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**Charter Township of Kalamazoo  
Minutes of the Zoning Board of Appeals  
Held on June 17, 2020**

A regular meeting of the Kalamazoo Charter Township Zoning Board of Appeals was held on Wednesday, June 17, 2020. Due to restrictions of COVID-19 and Orders of Michigan Governor Gretchen Whitmer, the meeting was conducted remotely via ZOOM video conference.

**Call to Order.**

The Chairman called the meeting to order at 7:03 p.m.

**Present Were:**

Jim Short, Chairman  
Steve Leuty  
Robert Mihelich  
Fred Nagler  
Shawn Blue, Vice Chairman

**Absent was:**

None.

Also present were: Township Planner Patrick Hudson, Township Manager Dexter Mitchell, Township Attorney Roxanne Seeber, Township Attorney Seth Koches, and 4 members of the public.

**Roll Call.**

Chairman Short called the roll.

**Approval of the Agenda.**

The ZBA members received a copy of the agenda in their member packets.

Blue moved, supported by Nagler, to approve the agenda as presented. The motion passed unanimously.

**Approval of the Minutes of the May 20, 2020 Zoning Board of Appeals Meeting**

The next item on the agenda was approval of the minutes of the May 19, 2020 regular Zoning Board of Appeals meeting. The draft meeting minutes were provided to all ZBA members in their agenda packet.

1 Leuty moved, supported by Nagler, to approve the minutes of the May 20, 2020 regular ZBA  
2 meeting as presented. The motion passed unanimously. Mihelich authorized Seeber to sign the  
3 approved minutes on his behalf and forward them to the Hudson to be included in the Township's  
4 records.

5  
6 **Public Hearings.**

7  
8 **Preferred Property, LLC**

9  
10 The next item on the agenda was consideration of the request of Morris Rose Auto Parts  
11 (operator) and Preferred Property, LLC (owner) for a variance from the required 50-foot front  
12 yard setback in order to permit the construction of an 8' metal fence along the west parking lot  
13 line and E Michigan Avenue (west of the building) on the property addressed as 2707 E Michigan  
14 Ave (Parcel Nos. 06-24-110-020 and 06-24-110-030). The requested fence is proposed to match  
15 in height and setback from the street to the existing fence which is located along the east parking  
16 lot side, along E. Michigan Avenue. The property is located in the I-2 General Industrial District  
17 Zoning Classification. Standards for variance consideration are contained in Section 26.05 of the  
18 Township Zoning Ordinance.

19  
20 The chairman asked Hudson to discuss the request.

21  
22 Short asked for Hudson to clarify if this site plan went in front of the planning commission and if  
23 approval from the ZBA was a condition. Hudson said yes, the site plan did go in front of the  
24 planning commission, however the ZBA's approval was not a condition. The planning commission  
25 never discussed the fence.

26  
27 Blue asked Hudson about the zoning ordinance and if there was an area that required fencing for  
28 junk/salvage yards. Blue also asked if this would be a required fence due to Section 601A. Hudson  
29 said that the planning commission did not make the fencing a requirement.

30  
31 The applicant was represented by Brad Rose from Morris Rose Auto Parts (operator) and  
32 Preferred Property, LLC (owner). The applicant stated his address was 3941 Broken Ridge Circle,  
33 Galesburg, MI. He clarified that they are talking about two properties. The property that received  
34 the site approval was for 2129 E Michigan Ave, the main facility. The property they are talking  
35 about tonight is 2707 E Michigan Ave. Rose gave some history on his business and explained the  
36 maps he provided.

37  
38 Short asked about the applicant for clarification if they have received approval from the Fire  
39 Marshal. Rose said that he could not answer that for sure, but they have had inspections in the  
40 past.

41  
42 Mihelich inquired if there is an existing fence behind the parking lot and if it was staying. Rose  
43 said they will do what the board wants, but the plan was to leave the fence up.

1 Short asked if customers still come to this lot. Rose said that this lot is strictly a storage area. The  
2 only traffic will be the company's vehicles.

3  
4 Mihelich asked where the current employees park. Rose said that there is only one employee  
5 who works at 2707 E Michigan Ave; all other employees are at their main location (2129 E  
6 Michigan Ave), including production and sales.

7  
8 Leuty asked if the Fire Marshal has heard about the project and if he is comfortable with the  
9 building only being accessible on the South side. Rose said that he would be willing to sit down  
10 with the Fire Marshal and would be willing to do what he wants.

11  
12 Short clarified that Rose wants to expand this lot to store more vehicles. Rose said that is correct.  
13 Short also asked Rose if they have owned this property for a while. Rose answered that they have  
14 owned it for about three years.

15  
16 Leuty mentioned his comments that he observed about the setbacks and the curbs.

17  
18 The chairman opened a public hearing on the request at 7:25PM.

19  
20 Jayson Doren spoke, 5319 Sweet Briar Dr, Kalamazoo, MI, 49009, General Manager of Morris  
21 Rose Auto Parts, spoke. He mentioned that the proposal of the fence will not impede on any of  
22 the sight lines regarding traffic. He that because of the long drive, the drivers will have plenty of  
23 sight lines both East and West on the road.

24  
25 The chairman closed the public hearing 7:28PM.

26  
27 Short asked about the driveway and sight triangle.

28  
29 Nagler commented on sight triangle and the right of way setbacks. With the current configuration  
30 of the site, they will be ok with the setbacks. Nagler also said that the applicant has always been  
31 very good to work with. He then mentioned that, in general, the ZBA has continued to grant  
32 variances that follow what has historically been in that area.

33  
34 Leuty mentioned that the drive is an existing drive that is on the straightest area of the road. He  
35 then mentioned that he does not believe that the ZBA can require to increase the sight area  
36 because it is an existing drive. Nagler said that the existing drive will not be there because the  
37 proposal said they would fence that up completely.

38  
39 Seeber said that after a discussion with Hudson, she believes this would need to go to the  
40 planning commission to approve the site plan; the variance can be granted, but the site plan will  
41 still need to go to the planning commission, so the fire marshal can share his thoughts.

42  
43 Hudson said he did not see the need for this to go to the planning commission.

44

1 Seeber asked if Hudson was comfortable with giving an administrative review. Hudson said that  
2 yes, he would be as long as the Fire Marshal is ok with it. Seeber continued indicating that if board  
3 grants the variance, then the Fire Marshal could tell the applicant what they need to do, and  
4 Hudson can administratively approve a site plan.

5  
6 Short asked Hudson if he received any public communication on this project. Hudson said no he  
7 did not.

8  
9 Blue asked for the clarification on why this had to be a variance due to the section on salvage  
10 yards, Article 8, Section W, particularly subsection d, subpoint vi on the required fencing. Leuty  
11 then expanded on the idea of the use change and if a site plan review would be required. Blue  
12 said that how the use was defined could explain why the fences are the way they are on the  
13 property.

14  
15 After an inquiry from Short, Seeber explained that the situation is that the zoning administrator  
16 has interpreted the ordinance such that the applicant needs a variance. If the board would like  
17 to overturn the interpretation, Seeber would have to do a new notice and the board could not  
18 continue tonight or if the board is comfortable, they can continue as is.

19  
20 Blue said he is comfortable with continuing, but the board should clean up this language in the  
21 future. Leuty said that if the board considers approval for this request tonight, it would give the  
22 Roses more opportunities for the future.

23  
24 The board considered its standards for variance approval as follows:

25  
26 a. The ZBA may grant a requested "non-use" variance only upon a finding that  
27 practical difficulties exist and that the need for the variance is due to unique  
28 circumstances peculiar to the property and not generally applicable in the  
29 area or to other properties in the same zoning district. In determining  
30 whether practical difficulties exist, the ZBA shall consider the following  
31 factors:

32  
33 (1) Strict compliance with restrictions governing area, setback,  
34 frontage, height, bulk, density or other non-use matters, will  
35 unreasonably prevent the owner from using the property for a  
36 permitted purpose or will render ordinance conformity  
37 unnecessarily burdensome.

38  
39 Short spoke on this fact, stating that it is hard to say that this factor is met due to the  
40 interpretation of the ordinance. Nagler agreed that it would not prevent the use of the  
41 remaining property. Short said that it would be unnecessarily burdensome or that it  
42 would unreasonably prevent the owner from using the rest of the property. Nagler said  
43 that it is hard to say that this factor is met. Rest of the board agreed.

44

1 (2) The variance will do substantial justice to the applicant, as well as  
2 to other property owners.

3  
4 Nagler said yes this factor is met because of what is already being done in that area. Leuty  
5 spoke that this request aesthetically matches others too.

6  
7 (3) A lesser variance than requested will not give substantial relief to  
8 the applicant and/or be consistent with justice to other property  
9 owners.

10  
11 Nagler said that a lesser variance would not give substantial relief.

12  
13 (4) The problem and resulting need for the variance has not been self-  
14 created by the applicant and/or the applicant's predecessors. (For  
15 example, a variance needed for a proposed lot split would, by  
16 definition, be self-created, so such a variance typically would not be  
17 granted.)”

18  
19 Short said that it is self-created because they are looking to expand their business, but as  
20 Nagler said they did not make the setbacks. Factor met.

21  
22 The Board discussed the standards of review and agreed that most had been met. Seeber filled  
23 in the “Notice of Decision” form as the members considered each standard.

24  
25 Leuty moved, supported by Nagler, to approve the request of Preferred Property, LLC as follows:

26  
27 Approve the variance request of the 50-foot setback for fencing or screening, with the  
28 condition of approval from the Fire Marshal.

29  
30 The motion passed unanimously. Seeber filled out the notice of decision form. Short authorized  
31 her to sign it on his behalf, due to the remote meeting situation. She indicated that she would  
32 mail it to the applicant and fill in the proof of service.

33  
34 **Old Business.**

35  
36 None.

37  
38 **New Business.**

39  
40 None.

41  
42 **Other matters to be reviewed by the ZBA.**

43  
44 None.

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**Citizen Comments.**

None.

**Correspondence received.**

None.

**Board Member Comments.**

None.

**Report of the Planning Commission Member.**

Nagler summarized the recent Planning Commission meeting.

**Adjournment.**

There being no additional business, Nagler moved, supported by Mihelich, to adjourn the ZBA meeting. The motion passed unanimously and the meeting was adjourned at 7:56PM.

*Approved 7-15-20  
w/amendments*

Respectfully Submitted,



Robert Mihelich, Secretary of the Zoning Board of Appeals

**Synopsis of Actions**  
**ZBA meeting May 20, 2020**

The Kalamazoo Township Zoning Board of Appeals undertook the following actions at its meeting of June 17, 2020:

- Granted the application of Morris Rose Auto Parts (operator) and Preferred Property, LLC (owner) for a variance from the required 50-foot front yard setback in order to permit the construction of an 8' metal fence along the west parking lot line and E Michigan Avenue (west of the building) on the property addressed as 2707 E Michigan Ave (Parcel Nos. 06-24-110-020 and 06-24-110-030) with the following conditions:
  - Approval from the Fire Marshal.