



301 East Main Street  
Lowell, Michigan 49331  
Phone (616) 897-8457  
Fax (616) 897-4085

CITY OF LOWELL  
ZONING BOARD OF APPEALS AGENDA  
MONDAY, JUNE 20, 2022 AT 7:00 P.M.

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL
2. APPROVAL OF AGENDA
3. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA

IF YOU WISH TO ADDRESS AN AGENDA ITEM, PUBLIC COMMENT FOR EACH ITEM WILL OCCUR AFTER THE INITIAL INFORMATION IS SHARED ON THE MATTER AND INITIAL DELIBERATIONS BY THE PUBLIC BODY. PUBLIC COMMENT WILL OCCUR BEFORE A VOTE ON THE AGENDA ITEM OCCURS.

4. NEW BUSINESS
  - a. Public Hearing – Variance Request – 139 S. Broadway and 149 S. Broadway
5. BOARD/COMMISSION REPORTS
6. COUNCIL COMMENTS
7. ADJOURNMENT

NOTE: Any person who wishes to speak on an item included on the printed meeting agenda may do so. Speakers will be recognized by the Chair, at which time they will be allowed five (5) minutes maximum to address the Council. A speaker representing a subdivision association or group will be allowed ten (10) minutes to address the Council.



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MAY 24 2022

CITY OF LOWELL  
LOWELL, MICHIGAN

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Lowell, Michigan 49331  
Phone (616) 897-8457  
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APPLICATION FOR VARIANCES(S)  
AND/OR  
APPEAL OF ADMINISTRATIVE DECISION

Variance Number: \_\_\_\_\_ Filing Fee: \_\_\_\_\_

1. Street Address and/or Location of Request: 139 S. Broadway and 149 S. Broadway

2. Applicant's Name: King Milling Company

Address: 222 W. Main St. Lowell MI 49331  
Street City of Lowell State Zip

Daytime Phone Number: (616) 897-9264

Are You:  Property Owner  Owner's Agent  
 Contract Purchaser  Option Holder

3. Applicant is being represented by: James M. Doyle

Address: 222 W. Main St., Lowell, MI 49331

Phone Number: (616) 897-9264

4. Legal Description of the Property: See Attached

or just attach if it is too long.

5. Parcel Identification Number (Tax I.D. No.): #41-20-02-453-030 and 02-453-031

6. Current Zoning of Parcel: I - Industrial

7. Present Use of the Parcel: Warehouse

8. Check Below For The Item Which A Variance Is Being Requested:

Lot Coverage \_\_\_\_\_ Lot Size \_\_\_\_\_ Sign \_\_\_\_\_  
Lot Width \_\_\_\_\_ Parking \_\_\_\_\_ Setbacks   
Fence \_\_\_\_\_ Landscaping \_\_\_\_\_ Other \_\_\_\_\_  
Height Requirements \_\_\_\_\_  
Area Requirements \_\_\_\_\_  
Nonconforming Residential Use \_\_\_\_\_  
Nonconforming Commercial Use \_\_\_\_\_  
Accessory Building Use \_\_\_\_\_

9. Your Request is: (check only one)
- An Appeal of an Administrative Decision
  - A Temporary Use
  - A Variance from Zoning Ordinance Requirements

10. If an appeal is being requested, state the administrative decision being appealed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10(a). If a variance is being requested, state the reason(s) for the request and your intended uses:  
The front yard variance is needed to expand the existing facility. The expansion will include a new mill and wheat storage silos.

The following provisions of the City of Lowell Zoning Ordinance (Section 21.04 B) must be met in total before a variance can be granted. Respond to each of the six criteria as it pertains to the request.

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district:

*Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in questions, the literal enforcement of the requirements of this Ordinance would involve practical difficulties;*

Broadway Street from Ottawa Street to Main Street has multiple commercial and industrial buildings and wheat storage facilities that are at or close to a zero setback. This property would be the only property with a structure on it that maintains the 50' front yard setback. The Michigan Wire building that was on the site prior to the existing warehouse had portions of the building near or inside the road right-of-way.

- B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

The King Milling Company is in the heart of the downtown area. Available space for expansion is very limited. The processes involved in the storage, processing and packaging of wheat requires that the facilities be adjacent to one another. Broadway Street is no longer a through street. Street improvements have been made by the City of Lowell that direct the traveling public to the west on Ottawa Street. The King Milling Company owns all the property on both sides of the road except for the railroad properties.

- C. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

The King Milling Company provides a necessary and vital commodity for our country. Demand is growing for their product and the proposed expansion is necessary to meet the demand. As noted above the facilities must be developed adjacent to existing facilities to be feasible.

- D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

The adjacent property and neighborhood is largely the same use and developed typically consistent with the requested variance.

- E. The variance will not impair the intent and purpose of this Ordinance.

The variance addresses a very specific set of circumstances for the use and the site. Typically, setbacks are established to improve the esthetic along public routes and adjacent properties. The esthetic of Broadway Street is consistent with the proposed expansion and will not be diminished by granting the variance. The same rationale applies to surrounding properties.

- F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

The need for the additional mill capacity is being caused by national demand for the product provided by King Milling Company. Wheat processing is a vital link between farmers and consumers.

The facts presented above are true and correct to the best of my knowledge.

Signature:

James M. Doyle

Date:

5/24/2022

Type or Print Your Name Here:

JAMES M. DOYLE

## MEMORANDUM

To: City of Lowell Zoning Board of Appeals  
Date: June 17, 2022  
From: Andy Moore, AICP  
Tanya DeOliveira, AICP  
RE: **149 South Broadway Variance Application**

Mr. James M. Doyle, representing King Milling Company, has applied for a variance on the property located at 149 South Broadway (PPN 41-20-02-453-031). The applicant is proposing to construct a mill, building, silos, a truck loadout, and a relocated parking area on the property to support the operation on this and adjacent parcels. The zoning ordinance in the I General Industrial district requires a 50' front yard setback and the buildings as proposed would have a front yard setback of approximately 7 feet, which is not in compliance. Thus, a 43-foot variance is requested. The purpose of this memorandum is to evaluate the request pursuant to Chapter 20 of the City of Lowell Zoning Ordinance.



### Background

The subject property has a combined area of approximately 3.2 acres and has approximately 600 feet of frontage along South Broadway Street. The subject property is part of King Milling's larger operation that occupies several parcels at the southeast corner of Main Street and Hudson. The parcel is within the I General Industrial district and the applicant is proposing to construct a mill building and silos with an area of 7,873 square feet and a truck loadout with an area of 2,917 square feet.

The proposed improvements take advantage of the site's existing conditions and access to the site. These additions would be next to the existing warehouse building on the site as well as accessible by the road on the subject property. The scope of this review is only limited to the building and silos as it relates to the variance request and is not intended to facilitate discussion of the entire site plan, as the Planning Commission approved the site plan during its meeting on June 13, 2022. This approval was given contingent on the applicant receiving a variance from the City Council.

### **Variance Review Standards**

When reviewing a request for a variance, the ZBA must find that a “practical difficulty” exists. In determining if a practical difficulty exists, the ZBA is guided by the standards of Section 21.04 of the zoning ordinance. This section authorizes the ZBA to grant non-use variances only if it finds that all six of the standards listed in this Section are met.

The standards of Section 21.04 are listed below, along with our remarks on each as it relates to the request:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;

Exceptional or extraordinary circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this ordinance would involve practical difficulties;

**Remarks:** The subject property is approximately 3.2 acres in area and has approximately 600 feet of frontage along S Broadway. The parcel is currently owned by King Milling Company, along with several other parcels nearby. The other nearby parcels owned by King Milling Company are also a part of the same General Industrial district and currently contain silos, parking lots, and other buildings used for business purposes. The site is flat and contains railroad tracks. It is also located near the Flat River. Few natural features would be impacted by the variance.

The location of the proposed building and silos on the subject property takes advantage of driveways on either side of the development and would be built over an existing parking lot. The shape of the parcel is unusual and cannot be expanded, as it is bounded on the rear (east) by the City-owned baseball field at Recreation Park. Therefore, the ZBA may conclude that there is an exceptional shape to the property and that there are limited opportunities to expand the operation, which warrants the variance. The Board may find that this standard is met.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

**Remarks:** This standard tests whether the City should amend the zoning ordinance instead of repeatedly reviewing similar variance requests. There are no other comparable situations in the same district, as King Milling Company has been at this location for many years. Most other industrial properties would not face the same limitations that King Milling encounters here, so a zoning amendment would not likely

be an acceptable tool that could reasonably eliminate the need for the variance. The Board may find that this standard is met.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

**Remarks:** The applicant states that this property would be the only property with a structure on it that maintains the 50-foot front yard setback. This is true as it relates to other King Milling properties, as most of those buildings were constructed before the current zoning regulations were adopted. Because other properties are not faced with these challenges and generally have larger land areas to work with, expansion of those facilities would generally not be an issue in the same way it is here. The Board may find that this standard is met.

4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

**Remarks:** The adjacent properties and nearby parcels are used and developed in the same manner that is being requested for this variance, and are owned by King Milling. The use of the site as proposed will not be detrimental to the area, and will likely align closely with the existing uses and the recommendations of the City Master Plan. The Master Plan indicates that the subject property is within the "Industrial" Future Land Use category. According to the Master Plan, "areas planned for Industrial land uses are intended to accommodate continued industrial uses" which likely refers to a desire to accommodate long-time industrial land uses such as this one. The proposed modifications are consistent with buildings and uses on other King Milling properties nearby. The Board may find that this standard is met.

5. The variance will not impair the intent and purpose of this ordinance.

**Remarks:** The industrial district is intended "...to permit industrial and related uses which are desirable to serve the employment needs for the residents of the city. The uses permitted in this district vary in intensity of use, but in no case is it intended that these uses negatively affect residential and other uses in the city. Rather it is intended to allow these uses to operate as freely as possible while ensuring that the natural and residential areas of the city are protected."

King Milling serves as a major employer in Lowell and the expansion will not negatively affect any residential uses in the City, as none are nearby and the proposed building is a relatively small component of the larger operation. The variance will allow King Milling to continue operation while ensuring that the natural and residential areas of the city are protected. The Board may find that this standard is met.

6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

**Remarks:** King Milling has been in operation for decades and much of the industrial operation predates modern zoning in the City. The applicant states that the need for the additional mill capacity is being caused by national demand for the products provided by the company. There is no evidence to suggest that the hardship here was created by the applicant. The Board may find that this standard is met.

**Recommendation.** At the June 20 meeting, the ZBA should consider the documents submitted and carefully listen to comments by the applicant, as well as the public. If in the judgment of the Board, all of the above standards are met and a practical difficulty exists, the Board may approve the variance with or without conditions. Based on our analysis above and knowledge of the site, we recommend that the variance be granted. The discussion contained in this memorandum may be cited as a basis for the decision.

As always, feel free to contact us with any questions or comments.