

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A MEETING HELD DECEMBER 15, 2022

Agenda

PUBLIC HEARING: SPECIAL USE, KABAS

Kalamazoo Academy for Behavioral and Academic Success was requesting special exception use approval to establish a private school to host up to 24 children within the existing building located at 2345 N. 10 Street.

PUBLIC HEARING: CODE AMENDMENT – ARTICLE 69 BOARD OF APPEALS

Consideration of an amendment to the Township Zoning Ordinance for recommendation to the Township Board, to provide clarification on the duration of a variance and the Zoning Board of Appeal’s duties and operational procedures.

PUBLIC HEARING: CODE AMENDMENT – SECTION 2.20 DEFINITIONS

Consideration of amendments to definitions within the Township Zoning Ordinance for recommendation to the Township Board.

A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, December 15, 2022, commencing at approximately 6:03 p.m. at the Oshtemo Township Hall, 7275 West Main Street.

MEMBERS PRESENT: Bruce VanderWeele, Chair
Deb Everett
Micki Maxwell, Vice Chair
Chetan Vyas

MEMBERS ABSENT: Kizzy Bradford
Alistair Smith
Anna Versalle

Also present were Iris Lubbert, Planning Director, Colten Hutson, Zoning Administrator, James Porter, Township Attorney, Martha Coash, Recording Secretary, and five guests.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:03 p.m. and those in attendance joined in reciting the Pledge of Allegiance.

Approval of Agenda

The Chair asked if there were any changes to the agenda. Hearing none, he let the agenda stand as published.

Public Comment on Non-Agenda Items

Hearing no comments, the Chairperson moved to the next agenda item.

Approval of the Minutes of the Meeting of December 8, 2022

Chairperson VanderWeele asked if there were additions, deletions, or corrections to the Minutes of the Meeting of December 8, 2022.

Hearing none, Chairperson VanderWeele asked for a motion.

Ms. Maxwell **made a motion** to approve the Minutes of the Meeting of December 8, 2022, as presented. Ms. Everett **seconded the motion**. The **motion was approved** unanimously.

The Chair moved to the next item on the agenda and asked Mr. Hutson for his presentation.

PUBLIC HEARING: SPECIAL USE, KABAS KALAMAZOO ACADEMY FOR BEHAVIORAL AND ACADEMIC SUCCESS WAS REQUESTING SPECIAL EXCEPTION USE APPROVAL TO ESTABLISH A PRIVATE SCHOOL TO HOST UP TO 24 CHILDREN WITHIN THE EXISTING BUILDING LOCATED AT 2345 N. 10th STREET.

Mr. Hutson explained Kalamazoo Academy for Behavioral and Academic Success, also commonly known as KABAS, was requesting special exception use approval to establish a private school within the existing building located at 2345 N 10th Street.

2345 N 10th Street is a standalone parcel located along the west side of N 10th Street, north of W Main Street, and west of US-131. The private school is proposed to be located within the northern most portion of the principal building on-site.

The Kalamazoo Academy for Behavioral and Academic Success (KABAS) is an organization specializing in assisting children with autism and other developmental delays, or who need more support than they are currently receiving. The special use is proposed to utilize roughly 2,464 square feet of space on the upper floor of the northern most portion of the principal building on-site. Up to 24 children between the ages of 5 and 12 are being proposed as well as up to 20 staff members. The applicant indicated no buses will circulate throughout the site as all children will be dropped off and picked-

up through private transportation. The private school's hours are proposed to be Monday through Friday from 9am-4pm.

He noted the subject property is presently zoned R-2: Residence District. Uses permitted in the R-2: Residence District are outlined in Article 7 of the Township's Zoning Ordinance. Public and private schools are identified as a special exception use within said code section. When reviewing a special exception use, the general special use review criteria outlined in Section 65.30 shall be followed.

Mr. Hutson provided an analysis of the proposal against Section 65.30 of the Township's Zoning Ordinance indicating it met all special use criteria and recommended approval of the proposed special exception use for the private school at 2345 N 10th Street with the following conditions.

- 1) The private school will serve up to 24 children between the ages of 5 and 12.
- 2) Hours of operation will be 9am-4pm Monday through Friday, with drop-offs occurring between 8am-9am and pick-ups occurring between 4pm-4:30pm.
- 3) The total space occupied by the private school use for KABAS shall not exceed 2,464 square feet.
- 4) Documentation from the State of Michigan (Department of Licensing and Regulatory Affairs) approving the proposed private school and sealed building drawings for said use shall be provided to the Township.

Chairperson VanderWeele thanked Mr. Hutson for his report and asked if Commissioners had questions.

Mr. Vyas wanted to be sure the necessary infrastructure including fencing would keep children away from 10th Street.

Mr. Hutson indicated the plan follows building codes. The existing playground is secure, enclosed with a four foot tall fence.

Ms. Everett asked whether the State would have to approve the school.

Mr. Hutson said the state would need to approve the school and that staff had conditioned their recommendation on that approval.

Hearing no further questions, the Chair asked if the applicant wished to speak.

Mr. Richard Mulatt, KABAS, 8971 W. KL Avenue, said the opportunity to seek approval for this school was appreciated. Staff have extensive experience teaching children with autism and noted there are only a handful of schools for autistic children in Michigan and they deal with milder problems. A lot of the children that will attend this school have limited language capability and have trouble complying. No school in Michigan and few in the nation deal with children with these problems. Kalamazoo has outstanding behavioral clinics but they are not appropriate for children during school hours. This school will be a very important for children and their families.

Chairperson VanderWeele noted he has attended Centerpoint Church and has had business with them in the past but did not have a conflict of interest on this issue. He moved to a public hearing and noted no one wished to address the board.

Ms. Lubbert read a letter into the record that was received from Mr. James Palmitessa, 2504 Ramblewood Drive, asking the Commission to reject the request from Centerpoint. The letter is attached to these minutes.

Hearing nothing further, the Chair closed the public hearing.

As Commissioners indicated they were satisfied with the request, the Chair asked for a motion.

Mr. Vyas **made a motion** to approve the special exception use approval to establish a private school to host up to 24 children within the existing building located at 2345 N. 10th street as presented based on the staff recommendation to include four staff conditions:

- 1) The private school will serve up to 24 children between the ages of 5 and 12.
- 2) Hours of operation will be 9am-4pm Monday through Friday, with drop-offs occurring between 8am-9am and pick-ups occurring between 4pm-4:30pm.
- 3) The total space occupied by the private school use for KABAS shall not exceed 2,464 square feet.
- 4) Documentation from the State of Michigan (Department of Licensing and Regulatory Affairs) approving the proposed private school and sealed building drawings for said use shall be provided to the Township.

Ms. Everett **seconded the motion**. The **motion was approved** unanimously.

**PUBLIC HEARING: CODE AMENDMENT – ARTICLE 69 BOARD OF APPEALS
CONSIDERATION OF AN AMENDMENT TO THE TOWNSHIP ZONING ORDINANCE
FOR RECOMMENDATION TO THE TOWNSHIP BOARD, TO PROVIDE
CLARIFICATION ON THE DURATION OF A VARIANCE AND THE ZONING BOARD
OF APPEAL’S DUTIES AND OPERATIONAL PROCEDURES.**

Ms. Lubbert noted that earlier in 2022 a request for a sign variance was submitted to the Township. In the process of researching substantial justice cases, staff found that a sign variance was previously approved for the site in question over a decade ago. The Township Ordinance currently does not state when and if an approved variance expires. For this reason, the request was approved as it fell within the parameters of the previous variance approval. To ensure this situation does not happen again and to provide clarity, staff drafted an amendment to Article 69 that outlines the duration of a variance. As this section was being updated, staff found it prudent to

review the entirety of Article 69. Additional amendments that provide clarification on the Zoning Board of Appeal's duties and operational procedures were also proposed.

She walked through the proposed amendment, especially focusing on section C. Duration of Nonuse Variance Approval, including the four newly listed conditions which she indicated were fairly standard, and the allowance of a one-time extension possibility under certain conditions.

As there were no questions from Commissioners, Chairperson VanderWeele opened a public hearing. He closed the hearing after determining there were no public comments on the proposed amendment and requested a motion.

Ms. Maxwell **made a motion** to send the Code Amendment: Article 69 Board of Appeals as presented with a recommendation for approval to the Township Board. Mr. Vyas **seconded the motion**. The **motion was approved** unanimously.

The Chair moved to the next item on the agenda.

PUBLIC HEARING: CODE AMENDMENT – SECTION 2.20 DEFINITIONS **CONSIDERATION OF AMENDMENTS TO DEFINITIONS WITHIN THE TOWNSHIP** **ZONING ORDINANCE FOR RECOMMENDATION TO THE TOWNSHIP BOARD.**

Ms. Lubbert informed Commissioners the State Legislature recently acted to amend certain childcare laws to allow for increased capacity within family child care homes and group childcare homes. Public Act 106 of 2022 allows for one (1) additional child for a family child care home and two (2) additional children for a group child care home if they meet certain criteria. A family child care home, or group care home, is automatically eligible for increased capacity after satisfying all the following criteria:

- a) holds a current license;
- b) has been licensed to operate for at least twenty-nine (29) consecutive months;
- c) has received one or more unrelated minor children for care and supervision
- d) during the license (under subdivision b);
- e) has received a renewed regular license after at least twenty-nine (29) months
- f) of licensed operation (under subdivision b).

Due to these changes, the Township Attorney recommended the Commission amend applicable definitions to ensure Township compliance with the State Legislature. As part of these proposed amendments, in order to comply with State legislature, Qualified Residential Treatment Programs (QRTP) shall be added as a permitted use in all residential zones. In addition, staff identified a number of definitions that should be added to provide clarity to other sections of the ordinance and a number of existing problematic definitions that should be revised. Ms. Lubbert reviewed the proposed amendments to Section 2.20 of the Ordinance to comply with state law regarding child care and that address the additionally identified concerns.

Hearing no questions from Commissioners, Chairperson VanderWeele opened a public hearing. He closed the hearing after determining there were no public comments on the proposed amendment and requested a motion.

Ms. Everett **made a motion** to send the Code Amendment – Section 2.20 Definitions as presented with a recommendation for approval to the Township Board. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously.

PUBLIC COMMENT

There were no public comments.

OTHER UPDATES AND BUSINESS

Ms. Lubbert announced this was the last meeting for Commissioners VanderWeele, Vyas and Bradford, thanked them for their service and presented certificates of appreciation. She noted Township Board member Zak Ford would replace Ms. Bradford on the Planning Commission.

Mr. Vyas expressed his pleasure and honor to serve as a part of this group and hoped the Commission would move forward soon to resolution of the future for Maple Hill South.

Chairperson VanderWeele appreciated the opportunity to serve the Township over the last six years and felt the group had accomplished a fair amount over that time.

ADJOURNMENT

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:54 p.m.

Minutes prepared:
December 16, 2022

Minutes approved:
January 12, 2023

James Palmitessa
2504 Ramblewood Drive
Kalamazoo, MI 49009

December 10, 2022

Oshtemo Charter Township
Planning Commission
Attn: Ms. Iris Lubbert, Planning Director

Dear Members of the Planning Commission,

I am a tax-paying resident of Oshtemo Township and live within 300 feet of the proposed school described in your recent notice related to the Zoning Public Hearing on December 15, 2022. . The address of the” Kalamazoo Academy for Behavior and Academic Success” is exactly the same address as Centerpoint Church which has come to the Planning Commission during the past three years with a number of requests for variance. It would have been helpful if this was disclosed in the notice to the neighborhood. If this non-profit organization isn’t just a way to skirt the zoning laws, one wonders if there has been some market analysis for a need of such a school or does the Planning just take a word at face value of a proposing party. Also, what is the “Kalamazoo Academy for Behavior and Academic Success”? How many staff members does it have? Will its school be separate than the Centerpoint programs? How is this organization, which a Google search indicates was just founded last year, to train teachers at the school? Another quick Google search shows that there was a petition a few years by the group called “Concerned Behavior Analysts” against the Registered Agent of the organization. All this raises important questions and issues which the Church itself should be concerned about before inviting this organization into its complex and in charge of teaching children. However, the key issue for the Planning Commission should be that the Centerpoint Church complex – and whoever they invite into their building – is already too large and has a negative impact on the character and traffic in this residential neighborhood. The members of the Planning Commission and elected officials of the township should reject this request for a special exemption, resist the aggressive lobbying of Centerpoint, and maintain the residential character of this neighborhood for people who live and pay taxes here.

Respectfully,

