

**THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, TUESDAY JUNE 12, 2023 BY CHAIR MCALPINE.**

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*The minutes from this meeting are in summary form capturing the actions taken on each agenda item. Due to technical difficulties, video of this meeting is not available.*

**PRESENT:** Sue McAlpine  
                  Joseph Krug  
                  Joann Serr  
                  Erick McDonald  
                  Maria Ward  
                  Kevin Wilner  
                  Steve Allen (ZBA Alternate)

**ABSENT:** Miles Uhlar

**ALSO, PRESENT:** Kristen Kapelanski, Community Development Director  
                          Kim Anderson, Zoning Administrator  
                          Dennis Hennen, City Council Liaison  
                          Andrew Creal, ZBA Alternate

**APPROVAL OF AGENDA**

Motion to approve the agenda as presented by Ward, and supported by Krugg.

Voice vote to approve the agenda.

AYES: 7  
NAYS: 0  
ABSENT: Uhlar

**MOTION CARRIED**

\* \* \* \* \*

**APPROVAL OF MINUTES**

Motion to approve the minutes of the April 10, 2023 regular meeting by Ward and supported by Serr.

Voice vote to approve minutes

AYES: 7  
NAYS: 0  
ASBENT: Uhlar

**MOTION CARRIED**

\* \* \* \* \*

**OLD BUSINESS**

NONE

\* \* \* \* \*

**NEW BUSINESS**

**1. APPLICATION PBA-05-23; 3260 Coolidge Hwy. – Interpretation of Zoning Ordinance**

Ashton Forbes, 3260 Coolidge Hwy., Parcel # 04-25-17-103-023, East side of Coolidge Hwy., between Rosemont Rd. and Beverly Blvd., is requesting an interpretation to Office District, Principal Use; 138-382(2) Professional Offices for Medical.

Community Development Director Kapelanski advised the Zoning Board of Appeals that this was a request for an interpretation of the ordinance, not a variance. The applicant currently operates a business where therapeutic services are provided, a permitted use in the Office District. In conjunction with that use, clients are also able to take advantage of on-site massage and esthetician services. The Office District allows medical office uses and lists other similar allied professions as permitted uses. The applicant contends that massage and esthetician services are an allied profession of medical offices and should be interpreted as permitted under that provision.

**APPLICANT PRESENTATION**

Ed Nahat  
510 W Houstonia  
Royal Oak, MI 48072

The applicant, Ashton Forbes' Attorney, Ed Nahat presented to the Zoning Board of Appeals for an interpretation to consider therapeutic massage and esthetics as allied professions of a medical office to be considered as a principal use in the Office District under Professional Office. The applicant contends that based on the whole-body wellness concept, massage therapy and holistic skincare are uses complementary to and allied with the mental health services offered at the business and should therefore be permitted as principal permitted uses. Massage has required a State License since 2009 and is recognized by many as medical. The Zoning Ordinance does not have a definition for medical office, allied profession, massage therapy, esthetician or any similar terms.

Chair McAlpine opened the floor for the public hearing at 7:19 p.m.

**PUBLIC COMMENT**

Several members of the audience, including; Sherri Okerhjelm, Teresa Hurtgen and Kathleen Skubik spoke in support of massage and esthetician services being allied with medical.

Multiple letters of support from patients on the wellness and health benefits were presented along with a list of licensed health professionals from the Department of Licensing and Regulatory Affairs, which includes massage therapists.

Chair McAlpine closed the floor for the public hearing at 7:28 p.m.

The Zoning Board of Appeals discussed how massage and esthetics are allied professions working together with medical.

The standards for review for an interpretation are listed below:

Section 138-197

*“Land uses (permitted or special) which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses may be permitted if approved by the zoning board of appeals. The nonlisted uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision.”*

In the matter of PBA-05-23, 3260 Coolidge Hwy., interpretation of “allied profession” motion by Mr. Allen, that allied profession as contained in the description of principal permitted uses in reference to medical offices includes massage therapy and esthetic uses.

Motion was supported by Serr.

AYES: Members; Ward, Wilner, Allen, McDonald, Krug, Serr and Chair McAlpine

NAYS: NONE

ABSENT: Uhlar

**MOTION CARRIED**

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**2. APPLICATION PBA-02-23; 2280 Oakshire Ave. – Dimensional variance(s) to construct an addition**

Al Saling of Iron Rose Custom Renovations on behalf of Matthew Jaisle, 2280 Oakshire Ave., Parcel # 04-25-18-331-001, East side of Oakshire Ave., between Oxford Rd. and Cambridge Rd., is requesting a dimensional variance to allow the construction of a second story addition to a non-conforming structure in the required front setback. The proposed front setback is 23.7 feet and the average front setback of 25.866 feet is required.

Community Development Director Kapelanski presented an overview of the request noting variances are required to add onto a non-conforming structure and for a deficient front yard setback.

### **APPLICANT PRESENTATION**

Al Saling of Iron Rose Custom Renovations  
4022 Mildred St.  
Wayne, MI 48184

Applicant is requesting a dimensional variance to add a second story on a dwelling with a deficient front yard setback. The dwelling was built in 1938 and the variance would not project any further into the front setback than the existing first story.

Ms. Ward asked the applicant why a request for a front setback was being applied for rather than adding to the back. The applicant indicated that there was a fire and the owners would prefer to go straight up.

Chair McAlpine opened the floor for public hearing at 7:44 p.m.

### **PUBLIC COMMENT**

An email was received in support for the variance from Sarah Todebush, 2376 Oakshire Ave., Berkley  
No other comments.

Chair McAlpine closed the floor for public hearing at 7:46 p.m.

The Zoning Board of Appeals discussed the uniqueness of the property.

In the matter of PBA-02-23 for 2280 Oakshire, motion by Serr to approve the requested dimensional variance of the required front setback. The proposed front setback is 23.7 feet when an average front setback of 25.866 feet is required and to permit the expansion of a two-story addition on a non-conforming structure, based on the fact that:

1. The need for the variance is due to unique circumstances or physical conditions of the property.
2. The need for the variance is not the result of actions of the property owner or previous property owners.
3. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome. Strict compliance with the ordinance would be burdensome to the property owner.
4. The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners. The requested variance would do substantial justice to the property owner and surrounding properties.
5. The requested variance will not adversely impact the surrounding properties.

Motion support by Ward

AYES: Wilner, Allen, McDonald, Krug, Serr, Ward and McAlpine  
NAYS: NONE  
ABSENT: Uhlar

**MOTION CARRIED**

\* \* \* \* \*

**3. APPLICATION PBA-03-23; 2020 Harvard Rd. – Dimensional variance to construct a second story rear dormer**

Phillip Pacheco & Amanda (Bowery) Pacheco, 2020 Harvard Rd., Parcel 04-25-17-305-027, North side of Harvard Rd., between Berkley Ave., and Hamilton Ave., are requesting dimensional variances to allow the construction of a second story rear dormer to a non-conforming structure in the required setback between dwelling and accessory structure and the west side setback requirements. The proposed distance between the dwelling and accessory structure is 6.5 feet where 10 feet is required. West side setbacks do not meet the required side yard setback of a minimum of 5 feet on one side and 15 feet between dwellings. The west side setback is 4.7 feet where 5 feet is required. The distance between dwellings is 14.4 feet where 15 feet is required.

Community Development Director Kapelanski presented an overview of the request.

Phillip and Amanda Pacheco are requesting variances to allow for a second story rear dormer addition onto a structure that is non-conforming. The dwelling and garage were built in 1941. The applicant is not proposing to change the existing footprint of the foundation; the second story would be placed immediately over the first floor and the nonconformity would not be increased.

Chair McAlpine opened the floor for public hearing at 7:57 p.m.

**PUBLIC COMMENT**

Correspondence was received from Nate Skipton, 2008 Harvard in support of the rear dormer.

No other comments.

Chair McAlpine closed the floor for public hearing at 7:58 p.m.

The Zoning Board of Appeals discussed the uniqueness of the property.

In the matter of PBA-03-23. 2020 Harvard Rd., motion by Krug to approve the variance requests to allow a reduced distance between a dwelling and accessory structure of 6.5 feet where 10 feet is required, to allow a side yard (west side) setback of 4.7 feet where 5 feet is required, to allow a reduced distance between dwellings where 14.4 feet is proposed and 15 feet is required and to allow the expansion of an addition on a non-conforming structure, based on the fact that:

1. The need for the variance is due to unique circumstances or physical conditions of the property.
2. The need for the variance is not the result of actions of the property owner or previous property owners.
3. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome. Strict compliance with the ordinance would be burdensome to the property owner. In this case, strict compliance with the ordinance would essentially mean that the property owner could not add on to the home without demolishing the existing structure and garage, which would be burdensome when compared to other properties in the area.
4. The requested variance is the minimum variance necessary to do substantial justice to the application as well as other property owners. The requested variance would do substantial justice to the property owner and surrounding properties as it permits an expansion of the home on the existing footprint.
5. The requested variance will not adversely impact the surrounding properties.

Motion support by Allen

AYES: McDonald, Krug, Serr, Ward, Wilner, Allen and Chair McAlpine

NAYS: NONE

ABSENT: Uhlar

**MOTION CARRIED**

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**4. APPLICATION PBA-03-23; 2020 Harvard Rd. – Dimensional variance North Wall Signage**

Pro Image Design, on behalf of Monarch Acquisitions for 1949 Twelve Mile Rd., Parcel 04-25-17-126-002, South side of Twelve Mile Rd., between Henley Ave. and Brookline St., is requesting a dimensional variance to allow Signage on the North Wall of the Building that exceeds the maximum sign area of 100 square feet or 10% of adjoining wall, whichever is less. Chapter 94 Signs, Section 94-7 Signs requiring permits (h) Wall Signs

**APPLICANT PRESENTATION**

Applicant is requesting a variance for signage on the North Wall based on the desired design that was on plans that were approved under the Site Plan Review. Applicant contends they are working within the architecture of the existing building as designed, requiring them to space the letters further apart.

Chair McAlpine opened the floor for public hearing at 8:15 p.m.

**PUBLIC COMMENT**

No public comments.

Chair McAlpine closed the floor for public hearing at 8:15 p.m.

Zoning Board of Appeals discussed various options of designs that could be proposed for the signage to remain on the North Wall and the impact that the proposed design would reflect poorly on the Twelve Mile Corridor.

In the matter of PBA-04-23 for 1949 Twelve Mile Rd., motion by Ward to deny the requested variance from Section 94-7 of the City of Berkley Sign Ordinance to permit a wall sign greater than 100 square feet or 10% of the adjoining façade, whichever is less, based on the following findings:

1. The need for the variance is not due to unique circumstances or physical conditions of the property.
2. The need for the variance is the result of actions of the property owner or previous property owners.
3. Strict compliance with the ordinance will not unreasonably prevent the property owner from using the property for a permitted purpose or will not render conformity with those regulations unnecessarily burdensome.
4. The requested variance is not the minimum variance necessary to do substantial justice to the application as well as other property owners.
5. The requested variance will adversely impact the surrounding properties.

Motion support by McDonald

AYES: Krug, McDonald, Serr, Ward, and Chair McAlpine

NAYS: Wilner and Allen

ABSENT: Uhlar

**MOTION CARRIED**

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**OTHER BUSINESS**

NONE

\* \* \* \* \*

**STAFF/BOARD MEMBER REPORT**

Community Development Department Reports for March 2023 and April 2023 were provided in packets.

Zoning Board of Appeals members were updated on the Zoning Rewrite process; currently reviewing decision making and outline. Monthly meeting summaries to be added to ZBA Meeting Packets.

Members were reminded on their Education requirements to be met by June 30, 2023. Several class options were mentioned.

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**LIAISON REPORT**

NONE

\* \* \* \* \*

**PUBLIC COMMENT**

NONE

\* \* \* \* \*

**With no further business, the meeting was adjourned at 8:27 p.m.**

Motion by Allen and support by Ward

Voice Vote to adjourn

AYES: 7

NAYS: 0

ABSENT: Uhlar

**MOTION CARRIED**





# CITY OF BERKLEY COMMUNITY DEVELOPMENT

3338 COOLIDGE HWY, BERKLEY, MICHIGAN 48072

## ZONING BOARD OF APPEALS APPLICATION

The Zoning Board of Appeals (ZBA) meets the second Monday of the month. The meetings are held in the Council Chambers at City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072.

The ZBA shall hear requests for use and dimensional variances, appeals of administrative decisions, interpretation of zoning map and text, and interpretations of commercial message for proposed murals.

**\*\*Please be advised:** The ZBA may grant a variance where undue hardship or practical difficulty for the property exist. A want or desire (bigger structure, more profit, etc.) is not sufficient grounds for a variance. The ZBA does not have the power to legislate or create new regulations. The Board's purpose is to provide some relief from the Zoning Ordinance depending on the unique circumstances of the property.

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### APPLICANT INFORMATION

Name: Operation Grow LLC, Dba butter Phone: [REDACTED]

Address: P.O. Box 725202, Berkley, MI 48072

Email: [REDACTED]

Relationship to Property (current tenant, representative, future tenant, current owner, future owner):

Current owner

### PROPERTY OWNER INFORMATION (if different from Applicant)

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

### PROPERTY DESCRIPTION

Address: 2222 W. 11 mile Rd., Berkley, MI 48072

Parcel #: 04-25-17-358-018 Zoning Classification: Industrial

Current Use of Property: Cannabis provisioning center

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**NATURE OF REQUEST**

- Check which applies:
- Variance from Zoning Ordinance (Section I)
  - Interpretation of Zoning Ordinance (Section II)
  - Administrative Review / Appeal of Decision (Section III)
  - Determination of Commercial Message of Mural / Work of Art (Section IV)

Description of Request: We would like approval to install a mural on the building

Has the City denied a permit related to the proposed work?  Yes  No

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***Please fill out ONLY the section below that applies to your request.***

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**I. VARIANCE FROM ZONING ORDINANCE**

Please provide a written response to each question below that relates to the variance that is being requested. **DO NOT COMPLETE BOTH SECTIONS.**

**A. Use Variance**

The Zoning Board of Appeals may grant a use variance (i.e. use of the land not permitted in a particular district) upon finding that an undue hardship exists.

Current Use of Property: \_\_\_\_\_

Requested Use of Property: \_\_\_\_\_

1. Explain how the building or land cannot be reasonably used for any of the uses permitted by right or by special land use permit in the current zoning district.

2. Explain how the need for the variance is due to unique circumstances or physical conditions of the property.

3. Explain how the proposed use will not alter the essential character of the neighborhood.

4. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

**B. Dimensional Variance (Non-Use Variance)**

The Zoning Board of Appeals may grant a **dimensional variance** (i.e. height, setback, lot coverage, etc) upon finding that undue hardship or practical difficulty exists.

1. Explain how the need for the variance is due to unique circumstances of physical conditions of the property.

2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

3. Explain how strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

4. Explain how the requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.

5. Explain how the requested variance will not adversely impact the surrounding properties.

**II. INTERPRETATION OF ZONING ORDINANCE**

Provide Section numbers of Zoning Ordinance to be interpreted: \_\_\_\_\_

Please describe the request and what needs to be clarified or interpreted by the ZBA.

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**III. ADMINISTRATIVE REVIEW / APPEAL OF DECISION**

Describe the circumstances of each case and provide the minutes of the public meeting noting the denial to be appealed.

#### IV. DETERMINATION OF COMMERCIAL MESSAGE (MURAL/WORK OF ART)

Describe the proposed mural/work of art. Applicant should include renderings of the proposed design. The ZBA shall determine if the proposed work contains a commercial message.

The mural will be completed by Kobie Solomon, a well known local artist/muralist and will have a M.C. Escher inspired style. It will have a complex series of yellow buildings, staircases, squares, rectangles, windows etc. on a baby blue background. please refer to the attached design

\*\* Applicant and artist must provide signed *Mural Installation and Maintenance Agreement* prior to the public meeting.

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#### SUBMIT THE FOLLOWING:

Provide 15 copies of survey, plot plan or site plan with this application that shows the subject property complete with boundary lines and dimensions, existing building locations, all proposed buildings, easements, utilities, and any site improvements/changes. Setbacks, height of structures, lot coverage, etc. should also be included, if applicable.

A PDF file of the application and supporting documents must also be submitted at the time of application.

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**PLEASE NOTE:** The applicant, or a designated representative, **MUST BE PRESENT** at the meeting in which the case is being reviewed or the request may be postponed due to lack of representation.

We encourage applicants to make a presentation of the proposed request to the Zoning Board of Appeals, if applicable. To assist this effort, we have available for your use a projector, laptop computer and screen. ZBA meetings are recorded and televised.

**PROPERTY OWNER'S APPROVAL (Initial each line)**

DA I hereby authorize and give permission for the City of Berkley to install one or more temporary signs on my property, in order to notify the public of the required public hearing related to the above request(s) before the ZBA.

DA I hereby authorize the employees and representatives of the City of Berkley to enter upon and conduct an inspection and investigation of the above referenced property in relation to the above request.

**APPLICANT'S ENDORSEMENT: (Initial each line)**

DA All information contained herein is true and accurate to the best of my knowledge.

DA I acknowledge that the ZBA will not review my request unless all information in the application has been submitted to the satisfaction of the Community Development Director.

DA I acknowledge that the City and its employees shall not be held liable for any claims that may arise as a result of acceptance, processing or review of this application.

**If an application is withdrawn more than three (3) weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than three (3) weeks prior to the meeting, no refund will be given.**

Daniel Amori on behalf of DA 5/31/2023  
Applicant Name (print) Applicant Signature Date  
Operation Grow, LLC dba butter

Applicant Name (print) Applicant Signature Date

Operation Grow, LLC dba butter DA 5/31/2023  
Property Owner Name (print) Property Owner Signature Date

**Office Use Only**

Received 6-2-23 Receipt # \_\_\_\_\_ Meeting Date 7-10-23 Case # PBA-06-23

Fee: Residential \$400  
Commercial \$600  
Mural \$300





THE CITY OF BERKLEY  
Community Development Department  
3338 Coolidge, Berkley, Michigan 48072  
(248) 658-3320

**Notice  
Meeting of the Berkley  
Zoning Board of Appeals**

Notice is hereby given, that there will be a meeting of the Zoning Board of Appeals to be held at the City of Berkley in the Council Chambers, 3338 Coolidge, Berkley, Michigan on Monday, July 10, 2023 at 7:00 pm or as near thereto as the matter may be reached.

**Application Number PBA-06-23; 2222 Eleven Mile Rd. – Determination of Commercial Message (Mural/work of art)**

Operation Grow, LLC, 2222 Eleven Mile Rd., North side of Eleven Mile Rd., between Henley Ave. and Berkley Ave., is requesting a Determination of Commercial Message for Mural/Work of Art.

**Berkley City Code**

*Berkley City Code*, Signs Chapter 94-2: Definitions and interpretation, Mural/work of art: Any mural or work of art that does not include a commercial message to be determined by the Zoning Board of Appeals.

Complete application information is available for review at: [www.berkleymich.org/urbanplanning](http://www.berkleymich.org/urbanplanning).

Comments on the above variance may be made in person on the night of the meeting or in writing. All written comments must be submitted to the Berkley Community Development Department or email to [planning@berkleymich.net](mailto:planning@berkleymich.net) before 4:00 p.m. on the date of the Public Hearing.

KIM ANDERSON  
ZONING ADMINISTRATOR

**Publish Once:**  
Royal Oak Tribune  
Friday, June 23, 2023

THE CITY OF BERKLEY  
Community Development Department  
3338 Coolidge, Berkley, Michigan 48072  
(248) 658-3320

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KIM ANDERSON  
ZONING ADMINISTRATOR

AGNIESZKA A PODSIADLO  
2221 COLUMBIA RD  
BERKLEY MI 48072 1774

ELISE GORDILLO  
19785 W 12 MILE RD PMB 173  
SOUTHFIELD MI 48076 2584

BRIAN LUTHER  
JESSICA BLAIR DOWNEY  
13160 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

GAYLE SOKOLSKY  
2185 COLUMBIA RD  
BERKLEY MI 48072 1712

GARRETT M CLAMPITT  
2290 PRINCETON RD  
BERKLEY MI 48072 3906

SEYMOUR C SCHWARTZ  
13116 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

THOMAS R SACCARO  
DENISE A SACCARO  
2231 COLUMBIA RD  
BERKLEY MI 48072 1774

JACOB WEST  
KAMILA WEST  
2140 PRINCETON RD  
BERKLEY MI 48072 3019

VINCENT MINSTER  
13107 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

ERIC WEST  
2211 COLUMBIA RD  
BERKLEY MI 48072 1774

BRADLEY E REYNOLDS  
MARY M REYNOLDS  
2313 PRINCETON RD  
BERKLEY MI 48072 3020

MARY JO LAMBERT  
GERALD LAMBERT  
13134 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

ROBERT A MURRAY  
LIVING TRUST  
2318 11 MILE RD  
BERKLEY MI 48072 3003

SHIRLEY NEILSON  
2130 PRINCETON RD  
BERKLEY MI 48072 3019

BRADLEY J COON  
13102 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

JOSHUA M CYCCONE  
STEPHANIE L FUJIWARA  
2251 COLUMBIA RD  
BERKLEY MI 48072 1774

MIRRIAH E JACKSON  
2180 PRINCETON RD  
BERKLEY MI 48072 3019

MARK GIBSON  
JADA GIBSON  
13135 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

BRANDON BARLOW  
13121 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

Occupant  
2280 PRINCETON RD  
BERKLEY MI 48072 3906

Occupant  
13153 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

WILLIAM GRACE  
DEBORAH GRACE  
13108 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

MARY HOFFMAN  
1754 PAWNEE TRL  
WEST BRANCH MI 48661 9734

BINNO & BINNO INVESTMENT COMPANY L  
3943 SHELLMARR LN  
BLOOMFIELD HILLS MI 48302 4056

BRIAN H HULETT  
13147 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

JERRY F MCCLURE JR  
STACEY L MCCLURE  
2176 PRINCETON RD  
BERKLEY MI 48072 3019

JENNIFER L SNELL  
2136 PRINCETON RD  
BERKLEY MI 48072 3019

Occupant  
2210 PRINCETON RD  
BERKLEY MI 48072 3906

VICTORIA H MELLER  
13122 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

LEAH A RODRIGUEZ-SOTO  
13129 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

MATTHEW H GROSS  
ELENA L GROSS  
13154 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

PAUL R RETASKIE  
13142 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

MARC MERCER  
2283 PRINCETON RD  
BERKLEY MI 48072 3907

CHRISTOPHER SAADATJOO  
13139 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

STEPHEN BOGDAN  
PAM BOGDAN  
26815 HENLEY AVE  
HUNTINGTON WOODS MI 48070 1015

Occupant  
2158 11 MILE RD  
BERKLEY MI 48072 3017

Occupant  
13111 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

CHRISTOPHER S PETERS  
JENNIFER A CRACKEL  
2193 COLUMBIA RD  
BERKLEY MI 48072 1712

EDDIES REAL ESTATE VENTURE LLC  
39439 VASSAR CT  
STERLING HEIGHTS MI 48313 5575

PAUL BLOETSCHER  
738 N DENWOOD ST  
DEARBORN MI 48128 1567

SHIRLEY NEILSON  
2130 PRINCETON RD  
BERKLEY MI 48072 3019

TYLER LEHMAN  
NICOLE PROPST  
2231 PRINCETON RD  
BERKLEY MI 48072 3907

CITY OF HUNTINGTON WOODS  
26815 SCOTIA RD  
HUNTINGTON WOODS MI 48070 1101

MARGARET A GAGNIUK  
13148 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

MARY ANN NOBLE  
2251 PRINCETON RD  
BERKLEY MI 48072 3907

ANDREW GARMAN  
LAURA GARMAN  
2175 COLUMBIA RD  
BERKLEY MI 48072 1712

JORGE A MARTINEZ  
13125 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

ZACK T GILMAN  
REBECCA L GILMAN  
2155 PRINCETON RD  
BERKLEY MI 48072 3010

HALSTON Q HERRERA  
2200 PRINCETON RD  
BERKLEY MI 48072 3906

AARON TURNER  
2230 PRINCETON RD  
BERKLEY MI 48072 3906

SHERI KASH  
PAUL R BELLEAU  
2211 PRINCETON RD  
BERKLEY MI 48072 3907

CAROL LEE HOUSE  
13117 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

ALISON RIDGWAY  
2220 PRINCETON RD  
BERKLEY MI 48072 3906

JOSHUA HAMILTON  
KATRINA HAMILTON  
2269 PRINCETON RD  
BERKLEY MI 48072 3907

JOSEPH A SERMO  
MEGHAN T SERMO  
13128 KINGSTON AVE  
HUNTINGTON WOODS MI 48070 1017

PATRICIA A WATTS  
2270 PRINCETON RD  
BERKLEY MI 48072 3906

BERKLEY MASON TEMPLE ASSN  
2290 11 MILE RD  
BERKLEY MI 48072 3048

JEFFRY D KLEIN  
13143 W 11 MILE RD  
HUNTINGTON WOODS MI 48070 1009

F & L BERKLEY LLC  
2114 11 MILE RD  
BERKLEY MI 48072 3002

ELIZABETH JOYCE  
2139 PRINCETON RD  
BERKLEY MI 48072 3010

Occupant  
2222 11 MILE RD  
BERKLEY MI 48072 3048

OPERATION GROW  
PO BOX 725202  
BERKLEY MI 48072 5202

BRAD COCKLIN  
KATIE COCKLIN  
2147 PRINCETON RD  
BERKLEY MI 48072 3010

DAVID C MIDDLEWOOD  
JODI MIDDLEWOOD  
2175 PRINCETON RD  
BERKLEY MI 48072 3010

TERESA FORMAN  
2221 PRINCETON RD  
BERKLEY MI 48072 3907

GWENDOLYN BRIMBLE-MILADINOVIC  
2189 PRINCETON RD  
BERKLEY MI 48072 3010

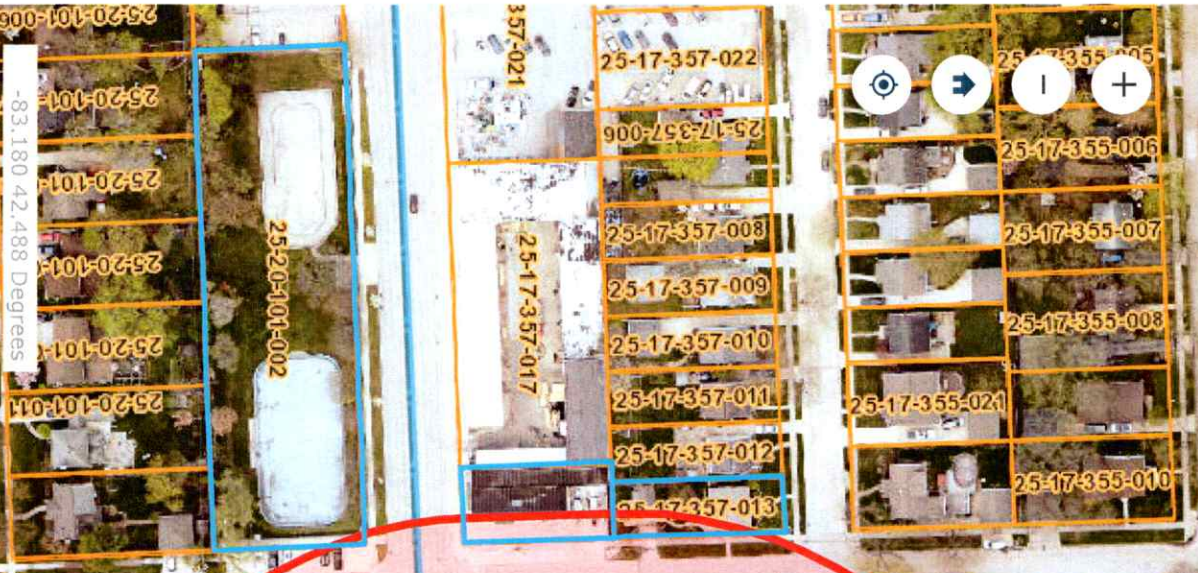
TIMOTHIE DAVIS  
2185 PRINCETON RD  
BERKLEY MI 48072 3010

Occupant  
2200 11 MILE RD  
BERKLEY MI 48072 3048

OPERATION GROW LLC  
PO BOX 725202  
BERKLEY MI 48072 5202

OC Parcels Plus

2222 Eleven Mile Rd



Henley Ave



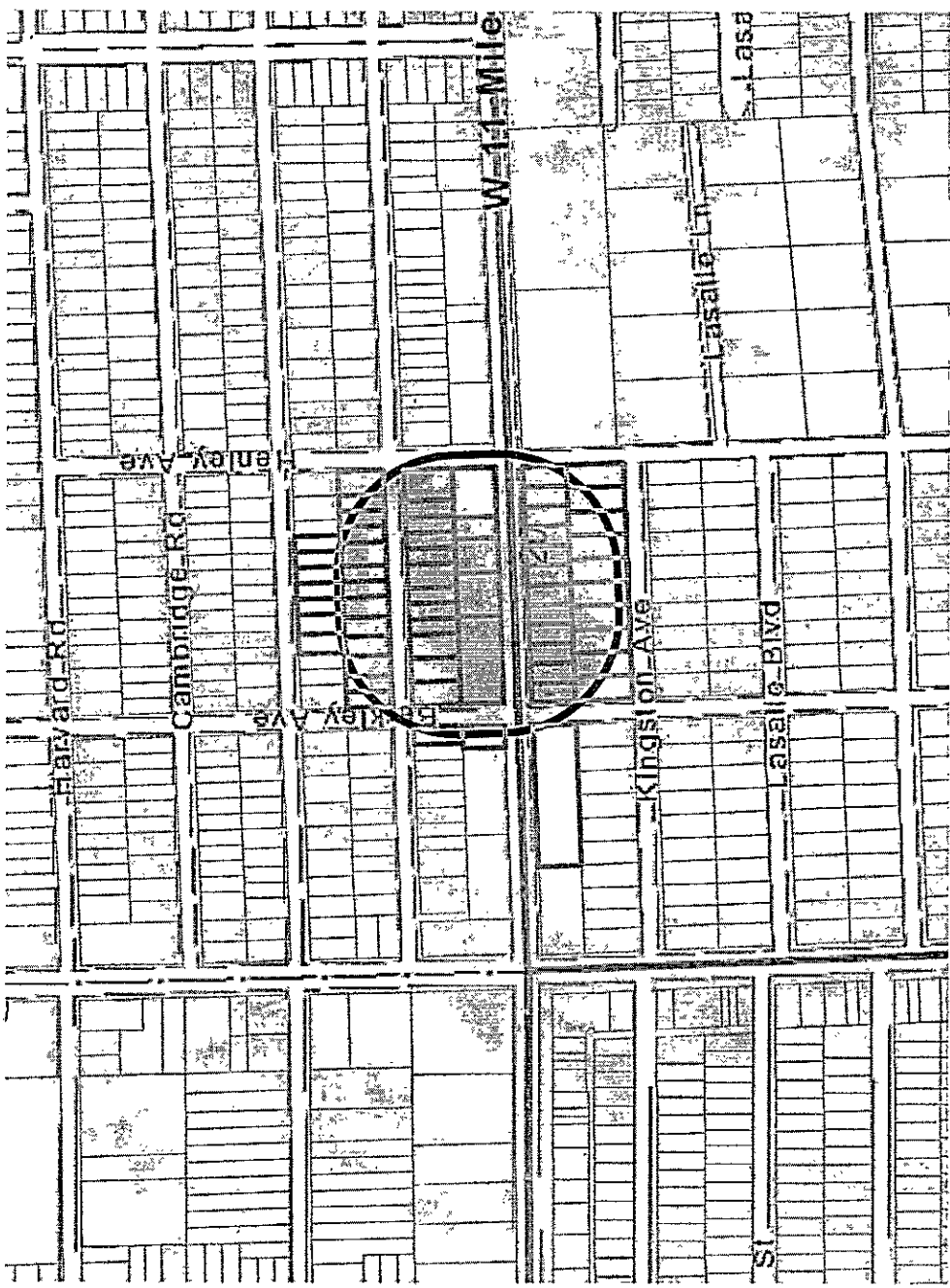
-83.180 42.488 Degrees



20 ft

ASSESSOR'S PLAT

HANNING WEST





**CITY OF BERKLEY  
ZONING BOARD OF APPEALS  
RULES OF PROCEDURE**

**SECTION ONE – AUTHORITY**

The City of Berkley Zoning Board of Appeals (hereinafter referred to as the ZBA) adopts these rules of procedure pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 et seq., as amended and the ordinances of the City of Berkley (as amended).

**SECTION TWO - MEMBERSHIP**

(1) **Membership.** Members shall be appointed according to the procedure as established by Berkley ordinances. The ZBA shall consist of seven regular members and two alternate members all to be appointed by City Council. An alternate member may be called as specified in the zoning ordinance to serve and vote as a member of the ZBA in the absence of a regular member. An alternate member may also be called to serve as a member for purposes of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. Alternate members called upon to serve in instances of vacancy or conflict of interest shall do so on a rotational basis, starting with the most senior alternate.

a) **Continued Education.** Each member shall commit to 5-6 hours of continued education within each fiscal year. New appointees to the Commission shall not be required to complete the hours of continued education within the first fiscal year of appointment.

b) **Materials.** Upon taking office for the first time, each member shall be sent via email a package of materials to assist them in their role, including but not limited to:

- A copy of the Zoning Board of Appeals-Rules of Procedure.
- Chapter 2 - Section 40 (Ethics), Chapter 94 (Signs) and Chapter 138 (Zoning) of the Berkley ordinances. Ordinance updates will be provided on the City's website.
- The Michigan Zoning Enabling Act.
- Any other materials deemed necessary by the Community Development Director and approved by the Chair of the ZBA to familiarize a new member with the appeals process and the duties of the ZBA.
- The Berkley Zoning Map.

c) **Resignation.** Members seat is resigned upon receipt of a letter or email of resignation to the City Clerk Office.

(2) **Duties.**

a) **Attendance.** Each regular and alternate member has a duty to attend all meetings except for good cause.

b) **Absences.** Members who are unable to attend a regularly scheduled meeting must contact the Zoning Administrator prior to the meeting to alert to the cause of the absence. The Zoning Board of Appeals shall approve the excused absence as part of the regular meeting and it shall be noted in the meeting minutes.

- c) Arrive prepared for the business at hand, having reviewed written materials and completed site visits as necessary to be educated on the agenda issues.
- d) *Ex Parte* Contact. Members shall avoid *Ex Parte* contact concerning questions or matters pending before the ZBA.
- e) *Ex Parte* Contact shall include discussions among members, applicants, or the public outside of a ZBA meeting, including emails, about matters pending before the ZBA.

### SECTION THREE - MEETINGS

- (1) **Notices.** Notice of meetings shall be provided in accordance with the Open Meetings Act. Prior to the scheduled meeting date, the Zoning Administrator shall provide the agenda for the meeting and all documentation relevant to agenda items as well as any other information requested by the ZBA.
- (2) **Regular Meetings.** Regular meetings of the ZBA shall be held monthly in the City Hall on the second Monday of every month at 7:00 p.m.
  - a) If there are no appeals, requests for variances or requests for interpretation of the zoning ordinance to consider, a regular meeting shall be postponed to the next (otherwise) regular meeting date when there are such requests to consider. All other business shall be held over to the agenda for the next regular meeting.
  - b) When a regular meeting date falls on or near a legal holiday or a regular City Council meeting, the ZBA shall select a suitable alternate date in the same month, if possible, in accordance with the Open Meetings Act.
- (3) **Other Meetings.** A special meeting can also be called by the Zoning Administrator, the Chair of the ZBA, or, in the Chair's absence, the Vice-Chair.
- (4) **Membership.** Any changes in Board membership will be announced prior to roll call.
- (5) **Quorum.** In order for the ZBA to conduct business or take any official action, a quorum consisting of 4 voting members of the ZBA must be present unless a use variance is under consideration, in which case, a quorum shall be 5 voting members present. When a quorum is not present, no official action, except for closing of the meeting may take place. All items scheduled to be heard, shall be rescheduled for the next regular meeting. No additional public notice shall be required provided the date, time and place are announced at the meeting.
- (6) **Hearings.** Hearings shall be scheduled and due notice given in accordance with the provisions of the Acts and ordinance cited in Section 1.

Public hearings conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the following procedure:

- Introduction of case by staff.
- The Chair confirms that the applicant is present and receives an opportunity to present the case.
- The Chair opens discussion. The ZBA may ask the applicant or staff questions.
- The Chair opens the public hearing. Each person must state his/her name and address for the record and may address the ZBA regarding the case not to exceed three minutes, to be modified at the discretion of the Chair. The Chair may invite people to speak row by row to eliminate lines at the microphone.

- The Chair closes the public hearing.
  - Discussion. The ZBA may ask staff or the applicant questions.
  - The Chair shall call for a motion.
  - After a motion has been made and supported, there may be additional discussion.
  - The Chair will call for a roll call vote.
- (7) **Motions.** The Chair shall restate motions before a vote is taken. The name of the maker and supporters shall be recorded. The motion shall state whether or not a practical difficulty or undue hardship has been found. The reasons for such a finding shall also be stated.
- (8) **Voting.** The concurring vote of 2/3's of the ZBA members shall be required for the approval of a use variance. The concurring vote of a simple majority of the ZBA members shall be required to reverse an order, requirement, decision, or determination of the zoning officer to approve a non-use variance, to decide in favor of the applicant on a matter upon which the ZBA is required to pass under the zoning ordinance, and for all other business. Voting shall be by roll call unless the Chair decides another method of voting would be appropriate. All members of the ZBA, including the Chair shall vote on all matters except as provided below. The order of the voting members shall be varied.
- a) No member shall abstain from voting on any matter except in the case of a conflict of interest as provided below in Section 3 (12) of these rules.
- (9) **Conditions.** The ZBA may modify a request or impose reasonable conditions designed to maintain the public health, safety and welfare.
- (10) **Withdrawals.** In the event that an applicant withdraws an application after the notices have been sent and the meeting posted, the ZBA shall introduce the case and advise that the item has been withdrawn. A motion to accept the withdrawal will be entered. In the event that an applicant withdraws an application before the notices have been sent and the meeting posted, the ZBA shall receive a copy of the withdrawal, but no motion to accept the withdrawal shall be necessary.
- (11) **Dismissals.** When the petitioner fails to appear at a properly scheduled meeting of the ZBA, the Chair may entertain a motion to dismiss the case for want of prosecution. In the absence of a motion, the Chair shall rule. In such cases, the petitioner will be furnished written notice of the action.
- (12) **Conflict of Interest.** A ZBA member shall declare a possible conflict of interest and reasons for such, after the introduction of a case. The ZBA shall discuss and determine if such a conflict exists. Fellow ZBA members shall make and support a motion to excuse the ZBA member from deliberating. The excused member shall leave the meeting room during deliberation of the case. An alternate member may be called to serve as a member for the purpose of reaching a decision on the case. The excused ZBA member shall be called back prior to the introduction of the next case. In the event that the ZBA member is the applicant, then they shall be allowed to remain in the meeting to present their case.
- a) Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- (13) **Order of Business.** A written agenda for all regular meetings shall be prepared as follows. The order of business shall be:
- Open the meeting – call meeting to order, confirm recorder, if any, is on
  - Pledge of Allegiance
  - Roll Call

- Confirmation of a Quorum
  - Approval of Agenda
  - Approval of Minutes – Each set of minutes shall be approved individually
  - Old Business – Items that have been postponed or referred to staff
  - New Business
  - Other Business – Administration or ZBA members may discuss upcoming items or interpretation concerns unrelated to agenda items
  - Liaison Reports
  - Public Comments
  - Adjourn
- (14) **Rules of Order.** All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by the most current edition of “Robert’s Rules of Order.”
- (15) **Notice of Decision.** The City shall send a copy of the approved minutes containing the ZBA decision and any conditions to the petitioner within five days of the minutes being approved.

#### **SECTION FOUR – OFFICERS**

- (1) **Selection.** Annually, at the July meeting, the ZBA shall select by majority vote from its membership, a Chair and Vice-Chair. Officers shall be eligible for re-election. If there is no July meeting, then the officers shall be elected no later than a September meeting or the next regularly held meeting after September.
- (2) **Duties.** The Chair shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. If the Chair is not able to chair a meeting or portion of a meeting, the Vice-Chair shall act in place of the Chair for that meeting or portion of meeting.
- a) The Vice-Chair shall act in the capacity of the Chair and shall succeed to the office of Chair in the event of a vacancy in that office.
  - b) If there is a vacancy in the office of Vice-Chair for whatever reason, the ZBA shall select a successor to the office of Vice-Chair at the earliest practicable time.
  - c) The Zoning Administrator shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, petitions, reports and related items of business of the ZBA, issuing notices of public hearings and performing related administrative duties to assure efficient and informed ZBA operations.
- (3) **Tenure.** The officers shall take office at the next meeting after their election. They shall hold their offices until their successors are elected and assume office.

#### **SECTION FIVE – MINUTES**

The minutes shall contain a synopsis of the meeting including a complete restatement of all motions and recording of votes; a complete statement of the conditions or recommendations made on any action; and recording attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be deposited with the City Clerk.

#### **SECTION SIX – OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS**

- (1) All meetings of the ZBA shall be opened to the public and held in a place available to the general public.
- (2) All deliberations and decisions of the ZBA shall be made at a meeting open to the public.
- (3) A person shall be permitted to address a hearing of the ZBA under the rules established in section 3 (6) and to address the ZBA concerning non-hearing matters under the rules established under section 3 (13) to the extent that they are applicable.
- (4) A person shall not be excluded from a meeting of the ZBA except for breach of the peace committed at the meeting.
- (5) All records, files, publications, correspondence, and other materials are available to the public for reading, copying and other purposes as governed by the Freedom of Information Act.

## **SECTION SEVEN – ANNUAL REVIEW**

These rules of procedures shall be reviewed annually, at the July meeting, or if there is no July meeting, no later than the September meeting or the next regularly held meeting after September.

Care shall be taken to insure that these rules shall not conflict with any federal or state law or City of Berkley ordinance; however, if any such conflict exists, then the federal or state law or city ordinance shall override these rules, but only to the extent of such conflict.

## **SECTION EIGHT – AMENDMENTS**

These rules may be amended by the ZBA by a concurring vote pursuant to section 3 (8) during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least three days prior to the meeting at which such amendments are to be considered.