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# ZONING BOARD OF APPEALS AGENDA

March 16, 2023  
Regular Meeting - 7:00 PM

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- 1) **CALL TO ORDER**
- 2) **ROLL CALL**
- 3) **APPROVAL OF AGENDA** - Items can be added or deleted from the Agenda by City Council action.
- 4) **APPROVAL OF MINUTES**
- 5) **PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS** – Persons addressing the board are required to give their name and address for the record when called upon by the Chair. Members of the public shall be limited to speaking for a maximum of five (5) minutes on any agenda item.
- 6) **PUBLIC HEARINGS & SUBSEQUENT BOARD ACTION**
  - A. ZBA Case #23-03- 115 South Eagle Street Use Variance
  - B. ZBA Case #23-04- 302 North Madison Street Use Variance
- 7) **OLD BUSINESS**
- 8) **REPORTS AND RECOMMENDATIONS/NEW BUSINESS**
- 9) **PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS**

Persons addressing the board are required to give their name and address for the record when called upon by the Chair. Members of the public shall be limited to speaking for a maximum of five (5) minutes on any agenda item.
- 10) **BOARD REPORTS**
- 11) **ADJOURNMENT**

**Zoning Board of Appeals  
Variance Application**

323 W. Michigan Ave., Marshall, MI 49068

Fee: \$300.00



Petitioner Name: Schuler's Enterprises

Address: 115 South Eagle Street

Phone: 269-781-0600

Email: [sdamron@schulersrestaurant.com](mailto:sdamron@schulersrestaurant.com)

Property Address for Variance: 115 South Eagle Street

Are you the owner? Yes ☒ No ☐ (Owner is required to sign this form)

Current Zone B-3

Current Use Restaurant

Zoning of abutting parcels  
PSP east & west, B-3 north, R-3 south

Dimensional Variance ☒ Use Variance ☐

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Required attachments

- ☒ Plot Plan Attached (*According to ordinance, you must include a plot plan of the site, drawn to scale, with a north arrow, all lot lines shown, street right-of-ways, any easements, any structures, setback dimensions, any parking areas, driveways, sidewalks, and any other site improvements*)
- ☒ Reasons for variance (*A letter must be submitted with this application addressing how you feel you meet the criteria for a Dimension or Use variance-see back*)

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\*The ZBA meets on the 3<sup>rd</sup> Thursday of each month. Application must be received on or before the deadline date for the next scheduled meeting.

*I understand that I am expected to attend the ZBA public hearing pertaining to this matter. If I am unable to attend, I will send a representative in my place. I understand that the application fee is non-refundable and does not apply to any future permits. Furthermore, if the variance is granted, I agree to obtain the appropriate permits before commencing work.*

Signature of Petitioner: *Susan Damron*

Date: *3/11/23*

Signature of Owner: *Susan Damron*

Date: *3/11/23*

Questions concerning these requirements should be directed to the Planning and Zoning Office, Eric Zuzga [ezuzga@cityofmarshall.com](mailto:ezuzga@cityofmarshall.com) or (269) 558-0354.

## **DIMENSIONAL VARIANCE**

***Please attach a letter addressing how your situation meets these criteria:***

*The granting of a variance from particular area, setback, frontage, height, bulk, density or other dimensional (non-use) standards of this Ordinance shall require a finding of practical difficulties based upon the following criteria:*

1. Strict Compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant, or unreasonably prevent the owner from using the property for a permitted purpose.
2. The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners.
3. The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district.
4. The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.
5. The variance will not cause significant adverse impacts to adjacent properties, the neighborhood or the City and will not create a public nuisance or materially impair public health, safety, comfort, morals or welfare.
6. The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return.

## **USE VARIANCE**

***Please attach a letter addressing how your situation meets these criteria:***

*The granting of a variance from the use provisions of this Ordinance shall require a finding of unnecessary hardship, based upon the following criteria:*

1. The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property. Under this standard, the ZBA must find that the property (land, structures and other improvements) is not suitable for uses permitted in the zoning district.
2. The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. Circumstances common to the larger neighborhood may reflect the unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative action.
3. The use variance, if granted, would not alter the essential character of the neighborhood. This standard requires consideration of whether the intent and purpose of the Ordinance and zoning district will be preserved, and the essential character of the area will be maintained.
4. The hardship is not the result of the applicant's actions. Under this standard, the ZBA must determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self-created hardship. Financial hardships that would prevent reasonable use of the property shall be considered, but shall not be the only determining factor in granting a use variance.

Questions concerning these requirements should be directed to Eric Zuzga, Director of Community Services at: (269) 558-0354.



2240 Lansing Ave., Jackson, MI 49202  
2900 Alpha Access St. Lansing, MI 48910  
663 S Mansfield St., Ypsilanti, MI 48197  
1965 Pine Creek Rd., Manistee, MI 49660  
517-784-3720/www.johnsonsign.com

JOB NAME:  
THE ROYAL HOTEL &  
APARTMENTS

LOCATION:  
115 S EAGLE ST.  
MARSHALL MI 49068

ACCOUNT REP: JS

DESIGNER: LE

REVISION:

NOTES:  
FURNISH & INSTALL  
(1) NON-LIT HANGING  
EXTERIOR SIGN

FILE NAME:  
221735-01-DESIGN

SCALE:  
1-1/2"=1'

This design and all material  
appearing hereon constitute  
the original unpublished  
work of Johnson Sign Co.  
may not be duplicated,  
used or disclosed without  
written consent.



THIS SIGN IS INTENDED TO BE MANUFACTURED  
IN ACCORDANCE WITH ARTICLE 600 OF THE  
NATIONAL ELECTRICAL CODE AND/OR OTHER  
APPLICABLE LOCAL CODES. THIS INCLUDES  
PROPER GROUNDING & BONDING OF THE SIGN.  
SIGN WILL BEAR UL LABEL(S).

JOHNSON SIGN CO.  
DOES NOT PROVIDE  
PRIMARY ELECTRIC  
TO SIGN LOCATION  
RESPONSIBILITY OF OTHERS

CUSTOMER APPROVAL: \_\_\_\_\_

DATE: \_\_\_\_\_



INTERNATIONAL SIGN ASSOCIATION



**TO:** ZBA Members  
**FROM:** Eric Zuzga, Director of Community Services  
**DATE:** March 16, 2023

**Property Zoning:** B-3  
**Owner:** Schuler Enterprises  
**Address:** 115 South Eagle Street  
**Parcel:** #53-000-567-00

### **VARIANCE HISTORY**

Since 1970, city records show no variance history for this property.

### **BACKGROUND**

This case was noticed in accordance with the Michigan Zoning Enabling Act of 2006, section 125.3103: Since sending out the notice, no letters or comments have been received by city staff.

Schuler's is in the process of building five (5) boutique hotel rooms along with seven (7) apartments which were finished in 2022. A new entrance for the apartments was created off Green Street and a new projecting sign has been proposed for that entrance. The requested sign exceeded the size allowed in the zoning ordinance requiring a dimensional variance.

Following is a map of the property in question, with the blue dot the location of the sign:



## **CASE ANALYSIS**

The applicant, Schuler Enterprises, has requested a dimensional variance from the sign requirements for projecting signs. In the B-3 District, the Zoning Ordinance allows projecting signs to be 6 square feet in display area. They purchased a sign for the hotel rooms and apartments that exceeded the requirements.

## **FINDING**

The board is being asked to consider approving a variance from the area requirement in Section 5.1.3.D.x, Projecting Signs. Variances require a finding of practical difficulties, considering the following summarized criteria:

- 1. Strict compliance will deprive the applicant of rights enjoyed by others in the same zoning district, create an unnecessary burden on the applicant, or prevent the owner from using the property for a permitted purpose.**

*Strict compliance does not deprive the applicant of rights enjoyed by others.*

- 2. The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant.**

*The variance will provide better exposure for the hotel rooms and still not be an unreasonable size for the property. A lesser variance does not give substantial relief.*

- 3. The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the district.**

*The building is somewhat unique as it is a large building on a corner not on Michigan Avenue. The large frontage on Green Street would allow a larger sign without impacting neighbors,*

- 4. The problem is not self-created.**

*The problem is self-created as the larger sign is what has created the variance request.*

- 5. The variance will not cause significant adverse impacts and not materially impair public health, safety, comfort, morals, or welfare.**

*The requested variance will not have any adverse impacts, nor will it impair public health, safety, comfort, morals, or welfare.*

- 6. The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience or inability to attain a higher financial return.**

*There are no hardships or practical difficulties that will result from a failure to grant the variance other than Schuler's would be out the money spent on the already purchased sign.*

**RECOMMENDATION**

This request will not meet the requirements of the zoning ordinance for a variance to be issued, however, I am recommending that the variance be granted. I believe that the size limit on projecting signs is too restrictive and would request that the motion include a recommendation for the Planning Commission to review the sign regulations.

**Zoning Board of Appeals  
Variance Application**

323 W. Michigan Ave., Marshall, MI 49068

Fee: \$300.00



Petitioner Name: Oaklawn Hospital

Address: 200 N Madison Avenue

Phone: 269-789-7906

Email: jstarkiewicz@oaklawnhospital.com

Property Address for Variance: 302 N Madison Avenue

Are you the owner? Yes ☒ No ☐ (Owner is required to sign this form)

Current Zone R-3 Current Use Residential

Zoning of abutting parcels Hsp Ovly, R-3 Dimensional Variance ☐ Use Variance ☒

**Required attachments**



Plot Plan Attached (According to ordinance, you must include a plot plan of the site, drawn to scale, with a north arrow, all lot lines shown, street right-of-ways, any easements, any structures, setback dimensions, any parking areas, driveways, sidewalks, and any other site improvements)



Reasons for variance (A letter must be submitted with this application addressing how you feel you meet the criteria for a Dimension or Use variance-see back)

\*The ZBA meets on the 3<sup>rd</sup> Thursday of each month. Application must be received on or before the deadline date for the next scheduled meeting.

I understand that I am expected to attend the ZBA public hearing pertaining to this matter. If I am unable to attend, I will send a representative in my place. I understand that the application fee is non-refundable and does not apply to any future permits. Furthermore, if the variance is granted, I agree to obtain the appropriate permits before commencing work.

Signature of Petitioner:

Handwritten signature of the petitioner.

Signature of Owner:

Handwritten signature of the owner.

Date:

2/9/2023

Date:

2/9/23

Questions concerning these requirements should be directed to the Planning and Zoning Office, Eric Zuzga ezuzga@cityofmarshall.com or (269) 558-0354.



## Reasoning for the Special Use Variance Request:

The request for a special use variance comes from the desire to use the 302 N Madison house for offices. Currently, the Christman Company has 3 persons using the house for offices and a conference room while they manage construction work within the hospital's main campus. Previously, Granger Construction had used the 225 High Street house for the same purpose during construction of the surgery addition and the 410 E Mansion house while constructing the 3<sup>rd</sup> and 4<sup>th</sup> floor addition. The City of Marshall brought it to our attention that this temporary office use of the 302 N Madison house in an R-3 zone is not permitted. We do not have space available in the hospital for this use thus our most logical options boiled down to requesting a special use variance for this activity or getting a jobsite trailer and setting it in a hospital parking lot (allowed by 5.3). We do not desire to have the look of a jobsite trailer or loss of parking spaces when there is a more appealing look of using the house just across the street. Thus, we are requesting a special use variance to use the 302 N Madison house as office space which supports the function of the hospital. Having this secondary use of the house as office space, further encourages Oaklawn to maintain the residential look on the 300 block of North Madison and maintains use of the property increasing safety and security. It should be noted the house on this same corner and the house next to it (227 N Madison and 116 E Prospect) acquired special use variances for office and clinical use back in the October 15, 2009 ZBA meeting to preserve the residential look on the first block of E Prospect when the Ricketson Building parking lot was constructed. These properties are both R-3 zones properties in this same local area and in view of each other. The excerpt from the letter we received from the City of Marshall dated Dec 7, 2009 said the following for guidance in case you would like similar wording if you grant a special use variance:

"R-3 properties at 227 N. Madison and 116 E. Prospect to be used for hospital office or clinical use under the following condition:

- The property owner shall maintain the exterior of the houses on 116 E. Prospect Street and 227 N Madison Street to assure they maintain their historical and residential character, subject to accessibility requirements necessitated by state and/or federal law."

The 116 E Prospect house has been used by our Marketing and Development teams for many years. The 227 N Madison house is home to a family who has rented this home since of Dec of 2020. Thus, they are not available to house the construction group.

## From Special Use Variance Application:

*The granting of a variance from the use provisions of this Ordinance shall require a finding of unnecessary hardship, based upon the following criteria:*

1. *The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property. Under this standard, the ZBA must find that the property (land, structures and other improvements) is not suitable for uses permitted in the zoning district.*
- *Oaklawn response: While we can rent this house out as a residence, it is more usable to Oaklawn with the opportunity of an office use as well, increasing likelihood of occupancy of the structure while maintaining its residential character. This was seen as a benefit to the neighborhood in the 2009 decision.*
2. *The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. Circumstances common to the larger neighborhood may*

- reflect the unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative action.*
- Oaklawn response: The property's location is conducive to providing office functionality for Oaklawn Hospital with its proximity to the hospital and parking lots while maintaining the residential look and feel to the structures. This would not apply to structures owned by neighbors to the north, so this is not a common circumstance to the larger neighborhood.
  - 3. *The use variance, if granted, would not alter the essential character of the neighborhood. This standard requires consideration of whether the intent and purpose of the Ordinance and zoning district will be preserved, and the essential character of the area will be maintained.*
  - Oaklawn response: Using the house and garage structures for office use, especially during construction projects, allows Oaklawn to preserve the residential look and prevents a jobsite trailer on the NW corner of the hospital which would negatively affect the residential and healthcare feel of the area. Granting the variance preserves the current feel of the area and encourages the structure to be maintained and improved upon.
  - 4. *The hardship is not the result of the applicant's actions. Under this standard, the ZBA must determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self created hardship. Financial hardships that would prevent reasonable use of the property shall be considered, but shall not be the only determining factor in granting a use variance.*
  - Oaklawn response: Oaklawn purchased the entire 200 block of E Prospect prior to constructing the north parking lot and has maintained the residential look of both corner structures (302 N Madison and 329 E Prospect) at Madison and High Streets to preserve the residential look to both streets. Approval of this special use variance would add to the use of the 302 N Madison structures and encourages Oaklawn to preserve and improve the structures with additional opportunities to make them useful to Oaklawn's mission in a way that preserves the neighborhood's residential atmosphere.



**TO:** ZBA Members

**FROM:** Eric Zuzga, Director of Community Services

**DATE:** March 16, 2023

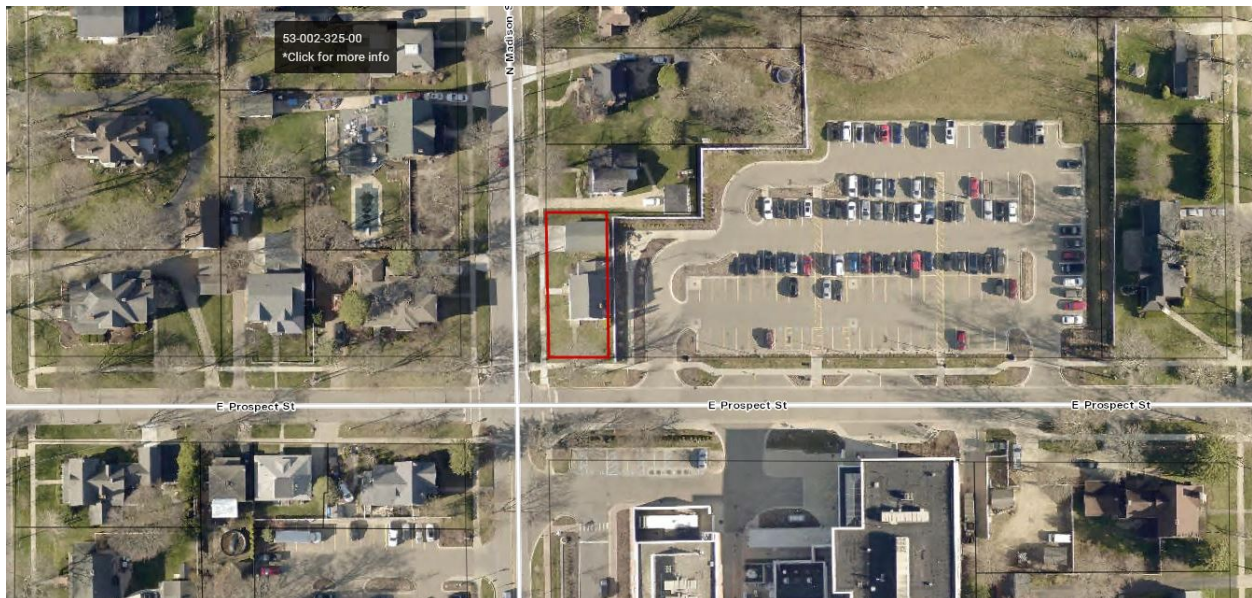
**Property Zoning:** R-3  
**Owner:** Ella EM Brown Charitable Circle (Oaklawn)  
**Address:** 302 North Madison Street  
**Parcel:** #53-002-390-00

### **VARIANCE HISTORY**

Since 1970, there is no variance history for this property.

### **BACKGROUND**

This case was noticed in accordance with the Michigan Zoning Enabling Act of 2006, section 125.3103: One comment was received from Julie Burke Smith indicating that she does not support the use variance request. Following is a map of the property in question:



## **CASE ANALYSIS**

The applicant, Oaklawn Hospital, has requested the use of the residential property as an office for its construction contractors. The property is currently zoned R-3 which does not permit this proposed use.

The zoning of the surrounding properties is as follows: north and west is R-3, with south and east Hospital Overlay District. Oaklawn owns the properties to the east and south. The property in question was specifically excluded from the Overlay district per records from the development of that zoning district.

## **FINDING**

The board is being asked to consider approving a use variance allowing the use of the property as an office for its construction contractors. Variances require a finding of practical difficulties, considering the following summarized criteria:

1. **The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property. Under this standard, the ZBA must find that the property (land, structures, and other improvements) is not suitable for uses permitted in the zoning district).**

*The property is suitable for use as a residential property. There is nothing limiting this use.*

2. **The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions. Circumstances common to the larger neighborhood may reflect the unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative action.**

*The property is directly adjacent to the hospital, which allows the contractors to utilize the property for office space without being too far from the site. There is nothing in the circumstances that would impact the larger neighborhood.*

3. **The use variance, if granted, would not alter the essential character of the neighborhood. This standard requires consideration of whether the intent and purpose of the ordinance and zoning district will be preserved, and the essential character of the area will be maintained.**

*Utilization of the property as an office should have little impact on the neighborhood. Oaklawn has committed to maintaining the appearance of the property as a residential property. If approved, signage should be limited to that allowed in home offices to maintain the character of the neighborhood.*

4. **The hardship is not the result of the applicant's actions. Under this standard, the ZBA must determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self-created hardship. Financial hardships that would prevent reasonable**

**use of the property shall be considered, but shall not be the only determining factor in granting a use variance.**

*The use variance is due to the property owner desiring to utilize an R-3 zoned parcel for offices. Home based offices would be allowed by the ordinance, but that does not apply to a commercial entity using houses for space. Rezoning the property to allow for office space would not be supported by the master plan and could have a more negative impact on the neighborhood.*

### **RECOMMENDATION**

While it is not an ideal situation, I do not believe that approval of the variance will have a negative impact on the neighborhood as long as the following conditions are included with the approval:

1. Signage be limited to 6 square feet and placed on the building.
2. Activities shall be conducted entirely within the dwelling.
3. Home occupations shall not change the residential character of the principal dwelling or zoning lot, and shall not endanger the health, safety and welfare of any other person residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, heat or other hazards or conditions created or exacerbated by the home occupation.
4. No article or service shall be sold or offered for sale on the premises, except such as is produced by such occupation.
5. There shall be no change in the exterior appearance of the structure or premises to accommodate the offices and there shall be no external or internal alterations not customary in residential areas.
6. The following activities shall be prohibited: Outdoor storage of materials, equipment, machinery, and vehicles; signs not otherwise permitted for the principal residential use; and delivery of materials except by common ground carrier.
7. Hours of use of the structure should be set after discussions with Oaklawn during the public hearing.