Andy Schor
Mayor

LANSING BOARD OF ZONING APPEALS
REGULAR MEETING
DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING
Thursday, February 8, 2024, 6:30 PM
600 W. Maple Street
Neighborhood Empowerment Center – Boardroom

AGENDA

I. ROLL CALL

II. APPROVAL OF AGENDA

III. PUBLIC COMMENT

IV. PUBLIC HEARING/ACTION

A. BZA-4081.23, 2002 N. Larch Street- Variance to the setback requirement for a new ground pole sign.

V. OLD BUSINESS

VII. NEW BUSINESS

VI. APPROVAL OF MINUTES

A. Regular Meeting, September 14, 2023

VIII. PUBLIC COMMENT

IX. 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 BY DIALING (TTY 711).

GENERAL INFORMATION

APPLICANT:	Aver Sign Company 359 Livernois Street Ferndale, MI 48220
PROPERTY OWNER:	Quality Dairy Company 111 W. Mt. Hope Avenue, Suite 3A Lansing, MI 48910
REQUESTED ACTION:	Variance to the required setback for a new ground sign at 2002 N. Larch Street
EXISTING LAND USE:	Quality Dairy Store & Gasoline Station (under construction)
EXISTING ZONING:	"S-C" Suburban Commercial District
PROPERTY SIZE & SHAPE:	71,512 square feet – irregular shape
SURROUNDING LAND USE:	N: Retail Store S: Auto Repair/Residential E: Industrial/Storage Yard W: Restaurant/Car Wash
SURROUNDING ZONING:	N: "S-C" Suburban Commercial District S: "R-6B" Urban Detached Residential & "IND-2" General Industrial District E: "IND-2" General Industrial District W: "S-C" Suburban Commercial District
MASTER PLAN DESIGNATION:	The Design Lansing Comprehensive Plan designates the subject property for suburban commercial land use. N. Larch Street is designated as a suburban corridor and Lake Lansing Road is designated as a prime connector.

REQUEST

This is a request by Aver Sign Company for a variance to the setback requirement to permit a new, 24.4 foot high, 129.5 square foot free-standing sign at 2002 N. Larch Street (Quality Dairy) that would have a setback of 8.27 feet at its nearest point to the front property line. Section 1442.12(h)(5)(b) of the Sign Ordinance requires a setback of 26 feet for a freestanding sign of these dimensions. A variance of 17.73 feet to the required setback is therefore, being requested.

ANALYSIS

Required/Permitted	Proposed	Variance
26-foot setback	8.27-foot setback	17.73 feet

The applicant is requesting a variance to the setback requirement to permit a new ground sign at the southwest corner of the property at 2002 N. Larch Street. This is the site of a Quality Dairy store, multi-tenant commercial building and recently constructed gasoline station. Since the site is a corner lot with frontage along a major arterial (N. Larch Street) and a minor arterial (Lake Lansing Road), 2 ground signs are permitted. There have been 3 ground signs on the property (2 QD signs and 1 sign for the various businesses in the multi-tenant building). All 3 signs were erected in the early 1960's and none of them comply with the setbacks required under the current sign ordinance that was adopted in 1990. The applicant intends to retain the QD sign along N. Larch Street and the other 2 signs have already been removed to accommodate construction of the gas station. The new sign is primarily intended to advertise the gas station/gas prices but also includes space for the other businesses on the site.

The basis for the applicant's request is that the layout of the site prevents compliance with setback requirements to allow for construction of a new ground sign of reasonable dimensions. The allowable height and square footage for ground signs is based upon the setback which is measured from the nearest edge of the sign to the nearest point of the front property line. The proposed 129.5 square foot, 24.4-foot-high sign requires a 26-foot setback. The variance would allow the sign to be located 8.27 feet at its nearest point to the front property line. Without a variance, a sign with a setback of 8.27 feet would be limited to 8 feet in height and 28 square feet in area which is very small for advertising gasoline prices and providing advertising space for the other businesses on the property. As evidenced by the attached site plan, if the proposed sign were to be located at the required 26-foot setback, it would be in the middle of the drive aisle west of the canopy, thus impeding vehicular circulation, particularly for larger vehicles. Given these circumstances, a case can be made that there exists a practical difficulty that is sufficient to warrant relief from the ordinance.

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 or unnecessary hardship:

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 criterion since the practical difficulty associated with constructing a sign in compliance with the required setback is directly related to the ordinance requirement as it applies to the subject property. The second criterion is whether the practical difficulty is self-created. As evidenced by the attached site plan, there is no location on the site where a ground sign of reasonable size for a gasoline station could be constructed in compliance with the setback requirement from the property lines along both streets and that would be visible to traffic on both streets. This practical difficulty cannot be considered self-created since it involves the application of an ordinance requirement that was enacted in 1990 on a site that, according to the City Assessor's records, was developed in 1962.

The third criterion 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 just a matter of mere preference. In this case, the layout of the site, and more specifically, the location of the gas station canopy, creates a practical difficulty for the applicant that is unique in comparison to most other sites in the City with regard to the placement of a ground sign. As illustrated by the attached site plan, there is no location on the site where a ground sign of reasonable dimensions could be constructed in compliance with setback requirements where it would not interfere with on-site circulation.

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 applicant's proposal will not be disruptive to the appropriate and orderly development of the area. In fact, the applicant's proposal results in reducing the number of ground signs on the property from 3 to 2, as permitted by the Sign Ordinance, thus eliminating a nonconformity. Reducing the number of signs is consistent with the primary intent of the Ordinance which is to improve the appearance of the City's commercial corridors by eliminating visual clutter while allowing enough signage to adequately identify businesses. Additionally, the proposed ground sign will be of comparable size to the ground sign that it is replacing and will have a more modern and aesthetically pleasing appearance which will be an improvement to the area in which it is located.

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 proposed sign will not have any negative impacts on traffic in and around the site and will not obstruct vision for motorists at the N. Larch Street/Lake Lansing Road intersection.

There will be 7.2 feet of clearance between the lowest edge of the proposed sign and the ground below and even at its nearest point, the sign will be located more than 15 feet from the actual roadways. If the sign were to be setback any further, it would interfere with on-site circulation, particularly for fire apparatus trucks in the event of an emergency.

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.**

   As described in the preceding paragraphs of this report, the layout of the property prevents the applicant from being able to construct a freestanding sign of reasonable dimensions in compliance with the required setbacks. Approval of the variance, therefore, would not set a negative precedent for future requests to vary the sign ordinance setback requirements as it would be based upon a unique feature of the site.

FINDINGS

This is a request by Aver Sign Company for a variance to the setback requirement to permit a new, 24.4 foot high, 129.5 square foot free-standing sign at 2002 N. Larch Street (Quality Dairy) that would have a setback of 8.27 feet at its nearest point to the front property line. Section 1442.12(h)(5)(b) of the Sign Ordinance requires a setback of 26 feet for a freestanding sign of these dimensions. A variance of 17.73 feet to the required setback is therefore, being requested.

The available information supports a finding that the requested setback variance complies with the applicable criteria listed in Sections 1274.06 (c) and 1274.06 (e) of the Zoning Ordinance.

RECOMMENDATION

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

> **"I make a motion to approve BZA 4081.23 for a variance of 17.73 feet to the required 26-foot setback to permit a 24.4 foot high, 129.5 square foot ground sign at 2002 N. Larch Street that would have a setback of 8.27 feet at its nearest point from the front property line, in the location shown on the site plan attached to this staff report, based on a finding that the requested variance complies with the applicable criteria listed in Sections 1274.06 (c) and 1274.06 (e) of the Zoning Ordinance."**

Respectfully Submitted,

Susan Stachowiak
Zoning Administrator

December 12, 2023

Planning Office
City of Lansing
316 N. Capital Ave
Suite D-1
Lansing, MI 48933-1236

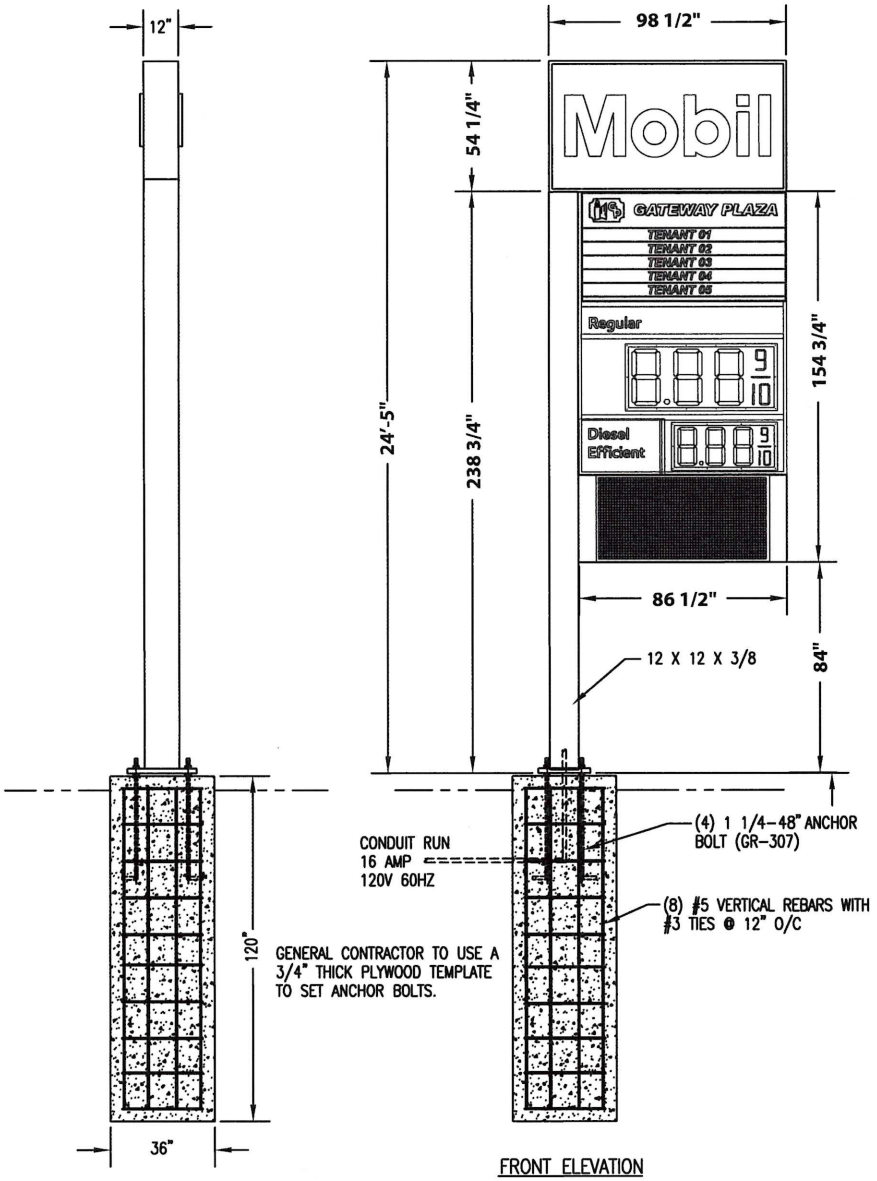
Re: ZBA answers for 2002 Larch St.

A. Compliance with the Code will make it difficult to use the property in a reasonable manner.
    a. Because of the unique layout of the property the only place to put the sign is as noted on the site plan at the corner of Larch and Lake Lansing at 13'.54" set back any further back will put the sign in the parking lot which is a safety hazard.
    b. Although the city does not have a required under clearance, as a Sign Erector that has been in business for 25 years, we know the importance of being able to see beyond a sign at an intersection, this being the reason for the height. Lifting the sign for a safe under clearance of 7.2. This allows for vehicles and pedestrians to see safely under the sign. Putting the sign on the ground to reduce the height of the sign makes the sign unsafe and can potentially cause an accident. I would think that could be a liability for the City.
    c. Square footage of the sign allows for the required display for Mobil price/product sign, Quality Dairy (since they have removed 2 out of 3 of their business pole signs) EMC will be able to display the new tenants and other retail spaces rather than adding square footage to the ground sign. The EMC also gives Quality Dairy space to advertise specials. Since the removal of 2 ground signs at this location.
B. The hardship was not caused by the property owner. The hardship is caused by the setback requirements in the City of Lansing's ordinance.
C. Hardship is unique to the property. Since the addition of the gas station/canopy there is nowhere else on the property to display the product/price sign and utilize the corner for both main throughfare's.

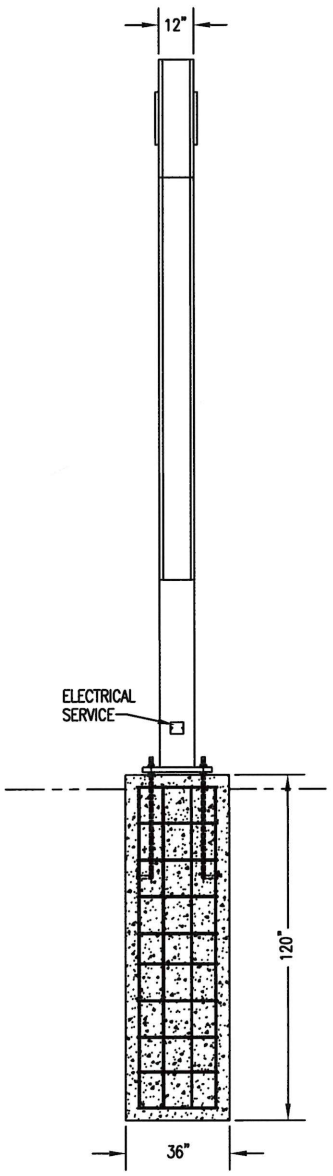
If this request is not granted, we will be forced to put the sign on the ground and in the parking lot of the new gas station and canopy. The gas station and Quality Dairy are denied the same competitive edge as any other gas station in the City of Lansing. And will have a liability on their property.

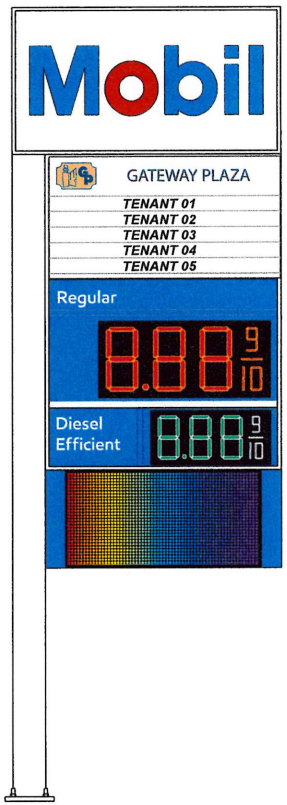
Quality Dairy has been in front of the City of Lansing Zoning Board of Appeals for their other Lansing sites. This effort has been to try and keep the Quality Dairy product/price sign uniform at all their locations across the community.

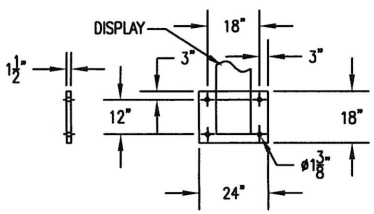
REVISION RECORD				
SYM	DESCRIPTION	DATE	CHG	ECN



FRONT ELEVATION





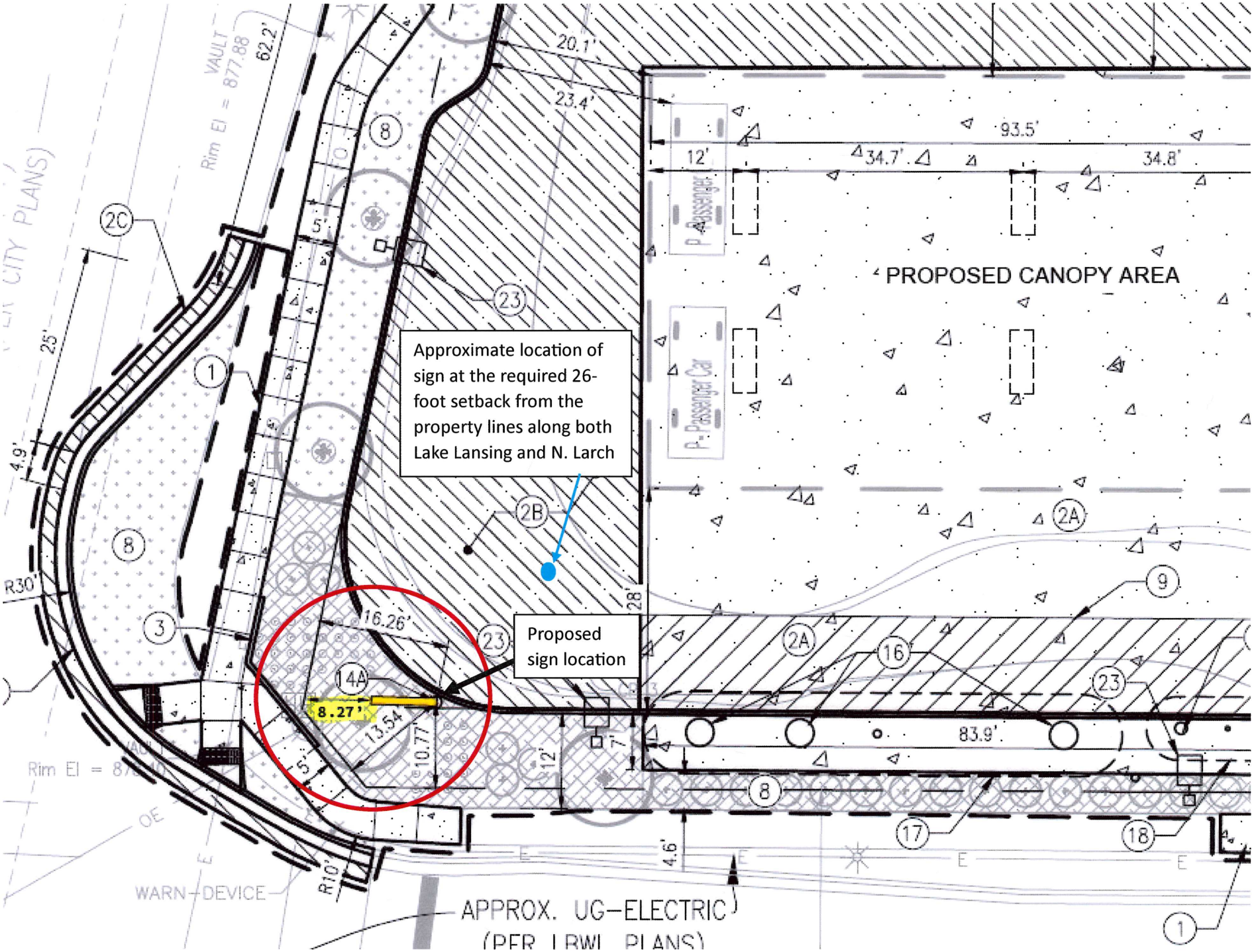


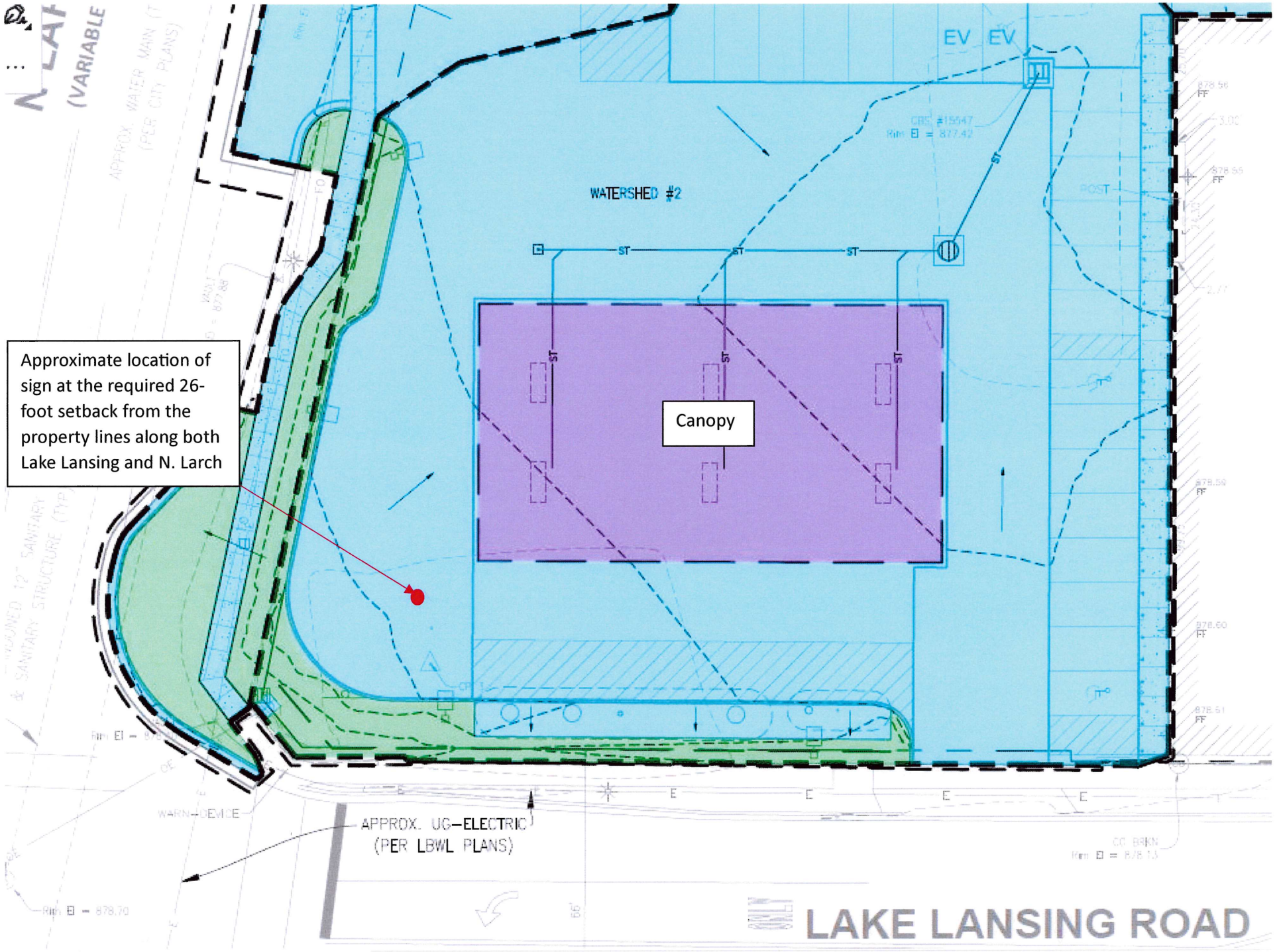
MOUNTING COLUMN BASE PLATE DETAIL

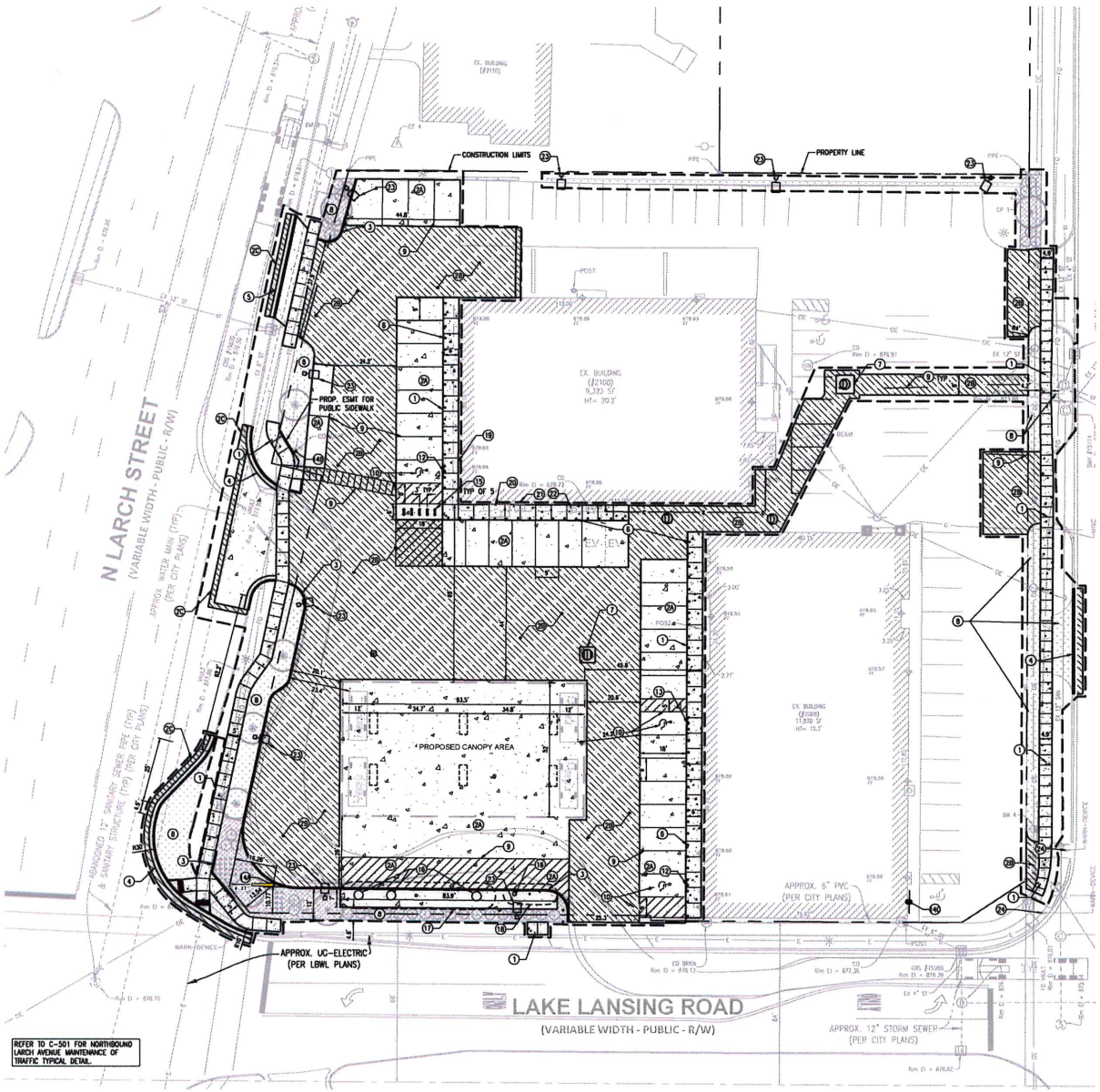
SIZE & SHAPE OF FOUNDATION SHOWN IS BASED ON 35 POUND PER SQUARE FOOT WIND LOADING. CONCRETE SHALL HAVE A MINIMUM STRENGTH OF 3,000 PSI @ 28 DAYS, ASSUMED NET ALLOWABLE SOIL PRESSURES OF 2,000 POUNDS PER SQUARE FOOT. IF ABOVE CONDITIONS CAN NOT BE MET, IT SHALL BE THE OWNERS RESPONSIBILITY TO HAVE LICENSED REGISTERED ENGINEER DESIGN A REVISED FOUNDATION ON A SITE PER SITE BASIS.

CAISSON FOOTING

UNLESS OTHERWISE SPECIFIED			TITLE	Everbrite
TOLERANCE AFTER MACHINING FRACT. DEC. ANG.			ESSO/EXXON/MOBIL MONOLITHIC DISPLAY 5-LINE CABINET MID "A" 50 SERIES	401 So. Main St. P.O. Box 97 Pardeeville, WI 53954 608-429-2121
MATERIAL NOTED	DRAWN	DATE		
	CHECKED			
FINISH NOTED	DRAFT SUPV.			
	DESIGN ENGR.			
	RELEASE			
These drawings are the exclusive property of Everbrite, Inc. Use of, or duplication in any manner without express written permission			DRAWING NO. PVD-21881	REV. 2
			SCALE	SHEET 1 OF 1


PROPOSED CANOPY AREA
Approximate location of sign at the required 26-foot setback from the property lines along both Lake Lansing and N. Larch
Proposed sign location
8.27'
16.26'
13.54'
10.77'
93.5'
34.7'
34.8'
83.9'
20.1'
23.4'
62.2'
25'
4.9'
R30'
R10'
28'
12'
7'
5'
4.6'
P. Passenger
P. Passenger Car
WARN-DEVICE
APPROX. UG-ELECTRIC
(PER LRWI PLANS)


Approximate location of sign at the required 26-foot setback from the property lines along both Lake Lansing and N. Larch
Canopy
WATERSHED #2
EV
EV
ST
APPROX. UG-ELECTRIC
(PER LBWL PLANS)
LAKE LANSING ROAD



SITE IMPROVEMENT LEGEND

CONSTRUCTION LIMITS

HMA PAVEMENT

CONCRETE PAVEMENT

0 20 40 Feet

BENCHMARKS

B.M. "A" – RAILROAD SPIKE EAST SIDE UTILITY POLE, SOUTHEAST CORNER OF SITE, ELEV. 876.38'

B.M. "B" – RAILROAD SPIKE EAST SIDE UTILITY POLE, NORTHWEST CORNER OF SITE, ELEV. 877.88'

SITE IMPROVEMENT NOTES

1. ALL AREAS SHOWN NOT BUILT, PAVED OR OTHERWISE COVERED BY CONSTRUCTION SHALL BE HYDROMULCH SEEDED, REFER TO SPECS FOR DETAILS.
2. ALL AREAS DISTURBED BY CONSTRUCTION WHICH ARE OUTSIDE THE CONSTRUCTION LIMITS SHALL BE RESTORED TO A CONDITION EQUAL TO, OR BETTER THAN EXISTING CONDITIONS.
3. THE SITE CONTRACTOR SHALL COORDINATE WORK WITH ALL ADJACENT CONSTRUCTION BY OTHERS.
4. REFER TO SHEET C-104 FOR SITE GRADING AND DRAINAGE DESIGN.

SITE IMPROVEMENT KEY

1. CONCRETE SIDEWALK — 1/C-501
2A. CONCRETE PAVEMENT — 5/C-501
2B. HMA PAVEMENT — 6/C-501
20. HAND PATCH EX. ASPHALT PAVEMENT — 6/C-501
3. 6" CONCRETE HEAD CURB — 4/C-501
4. MDOT TYPE F4 CONCRETE CURB AND GUTTER — 2/C-501
5. D HEIGHT CURB AND GUTTER — 3/C-501
6. 6-IN BOLLARD — 7/C-501
7. DRAINAGE STRUCTURE CONCRETE APRON — 11/C-501
8. LAWN/LANDSCAPED AREA, REFER TO SESC SHEETS FOR REQUIREMENTS
9. 4-IN WIDE YELLOW PAVEMENT MARKING. PLACE AT 3-FT C-C FOR NO PARKING AREAS.
10. 4-IN WIDE BLUE PAVEMENT MARKING. PLACE AT 3-FT C-C FOR BARRIER-FREE AISLE WAYS. INSTALL BARRIER FREE SYMBOL PAVEMENT MARKING AT EACH SPACE WITH 12-IN X 18-IN BARRIER FREE SIGN MOUNTED ON 13-FT LONG STEEL POST. INSTALL VAN ACCESSIBLE SIGN AT SPACE TO LEFT OF 8-FT AISLE.
11. WHITE CROSSWALK PAVEMENT MARKING. LONGITUDINAL LINES TO BE 6-IN WIDE, TRANSVERSE LINES TO BE 12-IN WIDE AND PLACED AT 2.5-FT C-C.
12. 12"X24" ADA VAN ACCESSIBLE SIGN, 5-FT MIN ABOVE GRADE.
13. 12"X18" ADA SIGN, 5-FT MIN ABOVE GRADE.
14A. PROPOSED PYLON SIGN
14B. EXISTING PYLON SIGN TO BE REFACED
14C. PROPOSED WALL-MOUNTED SIGN
15. PROPOSED BIKE RACK, SURFACE MOUNTED, WITH SLATE GRAY POWDERCOAT FINISH. AP2-02-SM BY SITESCAPES, OR APPROVED EQUAL.
16. PROPOSED FUEL TANK ACCESS. SEE TANK PLANS FOR MORE INFO.
17. 3-COMPARTMENT, 10-FOOT DIAMETER, 8,000 X 20,000 X 8,000 GALLON TANK (14'-6" BURY DEPTH). SEE TANK PLANS FOR MORE INFO.
18. 9-FOOT DIAMETER, 6,000 GALLON TANK (11'-6" BURY DEPTH). SEE TANK PLANS FOR MORE INFO.
19. REINSTALL EX. WALL-MOUNTED TRASH CAN
20. REINSTALL EX. ICE FREEZER. COORDINATE ACCESS WITH BOLLARD LAYOUT.
21. REINSTALL EX PROPANE TANK STORAGE LOCKER. COORDINATE ACCESS WITH BOLLARD LAYOUT.
22. REINSTALL EX. MAILBOX. COORDINATE ACCESS WITH BOLLARD LAYOUT.
23. LIGHT POLE. REFER TO ELECTRICAL PLANS FOR MORE INFORMATION.
24. EXISTING CURB RAMP. ANY IMPACTS TO COMMON SQUARE AND RAMP TO STREET TO BE COORDINATED WITH CITY OF LANSING.
24. CURB RAMP TYPE R (PER MDOT STANDARD PLAN R-28-J) — 13/C-501

PARKING NOTES

TOTAL BUILDING AREA: 21,193 SQUARE FEET

PASSENGER VEHICLE PARKING

USE: RETAIL (1 PARKING SPACE/250 SQUARE FEET)

85 SPACES REQUIRED

1. TOTAL EXISTING SPACES = 134 (6 BARRIER FREE SPACES)
2. REMOVED SPACES = 80 (3 BARRIER FREE SPACES)
3. PROPOSED SPACES = 34 (3 BARRIER FREE SPACES), 8 BICYCLE PARKING SPACES, 2 FUTURE EV CHARGING SPACES
4. TOTAL PROPOSED SPACES = 88 (6 BARRIER FREE SPACES)

BIKE PARKING

USE: RETAIL (2 PARKING SPACES/5,000 SQUARE FEET OF USABLE FLOOR AREA)
21,193 SQUARE FEET * 2/5000 SQUARE FEET = 8.47 SPACES REQUIRED

1. TOTAL PROPOSED SPACES = 10 SPACES

c2ae architecture · engineering
www.c2ae.com

QUALITY DAIRY
LARCH REFUELING STATION
2100 N LARCH ST., LANSING, MI

SITE IMPROVEMENT PLAN

REVISIONS

REV	DESCRIPTION	DATE
001	BULLETIN#1	27OCT2023

PROJ. #: 23-0003
DATE: 13SEP2023
SHEET
C-103

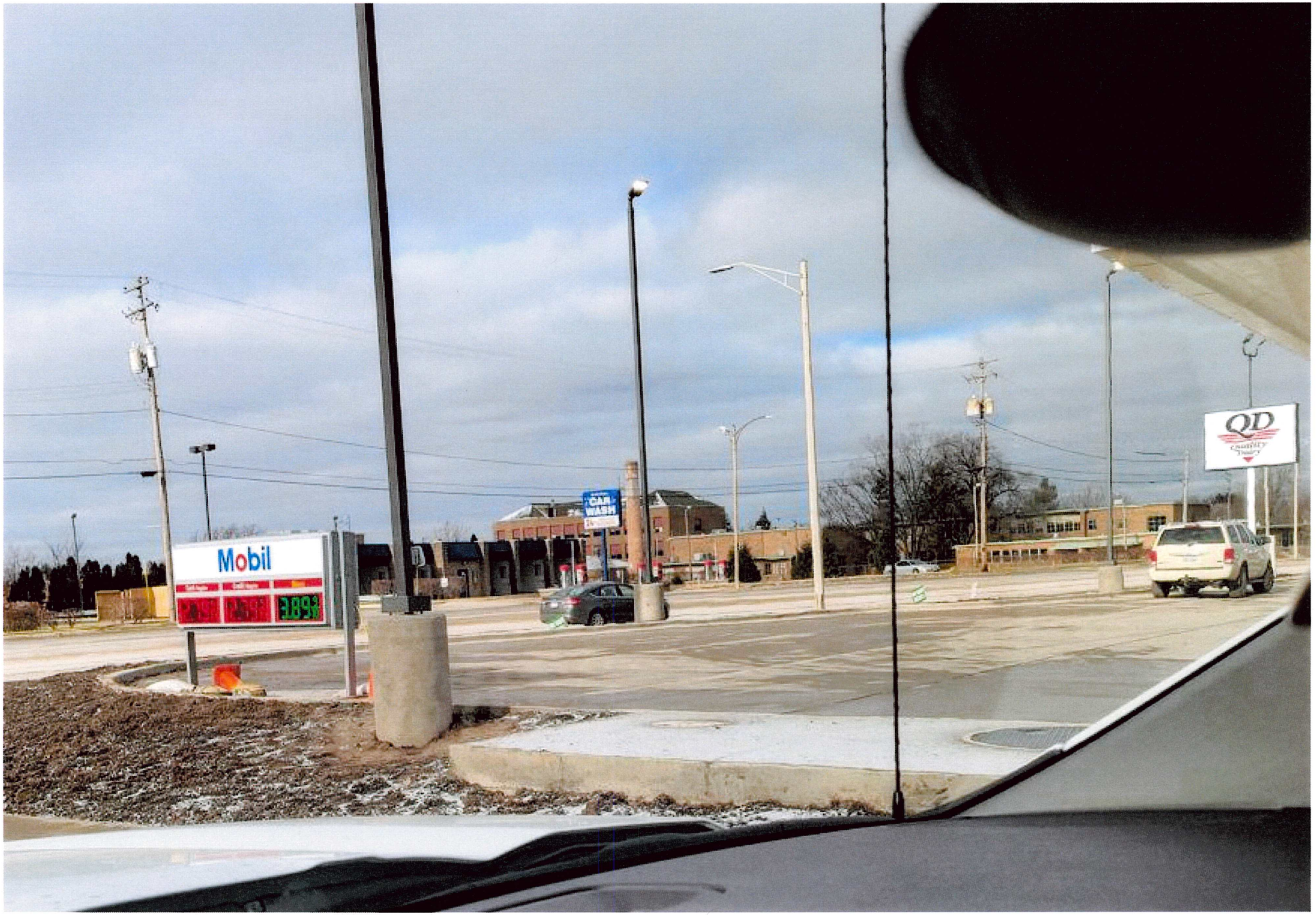
SITE PLAN REVIEW

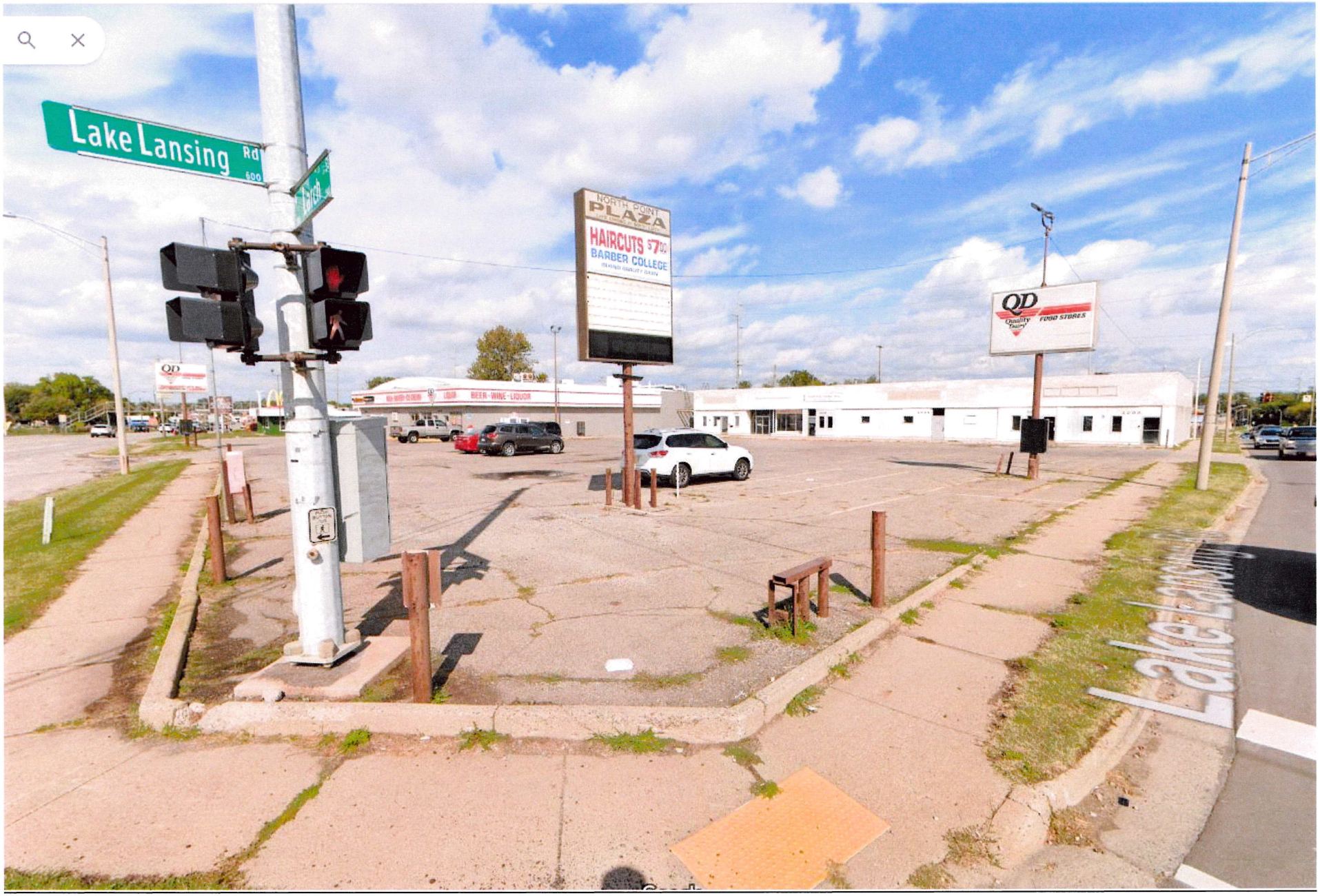
THE BAR BELOW SHOWN GRAYSCALE FROM FREE TO SOLID BLACK

Sign to remain on property.
Signs that have been removed

QD
Mobil
Cash Regular
Credit Regular

REGULAR
UNLEADED
279⁹
WELCOME TO
QUALITY DAIRY!
QD
Jan 4, 2024 1:10:48 PM


Mobil
3.89
CAR WASH
QD


Lake Lansing Rd
NORTH POINT PLAZA
HAIRCUTS $7.00
BARBER COLLEGE
QD
Quality Drive
FOOD STORES
BEER · WINE · LIQUOR
Lake Lansing

MINUTES OF REGULAR MEETING – *DRAFT*
BOARD OF ZONING APPEALS
Thursday, September 14, 2023, 6:30 P.M.
600 W. Maple Street, Lansing, MI 48906

I. ROLL CALL

The meeting was called to order by Chairperson, Marcie Alling at 6:30 p.m.

Present: M. Alling, K. Berryman, E. Jefferson, M. Rice, M. Solak & M. Jackson

Absent: B. Fryling (excused), C. Iannuzzi (excused), J. Leaming (excused)

Staff: S. Stachowiak & A. Fedewa

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

II APPROVAL OF AGENDA

It was moved by Mr. Solak, seconded by Ms. Jefferson to approve the agenda with the addition of "Excused Absence" under New Business. On a voice vote, the motion carried unanimously (6-0).

III. PUBLIC COMMENT - None

IV. PUBLIC HEARING/ACTION

A. BZA-4081.23, 709 N Larch Street, Variances to the corner massing and build-to line requirements and to the restrictions on the amount of parking permitted in a front yard, the width of a landscaped buffer along front property lines, and the allowable number of parking spaces.

Ms. Stachowiak stated that this is a request by Thomas Lauzon, 21550 LLC, for variances to Sections 1243.10.02 (a)(C), (b)(D) & (c)(H), 1252.06 (b)(1) and 1254.01.03 (c) of the City of Lansing Zoning Ordinance. She said that these Sections require that buildings on corner lots in the "DT-2" district, which is the zoning designation of the subject property, occupy at least 20 feet of the frontage along both streets, requires buildings to be located a maximum distance of 5 feet from the rear line of the parking lot, prohibits more than 1 row of parking within a front yard, restricts landscape buffers along the front property lines to 8 feet in width, and restricts the allowable number of parking spaces for the proposed building and use to 19. The applicant's proposal is to construct a building that would be located 90.75 feet from the N. Larch Street front property line, 52.75 from the E. Saginaw Street front property line, and 7 feet from the rear line of the parking lot. The proposed plan also involves 2 rows

of parking within the N. Larch Street front yard, landscape buffers up to 23.75 feet in width and 59 parking spaces.

Ms. Stachowiak stated that the applicant is requesting the variances to permit the construction of a 4,000 square foot building for a marijuana provisioning center with related site improvements, as depicted on the site plan included in the meeting packet. She further stated that the staff recommendation is to deny the requests based upon a finding that the variances do not comply with the applicable practical difficulty/unnecessary hardship and impact criteria listed in Sections 1274.06(c) 1274.06(e) of the Zoning Ordinance as described in the staff report.

Ms. Stachowiak stated that since there is nothing unique about the site that makes compliance with the ordinance provisions impractical or unreasonably difficult, approval of the variances could set a negative precedent for future requests to vary the development requirements of the "DT-2" zoning district. She said that the requested variances would allow for development of the site in a manner that is not consistent with the intent of the Zoning Ordinance or the Master Plan, thus diminishing the effectiveness of those documents in accomplishing their goals. She also stated that there is adequate room on the site for it to be developed in compliance all zoning ordinance requirements and for it to be designed in a manner that resolves the applicant's concerns with respect to vehicular and pedestrian safety.

Mr. Berryman asked if other businesses in the area comply with the development requirements of the DT-2 zoning district.

Ms. Stachowiak stated that most of the other businesses in the area do comply with DT-2 requirements. She explained that the intent of the DT-2 district is to transition from the downtown to a more urban built, rather than suburban environment that complements the downtown area that would be more aesthetically appealing and inviting for pedestrian traffic.

Ms. Alling opened the public hearing.

Ron Swaneck, 21550, LLC, owner of 709 N. Larch Street spoke in support of the requested variances. He stated that his team did explore different layout options but the one being brought before the Board best accommodates their needs and creates the safest environment for pedestrian traffic. Mr. Swaneck said that they have concerns about pedestrians crossing through the parking lot and drive though lane to access the building and about traffic backing up on N. Larch Street while waiting for in line for the drive through. He said that his team understands the intent of DT-2 but their business, which involves a drive-through, has different needs than most other businesses. He also said that they are concerned about the possibility of someone driving into the building if they are held to the corner massing requirement.

Ms. Jefferson pointed out that the parking north and west of the building will still have to walk through the parking lot/drive aisles/lines in order to access the building. She also asked why the site needs so much parking.

Mr. Lauzon, 21550, LLC responded that those parking spaces will most likely be for employee and overflow parking rather than being a preferred choice for customer parking. He also said that the proposed layout maximizes the parking area, but they are willing to reduce the amount of parking. Mr. Lauzon stated that their company bought parcels northwest of the subject property for a provisioning center, however, the City allowed another provisioning center nearby and because of the separation requirement, they were not able to obtain a license for that location. He said that this has resulted in litigation that is still pending.

Mr. Jackson asked if there is much pedestrian traffic at this intersection and if they expect many people to be walking across the parking lot.

Mr. Lauzon replied that they do not expect many pedestrian customers as most of their customers will use the drive through and will access the site via private, rather than public transportation.

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

Mr. Rice stated that the applicant's litigation with the City is a separate issue and should not be considered as part of these deliberations. Mr. Rice said that the variances must be based on a practical difficulty that either prevents or makes compliance with the ordinance standards unreasonable difficult. He said that he cannot support these variance requests because the site can be developed in compliance with all ordinance requirements.

Mr. Solak asked why the DT-2 district area changed so much under the form-based code.

Ms. Stachowiak replied that in urban areas, it is good planning practice to site buildings at corners and near front property lines to be pedestrian-scaled so that buildings, rather than parking lots, dominate the streetscape.

Mr. Berryman stated that there is a concern with respect to both vehicular and pedestrian safety in the area wince the site is surrounded by state trunklines.

Ms. Stachowiak stated that there are alternative site designs that would allow for more stacking spaces in the drive through lane and that would provide direct pedestrian access from the parking lot to the building.

Ms. Jefferson made a motion, seconded by Mr. Rice to deny BZA 4080.23, a request for variances to Sections 1243.10.02 (a)(C), (b)(D) & (c)(H), 1252.06 (b)(1), and 1254.01.03 (c) of the Zoning Ordinance requiring buildings on corner lots to be located at the 5 foot setback for a distance of 20 feet along both street frontages, requiring buildings to be located a maximum distance of 5 feet from the rear line of the parking lot, prohibiting more than 1 row of parking within a front yard, restricting landscape buffers along the front property lines to 8 feet in width and restricting the allowable number of parking spaces for the proposed building and use to 19, to permit the construction of a building that would be located 90.75 feet

from the N. Larch Street front property line, 52.75 from the E. Saginaw Street front property line, and 7 feet from the rear line of the parking lot, and to allow for 2 rows of parking within the N. Larch Street front yard, landscape buffers up to 23.75 feet in width and 59 parking spaces, on a finding that the variances do not comply with the applicable practical difficulty/unnecessary hardship and impact criteria listed in Sections 1274.06(c) 1274.06(e) of the Zoning Ordinance."

On a roll call vote, the motion to deny BZA 4080.23 was approved 5-1. Mr. Berryman cast the dissenting vote.

V. **OLD BUSINESS** - None

VI. **NEW BUSINESS**

A. **Excused Absence**

Mr. Rice made a motion, seconded by Ms. Jefferson to approve excused absences for B. Fryling, C. Iannuzzi, and J. Leaming. On a voice vote, the motion carried unanimously (6-0).

VII. **APPROVAL OF MINUTES**

A. **Regular Meeting, June 8, 2023**

Ms. Jefferson made a motion, seconded by Mr. Jackson to approve the June 8, 2023, meeting minutes, as presented. On a voice vote, the motion carried unanimously (6-0).

VIII. **PUBLIC COMMENT** - None

IX. **ADJOURNMENT AT 7:15 p.m.**

Respectfully Submitted,

Susan Stachowiak, Zoning Administrator