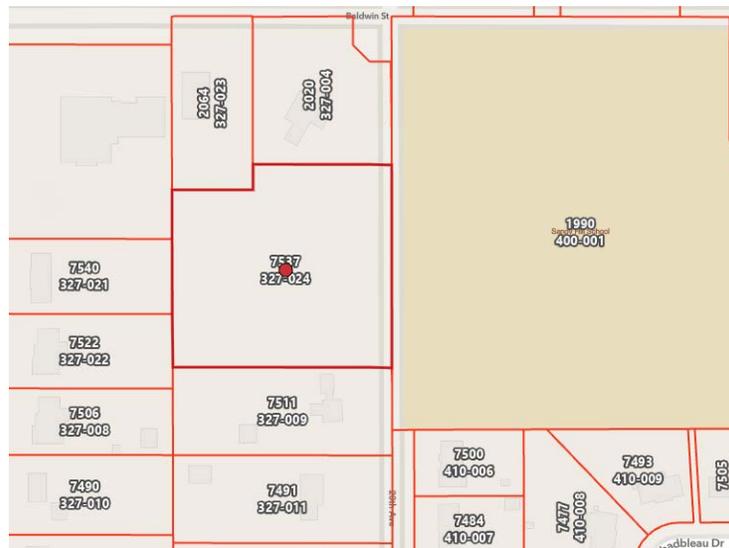


## REQUEST

**(VAR2502) Element Property Solutions, 5445 32<sup>nd</sup> Ave.**, is requesting to have a sign setback of 47 feet, a variance of 28 feet from the 75 feet required in Sec. 25.6 and Chapter 24 footnote (B)(2); located at 7537 20<sup>th</sup> Ave., in a (OS) Office Service Commercial district, on a parcel of land described as P.P. # 70-14-15-327-024, Georgetown Township, Ottawa County, Michigan.

The variance is requested to allow for a ground mounted sign to be located within the 75-foot required setback from the centerline of 20<sup>th</sup> Ave. VAR2405 was approved at the July 24, 2024 Zoning Board of Appeals (ZBA) meeting to allow for the parking to be located 62 feet from the centerline of 20<sup>th</sup> Ave, which was also a 28 foot variance from the 90 feet required in Chapter 24 footnote (B)(2).

## Ottawa GIS Image:



## Satellite Image:





*Requested Setback (15' from ROW line/47' from C/L of 20<sup>th</sup> Ave)*



## **PROPERTY HISTORY**

7537 20<sup>th</sup> Ave had been an undeveloped lot with no site plan or permit history since the parcel's creation in 1999. It was a child parcel of a split involving the parent parcel 70-14-15-327-003. In 2024 a site plan was approved to construct a multi-tenant office building in the OS district.

## **RELEVANT ORDINANCE SECTIONS**

### **Chapter 24 – DISTRICT REGULATIONS**

#### **B. Additional front setback requirements for certain streets.**

2. In all districts, required setbacks along any of the following streets shall be measured from a point 60 feet from the centerline of the street, if the public right-of-way measures 60 feet or less from such centerline. Streets upon which this requirement applies include the following: (Revised 3-27-2000) (Revised 4-10-2000)

- 20<sup>th</sup> Ave

### **Chapter 25 – SIGNS**

#### **Sec 25.6 SIGNS PERMITTED; SPECIFIC ZONING DISTRICT REGULATIONS**

[Located in the Non-Residential Zoning Districts (**OS**, NS, CS, AG) table under Permanent Freestanding Sign]:

For ground-mounted signs, the sign shall be set back a minimum distance of **15 feet** from the road right-of-way **and from the distance from which a required setback shall be measured as required in Chapter 24 footnote (B), as amended.**

## **VARIANCE HISTORY**

The ZBA has approved variances in the past for reduced front setbacks for signs and in general, however, each request should be evaluated on its own characteristics.

## **VARIANCE REQUESTS FOR FRONT SETBACKS FOR SIGNS:**

1. At the January 25, 2012 meeting the ZBA **approved** the variance for (VAR1114) City2Shore Real Estate, 9031 24th Ave., **to locate a sign 53 feet from the centerline of Balsam Dr., a variance of 22 from the minimum of 75 feet from the centerline of Balsam Dr. required in Sec. 25.6(B)(2) and Chapter 24 footnote (b)ii;** in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-21-300-026, located at 6501 Balsam Dr., Georgetown Township, Ottawa County, Michigan. **The variance was approved in this case due to the site being redeveloped, the additional setback was not a requirement when the site was originally developed. There were natural features on the site the ZBA wanted to preserve and therefore allowed for the ground mounted sign to be located within the front setback. This request is similar in degree, with a 6' difference between the requests.**
  
2. At the March 23, 2011 meeting the ZBA **approved** the variance for (VAR1106) Joymar Inc. (Jenison Car Wash), 7246 Wilkinson Dr., Rockford, **to locate a freestanding pole sign 45 feet from the centerline of Baldwin, a variance of 15 feet from the 60 feet required in Sec. 25.6(B)(2);** in an (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-200-008, located at 325 Baldwin St., Georgetown Township, Ottawa County, Michigan. **This variance was approved to replace an existing sign in the exact same location. When the sign was originally built, the additional setbacks were not a requirement in the ordinance. The ZBA had made similar approvals in the past for other signs near Baldwin due to the additional setback not being a requirement when the signs were originally installed, a list of them is below:**
  - a. VAR1102-Postema Signs and Graphics (Georgetown Eye Associates), 1884 Baldwin, motion #110126-03
  - b. VAR1004-Sparkling Image, 6551 Kenowa, motion #100728;
  - c. VAR0910-Freedom Early Learning Center, 2616 Port Sheldon, motion #090722-03;
  - d. VAR0905-Stay Clean Inc., 2760 Port Sheldon, motion #090422-02;
  - e. VAR0901-Postema Signs and Graphics (Georgetown Park Condos), 513 Baldwin, motion #090128-02;
  - f. VAR0902-Valley City Sign, 5825 Port Sheldon, motion #090128-03;
  - g. VAR0806-Dentistry & Design (Dr. VanPutten), 6459 28<sup>th</sup> Ave., motion #080423-04;
  - h. VAR0804-348 Baldwin LLC, 348 Baldwin, motion #080326-01;
  - i. VAR0803-St. Mary's Health Services, 7782 20<sup>th</sup> Ave., motion #0820227-03;**
  - j. VAR0609-Chase Bank, 615 Baldwin, motion #060628-02;

- k. VAR0603-Dentistry by Dadd, 657 Baldwin, motion #060222-04;
- l. VAR0317-American Gas 7 Oil (BP gas station), 2805 Port Sheldon, motion #031210-03;
- m. VAR0137-Dr. Mark Powell, 2076 Baldwin, motion #011226-02;**
- n. VAR0105-Red Tomato Restaurant, 428/450 Baldwin, motion #010425-02;
- o. VAR9801-Strikers, 303/305 Baldwin, motion #980128-02.

\*It is worth noting that a couple of these **requests** are near this location. The common theme with those requests, however, is they are for replacing existing signs that were constructed prior to the additional setback requirement.

Due to those types of requests being common, the Planning Commission changed the sign ordinance to include the following, Sec 25.10 (I):

**Sec 25.10 – NONCONFORMING SIGNS**

- I. A sign located on a street listed in Chapter 24 footnote (B) which is determined to be nonconforming solely due to its location on a lot relative to noncompliance with front yard setback requirements may be altered, modified, expanded, moved, replaced, extended, or repaired as long as the following conditions are met:
  - 1. Front yard setback is not further decreased;
  - 2. The changed sign complies with all other requirements of this Ordinance;
  - 3. No part of the sign is in or extends over the road right-of-way; and
  - 4. The changed sign is not detrimental to the adjacent properties or the vicinity as determined by the Zoning Administrator by reason of safety concerns such as (but not limited to) obstructed vision for pedestrian or vehicular traffic.

**GENERAL VARIANCE REQUESTS FOR FRONT SETBACKS (these are less relevant because they are not for signs, but provide good context for the ZBA and were presented previously when the applicant was approved for the reduced setback for parking in 2024):**

- 1. At the January 24, 2024 meeting the ZBA **approved** a reduced front yard setback for (VAR2304) Guggenheim Development Services, 2739 Port Sheldon, **To have parking and drives 44.67 feet from the centerline of Port Sheldon, a variance of 45.33 feet from the 90 foot required setback** (30 foot setback measured from a point 60 feet from the centerline of Port Sheldon) to the centerline of Port Sheldon, required in Chapter 24, footnote (L) which states that except for necessary drives and walks, the front yard setback shall be landscaped and not used for parking, loading or accessory structures. **The ZBA found that all standards have been met due to the unique characteristics and found that an approval would accomplish consistency within the vicinity of the property for similar uses.**
- 2. At the June 28, 2023 meeting, the ZBA **approved** the variance for (VAR2301) Development Management Group-Alive Ministries, representing Arby’s, 4209 Gallatin Pike, Nashville TN, to have the following variances: **To have parking and drives within the front yard setback along Main and Church St., a variance from Chapter 24 footnote (L) which states that except for necessary drives and walks, the required front yard setback shall be landscaped and not used for parking, loading, or accessory structures; To have a**

**front yard setback of 4.3 feet from the right-of-way line on Main St for a drive aisle, a variance of 25.7 feet from the 30 feet required in Chapter 24; and to have a front yard setback of 9 feet along Church St for parking, a variance of 21 feet from the 30 feet required in Chapter 24.** in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14- 13-401-028, located at 241 Church St, Georgetown Township, Ottawa County; based on the finding that the request meets the seven standards of the ordinance. **Specifically, standards 1-6 have been met as detailed in the staff report and standard 7 is met as detailed on page 9 of the staff report; and with the condition that there be no direct access to Main St and that the building setback of 80' is still applied.**

3. At the August 08, 2022 meeting, the ZBA approved the variance for (VAR2204) Panera Bread, 42 44<sup>th</sup> St., **to have parking spaces added to the existing row of parking within the required front yard setback on 44<sup>th</sup> St., a variance from Chapter 24 Footnote (L) which states except for necessary drives and walks, the required front yard setback shall be landscaped and shall not be used for parking,** in a Neighborhood Service (NS) Commercial district on a parcel of land described as P.P. # 70-14-25-200-018, located at 42 44<sup>th</sup> St., Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance. **They found that the purpose of the ordinance was already accounted for due to current road width and that it would be consistent with past considerations.**
4. At the March 22, 2017 meeting, the ZBA **approved** the variance for (VAR1703) MedExpress, 1001 Consol Energy Dr., Canonsburg, PA, to have the following variances: **To have a front yard setback of 52.5 feet from the centerline of Baldwin for parking, a variance of 37.5 feet from 90 feet from the centerline of Baldwin required in Chapter 24;** in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-13-266-012, located at 345 Baldwin, Georgetown Township, Ottawa County, Michigan; based on the finding that the request **meets the seven standards of the ordinance as detailed in the staff report and that standard 7 is met because the owner did not do anything to initiate the necessity for the variance due to the fact that this is an existing site; and with the condition that the entrance on Baldwin is a right-turn in only.**
5. At the May 22, 2019 meeting, the ZBA **partially approved** the variance for (VAR1906) Members First Credit Union, 195 Chicago Dr., **to have a front yard setback of 5 feet and to have parking and drives within the required front yard setback (not within the 5 feet setback), a variance of 25 feet from the 30 feet required in Chapter 24,** in a Community Service (CS) Commercial district on a parcel of land described as P.P. # 70-14-13-400-001. The request was to have a front yard setback of 0 feet. **The parcel is an irregular shaped lot, the building was nonconforming, and the variance was needed in order to bring the building into “conformance” so the applicant could re-design the traffic flow.**
6. At the June 24, 2015 meeting, the ZBA **approved** the variance for (VAR1504) United Bank of Michigan, 1884 Baldwin St., **to have a front yard setback of 4 feet, a variance of 26 feet from the 30 feet required in Chapter 24 and to have parking and drives within the front yard setback of 30 feet, a variance from Chapter 24 Footnote L,** in an Office Service (OS) Commercial district on a parcel of land described as P.P. # 70-14-15-411-009. The building was nonconforming due to the adoption of the extra setbacks. **The**

redevelopment plan made the building less nonconforming by reducing its size in order to add an additional drive-in lane and by-pass lane.

7. At the May 27, 2015 meeting, the ZBA **approved** the variance for (VAR1503) Jimmy John's, 7550 Cottonwood Dr., **to have a front yard setback of 43 feet, a variance of 17 feet from the 60 feet required in Sec. 20.4(L)(1)**, in a Community Service (CS) Commercial district on a parcel of land described as P.P. # 70-14-13-401-031. **The variance was needed to redevelop the site by demolishing an existing Chase Bank building and constructing the Jimmy John's building. The parcel size reflected setback requirements at the time the Chase Bank was constructed.**
8. At the December 10, 2014 meeting, the ZBA **approved** the variance for (VAR1409) Bob's Butcher Block, 262 Church St., **to have a front yard setback for structures and parking on Church St. of 20 feet, a variance of 10 feet from the 30 feet required in Chapter 24; to have a front yard setback of 0 on Church Ct. for parking, a variance of 30 from the 30 feet required in Chapter 24; and to have parking and drives within the front yard setback, a variance from Chapter 24 Footnote L**, in a Community Service (CS) Commercial district on a parcel of land described as P.P. # 70-14-13-402-004. **The existing building was developed based on standards in the 1970's and the redevelopment made the property less nonconforming to current standards.**
9. At the June 26, 2013 meeting, the ZBA **approved** the variance for (VAR1304) Cambridge Manor, 141-151 Port Sheldon St., **to have parking within the required front yard setback (proposed parking 68 feet from the centerline, a variance of 17 feet from the required 85 feet from the centerline of Port Sheldon St. and existing parking 53 feet from the centerline, a variance of 32 feet from the required 85 feet from the centerline of Port Sheldon St.)**, in a Medium/High Density Residential (MHR) district and a Medium Density Residential (MDR) district on parcels of land described as P.P. # 70-14-13-400-013 and -058. **The property needed more parking and the site is limited on where the parking could go because most of it is floodplain and heavily wooded.**
10. At the January 23, 2013 meeting, the ZBA **approved** the variance for (VAR1301) Spriensma Auto LLC, 2500 Chicago Dr., **to have a 0 foot front yard setback for parking and display, a variance of 30 feet from the 30 feet required in Chapter 24 Footnote K**, in a Highway Service (HS) Commercial district on a parcel of land described as P.P. # 70-14-28-400-017. **The variance allowed parking in the front for use of an auto sales/open air business. The variance also allowed the site to be developed consistent with the setbacks of the surrounding businesses.**
11. At the January 25, 2011 meeting the ZBA **approved** the variance for (VAR1114) City2Shore Real Estate, 9031 24th Ave., **to locate a sign 53 feet from the centerline of Balsam Dr., a variance of 22 from the minimum of 75 feet from the centerline of Balsam Dr. required in Sec. 25.6(B)(2) and Chapter 24 footnote (b)ii**; in a (CS) Community Service Commercial district, on a parcel of land described as P.P. # 70-14-21-300-026, located at 6501 Balsam Dr., Georgetown Township, Ottawa County, Michigan. **The variance was approved in this case due to the site being redeveloped, the additional setback was not a requirement when the site was originally developed. There was natural features on the site the ZBA wanted to preserve and therefore allowed for the ground mounted sign to**

**be located within the front setback. This request is similar in degree, with a 6' difference between the requests.**

## **DISCUSSION**

Variance requests for reduced front setbacks are prevalent in many commercial areas of the township, however, approvals are contingent on the ZBA determination that all seven standards have been met. Each application is reviewed based on its unique aspects and variables.

Although the Township has adopted ordinance standards for the development of property with extra setbacks required for key thoroughfares, the Township recognizes that certain areas were developed long ago and under different standards than are in place today. The current setback standards are in place to prepare for the future widening of roads on the major streets.

Points to consider:

1. Many reduced setback approvals are found around the east end of the township where the parcel layout for that commercial area was planned prior to many road improvements and ordinance amendments increasing setbacks.
2. Many of the developments in the area do not meet the current ordinance standards for Baldwin and 20<sup>th</sup> Ave including many businesses around this intersection.



3. Development of this lot under current storm water requirements poses a challenge to design layout. A variance can be considered only if other options have been evaluated. The Applicant explored the possibility of relocating the sign to the northern portion of the site where there is no existing parking lot, but it was not feasible due to storm water management.
4. Since many of the neighboring sites have smaller setbacks, along with parking and drives within the front setback area, the request does not appear to be detrimental to the

neighbors, but rather is in keeping with the neighboring sites. Visibility could be a concern with the sign being ground mounted, but the Township has historically favored ground mounted signs over pole mounted signs when possible.

**REVIEW**

The standards that have objectively been met are noted with an “X” in the “yes” column and the standards that have objectively not been met are noted with an “X” in the “no” column. Any standards left blank could not be objectively met or not met and therefore must be determined by the ZBA.

Variance ID	<b>VAR2502</b>
Applicant	Element Property Solutions via Midwest Sign Co.
Address	7537 20 <sup>th</sup> Ave
Request	Ground Mounted Sign in front yard setback
Date	Applied for July 23, 2025 meeting

#	YES	NO	CONDITIONS (Chapter 28.11-C)
1	X		Granting the variance(s) will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.
2	X		Granting the variance shall not permit the establishment within a district of any use which is prohibited, nor shall any use variances be granted.
3	X		That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.
4	X		That the granting of such variance will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.
5			That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.
6	X		That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to

			the provisions of Chapter 27 of this Ordinance, except in accordance with Section 27.12.
7			That the variance is not necessitated as a result of any action or inaction of the applicant.

**FINDINGS**

The ZBA should determine whether they agree with the review presented and determine if the other standards that could not be objectively decided are met. The following is provided for information and discussion.

*Standard #1 - Granting the variance will be in the public interest and will ensure that the spirit of the Ordinance shall be observed.*

**Appears to be met.** The spirit of the ordinance for the extra setbacks on the major streets is to provide sufficient front yard setbacks for any future road improvements and space for improvements of streetscapes and buffers. Many of the businesses in the vicinity have the same setbacks, or less, for signs. This variance will not eliminate the room for required streetscapes as this was already considered in the previous variance request VAR2405.

*Standard #2 - Granting the variance shall not permit the establishment within a district of any use, which is prohibited, nor shall any use variances be granted.*

**Appears to be met.** The use of an office building is allowed by right in the OS Commercial district and they are permitted to have a freestanding sign.

*Standard #3 - That there are practical difficulties in complying with the standards of the Zoning Ordinance resulting from exceptional, extraordinary, or unique circumstances or conditions applying to the property in question, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from the adoption of this Ordinance.*

**Appears to be met.** All developments are subject to current storm water requirements at the time they undergo Site Plan Revisions or new construction. The applicant states that the lack of storm sewer connectivity in this location causes an increase in required retention on site, therefore limiting design/sign layout. The County Drain Viewer indicates the ends of the storm sewer both north and south of the parcel, however not in near proximity. Other commercial parcels in the vicinity appear to have connectivity. This limits the Applicant’s ability to construct the sign on the north end of the parcel.

*Standard #4 - That the granting of such variances will not be of substantial detriment to adjacent properties or improvements in the vicinity; or, that the application of conditions of an approved variance will eliminate or sufficiently mitigate potential detrimental impacts.*

**Appears to be met.** Granting the variances will allow construction similar to and compatible with the adjacent area. The development of the site will permit the construction sign that has a similar location to many existing signs along 20<sup>th</sup> Ave. **If there is a concern with visibility due to the**

**sign being ground mounted, the ZBA could require this sign is pole mounted to limit visibility issues.**

*Standard #5 - That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.*

**ZBA to Determine.** A variance is not a property right and developments built prior to ordinance revisions were regulated under the existing ordinance at the time. It is worth noting that numerous signs along 20<sup>th</sup> Ave. do have a similar reduced setback, but it is not necessarily a property right to have that reduced setback.

*Standard #6 - That granting such variance will not cause any existing non-conforming use, structure, or condition to be increased or perpetuated, contrary to the provisions of Chapter 27 of this Ordinance, except in accordance in Section 27.12.*

**Appears to be met.** There are no existing nonconforming uses or structures on the property. The reduced setback for parking received a variance that was approved by the ZBA.

*Standard #7 - That the variance is not necessitated as a result of any action or inaction of the applicant.*

**ZBA to Determine.** The desired design layout of the proposed development necessitated the variance request, therefore, this could be considered a self-created issue. However, the applicant states that the current storm water ordinance provides constraints on their site plan due to retention basins and the reduced developable area that is left after meeting those requirements. The current storm water standards were approved by the township board in January of 2023. The split which created the subject parcel in its current area and dimensions was approved in 1999, which is roughly 1 year before the additional front setback for 20<sup>th</sup> Ave was incorporated into the ordinance.

### **OPTION FOR MOTION TO APPROVE**

**If the ZBA determines that all seven standards of the ordinance are met for granting the variance, then the following motion to approve with conditions is offered:**

**Motion: To adopt the staff report as finding of fact and to approve the variance for (VAR2502) Element Property Solutions, 5445 32<sup>nd</sup> Ave., to have a sign setback of 47 feet, a variance of 28 feet from the 75 feet required in Sec. 25.6 and Chapter 24 footnote (B)(2); located at 7537 20<sup>th</sup> Ave., in a (OS) Office Service Commercial district, on a parcel of land described as on a parcel of land described as P.P. # 70-14-15-327-024, Georgetown Township, Ottawa County, Michigan; based on the finding that the request meets the seven standards of the ordinance. Specifically, standards (\_\_\_\_\_) have been met and the reasons are \_\_\_\_\_. Also, approval is contingent upon the following conditions:**

- 1. (Conditions could be added like requiring the sign to be pole mounted etc.)**

### **OPTION FOR MOTION TO DENY**

**Even if one standard is not met, per Sec. 28.11(C), the ZBA does not have the authority to grant the variance and the following motion to deny is offered:**

**Motion: To adopt the staff report as finding of fact and to deny the variance (VAR2502) Element Property Solutions, 5445 32<sup>nd</sup> Ave., to have a sign setback of 47 feet, a variance of 28 feet from the 75 feet required in Sec. 25.6 and Chapter 24 footnote (B)(2); located at 7537 20<sup>th</sup> Ave., in a (OS) Office Service Commercial district, on a parcel of land described as on a parcel of land described as P.P. # 70-14-15-327-024, Georgetown Township, Ottawa County, Michigan; based on the finding that the request DOES NOT meet the seven standards of the ordinance. Specifically, standards (\_\_\_\_\_) have NOT been met and the reasons are \_\_\_\_\_.**