

**ZONING BOARD OF APPEALS  
MEETING AGENDA**

**Tuesday, March 7, 2023 – 6:00pm**  
Escanaba City Hall, Council Chambers,  
410 Ludington Street, Escanaba, MI 49829



Mark Hannemann, Chair  
Jon Liss, Vice-Chair  
Don Curran, Member  
Brian Thorsen, Member  
Richard Clark, Member  
Christopher Renner, Member  
Joe Klem, Alternate Member  
VACANT, Alternate Member  
Tyler Anthony, Planning & Zoning Admin.  
Ronald Beauchamp, City Council Liaison

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**CALL TO ORDER & ROLL CALL**

**APPROVAL/ADJUSTMENTS TO THE AGENDA**

**CONFLICT OF INTEREST DECLARATIONS**

**PUBLIC HEARINGS**

**1. Dimensional Variance Request – 536 North Lincoln Road**

Applicant requests a 70-foot reduction of the 100-foot distancing restriction between marihuana establishments and one-family dwellings per Zoning Ordinance sec. 205.6.8.3.

**PUBLIC COMMENT ON AGENDA ITEMS NOT HAVING A PUBLIC HEARING**

**HOUSEKEEPING BUSINESS**

**1. Approval/Correction To Previous Minutes – January 3, 2023**

**UNFINISHED BUSINESS**

**NEW BUSINESS**

**1. Training Session**

Training information will be presented on a Case Study: "Sign Variance" in effort to fulfill a portion of the 4-hour annual training requirement for ZBA members.

**PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

**ADJOURNMENT**

The City of Escanaba will provide all necessary, reasonable auxiliary aids and services to individuals with disabilities at the meeting/hearing upon five days' notice to the City of Escanaba Clerk's Office by writing or calling 906-786-9402.

Respectfully Submitted,

A handwritten signature in black ink that reads "Tyler Anthony".

Tyler Anthony,  
Planning & Zoning Administrator  
On behalf of the Zoning Board of Appeals

### **Zoning Board of Appeals Public Comment Rules**

- To obtain preference in speaking order, persons may contact the Zoning Administrator. Those persons' names will then be placed on the meeting agenda. At the appropriate time, they will be recognized by the Chair.
- When the floor is opened for public comment by the Chair, persons who wish to comment should:
  1. Approach the lectern.
  2. Speak into the microphone.
  3. **State your full name and address** for the record. Persons may be asked to provide spelling by recording staff.
  4. Direct all comments/questions **to the Chair only**.
- Public comments shall be restricted to comment **on agenda items only**. Comments shall not be longer than **two (2) minutes**.
- Persons who make personal, impertinent, or slanderous remarks may be asked to leave the lectern. Persons who become boisterous may also be asked to leave the lectern.
- Interested parties or their representatives may address the ZBA in writing. Such comments may be received at any time before the meeting. Such comments may only address business over which the ZBA has control.

### **Zoning Board of Appeals Public Hearing Procedures**

The Chair will declare a hearing open, state its purpose, and summarize the procedures outlined in Section IV. C. of the ZBA's Rules of Procedure. Once that is complete...

1. The Zoning Administrator presents the petitioner's request and any related actions or decisions. This may only be a brief report, as .
2. The petitioner (or a representative) presents their case. This may include offering witnesses on their behalf. No time limit is imposed on the petitioner.
3. ZBA members who may have had any *ex parte* contact with the petitioner will disclose the details of any such interactions. *Ex parte* contact means any private conversations members may have had about the case with the petitioner before the meeting. That information needs to be revealed to satisfy Open Meetings Act requirements.
4. Members of the public who support the petitioner speak. Written correspondence is read by the Zoning Administrator. Depending on the number of people present, the Chair may:
  - a. Recess the meeting for a short time to allow those in support to caucus and choose one speaker on their behalf for a set duration of time set by the Chair.
  - b. Allow many to speak in favor of the petitioner and impose the two (2) minute time limit for each speaker.

5. Members of the public who oppose the petitioner speak. Written correspondence is read by the Zoning Administrator. Depending on the number of people present, the Chair may:
  - a. Recess the meeting for a short time to allow those in opposition to caucus and choose one speaker on their behalf for a set duration of time set by the Chair.
  - b. Allow many to speak in opposition to the petitioner and impose the two (2) minute time limit for each speaker.
6. Rebuttal begins. Any one person may be allowed to take the floor and ask the Chair questions on any given presentation or speech. The Chair will then seek out answers those questions. Answers shall be given to the Chair. Discussion, questioning, and answering shall take place ONLY between the Chair and whoever has the floor.
7. The Chair will then close the hearing. At this point all public participation on the issue ends.
8. Deliberation between ZBA members then takes place, after which a decision is made. That decision will refer to the “findings of fact”\* and any recommended conditions. To finalize that decision, the ZBA will then act on it by making and passing a motion.
  - \* “Findings of fact” is a collection of facts that support the ZBA’s decision, and statements of the rationale behind that decision.

**City of Escanaba**  
**ZONING BOARD OF APPEALS - OFFICIAL PROCEEDINGS**  
**January 3, 2023**

**MEETING CALLED TO ORDER**

A meeting of the Escanaba Zoning Board of Appeals was held on Tuesday, January 3, 2023, at 6:00pm in Room C101 at City Hall, 410 Ludington Street, Escanaba, MI 49829.

**ROLL CALL**

<b>Name</b>	<b>Present</b>	<b>Absent</b>	<b>Name</b>	<b>Present</b>	<b>Absent</b>
Chair Mark Hannemann	X		Member Don Curran	X	
Vice-Chair John Liss	X		Member Brian Thorsen	X	
Member Christopher Renner	X		Member Richard Clark	X	

With 6 in attendance, a quorum of the Zoning Board of Appeals was present.

**ALSO PRESENT**

<b>City Administration/Liaisons</b>	<b>Others</b>
Tyler Anthony, Planning & Zoning Administrator	
Heather Calouette, Administrative Assistant	
Ronald Beauchamp, City Council Liaison	

No other unnamed individuals were present.

**MINUTES**

**A motion was made by Curran, seconded by Liss, to approve the October 4, 2022 minutes as submitted. MOTION PASSED unanimously.**

**AGENDA**

**A motion was made by Liss, seconded by Thorsen, to approve the agenda as submitted. MOTION PASSED unanimously.**

**CONFLICT OF INTEREST DECLARATIONS - None**

**UNFINISHED BUSINESS – None**

**NEW BUSINESS**

**1. Adoption of 2023 Meeting Schedule**

**Curran made a motion, seconded by Clark, to accept the 2023 meeting dates as presented, meeting quarterly on January 3, April 4, July 11, and October 3. A roll call vote was taken, and the MOTION PASSED unanimously.**

**NEW BUSINESS**

**1. Training**

Anthony presented training materials on a case study regarding nonconforming buildings titled: “Can the Addition be Built?” The training was presented as to fulfill a portion of the 4-hour annual training requirements. Topics included building setbacks, nonconformity, encroachments, required standard of review, and burden of proof. Discussion followed regarding why a property owner would not be able to increase the nonconformity, and whether the example constituted an increase at all. Board members questioned that if they can’t authorize a nonconformity, then why does the Zoning Board of Appeals exist. Clark noted that visiting the site may be beneficial to verify neighboring properties setbacks. Hannemann stated that, after reviewing the case study, the variance should be denied because a landowner can’t increase the nonconformity simply out of want. Hannemann also indicated that the applicant always has an option to appeal any Board decision to circuit court, stressing that the Board must maintain a high standard in any decision and its execution. A variance doesn’t necessarily set a prescient for future cases. Discussion followed regarding updating the zoning ordinance as an alternative option rather than issuing a variance.

**GENERAL PUBLIC COMMENT** - None

**COMMISSION/STAFF COMMENTS** – Hannemann noted the ZBA has one additional vacant seat, asking all present to encourage anybody which may hold promise as a Board member to apply for the seat.

**ADJOURNMENT**

**A motion was made by Clark, seconded by Hannemann, to adjourn the meeting.  
MOTION PASSED unanimously.**

The meeting adjourned at 6:47 pm.

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Mark Hannemann, Chair  
Escanaba Zoning Board of Appeals

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Tyler Anthony, Planning and Zoning Administrator  
City of Escanaba

Minutes approved at the \_\_\_\_\_ meeting.



# ZONING BOARD OF APPEALS – FINDINGS OF FACT

Case # PZBA23-0001

Property Address: 536 North Lincoln Road

## MEMBERS PRESENT, QUORUM

At a \_\_\_\_\_ meeting of the City of Escanaba Zoning Board of Appeals held at Escanaba City Hall, 410 Ludington Street, on date \_\_\_\_\_ at time \_\_\_\_\_,

the following members were present or absent:

Mark Hannemann, Chair.....	Present	Absent	Christopher Renner.....	Present	Absent
John Liss, Vice Chair.....	Present	Absent	Brian Thorsen.....	Present	Absent
Don Curran.....	Present	Absent	Joe Klem, Alternate.....	Present	Absent

With \_\_\_\_\_ members in attendance, a quorum of the Zoning Board of Appeals was present.

## RECORD OF PROCEEDINGS, EXHIBITS

The Zoning Board of Appeals reviewed certain exhibits listed below, considered comments made by the applicant and members of the public, and deliberated openly on the matter in its decision.

- A. Zoning Board of Appeals application
- B. Daily Press public hearing notification
- C. Letter to property owners within 300' radius & address list
- D. Written responses received from citizens (if any)
- E. Staff report

Is this a true statement?      Yes      No

## STANDARDS FOR REVIEW

The Zoning Board of Appeals determined that a practical difficulty had –or had not– been shown by the applicant by finding that all requirements had been met by the applicant (Sec. 304.2.3). These requirements were evaluated by the ZBA and were found either to be true or false statements regarding this case.

### A. Special Conditions and Circumstances Unique to the Land, Structure, or Building.

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.

Is this a true statement?      Yes      No

### B. Rights of Similar Properties in the Same Districts.

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other similar properties in the same district under the terms of this Ordinance.

Is this a true statement?      Yes      No

### C. Not a Result of Actions of the Applicant.

That the special conditions and circumstances do not result from the actions of the applicant.

Is this a true statement?      Yes      No

**D. Special Privileges Prohibited.**

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

Is this a true statement?    Yes    No

**E. Comparison to Other Lands, Structures, or Buildings Not a Factor.**

That no nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

Is this a true statement?    Yes    No

**F. Strict Compliance is Unnecessarily Burdensome.**

That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons.

Is this a true statement?    Yes    No

**G. Substantial Justice.**

That a variance would do substantial justice to the applicant, as well as to other property owners in the district (the ZBA, however, may determine that a reduced relaxation would give substantial relief and be more just).

Is this a true statement?    Yes    No

**H. Impact.**

That the proposed variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets; that the variance will not increase the hazard of fire or flood or endanger public safety; that that the variance will not unreasonably diminish or impair established property values within the surrounding area; and that the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Is this a true statement?    Yes    No

**I. Minimum Variance Necessary.**

That the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Is this a true statement?    Yes    No

**J. Purpose and Intent of the Zoning Ordinance.**

That the granting of the variance, will be in harmony with the general purpose and intent of this Ordinance.

Is this a true statement?    Yes    No

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**ADDITIONAL FINDINGS OF FACT**

A finding of fact is a concise statement of action taken by the Zoning Board of Appeals which establishes rationale for a decision. They also help to avoid setting precedents by limiting the facts to a specific case, rather than allowing for interpretation to other issues.





**Exhibit A**

Zoning Board of Appeals application

**OASIS WELLNESS CENTER OF  
BANGOR TWP II, LLC**

1100 W Maple Rd  
Troy, Michigan 48084

January 27<sup>th</sup>, 2023

**VIA USPS MAIL**

City of Escanaba Planning & Zoning Dept.  
P.O. Box 948  
Escanaba, MI 49829

To Whom It May Concern:

Enclosed, please find:

- City of Escanaba Zoning Board of Appeals Application;
- Exhibit A: Affiliate Store 1 Lobby Interior;
- Exhibit B: Affiliate Store 1 Sales Floor Interior;
- Exhibit C: Affiliate Store 2 Suite Exterior Elevations;
- Application Fee for Zoning Board of Appeals Application in the amount of \$300.00.

Please file in your usual manner. If you have any questions, please feel free to contact us.

Best,



Nick Angerman  
Paralegal



**Exhibit A**

Zoning Board of Appeals application

**CITY OF ESCANABA**

**ZONING BOARD OF APPEALS**

**APPLICATION**

**Exhibit A**  
**Zoning Board of Appeals application**




**ZONING BOARD OF APPEALS APPLICATION**

Planning & Zoning Department – 906-786-9402

SUBMISSION INFORMATION	
Email: <a href="mailto:permits@escanaba.org">permits@escanaba.org</a> Mail: Planning & Zoning Dept., PO Box 948, Escanaba, MI 49829 In Person: 410 Ludington Street, 2 <sup>nd</sup> Floor (M-F, 7:30a-4p)	<b>Fee: \$300.00*</b> (Cash, Check, Credit Card) Checks: Make payable to City of Escanaba. Credit Cards: Additional processing fee applies. Accepted in person or over phone after application is submitted.

\*The ZBA has regular meetings scheduled quarterly. If a Special Meeting to hear a case is requested to be held between the regular meetings, an additional fee of \$100 will be required.

PROPERTY INFORMATION	
Property Address	536 N Lincoln Rd, STE C, Escanaba, MI 49829 Parcel # 051-420-2930-100-011

APPEAL INFORMATION	
MARK ALL THAT APPLY ↓	<b>Type of Request</b>
	<b>Appeal of an ERROR</b> in an order, requirement, decision, or determination. Describe the error you believe was made by the Planning & Zoning Administrator or Planning Commission. Be specific and use Zoning Ordinance references. Attach additional pages as necessary.
	<b>Dimensional Variance Request</b> ✓ Identify the type and amount of variance(s) below. Be specific. (Example: Five foot (5') reduction of the twenty-five (25') rear yard setback.) Answer ALL of the questions in the "Required Standards of Review" table on the next page.

DESCRIPTION OF REQUEST
Oasis Wellness Center of Bangor Twp II, LLC is requesting a seventy foot (70') reduction of the one-hundred foot (100') one-family dwelling residential area Minimum Distancing Regulation for Marijuana Establishments per Section 205.6. of the Escanaba Zoning Ordinance.

**Exhibit A**  
**Zoning Board of Appeals application**

For a variance to be granted, all the following Required Standards of Review must be present to prove a “practical difficulty”. Incomplete applications will not be processed. No guarantees of any kind, implied or otherwise, will be made with respect to your request for variance. **If your case does not meet all the standards below, it is likely your request for variance will be denied.**

<b>REQUIRED STANDARDS OF REVIEW</b>
<p><b>Describe how your case meets each standard to prove a “practical difficulty”. Attach additional pages if necessary.</b></p>
<p><b>Special Conditions and Circumstances Unique to the Land, Structure, or Building.</b>            That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district;</p>
<p>The proposed facility's suite is entirely located outside of the 100' minimum distance requirement if measured from facility wall to nearest residential property line. However, because of property line to property line measurement, the applicant is deemed nonconforming. Given the applicant facility's space of occupancy is not in violation of the requirement, but the parcel line is what violates the requirement, the applicant is penalized by conditions and existing circumstances which are peculiar to the land and building, both not generally applicable to other land and buildings in the same district.</p>
<p><b>Rights of Similar Properties in the Same Districts.</b>            That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other similar properties in the same district under the terms of this Ordinance;</p>
<p>The entirety of the applicants facility's occupied space is outside of the 100' distance requirement. However, the property line of the building is within the distance requirement. A literal interpretation of 100' distance from the property line, instead of an interpretation of 100' distance from the facility perimeter to the nearest residential property line, would deprive our application of the rights commonly enjoyed by other similar properties under the Ordinance's terms.</p>
<p><b>Not a Result of Actions of the Applicant.</b>            That the special conditions and circumstances do not result from the actions of the applicant;</p>
<p>The multi-use building of the proposed location is preexisting to the Ordinance minimum distance requirement. Given the applicant's proposed location meets the legislative intent of being over 100' from residential property, the property being a multi-use building on a larger parcel should not be punished for violation of compliance since the proposed facility itself is outside the minimum distance. The special conditions and circumstances of the building do not result from actions of the applicant.</p>
<p><b>Special Privileges Prohibited.</b>            That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district;</p>
<p>Our proposed location being granted a zoning variance would not create any special advantages for the applicant's business due to the land and zoning district it would occupy. Additionally, a granting would not create a disadvantage for any other businesses located elsewhere within the same zoning district. As such, the granting of our application would not confer on the applicant any special privilege that is denied by the Ordinance to other lands, structures, or buildings in the same distance.</p>
<p><b>Comparison to Other Lands, Structures, or Buildings Not a Factor.</b>            That no nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.</p>
<p>The special conditions and unique circumstances of the property line stated above portray that this application is a singular issue that does not factor to outside situations. The granting of our application would not create nonconforming uses of neighboring lands, structures or buildings in the same district; nor would a granting of our application create nonconforming uses of lands, structures, or buildings in other districts that would be considered grounds for the issuance of a variance.</p>

**Strict Compliance is Unnecessarily Burdensome.**

That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons;

Strict compliance of measuring property line to property line creates a nonconforming use of the applicant's location that the facility's perimeter itself does not violate. Reasonably, the facility should be judged on its physical location to residents, as opposed to where the parcel line of the property is. The strict compliance of the Ordinance with the area's measurement would unreasonably prevent the entity applicant from using the property for a permitted use within the zoning district and therefore render the conformity unnecessarily burdened by denying the applicant ability to potentially operate.

**Substantial Justice.**

That a variance would do substantial justice to the applicant, as well as to other property owners in the district (the ZBA, however, may determine that a reduced relaxation would give substantial relief and be more just);

The granting of the application would provide the entity applicant the opportunity to submit an application for its proposed business, as well as help strengthen the overall business community; additionally, a granting would provide the potential for an additional business that would bring in an increase of foot traffic that would provide more opportunities for customers for the businesses within the same building, as well as those in the surrounding area. Therefore, granting of the application would provide substantial justice to the applicant as well as property owners within the same district.

**Impact.**

That the proposed variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets; that the variance will not increase the hazard of fire or flood or endanger public safety; that the variance will not unreasonably diminish or impair established property values within the surrounding area; and that the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The applicant facility perimeter is not within 100' of the residential property itself and would be in full compliance with local and CRA regulations that ensure none of the above criteria is infringed upon. Any impact within 100' of residents would be from currently located businesses. The granting of the variance wouldn't impair the supply of light, congestion in public streets, nor hazard of public safety; additionally, the granting of the variance would not diminish property values; finally, the granting of the variance would not be injurious to the neighborhood or otherwise detrimental to public welfare.

**Minimum Variance Necessary.**

That the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The requested dimensional variance is the minimum variance necessary to operate within compliance of the Ordinance. The granting of the applicant's would allow for the minimum variance necessary to make reasonable use of the land, building, and structure of the proposed facility location.

**Purpose and Intent of the Zoning Ordinance.**

That the granting of the variance, will be in harmony with the general purpose and intent of this Ordinance.

If granted, the variance would allow the entity applicant to operate within a confined space that is at a distance of over 100' from the nearest residential property. The purpose of the Ordinance requirement is to keep marijuana establishments a reasonable distance from residents. At the proposed location, the facility's walls and doorways would comply; this viewpoint is more aligned with the purpose than measuring to the walls of a separate suite. Due to the distance of the facility itself, a granting of the variance will be in harmony with the general purpose and intent of the Ordinance.

**Exhibit A**  
**Zoning Board of Appeals application**

CONTACT INFORMATION & SIGNATURES			
By signing below I certify that the information contained in this application is true and correct to the best of my knowledge and belief at the time of the application. I acknowledge that I understand and have complied with all of the submittal requirements and procedures, and that this application is complete. I further understand that an incomplete application submittal may cause my application to be deferred.			
PROPERTY OWNER – SIGNATURE REQUIRED ON ALL APPLICATIONS		APPLICANT/OWNER'S REPRESENTATIVE – (OPTIONAL)	
Company	Family Video Movie Club Inc.	Company	Oasis Wellness Center of Bangor Twp 11, LLC
Name	Keith Hoogland	Name	Mazin Samona
Address	[Redacted]	Address	[Redacted]
City, State, ZIP	[Redacted]	City, State, ZIP	[Redacted]
Phone #	[Redacted]	Phone #	[Redacted]
Email		Email	[Redacted]
Signature →	<i>KA Hoogland</i>	Signature →	<i>M Samona</i>
Date	1/21/23	Date	1/20/2023

ZONING BOARD OF APPEALS INFORMATION
<p><b>YOUR RIGHT TO APPEAL:</b> Any person with standing, aggrieved or affected by any decision of the Code Official shall be permitted to appeal to the Zoning Board of Appeals by written request with the Code Official. Upon furnishing the proper information, the Code Official shall transmit to the Zoning Board of Appeals all papers and pertinent data related to the appeal.</p> <p><b>TIME LIMIT:</b> An appeal shall only be considered if filed <b>within fifteen (15) days</b> after the cause arises or the appeal shall not be considered. If such an appeal is not made, the decision of the Code Official shall be considered final.</p> <p><b>REPRESENTATION AT HEARING:</b> The applicant or the applicant's authorized agent <b>must be present at the public hearing</b> to properly answer questions concerning the appeal. If the applicant or agent is not present, the appeal may be deferred until the next meeting or dismissed, at the direction of the Board.</p> <p><b>PUBLIC HEARING NOTIFICATIONS:</b> Public Hearing Notifications will be made to property owners within 300 feet of the appealed property, as well as published in the newspaper so that they may appear before the Zoning Board of Appeals to voice any objections, support, or to further inquire.</p> <p><b>RECONSIDERATION:</b> An applicant may re-appeal a decision after twelve (12) months from the decision of the Board. The Board will not reconsider any appeal within twelve (12) months from the date of the decision unless it can be shown by the applicant that there has been <u>substantially changed circumstances affecting the appeal</u>, which circumstances were not known to the Board at the previous hearing. The substantial change in circumstances shall be described, in writing, by the applicant at the time of the application.</p> <p>Further information regarding the Zoning Board of Appeals are outlined in Chapter 3 of the Zoning Ordinance which can be accessed on our website at <a href="http://escanaba.org">escanaba.org</a>.</p>

**Exhibit A**  
Zoning Board of Appeals application

**EXHIBIT A**  
**AFFILIATE STORE 1 LOBBY**

**Exhibit A**  
Zoning Board of Appeals application





**Exhibit A**

Zoning Board of Appeals application

## **EXHIBIT B**

### **AFFILIATE STORE 1 SALES FLOOR**

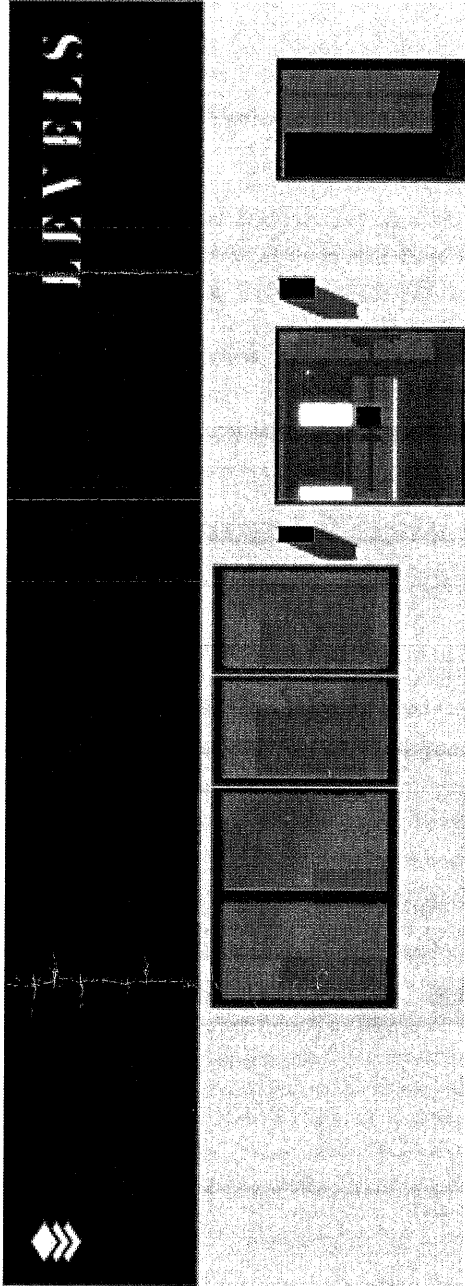
**Exhibit A**  
Zoning Board of Appeals application



**EXHIBIT C**

**AFFILIATE STORE 2 SUITE EXTERIOR  
ELEVATIONS**

**Exhibit A**  
Zoning Board of Appeals application



# The magic and reward of the trip is in the traveling

By John Pepin  
Michigan DNR

MARQUETTE – Let me ride, ride, ride I got to feel free inside,” - Kevin Cronin

I saw some footprints in the snow, where they went, I did not know.

I decided I would follow them - up the hill ahead and down the other side.

Underneath the mighty maples I proceeded, beneath the more delicate paper birches, scattered beech trees and the oaks, with their left past summertime leaves fluttering in the soft, but biting, wind.

I traveled deliberately, watching those trees around me for signs of life, listening to the woods for sounds betraying the presence of birds and animals.

Were there markers here along this route? Was I missing signs or signals as I walked? I didn't know.

I kept moving. I kept watching. Aware.

I stepped hesitantly, feeling the heartbeat of the creature who had walked before me into the heart of the forest.

At times, the tracks would disappear under a drift or wisp of snow that had blown across the way forward.

I imagined that when nighttime falls, these drifts move around each other in an extravagant dance - like one from a Tchaikovsky ballet.

Ice dancing, with the sound of ice skates slicing the frozen ground.

But it's only the snow and the wind.

When it's over, tired from all the activity, the wispy, snow-wind figures fall wherever they are like a rag doll might tumble into the arms of a child's rocking chair.

Morning light brings sight of the drifts lying here and

there. They make no sound. They are not dead, but only sleeping. When the woodlands darken and the moon rises into the ice-cold skies, they will dance again.

I see places where the bark of the maples has been scored and scarred. I don't know what did it. It would have to be something strong and powerful to tear away that rigid and tough bark protecting the tree.

Maybe the claws of a bear or the teeth of a saw?

In another place, evidence remains of a lightning strike that was likely borne out of a late summer thunderstorm.

Part of this tree too is scarred, but also burned black into the heartwood.

This tree is standing now, but only like a wounded soldier who will eventually faint and drop to the earth. The wound is too deep, searing vital organs.

I can almost hear sounds of the tree moaning in agony as the winds nudge the giant this way and that. The song of his battalion warrior surrounds the others still standing tall, those who will remain to defend this forest when this soldier here falls away.

The air is getting colder with the sky turning Persian pink in the distance, then rosy-red, chestnut brown, Egyptian blue and then finally, a sad and lonely dusty black.

For a while, I lost sight of the tracks.

I found that I had been standing, listening to my own breathing.

The fact that it seems so loud is testament to the silence of the woods around me. Almost on cue, an owl pipes up from a mile or so down along the lakeshore. Like any of us, I guess, he's



looking to make connection in this haunted world.

He seems too far off for me to call back to. But I remind myself that if I can hear him, he can hear me. I decide against a call back so I don't disturb the tomblike tranquil setting here so close to me.

I crouch and lean my back up against one of the maples, whose trunk is now black against the twilight sky.

In the heavens above, I see the constellations beginning to appear.

They are faint at first and then eventually begin to glimmer in full display. I whisper their names as I discern their shapes - Cassiopeia, Orion, Ursa Major - the bear.

There is an enchantment to these woods, especially in the moments just before the sun goes down, and all the nighttime afterwards, especially on those nights of the full moon. Tonight's display is a waning crescent.

It doesn't provide the light I need to see the tracks or even the "path" before me.

I reach into my canvas shoulder bag for a small flashlight. I will use it sparingly when I walk ahead. Still leaning on this tree, I sense a feeling of warming as I am huddled closer to myself.

I click on the light briefly and the entire forest under-story ignites in white light.

No bright eyes or dark eyes reflecting to me. No flying squirrels caught in mid-air by the beam. No owls in a glide from one lofty and advantageous perch to another.

Like the flash from one of George Shiras's nighttime photography outings, the blast of light is blinding. I see a big spot of white before me when the flash disappears.

When the light was lit, I could see the trail of tracks ducking even farther into the darkness ahead of me. I continue to follow, intent on finding out where they are headed.

I get much the same sensation when driving and see a dirt road heading off into an unknown corner of the countryside I have yet to travel.

I follow like a big empty watering can being filled up for the garden - I am taking in all I can get. Where does this road go? How does it connect with other places I know?

Towns, trails, lakes and rivers, open fields or naked, jagged peaks?

Who knows? I could look at a map, but that would spoil all the fun entirely.

The magic and the reward of the trip is in the traveling, not in the destination. I think a lot more people are figuring that out these days.

Let me ride.

Across the ridgeline I climbed, past cedar trees clinging tightly to the faces of rocks along the bluff. I can see the lakeshore from here, clear as day.

The lake is that big white space in the distance.

The snow gets deeper here as I try to push on between the trees toward the tracks continuing ahead.

Though they sometimes grow faint, their pattern is familiar to me now. There is a lagging and seemingly wandering gait to the motion of this creature.

Again, I catch my breath here. As I exhale, long trails of my breath drift out of my mouth and float on the nighttime air like smoke from a fire.

I know there are deer all around me in these woods, but I haven't seen them - only their tracks, especially beneath the oaks where they have pawed at the ground looking for acorns.

Instead of the flashlight, I take a small, wax candle out of pocket and light it with a lighter. I then stick it into the top of a small mound of snow I've collapsed together with my hands.

Just that little flame casts a good deal of light into the night, especially with the help of the light-reflecting snow all around.

I sit here wondering how far away someone would be able to see my light.

I also wonder if this light were able to burn for a long duration, would the animals here come to investigate, or would they pay no mind to this fantastic and flickering outlier in their world?

My thoughts are drawn to those I've lost along the way, either to the scythe of the reaper or to disagreements, changing roads, insecurities, childishness, greed or stupidity.

Someplace, out there in the big, black starry universe, all those scenes we played out are drifting into oblivion, like the broadcasts of television and radio shows from decades long since passed.

At this moment, thinking about this feels like a waste of time and poor judgment

- like pissing into the wind. From below, I bet I look like a gargyle standing on this ledge, looking down and out across the countryside beneath me.

I blow out the candle and put it back into my pack. I move down the incline to where the tracks take a turn to the left, past an old, crumbling rock wall.

There's another opening in the trees here where I can see the sky.

I look up to the stars. I feel and hear the wind picking up again. It seems a lot colder now.

The snowy path passes under a couple of trees toppled across the tracks in front of me. I need to climb over one and under the second.

Rabbit tracks are here too, along with squirrels and likely a weasel.

I walk just a little farther to find a familiar sight.

From here, there are distant lights I can see through the trees from homes situated along the edges of the bending county road. The road rounds corners and lays flat in straight stretches following the ebb and flow of the lakeshore.

Suddenly, I stop still in my tracks.

Ahead of me now, I see two sets of tracks in the snow instead of one.

I bend to look and now I see

These tracks I've followed were left by me.

Outdoors North is a weekly column produced by the Michigan Department of Natural Resources on a wide range of topics important to those who enjoy and appreciate Michigan's world-class natural resources of the Upper Peninsula.

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**Community Foundation for Delta County's AED Program makes more than one heart happy.**

2420 1st Avenue, South  
Escanaba, MI  
(906) 786-6654

**Love Your Heart!**

**Public Health Delta & Menominee Counties**

**WISEWOMEN**  
Free Monthly Health Screenings  
Woman ages 40 through 64  
Incentives Provided  
Call Public Health for Eligibility  
906-789-8130

**A hearty laugh is good for the heart! Laughing is linked to healthy function of blood vessels.**

**The best way look after your heart is with a healthy lifestyle.**

- Be smoke-free.
- Be physically active.
- Enjoy a variety of nutritious foods.

**Uncontrolled high blood pressure is one of the leading risk factors for heart disease and stroke. Have your blood pressure checked.**

**CITY OF ESCANABA**

**MEETING OF THE ZONING BOARD OF APPEALS**

The Escanaba Zoning Board of Appeals will hold a meeting on Tuesday, March 7, 2023, at 6:00pm in the Council Chambers of Escanaba City Hall, 410 Ludington Street, Escanaba, MI 49829. At this meeting, the following Public Hearing will be conducted:

**Request for Variance - 536 North Lincoln Road**  
Oasis Wellness Center of Bangor Twp II, LLC requests a 70' reduction of the 100' distancing restriction between marijuana establishments and one-family dwellings per City of Escanaba Zoning Ordinance Section 205.6.8.3.

The public is cordially invited to attend this meeting and provide any questions, comments, or concerns. If you are unable to attend this meeting but still wish to comment, you may submit them in writing to:  
**City of Escanaba, Planning & Zoning Dept.,**  
P.O. Box 948, Escanaba, MI 49829  
prior to March 7, 2023. All written and signed correspondence will be entered into the public record.

Information related to this agenda item can be viewed at City Hall, 410 Ludington Street, Escanaba, MI 49829 or on the City's website at [escanaba.org](http://escanaba.org) one week prior to the meeting.  
Escanaba Zoning Board of Appeals

**CITY OF ESCANABA**

**SUMMARY OF ORDINANCE NO. 1274**

Ordinance No. 1274 as approved at a regular City Council meeting held Thursday, February 16, 2023, is:

**"ORDINANCE ADDRESSING FLOODPLAIN MANAGEMENT PROVISIONS OF THE STATE CONSTRUCTION CODE."**

Ordinance No. 1274 will be in full force and effect ten (10) days after the date of this publication.

A true copy of this ordinance may be inspected and/or obtained from the office of the City Clerk, 410 Ludington Street, Escanaba, Michigan 49829, or can be obtained from our web site:

[www.escanaba.org](http://www.escanaba.org)

**Phil DeMay**  
City Clerk

**SCHOOLCRAFT MEMORIAL HOSPITAL** **Cardiovascular Care**

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DO, FACC

**SPECIALTY CLINIC**  
906-341-2153; EXT 1  
7870W US HWY 2, MANISTIQUE, MI

**JEN CASEY**  
NP-C

**Exhibit B**  
Daily Press public hearing notification

DAILY PRESS  
600 Ludington Street  
Escanaba, Michigan 49829  
906-789-9122  
Federal ID# 38-3365439

I EVAN MCKNIGHT

being an authorized representative of

THE DAILY PRESS/ UP ACTION NEWS

Escanaba Michigan, do hereby affirm that

MEETING OF THE ZONING BOARD OF APPEALS

ad(s) for

CITY OF ESCANABA

of

MICHIGAN

were inserted first on the following dates:

02/21/23

THE DAILY PRESS

NOT

in

THE TMC WEEKLY

and

02/21/23

on

THE DAILY PRESS WEBSITE

that the attached is a true copy thereof.

  
signature of authorized representative

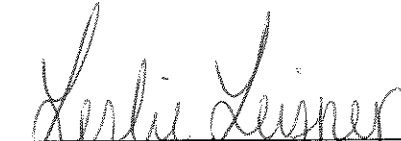
Subscribed and sworn to before me this

TWENTY FIRST

day

of

Feb-23

  
notary public, Delta County, Michigan

My commission expires

12-Aug-27

Leslie Leisner  
Notary Public  
Delta County  
State of Michigan  
Comm Exp: 8/12/2027

**Exhibit C**

Letter to property owners within 300' radius and address list



(906)786-9402 • fax (906) 786-4755

February 15, 2023

«Owner\_Name»  
«Address\_Owners»  
«City\_Owners», «State\_Owners» «Zip\_Code\_Owners»

**RE: Public Hearing Notification and Invitation**

Dear Property Owner:

You are receiving this notice because your property at «Address\_Physical» is within 300 feet of the property scheduled for a Public Hearing before the Zoning Board of Appeals on **Tuesday, March 7, 2023 at 6:00pm** at the Escanaba City Hall, 410 Ludington Street.

**Request for Variance – 536 North Lincoln Road**

Oasis Wellness Center of Bangor Twp II, LLC requests a 70’ reduction of the 100’ distancing restriction between marihuana establishments and one-family dwellings per Zoning Ordinance Sec. 205.6.8.3.

One week prior to the meeting, a copy of the details of this request can be viewed in the agenda packet on our website at [escanaba.org](http://escanaba.org) or can also be viewed at City Hall, Second Floor, 410 Ludington Street, Escanaba, MI, Monday through Friday, 7:30am to 4:00pm.

You are invited to attend this meeting should you have any interest in this project. If you have comments, but are unable to attend this meeting, please submit your written comments to the City of Escanaba Zoning Board of Appeals prior to Tuesday, March 7, 2023. All written and signed comments will be read into the public record.

The City of Escanaba will provide all necessary, reasonable auxiliary aids and services to individuals with disabilities at the meeting/hearing upon five days’ notice to the City of Escanaba Clerk’s Office by writing or calling (906) 786-9402.

Sincerely,

Tyler Anthony  
Planning & Zoning Administrator  
on behalf of the Escanaba Zoning Board of Appeal

**PROOF OF SERVICE – MAILING**

This document was enclosed in sealed envelope, first class postage fully prepaid, and deposited in the U.S. Government Mail.

Addressee(s): Assessed Property Owner/Occupant  
300’ Radius of 536 North Lincoln Road  
Mailing Date: February 15, 2023  
Attested To By: Heather Calouette  
City of Escanaba - City Hall



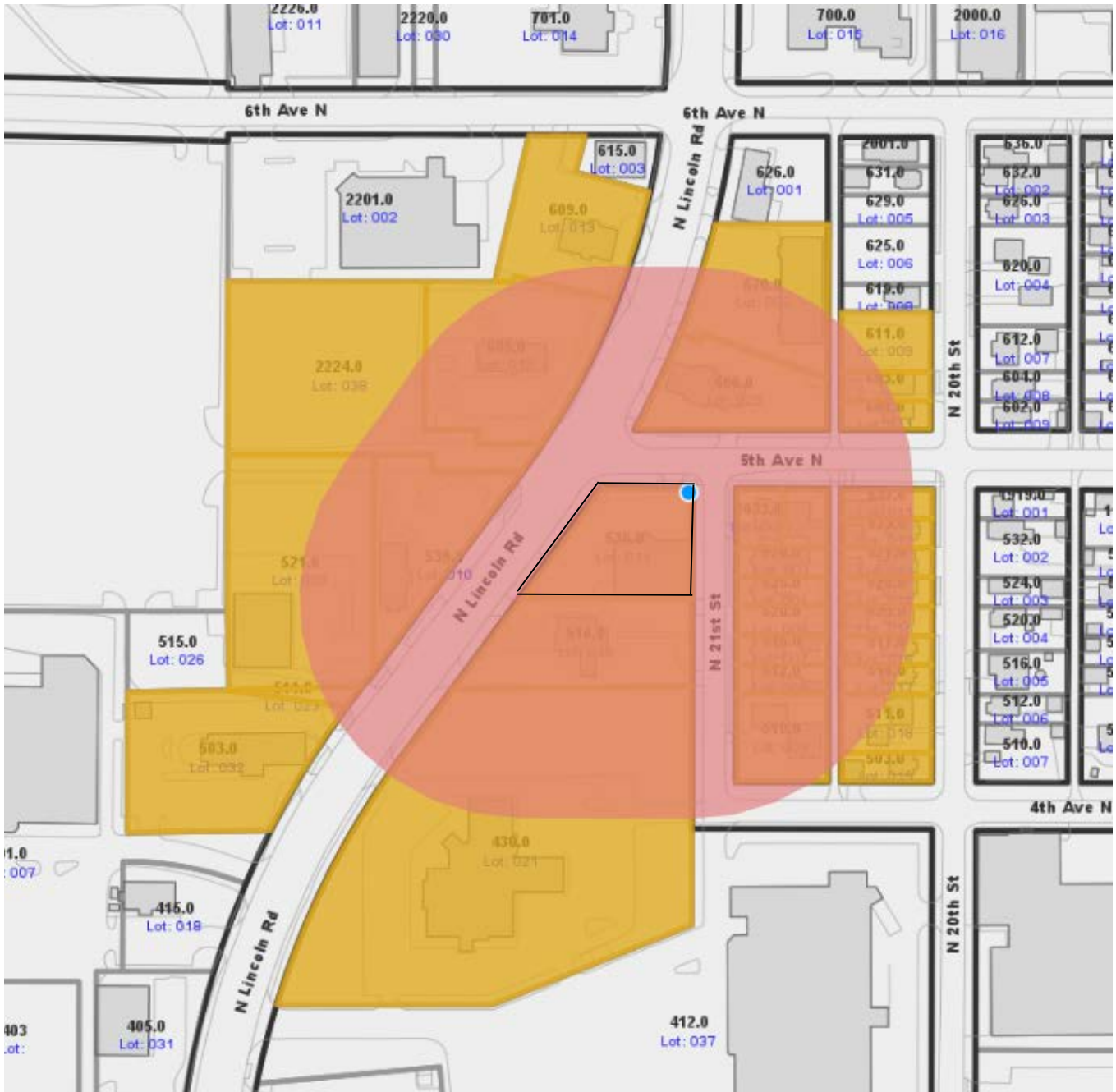
**Mission Statement**

Enhancing the enjoyment and livability of our community by providing quality municipal services.  
*The City of Escanaba is an equal opportunity employer and provider.*

**Exhibit C**

Letter to property owners within  
300' radius and address list

**300' Radius from 536 North Lincoln Road**





300' from 536 North Lincoln Rd

Address (Physical)	Owner Name	Address (Owner's)	City (Owner's)	State (Owner's)	Zip Code (Owner's)
620 N LINCOLN RD	VALUE HOST MARQUETTE INC/O HERB & MARCIA IVERSON	7508 CLUB HOUSE DR	GLADSTONE	MI	49837-2476
611 N 20TH ST	UP NORTH LLC/ARDEES	3112 GOLF RD	EAU CLAIRE	WI	54701-8013
603 N 20TH ST	ROSE DAVID A & KRISTA E	603 N 20TH ST	ESCANABA	MI	49829-1411
601 N 20TH ST	COUCHENE LEANNE	601 N 20TH ST	ESCANABA	MI	49829-1411
2023 5TH AVE N	MILKIEWICZ MARY/O TIFFANY MILKIEWICZ	2023 5TH AVE N	ESCANABA	MI	49829-1439
2005 5TH AVE N	MOORE CLIFFORD J & ARLEAN P	5910 LIDDELL DR	NEW PORT RICHEY	FL	34652-6319
528 N 21ST ST	4U2 FIND RENTALS LLC	PO BOX 334	ESCANABA	MI	49829-0334
526 N 21ST ST	COCHRANE BENJAMIN	526 N 21ST ST	ESCANABA	MI	49829-1482
520 N 21ST ST	COUNTRY CITY RENTALS LLC/O C/O RICHARD HEINZ	8506 M.5 RD	GLADSTONE	MI	49837-9102
516 N 21ST ST	COUNTRY CITY RENTALS LLC/O C/O RICHARD HEINZ	8506 M.5 RD	GLADSTONE	MI	49837-9102
512 N 21ST ST	PFIESTER ELIZABETH & GARY	512 N 21ST ST	ESCANABA	MI	49829-1482
510 N 21ST ST	LIPPOLD MARK & JUDY	510 N 21ST ST	ESCANABA	MI	49829-1482
537 N 20TH ST	HOFFMEYER HARRISON & MATTHEW JULIE	4478 10.75 LN	BARK RIVER	MI	49807-9787
533 N 20TH ST	WARNER CATHERINE	533 N 20TH ST	ESCANABA	MI	49829-1409
527 N 20TH ST	LANAVILLE MOSE K & LISA A	527 N 20TH ST	ESCANABA	MI	49829-1409
525 N 20TH ST	MURRAY KIM M	525 N 20TH ST	ESCANABA	MI	49829-1409
523 N 20TH ST	PINAR KATIE J	6784 N OAK DR	WELLS	MI	49894
517 N 20TH ST	BLAKE MARK T & ANGELL JODEE	517 N 20TH ST	ESCANABA	MI	49829-1409
515 N 20TH ST	FELLER DONALD & ELAINE	201 S 5TH ST	ESCANABA	MI	49829-3907
511 N 20TH ST	KRAJKIEWCZ LEONARD J & CORRIE	413 E ST	MODESTO	CA	95357-0268
503 N 20TH ST	STEINMETZ TASHA L	503 N 20TH ST	ESCANABA	MI	49829-1409
511 N LINCOLN RD	ESKY MCDS INC	1611 LAKE SHORE DR	ESCANABA	MI	49829-2017
521 N LINCOLN RD	O'REILLY AUTO ENTERPRISES LLC	PO BOX 9167	SPRINGFIELD	MO	65801-9167
539 N LINCOLN RD	BFWY REAL ESTATE HOLDINGS LLC	5425 BOONE AVE N	NEW HOPE	MN	55428-3614
536 N LINCOLN RD	FAMILY VIDEO INC	2701 W LAWRENCE AVE STE A	SPRINGFIELD	IL	62704-7215
536 N LINCOLN RD	FAMILY VIDEO INC	2701 W LAWRENCE AVE STE A	SPRINGFIELD	IL	62704-7215
516 N LINCOLN RD	FLAGSTAR BANK FSB	5151 CORPORATE DR	TROY	MI	48098-2639
609 N LINCOLN RD	BEAVERS LAND MANAGEMENT LLC	2220 6TH AVE N	ESCANABA	MI	49829-1446
605 N LINCOLN RD	UP ENTERPRISES LLC	1505 N LINCOLN RD	ESCANABA	MI	49829-1834
430 N LINCOLN RD	UPPER PENINSULA STATE BANK	430 N LINCOLN RD	ESCANABA	MI	49829-1365
606 N LINCOLN RD	UP NORTH LLC/ARDEES	3112 GOLF RD	EAU CLAIRE	WI	54701-8013
503 N LINCOLN RD	MCDONALDS CORP 021/0187/O WILSON TIM/MCDONALDS	1611 LAKE SHORE DR	ESCANABA	MI	49829-2017
2224 5TH AVE N	UP ENTERPRISES LLC/P ENTERPRISES/WAL-MART	1505 N LINCOLN RD	ESCANABA	MI	49829-1834

**Exhibit C**  
 Letter to property owners within  
 300' radius and address list



## **ZONING BOARD OF APPEALS – STAFF REPORT**

**For the special meeting on Tuesday, March 7, 2023**

Prepared by: Tyler Anthony, Planning & Zoning Administrator

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### **REQUEST OVERVIEW**

<u>Case No.</u>	PZBA23-0001	<u>Property Location:</u>	536 North Lincoln Road
<u>Tax Parcel No.</u>	051-420-2930-100-011	<u>Zoning District:</u>	E - Commercial
<u>Property Owner:</u>	Family Video Inc.	<u>Applicant:</u>	Oasis Wellness Center of Bangor Twp. II, LLC

Property Description:

SEC 30 T39N R22W PRT NW 1/4 NW 1/4 COM @ INT SELY R/W HWY US 2&41 & M-35 W/ S LN 5TH AVE N POB TH S 89D 47M E ALG 124.955 FT TH S 0D 13M W 150.76 FT TH N 89D 47M W 234.18 FT TO SELY R/W LN TH NELY ALG SD R/W 187.5 FT TO POB 536 NORTH LINCOLN ROAD AC #178-1; 27071.21 SF (0.621 A)

Description of Request:

Oasis Wellness Center of Bangor Twp. II, LLC is requesting a seventy foot (70') reduction of the one-hundred foot (100') one-family dwelling residential area Minimum Distancing Regulation for Marijuana Establishments per Section 205.6. of the Escanaba Zoning Ordinance.

---

### **REFERENCES, ATTACHMENTS**

The following exhibits are attached to the *Findings of Fact* and may be referenced by this report:

- A. Zoning Board of Appeals application
- B. Daily Press public hearing notification
- C. Letter to property owners within 300' radius & address list
- D. Written responses received from citizens (if any)

Additionally, the following items are attached to this report:

- 1. Site plan
- 2. Photos of site taken February 27, 2023
- 3. Section 205.6.8 excerpted from the City of Escanaba Zoning Ordinance

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### **DIMENSIONAL VARIANCE**

The Zoning Board of Appeals, in accordance with Sec. 304.2, may authorize a dimensional variance from the terms of th[e] Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of th[e] Ordinance would result in practical difficulty (Sec. 303.1.3).

The Zoning Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of th[e] Ordinance would result in practical difficulty in accordance with this section. A variance from the terms of th[e] Ordinance shall not be granted by the Zoning Board of Appeals unless and until all [requirements of the variance process] are fulfilled (Sec. 304.2).

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### **APPLICATION HISTORY**

An application to appear before the Zoning Board of appeals was received on **February 7, 2023**. Since this petition is not appealing any administrative decision, there is no 15-day filing requirement to be met.

---

## **PUBLIC HEARING NOTICES**

The Zoning Administrator shall set and notice a public hearing in accordance with Section 201.5 and transmit to the Zoning Board of Appeals all papers and records regarding the appeal (Zoning Ordinance Sec. 304.2.2).

Public hearing notification requirements have been fulfilled as follows:

300' Radius to Neighbors:	February 15, 2023
Daily Press Newspaper:	February 21, 2023
City of Escanaba Website & Facebook:	February 28, 2023

---

## **STANDARDS FOR REVIEW**

The Zoning Board of Appeals shall make findings that a “practical difficulty” has been shown by the applicant by finding that all of the following requirements have been met by the applicant for a variance (Sec. 304.2.3).

Included below each standard is a staff response to application of that standard. These responses are intended to be compared with each of the applicant’s responses contained in Exhibit A.

### **A. Special Conditions and Circumstances Unique to the Land, Structure, or Building.**

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same district.

Staff Response:

There are no special conditions or circumstances peculiar to this land. Considering this zoning district, the building is not unlike most other buildings; it is a one-story structure with a wood-framed hip roof, 70’ by 100’, tucked into the corner of a parking lot. The land is an irregular lot, however many such lots can be found nearby due to the reverse curve of North Lincoln Road, and this lot is among the less irregular.

### **B. Rights of Similar Properties in the Same Districts.**

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other similar properties in the same district under the terms of this Ordinance.

Staff Response:

Literal Ordinance interpretation would not deprive the applicant of commonly enjoyed rights in this district. The only consequence of Sec. 205.6.8 is that the property is not eligible for marijuana special use permits.

### **C. Not a Result of Actions of the Applicant.**

That the special conditions and circumstances do not result from the actions of the applicant.

Staff Response:

This standard may be applied in a very broad sense; that the applicant had no effect on marijuana ordinance creation in Escanaba. In fairness, the applicant did not build the one-family dwellings across the street or build the structure at 536 North Lincoln Road. Although it is their choice to pursue a marijuana business there.

### **D. Special Privileges Prohibited.**

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

Staff Response:

It is staff’s opinion that granting this variance would do exactly that. On January 6, 2023, zoning staff denied an application because the proposed business would violate Sec. 205.6.8. That lot was measured at 98’ from a single property which contained a one-family dwelling. The applicant lot also happened to contain a multi-tenant building, in which the business would occupy one space. With this lot being less than 100’ from four separate one-family dwellings (2023 5<sup>th</sup> Avenue North, 528, 526, and 516 North 21<sup>st</sup> Street) and there being a

## **Exhibit E - Staff report**

precedent for permit denial based on Sec. 205.6.8., it would be difficult to claim the variance as being no special privilege.

### **E. Comparison to Other Lands, Structures, or Buildings Not a Factor.**

That no nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

#### Staff Response:

Staff sees no issue on this standard. No comparison to other lands, structures or buildings is made in this case.

### **F. Strict Compliance is Unnecessarily Burdensome.**

That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons.

#### Staff Response:

With the sole burden of strict compliance being that the property is ineligible for a marijuana establishment, the owner is free to use it for many other permitted purposes. The property is already home to two retail stores and a restaurant, which is more than most properties can claim in this zoning district. It is hard to see any reason beyond financial ones for this variance.

### **G. Substantial Justice.**

That a variance would do substantial justice to the applicant, as well as to other property owners in the district (the ZBA, however, may determine that a reduced relaxation would give substantial relief and be more just).

#### Staff Response:

There is no substantial justice to be gained. On the contrary, staff sees that substantial *injustice* may be seen because of a decision in the applicant's favor. This point is directly related to staff's response to standard "D".

### **H. Impact.**

That the proposed variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets; that the variance will not increase the hazard of fire or flood or endanger public safety; that that the variance will not unreasonably diminish or impair established property values within the surrounding area; and that the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

#### Staff Response:

It is very possible that this variance may increase congestion at 5<sup>th</sup> Avenue North and North Lincoln Road, which already poses serious problems on its own. Effects beyond that are more difficult to gauge, and may be better suited to bodies other than this Board.

### **I. Minimum Variance Necessary.**

That the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

#### Staff Response:

A minimum variance could be 61' rather than 70' as requested.

### **J. Purpose and Intent of the Zoning Ordinance.**

That the granting of the variance, will be in harmony with the general purpose and intent of this Ordinance.

#### Staff Response:

The purpose and intent of the Ordinance is very clear in Sec. 205.6.8; No property within 100' of a property containing a one-family dwelling may be allowed to host a marijuana establishment. Granting of this variance would directly conflict with that purpose and intent.

## **STAFF ANALYSIS**

The applicant's argument hinges on an idea that a marijuana establishment has no effect or perception beyond its front door. Therefore, they reason that an establishment may be exempted from any local law restricting that business beyond its walls. If an establishment is only a small portion of a building, then why enforce distancing restrictions that don't reach its footprint? That argument is very apparent, but staff does not accept it.

Taking that idea and applying it in a different way may help our understanding. Imagine two large lots, side by side. One has a one-family dwelling five feet off the shared property line, and the other has a small commercial building ninety-six feet from that same line. The two buildings are over one-hundred feet apart, but the lots share a line. If we apply the same argument used by the applicant, then the building may be used as a marijuana retailer even though one lot directly abuts the other. It doesn't matter that the parking lot stretches right to the property line, the buildings are far enough apart.

While that hypothetical establishment's influence may stop at its front door, its effects reach beyond that threshold. Customers may park right in front of the dwelling's bedroom window, accidentally shining their headlights into that bedroom. Litter may drift into that home's front yard more than ever before. More traffic could spell trouble for pedestrians on the poorly lit street. The residents may have personal objections to marijuana, but can't move away. Staff does not argue that marijuana is inherently a bad neighbor or not, but that any two uses may be bad neighbors, and that zoning tries to avoid that. If a 24/7 musical automobile horn shop moved in next door instead, it is doubtful those residents would be any happier.

Escanaba's distancing restrictions work on the premise that it does matter. One goal of zoning is to foster compatible land use relationships. The primary tool of that goal is to require setbacks between certain uses. The City's Ordinance already has examples of such setbacks, and we have effectively applied them as recently as 2022. Sexually oriented businesses cannot be less than 500' from a residential district, church, school, daycare, or park, and they cannot be less than 1,500' from another sexually-oriented business. The number of special care facilities cannot exceed 6 within any 1,500' radius. Bed & breakfast establishments cannot be less than 1,500' from another bed & breakfast. As far as staff can see, no sexually oriented business, special care facility, or bed & breakfast has needed -and secured- a variance from setback restrictions to operate in this city.

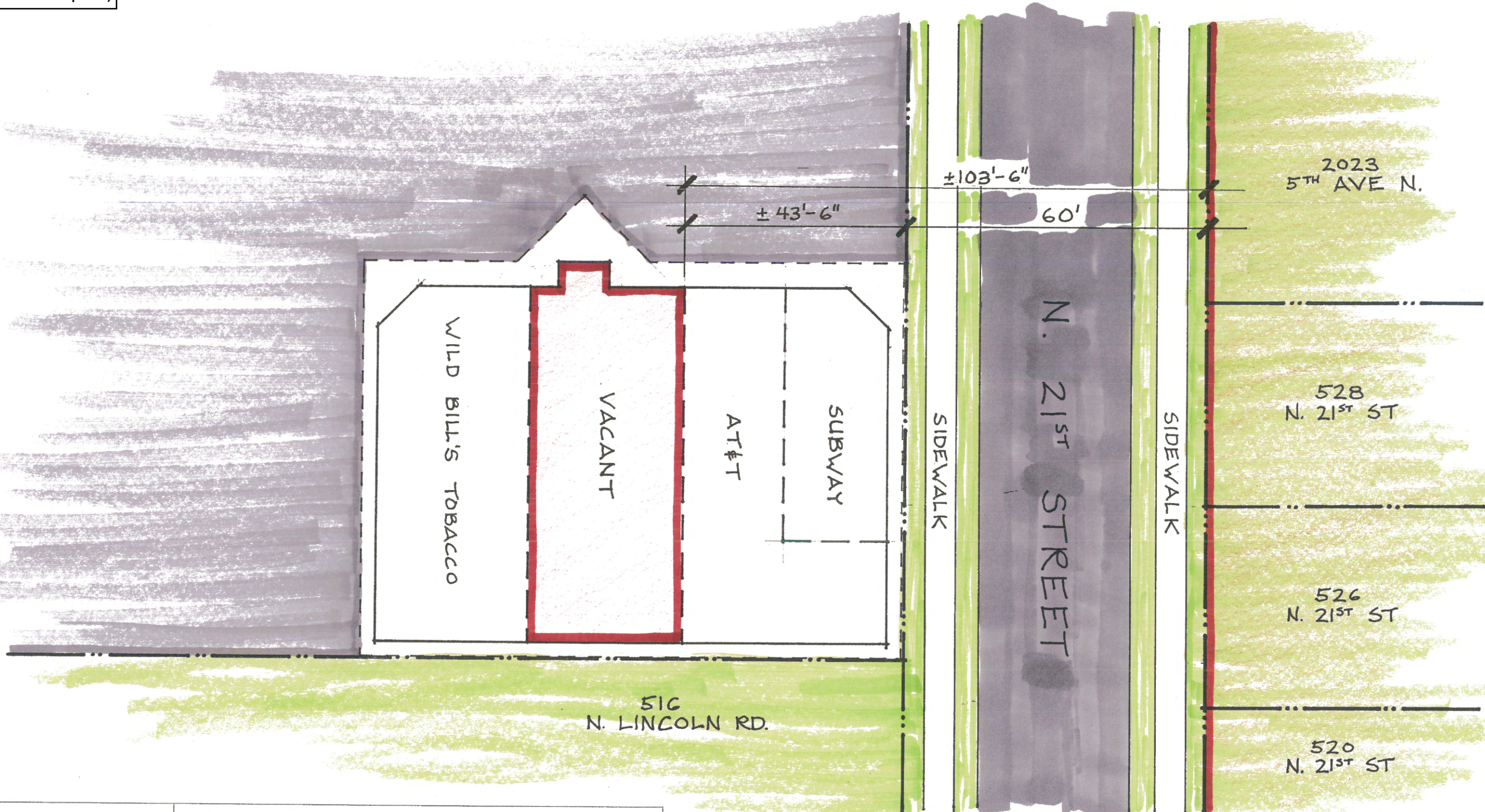
It is staff's opinion that this variance would not serve the Ordinance's intent, the City's best interest, or the public's health, safety, & welfare. A variance for this case would amount to nothing less than a special privilege. That privilege would stand in direct conflict with Escanaba's marijuana restrictions, and we would be hard-pressed to defend that decision. Therefore, it is recommended to the Zoning Board of Appeals that they deny Oasis Wellness Center of Bangor Twp. II LLC's request for variance.



Tyler Anthony  
Planning & Zoning Administrator

Date: February 28, 2023

Exhibit E - Staff report  
(Attachment 1: site plan)



CITY OF ESCANABA

PLANNING & ZONING DEPT.  
410 LUDINGTON ST.

VARIANCE REQUEST  
536 N. LINCOLN RD  
OASIS WELLNESS CENTER OF  
BANGOR TWP. II LLC

DRAWN: T. ANTHONY DATE: 2/27/2023



**Exhibit E - Staff report  
(Attachment 2: photos)**



**Exhibit E - Staff report**  
**(Attachment 3: Zoning Ordinance Section 205.6.8)**

**205.6.8. Minimum Distancing Regulations.**

The following minimum-distancing regulations apply to establishments:

1. An establishment may not be located within seven hundred fifty (750) feet of an existing public or private K-12 school.
2. A grower, processor, or safety compliance establishment may not be located within five hundred (500) feet of any existing one-family dwelling.
3. A retailer may not be located within one hundred (100) feet of any existing one-family dwelling, except that this distance requirement does not apply in the E-3 (Central Commercial) Zoning District.
4. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marijuana establishment.