

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS AGENDA
Wednesday, September 14, 2021 – 7:00 PM
REMOTE MEETING –AGENDA**

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to Van Buren Township residents; this Van Buren Township's Board of Zoning Appeals meeting will be conducted virtually as permissible under Public Acts of 2020 Act No. 254 and Declaration of a Health Emergency in Wayne County. To participate in the meeting electronically, the public may follow the instructions below.

- Join by weblink: : <https://us06web.zoom.us/j/83553896612>
- Or dial in by phone: 1 929 436 2866
- Webinar ID: 835 5389 6612

For instructions on [how to join a Zoom meeting, make a public comment, ADA information, and virtual meeting compliance from the State of Michigan please click here.](#)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

BZA Chair Aaron Sellers	___	BZA Alternate Member Charles Larocque	___
BZA Vice-Chair Amos Grissett	___	Planning Commission Representative Medina	___
Planning Commission Alternate Representative		Atchinson	___
Jeffrey S. Jahr	___	Recording Secretary Brittney Williams	___
BZA Member / Trustee Kevin Martin	___	Director Dan Power	___
BZA Member John Haase	___	Executive Assistant Tammy Dohring	___
BZAA Member John Herman	___	Director Matthew Best	___

ACCEPTANCE OF AGENDA

APPROVAL OF MINUTES: Approval of minutes from April 13, 2021

CORRESPONDENCE

PUBLIC HEARING (for non-new business items)

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

PUBLIC HEARING (new business items)

1. Case Number: 21-031 – Amy Wagner-Kotb

Location: 13295 Ormond Drive (tax parcel ID 83-080-01-0068-301), zoned R-1B, Single Family Residential District:

Request: A request by applicant and owner Amy Wagner-Kotb to construct an 1,168 square foot addition to an existing nonconforming 1,186 square foot single family dwelling, requires a variance from the Van Buren Township Zoning Ordinance, as follows:

Article 14. Nonconformities, Section 14.106. Enlarging a Nonconforming use, subsection B.

Floor area expansion: 50.00% of floor area (593 sq. ft) permitted
98.48% of floor area (1,168 sq. ft) proposed
48.48% of floor area (575 sq. ft) variance requested

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

UNFINISHED BUSINESS

NEW BUSINESS

1. Case Number: 21-031 – Amy Wagner-Kotb

Location: 13295 Ormond Drive (tax parcel ID 83-080-01-0068-301), zoned R-1B, Single Family Residential District:

Request: A request by applicant and owner Amy Wagener-Kotb to construct an 1,168 square foot addition to an existing nonconforming 1,186 square foot single family dwelling, requires a variance from the Van Buren Township Zoning Ordinance, as follows:

Article 14. Nonconformities, Section 14.106. Enlarging a Nonconforming use, subsection B.

Floor area expansion: 50.00% of floor area (593 sq. ft) permitted
98.48% of floor area (1,168 sq. ft) proposed
48.48% of floor area (575 sq. ft) variance requested

- A. Presentation by Township Staff.
- B. Presentation by the Applicant.
- C. Board of Zoning Appeals Discussion.
- D. Board of Zoning Appeals Action.

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

ADJOURNMENT

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Tuesday April 13, 2021
DRAFT MINUTES**

To mitigate the spread of COVID-19, protect the public health, and provide essential protections to Van Buren Township residents; this Van Buren Township's Board of Zoning Appeals meeting will be conducted virtually as permissible under Public Acts of 2020 Act No. 254 and Declaration of Health Emergency in Wayne County.

Prior to the start of the meeting, the public was given instructions on how to take part in the meeting.

The meeting was called to order at 7:03 pm via Zoom by Vice Chairperson Amos Grissett.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: John Herman, John Haase, Medina Atchinson (Planning Commission Rep.), Jeff Jahr (Planning Commission Alt.), Kevin Martin (Trustee), Amos Grissett (Vice-chair)

Absent Excused: Charles Larocque, Aaron Sellers (Chair)

Staff: Dan Power (Dir. Of Planning & Economic Development), Tammy Dohring (Recording Secretary)

Vidya Krishnan (Planning Representative) Ryan Nichols (Communication Specialist)

Audience: 5

ACCEPTANCE OF AGENDA: Herman motioned; Haase seconded to accept the Agenda as presented.

ROLL CALL:

Yeas (5): Haase, Herman, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

APPROVAL OF MINUTES:

Haase motioned; Martin seconded to approve the minutes from the February 9, 2021 meeting.

ROLL CALL:

Yeas (5): Haase, Herman, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

Haase motioned, Herman seconded to open the public hearing for non-new business items.

CORRESPONDANCE: NONE

Atchinson motioned, Herman seconded to close the public hearing for non-new business items

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

Herman motioned, Haase seconded to open public hearing for New Business Items.

ROLL CALL:

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Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

1. Case Number: 21-015 – Gardner Sign, Inc. on behalf of owner Genisys Credit Union

Location: 10444 Belleville Road (tax parcel ID 83 064 99 0003 717), zoned C-2 – Extensive Highway Business District:

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

Section 11.108(B) of the Zoning Ordinance (Signs – Zoning District Regulations) of the Zoning Ordinance, which places certain limits on the area and **height** for monument signs in the C-2 zoning district:

- **Required:** (1) 8' maximum height (including base) on lots or developments that do not 2 or more major tenants, (2) 60-sq. ft. maximum total sign area (excluding base) on lots with greater than 200' but less than 400' of frontage.
- **Proposed:** (1) 10'-1 ¾" height (including base), (2) 92.32-sq. ft. total area (excluding base).

CORRESPONDANCE: NONE

Atchinson motioned, Herman seconded to close public hearing

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

2. Case Number: 21-010 – Rob Wagner of Midwest Consulting on behalf of owner South Yost, LLC

Location: 44145 Yost Road (tax parcel ID 83 009 99 0004 001), zoned M-1 – Light Industrial:

Request: Applicant Rob Wagner of Midwest Consulting on behalf of owner South Yost, LLC is requesting two (2) variances from the following section of the Charter Township of Van Buren Zoning Ordinance:

Side yard setback and rear yard setback requirements of Section 4.102 (Schedule of Regulations) of the Zoning Ordinance, which requires certain setbacks for buildings or structures in the M-1 Zoning District:

- **Required:** The side yard setback shall be a minimum of 40' and the rear yard setback shall be a minimum of 40'.
- **Proposed:** 7.89' side yard setback and 0' rear yard setback.

Haase motioned, Herman seconded to open public hearing.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

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Motion Carried

CORRESPONDENCE: None

Atchinson motioned, Haase seconded to close public hearing for New Business Items.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

UNFINISHED BUSINESS

1. Case Number: 21-006 – Neapco Drivelines on behalf of owner Van Buren Ind. Investors, LLC

Location: 6735 Haggerty Road (tax parcel ID 83 002 99 0026 704), zoned M-1, Light Industrial:

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

Maximum lot coverage limits of Section 4.102 (Schedule of Regulations) of the Zoning Ordinance, which limits the total lot coverage, or part of a lot occupied by buildings or roofed structures including accessory buildings or structures in the M-1 Zoning District:

- **Required:** The maximum lot coverage shall be 35%.
- **Proposed:** 35.92% lot coverage with +/- 711,179-sq. ft. of building area on a +/- 45.44-acre lot including a proposed canopy addition.

Director Power summarized that per the minutes from the BZA's February 9, 2021 meeting, the BZA reviewed this variance request, and requested that the case be postponed in order to give the applicant a chance to present to the Planning Commission, for a possible zoning ordinance revision, as opposed to a variance request. Thru the research of other communities, the staff discovered that different communities regulate lot coverage differently, some include parking lots, not only roofed structures. A canopy or unenclosed roof structure would not cause any additional detriment, including run off to a site, or increasing the intensity of development. Staff developed, with the Planning Commission, an ordinance that would allow a limited additional area of unenclosed roof structures to cover outdoor storage areas in industrial districts. This ordinance was developed over the course of three Planning Commission meetings and adopted by the Township Board after a public hearing. In this case's purpose's this negates the need for a variance as they no longer have an issue with lot coverage. Director Power recommended the BZA make a motion to withdraw the request to the BZA for a variance.

The Board inquired if the Applicant needed to submit a written request for withdrawal. Director Power responded that he could get a written notice at a later date. Vidya Krishnan also responded that typically the applicant would submit a written request for withdrawal, however in this particular case, it can also be closed thru the BZA, since the applicant achieved what was requested thru a text amendment that has already been put in place by the Township Board. Ms. Krishnan suggested to make a motion to close the case.

Haase motioned, Herman seconded to close Case **Number: 21-006 – Neapco Drivelines on behalf of owner Van Buren Ind. Investors, LLC**

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ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

NEW BUSINESS

1. Case Number: 21-015 – Gardner Sign, Inc. on behalf of owner Genisys Credit Union

Location: 10444 Belleville Road (tax parcel ID 83 064 99 0003 717), zoned C-2 – Extensive Highway Business District:

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

Section 11.108(B) of the Zoning Ordinance (Signs – Zoning District Regulations) of the Zoning Ordinance, which places certain limits on the area and **height** for monument signs in the C-2 zoning district:

- **Required:** (1) 8' maximum height (including base) on lots or developments that do not 2 or more major tenants, (2) 60-sq. ft. maximum total sign area (excluding base) on lots with greater than 200' but less than 400' of frontage.
- **Proposed:** (1) 10'-1 ¾" height (including base), (2) 92.32-sq. ft. total area (excluding base).

Ms. Krishnan presented her letter dated April 5, 2021. She reiterated the subject site is a 1.6 acres lot acres parcel located in C-2 Extensive Highway District. Genisys Credit Union is proposing signage which exceeds the maximum height and maximum size for the C-2 district. The current Monument Sign Regulation for the C-2 district is maximum height of 8ft (on lots with two or fewer tenants) and maximum 60 square feet (foot lots with frontage between 200-400 square feet). The proposed sign height is 10.15 feet and proposed area is 92.32 square feet. This is a variance request of 2.15 feet for sign height and 32.32 square feet for area.

Ms. Krishnan's recommendation to deny the variances requested by Genisys Credit Union is based on the following 16 findings of facts:

1. The signage permitted by the ordinance will have as much visibility on Belleville Road as any of the other businesses.
2. The applicant's justification regarding line of sight is inaccurately presented from a pedestrian view.
3. The subject site has multiple routes of access.
4. There is no data to substantiate the statement that the sign as allowed by the ordinance will impede the applicant's ability to attract new clients.
5. The applicant likely picked the site with full knowledge of the existing trees and line of sight. The situation did not just arise.
6. Strict compliance with the sign height and sign area requirements would allow for a substantial sign similar to all other commercial properties on Belleville Road.
7. The requested variances would do substantial justice to the applicant, but is not reasonable to other property owners who have complied with the Ordinance standards.
8. There are no unique circumstances associated with the subject parcel.
9. The problem necessitating the variances is self-created.
10. The proposed variances are related to the valid exercise of police power.
11. The proposed variances will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets.
12. The proposed variances will not increase the hazard of fire or flood or endanger the public safety.

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13. The variances are likely to have long term impact on the Belleville Road corridor for sign proliferation.
14. The variances are not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.
15. The variances are likely to alter the essential character of the neighborhood.
16. The variances requested are contrary to the intent of the Zoning Ordinance and sound planning principles.

Genysis Credit Union Representatives: Mia Astor with Gardner Signs, Jackie Buchanan and Michelle Mattsen with Genysis Credit Union.

Ms. Buchanan stated that the credit union is excited to be moving into Van Buren Township, and growing their business, they will be closing the Ypsilanti Branch and re-locating those employees to the Van Buren branch. They were aware when they bought the bank building, of the trees, but in the past have been able to move trees around. Mia is attempting to show the board a picture of how the trees have grown over the last 20 years, resulting in the need for a bigger sign. The applicant suggested the picture shown in the report from McKenna, is a picture heading North looking backwards at the sign, not a picture heading south. Ms. Krishnan refuted this statement saying the picture was taken from the middle lane of Belleville Road, heading South. Ms. Krishnan also stated that because of the green belt plantings requires one tree for so many linear feet, trees cannot be moved or clustered together. Ms. Astor showed an aerial view of the property, showing that of the out lots, the credit union site is the only one that doesn't have an access drive next to it, and GPS brings you to the front of the location, and does not show the access drives. The second picture shows the current 5/3 sign with the trees as of present. The next picture shows the location of where the new sign would go on side of the property nearest Applebee's. Ms. Astor clarified there will also be two wall signs and one on the back canopy, but the monument sign is the most important for a business. Ms. Astor stated that if the credit union had over 400 feet of frontage- they would be allowed a 90-foot sign, so they are not asking for a size that's not allowed, she requested that allowing the variance be reconsidered, because of the trees.

Ms. Krishnan explained that the DDA and the Township have worked very hard to establish the amenities for businesses along Belleville Road, including the established trees. Ms. Krishnan also stated that the image depicting the 5/3 sign, shows a non-conforming sign. The monument base needs to be two feet in height and as wide as the sign, the pictured sign is estimated to be 32 square feet. The allowed new sign would be approximately double the size of the existing 5/3 sign. The request for a sign variance is not justified by the evidence presented.

Ms. Buchanan stated they are respectful to the process and invited the commissioners to drive by the site and view the sign.

The Commission inquired if the applicant can install a burm for the sign to sit on. Ms. Krishnan replied, the ordinance does not allow alterations to the grade.

The applicant asked if the trees could be replaced with the same tree, but smaller. Ms. Krishnan replied that is not a solution, the trees will still grow, she did suggest possibly trimming the under canopy. Director Power stated that the trees were strategized planted deliberately, the township would be open to hearing ideas about corrective pruning of the trees on the private property, but it would require follow up with the DDA and the Township. Ms. Astor stated she would like to know how the trees were strategically planned out, since there are none in front of Applebees.

Commissioner Atchinson implored the applicant not place the success of their business on the size of the sign, the community involvement and presence that Genysis provides the community, is something that 5/3rd never did.

Vice Chair Grissett asked if the request should be tabled, in order to research more regarding the trees. Commissioner Martin stated the trees aren't germane to variance request for the sign. Director Power reiterated to the commission as well, the tree pruning is sperate from the variance request, and postponing should only be done if there are missing details, which there have been a lot of details provided.

BOARD DISCUSSION

Commission requested Ms. Krishnan go over the standard of accepting or rejecting a variance.

Ms. Krishnan explained would not approving the variance prevent the applicant from not using the property. Would non-approval impede the applicant's ability to increase business, showing the facts to support this. Is access to the site

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limited, and would require a larger sign, is there anything unique to the site, that justifies the need for a variance, would compliance with the ordinance create unnecessary burden for the applicant, or is it self-created? She stated the details are all summarized in the report.

Commission stated that they have a set of rules, and try not to set new precedence's for anybody. There's been several new businesses and all want larger signs. They all want their signs to be seen. The new sign will be equal to or larger than any other sign on Belleville Road, when it comes to businesses of that size.

Herman motioned, Martin seconded to deny the request for a variance of a larger sign, based on the 16 points mentioned in the McKenna letter dated April 5, 2021.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

2. Case Number: 21-010 – Rob Wagner of Midwestern Consulting on behalf of owner South Yost, LLC

Location: 44145 Yost Road (tax parcel ID 83 009 99 0004 001), zoned M-1 – Light Industrial:

Request: Applicant Rob Wagner of Midwest Consulting on behalf of owner South Yost, LLC is requesting two (2) variances from the following section of the Charter Township of Van Buren Zoning Ordinance:

Side yard setback and rear yard setback requirements of Section 4.102 (Schedule of Regulations) of the Zoning Ordinance, which requires certain setbacks for buildings or structures in the M-1 Zoning District:

- **Required:** The side yard setback shall be a minimum of 40' and the rear yard setback shall be a minimum of 40'.
- **Proposed:** 7.89' side yard setback and 0' rear yard setback

Ms. Krishnan presented her letter dated April 05, 2021. She reiterated the subject site is a 1.5-acre parcel located in an M-1 Light Industrial District. South Yost, LLC is proposing additions to the existing facility which necessitates a variance from the side yard and rear yard setbacks.

The current Zoning Ordinance has a side yard setback of 40.00 feet. The existing and proposed set back is 7.89 feet, requesting a variance of 32.11 feet. The rear set back requirement is 40.00 feet. The existing setback is 59.32 feet, with a proposed set back of 0.00 feet, requesting a variance of 40.00 feet.

Ms. Krishnan's recommendation to approve the variance, based on the following 11 findings of fact.

1. Strict compliance with setbacks would prevent the owner from using the property for a permitted purpose and would render the conformity unnecessarily burdensome.
2. The requested variance would provide substantial justice to the applicant and is not averse to the interests of the other property owners.
3. The subject site is occupied by an existing legal nonconforming use.
4. The need for the State mandated outdoor storage area is not self-created.
5. The proposed variance is related to the valid exercise of police power.
6. Approving the variance is not likely to impair adequate supply of light and air to the adjacent properties
7. Approval of the variances is not likely to increase the hazard of fire.
8. Approval of the variances is not likely to diminish or impair established property values within the surrounding areas.

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9. Approval of the variances is not likely to impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

10. Approval of the variances is not likely to alter the essential character of the neighborhood.

11. Approval of the variance does not alter the use of the land

Director Power stated that because the scope of what is being proposed, is an addition on an industrially zoned site, it is required to go thru site plan review with the Planning Commission, if the variance is granted, as a practice the Planning Commissioners take an informal look at the request first. The comments from the March 24, 2021 PC Meeting, are on page 55 of the packet.

South Yost LLC Representatives: Rob Wagner, Civil Engineer, with Midwestern Consulting and Kevin Ramirez with South Yost LLC

Mr. Wagner reiterated what was mentioned in the McKenna report that this addition is being required by EGLE because of the change in ownership. The building is currently non-compliant, the proposal is to tie the structure into the existing structures foundation, and there really is no other place for the structure to go. It has been functioning since the 1970's. The site to the west is also located in the setback. The Planning Commission questioned if the railroad was subject to notification and Mr. Wagner stated they would be notified, and the easement in question is the right of way for the railroad.

BOARD DISCUSSION:

Commissioners stated the request seems very straightforward, there is no other place to go, and there isn't anything around the site besides industrial complexes and railroads. The applicant did not create the problem, it was mandated by the state.

Director Power clarified, that even though it was mandated by EGLE, they did give deference to the Township, and the State has allowed the Township to work with applicant to take it thru the local process, but to the extent that the requirement to build an addition is required to get their license.

Atchinson motioned, Herman seconded, to grant approval for the variance request to Midwest Consulting and South Yost, LLC, based on the McKenna Letter dated April 5, 2021, and subject to the permits and requirements of the Township.

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

Director Power reported that there are no applications on the agenda for the May BZA Meeting.

Herman motioned, Haase seconded to adjourn meeting 8:52pm

ROLL CALL:

Yeas (5): Herman, Haase, Atchinson, Martin, Grissett

Nays (0): None

Absent (2): Larocque, Sellers

Motion Carried

**CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
Tuesday April 13, 2021
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Respectfully submitted,

Tammy Dohring, Recording Secretary



Case number _____

Dated submitted _____

Board of Zoning Appeals Application

APPLICANT INFORMATION

Applicant Amy Wagner-KotB Phone 734-740-4139
Property Owner (if different than applicant) _____ Phone _____
Address 13295 Ormond Dr. Fax _____
City, State Van Buren Twp Zip 48111 E-Mail Address awagner11@gmail.com

SITE INFORMATION

Property Location: On the North Side of Ormond Road; Between W. Huron River Road and Edgar Road. Size of Lot Width 100 Depth 130 Acreage 0.30
Date Property Acquired and the Type of Ownership _____
State all deed, subdivision improvement and property restrictions in effect at this time, together with dates of expiration:
N/A

VARIANCE REQUEST

Variance to Zoning Ordinance Section (s) 14.106B
Explanation of the Practical Difficulty of the Property as defined in Section 19.07 strict enforcement of ordinance will be burdensome - see Attached letter
Explanation of request for Administrative Review Interpretation N/A

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

Amy L. Wagner-KotB
Print Property Owners Name

Amy L. Wagner-KotB
Signature of Property Owner

6-18-21
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 18th day of June 20021

Michael Hausch Notary Public, Wayne County, Michigan

My Commission expires August 3rd, 2026

MICHAEL HAUSCH
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Aug 3, 2026
ACTING IN COUNTY OF Washtenaw

Rev 9/8/08



MEMO

TO: Van Buren Township Board of Zoning Appeals (BZA)
FROM: Dan Power– Director of Planning and Economic Development
RE: 13295 Ormond Drive Dimensional Variance Request
DATE: September 8, 2021

The BZA is requested to consider a request by applicant and owner Amy Wagner-Kotb. The subject property is located at 13295 Ormond Drive (tax parcel number 83-080-01-0068-301) and is zoned R-1B – Single Family Residential. The applicant requests to construct an 1,168 square foot addition to an existing nonconforming 1,186 square foot single family dwelling. This requires a variance from the Van Buren Township Zoning Ordinance, as follows:

Article 14. Nonconformities, Section 14.106. Enlarging a Nonconforming use, sub-section B.

Floor area expansion: 50.00 % of floor area (593 sq. ft) permitted
98.48 % of floor area (1,168 sq. ft) proposed
48.48 % of floor area (575 sq. ft) variance requested.

A completed BZA Application form, a memo from the Township Principal Planner / Planning Consultant dated August 25, 2021, submittals from the applicant including a narrative letter dated July 5, 2021, site plans and descriptive images, and a copy of the public hearing notice for September 14, 2021 BZA meeting.

Thank you for your consideration of this request.

Sincerely,

Dan Power, AICP
Planning and Economic Development Director
Public Services Department
Charter Township of Van Buren

CC: Vidya Krishnan – Van Buren Charter Township Principal Planner– McKenna Associates
Matthew Best, M.S. - Public Services Director, Van Buren Charter Township
Amy Wagner-Kotb – Property owner / applicant



MCKENNA

August 25, 2021

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

Subject: 13295 Ormond/Variance Review; Application recd. 7/15/2021, dated 6/18/2021.

Dear Board Members:

We have reviewed the above referenced application submitted by Amy-Wagner Kotb requesting a variance to build an addition to an existing single-family dwelling. The following are our review comments based on the criteria in the Zoning Ordinance and the information provided:

File Number: VBT-21-031

Parcel Size and Tax ID: ≈0.23 Acres/Parcel ID# 83-080-01-0068-301

Property Owner: Amy Wagner-Kotb

Zoning and Existing Use: R-1B- The parcel is currently occupied by a single-family dwelling.

Project Description: Applicant is proposing a single story 1,168 square foot addition to the existing 1,186 square foot dwelling.

Notice: Notice for the public hearing was published in the Belleville Independent on August 12, 2021 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 August 12, 2021.

Variance Request:

Article 14. Nonconformities, Section 14.106. Enlarging a Nonconforming use, sub-section B,

Floor area expansion:	50.00 % of floor area (593 sq. ft) permitted
	98.48 % of floor area (1,168 sq. ft) proposed
	48.48 % of floor area (575 sq. ft) variance requested

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.**

The subject site is occupied by an existing dwelling constructed in the 1940's. The dwelling is non-conforming with respect to the front (lake) yard setback. The required setback is 30 feet; however, a portion of the existing dwelling is located at a setback of 29.45 feet, making it non-conforming.

The applicant is proposing to almost double the footprint of the dwelling by constructing an addition to its west. The proposed addition meets the setbacks requirements and the lot complies with the minimum required lot area and width standards. However, since the existing dwelling is non-conforming, the proposed addition is deemed by the Ordinance as an expansion of a non-conforming structure, and is limited to no more than 50% of the footprint of the existing dwelling.

Strict compliance with the Ordinance standards would reduce the proposed addition to less than half the size proposed or would require the shifting of an existing wall, built decades ago by approximately 6". The Ordinance limitation for expansion of non-conforming structures was written with an intent to prevent prolonging or extending the life of a non-conforming structure. In this case however, the existing structure was built prior to the adoption of the Ordinance standards and is a legal non-conforming structure. Further, requiring the shifting of an existing wall by a mere 6" without knowledge of any others structural damage it may cause, can be construed as being unreasonable. Requiring the applicant to drastically reduce the size of the addition proposed is also not reasonable when the addition conforms to all setbacks and lot coverage standards. Granting of the variance in this case would allow for reasonable use of the property.

- 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 construct a substantial addition to meet their family's needs and is not averse to the interest of other property owners in the district or in the vicinity. The existing non-conformity has remained for decades and the proposed addition is in full conformance to the Ordinance standards.

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

There are no unique circumstances associated with the property itself; however, the plight of the owner arises from the footprint of a structure constructed long before the zoning regulations for setbacks were put in place.

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

The requested variance is not a self-created problem. The addition proposed by the applicant is in full compliance with all other Ordinance requirements. The existing nonconformity is due to the original dwelling being constructed in the 1940's.

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 in full compliance with the required setbacks and lot coverage standards for the district.

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

The proposed addition is 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.

The proposed addition to the dwelling is in keeping with the architectural style of the structure and is not likely to diminish or impair established property values within the surrounding areas. Likely, the addition will add to the property value of the subject site.

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 addition 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 addition is a single-story living area addition to an existing dwelling and in keeping with the use of the district. The addition complies with all required setbacks and the lot coverage standards. The addition will not change the residential character of the neighborhood.

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 the living needs of the occupant of the dwelling. The existing non-conformity is not being worsened and the proposed addition is compliant with all standards of the ordinance.

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 13295 Ormond Drive.

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

1. Strict compliance with the ordinance will require the demolition and relocation of a wall which was built decades ago by 6" and can be construed as being unnecessarily burdensome.
2. Limitations to floor area expansion, would prevent the construction of the addition which otherwise complies with all requirements of the ordinance.



3. The existing non-conforming dwelling was constructed in the 1940's prior to the establishment of zoning regulations.
4. A variance would provide substantial justice to the applicant and is not averse to the interests of other property owners in the district.
5. The request for variance is not a self-created hardship.
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.

Respectfully,
McKENNA

Vidya Krishnan
Senior Principal Planner

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

Van Buren Township
Board of Zoning Appeals
43425 Tyler Road
Van Buren Township, MI 48111
Re: 13295 Ormond

July 5, 2021

To the Board of Zoning Appeals of Van Buren Township:

13295 Ormond is a modest home on a double lot, and Amy Wagner-Kotb is planning a sizable addition to meet the needs of her family. The existing house was built in the 1940s, by her grandparents in a legal way and prior to the current zoning ordinance restrictions. Based on current zoning ordinances the existing house is technically non-conforming on the lakeside setback which prohibits the proposed addition based on zoning ordinance section 14.106B. Without a variance, the project could only proceed with a much smaller addition, or by correcting the slight non-conformity (at an exorbitantly high cost to move one (1) exterior wall). Otherwise, the proposed addition meets all zoning ordinance requirements.

We are requesting a variance because literal enforcement of the zoning ordinance in this case will be unduly burdensome to the homeowner. It is unduly burdensome to the homeowner in the sense that a large effort (and sum of additional money) will be required to correct the small non-conformity, and the effort will provide no true benefit to the neighborhood or township. If the non-conformity was corrected, it will be difficult to notice the change, even with a discernable eye. As the homeowner had this surveyed two additional times (winter/spring) to verify the slight non-conforming wall.

Please note that the entire lakeside of the existing house is not non-conforming. The walls that have created this conundrum are not completely improper (see provided documents).

- Going from East to West, the existing wall tapers gradually to non-conformity from approximately 1.5" to no more than 6" on an angle.
- The chimney is located outside of the lakeside setback line, and those walls according to local ordinances are subject to demolition and rebuilding. The existing chimney, however, is conforming and does not need to be demolished and rebuilt. Architectural features such as chimneys are permitted to encroach on required front yards up to 3 feet based on zoning ordinance section 7.118.

So we are talking about keeping the existing chimney and demolishing both sides to correct at most 6". Remember, when this residence was built during the height of WWII, it was built to best practices and methods available. Clearly if these walls were egregiously non-conforming, we would contemplate a redesign. Correcting the corners of the existing house will only provide a better view of the existing chimney and would not offer a better view of the lake (nor any benefit, other than to correct this minor non-conformity). Similarly, an open porch is proposed at the addition that will legally extend beyond the non-conforming areas as permitted by section 7.203 C2.

Therefore, the benefit of strictly enforcing this ordinance will be on paper only. Earnestly we want to follow the rules and regulations set forth by the township. However, we ask that common sense, logic, and some reasoning be used to carefully weigh in this matter. The use of excess money, energy, building materials and other resources to correct the problem will be real. For these reasons, we conclude that the project as a whole would significantly improve access to light, air, and views even if the corners of the house are permitted to remain in place.

One other note to consider is the parcel size, shape, and special features. In planning, unique geographical features can create complex solutions, and have to be addressed individually. One intent of Euclidean zoning prevents the municipality's quality of life from diminishing due to commercial or industrial construction. For instance, you don't want a factory that produces significant emissions built next to a school or a hospital; careful Euclidean zoning can prevent such situations. We are not creating an atrocious situation; we are simply asking that you look at the intent of zoning and understand why we are asking for a variance. A residence built in the 1940's has been hurled into 21st Century law and engineering, and reviewed with a fine-tooth comb for impeding at most 6". Architects and urban planners with local governments should do their best to accommodate residents when purchasing unique properties.

With this addition, Amy Wagner-Kotb is proposing to use her land in a comparable way to her neighbors, and the proposed addition will fit well with the character of the neighborhood. After the addition, her house will not be the largest nor the smallest and will not be the closest to the water's edge (see documents).

- The neighbor to the south is a smaller house, located further from the water's edge.
- The neighbor to the north is a larger house that is located closer to the water's edge.
- The proposed project will meet standard building code and all other zoning ordinance requirements intended to safeguard against fire and flood.
- The project will not diminish or impair property values. Quite the opposite: A larger addition will certainly raise the property values for the neighborhood (and township) compared to a smaller addition or no addition.

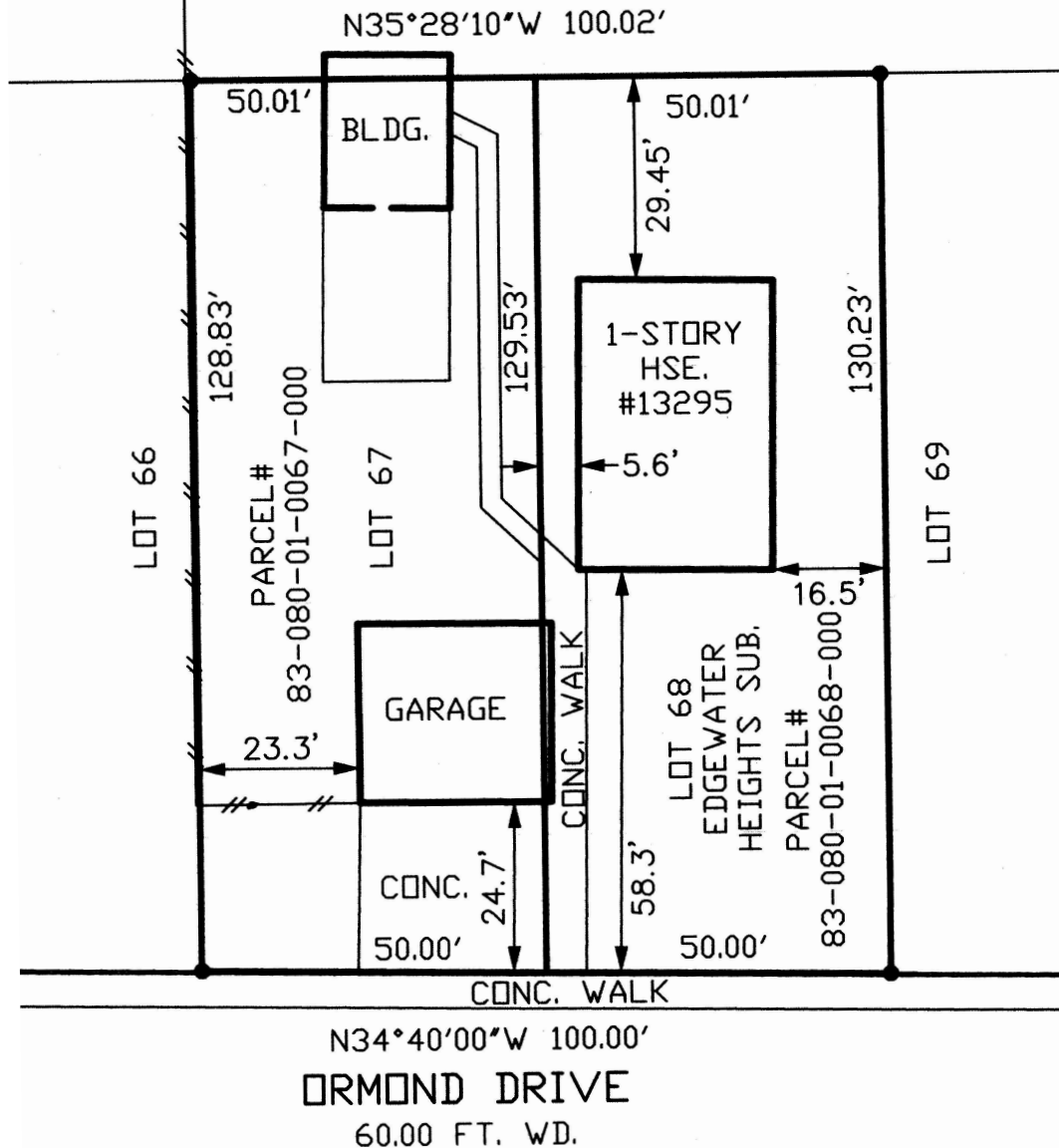
The construction required to correct the non-conformity is not expected to impact property values positively or negatively. As the blueprint currently stands, the addition would double the existing structure. And as municipalities are always looking to find additional funding, we would be increasing our current property taxes.

It is the preamble of the **zoning ordinance at section 1.103 that states that Van Buren Township "desires to provide for the orderly development of the Township, which is essential to the well-being of the community and which will place no undue burden upon developers, industry, commerce, or residents."** If you agree that strict enforcement of the zoning ordinance provides no benefit to the community as we have described, then the proposed variance will be necessary to meet the purpose of the zoning ordinance. Also referring to 14.101 under intent for non-conformities, "The zoning regulations established by this Ordinance are designed to guide the future use of land by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare." We do not believe this minor non-conformity is negatively affecting the community at large. We feel after reviewing these factors, the BZA can understand why we are asking for a variance and approval on this property.

Thank You,

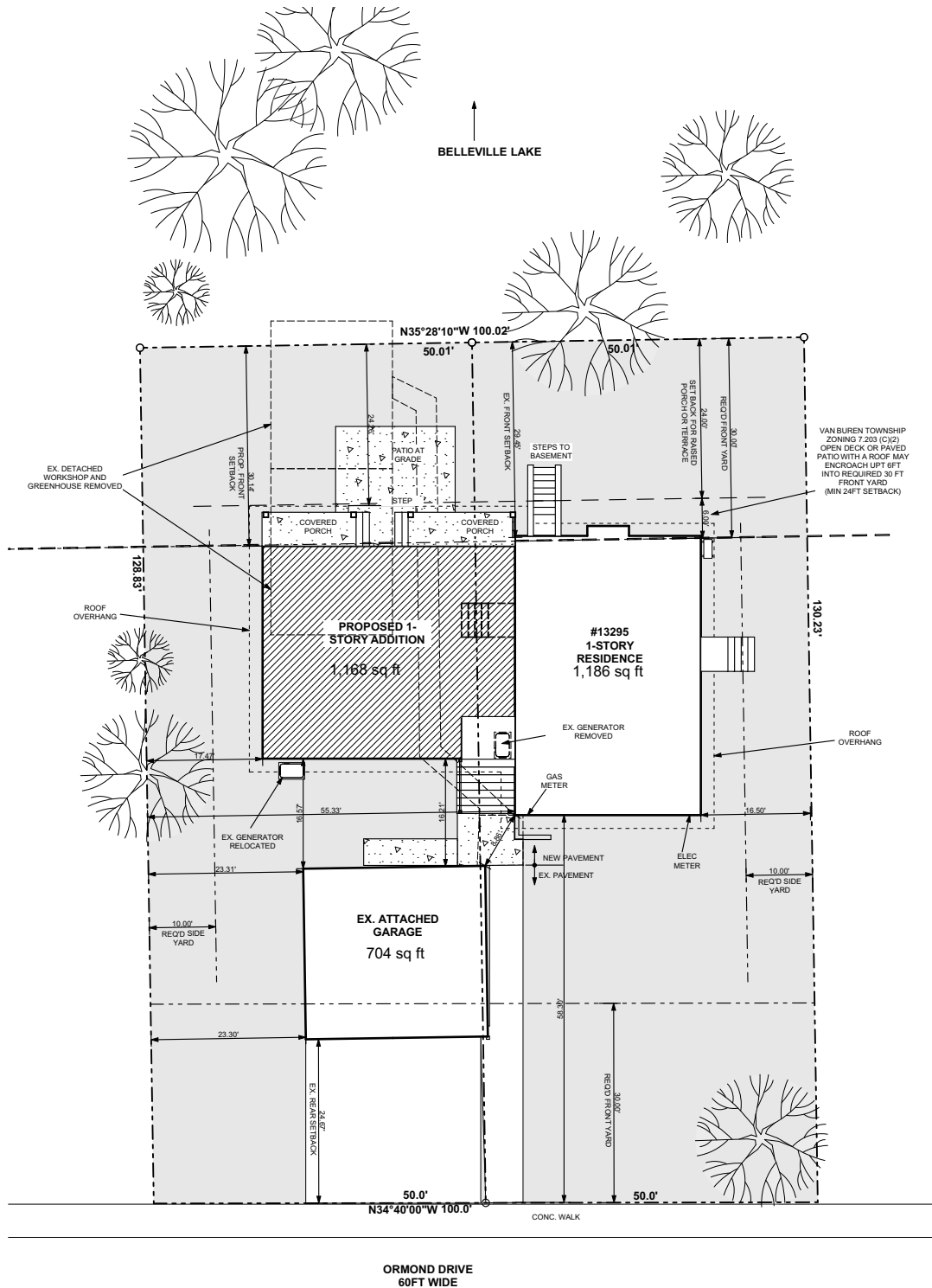
Amy Wagner-Kotb

NEW COMBINED PARCEL LEGAL DESCRIPTION:
 LOTS 67 AND 68 EDGEWATER HEIGHTS SUBDIVISION, AS
 RECORDED IN LIBER 56, PAGE 72, WAYNE COUNTY RECORDS,
 BEING PART OF SECTION 20, TOWN 3 SOUTH, RANGE 8 EAST, VAN
 BUREN TOWNSHIP, WAYNE COUNTY, MICHIGAN,



WAGNER RESIDENCE
 13295 ORMOND DRIVE VAN BUREN TOWNSHIP, MI
 EXISTING SURVEY
 5/9/2021

focus / design
 Todd Ballou, Registered Architect
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 www.focusdesign.us
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 3300 Berry Rd, Ypsilanti, MI 48198



WAGNER RESIDENCE
 13295 ORMOND DRIVE VAN BUREN TOWNSHIP, MI
SITE PLAN
 5/9/2021

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WAGNER RESIDENCE
 13295 ORMOND DRIVE VAN BUREN TOWNSHIP, MI
 AERIAL VIEW
 5/9/2021

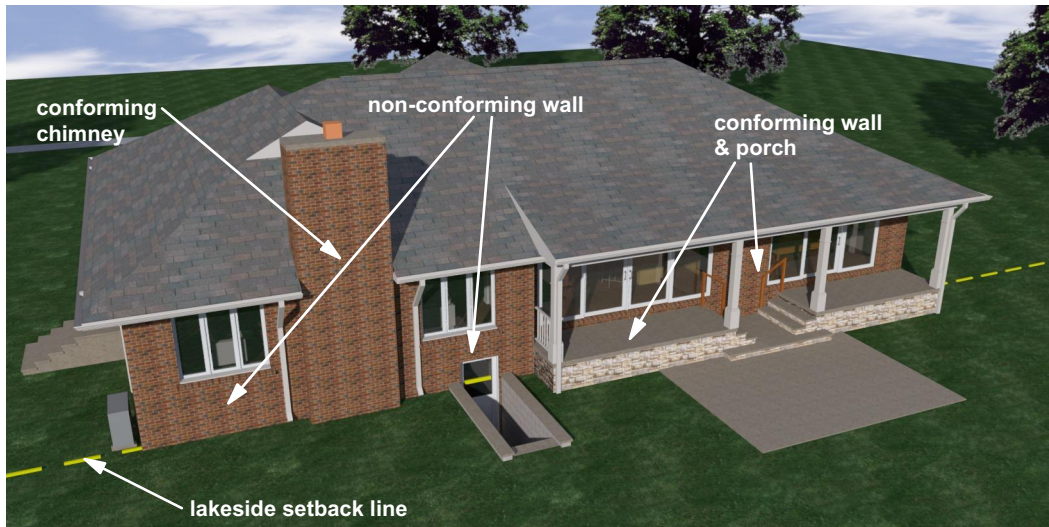
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WAGNER RESIDENCE
 13295 ORMOND DRIVE VAN BUREN TOWNSHIP, MI
 PHOTOS
 5/9/2021

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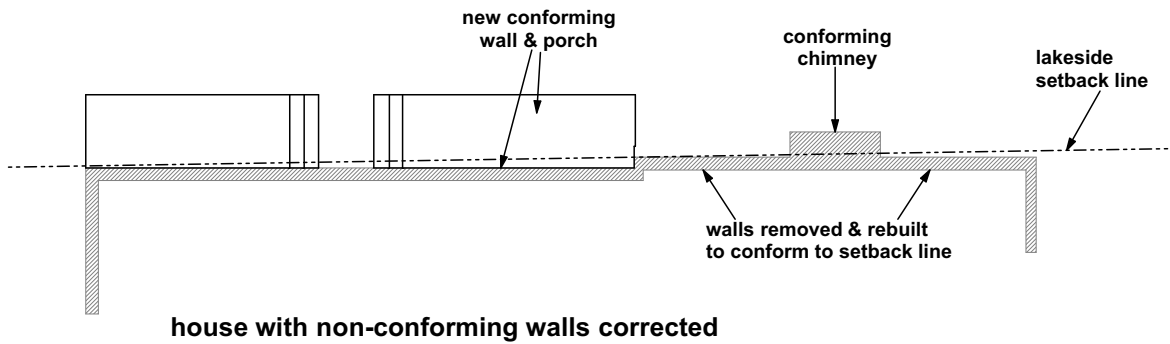
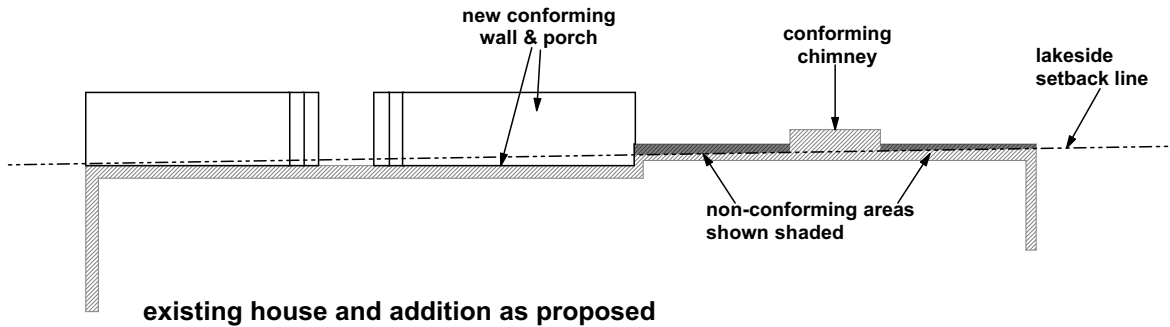
**Existing house with non-conforming walls.
As proposed, with a variance**



house with non-conforming walls demolished and rebuilt

WAGNER RESIDENCE
13295 ORMOND DRIVE VAN BUREN TOWNSHIP, MI
RENDERINGS
5/9/2021

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WAGNER RESIDENCE
 13295 ORMOND DRIVE VAN BUREN TOWNSHIP, MI
 PLAN
 5/9/2021

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CHARTER TOWNSHIP OF VAN BUREN
BOARD OF ZONING APPEALS
REMOTE PUBLIC HEARING

Notice is hereby given that the Charter Township of Van Buren Board of Zoning Appeals (BZA) will hold a public hearing on **Tuesday, September 14, 2021 at 7:00 p.m.** This meeting will take place electronically due to health concerns associated with COVID-19. The BZA will consider the following variance request related to 13295 Ormond Drive (tax parcel ID 83-080-01-0068-301), a roughly 0.23 acre parcel zoned R-1B – Single Family Residential:

Case # 21-031- A request by applicant and owner Amy Wagner-Kotb to construct an 1,168 square foot addition to an existing nonconforming 1,186 square foot single family dwelling, requires a variance from the Van Buren Township Zoning Ordinance, as follows:

Article 14. Nonconformities, Section 14.106. Enlarging a Nonconforming use, sub-section B,

Floor area expansion:	50.00 % of floor area (593 sq. ft) permitted
	98.48 % of floor area (1,168 sq. ft) proposed
	48.48 % of floor area (575 sq. ft) variance requested

Members of the public may access the agenda materials via the Township website – www.vanburen-mi.org beginning **September 10, 2021**. On this website, members of the public will also gain access to **means of participating in the electronic meeting**, including a unique Zoom weblink and dial-in phone number with a meeting ID for meeting videoconference or teleconference access. The meeting will be available to view live on the Van Buren Township YouTube Channel which can be reached from the live meeting link located on the Van Buren Township website home page (www.vanburen-mi.org). Closed captioning will be available after YouTube fully renders meeting video.

A complete **procedure for public comment by electronic means** is provided on a guide which is accessible on the Van Buren Township website (www.vanburen-mi.org). Participants may also choose to submit written comments that will be read into record during public comment by the Chairperson. Submit any written comments via e-mail to dpower@vanburen-mi.org. Members of the public may also contact dpower@vanburen-mi.org to be connected with members of the Board of Zoning Appeals (BZA) prior to the meeting by e-mail.

To comply with the Americans with Disabilities Act (ADA), any citizen requesting accommodation to attend a meeting, and/or to obtain this notice in alternate formats, please contact the Clerk's Office at 734.699.8900 extension 9205.

Posted: August 6, 2021
Published: August 12, 2021