to the Township Supervisor or the Township Board.

Section 2. Members of the BZA shall be subject to the following membership requirements.

- A. Attendance.** If any member of the BZA is absent from three (3) consecutive meetings, whether excused or unexcused, then that member shall be considered delinquent. Delinquency can be grounds for the Township Board to remove a member of the BZA for nonperformance of duty or misconduct after holding a public hearing on the matter.
- B. Training.** Each member shall have attended at least four (4) hours of training per year in planning and zoning during the member's current term of office. Failure to meet the training requirements may result in the member not being reappointed to the BZA. Training can be provided from a variety of sources which may include the Michigan Association of Planning, Michigan State University Extension, Michigan Township Association, Michigan Municipal League, or any other applicable organization.
- C. Staff Support.** Township staff will have the ability to participate in discussion with the BZA and nothing else. Township staff cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements in these rules of procedure. Township staff includes employees, agents and consultants of Charter Township of Van Buren. Other individuals may be allowed to participate in discussion at the discretion of the chairperson.

ARTICLE 3: OFFICERS

Section 1. The BZA shall elect a Chairperson, a Vice Chairperson and a Secretary from its members and may create and fill such other officers or committees as it may deem advisable. The BZA may appoint advisory committees outside of its membership. The terms of all officers shall be for one (1) year.

- A. Duties of the Chairperson.** The Chairperson retains his or her ability to discuss, make motions, and vote on issues before the Appeals Board. The Chairperson shall:
1. Preside at all meetings with all powers under parliamentary procedure;
 2. Shall sign all decisions of the BZA pursuant to M.C.L. 125.3606(3);
 3. Shall rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs, or similar topics; profanity; or other remarks which are not about the topic before the BZA;
 4. Restate all motions or request the Recording Secretary to restate all motions prior to voting on said motions;
 5. Appoint committees;
 6. May call special meetings pursuant to Section 5.3 of these Rules of Procedure;
 7. Review with staff, prior to an BZA meeting, the items to be on the agenda if he or she chooses to do so;
 8. Acts as the BZA's chief spokesman to represent the BZA at local, regional, and state government levels;
 9. Represent the BZA, along with the Township Board BZA member before the Township Board;

10. Represent the BZA along with the Planning Commission member, before the Planning Commission; and
11. Perform such other duties as may be ordered by the BZA.

B. Duties of the Vice-Chairperson. The Vice-Chairperson shall:

1. Act in the capacity of Chairperson, with all the responsibilities, powers, and duties outlined in these Rules of Procedure, in the Chairperson's absence; and
2. Perform such other duties as may be ordered by the BZA.

C. Duties of the Secretary. The Secretary shall:

1. Preside at meetings in the absence of the Chairperson and the Vice-Chairperson; and
2. Perform such other duties as may be ordered by the BZA.

D. Absence of Elected Officers. Should neither the Chairperson, Vice-chairperson, nor the Secretary be present at a meeting, a temporary chairperson shall be elected by a majority vote of the members present under the following process:

1. Any member of the BZA may call the meeting to order.
2. The first order of business after calling the roll will be to appoint a temporary chairperson for that evening's meeting. The temporary chairperson will be appointed by a simple majority of the members present.
3. The temporary chairperson shall assume the position immediately following their appointment.

Section 2. The election of officers shall be carried out in the following manner.

A. Elections. At the first meeting of the calendar year, the BZA shall select from its membership a Chairperson, a Vice-chairperson, and a Secretary who shall serve for a twelve-month (12) period and who shall be eligible for re-election. A candidate receiving a majority vote of the membership present shall be declared elected. Newly elected officers will assume their office at the next meeting.

B. Vacancies. Vacancies in office shall be filled by regular election procedure and shall only serve the remainder of the term.

ARTICLE 4: ADMINISTRATIVE DUTIES

Section 1. Duties of Township Staff. Township Staff is responsible for the execution of documents in the name of the BZA and shall perform the duties hereinafter listed below, and other such duties as the BZA may determine.

A. Records. Township staff shall keep, or cause to be kept, a record of BZA meetings, which shall at a minimum include an indication of the following:

1. A copy of the meeting posting as required in Section 6.D, 6.E, 6.F, 6.G of these Rules of Procedure.
2. A copy of the minutes of the meeting.
3. A signed statement indicating that notices, as required in Section 6.D, 6.E, 6.F, 6.G of these Rules of Procedure, were sent out, with a list of to whom, and an indication of by whom, and a copy of a newspaper notice, if one was published.

4. A copy of the Application for Appeal, including any maps, drawings, site plans, etc.
5. The records of any action on a case by the zoning administrator.
6. The records of all past records regarding the property involved in a case (previous permit, special use permit, variances, appeals).
7. Any relevant maps, drawings, photographs, presented as evidence at a hearing.
8. Copies of any correspondence received or sent out in regard to a case.
9. A copy of relevant sections, or a list of citations of sections of the zoning ordinance.
10. A copy of any follow-up correspondence to or from the petitioner regarding the decision.

B. Minutes. BZA minutes shall be prepared by the Recording Secretary. The minutes shall contain the following:

1. Time and place the meeting was called to order.
2. Attendance.
3. Indication of others present (listing names if others choose to sign in and/or a count of those present).
4. Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting and who gave the report and in what capacity. An alternative is to attach a copy of the report if offered in writing.
5. Summary of all points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter, if it is provided in written form.
6. Full text of all motions introduced, whether seconded or not, who made the motion, and who seconded the motion. For each motion, the following should be included:
 - a. Who testified and a summary of what was said.
 - b. A statement of what is being approved (e.g. special use permit, variance, conditional use permit, subdivision, land division, etc.)
 - c. The location of the property involved (tax parcel number and description, legal description is best).
 - d. What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).
 - e. What evidence was considered (summary of discussion by members at the meeting).
 - f. The administrative body's findings of fact.
 - g. Reasons for the decision made. (If the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied.)
 - h. The decision (e.g. approve, deny, approve with modification).
 - i. A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.
 - j. List of all changes to the map/drawing/site plan that was submitted. (Sometimes it is easier to use a black flair felt pen and draw the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most likely be photo copied. Then colors on the copy will not show at all or will just be black.)
 - k. Make the map/drawing/site plan part of the motion (e.g. "...attached to the original copy of these minutes as appendix 'A', and made a part of these minutes...").
7. A summary of all points made by members and staff in debate or discussion on the motion or issue.
8. Who called the question.
9. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."

10. That a person making a motion withdrew it from consideration.
11. All the Chairperson's rulings.
12. All challenges, discussion, and vote/outcome on a Chairperson's ruling.
13. All parliamentary inquiries or points of order.
14. When a voting member enters or leaves the meeting.
15. When a voting member or staff has a conflict of interest and when the voting member ceases or resumes participating in discussion, voting, and deliberations at a meeting.
16. All calls for an attendance count, the attendance, and the ruling if a quorum exists or not.
17. The start and end of each recess.
18. All chair's rulings of discussion being out of order.
19. Full text of any resolutions offered.
20. Summary of announcements.
21. Summary of informal actions, or agreement on consensus.
22. Time of adjournment.

- C. Correspondence.** Township Staff shall be responsible for the issuance of formal written correspondence with other groups or persons, as directed by the BZA.
- D. Attendance & Training.** Township Staff shall be responsible for maintaining an attendance & training record for each member of the BZA.
- E. Notices/Agenda.** Township Staff shall issue such notices and prepare the agendas for all meetings.
- F. Retention.** The record of each meeting shall be permanently kept on file with a copy filed with the Township Clerk. All pertinent documents and minutes for each case shall be maintained by the Planning & Economic Development office.

ARTICLE 5: MEETINGS

Section 1. Regular Meetings. Regular meetings of the BZA shall be scheduled the second Tuesday of every month. The dates and times shall be posted at the Township Hall in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted in the same manner as originally established. When a regular meeting falls on or near a legal holiday, suitable alternate dates in the same month shall be selected in accordance with the Open Meetings Act.

Section 2. Meeting Notices. All meetings shall be posted at the Township Hall according to the Open Meetings Act. The notice shall include the date, time and place of the meeting.

Section 3. Special Meetings. A special meeting may be called by three members of the BZA upon written request to the chairperson or by the chairperson himself/herself. The business which the BZA may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. Public notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meetings Act, and Township Staff shall send notice of a special meeting to BZA members.

Section 4. Open Meetings. All meetings of the BZA shall be opened to the public and held in a place available to the general public. A person shall be permitted to address the BZA during public comment or during the public hearing on a specific item before the BZA. A person shall not be excluded from a meeting of the BZA except for breach of the peace, committed at the meeting. The Chairperson may limit the amount of time allowed for each person wishing to make public comment at a BZA meeting.

The Chairperson may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the BZA meeting with an extended time limit.

Section 5. Public Record. All meetings, minutes, records, documents, correspondence, and other materials of the BZA shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

Section 6. Quorum. In order for the BZA to conduct business or take any official action, a quorum consisting of the majority of the voting members of the BZA shall be present. When a quorum is not present, no official action, except for closing of the meeting shall occur. The members of the BZA may discuss matters of interest, but can take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next available regular meeting.

Section 7. Voting. Any decision made by the BZA shall require a majority vote of the membership of the BZA. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any BZA member or directed by the chairperson. All BZA members shall vote on every motion placed on the floor unless there is an impermissible conflict of interest, as established in ARTICLE 6 or is otherwise prohibited.

Any member of the BZA shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:

- A. When the appeal is of an administrative or other decision by the Planning Commission, and the member of the BZA sits both on the Planning Commission and BZA.
- B. When the appeal is of an administrative or other decision by the Township Board, and the member of the BZA sits both on the Township Board and BZA.
- C. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Township Board, other committee, and the member of the BZA sits both on that committee and the BZA.

Any member abstaining from a vote shall indicate their intention to abstain prior to any discussion on that item and shall not participate in the discussion of that item.

Section 8. Agenda. A written agenda for all regular meetings shall be prepared as follows: The required agenda items for all regular meetings shall be:

- A. Call to Order, Pledge of Allegiance, and Roll Call
- B. Approval of Agenda and Minutes
- C. Correspondence
- D. Public Comment
- E. Unfinished Business
- F. New Business
- G. Announcements, Comments, and Open Discussion
- H. Adjournment

Section 9. Rules of Order. All meetings of the BZA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by “Robert’s Rules of Order” as modified by the BZA.

Section 10. Public Hearings. Hearings shall be scheduled and due notice given in accordance with the Charter Township of Van Buren Zoning Ordinance and the Michigan Zoning Enabling Act. Public hearings conducted by the BZA shall be run in an orderly and timely fashion. This shall be accomplished by the established hearing procedures as follows.

- A. Announce Subject.** The chairperson announces each agenda item and describes the subject to be considered.
- B. Open Public Hearing.** The chairperson summarizes the hearing rules and then opens the hearing to the floor.
- C. Close Public Hearing.** The chairperson should give ample opportunity for comment, including a “last call” for comments. The chairperson will then close the hearing.
- D. Deliberation.** Any action of the BZA must be supported by reasonable findings and conclusions, which will become part of the record through minutes, resolutions, staff reports, etc. All motions shall summarize these findings, or provide reasons for the suggested action. If a matter is tabled to a specific meeting date, it is not necessary to re-advertise the hearing so long as the public hearing was opened and closed and proper notice as specified in the zoning ordinance and Zoning Enabling Act was given.
- E. Action.** After deliberation, the BZA may take any of the following actions:
 - 1. In the event of a variance request, the BZA may table the request, approve the request, deny the request or approve the request with conditions.
 - 2. In the event of an administrative appeal, the BZA may decide in favor of the Zoning Administrator or may reverse any order, requirements, decision, or determination of the Zoning Administrator.
 - 3. In the event of a request to make an interpretation of the zoning ordinance, the BZA may take action explaining the interpretation.

Section 11. Postponement of a Decision on a Variance Request. The BZA may postpone a decision on a variance request until the next regular meeting provided that the date and time of the meeting is provided in the motion. The BZA shall not authorize more than two (2) requests to postpone a variance decision. If additional time is needed by the applicant that would require a decision to be postponed more than twice, the BZA may, after written request from the applicant, remove the item from the agenda and allow the applicant to reapply at a later date. If the applicant reapplies then the variance request shall be treated as a new request with a new case number, a new public hearing notice as required by the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.), and a new application fee shall be paid.

ARTICLE 6: CONFLICT OF INTEREST

Section 1. Declaration of Conflict. No BZA member shall participate in any matter where they have an impermissible conflict of interest. BZA members shall declare a conflict of interest when any one (1) or more of the following occur:

- A.** The BZA member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency, or association.
- B.** A relative or other family member of a BZA member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency, or association.
- C.** Where an action made by the BZA will result in a monetary benefit to the BZA member.
- D.** The employer or an employee of the BZA member is an applicant, agent for an applicant, or has a direct interest in the outcome.
- E.** The BZA member or a relative or other family member of a BZA member owns or has a financial interest in neighboring property. For purposes of this Section, a neighboring property shall include any property falling within the three hundred (300) foot notification radius for the request, as required by the Zoning Ordinance and Michigan Zoning Enabling Act.
- F.** There is a reasonable appearance of a conflict of interest, as determined by the BZA member declaring such conflict.

Section 2. Requirements. When a conflict of interest exists, the member of the BZA shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:

- A.** Prior to the meeting in which they have a conflict, the BZA member shall contact either Township staff or the Chairperson to make them aware of the conflict. Township staff and/or the Chairperson shall then contact the alternate(s) to ensure there are a sufficient number of members present and without conflict to conduct business at the meeting;
- B.** Declare a conflict exists at the meeting;
- C.** Cease to participate at the BZA meetings, or in any other manner, or represent one's self before the BZA, its staff, or others; and
- D.** During the deliberation of the agenda item before the BZA, the member declaring a conflict of interest shall leave the meeting room until that agenda item is concluded.

ARTICLE 7: POWERS OF THE BZA

Section 1. Powers and Duties. The BZA shall have the following powers/duties as granted by the Michigan Zoning Enabling Act and the Charter Township of Van Buren Zoning Ordinance:

- A. Administrative Review.** To hear and decide appeals where it is alleged by the appellant and there is an error in any order, requirement, permit, decision or refusal made by the building official or any other administrative official or body in carrying out, enforcing, any provision of the Zoning Ordinance.
- B. Interpretation.** To hear and decide in accordance with the provisions of the Township's Zoning Ordinance.
 - 1. Appeals for the interpretation of the provisions of the Zoning Ordinance.
 - 2. Requests to determine the precise location of the boundary lines between zoning districts as they are displayed on the zoning map.
- C. Variances.** The BZA shall have the power to authorized, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations; such requirements as off-street parking and loading space, requirements, sign regulations and other similar requirements as specified in the Ordinance, provided such modifications will not be inconsistent with the purpose and intent of such requirements. To obtain a variance the applicant must show practical difficulty by meeting the specified criteria in the Zoning Ordinance.
- D. Belleville Lake Shoreline District Special Exceptions.** The BZA may interpret the Belleville Lake Shoreline District (Section 3.120) section of the Zoning Ordinance if questions arise and may approve modifications to particular provisions of this Section, and grant special exceptions for a given case in accordance with the standards for special exceptions (Section 3.120(F)(7)(c)). In exercising its powers, the BZA shall have the primary goal of reaching an equitable conclusion and allocation of use of the Township Lake property for the purposes stated in [Section 3.120\(A\)](#) of the Zoning Ordinance.

Section 2. Prohibited Variances. The BZA is prohibited from granting the following variances:

- A. Special Approval Uses.** No variance shall be made in connection with a condition attached to a special approval use approved by the Township Board.
- B. Use Variance.** No variance shall be made in the use of land, and the BZA shall not consider use variance requests.

ARTICLE 8: OTHER DUTIES

Section 1. Duties. The following are duties which are expected of the individual members of the ZBA.

- A. Ex Parte Contact.** Ex parte contact occurs when a party to a case or someone involved with a party, talks or writes to or otherwise communicates directly with a BZA member about the issues in a case without the other BZA members or party's knowledge. Members shall avoid Ex Parte contact, whenever possible. Sometimes it is not possible to avoid Ex Parte contact. When this occurs the member should take detailed notes about what was discussed and report it to the BZA at a public meeting so that every member and other interested party is made aware of what was said.
- B. Site Inspections.** Members may perform site inspections, however, no more than one (1) member may perform a site inspection at the same time. Members should avoid discussing the merits of the request with the applicant, family member of the applicant or agent of the applicant.

- C. Accepting Gifts.** Per the Township's Ethics Policy, no BZA member shall solicit, accept, or receive, directly or indirectly, any gift, compensation, or anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality or any other form, or a promise of any of these things for an agreement that the vote or decision of the BZA member would be influenced thereby.
- D. Conduct.** Each member of the BZA, upon appointment, shall comply with all applicable Township policies and ordinances.
- E. Policy.** The BZA may also formulate and provide advice and may advise policy to the Planning Commission, Township Board, or any committee thereof, on issues dealing with administration, text, map, and enforcement of the Zoning Ordinance.

ARTICLE 9: ADOPTION, REPEAL, AND AMENDMENTS

Section 1. Adoption. Upon adoption of these Rules of Procedure, they shall become effective and all previous rules of procedure, as amended, shall be repealed.

Section 2. Amendments. These Rules of Procedure may be amended at any regular or special meeting by a majority vote of the total members of the BZA, so long as such amendment does not result in a conflict with state law, zoning ordinance, or court decision.

Section 3. Temporary Suspension of the Rules of Procedure. Any Rule of Procedure may be temporarily suspended by a majority vote of the total members of the BZA, so long as such temporary suspension does not result in a conflict with state law, zoning ordinance, or court decision.



Case number 19-039
Dated submitted 12-6-19

Board of Zoning Appeals Application

APPLICANT INFORMATION

Applicant JOSEPH ACTMAN Phone (313) 522-3042
Property Owner (if different than applicant) MARASH NUCILLAS Phone (586) 530-4078
Address 11511 BELLEVILLE ROAD Fax N/A
City, State VAN BUREN, MICHIGAN Zip 48111 E-Mail Address MARASHKN62@gmail.com

SITE INFORMATION

Property Location: On the SOUTH Side of JEANETTE Road; Between BELLEVILLE Road
and JEANETTE Road. Size of Lot Width _____ Depth _____ Acreage .78 ACRES
Date Property Acquired and the Type of Ownership 1997 - MORTGAGE
State all deed, subdivision improvement and property restrictions in effect at this time, together with dates of expiration:

VARIANCE REQUEST

Variance to Zoning Ordinance Section (s) 3.112(E)
Explanation of the Practical Difficulty of the Property as defined in Section 19.07 NEED ADDITIONAL STORAGE
& IMPROVED TOILETROOM SPACES REQUIRING SIDEYARD VARIANCE
Explanation of request for Administrative Review Interpretation _____

REQUIRED INFORMATION

Photographs of the building and/or structures on site
Sketch plan or plot plan showing the dimensions of the lot and the existing and proposed setbacks

OWNER'S AFFIDAVIT

MARASH NUCILLAS
Print Property Owners Name

[Signature]
Signature of Property Owner

12/06/19
Date

STATE OF MICHIGAN
COUNTY OF WAYNE

The undersigned, being duly sworn, deposes and says that the foregoing statements and answers herein contained and accompanied information and date are in all respects true and correct.

Subscribed and sworn before me this 6 day of December 2019

[Signature] Notary Public, Wayne County, Michigan
My Commission expires July 30, 2020

JESSICA M. SHEVROVICH
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Jul 30, 2020
ACTING IN COUNTY OF Wayne

CHARTER TOWNSHIP OF VAN BUREN

BOARD OF ZONING APPEALS

PUBLIC HEARING

Notice is hereby given that the Charter Township of Van Buren Board of Zoning Appeals will hold a public hearing on **Tuesday, February 11, 2020 at 7:00 p.m.**, at the Van Buren Township Hall, 46425 Tyler Road, Van Buren Township, MI 48111 to consider the following variance request:

1. **Case # 19-039-** A request by Joseph Altman on behalf of Marash Nucullaj for 11511 Belleville Road (Mike's Kitchen Restaurant) Parcel ID# 83-086-99-0012-001 for a variance from Section 3.112 (E) for C-2 Extensive Highway Business District:

Side (South) Yard Setback:

- Required: 25.00 feet
- Existing: 5.00 feet
- Proposed (to addition): 5.00 feet
- Variance requested: 20.00 feet

Please address any written comments to the Van Buren Township Board of Zoning Appeals, at 46425 Tyler Road, Van Buren Township, MI 48111 or via email at dpower@vanburen-mi.org. Written comments will be accepted until 4:00 p.m. on the hearing date and all materials relating to this request are available for public inspection at the Van Buren Township Hall prior to the hearing.

Van Buren Township will provide necessary reasonable auxiliary aides and services to individuals with disabilities who are planning to attend. Please contact the Van Buren Township Planning and Economic Development Department at 734-699-8913 at least seven (7) days in advance of the meeting if you require assistance.

Posted: 1/17/2020

Published: 1/23/2020



Van Buren CHARTER TOWNSHIP

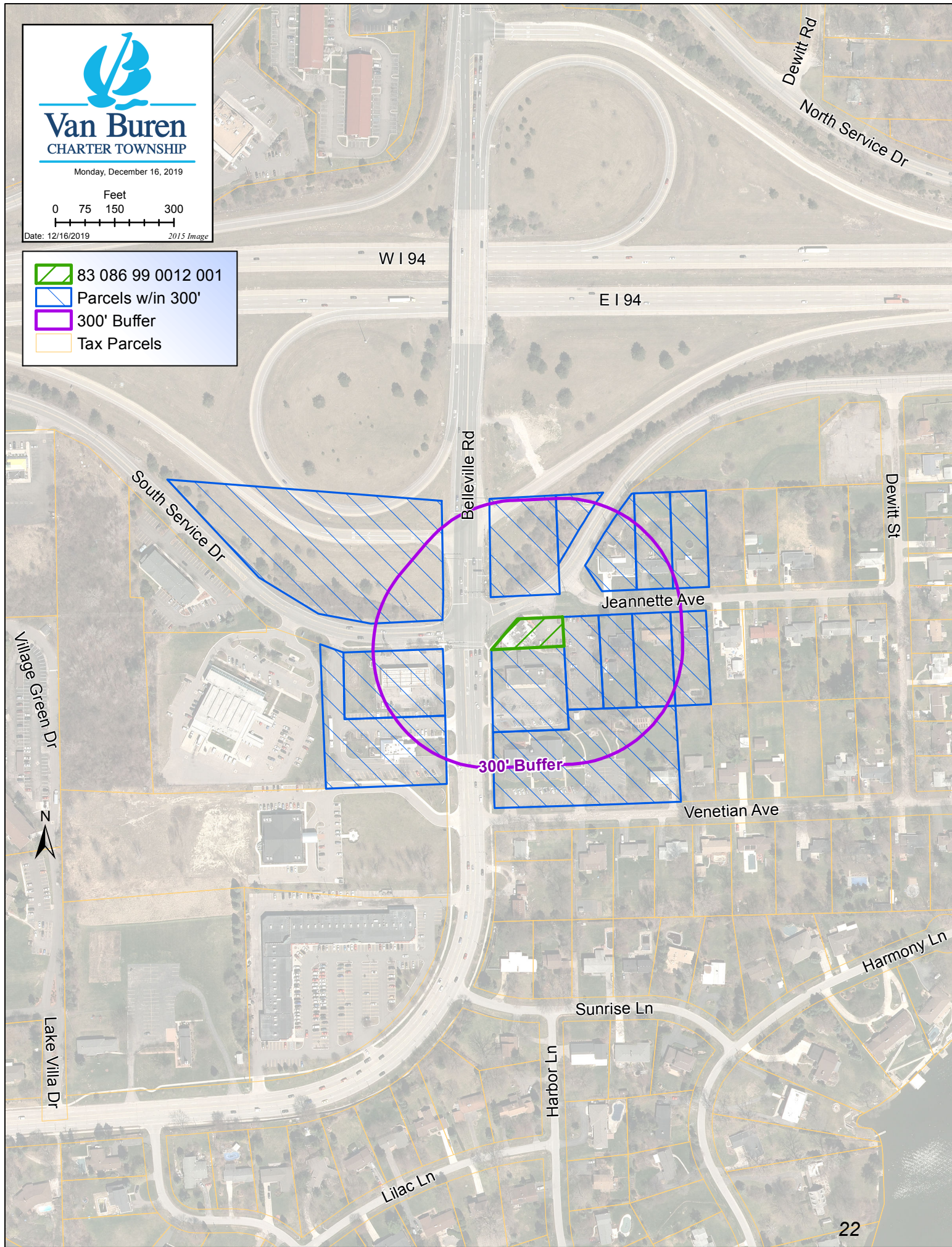
Monday, December 16, 2019

Feet
0 75 150 300

Date: 12/16/2019

2015 Image

- 83 086 99 0012 001
- Parcels w/in 300'
- 300' Buffer
- Tax Parcels



Hogue, Garry-Donna
45216 Jeanette Ave
Van Buren Township, MI 48111

Cyphers, Stella
45226 Jeanette Ave
Van Buren Township, MI 48111

Peters, Cheryl
45250 Jeanette Ave.
Van Buren Township, MI 48111

Stevens, Daman A.
45205 Jeanette Ave
Van Buren Township, MI 48111

Fujii, Brenda
45225 Jeanette Ave
Van Buren Township, MI 48111

Traskos, David & Michelle
45245 Jeanette Ave
Van Buren Township, MI 48111

Occupant
11550 Belleville Road
Van Buren Township, MI 48111

Brauvin Net Investments, LLC
PO Box 6969
Syracuse, NY 13217-6969

Occupant
11531 Belleville Road
Van Buren Township, MI 48111

Comerica Inc.
2800 Post Oak Blvd Suite 4200
Houston, TX 77056

Belleville Real Estate, LLC
11530 Belleville Road
Van Buren Township, MI 48111

Trinity Episcopal Church
11575 Belleville Road
Van Buren Township, MI 48111



MCKENNA

December 29, 2019

Board of Zoning Appeals
Van Buren Township
46425 Tyler Rd
Van Buren Charter Township, MI 48111

Subject: Mike's Kitchen Restaurant/11511 Belleville Road /Variance Review; Application dated recd. 12/6/2019.

Dear Board Members:

We have reviewed the above referenced application submitted by Joseph Altman on behalf of Marash Nucullaj to construct additions to the existing Mike's Kitchen Restaurant. The proposal requires a variance from side yard setback standards. The following are our review comments based on the criteria in the Zoning Ordinance and the information provided:

File Number: VBT-19-039

Parcel Size and Tax ID: ≈0.78 Acres/Parcel ID# 83-086-99-0012-001

Property Owner: Marash Nucullaj

Zoning and Existing Use: C-2 Extensive Highway Business District. The parcel is currently occupied by a restaurant that is not operational.

Project Description: Applicant is proposing additions to the existing restaurant which necessitates a variance from the side yard setback.

Notice: Notice for the public hearing was published in the Belleville Independent on December 26, 2019 in accordance with the Michigan Zoning Enabling Act and notices were mailed to the owners of real property within 300' of the subject property on December 20, 2019.

Variance Request:

Section 3.112 (E) Dimensional Regulations for C-2 District:

| | |
|----------------------------|--------------------------------|
| Side (South) Yard Setback: | Required: 25.00 feet |
| | Existing: 5.00 feet |
| | Proposed: 5.00 feet |
| | Variance requested: 20.00 feet |

COMMENTS

Per Section 12.403.C of the Township Zoning Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, the Board must, prior to acting on a proposed variance, consider and make findings regarding several factors. The Board may grant a dimensional or non-use variance upon a finding that practical difficulties exist. To meet the test of practical difficulty, the applicant must demonstrate compliance with the following:

HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

○ 248.596.0920
F 248.596.0930
MCKA.COM

Communities for real life.

- 1) **That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons.**

Section 3.112 (D) of the Zoning Ordinance requires structures in the C-2 zoning district to have a minimum 25 rear yard setback. The subject site is a corner lot with frontage onto Belleville Road and I-94 S. Service Drive. The parcel is shaped like an inverted reverse "L", which poses a challenge for any structure located on it. The site has an existing building which was constructed in 1972 (per Assessor's records) and is currently non-conforming with a setback of 5 feet. It is our understanding that the structure suffered severe water damage in the last year or so, and the restaurant has been shut down since then.

The applicant is proposing to make major renovations to the interior, update the façade and build additions to accommodate additional storage area and restrooms which per the applicant are required for its functioning. Due to the shape of the existing structure and its non-conforming footprint, non-conforming location of the existing restaurant, any addition on the rear side is also likely to be non-conforming. The existing floor plan allows for a kitchen and dining area but has very limited storage and utility space. The proposed addition is intended to provide for the restaurant's storage needs and also restroom facilities which are code compliant.

Strict compliance with the side yard setback would likely allow for the construction of a very small storage space, but would not allow for the construction of the restroom addition. The existing restaurant is located in the Belleville Road Overlay District, which has specific design requirements. The existing restaurant is outdated and need of an upgrade. The proposed additions and interior renovations are intended to make the restaurant better, more viable and also comply with all applicable building codes. Not allowing for an additions with could be as being unnecessarily burdensome.

- 2) **That a variance would do substantial justice to the applicant, as well as to other property owners in the district, (the BZA, however, may determine that a reduced relaxation would give substantial relief and be more consistent with justice to others).**

A variance would do substantial justice to the applicant by enabling them to build the additions proposed which they consider essential for the viability of the restaurant. The subject site is located at a corner with street frontage to the north and west. The proposed addition is on the south/southeast side of the structure, which abut the drive-through of a bank and the restaurant parking lot, respectively. The proposed additions are located 50'+ from the bank building to the south and are not likely to impact emergency access or safety.

- 3) **That plight of the owner is due to the unique circumstances of the property.**

As noted previously, the subject site is an odd shaped parcel which poses a challenge for placement of structures. While there may be other commercially zoned parcels in the Township with an unusual configuration, at this time we are aware of the applicant site only.

- 4) **That the problem is not self-created.**

The need for the variance is not a self-created problem. As noted previously, the restaurant on the subject site was a long standing fixture in the community till it suffered severe water damage and had to shut down. At this time the applicant is attempting to fix the structure and make changes that would bring it up to compliance with code and make it a viable business again.

Section 12.403 (D) Standards of approval.

- 1) That the proposed appeal or variance is related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.**

Zoning is a valid exercise of the police power bestowed by the State of Michigan in the Michigan Zoning Enabling Act (PA 110 of 2006). The Zoning Enabling Act specifically gives local municipalities the authority to have a Board of Zoning Appeals and to grant dimensional variances when practical difficulty is demonstrated.

- 2) The proposed appeal or variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets.**

Approving the variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in the public streets. As previously noted, the proposed addition is located more than 50 feet from the bank building on the abutting site to the south. There are no other structures within close proximity to the proposed additions.

- 3) Will not increase the hazard of fire or flood or endanger the public safety.**

The proposed additions are not likely to increase the hazard of fire or flood or endanger the public safety. The addition will be required to comply with all applicable building codes.

- 4) Will not unreasonably diminish or impair established property values within the surrounding area.**

Renovation and remodeling of the restaurant which has remained closed since the water damage, would enhance the value of the subject site and is not likely to diminish or impair established property values within the surrounding areas.

- 5) Will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.**

Allowing the proposed building additions in the required side yard setback is not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

- 6) Will not alter the essential character of the neighborhood.**

The proposed additions are located in the rear of the building and are not visible from the public street frontages. The site is located on Belleville Road just off the I-94 freeway, in an area with other commercial operations. The proposed additions are not altering the character of the area in which they are located.

- 7) Is necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration, and is necessary to ensure compliance with those standards.**

The purpose of zoning regulations is to provide for orderly and planned use of land. The request at this time does not alter the use of the land and is intended to accommodate additions to facilitate the re-opening of the restaurant.

Recommendation

Subject to any additional information presented and discussed by the applicant, Board, and/or the public during the public hearing and incorporated into the record prior to any findings being made, we recommend that the Board of Zoning Appeals approve the requested variance for the property located at 11511 Belleville Road.

The above recommendation is based on the following findings of fact:

1. Strict compliance with the required side yard setback would likely prevent the construction of the addition to accommodate the bathroom and would greatly reduce the storage addition, which can be construed as being unnecessarily burdensome.
2. A variance would provide substantial justice to the applicant and is not averse to the interests of other property owners in the district.
3. The subject site is an unusual shaped parcel.
4. The existing non-conforming building footprint limits the placement of any additions.
5. The structure suffered severe water damage (not self-created) which resulted in the need for a full renovation and remodeling.
6. The proposed variance is related to the valid exercise of police power.
7. A variance is not likely to impair light and air to adjacent property or increase the congestion in the public streets.
8. A variance is not likely to increase the hazard of fire or flood or endanger the public safety.
9. A variance is not likely to diminish or impair established property values within the surrounding areas.
10. A variance is not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.
11. A variance is not likely to alter the essential character of the neighborhood.
12. A variance allows for the re-establishment of a long standing business in the community.

Respectfully submitted,
McKENNA

A handwritten signature in black ink, appearing to read "Vidya Krishnan", with a horizontal line drawn across the middle of the signature.

Vidya Krishnan
Principal Planner

Cc: Matthew Best, Director of Public Services, Van Buren Township