



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