



Andy Schor
Mayor

**LANSING BOARD OF ZONING APPEALS
REGULAR MEETING
DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING
600 W. Maple (Neighborhood Empowerment Center)
Thursday, May 10, 2018, 6:30 PM**

AGENDA

- I. ROLL CALL**
- II. APPROVAL OF AGENDA**
- III. HEARINGS**
- IV. OLD BUSINESS**
 - A. BZA-4036.18, 6041 S. Pennsylvania Avenue**
 - B. BZA-4034.18, 4929 S. Cedar Street - Reconsideration**
 - C. BZA-4035.18, 1106 N. Larch Street - Reconsideration**
- V. PUBLIC COMMENT**
- VI. APPROVAL OF MINUTES**
 - A. Special Meeting- February 27, 2018**
- VII. NEW BUSINESS**
- VIII. ADJOURNMENT**

FOR SPECIAL ACCOMMODATIONS, PLEASE GIVE 24 HOURS NOTICE PRIOR TO THE MEETING BY CALLING SUSAN STACHOWIAK IN THE PLANNING OFFICE AT 517-483-4085 OR 517-483-4479 (TDD).

- 📍 PLANNING OFFICE LOBBY**
- 📍 CITY CLERK'S OFFICE**
- 📍 CITY COUNCIL OFFICE**

GENERAL INFORMATION

APPLICANT/OWNER:	Speedway, LLC 500 Speedway Drive Enon, OH 45323
REQUESTED ACTION:	Variances to the required setbacks for a new ground sign at 6041 S. Pennsylvania
EXISTING LAND USE:	Speedway Gasoline Station
EXISTING ZONING:	"F" Commercial District
PROPERTY SIZE & SHAPE:	200' x 250' = 50,000 square feet 1.14 acres – Rectangular shape
SURROUNDING LAND USE:	N: Bank S: Vehicle sales E: Retail W: Commercial strip mall
SURROUNDING ZONING:	N: "H" Light Industrial & "J" Parking Districts S: "F" Commercial District E: "G-2" Wholesale & "J" Parking Districts W: "F" Commercial, "G-2" Wholesale & "J" Parking Districts
MASTER PLAN DESIGNATION:	The Design Lansing Comprehensive Plan designates the subject property for "Suburban Commercial" land use. S. Pennsylvania Avenue is designated as a principal arterial and E. Miller Road is designated as a collector road.

ANALYSIS

This is a request by Speedway, LLC to construct a new 165 square foot, 29.6 foot high freestanding sign at 6041 S. Pennsylvania Avenue (Speedway Gas Station) that would have setbacks of 7.3 feet from the front property line along S. Pennsylvania Avenue and 6 feet from the front property line along E. Miller Road. Section 1442.12(h)(5)(b) of the Sign Code requires setbacks of 30 feet for a freestanding sign with this dimensions. Variances of 22.7 feet and 24 feet to the required setbacks are therefore, being requested.

Required	Proposed	Variance
30 foot setback – S. Pennsylvania	7.3 foot setback	22.7 feet
30 foot setback – E. Miller	6 foot setback	24 feet

ANALYSIS

The applicant is in the process of obtaining the necessary approvals to reconstruct the Speedway gas station at the northeast corner of S. Pennsylvania Avenue and E. Miller Road. As part of this project, the applicant would like to replace the existing ground sign with a new ground sign in the same location on the site. The proposed sign is 165 square foot in area and 29.6 feet in height. The Sign Ordinance requires a setback of 30 feet for a ground sign with these dimensions. The proposed setbacks are 7.3 feet from the front property line along S. Pennsylvania Avenue and 6 feet from the front property line along E. Miller Road.

The applicant bases a practical difficulty on the inability to construct a ground sign in a location on the site that would be visible to traffic from both directions without interfering with vehicular circulation on the site. A case can be made that the practical difficulty described by the applicant is sufficient to warrant a variance to the setback requirements for a ground sign.

Section 1244.06 (c)(1-4) of the Zoning Code sets forth the criteria and standards which must be used to evaluate a variance request. They are: (1) Does a practical difficulty or unnecessary hardship exist; (2) Is the Location, Size and Character in harmony with surrounding uses; and (3) Will the request impact vehicular and pedestrian traffic?

Practical Difficulty or Hardship

Several criteria are described in Section 1244.06(c) for the Board to consider in determining the adequacy of a practical difficulty:

1. The hardship results from the application of this Zoning Code to his or her lot, rather than from some other factor.
2. The hardship is not the result of his or her own actions.
3. The hardship is peculiar to the lot of the applicant.
4. If the owner of the lot complies with this Zoning Code, he or she can secure no reasonable return from, or make no reasonable use of, his or her property.

The request does meet the first criteria since the practical difficulty described by the applicant is directly related to the setback requirement for a ground sign. The second standard is whether the practical difficulty is self-created. Despite the applicant purchasing the adjoining parcel to create a larger site for redevelopment of the gas station, there is still insufficient room on the site to construct a ground sign at the 30 foot setback where it would be visible from both streets.

The third criteria relates to whether the practical difficulty is sufficiently unique. By assuring that the

practical difficulty is adequate to differentiate it from a claim that could be made by most other property owners, the intent of the ordinance standard is preserved. Correspondingly, the practical difficulty must be more than a matter of mere preference. As evidenced by the attached aerial photograph and site plan, there is no location on the site where a sign of any reasonable size for a gas station could be constructed at the required setback where it would be visible to traffic from both streets and would not interfere with circulation on the site. The dimensions of the proposed sign are reasonable and comparable to the size of the existing sign on the site. Based on these factors, the practical difficulty borne by the applicant is sufficiently unique to warrant a variance to the setback requirement.

The other consideration relates to whether there is a viable use of the property without the variance. This standard is typically applied to use variances, however, which require a much higher threshold than a 'dimensional' variance such as this one.

IMPACT STANDARDS

The Ordinance also establishes four standards under Section 1244.06 (e) that must be satisfied relating to the impact of the variance on the surrounding properties and general public. These standards and the manner in which they relate to the request are as follows:

1. **The use will be in harmony with the appropriate and orderly development of the surrounding neighborhood.**

The proposed sign will be located in the same location on the site as the existing ground sign. The existing sign has been in its current location for many years and has not been disruptive to the appropriate and orderly development of the area; nor has it created any issues with regard to visibility at the street intersection. As evidenced by the attachments, the only appropriate location for a ground sign where it would be visible from both streets while not disrupting traffic circulation on the site is the location proposed by the applicant. If the variances are not approved, the sign would have to be reduced to 6 feet high and 26 square feet in area, or located at the 30 foot setback which would impede traffic around the southeast corner of the canopy.

2. **The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved.**

The variance will not result in any negative impacts on traffic patterns in and around the site. In fact, if the sign were required to be located at the 30 foot setback, it would have a negative impact on internal traffic circulation, as evidenced by the attached photograph, aerial map and site plan. In addition, the sign will not interfere with visibility at the Pennsylvania/Miller intersection or at the entrances to the site. There will be 8 feet, 8 inches of clearance between the ground and the lowest edge of the sign. Furthermore, the proposed sign will be in the same location on the site as the existing sign and there have never been any issues with it interfering with visibility at the intersection or at the driveways.

3. **The use will be designed to eliminate a possible nuisance emanating there from.**

The proposed variance will not generate any nuisances.

4. **The use will not interfere with or discourage the appropriate development and use of adjacent land and structures or unreasonably affect their value.**

Since there is a demonstrated practical difficulty involved in locating a new ground sign at the required setback, approval of the requested variance should not result in setting any negative precedents for future requests to vary the sign ordinance setback requirements.

FINDINGS

This is a request by Speedway, LLC to construct a new 165 square foot, 29.6 foot high freestanding sign at 6041 S. Pennsylvania Avenue (Speedway Gas Station) that would have setbacks of 7.3 feet from the front property line along S. Pennsylvania Avenue and 6 feet from the front property line along E. Miller Road. Section 1442.12(h)(5)(b) of the Sign Code requires setbacks of 30 feet for a freestanding sign with this dimensions. Variances of 22.7 feet and 24 feet to the required setbacks are therefore, being requested.

The available information supports a finding that the variances are consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e).

RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

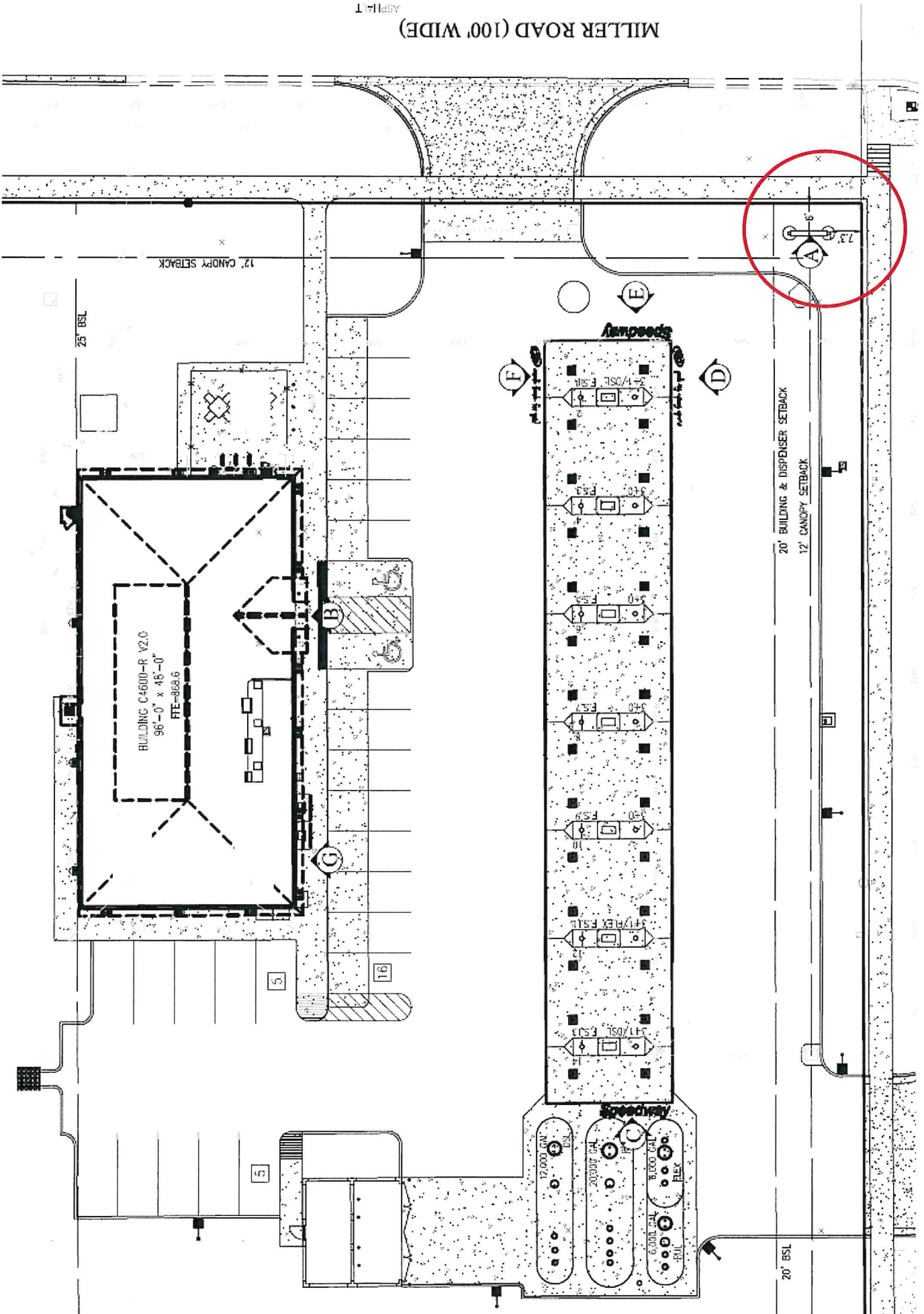
BZA 4036.18 be approved for variances of 22.7 feet and 24 feet to the requires setbacks to permit a 29.6 foot high, 165 square foot ground pole sign at 6041 S. Pennsylvania Avenue that would have setbacks of 7.3 feet from the front property line along S. Pennsylvania Avenue and 6 feet from the front property line along E. Miller Road, on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

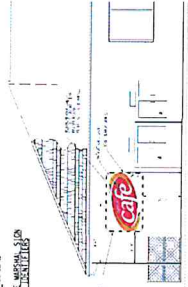
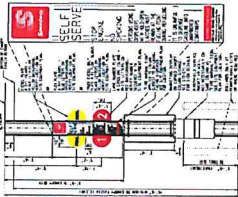
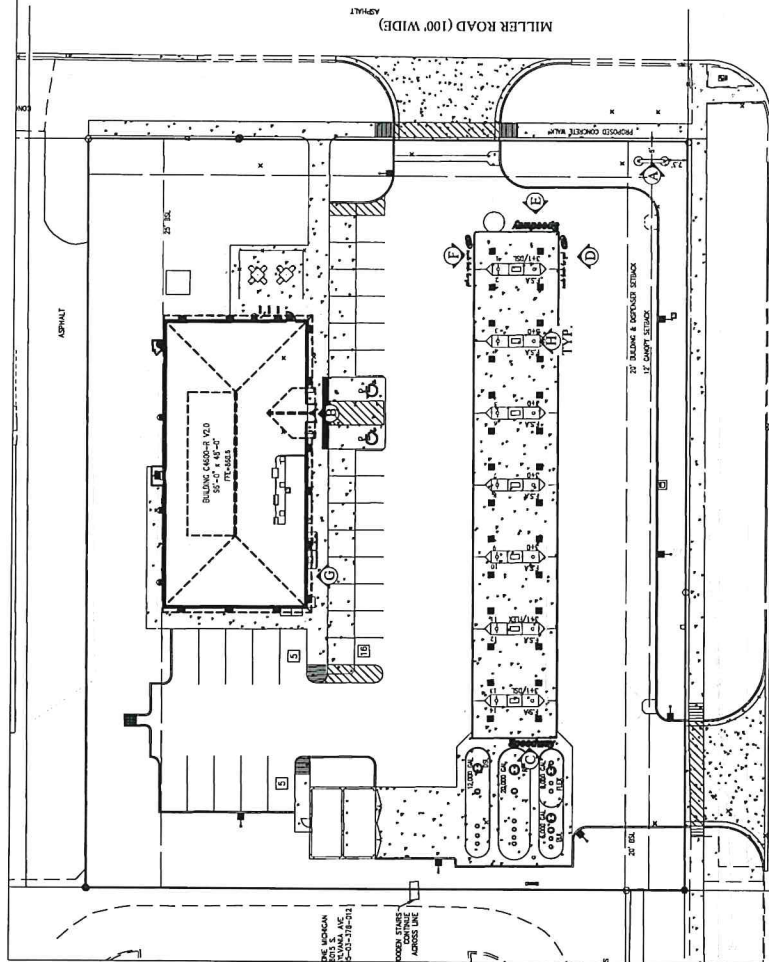
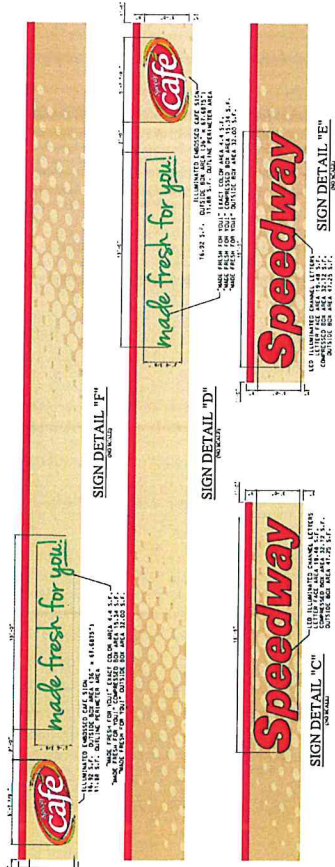
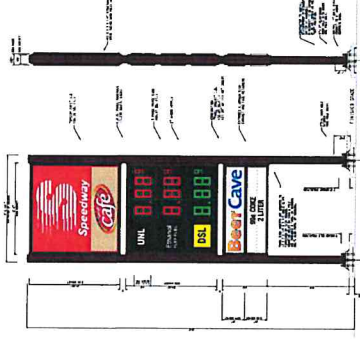
Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

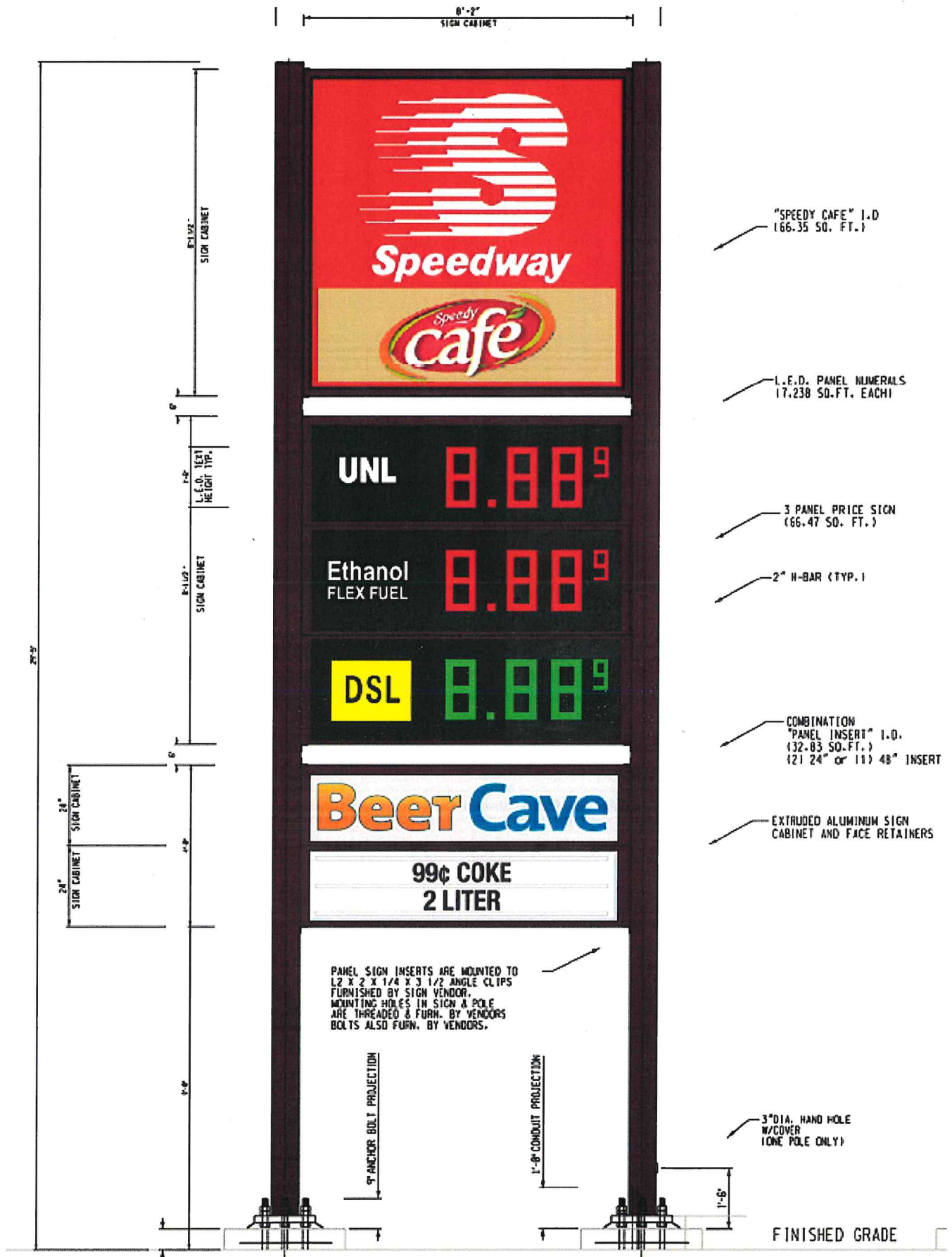
MILLER ROAD (100' WIDE)

ASPHALT



[illegible]

SIGN DETAIL "B"



UNLEADED 32.19
DIESEL 39.99
Speedway
Pay at the Pump



S Pennsylvania Ave

6041 S.
Pennsylvania

E Miller Rd



Legend

- roads_final
- A Residential-Single
- B Residential-Single
- C Residential-2 Unit
- NONE
- CUP Community Unit Plan
- D-1 Professional Office
- D-2 Residential/Office
- DM-1 Residential-Multiple
- DM-2 Residential-Multiple
- DM-3 Residential-Multiple
- DM-4 Residential-Multiple
- E-1 Apartment Shop
- E-2 Local Shopping
- F Commercial
- F-1 Commercial
- G-1 Business
- G-2 Wholesale
- H Light Industrial
- I Heavy Industrial
- J Parking
- ROW Right of Way

Zoning

S Pennsylvania Ave

E Miller Rd

6041 S.
Pennsylvania

Ramada Dr

N



GENERAL INFORMATION

APPLICANT: RODA Investments, LLC/Tru Releaf Collective
1923 Kingswood Drive
Lansing, MI 48912

OWNER: VTCK, LLC
44808 Rivergate Drive
Clinton Township, MI 48083

REQUESTED ACTION: Variance to the 500 foot separation requirement between a medical marijuana dispensary and a substance abuse clinic

EXISTING LAND USE: Medical Marijuana Dispensary

EXISTING ZONING: "F" Commercial District

PROPERTY SIZE & SHAPE: Rectangular Shaped Lot
150' x 150' = 22,500 square feet (.517 acres)

SURROUNDING LAND USE: N: JD Byrider Auto Sales
S: Commercial/CSL Plasma
E: Commercial/CSL Plasma
W: Equipment Rental/U-Haul

SURROUNDING ZONING: N: "J" Parking & "F" Commercial Districts
S: "F" Commercial District
E: "F" Commercial District
W: "E-2" Local Shopping & "J" Parking Districts

MASTER PLAN DESIGNATION: The Design Lansing Master Plan designates the subject property as "community mixed use center". S. Cedar Street is designated as a principal arterial.

ANALYSIS

This is a request by RODA Investments, LLC/Tru Releaf Collective to permit a medical marijuana dispensary at 4929 S. Cedar Street. Section 1300.13(A)(2) of City Ordinance 1217 prohibits medical marijuana dispensaries within 500 feet of a substance abuse treatment or rehabilitation facility. The medical marijuana dispensary at 4929 S. Cedar is located approximately 340 feet from a substance abuse treatment/rehabilitation facility at 4902 S. Cedar Street. A variance to the required separation distance between the 2 facilities is therefore, being requested.

Required	Proposed	Variance
500 foot separation	340 foot separation	160 feet

ANALYSIS

On September 7, 2017, the City Council adopted Ordinance No. 1217 regulating medical marijuana facilities. Section 1300.13 of the Ordinance requires a 500 foot separation between medical marijuana provisioning centers and churches, child care centers, playground equipment in a park and substance abuse treatment facilities. The distances are measured from nearest edge of building to nearest edge of building, along the centerline of the street (see attached). Section 1300.18 of the Ordinance authorizes the Board of Zoning Appeals to grant variances from the separation distance requirements. The criteria that the Board must consider in determining whether to grant a variance to the separation requirement is different from the criteria used to evaluate variances to the Zoning Ordinance. In this case, the Board does not have to establish that a practical difficulty or unnecessary hardship exists that warrants relief from the ordinance standard. Section 1300.18 (3) of Ordinance 1217 states that, in making its decision on variances to separation requirements, the Board shall consider all of the following:

- 1. The amount of time, if any, that the applicant has been operating in compliance with this chapter at the present location.**

The applicant "Tru Releaf" has been operating at 4929 S. Cedar Street since July of 2015, in compliance with the City's zoning policies regulating medical marijuana dispensaries. In 2015 the City was treating medical marijuana dispensaries as general retail uses and permitting them by right in all commercial and industrial zoning districts. The property at 4929 S. Cedar Street is zoned "F" Commercial, which district permits retail operations as a matter of right. When it was determined in 2016 that there were too many dispensaries in the City, the Council enacted a moratorium preventing any more dispensaries from opening until such time as the City had an ordinance in place to regulate them. The ordinance that was adopted in 2017 allows for 25 licenses to operate medical marijuana dispensaries in the City. The City has received 87 license applications. The existing dispensaries that have applied for a license are allowed to continue operating while the City determines which ones will be issued a license. Those that are not issued a license will be required to cease all of their operations. The applicant has applied for a dispensary license and may be considered for issuance if the variance request is approved. If it is not approved, the applicant will be issued a cease and desist letter for the dispensary at 4929 S. Cedar Street.

2. The extent to which the applicant has demonstrated a commitment to the land use and public nuisance concerns in the surrounding neighborhood.

The applicant has been operating a dispensary on the subject property for approximately two and half years and has not violated any provisions of the Zoning ordinance during that time. The City also has not received any complaints about the dispensary since it has been in operation. The building and the site are well maintained. There are no illegal signs or debris on the site and parking is more than adequate parking to accommodate the dispensary.

3. The distance between the applicant's location and any medical marijuana provisioning center that is within 500 feet of the applicant's location.

The nearest dispensary is located in the small strip mall at the northeast corner of Cedar Street and Jolly Road (5031 S. Cedar Street). From property line to property line the 2 sites are located approximately 300 feet apart. When measured in accordance with the ordinance, however, they are separated by more than 500 feet.

4. The need for a provisioning center at the location in order to provide the safe and efficient access to medical marijuana with the City.

There is no shortage of dispensaries along S. Cedar Street. In fact, there are currently 15 dispensaries on S. Cedar Street between Mt. Hope Avenue and Miller Road. While it may seem like this is an excessive number of dispensaries, S. Cedar Street is the City's primary commercial corridor which provides businesses with the highest level of exposure to the highest volume of traffic in the City. Furthermore, dispensaries should be concentrated along major commercial corridors where there is easy access to public transportation and the roadway is designed to accommodate a high volume of traffic.

5. The character of the structure and its surroundings.

As depicted on the attached photographs, the building and the site are well maintained and consistent with the character of the area in which it is located. With regard to the business itself, the City is not aware of any negative impacts caused by the dispensary over the past two and a half years that it has been in operation at 4929 S. Cedar Street, despite its close proximity (340 +/- feet) to the Victory Clinical Services substance abuse treatment facility at 4902 S. Cedar Street.

6. The impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity.

Unlike the majority of commercial businesses along S. Cedar Street, the subject property does not directly adjoin residential properties along its rear property line. It is completely surrounded by commercial uses, thus creating a separation between the site and the nearest residential property to its northeast. Furthermore, the CSL Plasma facility to the east of the subject property draws a very large volume of people to the area on a daily basis and well beyond normal business hours. The additional traffic generated by the dispensary, thus will not and has not altered the character of the area.

FINDINGS

This is a request by RODA Investments, LLC/Tru Releaf Collective to permit a medical marijuana dispensary at 4929 S. Cedar Street. Section 1300.13(A)(2) of City Ordinance 1217 prohibits medical marijuana dispensaries within 500 feet of a substance abuse treatment or rehabilitation facility. The proposed medical marijuana dispensary at 4929 S. Cedar is located approximately 340 feet from a substance abuse treatment/rehabilitation facility at 4902 S. Cedar Street. A variance to the required separation distance between the 2 facilities is therefore, being requested.

The available information supports a finding that the requested variance is consistent with the criteria listed in Section 1300.18(3) of the City's ordinance regulating medical marijuana facilities (Ordinance No. 1217).

RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

BZA 4034.18 be approved for a variance of 140 feet to the required 500 foot separation between a medical marijuana dispensary at 4929 S. Cedar Street and the substance abuse treatment facility at 4902 S. Cedar Street, on a finding that the variance is consistent with the variance evaluation criteria set forth in Section 1300.18(3) of Ordinance 1217, as detailed in the staff report for this application.

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

December 15, 2017

City of Lansing
Zoning Board of Appeals
316 N. Capital Ave, STE D1
Lansing, MI 48933

RE: Variance Application 4929 S. Cedar St., Suite 1, Lansing, MI 48910

I. Introduction

The purpose of this correspondence is to supplement the attached zoning variance application for property located at 4929 South Cedar St., Suite 1, Lansing, MI 48910 (“Premises”). The property is currently owned by VTCK, LLC and leased to 4929 South Cedar Street Leasehold, LLC (“Cedar Leasehold”) and subleased to RODA Investments, LLC, which will operate as Tru Releaf Collective (“TRC”).

In light of the recent implementation of Lansing Ordinance Chapter 1300 to establish the regulation and licensing of medical marihuana, the managing partners of Cedar Leasehold anticipate the location of their current business location, which is the same location as for which they are applying for state licensure, is against the City of Lansing’s zoning ordinances regarding the placement of medical marihuana provisioning centers, specifically in regard to its proximity to a substance abuse treatment center.

II. Applicable Standard

The applicable Lansing Ordinance on this issue is Lansing Ordinance 1300.13(A)(2) which provides that no medical marihuana provisioning center shall be located within five-hundred (500) feet of certain types of establishments including but not limited to facilities at which substance abuse prevention services or substance abuse treatment and rehabilitation services are located.

The Ordinance goes on to provide that a medical marihuana provisioning center can only be zoned for use in F and F1-Commercial; G2- Wholesale; H-Light Industrial; and I-Heavy Industrial. As the Premises is currently zoned as a F-Commercial property, this aspect of the zoning ordinance is not at issue.

Lansing Ordinance 1300.18 provides the process for applying for a variance if one's property falls in violation of 1300.13(A)(1), (2). Specifically, Lansing Ordinance 1300.18(A)(3) provides the applicable factors in determining whether to grant and/or deny the variance:

- (I) The amount of time, if any, that the applicant has been operating in compliance with this chapter at the present location;
- (II) The extent to which the applicant has demonstrated a commitment to the land use and public nuisance concerns in the surrounding neighborhood;
- (III) The distance between the applicant's location and any medical marihuana provisioning center that is within 500 feet of the applicant's location;
- (IV) The need for a provisioning center at the location in order to provide safe and efficient access to medical marihuana in the City;
- (V) The character and structure and its surroundings; and
- (VI) The impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity.

III. Issue

While completing its application for licensure pursuant to the Michigan Medical Marihuana Facilities Licensing Act, it came to the attention of the members of RODA Investments, LLC, that the potential provisioning center was located within 500 feet of a substance abuse

treatment facility—specifically Victory Clinical which is located at 4902 S. Cedar St. Lansing, MI 48910 and treats opioid addiction.

IV. Discussion

TRC is applying for a medical marihuana provisioning center license in the City of Lansing. TRC seeks to provide safe access to high quality, medical grade cannabis to patients and caregivers in the City of Lansing. TRC is ideally geographically located near the intersection of South Cedar and East Jolly to provide access to cannabis for residents of the City of Lansing. TRC's location has adequate parking for customers and employees.

TRC is committed to ensuring that its operations do not constitute a nuisance for its neighbors. TRC is willing and financially able to take any steps necessary to mitigate any possible nuisance. TRC seeks to operate in a strip mall adjacent to The Indoor Grow Store, a store that sells indoor grow supplies, hydroponic equipment, and other related products. As a result, granting of the variance is likely to have minimal, if any, negative effect on the character of the structure and its surroundings. A granting of the variance would likewise have minimal, if any, negative impact on the character of the structure's surroundings or the owners of other properties in the vicinity. To the contrary, TRC believes that granting of the variance may have a positive net effect on The Indoor Grow Store's business by driving increased traffic. TRC believes that many of its customers—medical marijuana patients and caregivers—may have interest in hydroponic gardening or cultivation of their own marijuana plants, which is an action permitted under the Michigan Medical Marihuana Act, MCL 333.26424. Therefore, the factors elaborated in Lansing Ordinance 1300.18(A)(3) support a granting of the variance.

TRC acknowledges that substance abuse, particularly abuse of opioids, is a public health epidemic and that the Lansing City Council has declared the opioid epidemic a public nuisance

and has retained outside legal counsel, including Church Wyble, P.C., a division of Grewal Law PLLC, to pursue litigation against opioid manufacturers and distributors.

The nearby substance abuse treatment facility that creates the need for this application for a variance is Victory Clinical Services. Victory Clinical Services advertises on its website that it provides: Opioid Treatment Programs and Behavioral Health Services.¹ A study published in the *Journal of American Medical Association* showed that states that have legalized medical marijuana had a 24.8% lower mean annual opioid overdose mortality rate.² In addition, an August 2017 study published in the scientific journal *Planta Medica* concluded that medical marijuana may be useful in addiction treatment settings.³ As such, TRC believes its operation at its intended location will present an opportunity to confer a net benefit to the Lansing community by providing an additional service to assist in combating the opioid epidemic.

V. Conclusion

TRC seeks a variance in conjunction with its application for a medical marijuana provisioning center due to the fact that it is within 500 feet of a substance abuse treatment, prevention, or rehabilitation facility. TRC seeks to deliver a much-needed service to citizens of the City of Lansing—safe access to high quality, medical grade cannabis. For the reasons stated in this application, granting of a variance to TRC would have little, if any, negative impact on the surrounding community. Instead, granting of the variance would yield a net positive benefit and provides another tool to potentially combat the opioid epidemic. Most importantly, TRC seeks to

¹ <http://www.victoryclinic.com/home.html>

² Marcus A. Bachhuber, Brendan Saloner, Chinazo O. Cunningham, Colleen L. Barry. Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010. *JAMA Intern Med.* 2014;174(10):1668–1673. doi:10.1001/jamainternmed.2014.4005, available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/1898878?appId=scweb>.

³ James Roland Markos, Hannah M. Harris, Waseem Gul, Mahmoud A. ElSohly, Kenneth J. Sufka. Effects of Cannabidiol on Morphine Conditioned Place Preference in Mice. *Planta Medica* (2017), available at <https://www.ncbi.nlm.nih.gov/pubmed/28793355>.

offer a valuable service to some of the most vulnerable members of our community—those with debilitating medical conditions.

Thank you for your time and consideration of this application.

Should you have any questions or concerns regarding this application, please contact:

John W. Fraser (P79908)
Grewal Law PLLC
2290 Science Parkway
Okemos, MI 48864
Ph.: (517) 393-3000
Fax: (517) 393-3003
E: jfraser@4grewal.com

**ETCHEN
GUMMA
LIMITED**
ARCHITECTS-ENGINEERS-BUILDERS



www.etchengumma.com

31000 Northwestern Hwy. Suite L-100
Farmington Hills, MI 48334
(248) 865-5555 Fax (248) 865-5015

Project:

**Provisional
Center**

Unit 1
4929 South Cedar Street
Lansing, MI 48910

Designed E. A. Eichen Architect
 Drawn L. Altrani
 Approved E. A. Eichen Architect
 Scale AS NOTED

Notes

This sheet includes details no. 1 Thru 5

All drawings and written material appearing herein constitute original and confidential work of Etechni Gamma Limited and may not be duplicated, used or disclosed without the written consent of Etechni Gamma Limited.

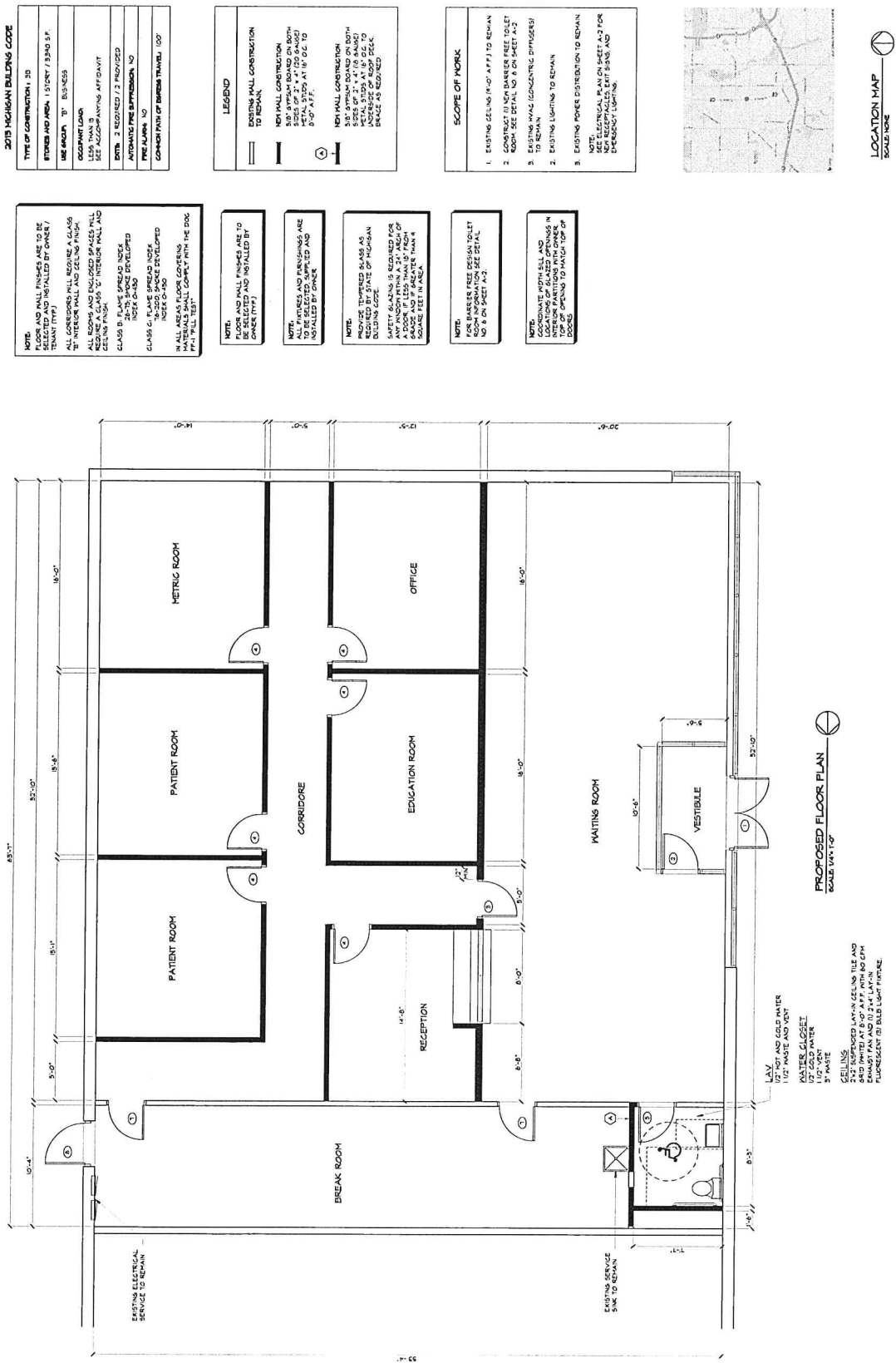
Do not scale drawings. Use given dimensions only. If not given, verify corner dimensions with Etechni Gamma Limited. Cornerplate shall create and verify all dimensions and coordinate all job size.

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Sheet Title
and Number

Floor Plan

A-2



PROPOSED FLOOR PLAN
SCALE 1/4" = 1'-0"

CEILING:
2"x2" SUSPENDED LAY-IN CEILING TILE AND
GRID (WHITE) AT 8'-0" A.P.F. WITH 80 CFM
EXHAUST FAN AND (1) 2'x4' LAY-IN
FLUORESCENT (B) BOLD LIGHT FIXTURE.

LOCATION MAP _____
SCALE: NONE



E Syringa Dr

Cedar Ct

4902
Substance Abuse
Treatment Clinic

Cloverland Dr

56'

146'

137'

4929
Dispensary

S Cedar St



Legend

roads_final

FEMA Flood Zones

Flood Zone

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD E-2
- A
- AE
- A Residential-Single
- B Residential-Single
- C Residential-2 Unit
- NONE
- CUP Community Unit Plan
- D-1 Professional Office
- D-2 Residential/Office
- DM-1 Residential-Multiple
- DM-2 Residential-Multiple
- DM-3 Residential-Multiple
- DM-4 Residential-Multiple
- E-1 Apartment Shop
- E-2 Local Shopping
- F Commercial
- F-1 Commercial
- G-1 Business
- G-2 Wholesale
- H Light Industrial
- I Heavy Industrial
- J Parking
- ROW Right of Way

Zoning



N



GENERAL INFORMATION

APPLICANT: Caleb Wilson
Kola, LLC
1317 New York Avenue
Lansing, MI 48912

OWNER: Fady, Inc.
625 E. Michigan Avenue, Suite B
Lansing, MI 48912

REQUESTED ACTION: Variance to the 500 foot separation requirement between a medical marijuana dispensary and a substance abuse clinic

EXISTING LAND USE: Medical Marijuana Dispensary

EXISTING ZONING: "H" Light Industrial District

PROPERTY SIZE & SHAPE: Slightly Irregular Shaped Lot
9,867 square feet (.227 acres)

SURROUNDING LAND USE: N: Vacant/Substance Abuse Treatment Facility
S: Residential
E: Industrial/Storage
W: Commercial/Residential

SURROUNDING ZONING: N: "F" Commercial District
S: "H" Light Industrial District
E: "I" Heavy Industrial District
W: "C" Residential & "J" Parking Districts

MASTER PLAN DESIGNATION: The Design Lansing Master Plan designates the subject property as "downtown mixed use center: edge". N. Larch Street is designated as a principal arterial.

ANALYSIS

This is a request by Caleb Wilson to permit a medical marijuana dispensary at 1106 N. Larch Street. Section 1300.13(A)(2) of City Ordinance 1217 prohibits medical marijuana dispensaries within 500 feet of a substance abuse treatment or rehabilitation facility. The medical marijuana dispensary at 1106 N. Larch Street is located approximately 444 feet from a substance abuse treatment/rehabilitation facility at 610 E. Grand River Avenue. A variance to the required separation distance between the 2 facilities is therefore, being requested.

Required	Proposed	Variance
500 foot separation	444 foot separation	56 feet

ANALYSIS

On September 7, 2017, the City Council adopted Ordinance No. 1217 regulating medical marijuana facilities. Section 1300.13 of the Ordinance requires a 500 foot separation between medical marijuana provisioning centers and churches, child care centers, playground equipment in a park and substance abuse treatment facilities. The distances are measured from nearest edge of building to nearest edge of building, along the centerline of the street (see attached). Section 1300.18 of the Ordinance authorizes the Board of Zoning Appeals to grant variances from the separation distance requirements. The criteria that the Board must consider in determining whether to grant a variance to the separation requirement is different from the criteria used to evaluate variances to the Zoning Ordinance. In this case, the Board does not have to establish that a practical difficulty or unnecessary hardship exists that warrants relief from the ordinance standard. Section 1300.18 (3) of Ordinance 1217 states that, in making its decision on variances to separation requirements, the Board shall consider all of the following:

1. The amount of time, if any, that the applicant has been operating in compliance with this chapter at the present location.

The applicant "Kola, LLC" has been operating a dispensary at 1106 N. Larch Street since April, 2016 in compliance with the City's zoning policies regulating medical marijuana dispensaries. In April of 2016, the City was treating medical marijuana dispensaries as general retail uses and permitting them by right in all commercial and industrial zoning districts. The property at 1106 N. Larch Street is zoned "H" Light Industrial, which district permits retail operations as a matter of right. When it was determined in May of 2016 that there were too many dispensaries in the City, the Council enacted a moratorium preventing any more dispensaries from opening until such time as the City had an ordinance in place to regulate them. The ordinance that was adopted in 2017 allows for 25 licenses to operate medical marijuana dispensaries in the City. The City has received 87 license applications. The existing dispensaries that have applied for a license are allowed to continue operating while the City determines which ones will be issued a license. Those that are not issued a license will be required to cease all of their operations. The applicant has applied for a dispensary license and may be considered for issuance if the variance request is approved. If it is not approved, the applicant will be issued a cease and desist letter for the dispensary at 1106 N. Larch Street.

2. The extent to which the applicant has demonstrated a commitment to the land use and public nuisance concerns in the surrounding neighborhood.

The applicant has been operating a dispensary on the subject property for almost 2 years and has not violated any provisions of the Zoning Ordinance during that time. The City also has not received any complaints about the dispensary since it has been in operation. The building and the site are well maintained. There are no illegal signs or debris on the site and parking is more than adequate parking to accommodate the dispensary.

3. The distance between the applicant's location and any medical marijuana provisioning center that is within 500 feet of the applicant's location.

There are no other existing dispensaries or applications for dispensary licenses within 500 feet of the subject property.

4. The need for a provisioning center at the location in order to provide the safe and efficient access to medical marijuana with the City.

The majority of the dispensaries in north Lansing are located on N. Grand River or N. East Street. The nearest dispensaries to the subject property are:

- * 2015 N. Larch – located more than 3,000 feet to the north
- * 229 W. Grand River – located more than 2,700 feet to the west
- * 515 N. Larch - located more than 2,300 feet to the south
- * 500 E. Oakland – located more than 1,000 feet to the southwest

While it may seem like this is an excessive number of dispensaries in the area, N. Larch Street is a primary commercial corridor which provides businesses with the high level of exposure to a high volume of traffic. Furthermore, dispensaries should be concentrated along major commercial corridors where there is easy access to public transportation and the roadway is designed to accommodate a high volume of traffic.

5. The character of the structure and its surroundings.

As depicted on the attached photographs, the building and the site are well maintained and consistent with the character of the area in which it is located. With regard to the business itself, the City is not aware of any negative impacts caused by the dispensary over the past almost 2 years that it has been in operation at 1106 N. Larch Street, despite its close proximity (440 +/- feet) to Reality Counseling Services which is a substance abuse treatment facility directly north of the subject property at 610 E. Grand River Avenue.

6. The impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity.

The subject property adjoins a residential property to its south and is located directly across the street from another residential property. The property is located in an area that has a lot of high traffic volume uses, thus drawing a fairly large volume of people to the area on a daily basis and well beyond normal business hours. The additional traffic generated by the dispensary, thus will not and has not altered the character of the area.

FINDINGS

This is a request by Caleb Wilson to permit a medical marijuana dispensary at 1106 N. Larch Street. Section 1300.13(A)(2) of City Ordinance 1217 prohibits medical marijuana dispensaries within 500 feet of a substance abuse treatment or rehabilitation facility. The medical marijuana dispensary at 1106 N. Larch Street is located approximately 444 feet from a substance abuse treatment/rehabilitation facility at 610 E. Grand River Avenue. A variance to the required separation distance between the 2 facilities is therefore, being requested.

The available information supports a finding that the requested variance is consistent with the criteria listed in Section 1300.18(3) of the City's ordinance regulating medical marijuana facilities (Ordinance No. 1217).

RECOMMENDATION

Based on the information and findings described above, the following motion is offered for the Board's consideration:

BZA 4035.18 be approved for a variance of 56 feet to the required 500 foot separation between the medical marijuana dispensary at 1106 N. Larch Street and the substance abuse treatment facility at 610 E. Grand River Avenue, on a finding that the variance is consistent with the variance evaluation criteria set forth in Section 1300.18(3) of Ordinance 1217, as detailed in the staff report for this application.

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

**REALITY COUNSELING SERVICES
610 E. GRAND RIVER AVENUE
LANSING, MICHIGAN 48906
(517) 484-4997**

February 26, 2018

City of Lansing
Planning Office,
Department of Planning and Neighborhood Development
316 N. Capitol Avenue
Lansing, Michigan 48933-1236

Re: Requested Variance

To Whom It May Concern,

I am sending these written comments on behalf of Reality Counseling Services, which resides at 610 E. Grand River Avenue, Lansing, Michigan 48906. We received notice that Caleb Wilson has requested a variance to the required separation distance between our office and the medical marijuana dispensary that is housed at 1106 N. Larch St. Lansing, Michigan 48906.

Reality Counseling Services has maintained and operated as a substance abuse treatment/rehabilitation facility, at the 610 E. Grand River Avenue location, since September of 1997. Since opening its door to the public, the marijuana dispensary at 1106 N. Larch Street has been a source of concern for our staff, our referents, and our clients. We have experienced multiple issues with patrons of the dispensary, as they park their vehicles in our parking lot and walk over to the dispensary. We have even caught some of these individuals rolling their marijuana cigarettes while sitting in a vehicle that is parked in our parking lot, despite being told that they cannot park in our lot. Some days, if the wind is blowing from the south, south east, or southwest, the front parking lot is filled with the odor of the marijuana.

In the notice that we received, it states that the medical marijuana dispensary at 1106 N. Larch Street is approximately 444 feet from our agency. I am confused as to where this approximation originated. We have measured the distance between both facilities using three different points of distance. The first measurement was taken from the front door of our facility to the front door of the dispensary at 1106 N. Larch Street, taking the longest route possible, and resulting in a measurement of 282 feet, from door to door. The second measurement was taken, measuring the closest point of distance from the back of our building to the back of the building at 1106 N. Larch Street; the measurement was 46 feet. The third measurement was done parallel to Larch Street, measuring property line to property line for a measurement of 99 feet. Even Google

Maps, has the distance from 1106 N. Larch Street to 610 E. Grand River Avenue (now E. Cesar Chavez Avenue) as 387 feet.

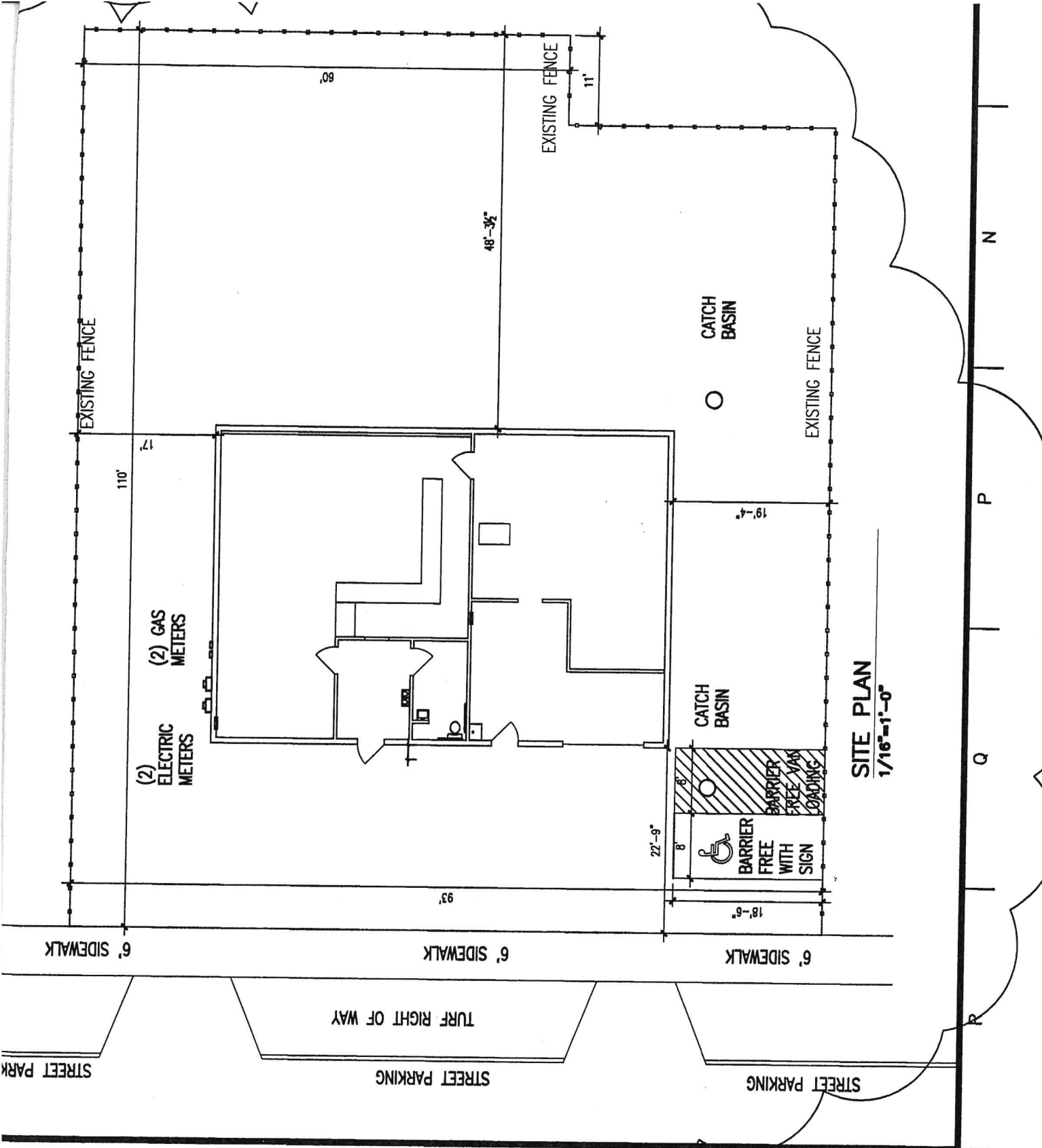
We at Reality Counseling Services respectfully ask that you deny the requested variance for the property at 1106 N. Larch as it is just too close to our property and presents as a problem for our clients.

Thank you for your consideration in this matter.

Respectfully,

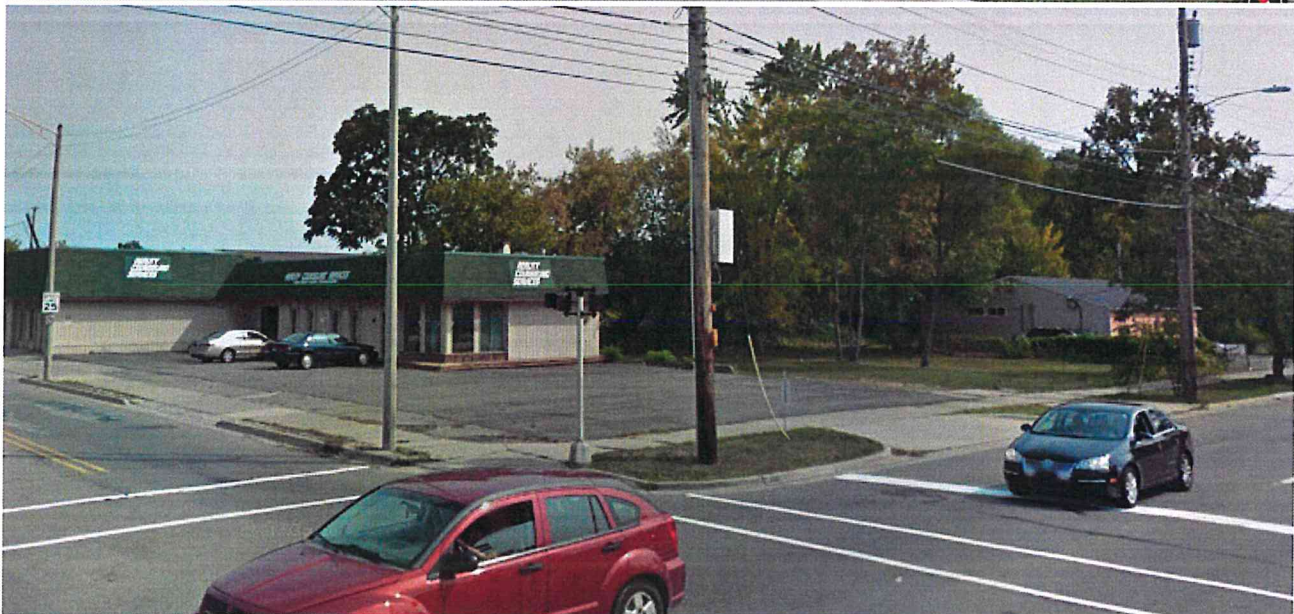
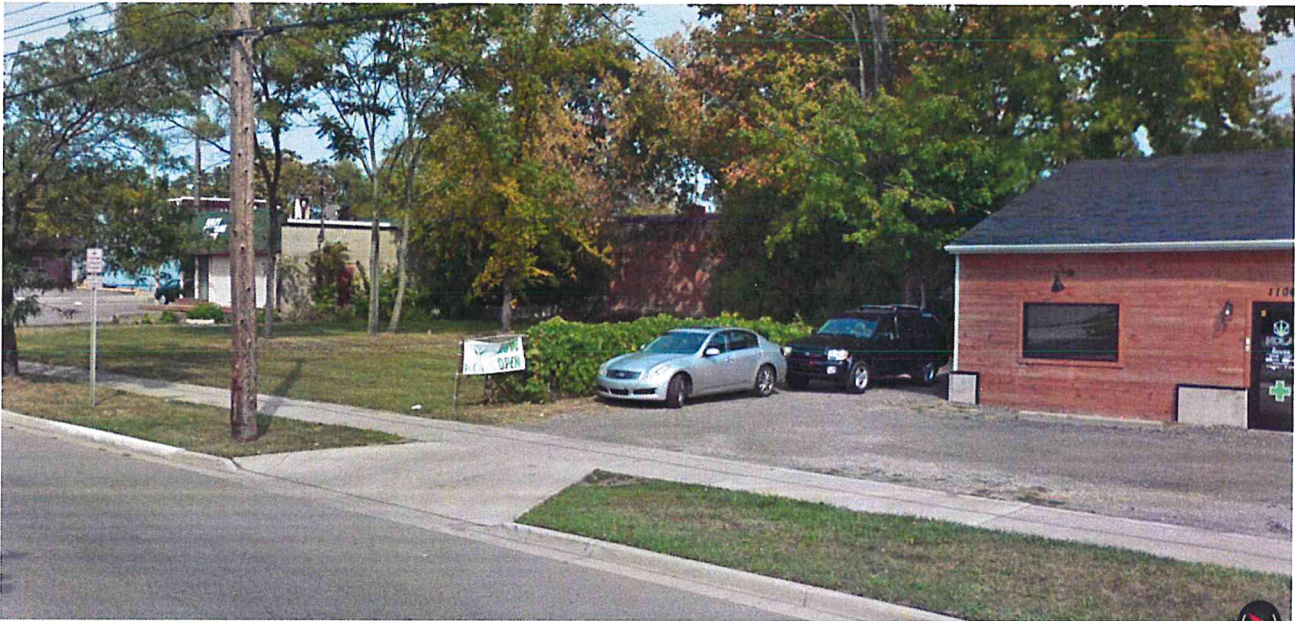
A handwritten signature in blue ink that reads "Brenda L. Rayle". The signature is written in a cursive, flowing style.

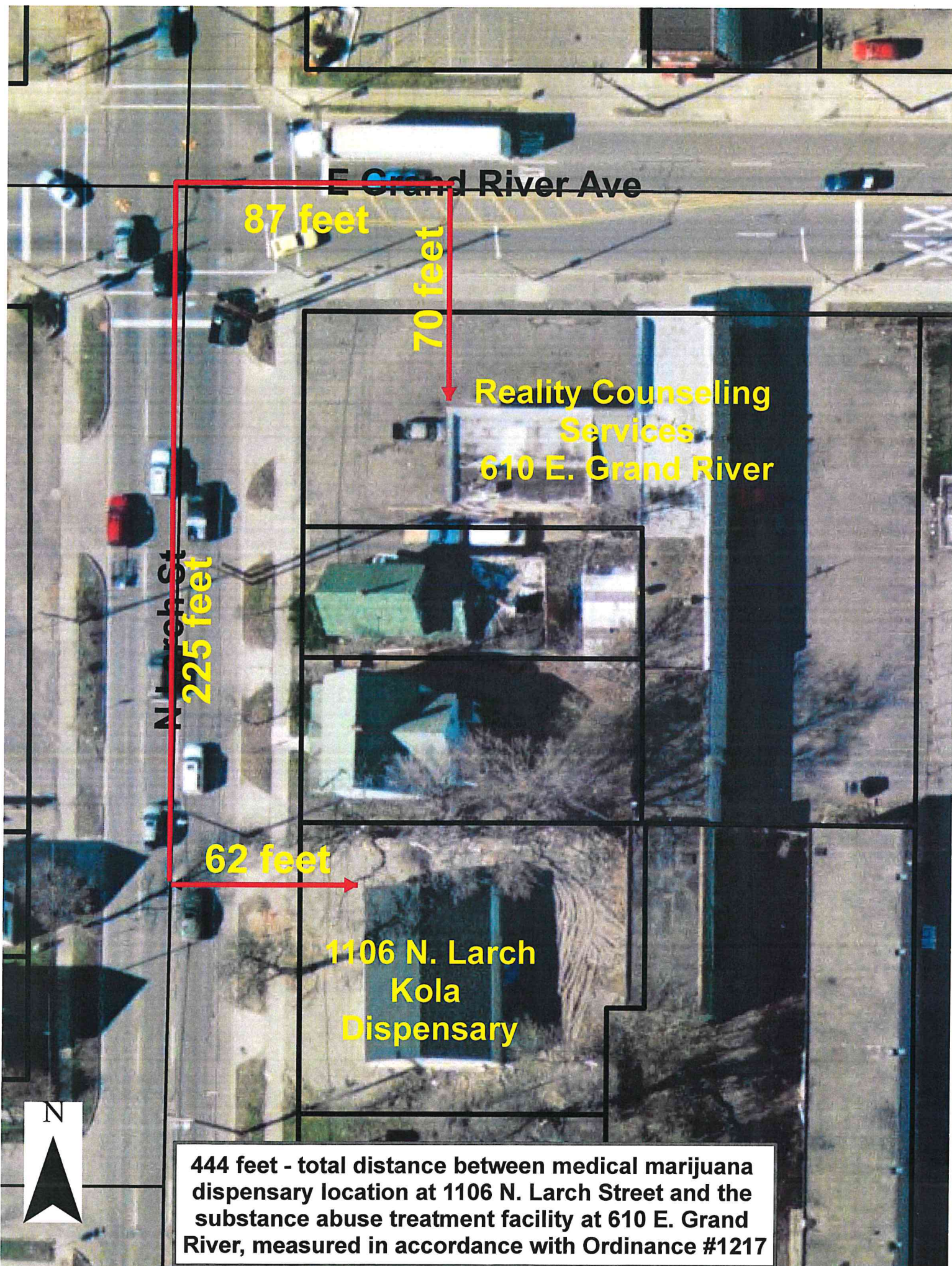
Brenda L. Rayle
Co-Owner/Director



SITE PLAN
1/16"=1'-0"

3'-3"
2'-9"





E Grand River Ave

87 feet

70 feet

**Reality Counseling
Services
610 E. Grand River**

**N Larch St
225 feet**

62 feet

**1106 N. Larch
Kola
Dispensary**

**444 feet - total distance between medical marijuana
dispensary location at 1106 N. Larch Street and the
substance abuse treatment facility at 610 E. Grand
River, measured in accordance with Ordinance #1217**

Legend

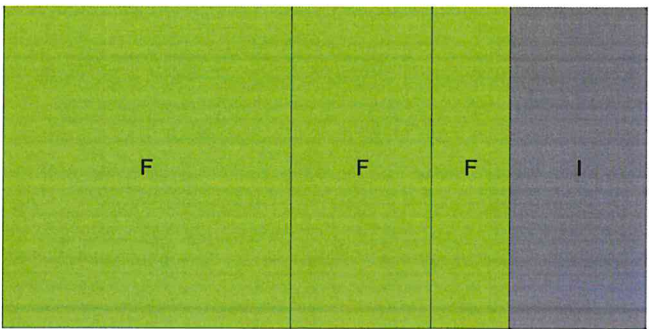
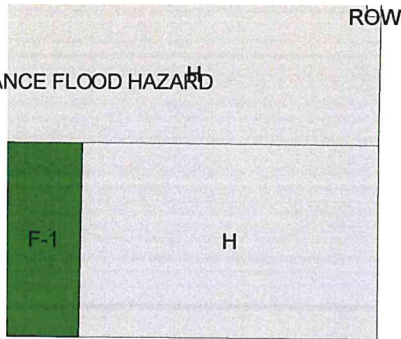
roads_final

FEMA Flood Zones

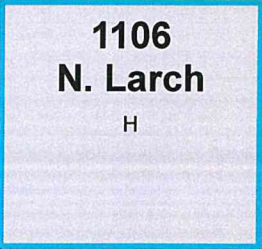
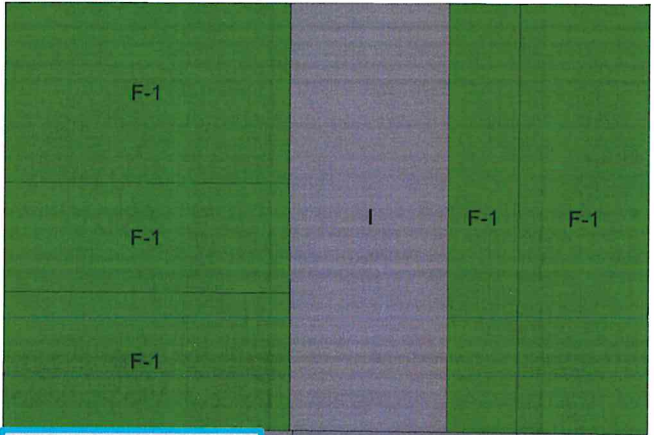
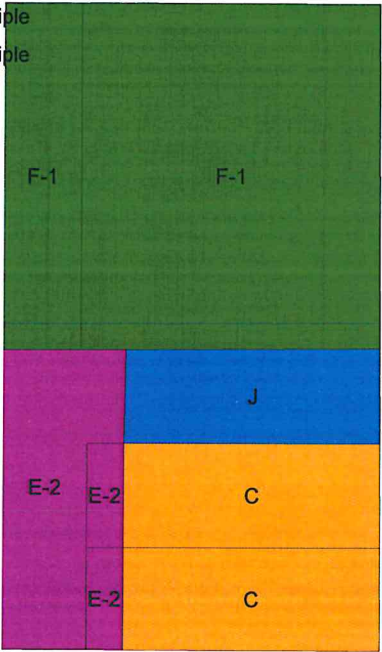
Flood Zone

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- A Residential-Single
- B Residential-Single
- C Residential-2 Unit
- NONE
- CUP Community Unit Plan
- D-1 Professional Office
- D-2 Residential/Office
- DM-1 Residential-Multiple
- DM-2 Residential-Multiple
- DM-3 Residential-Multiple
- DM-4 Residential-Multiple
- E-1 Apartment Shop
- E-2 Local Shopping
- F Commercial
- F-1 Commercial
- G-1 Business
- G-2 Wholesale
- H Light Industrial
- I Heavy Industrial
- J Parking
- ROW Right of Way

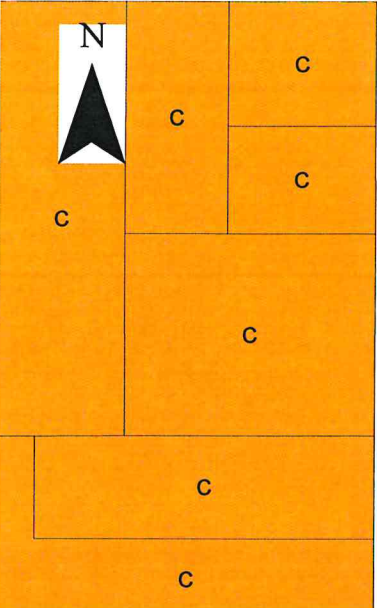
Zoning



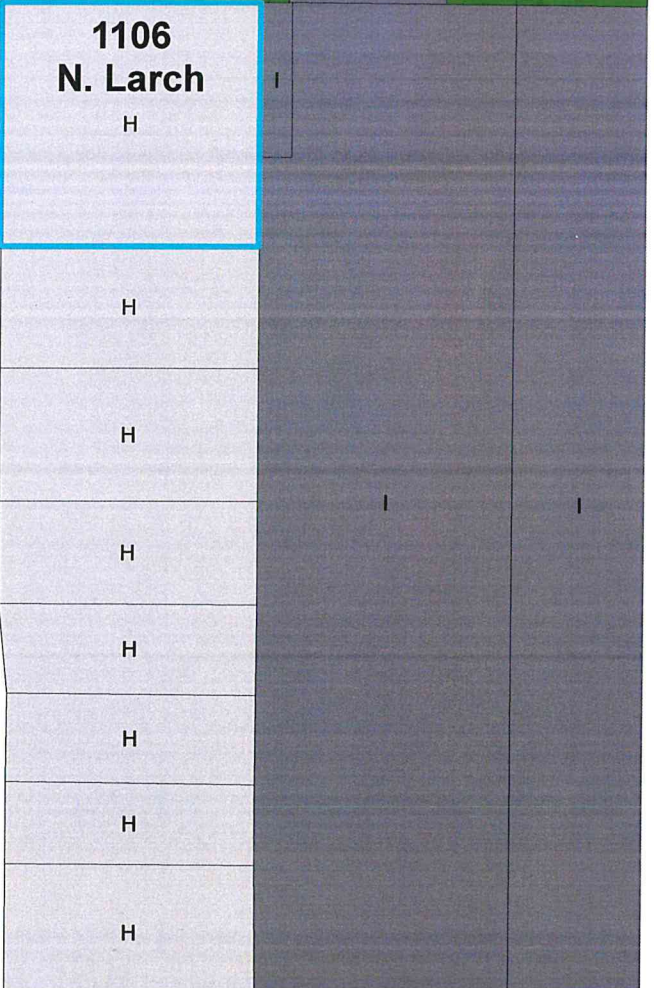
E Grand River Ave



E Maple St



N Larch St



**MINUTES OF SPECIAL MEETING
BOARD OF ZONING APPEALS
February 27, 2018, 6:30 P.M.
Neighborhood Empowerment Center - 600 W. Maple Street**

I. ROLL CALL

The meeting was called to order by Chairperson Marcie Alling at 7:18 p.m. Roll call was taken.

Present: M. Alling J. Quick J. Hovey J. Leaming

Absent: K. Litwiller M. Rice

Staff: S. Stachowiak

A quorum of four members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

It was moved by Mr. Leaming, seconded by Mr. Hovey to approve the agenda as printed. On a voice vote, the motion carried 4-0.

III. HEARINGS/ACTION

A. BZA-4034.18, 4929 S. Cedar Street

Ms. Stachowiak stated that this is a request by RODA Investments, LLC/Tru Releaf Collective to establish a medical marijuana dispensary at 4929 S. Cedar Street. Section 1300.13(A)(2) of City Ordinance 1217 prohibits medical marijuana dispensaries within 500 feet of a substance abuse treatment or rehabilitation facility. The medical marijuana dispensary at 4929 S. Cedar is located approximately 340 feet from a substance abuse treatment/rehabilitation facility at 4902 S. Cedar Street. A variance to the required separation distance between the 2 facilities is therefore, being requested.

Ms. Stachowiak stated that Section 1300.13 of Ordinance No. 1217, which regulates medical marijuana facilities, requires a 500 foot separation between medical marijuana provisioning centers and churches, child care centers, playground equipment in a park and substance abuse treatment facilities. She said that the distances are measured from nearest edge of building to nearest edge of building, along the centerline of the street as depicted on the diagram that was included in the meeting packet. Ms. Stachowiak said that Section 1300.18 of the Ordinance authorizes the Board of Zoning Appeals to grant variances from the separation distance requirements, based on the criteria listed in this Section to be used in evaluating such requests.

Ms. Stachowiak stated that she is recommending approval of the variance based a finding that the request is consistent with the applicable evaluation criteria, as detailed in the staff report that was provided in the meeting packet.

Ms. Stachowiak said that the following letters were received with regard to this request:

- * Nancy Mahlow, 430 N. Fairview, in opposition to the variance
- * Tim & Cyndi Terwilliger, 101 W. Syringa, in opposition to the variance
- * Jim & Elaine Jackinchuk, 106 E. Syringa, in opposition to the variance
- * Anonymous letter in support of the variance

- * Jeremy Garza, 2nd Ward Council Member, in opposition to the variance
- * Rachelle White on behalf of the Southwest Action Group in opposition to the variance
- * Jan Patrick 328 E. Syringa, in opposition to the variance
- * Elaine Womboldt, 4815 Tressa Drive, on behalf of Rejuvenating South Lansing, in opposition to the variance
- * Darrell Slaughter, no address given, on behalf of the Old Everett Neighborhood Association, requesting a postponement of the BZA's decision on the variance
- * Rhonda Fuller, 6527 Hilliard Road, in opposition to the variance
- * Kathleen Miles, 1128 Woodbine, in opposition to the variance
- * Alice Florida, 4011 Alpha, in opposition to the variance
- * Elizabeth Lane, 503 S. Dexter, in opposition to the variance
- * Gwen & Larry Counseller, 307 Cloverland, in opposition to the variance
- * Rachelle White, 2227 W. Holmes Road, in opposition to the variance
- * Noel Harshmann, no address given, in opposition to the variance
- * Laurie Ruiz, no address given, in opposition to the variance
- * Vicki Bellon, 3218 Stabler, in opposition to the variance
- * Robert Tetzlaff, no address given, in opposition to the variance
- * Marilyn Ebaugh, 2201 Pamela Place, in opposition to the variance
- * Damita J. Walker, 3216 Jerree Street, in opposition to the variance
- * Debra Smith, no address given, in opposition to the variance

Ms. Alling opened the public hearing.

Jonathon Brown, Grewal Law, PLLC, on behalf of the RODA Investments, LLC & Tru ReLeaf Collective, spoke in support of the request. He stated that the request complies with all of the criteria set forth in Ordinance No. 1217 for evaluating variances and asked that the variance be approved. Mr. Brown said that the applicant has been operating a dispensary at 4929 S. Cedar Street since 2015 with zero complaints and zero violations. He said that the applicant desires to provide safe and efficient access to those members of the community that utilize medical marijuana.

Ronnie Somo, RODA Investments, 4929 S. Cedar Street, spoke in support of his request. He stated that there is only 1 dispensary within 2 blocks of 4929 S. Cedar and it opened up after the moratorium was in effect. Mr. Somo said that most of the dispensaries on S. Cedar will be shut down for noncompliance with the City's licensing application requirements.

Mr. Leaming questioned whether the applicant would be able to pursue this matter in court as it would not meet the standard of ripeness. He said that even if the variance is approved, there is no guarantee that the applicant will be one of the 20 applicants that will ultimately be issued a license from the City. Mr. Leaming said that you cannot argue that you lost out on something that has not even been decided upon yet.

Ms. Stachowiak stated that the City Clerk's Office cannot even consider the applicant's license application unless the variance is approved.

Mr. Leaming asked the applicant if he is proposing any improvements to the building or site.

Mr. Brown stated that the building and site are already in good shape and in compliance with all codes and ordinances so no changes are proposed.

Mr. Leaming said that several letters of objection have been received. He asked if the applicant has done any community outreach.

Mr. Somo said that they have not done any formal outreach as they were not aware that there

were any issues relative to the dispensary that needed to be addressed with the community.

Mary Fuhrman, 119 E. Syringa Drive, spoke in opposition to the request. She said that she is the neighborhood watch coordinator for the area in which the subject property is located. Ms. Fuhrman said that with so many applications that comply with the criteria for separation between dispensaries and other uses such as substance abuse treatment facilities, why authorize a variance for one that does not meet that requirement. She said that Victory Clinical Services has been at its location for about 10 years and the applicant knew that it was there when he moved in. She also said that there are already numerous other dispensaries on S. Cedar Street.

Jeff Fuhrman, 119 E. Syringa Drive, spoke in opposition to the variance. He stated that with so many dispensaries on S. Cedar Street, the City needs to start eliminating them rather than authorizing variances to allow them in conflict with the ordinance provisions. Mr. Fuhrman said that the dispensaries are devaluing property values and asked if the Board members if they would want to live in an area that has a proliferation of dispensaries.

Elaine Womboldt, 4815 Tressa Drive, Facilitator for Rejuvenating South Lansing, spoke in opposition to the variance. She said that she heard that a lot of people, including Victory Clinical Services, were not notified of the rescheduled public hearing for this evening. Ms. Womboldt said that the notice that went out was misleading in that it said that the request was to establish a medical marijuana dispensary at 4929 S. Cedar Street, when in fact it is already in operation. She said that there is a dispute as to whether marijuana has any medicinal value but to place a medical marijuana dispensary within 500 feet of a substance abuse treatment facility is a disgrace and is a detriment to the recovery of those individuals who are in treatment. Ms. Womboldt said that there are 3 members of the current City Council that voted against the ordinance that is currently in effect. She said that there are more than enough dispensaries in Lansing to serve the patients in Lansing that utilize it.

Jan Patrick, 328 E. Syringa Drive, spoke in opposition to the request. She said that she received a postcard for the first public hearing but not for the second one. Ms. Patrick said that the members of the Old Everett Neighborhood Organization have not had enough time to meet and discuss the variance. She said that there are already too many dispensaries in the area including one within very close proximity to the subject property. Ms. Patrick asked that the variance be denied.

Mike Redding, 3522 Karen, spoke in opposition to the variance. He said that the rules were put in place for a reason and should not be varied just because someone makes a request to do so.

Seeing no one else wishing to speak, Ms. Alling closed the public hearing.

Mr. Leaming stated that there have been a lot of comments about the dispensaries going in long after the substance abuse facilities were in operation. He said that until the ordinance was adopted in 2017, the applicants could not know what would ultimately be the requirements for separation, if any, between dispensaries and other facilities such as substance abuse treatment clinics. Mr. Leaming said that the criteria set forth in the ordinance for evaluating these types of variances is very subjective and thus, puts the BZA in a difficult position of determining whether to a request should be approved.

Mr. Hovey stated that criterion number 4 (the need for a provisioning center at the location in order to provide the safe and efficient access to medical marijuana with the City) cannot possibly be determined because the locations that will be issued licenses to operate a dispensary have not been determined. Until that is determined, there is no way of knowing if the location being considered for a variance is necessary to provide safe and efficient access to

medical marijuana. Mr. Hovey said that the City should determine the top 20 applications and if the ones that are requesting a variance are in the top 20, then the BZA can more accurately determine if they meet the ordinance criteria for issuance of a variance. He said that since the Board needs to decide on the variance before that occurs, he is leaning towards approving the variance as it complies with the criteria to the extent that the Board can make that determination at this time.

Ms. Alling said that she is also leaning towards approval as both facilities seem to have a very good track record of running their establishments, at least in terms of not violating city codes and ordinances since they have been in operation. She said that the staff has not been made aware of any complaints relative to either of the applicant's facilities. She said that with regard to 4929 S. Cedar Street, it is separated from Victory Clinical Services by a 5 lane road that is probably the busiest road in the City. Ms. Alling said that the ordinance criteria is very subjective but the requests, nevertheless, seem to comply with the criteria and denying the variance would make the applicants ineligible for consideration in obtaining a license when they otherwise, may be one of the 20 applications that would get approved by the City.

Mr. Quick stated that a lot of the concerns that have been expressed are not things that the BZA can consider in making its decision such as whether marijuana has medicinal value. He said that the Board has received a number of letters in opposition, but there are a lot of people and businesses in the areas surrounding these request that have remained silent on the issue.

Mr. Leaming said that he is leaning towards denial of the variances as there has been a lot of opposition, particularly in regard to the variance request for 4929 S. Cedar Street. He said that this would indicate that criterion number 6 (the impact of the variance on the character of the structure's surroundings and owners of other properties in the vicinity) has not been satisfied. . Mr. Leaming said that there are several other dispensaries in close proximity to 4929 S. Cedar. Mr. Leaming said that until the City decides which of those locations will be issued a license, it cannot be determined if the applicant's location is necessary to provide "safe and efficient" access to medical marijuana which is one of the criteria that the BZA must consider in making its decision on the variance.

Mr. Hovey stated that he is reluctantly going to vote in favor of the variance. He said that his reluctance involves placing the BZA in a position of having to determine whether or not to approve the variance based on criteria that is not very subjective and in some cases, cannot even be applied until it has been determined which of the 80+ applications for dispensary licenses are among the top 20 applications being considered for approval.

Mr. Leaming made a motion to deny BZA 4034.18 for a variance of 140 feet to the required 500 foot separation between a medical marijuana dispensary at 4929 S. Cedar Street and the substance abuse treatment facility at 4902 S. Cedar Street, on a finding that the variance is not consistent with the 4th and 6th variance evaluation criteria set forth in Section 1300.18(3) of Ordinance 1217. Motion fails for lack of support.

Mr. Hovey made a motion, seconded by Mr. Quick to approve BZA 4034.18 for a variance of 140 feet to the required 500 foot separation between a medical marijuana dispensary at 4929 S. Cedar Street and the substance abuse treatment facility at 4902 S. Cedar Street, on a finding that the variance is consistent with the variance evaluation criteria set forth in Section 1300.18(3) of Ordinance 1217. Mr. Hovey, Mr. Quick and Ms. Alling voted yes. Mr. Leaming voted no.

Ms. Alling stated that the variance has been approved.

Ms. Stachowiak stated that since there are only 4 members present at this meeting, which is the minimum number needed for a quorum, the City Attorney's Office will need to determine

whether the variance is approved since it is a majority of those present rather than a majority of the total Board membership that voted in favor of the variance. She said that she will inform the applicant, in writing, as to whether the variance was approved based on the 3-1 vote.

B. BZA-4035.18, 1106 N. Larch Street

Ms. Stachowiak stated that this is a request by Caleb Wilson to permit a medical marijuana dispensary at 1106 N. Larch Street. Section 1300.13(A)(2) of City Ordinance 1217 prohibits medical marijuana dispensaries within 500 feet of a substance abuse treatment or rehabilitation facility. The medical marijuana dispensary at 1106 N. Larch Street is located approximately 444 feet from a substance abuse treatment/rehabilitation facility at 610 E. Grand River Avenue. A variance to the required separation distance between the 2 facilities is therefore, being requested.

Ms. Stachowiak stated that Section 1300.13 of Ordinance No. 1217, which regulates medical marijuana facilities, requires a 500 foot separation between medical marijuana provisioning centers and churches, child care centers, playground equipment in a park and substance abuse treatment facilities. She said that the distances are measured from nearest edge of building to nearest edge of building, along the centerline of the street as depicted on the diagram that was included in the meeting packet. Ms. Stachowiak said that Section 1300.18 of the Ordinance authorizes the Board of Zoning Appeals to grant variances from the separation distance requirements, based on the criteria listed in this Section to be used in evaluating such requests.

Ms. Stachowiak stated that she is recommending approval of the variance based a finding that the request is consistent with the applicable evaluation criteria, as detailed in the staff report that was provided in the meeting packet.

Ms. Stachowiak said that the following letters were received with regard to this request:

- * Nancy Mahlow, 430 N. Fairview, in opposition to the variance
- * Brenda L. Rayle, on behalf of Reality Counseling Services, 610 E. Grand River Avenue, in opposition to the variance

Ms. Alling opened the public hearing.

Caleb Wilson, Kola, 1106 N. Larch Street, spoke in support of his request. He said that Ms. Stachowiak received a phone call from the director of the Old Town Main Street Commercial Association in support of his request. He said that he has been an active member of the Old Town community including helping to sponsor several festivals. Mr. Wilson said that he has reached out to the community and attempted to reach out to Reality Counselling Services but was unable to get a response from them. He said that he has been in operation at 1106 N. Larch Street since prior to the moratorium and has applied for a license through the City Clerk's Office but cannot be considered for the license unless the variance is approved. Mr. Wilson said that Reality Counselling Services is not an active member of the Old Town area. He also said that he has had some of Reality Counselling Services patients become his patients as there is a molecule in medical marijuana that can assist with overcoming opioid addiction.

Dave Nakfoor, Reality Counselling Services, 610 E. Grand River (Cesar Chavez), spoke in opposition to the variance. He said that he has been at 610 E. Grand River for more than 20 years and he has been doing substance abuse counselling for 30 years. Mr. Nakfoor stated that if his customers are leaving his establishment and going to the dispensary, that is a good reason in and of itself for denying the variance. He said that if his patients "drop dirty" when they go for testing, they could end up in jail. Mr. Nakfoor said that Mr. Wilson did not reach out to him until he needed the variance. He also said that he has experienced problems with the smell emanating from Kola and from customers of that establishment smoking marijuana in his

parking lot.

Jonathon Brown, Grewal Law, PLLC, on behalf of the RODA Investments, LLC & Tru ReLeaf Collective, stated that people cannot get medical marijuana without having a card authorizing them to do so.

Seeing no one else wishing to speak, Ms. Alling closed the public hearing.

Mr. Hovey made a motion, seconded by Mr. Quick to approve BZA 4035.18 for a variance of 56 feet to the required 500 foot separation between the medical marijuana dispensary at 1106 N. Larch Street and the substance abuse treatment facility at 610 E. Grand River Avenue, on a finding that the variance is consistent with the variance evaluation criteria set forth in Section 1300.18(3) of Ordinance 1217. Mr. Hovey, Mr. Quick and Ms. Alling voted yes. Mr. Leaming voted no.

Ms. Stachowiak stated that, as with the previous variance request, she will notify the applicant in writing as to whether the variance was approved, based on the 3-1 vote.

IV. NEW BUSINESS - None

V. OLD BUSINESS - None

VI. PUBLIC COMMENT

Elaine Womboldt, 4815 Tressa Drive, Facilitator for Rejuvenating South Lansing, expressed concerns about how the outcome of this meeting will affect future applications for dispensaries that do not comply with the ordinance in terms of the separation requirements.

Mark Fuhrman, 119 E. Syringa Drive, stated that he objects to Ms. Stachowiak speaking in favor of the variance requests. He also expressed concerns about authorizing variances when there are enough license applications to choose from that comply with the ordinance requirements.

Mary Fuhrman, 119 E. Syringa, stated that Ms. Stachowiak should not be encouraging the Board to vote in favor of the variances.

VII. APPROVAL OF MINUTES

Minutes of special meeting held on January 17, 2018

Mr. Hovey made a motion, seconded by Mr. Leaming to approve the minutes from the special meeting held on January 17, 2018 meeting, as printed. On a voice vote (4-0), the motion carried unanimously.

VIII. NEW BUSINESS – None

IX. ADJOURNMENT AT 8:39 P.M.

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator