



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**MEETING NOTICE OF THE
ZONING BOARD OF APPEALS**

DATE: Tuesday, December 10, 2019
TIME: 4:00 p.m.
PLACE: Room 301, City Hall (Commission Chambers)

1. CALL TO ORDER:
2. ATTENDANCE:
3. ADDITIONS OR DELETIONS TO AGENDA:
4. CORRESPONDENCE:
5. OLD BUSINESS:
6. NEW BUSINESS:
 - A. Z-11-19, (859 Capital Ave. S.W., Parcel #0063-00-540-0) Petition is for Fadi Gulla and Fast Signs to allow 2 wall signs off of Capital Ave. elevations and 2 additional wall signs on the south and east elevations. Keep the 2 existing pole signs that state “BETTER” face ID in the cabinets. Which is in conflict with Chapter 1299.06(6) of the ordinance.
 - B. Z-12-19, (1525 W. Michigan Ave., Suite 11 & 13, Parcel #1840-00-047-0) Petition from Battle Spring, LLC to add its business name to a pylon sign for the plaza, and keeping its main business sign, which faces the road. Which is in conflict with Chapter 1299.06(6) of the ordinance.
 - C. Z-13-19,(2245 Columbia Ave. Parcel #0066-00-550-0) Petition from Battle Spring, LLC to add its business name to the pylon sign for the plaza, and keeping its main business sign, which faces the road. Which is in conflict with Chapter 1299.06(6) of the ordinance. **PULLED**
 - D. 2020-2021 Meeting Minutes
7. APPROVAL OF MINUTES: August 14, 2019
8. COMMENTS BY THE PUBLIC:
9. COMMENTS BY THE MEMBERS:
10. ADJOURNMENT:

The City of Battle Creek will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered in the meeting upon notice to the City of Battle Creek. Individuals with disabilities requiring auxiliary aids or services should contact the City of Battle Creek by writing or calling the following: Office of the City Clerk, P. O. Box 1717 / 10 North Division - Suite 111, Battle Creek, MI 49016 / Phone: (269) 966-3348 (Voice) / (269) 966-3348 (TDD)

ZONING BOARD OF APPEALS
MEETING MINUTES
August 13, 2019
4:00 P.M.

CALL TO ORDER:

Mr. James Moreno, Chairperson called meeting to order at 4:01 P.M.

ATTENDANCE:

Members Present:

John Stetler	Bill Hanner
Deland Davis	Mark Jones
Carlyle Sims	Michael Delaware
James Moreno	

Staff Present:

Marcel Stoetzel, Deputy City Attorney
Glenn Perian, Senior Planner, Planning Dept.
Michele K. Jayakar, CSR II, Planning Dept.

ADDITIONS OR DELETIONS TO THE AGENDA: None

CORRESPONDANCE: None

OPENING COMMENTS: Mr. Jim Moreno, Chairperson stated the meeting procedure where everyone present may speak either for or against an appeal and that he will ask for a staff report to be presented and then open the public hearing. At the public hearing, persons may come forward and state their name and address for the record as it is being recorded and then speak either for or against an appeal. The public hearing will then be closed and the zoning board will discuss and make a decision. If a petition has been denied the petitioner has the right to appeal to Circuit Court.

OLD BUSINESS: None

NEW BUSINESS:

A. Z-10-19 (RE: 614 Jennings Landing):

Z-10-19, Dr. Mehmet Ismailoglu, of 614 Jennings Landing, Battle Creek, MI, are requesting a dimensional variance to permit construction of a detached accessory building in a water front yard, 8 ft. from a side lot line and approximately 5' from the water front property line on Goguac lake at 614 Jennings Landing.

Chairman Moreno asked for a staff report; Glenn Perian gave a verbal staff report recommending approval of appeal Z-10-19,

Chairman Mr. Moreno asked the applicant to come forward and speak regarding the request for a variance.

Dr. Mehmet Ismailoglu states the property has had a lot of erosion at the lake front. There was also an existing shed that was old and needed to be replaced.

Deland Davis asked the applicant if he would be improving the stairs.

Dr. Ismailoglu, the applicant said the stairs would be replaced.

Chair Mr. Moreno asked if there are any members of the public present to either speak for or against the variance request.

There was no public to comment.

Chair Mr. James Moreno asked if there was any further discussion; seeing none, he would close the Public Hearing and entertain a motion.

MOTION WAS MADE BY MR. CARLYLE SIMS TO APPROVE APPEAL #Z-10-19 FOR A DIMENSIONAL VARIANCE TO PERMIT THE CONSTRUCTION OF A DETACHED ACCESSORY BUILDING IN A WATER FRONT YARD, 8' FROM A SIDE LOT LINE AND APPROXIMATELY 5' FROM THE WATER FRONT PROPERTY LINE ON GOGUAC LAKE AT 614 JENNINGS LANDING IN AN R-1B ZONING DISTRICT, THE MOTION WAS SUPPORTED BY MR. CARLYLE SIMS.

THE BOARD BRIEFLY DISCUSSED THE REQUEST. WHEN DISCUSSION WAS COMPLETE CHAIRMAN JAMES MORENO ASKED FOR A VOTE; SIX APPROVED (DELAND DAVIS, MICHAEL DELAWARE, BILL HANNER, JAMES MORENO, CARLYLE SIMS AND MARK JONES); ONE DENIED, JOHN STETLER, MOTION APPROVED.

Chairman James Moreno asked for a motion approving the JUNE 11, 2019 meeting minutes.

MOTION WAS MADE BY MR. BILL HANNER TO APPROVE THE JUNE 11, 2019 ZONING BOARD OF APPEALS MEETING MINUTES, THE MOTION WAS SUPPORTED BY CARLYLE SIMS. ALL IN FAVOR; NONE OPPOSED; MINUTES APPROVED.

COMMENTS BY THE PUBLIC: None

COMMENTS BY THE MEMBERS / STAFF:

Glenn Perian, Planning asked the applicant, Dr. Ismailoglu to confirm that the size of the project was correct on the blueprints and not the larger size listed on the application.

Dr. Ismailoglu did confirm the blueprints were correct.

ADJOURNMENT: Chairman James Moreno adjourned the meeting at 4:20 P.M.

Submitted by: Michele K. Jayakar, Customer Service Rep. II, Planning Dept.



Battle Creek Zoning Board of Appeals Staff report for the December 10, 2019 Meeting

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: December 2, 2019
Subject: Variance Request
Z-11-19, Fast Signs/Fadi Gulla, is requesting a dimensional variances relative to the number of signs permitted for a State Licensed Medical Marihuana Provisioning Center located on property at 859 SW Capital Avenue, Property ID # 0063-00-540-0.

Summary

A petition from Fast Signs/Fadi Gulla requesting a variance from Chapters 1299.06 (b) to allow seven (7) signs at a State Licensed Medical Marihuana Provisioning Center at 859 SW Capital Ave.

Background/Project Information

The subject property is located on the northeast corner of SW Capital Ave. and E. Columbia Ave., just north of 861 Capital Ave. SW. The property/building has approximately 90' of frontage SW Capital Ave. and approximately 45' of frontage along E. Columbia Ave. The property is occupied with a State Licensed Medical Marihuana Provisioning Center and the Applicant is requesting a variance to allow seven (7) signs on the property. According to the Applicant, "the (2) allowed signs will not properly identify the business to traffic and customers".

Chapter 1299.06 **DEVELOPMENT, OPERATIONAL STANDARDS** state

The following regulations are applicable to all State Licensed medical marihuana facilities.

(b) Signage. Notwithstanding Chapter 1296 Signs, only one sign per street frontage shall be permitted for any state licensed medical marihuana facility. Neon lighted signs are prohibited.

The request for this variance is to allow this Medical Marihuana Provisioning Center to have seven (7) signs located on the property advertising the business. (See application for location of all proposed signage in the attached material) We expect a representative to be at the meeting to answer any questions you may have related to this request.

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on November 21, 2019, not less than the 15 days before the hearing as required by State Law and ordinance.

Thirty-Six (36) notices of the public hearing were also sent by regular mail to property owners and occupants located within 300' of the subject parcel. As of the writing of this report, we have not received any comment related to this request.



Subject property 859 Capital Ave. SW in red

Variance Requested

The Appellant is seeking a dimensional variances to allow more signage that what the Ordinance permits at a Medical Marihuana Provisioning Center located at 859 SW Capital Ave. As most of you know, the City Commission recently adopted new sections of the City of Battle Creek Codified Ordinances allowing Medical Marihuana facilities to locate in City. The new standards were officially adopted by the City Commission on February 6, 2018, and one of the standards adopted limit the amount of signage for Medical Marihuana facilities to only one sign per street frontage. (See Ch. 1299.06 (b) above).

Applicable Zoning Ordinance Provisions

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and

substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.



from across the street

Subject property looking north



Subject looking east



subject looking southeast

Analysis

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a variance to allow more signage than what is currently permitted for a Medical Marihuana Provisioning Center. The Appellant has supplied reasons supporting the request for appeal in the application and supplemental information with the variance requested, they are included at the end of this report.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we **do not** believe that each condition can be justified in an affirmative manner. Sections of the Planning and Zoning Code and the Codified Ordinances of the City of Battle Creek relating to this request have been amended within the last year to provide rules for Medical Marihuana Facilities to locate within the City of Battle Creek with limited signage being part of the Ordinance standards for Medical Marihuana facilities. We have provided a rationale for each condition set forth below and the Planning staff recommends that the Zoning Board of Appeals deny the Dimensional Variances (Z-11-19) based on the following findings contained in this staff report.

- A) Staff finds that practical difficulty does not in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to deny the variance in this case. The appellant has provided no reasonable documentation showing practical difficulty exists as it relates to this request. While we agree that other businesses in the immediate vicinity are permitted additional signage, the ordinance is very clear that Medical Marihuana facilities are permitted only one sign per street frontage. Furthermore, as part of the Medical Marihuana application process in the City of Battle Creek, applicants must sign a Zoning Assurance document saying that they have read the applicable ordinances related to Medical Marihuana facilities, including Ch. 1299 (attached).

- B) Staff does not believe that the practical difficulty is exceptional and peculiar to the subject parcel. We do not believe the appellant has provided any evidence or information describing how this property is exceptional or peculiar for the Zoning Board

to grant a variance in this case other than the fact that other businesses in the area are permitted additional signage.

C) Staff believes that if the variance is granted that the intent of the Ordinance will be altered. We understand that business operators feel the need to advertise their business in order to attract customers. However, the City Commission passed ordinances to allow Medical Marihuana facilities to locate in the City under certain conditions; with limited signage being one of them. We do not believe that the Applicant has made a reasonable case as to why the variance to allow additional signage for this business, contrary to what the current ordinance allows should be granted in this case.

D) Staff would like to remind the Board that any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant. In this particular case, staff does not believe practical difficulty exists or that the appellant has shown that it does in fact exist.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-11-19)
2. Sign permit application PS19-00039
3. Zoning assurance document



City of Battle Creek

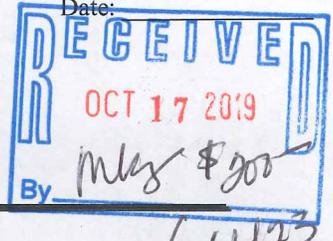
Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov

Appeal No. _____

Date: _____



APPLICATION FOR A VARIANCE ZONING BOARD OF APPEALS

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: FAST SIGNS / FADI GULLA

Address: 3957 BALDWIN RD. Phone: (248) 602-3702

Name of Owner (if different from Appellant): 859 CAPITAL VENTURES, LLC.

Address: 1615 TELEGRAPH RD. BLOOMFIELD HILLS, MI 48302 Phone: (248) 230-2820

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Appeal Use Convert Enclose

Description: AN APPEAL TO HAVE (2) WALL SIGNS OFF OF

CAPITAL RD ELEVATIONS + (2) ADDITIONAL WALL SIGN ON
SOUTH + EAST ELEVATIONS. KEEP THE (2) EXISTING POLE SIGNS
WITH "BETTER" FACE ID IN THE CABINETS.

SUBSECTION B.

Contrary to the requirements of Section(s) CHAPTER 1299.06 of the Planning and Zoning Code, upon the premises known as 859 CAPITAL AVE. SW Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):
TO ALLOW PROPER SIGN ID FOR THIS
PROVISIONING CENTER THAT WAS
COMPARABLY THERE FOR THE PRIOR
BUSINESS (TUFFY)

Property/Tax I.D. # No. 0063 - 00 - 540 - 0 Size of the Lot: Width 88 Depth 179'

Size of Proposed Building: Width 102'
40' Depth N/A Height 20'

The following reasons are presented in support of this appeal (complete each section):
(a.) This property cannot be used in conformance with the ordinance without the requested variance because:

THE (2) ALLOWED SIGNS WILL NOT
PROPERLY IDENTIFY THE BUSINESS
TO TRAFFIC + CUSTOMERS.

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

ADJACENT BUSINESSES HAVE APPROPRIATE
AMOUNT OF SIGN IDENTIFICATION. "BETTER" FACING
(2) STREET THROUGHFARES WOULD LIKE
COMPARABLE + NEEDED SIGN ID, TO CONDUCT
BUSINESS.

- (c.) Granting the variance would not alter the essential character of the area because:

GRANTING OF VARIANCE WOULD NOT
HINDER OR ALTER CHARACTER OF
THE AREA.

- (d.) The problem is not self-created because:

CITY HALL GAVE APPROVAL (TWICE) ON
ALL THE REQUESTED SIGNAGE.
GAVE PERMIT FEE AMOUNT TO PAY.

- (e.) USE VARIANCES ONLY It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

FADI GULLA

(Print Appellant Name)

Fadi Gulla

(Signature of Appellant)

2957 BALDWIN RD. AUBURN HILLS, MI 48326

(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

FAST SIGNS

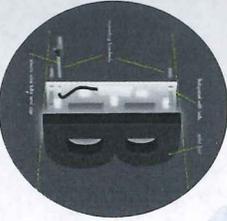
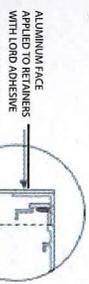
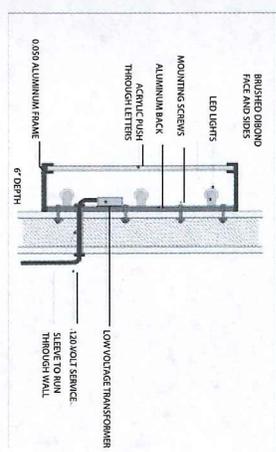
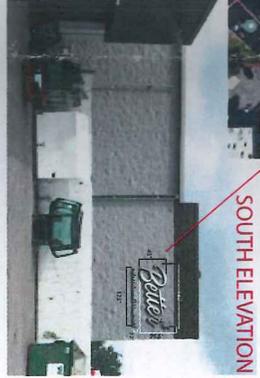
More than fast. More than signs.

248-602-3702

www.fastsigns.com / 2099

2099@fastsigns.com

3957 Baldwin Rd.



- 

INSTALLATION & DIGITAL
- 

GRAPHIC DESIGN
- 

EXHIBITS & DISPLAYS
- 

SIGNS & GRAPHICS
- 

PROMOTIONAL PRODUCTS
- 

CORPORATE IDENTITY
- 

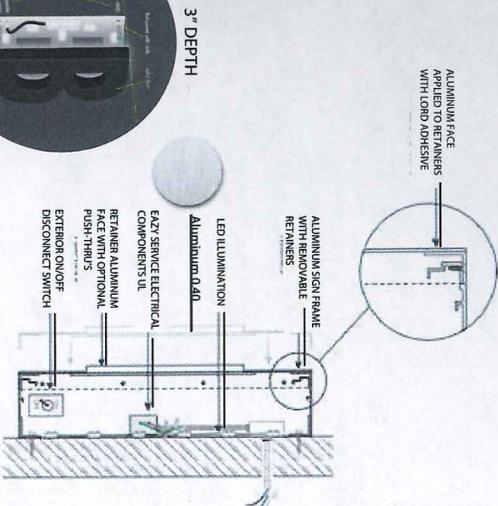
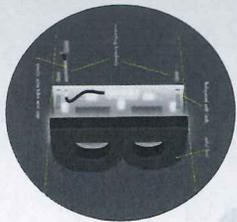
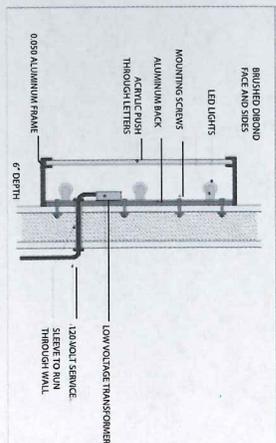
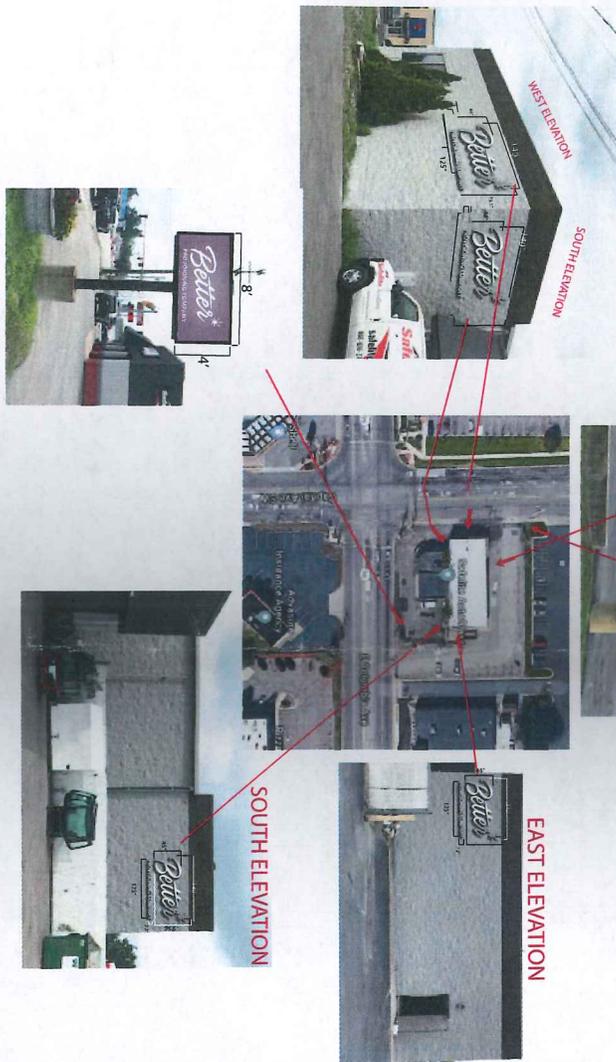
SHIPPING & STORAGE

PROJECT NAME BETTER PROVISIONING COMPANY DATE 8/14/2019 CLIENT APPROVAL _____

PROJECT LOCATION 859 Capital Ave SW, Battle Creek, MI 49015 LANDLORD APPROVAL _____

FASTSIGNS
More than fast. More than signs.

248-602-3702
www.fastsigns.com/2099
2099@fastsigns.com
3957 Baldwin Rd.

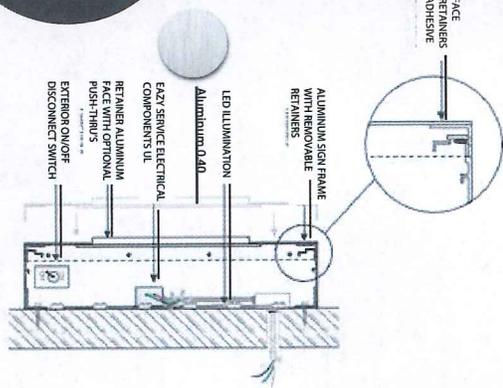
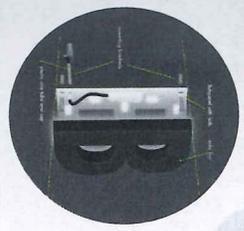
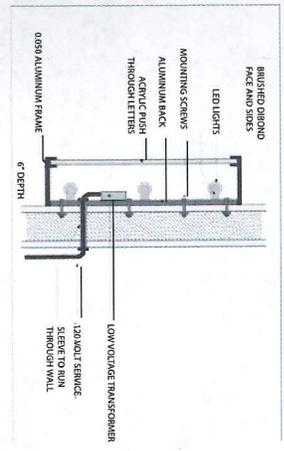
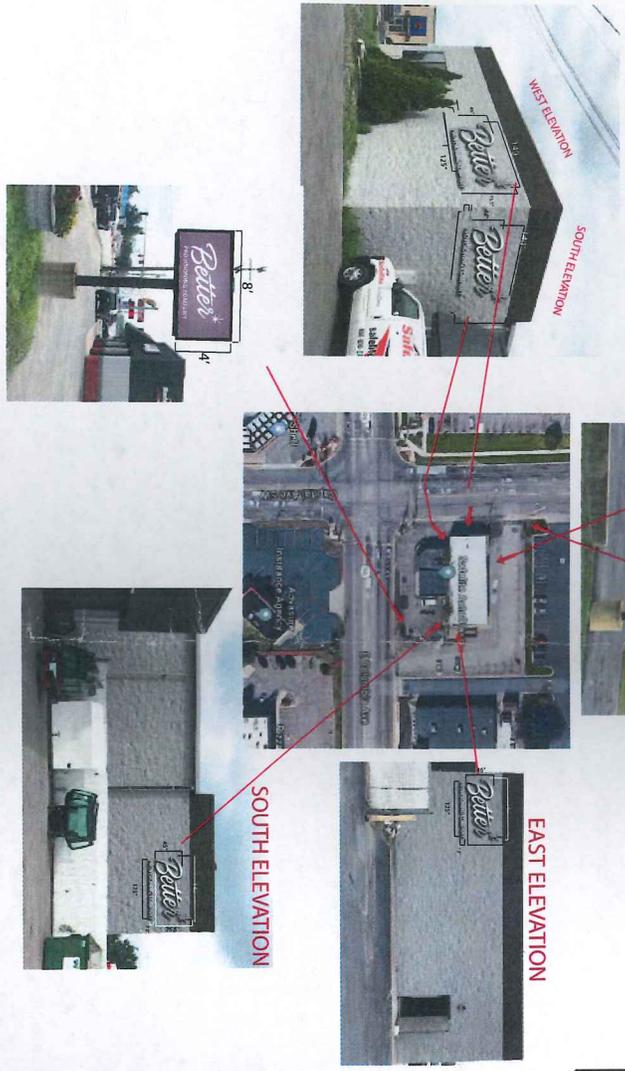


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INSTALLATION
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INTERACTIVE & DIGITAL
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SIGNS & GRAPHICS
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PROMOTIONAL PRODUCTS
- 
CORPORATE IDENTITY
- 
SHIPPING & STORAGE

PROJECT NAME BETTER PROVISIONING COMPANY DATE 8/14/2019 CLIENT APPROVAL _____
 PROJECT LOCATION 859 Capital Ave SW, Battle Creek, MI 49015 LANDLORD APPROVAL _____

FAST SIGNS
More than fast. More than signs.

248-602-3702
www.fastsigns.com/2099
2099@fastsigns.com
3957 Baldwin Rd.



- INSTALLATION
- INTERACTIVE & DIGITAL
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- SIGNS & GRAPHICS
- PROMOTIONAL PRODUCTS
- CORPORATE IDENTITY
- SHIPPING & STORAGE

PROJECT NAME BETTER PROVISIONING COMPANY DATE 8/14/2019 CLIENT APPROVAL _____
 PROJECT LOCATION 859 Capital Ave SW, Battle Creek, MI 49015 LANDLORD APPROVAL _____



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

Medical Marihuana Facility - Zoning Assurance Letter

By initialing each section and signing below, I acknowledge the following to be true:

SG I have reviewed and understand applicable zoning regulations pertaining to the permitted uses, locations, and restrictions for medical marihuana facilities in the city of Battle Creek, and that if the property identified with this application does not meet said regulations, the application will be denied.

SG I understand that approval of a Conditional Medical Marihuana Facility Permit only provides zoning approval regarding the location of the proposed facility as it relates to the type of facility, zoning district, and buffer requirements outlined in the zoning ordinance.

SG I understand that the property is subject to other regulations of the zoning ordinance, and any use, occupancy, and/or development of a property will need to be in compliance with all regulations of the zoning ordinance, including but not limited to:

- Ch. 1276-Ch. 1282 Height, Yard, Building Coverage, Lot Area and Width Regulations
- Ch. 1284 Off Street Parking and Loading Requirements
- Ch. 1285 Landscape Requirements
- Ch. 1294 Site Plan Review
- Ch. 1296 Signs
- Ch. 1299 Medical Marihuana Facilities

SG I understand that if I receive conditional permit approval, I may proceed with site plan review, building permit applications and plans, and that until such time, the City will not provide an in depth review of the proposed facility as it relates to a specific property. I acknowledge that my project may be denied for failure to comply with all zoning regulations or the inability to come into compliance.



Signature of Applicant

6/30/2018

Date



Planning/Zoning

7/25/18

Date

12:15 pm

Time

SIGN PERMIT APPLICATION

CLEAR FORM PRINT FORM

RECEIVED
AUG 19 2014

Leroy Township
8156 4 Mile Road
East Leroy, MI 49051
Ph: 269-979-9421
Fax: 269-979-2775

Area Metropolitan Services Agency

Please make your check payable to and send it to, the appropriate jurisdiction noted.

Please mark box for appropriate jurisdiction.

<input type="checkbox"/> Bedford Township 115 S Uldriks Drive Battle Creek, MI 49017 Ph: 269-965-9096 Fax: 269-965-0908	<input type="checkbox"/> Convs Township 19500 15 Mile Road Marshall, MI 49068 Ph: 269-789-0654 Fax: 269-789-0657	<input type="checkbox"/> Emmett Township 621 Cliff Street Battle Creek, MI 49014 Ph: 269-968-0335 Fax: 269-968-0108	<input type="checkbox"/> Newton Township 7988 G Drive South Ceresco, MI 49033 Ph: 269-979-3212 Fax: 269-979-4470	<input type="checkbox"/> Pennfield Township 20260 Capital Ave NE Battle Creek, MI 49017 Ph: 269-968-4422 Fax: 269-968-2021	<input checked="" type="checkbox"/> City of Battle Creek 10 N Division St, Ste 117 Battle Creek, MI 49014 Ph: 269-966-3382 Fax: 269-966-3654	<input type="checkbox"/> City of Springfield 501 Avenue A Springfield, MI 49015 Ph: 269-441-9273 Fax: 269-965-0114
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Administrative Section: \$250

Cash Receipt # 30789 Inspector Approval _____ Issued Permit # PS19-00039

Check # 6288 Zoning Administrator Approval _____ Date _____

I. JOB LOCATION

NAME OF BUSINESS AND BUSINESS OWNER: Better Provisioning Company HAS AN ELECTRICAL PERMIT BEEN OBTAINED FOR THIS PROJECT? YES NO N/A

STREET ADDRESS & JOB LOCATION (STREET NO. & NAME): 859 Capital Ave SW Battle Creek, MI 49015 ZONING CLASSIFICATION _____

JOB SITE TELEPHONE: 248-602-3702 CELL NUMBER _____ FAX _____

NUMBER OF EXISTING SIGNS: N/A TOTAL SQUARE FOOTAGE OF EXISTING SIGNS: N/A

II. SIGN CONTRACTOR (if applicable)

NAME: I SIGNS + DESIGNS ADDRESS: 11311 E. 8 MILE RD. CITY/STATE: WARREN, MI ZIP: 48089

PHONE NUMBER: (1586) 759-5706 FAX NUMBER: (1586) 759-5724 E-MAIL ADDRESS: marie@isignsmich.com

III. ELECTRICAL CONTRACTOR (if applicable)

NAME: ENERGY ELECTRIC ADDRESS: 5229 WOODVIEW DR. CITY/STATE: BLOOMFIELD HILLS, MI ZIP: 48302

PHONE NUMBER: (248) 866-8828 FAX NUMBER: (248) 538-8756 E-MAIL ADDRESS: WRAIKANY@44400.COM

IV. LOCATION OF SIGN

On Premise Sign
 Off Premise Sign
In Battle Creek, call the Planning Department at 966-3320 before submitting an application for an off premise sign.

V. COST OF SIGNS

Portable/Temporary Sign		Permanent Sign	
Administration Fee	\$25	Administration Fee	\$50 <u>50</u>
Zoning Approval	\$15	Zoning Approval	\$25 <u>25</u>
Inspection Fee	\$25	Inspection Fee (1" \$1,000 of Cost)	\$50 <u>50</u>
Plan Review (if applicable)	\$25	Each Addl \$1,000	\$20 <u>100</u>
		Plan Review (if applicable)	\$25 <u>25</u>
Total Fee Paid:		Total Fee Paid: <u>6,000</u>	

VI. SIGN INFORMATION

QUANTITY	TYPE OF SIGN (FASCIA, ROOF, POLE, ETC)	TYPE OF MATERIAL	LENGTH		WIDTH		NUMBER OF SIDES	TOTAL DISPLAY AREA	HEIGHT ABOVE STREET	
			FT	IN	FT	IN			FT	IN
4	wall sign	Aluminum/Acrylic	4'	4"	11'	6"	5	\$ 4982.50 FT. per sign	20'	
2	SIGN FACES	LEXAN	8'		4'		2	32 SQ. FT.		

APPLICATIONS MUST INCLUDE CONSTRUCTION DRAWINGS AND SITE PLAN

VII. COMMENTS/DESCRIPTION

Only these permitted under this Sign permit. See email from sign applicant. - Eric Feldt 10/1/14

\$ 6,000

DRAWING SPACE PROVIDED ON BACK SIDE

Better Company Battle Creek

mark

Fri 9/20/2019 7:44 AM

To: Eric S. Feldt <esfeldt@battlecreekmi.gov>

 1 attachments (4 MB)

Better Provisioning Company Battle Creek City Drawing.pdf;

Email sent from outside of the City of Battle Creek. Use caution before clicking links/attachments.

Eric,

Please review the revised drawings for the Better Provisioning Signage. We will just proceed with the (2) wall signs that are circled.

We will variance the other (2) wall signs. What is the cost and procedure?

Mark
I Signs & Designs

FAST SIGNS

More than fast. More than signs.

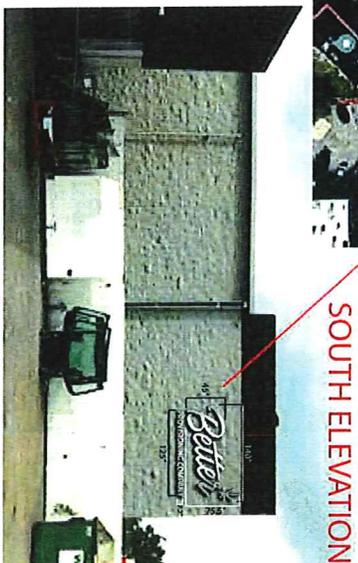
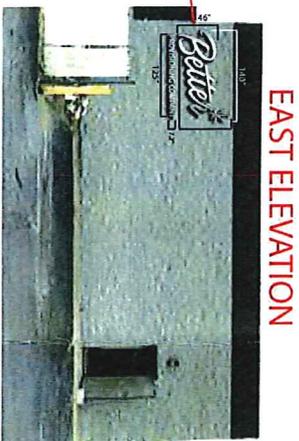
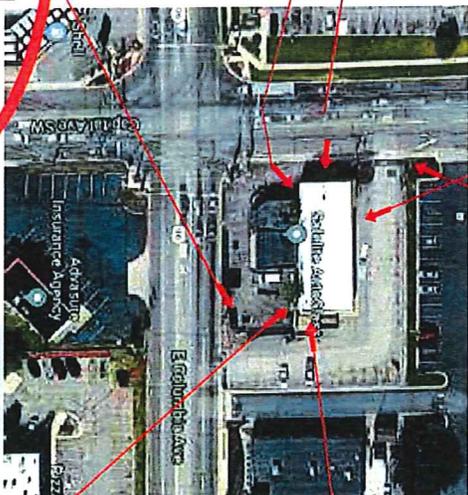
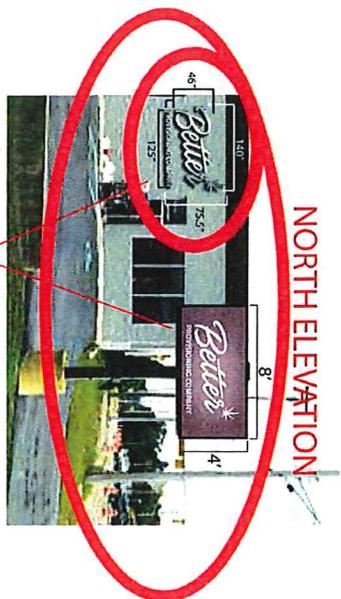
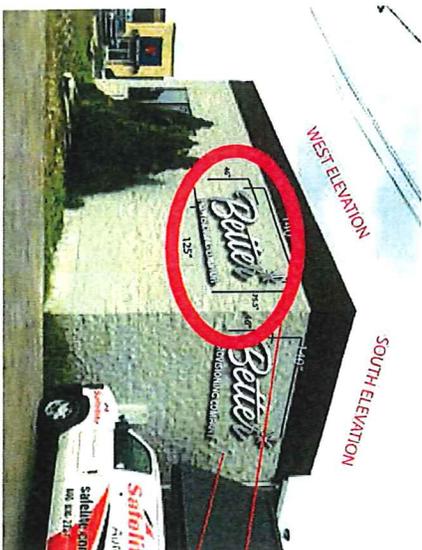
248-602-3702

www.fastsigns.com/2099

2099@fastsigns.com

3957 Baldwin Rd.

Auburn Hills, MI 48326



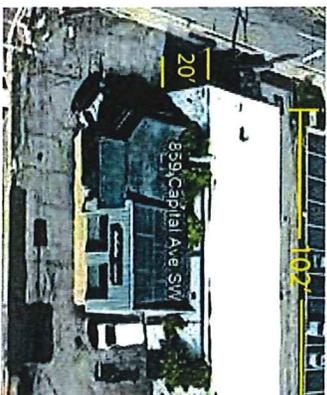
46"

Better

PROVISIONING COMP

125"

140"



INSTALLATION



INTERACTIVE & DIGITAL



GRAPHIC DESIGN



EXHIBITS & DISPLAYS



SIGNS & GRAPHICS



PROMOTIONAL PRODUCTS



CORPORATE IDENTITY



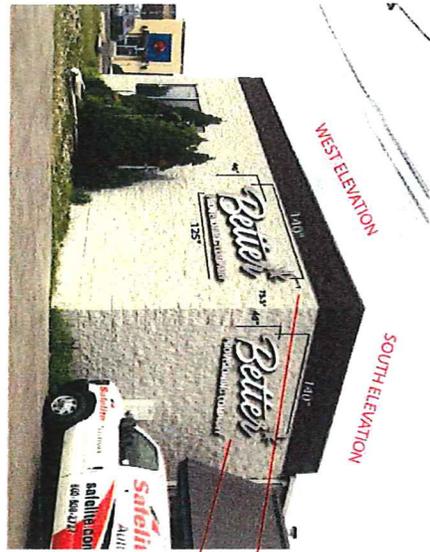
SHIPPING & STORAGE

PROJECT NAME BETTER PROVISION

PROJECT LOCATION 859 Capit

FAST SIGNS.
More than fast. More than signs.

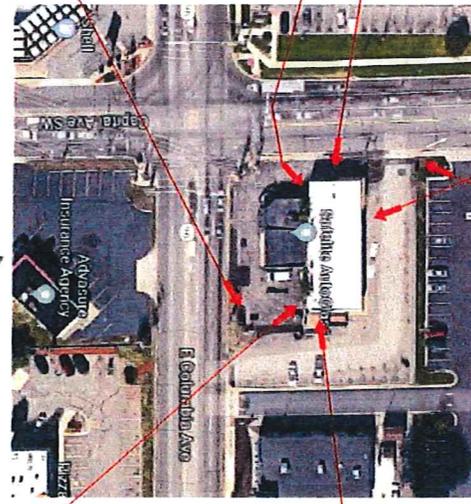
248-602-3702
www.fastsigns.com / 2099
2099@fastsigns.com
3957 Baldwin Rd.
Auburn Hills, MI 48326



WEST ELEVATION
SOUTH ELEVATION



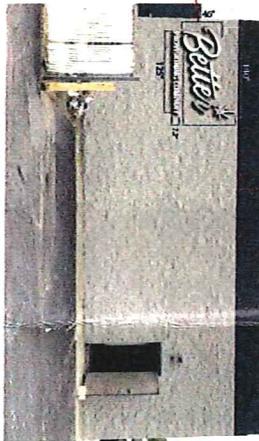
NORTH ELEVATION



8'
4'



SOUTH ELEVATION

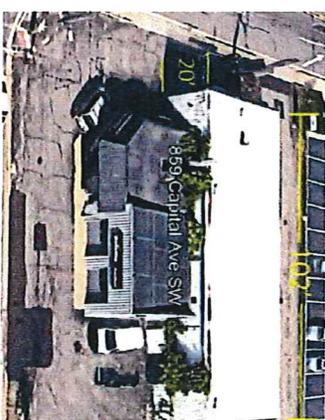


EAST ELEVATION



PROVISIONING COMPANY

125"



PS19-00039
859 Capital SW
MMF



INSTALLATION



INTERACTIVE & DIGITAL



GRAPHIC DESIGN



EXHIBITS & DISPLAYS



SIGNS & GRAPHICS



PROMOTIONAL PRODUCTS



CORPORATE IDENTITY



SHIPPING & STORAGE

PROJECT NAME BETTER PROVISION
PROJECT LOCATION 859 Capital

FAST SIGNS.

More than fast. More than signs.

248-602-3702

www.fastsigns.com/2099

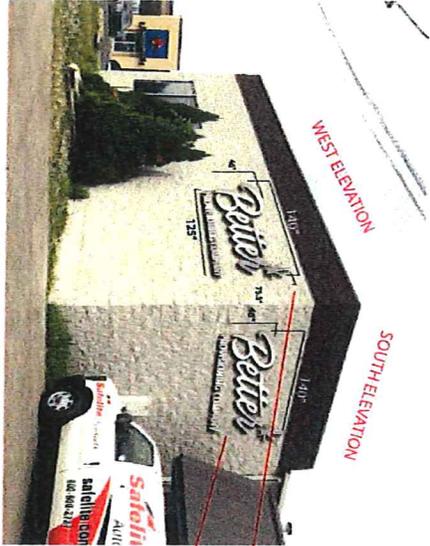
2099@fastsigns.com

3957 Baldwin Rd.

Auburn Hills, MI 48326

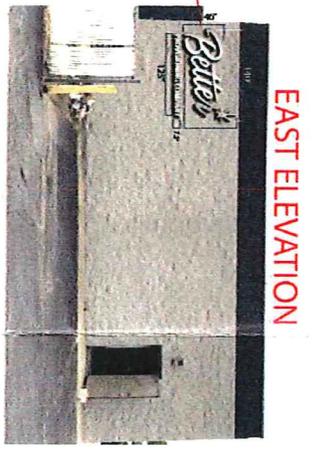
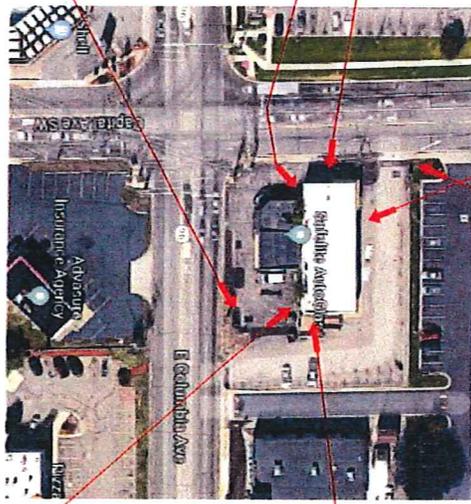


NORTH ELEVATION



WEST ELEVATION

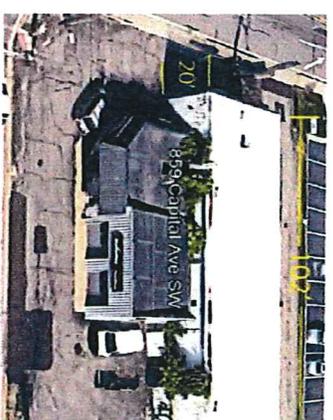
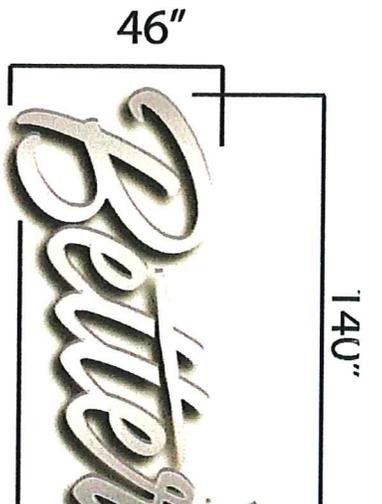
SOUTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION



INSTALLATION



INTERACTIVE & DIGITAL



GRAPHIC DESIGN



EXHIBITS & DISPLAYS



SIGNS & GRAPHICS



PROMOTIONAL PRODUCTS



CORPORATE IDENTITY



SHIPPING & STORAGE

PROJECT NAME BETTER PROVISIONING
PROJECT LOCATION 859 Capital



Battle Creek Zoning Board of Appeals Staff report for the December 10, 2019 Meeting

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Date: December 2, 2019
Subject: Variance Request
Z-12-19, Battle Spring LLC, is requesting a dimensional variances relative to the number of signs permitted for a State Licensed Medical Marihuana Provisioning Center located on property at 1525 W. Michigan Avenue, Property ID # 1840-00-047-0

Summary

A petition from Battle Springs, LLC requesting a variance from Chapters 1299.06 (b) to allow more than one sign at a State Licensed Medical Marihuana Provisioning Center at 1525 W. Michigan Ave.

Background/Project Information

The subject property is located in the Urbandale shopping plaza on the south side of the road, immediately across the street from Lacey Ave. The tenant building unit is in the most North West portion of the plaza with frontage directly on Michigan Ave. The occupied use of the tenant space is for a State Licensed Medical Marihuana Provisioning Center and the Applicant is requesting a variance to allow signage on the building and on the plaza's main free-standing identification sign. The Applicant states in part, "without its name on the pylon sign, the business will be extremely hard to locate from the main road".

Chapter 1299.06 **DEVELOPMENT, OPERATIONAL STANDARDS**, states-

The following regulations are applicable to all State Licensed medical marihuana facilities.

(b) Signage. Notwithstanding Chapter 1296 Signs, only one sign per street frontage shall be permitted for any state licensed medical marihuana facility. Neon lighted signs are prohibited.

The request for this variance is to allow this Medical Marihuana Provisioning Center to have signs located on the building and on the plaza main identification sign advertising the business. (See application for location of all proposed signage in the attached material) We expect a representative to be at the meeting to answer any questions you may have related to this request.

Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on November 21, 2019, not less than the 15 days before the hearing as required by State Law and ordinance.

Thirty-Eight (38) notices of the public hearing were also sent by regular mail to property owners and occupants located within 300’ of the subject parcel. As of the writing of this report, we have not received any comment related to this request.



Subject property at 1525 W. Michigan Ave. at the red dot

Variance Requested

The Appellant is seeking a dimensional variances to allow more signage that what the Ordinance permits at a Medical Marihuana Provisioning Center located at 1525 W. Michigan Ave. As most of you know, the City Commission recently adopted new sections of the City of Battle Creek Codified Ordinances allowing Medical Marihuana facilities to locate in City. The new standards were officially adopted by the City Commission on February 6, 2018, and one of the standards adopted limits the amount of signage for Medical Marihuana facilities to only one sign per street frontage. (See Ch. 1299.06 (b) above).



Applicable Zoning Ordinance Provisions

Chapter 1234.04 states:

b) The Board shall have the authority to grant the following variations:

(1) Nonuse. If there are practical difficulties for nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance in the way of carrying out the strict letter of the zoning ordinance, then the Board may grant a variance so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice is done. The Board may impose conditions as otherwise allowed under the Michigan Zoning Enabling Act, MCL 125-3101 et seq.; and

(c) Variance Standards. In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the applicant has met all of the following conditions as set out for the specific type of variance requested:

(1) Nonuse (dimensional) Variances:

A. When it can be shown that a practical difficulty would, in fact, exist if the strict non-use requirements of this zoning ordinance (e.g., lot area, width, setbacks, building height, etc.) were applied to a specific building project, the Board may grant a variance from these requirements. The practical difficulty from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain a higher financial return.

B. The practical difficulty must be exceptional and peculiar to the subject parcel of land which do not generally exist throughout the City and may not be self-imposed or the result of an earlier action by the applicant. If the parcel of land could be reasonably built upon in conformance with the requirements of this zoning ordinance by simply relocating or redesigning the structure(s), then a variance shall not be granted.

C. A variance shall not be granted when it will alter or conflict with the intent of this Ordinance considering the public benefits intended to be secured by this Zoning Code and the rights of others whose property would be affected by the allowance of the variance.

D. Any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant.

Analysis

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. The Appellant is requesting a variance to allow more signage than what is currently permitted for a Medical Marihuana Provisioning Center. The Appellant has supplied reasons supporting the request for appeal in the application and supplemental information with the variance requested, they are included at the end of this report.

Findings and Recommendation

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and we **do not** believe that each condition can be justified in an affirmative manner. Sections of the Planning and Zoning Code and the Codified Ordinances of the City of Battle Creek relating to this request have been amended within the last year to provide rules for Medical Marihuana Facilities to locate within the City of Battle Creek with limited signage being part of the Ordinance standards for Medical Marihuana facilities. We have provided a rationale for each condition set forth below and the Planning staff recommends that the Zoning Board of Appeals deny the Dimensional Variances (Z-12-19) based on the following findings contained in this staff report. Currently, the business has two signs erected on the building.

- A) Staff finds that practical difficulty does not in fact exist if the strict requirement of the ordinance is applied to this specific building project and that the Board is authorized to deny the variance in this case. The appellant has provided no reasonable documentation showing practical difficulty exists as it relates to this request. While we agree that other businesses in the immediate vicinity and in the plaza are permitted additional signage, the ordinance is very clear that Medical Marihuana facilities are permitted only one sign per street frontage. Furthermore, as part of the Medical Marihuana application process in the City of Battle Creek, applicants must sign a Zoning Assurance document saying that they have read the applicable ordinances related to Medical Marihuana facilities, including Ch. 1299 (attached).
- B) Staff does not believe that the practical difficulty is exceptional and peculiar to the subject parcel. We do not believe the appellant has provided any evidence or information describing how this property is exceptional or peculiar for the Zoning Board to grant a variance in this case other than the fact that other businesses in the area are permitted additional signage.
- C) Staff believes that if the variance is granted that the intent of the Ordinance will be altered. We understand that business operators feel the need to advertise their business in order to attract customers. However, the City Commission passed ordinances to allow Medical Marihuana facilities to locate in the City under certain conditions; with limited signage being one of them. We do not believe that the Applicant has made a reasonable case as to why the variance to allow additional signage for this business, contrary to what the current ordinance allows should be granted in this case.
- D) Staff would like to remind the Board that any variance granted shall be the minimum necessary to provide relief for the practical difficulty of the applicant. In this particular case, staff does not believe practical difficulty exists or that the appellant has shown that it does in fact exist.

Attachments

The following information is attached and made part of this Staff Report.

1. ZBA Petition Form (Petition #Z-12-19)
2. Zoning assurance document



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

Medical Marihuana Facility - Zoning Assurance Letter

By initialing each section and signing below, I acknowledge the following to be true:

VK I have reviewed and understand applicable zoning regulations pertaining to the permitted uses, locations, and restrictions for medical marihuana facilities in the city of Battle Creek, and that if the property identified with this application does not meet said regulations, the application will be denied.

VK I understand that approval of a Conditional Medical Marihuana Facility Permit only provides zoning approval regarding the location of the proposed facility as it relates to the type of facility, zoning district, and buffer requirements outlined in the zoning ordinance.

VK I understand that the property is subject to other regulations of the zoning ordinance, and any use, occupancy, and/or development of a property will need to be in compliance with all regulations of the zoning ordinance, including but not limited to:

- Ch. 1276-Ch. 1282 Height, Yard, Building Coverage, Lot Area and Width Regulations
- Ch. 1284 Off Street Parking and Loading Requirements
- Ch. 1285 Landscape Requirements
- Ch. 1294 Site Plan Review
- Ch. 1296 Signs
- Ch. 1299 Medical Marihuana Facilities

VK I understand that if I receive conditional permit approval, I may proceed with site plan review, building permit applications and plans, and that until such time, the City will not provide an in depth review of the proposed facility as it relates to a specific property. I acknowledge that my project may be denied for failure to comply with all zoning regulations or the inability to come into compliance.

Victor Kattoula
Signature of Applicant

August 30, 2018
Date

[Signature]
Planning/Zoning

8/31/18
Date

4:10 pm
Time

10/21 Mailing Creek
2-12-19

Appeal No. _____
Date: _____



City of Battle Creek

Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • www.battlecreekmi.gov

RECEIVED
OCT 18 2019
By: [Signature] pd \$200
✓103

APPLICATION FOR A VARIANCE **ZONING BOARD OF APPEALS**

An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Battle Spring, LLC

Address: 1525 W. Michigan Avenue Suite 11 & 13 Phone: (248) 939-2727

Name of Owner (if different from Appellant): Victor Kattoula

Address: 255 S Old Woodward Ave Suite 320, Birmingham, MI Phone: (586) 436-4976

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:
(Choose One) Extend Erect Appeal **Use** Convert Enclose

Description: Battle Spring would like to add its business name to a pylon sign for the plaza, but keep its main business sign, which also faces the main road.

Contrary to the requirements of Section(s) Ch. 1299.06 (b) of the Planning and Zoning Code, upon the premises known as 1525 W. Michigan Avenue Suite 11 & 13 Battle Creek, MI, in accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

Grant Battle Spring a variance to allow the business to add its name to the pylon sign.

Property/Tax I.D. # No. _____ - _____ - _____ - _____ Size of the Lot: Width _____ Depth _____

Size of Proposed Building: Width _____ Depth _____ Height _____

The following reasons are presented in support of this appeal (complete each section):

- (a.) This property cannot be used in conformance with the ordinance without the requested variance because:

The ordinance allows a medical marijuana facility to have only 1 sign per street frontage, however, without its name on the pylon sign, the business will be extremely hard to locate from the main road. The business risks losing customers because the lack of its name on the sign will imply the business is not located there.

- (b.) This problem is due to a unique situation not shared in common with nearby property owners because:

Other businesses in the plaza are allowed to have their names listed on the pylon, as well as a sign on their buildings, which faces the main frontage. Only Battle Spring is disallowed more than 1 sign.

- (c.) Granting the variance would not alter the essential character of the area because:

It is common practice to have a business located in a plaza to have its name on the accompanying pylon sign. If Battle Spring is unable to include its name, then patients will be unable to locate the building or will assume the location has been closed.

- (d.) The problem is not self-created because:

The pylon sign informing those who pass by the plaza of the possible retail locations within was already erected when Battle Spring moved into its business location.

- (e.) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:
Without Battle Spring's use of the pylon sign, Battle Spring will be nearly impossible to locate from the main road, which will significantly reduce profits or run Battle Spring out of business.

*I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. **In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.***

Julia Colosimo, Agent for Battle Spring LLC

(Print Appellant Name)

Julia F. Colosimo

(Signature of Appellant)

255 S Old Woodward Ave Suite 320, Birmingham, MI 48009

(Address of Appellant)

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.

BATTLE CREEK
PROVISIONING

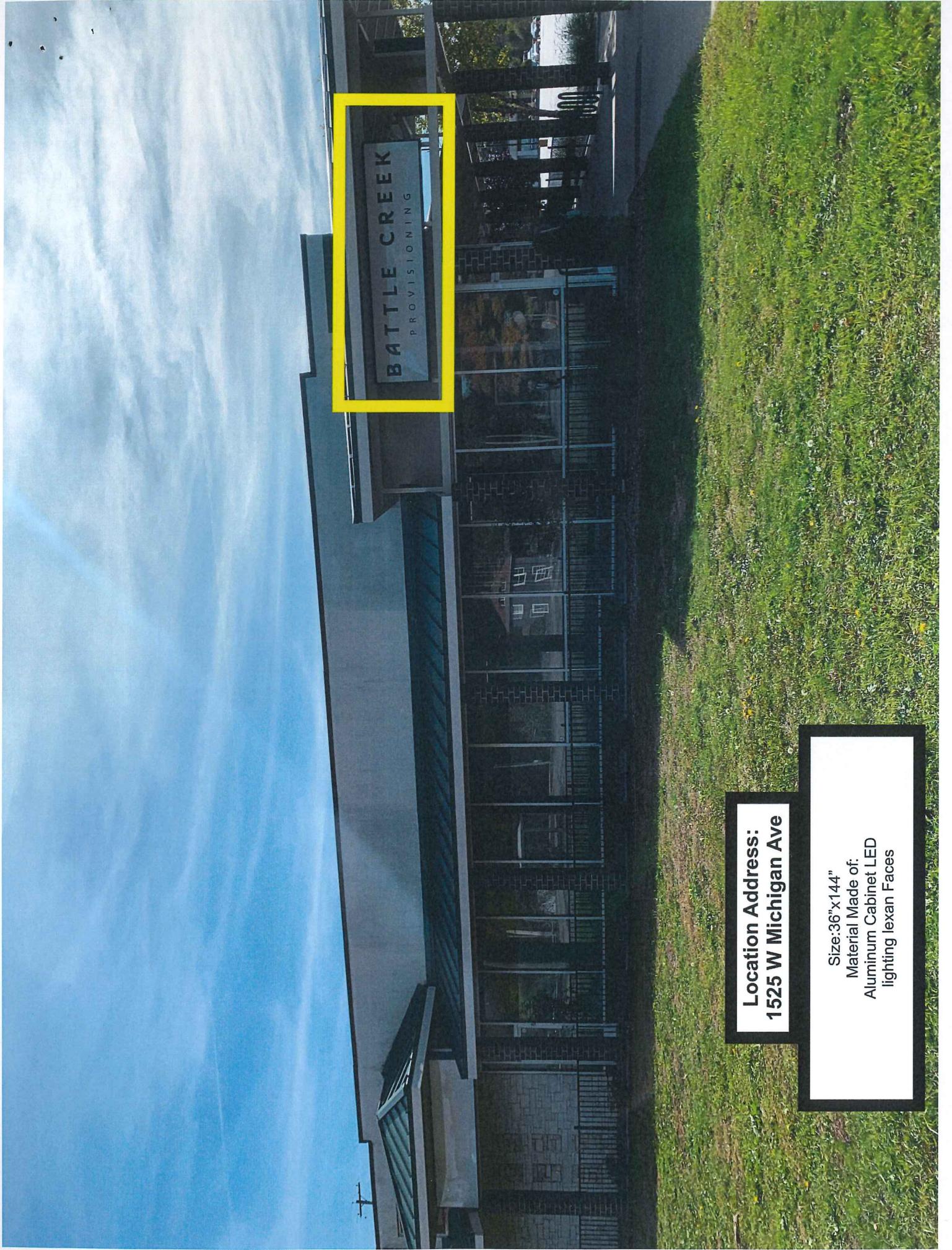
NO
PARKING
ANY
TIME

NO
PARKING
ANY
TIME

NO
PARKING
ANY
TIME

**Location Address:
1525 W Michigan Ave**

**Size: 36"x144"
Material Made of:
Aluminum Cabinet LED
lighting lexan Faces**



**Location Address:
1525 W Michigan Ave**

**Size: 36" x 144"
Material Made of:
Aluminum Cabinet LED
lighting lexan Faces**

CITY OF
BATTLE CREEK
THANK YOU

CITY OF BATTLE CREEK

Planning Department Receipts

REG 11-07-2019 14:05
000097

Revenue Report - to accompany money to Treasurer's Office

1 PERMIT-FENCE \$200.00
TL \$200.00
CHECK \$200.00

11/7/2019

HAVE A NICE
DAY

Michele K. Jayakar

Description: 1525 W. Michigan Ave.

TRANSACTIONS:

Payment Code: ZONING REQ-ZBA-Planning ZBA Fee
Project: 1525 W. Michigan Ave.
Amount: \$200.00
Description: ZONING REQ-ZBA-Planning ZBA Fee
Cash/Check: 103

Payment Code:
Project:
Amount:
Description:
Cash/Check:

IF THE PAYMENT CODE YOU NEED FOR A TRANSACTION IS NOT IN THE DROP DOWN BOX, PLEASE ENTER THOSE
TRANSACTIONS BELOW INCLUDING THE G/L ACT. NUMBER:

Payment Code:
G/L Act. Number: 101.12.8020.801.350
Project:
Amount:
Description:
Cash/Check:

Payment Code: UNALLOCATED
G/L Act. Number:
Project:
Amount:
Description:
Cash/Check:

Total Transactions:

Check Total: \$200.00
Cash Total: \$0.00

\$200.00 **Out of Balance**



CITY OF BATTLE CREEK
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

Zoning Board of Appeals

2020 Meeting Dates & Deadline Calendar

(Meetings are held on the 2nd Tuesday of each month, 4:00 pm at
10 N. Division, Room 301, Commission Chambers, City Hall)

<u>Meeting Date</u>	<u>Deadline for Applications</u>
January 14, 2020	December 20, 2019
February 11, 2020	January 17, 2020
March 10, 2020	February 14, 2020
April 14, 2020	March 20, 2020
May 12, 2020	April 17, 2020
June 9, 2020	May 15, 2020
July 14, 2020	June 19, 2020
August 11, 2020	July 17, 2020
September 15, 2020	August 14, 2020
October 13, 2020	September 18, 2020
November 10, 2020	October 16, 2020
December 15, 2020	November 13, 2020