

**ZONING BOARD OF APPEALS
PUBLIC HEARING & REGULAR MEETING
THURSDAY, JUNE 24, 2021 – 7:00 PM
ELECTRONIC MEETING**

AGENDA

THE ZONING BOARD OF APPEALS OF THE CITY OF BUCHANAN in compliance with Michigan’s Open Meetings Act, hereby gives notice of a public hearing immediately followed by a regular meeting to be held electronically in order to protect the health and safety of our community due to the novel coronavirus (COVID-19).

Join Meeting via Computer: <https://zoom.us/j/2435931819>

Join Meeting via Mobile Phone: +16465588656,,2435931819#

Join Meeting via Land Line Telephone: +1 646 558 8656

Meeting ID: 243 593 1819

Toggle #6 to mute/unmute. #9 to raise your hand.

** All members of the public will be muted by the moderator with the exception the public comment portions of the agenda. In order to minimize background noise and/or feedback, we ask that participants manually mute their phone or computer microphone during this portion of the agenda if not speaking.*

** Comments may also be submitted in writing at least 4 hours in advance to the Community Development Director Richard Murphy at rmurphy@cityofbuchanan.com*

** Buchanan City will provide necessary and reasonable auxiliary aide and services to those individuals with disabilities who wish to attend the public meeting upon receiving at least one (1) week’s prior notice. Any such individual requiring such aids or services should contact the city in writing or by telephoning: Buchanan City Clerk; 302 North Redbud Trail, Buchanan, MI 49107, 269-695-3844.*

PUBLIC HEARING AGENDA

- I. Call to Order**
- II. Roll Call**
- III. Opening of Public Meeting**
- IV. Announcement of Rules of Public Hearing**
- V. Presentation by Applicant**
- VI. Presentation by the Opposition**
- VII. Applicant's Rebuttal**
- VIII. Close of Hearing**

REGULAR MEETING AGENDA

- IX. Call to Order**
- X. Pledge of Allegiance**
- XI. Roll Call**
- XII. Approve Agenda**
- XIII. Approve Minutes of Previous Meeting**
- XIV. Unfinished Business**

None

XV. New Business

[A.](#) Consideration of an Appeal From Administration Request for 419 W. Front Street.

[B.](#) Zoning Administrator's Report

XVI. Public Comment - Non-Agenda Items Only *(3-minute limit)*

XVII. Executive Comments

- Zoning Administrator Comments
- Commissioner Comments

XVIII. Adjourn

COPY

Buchanan City Police Department

720 E. Front Street, Suite A, Buchanan, Michigan 49107 - Office phone # 269-695-5120

NOTICE OF ZONING VIOLATION**NOTICE TO ABATE AND COMPLY WITH BUCHANAN CITY ZONING
ORDINANCE****DATE:** Dec. 28, 2020**TO:** Property Owner - Person in ControlJames C. Kennedy
419 W. Front Street
Buchanan, MI 49107**FROM:** Buchanan City Police Department**NOTICE:**

The Buchanan Police Department has received a complaint concerning your property at 419 W. Front Street, City of Buchanan, County of Berrien and State of Michigan, property number 11-58-3150-0004-00-5. The property is in violation of the City of Buchanan Zoning Ordinances pertaining to the parking of vehicles. City Zoning ordinances are available online.

You are not allowed to park vehicles on the front yard.

You have vehicles parked on the west side of your front yard with two tires on a sidewalk and two tires on the front yard grass. This is not allowed. The area is not a driveway and it cannot become a driveway. Driveways are not allowed to be any closer than four (4) feet to the side yard property line unless it abuts a driveway located on the adjoining property.

City Zoning Ordinances that apply are as follows:

Section 19.04 – Schedule of Parking Requirements, Item A1 Single-Family Dwellings. *“A minimum of two (2) parking spaces shall be provided per dwelling, with one car parking enclosure, covered parking space or garage, **location of which shall be limited to the side or rear yard**, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress as approved by the Zoning Administrator City Engineer.”*

A permit is required for Rear Yard parking and parking areas are to be of concrete, asphalt other paving material.

Section 19.03 – Parking Requirements and Standards.

9. Permit Required for Residential Rear Yard Parking. *“Off-street parking required for uses permitted in residential districts may be located on driveways or **an approved area within the rear yard, upon issuance of a permit by the Zoning Administrator.** Driveways may be located no closer than four (4) feet to the side yard property line unless the driveway abuts the driveway located on the adjoining property. All access ways (curb cuts) to city streets shall be approved by the Zoning Administrator or City Engineer.”*

11. Design and Maintenance Standards. All parking spaces and areas herein after constructed in conformance with ordinance shall comply with the following standards:

A. Screening and Landscaping. *“All open vehicle parking areas containing more than three (3) parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district by a wall, fence or densely planted compact hedge no less than four (4) feet nor more than six (6) feet in height. Such required screening shall conform with the front yard requirements of the district in which the parking is located.”*

B. Pavement and Surfacing. *“All open off-street parking areas shall be of concrete, asphalt other paving material according to standards established by the City Engineer.”*

ORDER:

Please remove the vehicles from the front yard within seven (7) days from the date of this order. Vehicles should be parked on the driveway or in the garage. Vehicles can be parked on the rear lot, but you cannot park vehicles in the rear yard without first obtaining a permit from the City Zoning Administrator. Failure to comply with this order can result in the issuance of a citation to you that will require your appearance in court.

FAILURE TO COMPLY IS A MISDEMEANOR VIOLATION

Please take this notice seriously and remedy the situation immediately. If there are any questions pertaining to this issue, feel free to contact the City Zoning Administrator at city hall (695-3844) or Code Enforcement at the Buchanan Police Department (695-5120). The Zoning Ordinances that apply are listed above.

APPEALS:

Appeals to this ORDER are to be made to the Zoning Board of Appeals. Information on making appeals to the Zoning Board of Appeals is available at City Hall.

Officer Issuing Notice

Date

Copies to: City Manager
Plan Commission

COPY

Buchanan City Police Department

720 E. Front Street, Suite A, Buchanan, Michigan 49107 - Office phone # 269-695-5120

NOTICE OF ZONING VIOLATION**NOTICE TO ABATE AND COMPLY WITH BUCHANAN CITY ZONING
ORDINANCE****DATE:** February 8, 2021**TO:** Property Owner - Person in ControlJames C. Kennedy
419 W. Front Street
Buchanan, MI 49107**FROM:** Buchanan City Police Department**NOTICE:**

On December 28, 2020 you were issued an order to remove vehicles from the front yard of your property at 419 W. Front Street within seven days of the date of the order. You then appealed the order to the City Manager. After a review, the decision has made that the vehicles are in violation and will have to be removed from the front yard. Presently the property is in violation of the City of Buchanan Zoning Ordinances pertaining to the parking of vehicles. NOTE: City Zoning ordinances are available online and are described below.

Under the City Zoning Ordinance, you are not allowed to park vehicles on the front yard.

You have vehicles parked on the west side of your front yard with two tires on a sidewalk and two tires on the front yard grass. This is not allowed. The area is not a driveway and it cannot become a driveway. Driveways are not allowed to be any closer than four (4) feet to the side yard property line unless it abuts a driveway located on the adjoining property.

City Zoning Ordinances that apply are as follows:

Section 19.04 – Schedule of Parking Requirements, Item A1 Single-Family Dwellings. *“A minimum of two (2) parking spaces shall be provided per dwelling, with one car parking enclosure, covered parking space or garage, location of which shall be limited to the side or rear yard, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress as approved by the Zoning Administrator City Engineer.”*

A permit is required for Rear Yard parking and parking areas are to be of concrete, asphalt other paving material.

Section 19.03 – Parking Requirements and Standards.

9. Permit Required for Residential Rear Yard Parking. *“Off-street parking required for uses permitted in residential districts may be located on driveways or an approved area within the rear yard, upon issuance of a permit by the Zoning Administrator. Driveways may be located no closer than four (4) feet to the side yard property line unless the driveway abuts the driveway located on the adjoining property. All access ways (curb cuts) to city streets shall be approved by the Zoning Administrator or City Engineer.”*

ARTICLE XXIV

ZONING BOARD OF APPEALS

Section 24.01 - Creation and Rules of Procedure. There is hereby created a five-member Zoning Board, hereinafter referred to as the Zoning Board of Appeals or BZA, which shall perform its duties and exercise its powers and jurisdiction according to the provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety and general welfare secured, and substantial justice done. The Zoning Board of Appeals shall fix rules and regulations to govern its procedures.

Section 24.02 - Membership. Members of the Zoning Board of Appeals shall be appointed by the Mayor of the City of Buchanan subject to confirmation by the City Commission. The membership shall serve at the pleasure of the City Commission for three year terms. The City Commission may appoint two alternate members who shall serve in the absence of any member(s) or serve in the instance that a member must be recused from any matter before the Board.

Section 24.03 - Jurisdiction. In addition to the duties and powers prescribed in other sections of this Ordinance, the Zoning Board of Appeals shall hear and decide on all matters relating to the following:

1. **Appeals From Administrative Decisions.** The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by Zoning Administrator and shall act upon all questions as they may arise in the administration of this Ordinance.
2. **Interpretation of Zoning District Boundaries.** The Zoning Board of Appeals shall interpret the boundary of any zoning ordinance district as depicted on the Official Zoning Map should a question of interpretation arise.
3. **Issue Variances From the Strict Terms of the Ordinance.** The Zoning Board of Appeals shall upon written application in specific cases may issue a variance from the terms of this Ordinance or vary the strict interpretation of the terms of this Ordinance as shall not be contrary to the public interest owing to special conditions where a literal enforcement of the provision of this Ordinance would result in hardship to the applicant.
4. **Issue Variances From the Strict Terms of Yard Setback Requirements.** The Zoning Board of Appeals shall upon written application in specific cases vary from the strict interpretation issue a variance from the terms of this Ordinance as shall not be contrary to the public interest owing to special conditions, a literal enforcement of the provision of lot and yard setback requirements .
5. **Hear and Decide Appeals Concerning Issuance of Special Use Permits.** The Board of Zoning Appeals shall hear and decide any appeal from any decision made concerning issuance or denial of a Special Use Permit made by the Planning Commission.

Section 24.04 - Public Notification and Public Hearing Requirements. Whenever the approval of an application is required by the Zoning Board of Appeals under the provisions of this Ordinance, the Zoning Board of Appeals will set a date for public hearing on such application and give public notice thereof not less than seven (7) nor more than fifteen (15) days prior to the date of such meeting by publication in a newspaper of general circulation within the City and shall be sent by mail or personal general delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet,

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except that the notice shall be given not less than five (5) and not more than fifteen (15) days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial area owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- A. Describe the nature of the proposed amendment requested;
- B. Indicate the property which is the subject of the rezoning or nature of the change on the zoning ordinance text, as applicable;
- C. State when and where the public hearing will be held;
- D. Indicate when and where written comments will be received concerning the request.

Any person who is interested in such application or the determination thereof may appear before the Zoning Board of Appeals in person or by attorney and shall be permitted to state the reasons for approval or disapproval of such application.

Section 24.05 - Standards for Approvals

The Zoning Board of Appeals, in rendering a decision, shall base their decisions on the general and when applicable the specific standards for interpretation or variance, as set forth below:

1. **General Standards for Approval.** In reaching its determination on an application or appeal, the Zoning Board of Appeals shall consider the following:
 - A. Whether the location, use, nature, intensity of operation, and congestion and density of population will be in conflict with the principal permitted uses of the district or with the purposes of this Ordinance.
 - B. Whether the available sewage disposal and water supply facilities will be adequate and safe.
 - C. Whether the lot size and yard area will be in harmony with the orderly and proper development of the district.
 - D. Whether adequate access to the building or use will be provided by either existing roads or other roads to be constructed.
 - E. Whether the building or use will be objectionable to nearby properties and their owners by reason of traffic, noise, vibration, dust, blowing sand and erosion, disposal of waste or sewage, fumes, smoke, air pollution, fire hazard, or bright flashing lights.
 - F. Whether the building or use will discourage or hinder the appropriate development and use of lands and buildings in the general vicinity.
2. **Standards for Zoning Boundary Interpretation.** When the exact boundary of a district is uncertain and upon the filing of an application for an interpretation is filed, the Zoning Board of Appeals shall first consider the boundary location based on the scale of the zoning map and secondly the intended purpose of the Plan Commission in placing the boundary in a location not within a property line, geographic feature or other easily

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identifiable geographic identifier.

3. **Standards for Approval of Variances.** In approving a variance the Zoning Board of Appeals shall consider the following standards with respect to the application:
- A. That the application demonstrated special conditions and circumstances which exist that are particular to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 - B. That under the terms of this Ordinance, the literal interpretation of the provisions of this Ordinance would deprive the applicant of right commonly enjoyed by other proprietors in the same district;
 - C. That the special conditions and circumstances do not result from the actions of the applicant;
 - D. An existing nonconforming use of land, structures or buildings, shall not be considered grounds for the issuance of a variance;
 - E. That the variance requested is the minimum variance which would make possible reasonable use of the land, buildings or structures.;
 - F. That the Zoning Board of Appeals may issue a statement of positive findings that the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - G. The Zoning Board of Appeals has established such appropriate conditions and safeguards to assure conformity with the terms of this Ordinance which shall be attached as conditions of the variance.

Section 24.06 - Abandonment Or Recision of A Zoning Board of Appeals Action. If any appeal or variance is not put into effect within six (6) months of the date of approval by the Zoning Board of Appeals is discontinued through vacancy of the premises, lack of operation or otherwise for a continuous period of six (6) months, the variance shall lapse and be null and void. Future use of said property shall conform in its entirety to the provisions of this Ordinance; however, the Zoning Board of Appeals, for good cause, may grant an extension of time, not to exceed six (6) months, to comply with or to continue the variance, if in its judgment, such extension is necessary in order to avoid injustice or undue hardship to the owners of the property.

Section 24.07 - Procedure of Appeals, Meetings and Public Notice. The following rules of procedure will govern the operation and decision making of the Zoning Board of Appeals:

- 1. Upon receiving an application with any fee established by the terms of this Ordinance (See Article XXVI, Section 26.04) for an appeal from any order, requirement, determination or decision of the Zoning Administrator, such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule by the filing with the City Clerk and with the Zoning Board of Appeals, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals, all the papers constituting the record upon which the action appealed from was taken.
- 2. A concurring vote of a simple majority of the entire Zoning Board of Appeals shall be necessary to reverse any order, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which they are required to pass under this Ordinance or to affect any variation of the Ordinance.
- 3. Upon receiving an application for an appeal, the Zoning Board of Appeals shall fix a reasonable time for a hearing

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and give notice as required by law as set forth in Article XIV, Section 24.04.

4. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of the rules, regulations or provisions relating to the construction, erection or alteration of buildings or structures so that the spirit of this Ordinance shall be observed, public health and safety secured, and substantial justice is accomplished.

Section 24.08 - Appeals From the Zoning Board of Appeals. In the event the Zoning Board of Appeals fails to reach a decision on any matter within thirty (30) days after the hearing thereon, the person affected shall have the right to first appeal to the Board of Zoning Appeals and then thereafter the appropriate Berrien County Trial Court on question of law and fact.

ARTICLE XXVI

ADMINISTRATION, FEES AND VIOLATIONS

Section 26.01 - Zoning Administrator. The provisions of this Ordinance shall be administered by the Zoning Administrator appointed by the City Manager. Said Zoning Administrator's duties shall be the administration of this Ordinance as prescribed by this Ordinance, including issuance of all zoning compliance permits whether as an individual permit or as part of the issuance of a building permit pursuant to the Michigan Construction Code, acceptance of any and all applications required in the administration of the Ordinance any other duties assigned or delegated to the Zoning Administrator by the City Manager or any other law regulation or Ordinance of the State of Michigan or the City of Buchanan.

Section 26.02 - Code Enforcement Officer. The enforcement of this ordinance shall be administered and enforced by the City Manager or by the Code Enforcement Officer designated by and responsible to the City Manager.

Section 26.03 - Duties and Powers - Zoning Administrator and Code Enforcement Officer. The Zoning Administrator and Code Enforcement Officer shall have the following powers in addition to those set forth in Section 26.01 above:

1. **Form of Application, Permits and Certificates.** The Zoning Administrator may prescribe the form of all applications, permits, and certificates required under the terms of the ordinance. If no form is prescribed, a written document in the form of a letter requesting permission, in the case of an application stating precisely what permission is requested, or granting permission, in the case of a permit, stating precisely what permission is granted will suffice.
2. **Receive Applications.** The Zoning Administrator will receive and examine and certify completeness of all applications for permits, certificates, variances, and all other applications required under the terms of this ordinance.
3. **Refer Applications to the Plan Commission or Zoning Board of Appeals.** The Zoning Administrator shall upon a finding that an application is complete must refer all applications for permits, certificates, variances, special use permits and any other applications to the appropriate body within twenty (20) days upon making determination that the submission is complete.
4. **Issue or Refuse Permits.** The Zoning Administrator must issue permits for constructions, alternation, and occupancy of those uses which comply with the requirements of this Ordinance, within thirty (30) days after the receipt of the application. The refusal of a permit must be in writing and shall state the reasons for the denial.
5. **Issue Notice of Violation.** The Zoning Administrator or Code Enforcement Officer must issue a written notice of violation to each violator of this Ordinance, stating the nature of the violations. Duplicate copies of the notice must be sent to the Plan Commission and City Manager.
6. **Make Recommendations.** The Zoning Administrator or Code Enforcement Officer may make recommendations to the Plan Commission, Zoning Board of Appeals and City Manager for any action deemed necessary.
7. **Records.** The Zoning Administrator must keep records of applications, permits, or certificated issued,

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of variances and special use permits granted, inspections made, any reports, notices or orders issued.

8. **Additional Duties and Powers.** The Zoning Administrator or Code Enforcement Officer must preform all other duties, and may exercise all other powers and privileges, as may be provided or made necessary by the terms of this Ordinance.

Section 26.04 - Fees. A schedule of fees necessary to cover the cost of processing an application and administration of this Ordinance is required at the time of application for a Cluster Development, (Section 15.06), Planned Unit Development (Section 10.04), a Special Use Permit (Section 20.02), Home Occupation Special Use Permit (Section 20.05), Site Plan Approval (Section 22.03), action of the Zoning Board of Appeals (Section 24.07(1), or Amendment (Section 25.02(1) shall, from time-to-time, be established by resolution of the City Commission. No part of any fee shall be refundable.

Section 26.05 - Violations and Penalties. Buildings erected, altered, razed or converted for use carried on in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court having jurisdiction shall order such nuisances to be abated and the person in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se. Any person that commits a violation, takes part in or assists in any violation of any provisions of the Ordinance shall be guilty of misdemeanor. Upon conviction thereof before any court of competent jurisdiction the person shall be punished by a fine of not less than twenty-five (\$25.00) and no dollars nor more than one hundred (\$100.00) and no dollars for each offence, or shall be punished by imprisonment in the Berrien County Jail for a period not to exceed ninety (90) days, or both, such fine and imprisonment at the discretion of the court, each day that a violation is permitted to exist after conviction shall constitute a separate offence.

City of Buchanan Planning & Zoning
302 North Redbud Trail,
Buchanan, Michigan 49107
Phone (269) 695-3844 x 19 Fax (269)695-4330

General Information Application
For Land Development
(Complete application must be filed with the Zoning Administrator)

1. Applicant and Owner Information

Applicant(s)

Principle Contact:

Name James C Kennedy
Address 419 W Front ST
City Buchanan
State MI Zip 49107
Telephone 269-695-6227

Secondary Contact:

Name _____
Address _____
City _____
State _____ Zip _____

Agent or Attorney:

Name _____
Address _____
City _____
State _____ Zip _____

Property Owner(s)

Principal Contact:

Name Same
Address _____
City _____
State _____ Zip _____
Telephone _____

Architect (if applicable):

Name _____
Address _____
City _____
State _____ Zip _____

Engineer (if applicable):

Name _____
Address _____
City _____
State _____ Zip _____

Is this property held in a trust? No

Yes Note – for all trusts–Provide, as an attachment, a statement from the trustee verifying the names of all owners

Name of trust _____

Address _____ City _____ State _____ Zip _____

2. Applicant and Purpose of Application

a. Applicant is (check one)

Property Owner Attorney Agent

Other (specify) _____

b. This application is a request for the following City of Buchanan action (check the appropriate action(s) requested.

- Rezone of Property
- Land Division Approval
- Condominium Approval
- Special Use Permit
- Zoning Variance(s)
- Plan Review with Plan Commission

Other Action (please specify) Reaffirm my parking area on the west side of my property - The area for 419 1/2

c. The reason for the requested action(s) are as follows:

Was cited for parking on the 419 1/2 parking area. A spot that has been parking for over 70 years

d. The specific section(s) of the Zoning Ordinance or other City ordinance(s) which address the amendment, variance, or other action which is being requested: _____

Section 19.04
19.03 B

e. The following questions must be answered only if the application contains a request for a zoning variance:

(1) Are the conditions which prevent the development of the property the result of action by an individual who has or had the property interest in the subject property?

Yes No

(2) If the conditions were self – imposed (not hardship), please explain why the variance should be granted?

3. Site and Surrounding Property Information

a. Common address or property location of subject property:

419 + 419 1/2 West Front Street

b. Legal Description (Attach additional sheet if necessary):

c. Permanent Real Estate Tax Identification Number: 11-58-

d. Parcel Size: _____ square feet

_____ acres

_____ dimension of lot frontage

_____ dimension of lot depth

e. What are the current land uses and zoning on the land and adjoining parcels of land surrounding the site?

	Current Zoning	Current Use of Land
On Site	_____	_____
Property Abutting – North of Site	_____	_____
Property Abutting – South of Site	_____	_____
Property Abutting – East of Site	_____	_____
Property Abutting – West of Site	_____	_____

f. Describe any existing structures and the physical attributes of the site:

Description of the Proposed Development

a. Please describe the proposed use of the land and/or buildings assuming approval of the request:

b. What is the proposed time frame for the build – out of the proposed development? _____

c. Please describe the number of buildings, square footage of each building and the total square footage of the development along with the required number of parking spaces for each intended use:

Building Use	Number of Buildings	Building Area (sq. ft.)	Total Building (sq. ft.)	Req. Parking
Single Family	_____	_____	_____	_____
Multi Family	_____	_____	_____	_____
Retail	_____	_____	_____	_____
Office	_____	_____	_____	_____
Industrial	_____	_____	_____	_____
Other	_____	_____	_____	_____

Other please specify type of use _____

Totals _____

d. Please describe the number of water and sewer connections this development will require:

Building Use	Water Connections & Size	Sewer Connection
Single Family	_____	_____
Multi – Family	_____	_____
Retail	_____	_____
Office	_____	_____
Industrial	_____	_____
Other	_____	_____

Other please specify type of use _____

Totals _____

e. Will the building within this proposed development house any hazardous materials at occupancy?

No

Yes – Please continue by describing the type and quantity of materials:

4. Fire Department Approval of Site and Building Plans:

The City requires that the Fire Department must approve all site and building plans. This application and associated documentation must be approved by the Fire Chief or his designee. This approval can be arranged by calling the Fire Chief's office.

Approval Date: _____

Conditions Attached

By: _____

Yes

No

Title: _____

5. Required and Requested Attachments

- a. _____ Plat of survey with legal description.
- b. _____ Site plan of proposed use or project showing traffic patterns, parking locations and count, drainage patterns including detention areas, landscape plans, landscaping plans, exterior lighting locations and illumination pattern, building façade portrait and building size and location dimensions.
- c. _____ Floodplain / hazard map (engineers drawing or FEMA map showing location of subject project).
- d. Please include any additional comments or pertinent information below or on separate attachment to this application.

6. Signature and Declaratory Statement

a. Please describe the reason that this petition should be granted:

This area has always been a parking Area for the 419 1/2 side of the house.

b. **Required Attendance at Public Hearing and / or Plan Commission Meeting(s):** The Plan Commission and the Board of Appeals have established a policy requiring the applicant or a designed representative of the applicant shall be present at any meeting or public hearing at which the matter will be considered. Failure of the applicant or designee of the applicant to appear before the Plan Commission or Board of Appeals is ground to postpone consideration of the application.

a. Declaratory Statement: I James Kennedy, hereby certify that all information contained in this application and accompanying documentation is true and correct to the best of my knowledge and further, I acknowledge the attendance responsibilities of the applicant as set forth in paragraph b above.

b. Date: 3/29/21

c. Applicant Signature: [Signature]

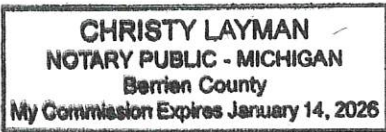
d. Notary Public Certification Statement

I Christy Layman, Notary Public in and for the State of Michigan hereby state that on the 29 day of March, 2021, the above captioned Applicant appeared before me and, under oath, stated that all matters contained in this

Application for Land Development are true.

Christy Layman
Notary Public

My commission expires January 14, 2026



The following signature is required, for verification that this is a valid and complete application to be considered by the Plan Commission or Zoning Board of Appeals.

Date
Zoning Administrator

Meeting date for initial review: _____

CITY OF BUCHANAN, MICHIGAN
SITE PLAN CHECKLIST
 ITEMS REQUIRED ON SITE PLAN

1. Site Plan Drawn to scale – 1" = 100' or larger (example: 1" = 60', 1" = 50', 1" = 40' etc.)
2. Name of Project Noted.
3. Owner's and/or Developer's Name and Address Noted
4. Architect and or Engineer's Name and Address Noted
5. Date
6. Scales of Drawing Noted on Plan
7. Existing Topography Shown at Intervals Not Less than Two (2) Feet
8. Building Coverage Noted (percentage of total size and total square footage to be shown)
9. Total Number of Parking Spaces Noted and Shown on Drawing
10. Building Dimensions Shown
11. Indicate Height of Buildings
12. Street Names Indicated (Existing and Proposed)
13. Indicate Existing and Proposed Right-of-Ways
14. North Arrow Shown
15. Locate Existing and Proposed Sanitary Sewers, Storm Sewers and Water Mains (Note for purposes of site plan review the proposed utilities need only be shown roughly)
16. Locate any Existing and Proposed Storm Water Detention / Retention Areas
17. Locate Existing Trees and Plantings
18. Note Location of Proposed Plantings
19. Note Location of all Sidewalks
20. Rough Sketches Showing Architectural intent.

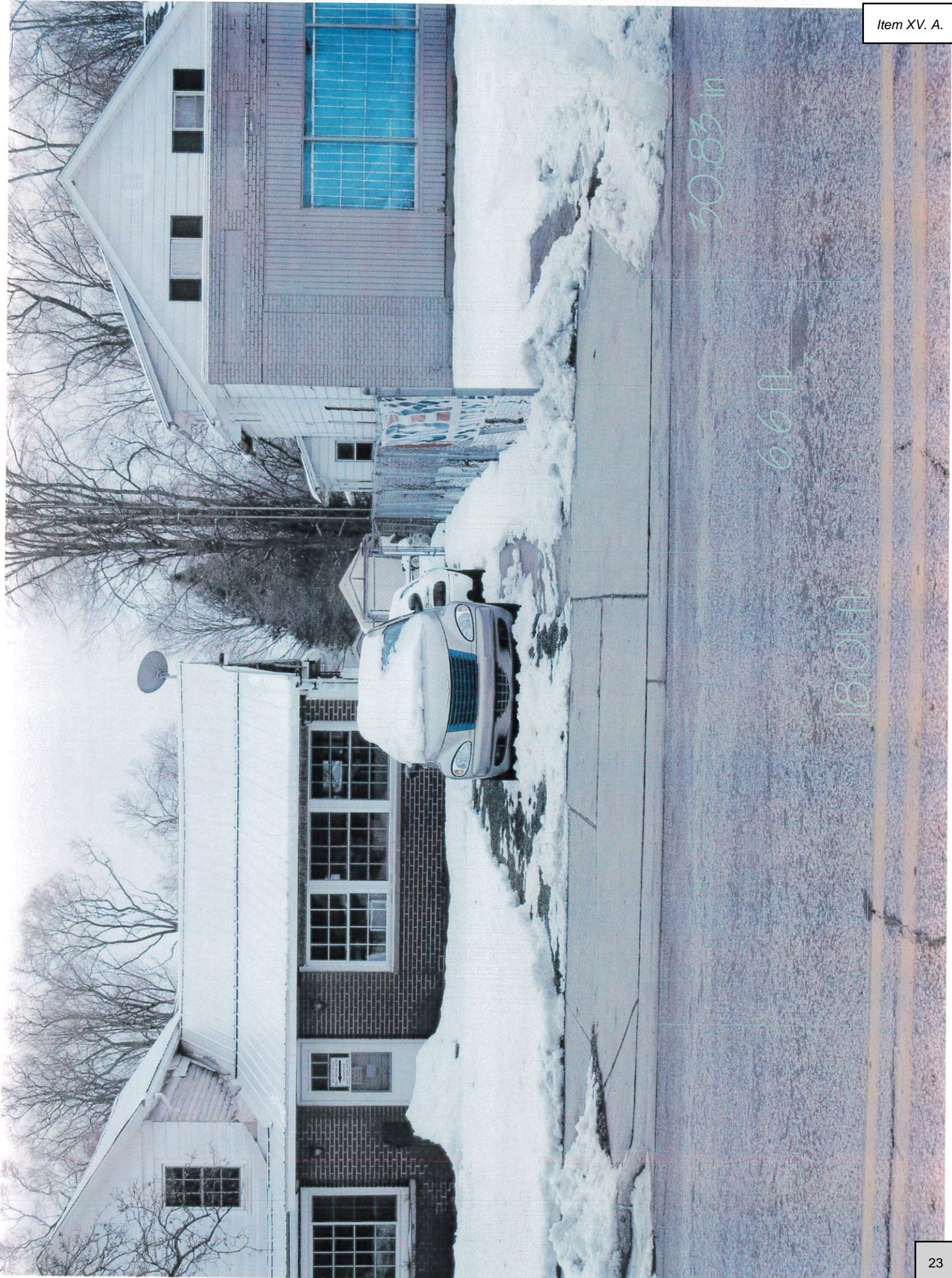
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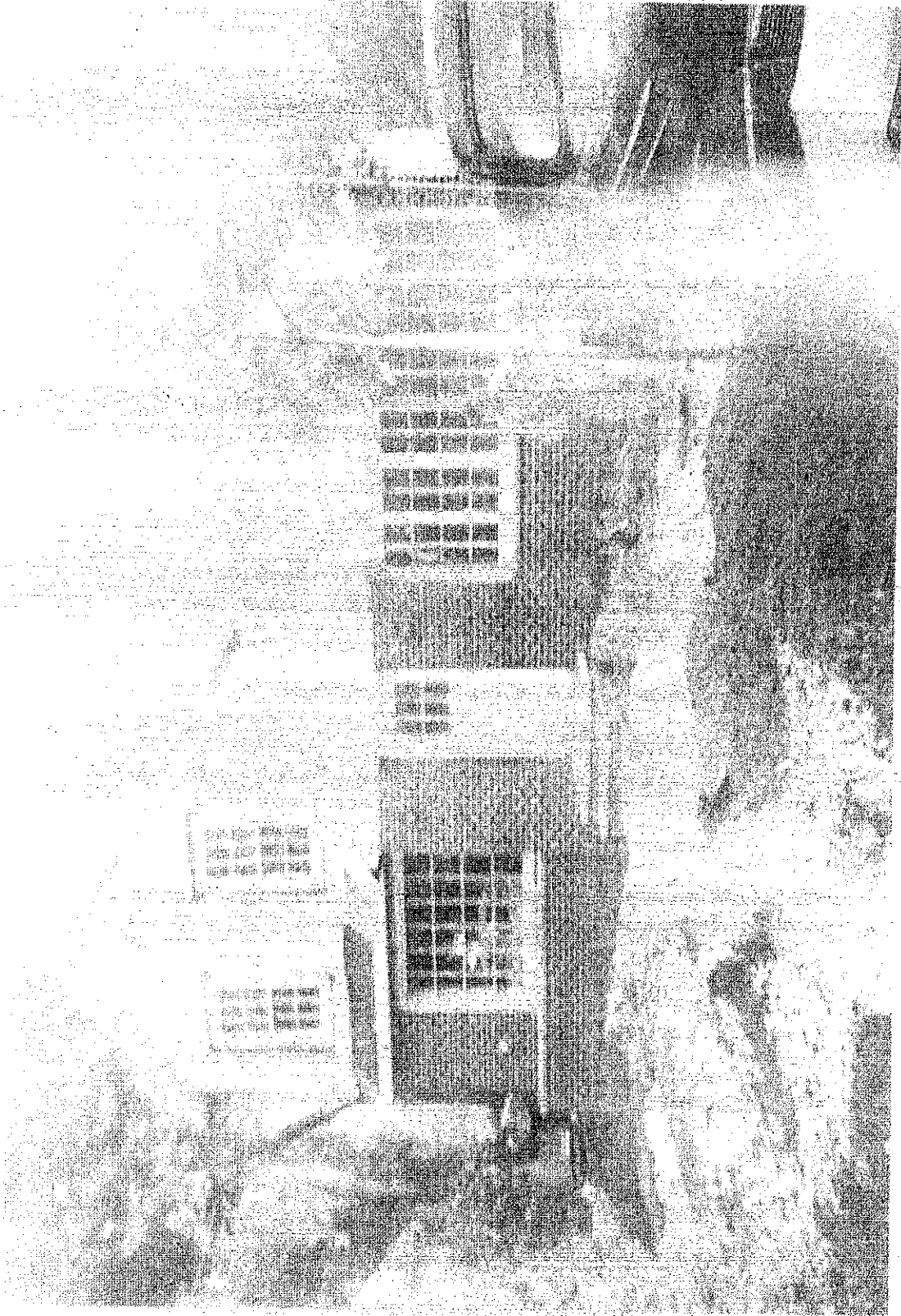




30.83 ft

6.6 ft

18.01 ft



Ms. Grace,

Here are the photos that we discussed in the matter of the parking area at 419 West Front St. As you can see we have been parking here for many years as the "Sewing Room" side of the house is actually listed as 419 ½ Front Street. Even Officer Wonacott remembers parking there when he brought sewing to my grandmother's sewing business and I am sure many other of the Fire and Police, not to mention generations of girls getting their prom dresses hemmed would remember parking there. I moved back here in 2011 after my grandmother passed and I inherited the house. I have been parking there ever since.

I do not understand the problem that Dick Mann has with my family but this is an ongoing dispute about what and where I can park out front. This same thing was brought up over half a decade ago and I had discussions about it with Mr. Marx. I thought that the matter was settled but within days of Mr. Marx leaving town for retirement I was served for the same thing again. This so smacks of harassment that I am tempted to file but am trying to just get this settled without too much problem.

As you can see, 418 across the street from me also has 2 driveways, neither of them paved. If these regulations are to be applied to me at my home why are they not being applied all across the city? As you can see from the photo of the front of the drive area at my house the curb is poured as a driveway apron for that area. This is the way it was many years ago and then re-poured this way when the city widened Front St. in the 1980's.

I ask for a meeting to discuss this or please pass on to the Zoning Commission so I can appeal.

Thank you,

James "Chris" Kennedy

419 W. Front Street

269-695-6227

PAID

APR 22 2021

CITY OF BUCHANAN

RECEIPT

DATE 4-22-21

No. 468189

RECEIVED FROM James Kennedy

\$ 200⁰⁰

- Zoning Appeal Permit -

DOLLARS

FOR RENT
 FOR

101.482

ACCOUNT	
PAYMENT	
BAL. DUE	

CASH
 CHECK
 MONEY ORDER
 CREDIT CARD

1043

FROM _____ TO _____

BY R. Cornwell

3-11

JAMES KENNEDY
419 W FRONT ST
BUCHANAN, MI 49107

4/22/21

1043

74-8485/2724
03

Date

Pay to the Order of

City of Buchanan

\$ 200⁰⁰

Two hundred and no/100

Dollars



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800-442-2800



For

Zoning Appeal

⑆ 272484852⑆00000416800⑆0⑆ 1043

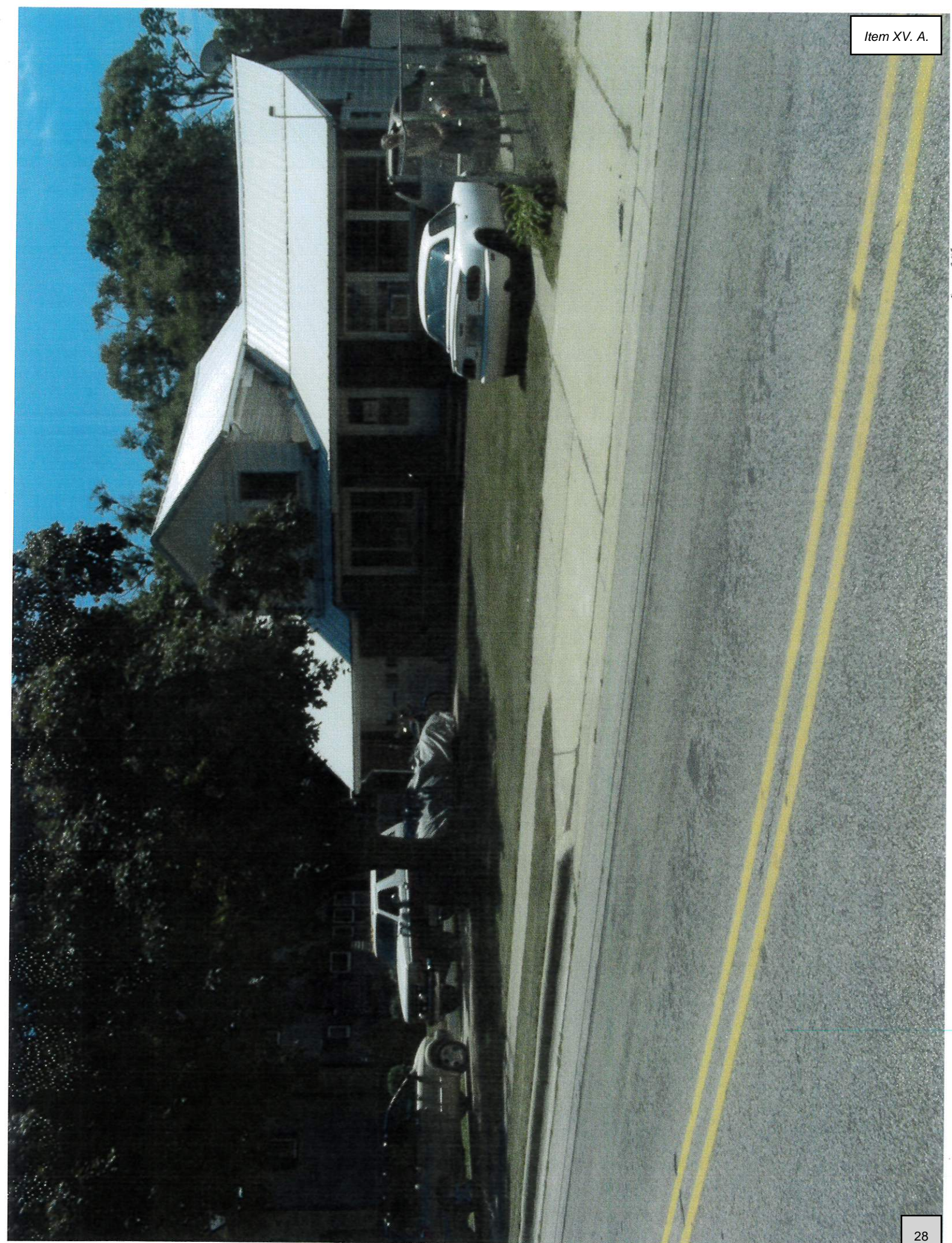
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POSTED: 06/08/21

**Leader Publications – Daily Star
Published 06/12/2021**

**NOTICE OF PUBLIC HEARING
CITY OF BUCHANAN
Zoning Board of Appeals
Zoom Meeting**

The City of Buchanan Planning Commission hereby gives notice of a Planning Commission meeting to be held electronically in order to protect the health and safety of our community due to the novel coronavirus (COVID-19).

Join Meeting via Computer

<https://zoom.us/j/2435931819>

Meeting ID: 243 593 1819

Join Meeting via Mobile Phone

+16465588656,,2435931819#

Join Meeting via Land Line Telephone

+1 646 558 8656

Meeting ID: 243 593 1819

- All members of the public will be muted by the moderator with the exception the public comment portions of the agenda. In order to minimize background noise and/or feedback, we ask that participants manually mute their phone or computer microphone during this portion of the agenda if not speaking.
- Comments may also be submitted in writing at least 4 hours in advance to the Zoning Administrator at rmurphy@cityofbuchanan.com

A Public Hearing has been set for Thursday, June 24, 2021 at 7:00 p.m. at Buchanan City Hall, 302 N. Redbud Trail, Buchanan, Michigan 49107. The purpose of the Public Hearing is to consider a zoning appeal to the Zoning Board of Appeals from James Kennedy, 419 W. Front St. Property owner was cited for a code violation by city code enforcement officer for vehicles park parked on the front lawn of 419 W. Front Street. Property owner is appealing this citation to the Zoning Board of Appeals. At the above time and place all interested parties will be given an opportunity to be heard.

Richard Murphy
Community Development Director

Barbara A. Pitcher
City Clerk

302 Redbud Trail North • Buchanan, Michigan 49107
Tel: (269) 695-3844 • Fax: (269) 695-4330
www.cityofbuchanan.com

Richard Murphy

From: Richard Murphy
Sent: Wednesday, June 16, 2021 4:20 PM
To: Sean Denison; Cameron Downey; Jason Lietz (lietzj@aol.com); Mark Nixon; 'viganskydan@yahoo.com'; Jason Lietz
Cc: Barbara Pitcher; Heather Grace
Subject: James Kennedy ZBA Variance 419 W. Front St. - ZBA Meeting and Public Hearing Confirmed on June 24, 2021 at 7:00 PM
Attachments: JamesKennedyZBAVariance419WFrontSt05052021.pdf; Public Hearing Notice - Appeal to ZBA - 419 W. Front St. 06.07.2021.docx

Dear Zoning Board of Appeals Members:

The City has received the attached appeal from James Kennedy, 419 W. Front Street. Property owner was cited for a code violation by city code enforcement officer for vehicles park parked on the front lawn of 419 W. Front Street. Property owner is appealing this citation to the Zoning Board of Appeals. A public hearing and ZBA meeting is required to hear this appeal. This meeting will still be via Zoom. My understanding is that all meetings after July 1, 2021 may be scheduled as live meetings but we are waiting to confirm those details.

We have confirmed this public hearing and Zoning Board of Appeals meeting for Thursday, June 24, 2021 at 7:00 PM. Notices have been sent to adjacent property owners and published in newspaper per ordinance and statute.

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Please join me in welcoming Mr. Dan Vigansky to the ZBA. Dan, we look forward to working with you!

Please look for the meeting agenda and my staff report to be emailed out to the commission later this week.

Thank you!

Rich

Richard Murphy
 City of Buchanan
 Community Development Director
rmurphy@cityofbuchanan.com
 269.695.3844 ext. 19



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Richard Murphy

From: Richard Murphy
Sent: Thursday, June 17, 2021 3:08 PM
To: Jason Lietz
Cc: Sean Denison; Cameron Downey; Mark Nixon; viganskydan@yahoo.com; Jason Lietz; Barbara Pitcher; Heather Grace
Subject: RE: James Kennedy ZBA Variance 419 W. Front St. - ZBA Meeting and Public Hearing Confirmed on June 24, 2021 at 7:00 PM
Attachments: ZoningViolationsfor419W.FrontStwithZBAappealsCodeReferencesRPM06.17.2021.pdf; 419W.FrontSt.Photostakenon06.17.2021.pdf

Hi Jason,

Please see attached two Notices of Violation for 419 W. Front St., one dated 12/28/2020 and one dated 02/08/2021. The violations were affirmed by the City Manager who was the acting Zoning Administrator at the time. I have also attached Article XXIV and Article XXVI of the zoning ordinance with highlighted sections pertaining to notices of violations and ZBA appeals for your reference. Finally attached are two photos taken today by the Zoning Officer.

Thank you and please let me know if you have any additional questions.

Rich

Richard Murphy
 City of Buchanan
 Community Development Director
rmurphy@cityofbuchanan.com
 269.695.3844 ext. 19



Like us on Facebook @ <https://www.facebook.com/City-of-Buchanan-Michigan-86108753412>

From: Jason Lietz <lietzj@aol.com>
Sent: Wednesday, June 16, 2021 6:55 PM
To: Richard Murphy <rmurphy@cityofbuchanan.com>
Cc: Sean Denison <sdenison@cityofbuchanan.com>; Cameron Downey <cdowney@cityofbuchanan.com>; Mark Nixon <mnixon@buchananschools.com>; viganskydan@yahoo.com; Jason Lietz <jslietz@comcast.net>; Barbara Pitcher <bpitcher@cityofbuchanan.com>; Heather Grace <hgrace@cityofbuchanan.com>

Subject: Re: James Kennedy ZBA Variance 419 W. Front St. - ZBA Meeting and Public Hearing Confirmed on June 24, 2021 at 7:00 PM

Rich:

A few follow up questions on this issue.

1. ZO Sec. 26.03(5) states that a Notice of Violation (NOV) must be issued to each violator & that copies of the NOV must be sent to the Plan Commission & City Manager. Was that done? If it was, please attach the NOV to the record of appeal and forward to the ZBA members to consider when hearing the appeal.
2. ZO Sec. 24.03(1) covers the jurisdiction of the ZBA and specifically, Sec. 1. - Appeals from Administrative Decisions, made by the Zoning Administrator (ZA). My reading of Articles 24 & 26 together, is that no appeal of an order, requirement, decision, or determination enforcing the ZO would come before the ZBA without the ZA having taken some action on the matter first. Did you initiate the NOV or have you reviewed the NOV issued by the Code Enforcement Officer and did you concur that the matter was a violation of the ZO? If so, please attach a written report to the record of appeal describing your determination and forward to the ZBA to consider when hearing the appeal.

Thank you.

Jason Lietz

Sent from my iPhone

On Jun 16, 2021, at 4:19 PM, Richard Murphy <rmurphy@cityofbuchanan.com> wrote:

Dear Zoning Board of Appeals Members:

The City has received the attached appeal from James Kennedy, 419 W. Front Street. Property owner was cited for a code violation by city code enforcement officer for vehicles park parked on the front lawn of 419 W. Front Street. Property owner is appealing this citation to the Zoning Board of Appeals. A public hearing and ZBA meeting is required to hear this appeal. This meeting will still be via Zoom. My understanding is that all meetings after July 1, 2021 may be scheduled as live meetings but we are waiting to confirm those details.

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Please join me in welcoming Mr. Dan Vigansky to the ZBA. Dan, we look forward to working with you!

Please look for the meeting agenda and my staff report to be emailed out to the commission later this week.

Thank you!

Rich

Richard Murphy
City of Buchanan
Community Development Director
rmurphy@cityofbuchanan.com
269.695.3844 ext. 19

<image001.png>

Like us on Facebook @ <https://www.facebook.com/City-of-Buchanan-Michigan-86108753412>

<JamesKennedyZBAVariance419WFrontSt05052021.pdf>

<Public Hearing Notice - Appeal to ZBA - 419 W. Front St. 06.07.2021.docx>



STAFF REPORT TO THE ZONING BOARD OF APPEALS

ZBA APPEAL: 419 W. Front St. June 24, 2021

I. GENERAL INFORMATION

Applicant:	James Kennedy
Status of Applicant:	Property Owner
Existing Zoning:	R1A and R2B Single Family Residential
Property Address:	419 W. Front St., Buchanan MI 49107
Present Land Use:	SF Residential
Adjacent Use:	N – Residential S – Residential E – Residential W – Residential
Adjacent Zoning:	N – R1A Residential S – R1A Residential E – R1A Residential W - R1A Residential

The applicant is appealing a Notice of Zoning Violation that was issued by the city's Zoning Officer on December 28, 2020 and again on February 8, 2021 and reaffirmed by the city's acting Zoning Administrator for the zoning violation of parking of vehicles in the front yard.

Section 19.04 – Schedule of Parking Requirements, Item A1 Single – Family Dwellings, Parking Spaces Required in the R-1 Residential District. 1. Single-Family Dwellings. A minimum of two (2) parking spaces shall be provided per dwelling, with one car parking enclosure, covered parking space or garage, location of which shall be limited to the side or rear yard, if not incorporated as part of the principal permitted use structure, with adequate on-site access and street ingress as approved by the Zoning Administrator City Engineer. A permit is required for Rear Yard parking and parking areas are to be of concrete, asphalt, or other paving material.

II. STAFF ANALYSIS:

Section 24.03 - Jurisdiction. In addition to the duties and powers prescribed in other sections of this Ordinance, the Zoning Board of Appeals shall hear and decide on all matters relating to the following: 1. Appeals From Administrative Decisions. The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by Zoning Administrator and shall act upon all questions as they may arise in the administration of this Ordinance.

Section 24.05 Standards of Approvals contains both general and specific standards that the Zoning Board of Appeals must consider in making its decision. Following are the Standards, with my commentary in *italics*. They are:

1. General Standards for Approval:

- A. Whether the location, use, nature, intensity of operation, and congestion and density of population will be in conflict with the principal permitted uses of the district or with the purposes of this Ordinance.

The applicant claims that the west side of the building was historically used as an apartment, and also as a sewing operation by his grandmother from approximately 1947-2010, and an office for his grandfather who was a Justice of the Peace from approximately 1962- 1970 his family. The applicant claims that there was always a curb cut and poured apron on city property for as long as he can remember and that during the Front St. widening project in the early 1990's the city reinstalled the curb cut and poured drive as part of the project. The existing vehicles are parked in the front with two wheels on property owner's private sidewalk and two wheels on the grass of the front lawn. At the same time, per the existing zoning ordinance, it appears that a driveway is not allowed due to setback constraints. The ZBA essentially has three options to consider, whether to affirm the zoning violation, whether to reverse the zoning violation, or whether to grant a variance to the zoning violation with or without conditions.

- B. Whether the available sewage disposal and water supply facilities will be adequate and safe.

The parcel is served by city water and sewer and granting the variance will not strain the capabilities of the water and sewer systems because the variance request is not related to sewer or water usage at all.

- C. Whether the lot size and yard area will be in harmony with the orderly and proper development of the district.

The lot size will not be changed as a result of this request.

- D. Whether adequate access to the building or use will be provided by either existing roads or other roads to be constructed.

The appeal to allow the applicant to park in this area will allow additional access to existing roads.

- E. Whether the building or use will be objectionable to nearby properties and their owners by reason of traffic, noise, vibration, dust, blowing sand and erosion, disposal of waste or sewage, fumes, smoke, air pollution, fire hazard, or bright flashing lights.

The granting of a variance to allow for this use would not necessarily create additional traffic, noise, vibration, dust, blowing sand, erosion, disposal of waste, disposal of sewage, fumes, smoke, air pollution, fire hazard, or bright flashing lights.

- F. Whether the building or use will discourage or hinder the appropriate development and use of lands and buildings in the general vicinity.

The requested use could arguably hinder appropriate development in the R-1A Single Family Residential District, as it is a deviation from the standard parking allowances, but whether such a deviation would be substantial enough to create a true hinderance to development is debatable.

3. Standards of Approval of Variances: In approving a variance the Zoning Board of Appeals shall consider the following standards with respect to the application:

- A. That the application demonstrated special conditions and circumstances which exist that are particular to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

As stated previously, the applicant claims that the west side of the building was historically used as an apartment, as a sewing operation by grandmother from approximately 1947-2010, and an office for his grandfather who was a Justice of the Peace from approximately 1962- 1970 his family, and continuously by the applicant from 2010 until the present. The applicant claims that there was always a curb cut and poured apron on city property for as long as he can remember and that during the Front St. widening project in the early 1990's the city reinstalled the curb cut and poured drive as part of the project. The existing vehicles are parked in the front with two wheels on the applicant's private sidewalk and two wheels on the grass of the applicant's front lawn. At the same time, per the existing zoning ordinance, it appears that a driveway in this particular location is not allowed due to setback constraints.

- B. That under the terms of this Ordinance, the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.

The applicant already has a legal driveway on his property to on the east side of the parcel, so the enforcement of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district.

- C. That the special conditions and circumstances do not result from the actions of the applicant.

The special conditions and circumstance sited above do not result from the action of the applicant.

- D. An existing nonconforming use of land, structures or buildings shall not be considered grounds for the issuance of a variance.

The BZA must not consider the existing nonconforming use as grounds for the issuance of a variance in this case.

- E. That the variance requested is the minimum variance which would make possible the reasonable use of the land, buildings or structures;

The variance requested arguably is the minimum variance necessary to achieve the applicant's stated goal, but whether the variance requested is truly necessary to make possible the reasonable use of the land, buildings, or structures is open for debate.

- F. That the Zoning Board of Appeals may issue a statement of positive findings that the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare:

Section 5.01 - Intent. *The Single-Family Residential District is established as a district in which the principal use of the land is for single family dwellings.*

The Zoning Ordinance was enacted by the City for the purpose of promoting the public health, safety, and general welfare of the City to enact such an Ordinance. Therefore, if the ZBA is considering granting a variance in this case, the ZBA should also consider whether the ZBA could state positively that the variance would be in harmony with the goal of promoting the public health, safety, and general welfare of the City.

The City Plan Commission has divided the municipality into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets, to secure safety from fire, panic and other potential dangers; promote health, safety and the general welfare; provide adequate light and air; prevent overcrowding of land; avoid undue concentrations of population; facilitate adequate provision for transportation, water, sewerage disposal, schools, parks and other public improvements, and

The City Plan Commission and/or ZBA has given full and reasonable consideration to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

Consequently, if considering granting a variance in this case, the ZBA should also consider whether such a variance, if granted, would be in harmony with the standards set by the Plan Commission for the Single-Family District, especially as it pertains to the promotion of the use of land for single family dwellings, taking into consideration the specific factors stated above.

- G. The Zoning Board of Appeals has established such appropriate conditions and safeguards to assure conformity with the terms of this Ordinance which shall be attached as conditions of the variance.

One condition for the board to consider is the option to grant the appeal request by granting a variance with the condition that applicant pour the second half of the driveway on the east side adjacent to the curb cut, the creating a true driveway that would alleviate the existing need to park directly on the applicant's private sidewalk and directly on the grass of the applicant's front lawn.

III. DECISION

The Zoning Board of Appeals must make findings of fact to support your decision considering the factors above.

Regardless of which decision the ZBA makes, the ZBA should include in its motion specific findings of fact that support the decision.

Prepared by: Richard Murphy
Community Development Director