



**CITY OF WALLED LAKE  
ZONING BOARD OF APPEALS  
(ELECTRONIC MEETING PLATFORM)  
MONDAY, JANUARY 25, 2021**

The Meeting was called to order at 7:30 p.m.

**ROLL CALL:** Arnold, Easter, Gunther, O'Rourke, Rundell

**ABSENT:** None

**OTHERS PRESENT:** Consultant City Planner Ortega, Building Official Wright, City Attorney Vanerian, Recording Secretary Stuart

**REQUESTS FOR AGENDA CHANGES:** None

**APPROVAL OF MINUTES:**

**ZBA 1-1-21 APPROVAL OF THE OCTOBER 26, 2020 ZONING BOARD OF APPEALS MEETING MINUTES**

Motion by Gunther, seconded O'Rourke: CARRIED: To approve the October 26, 2020 Zoning Board of Appeals meeting minutes.

Roll Call Vote

Ayes (5) Arnold, Gunther, Rundell, O'Rourke, Easter  
Nays (0)  
Absent (0)  
Abstain (0)

**COMMUNICATION:** None

**UNFINISHED BUSINESS:**

1. Case: 2021-01  
Applicant: Consumer's Energy  
Location: 92-17-26-376-173  
Request: Non-Use Variances

This matter relates to property at the above referenced location. The site is a vacant property located on the west side of Decker Road, south of Wimbledon Drive and is zoned I-1, Limited Industrial. The applicant is proposing to construct a natural gas regulator station which would

require one (1) permit and two (2) variances from the following sections of the Zoning Ordinance:

- Section 51-21.13(2)(j): Permission to install a fence not exceeding seven (7) feet in height in the front and side yards.
- Section 51-19.03(13): A variance from the hard-surface requirement for off-street driveways, access lanes and maneuvering areas to allow a gravel surface.
- Section 51-21.35: A variance from the minimum landscaping and screening requirements.

Chairman Easter asked City Attorney Vanerian to explain the board is permitted to make conditional motion for variance approvals because site plan has not been to the Planning Commission yet.

City Attorney Vanerian said yes, this case was scheduled to go before the Planning Commission January 12, 2021 however there was no quorum and unable to take action on the site plan at that time. Attorney Vanerian explained there is not legal requirement to go to planning commission first. Attorney Vanerian said typically for practical reasons applicants go to planning commission first, site plans are more established and not likely to change after planning commission approval. Attorney Vanerian explained the Zoning Ordinance and Zoning Enabling Act does allow the zoning board to make conditional motions and he recommends the zoning board do this is making motions this evening contingent upon planning commission approvals.

Chairman Easter reviewed the first variance request permission to install a fence not exceeding seven (7) feet in height in the front and side yards, variance from Section 51-21.13(2)(j). Chairman Easter said he reviewed City Planner Ortega's review letter dated January 18, 2021 and he appreciated its thoroughness. Chairman Easter said he does not have an issue with the seven-foot height of fence because the structure being shielded is a gas substation and the seven-foot front fence needs to be set back from the Decker Road ROW. Chairman Easter said the applicant is locating the fence 10 feet from the existing right of way, but he believes there is a new Decker Road ROW that is larger or extends in further, so it needs to be 10 feet from the new ROW which is greater than 10 feet being asked for.

City Planner Ortega said yes because technically the applicant's variance would allow them to place a fence in their front yard. Planner Ortega explained normally the setback is measured from the front setback line, it is supposed to be measured from the future row. This is mainly on major roads Pontiac trail, Decker w maple. He said the city worked with Oakland County Road Commission to determine the future right of way line. He said in this case the future right of way line is measured 43 feet from center line of Decker Road. He said as shown on site the fence is located 10 feet but from the 33-foot existing ROW. He said the city ordinance requires 10 feet from 43-foot future ROW line.

Chairman Easter said it would then add an additional 10 feet, they do have a 40-foot setback, and grading which would allow them plenty of room to drop the fence back.

City Planner Ortega location of equipment and building is well outside of the required front yard setback and he would think applicant should be capable of accommodating this.

Chairman Easter said he does not have any objection to the seven-foot front yard fence, but its location is out of scope with city ordinances. Chairman Easter explained in granting this variance request, the position of the fence would have to be addressed first.

Katie Lambert, Road Professional Services Company said they have already addressed the 10-foot change after they received letter from planning commission and the new site plan shows the fence will be moved back 10 feet.

Chairman Easter clarified it will then be 20 feet in total.

Ms. Lambert explained it will be 20 feet in total.

Board Member Gunther said if variance is approved it is contingent upon the 20 feet setback placement.

Chairman Easter said he did not see landscaping along the roadway or walkway that people use and now the city has the airline trailway and people will be traveling more throughout the city. He said there are spot trees to the north but nothing along the roadway or walkway. Chairman Easter said the city requires landscaping he said beautiful brick buildings are required to have landscaping. Chairman Easter said additional landscaping is going to be required between sidewalk and fence along the fence line.

Board Member Rundell said he believes there is a plan that shows landscaping and trees along Decker Road it also has a brick barrier walkway paver area; they have trees called out on their drawing page 28 or 31.

Chairman Easter asked even with the new 20-foot setback for fence placement the applicant still proposes to place the landscaping in this area.

Ms. Lambert said yes.

Chairman Easter said the aggregate the existing surface depth and load bearing for these, he asked if engineering reports were available on the gravel for compaction. He said heavy rains mud sliding.

Ms. Lambert said the driveway will be compacted 95% for trucks delivering materials to site and there are less compacted areas to allow for water drainage.

Chairman Easter said from an engineering side he likes plans. 7 foot with the front yard setback.

Board Member Gunther asked if there was audience who wished to speak.

Board Member O'Rourke asked for clarification from applicant on page 16, item number 2, it reads the new facility will replace existing facility that is directly across on Decker Road and existing facility will be demolished and site will be transferred into a green space. Member O'Rourke asked for a timeline on this demolition and will hazmat be required, or ground cleaning required as well.

Mr. Mike Steil, project manager for Consumer's Energy explained the remediation of existing site to take place September October time period but it is conditional on bringing new facility into action. He explained the existing facility will operate until the new facility is operational. He said once that occurs full demolition can happen. Mr. Steil said Consumer Energy has a plan in place for hazardous materials and remediation. He said they treat soils as hazards until proven otherwise. Mr. Steil said with regards to the 7-foot fence, what that was was the existing fence at the city gate measuring 7 feet. He explained the shrubbery in front of it is there in place as decorative measure but must be careful in that as it grows into full growth that it does not become a security constraint. Purpose of fence is so crews can look into the gated area.

Chairman Easter explained the intent is to make it look not like a fence maybe place thin trees low bushes, it would not be an obstructed view. He said it would still be visible to the general public from gaining access.

Mr. Steil said Consumers has a good neighbor policy in place and they wish to blend in within Walled Lake.

Chairman Easer said explained section 51-21.35 a variance from the minimum landscape requirements was discussed.

City Planner Ortega explained the zoning ordinance landscaping section does allow the planning commission to modify the requirements as long as they keep within the intent of the ordinance. He said screening will be required but not creating a high opaque barrier but more about framing the view. Planner Ortega explained given the fact a variance granted runs with the land and the zoning ordinances allow the planning commission to approach the landscaping requirements of site plans it may be best to allow the planning commission to modify the landscaping requirements so therefore a variance would not be required.

Chairman Easter asked City Attorney Vanerian, so that lines are not crossed the zoning board made their comments about landscaping, but the planning commission will ultimately be addressing the landscaping and a variance for 51-21.35 is not in the scope of zoning board of appeals but will be addressed by the planning commission.

City Attorney Vanerian explained under the ordinance the planning commission has authority to modify landscaping requirement so no variance for landscaping is needed from the zoning board.

Robert Jenkins, 1468 Dover Hill South – said he a resident of Dover Hill Condominium community and president of association. He said they received notice in mail two weeks ago. He opined the city offices have been closed and to review drawings impossible. He said there have been no details given out about this project. He asked about pipeline retirement, lighting for

security, the schedule for construction, safety. He said no one has notified his community of any of this.

Mr. Steil, Consumer Energy said with regards to lighting within the yard they are directing spot specific low intensity lightning, and there will be yard lights generally off unless work is going within the facility during regular hours. He said with regard to construction, they work with the confines of the community, they are very aware of the neighbors and strongly practice a good neighbor policy. He said there is ongoing pipeline retirement in Oakland and Macomb counties however, he cannot speak specifically to this. He said he is available if there are more concerns.

Mr. Jenkins asked if this project is directly across Decker Road from the current city gate.

**ZBA 1-2-21 MOTION TO GRANT VARIANCE TO SECTION 51-21.13(2)(J) PERMISSION TO INSTALL A FENCE NOT EXCEEDING SEVEN (7) FEET IN HEIGHT IN THE FRONT AND SIDE YARDS AND IT WILL BE AT FRONT YARD SETBACK OF 20 FEET NOT 10 FEET AS TURNED IN ON PLAN AND IS CONDITIONAL UPON THE APPLICANT OBTAINING SITE PLAN APPROVAL**

Motion by Gunther, seconded by Rundell, UNANIMOUSLY CARRIED: To grant variance from Section 51-21.13(2)(j) permission to install a fence not exceeding seven (7) feet in height in the front and side yards and it will be at a front yard setback of 20 feet not 10 feet as turned in on plan and approval conditional upon the applicant obtaining site plan approval from the planning commission.

Roll Call Vote

Ayes (5) Gunther, Rundell, O'Rourke, Arnold, Easter  
Nays (0)  
Absent (0)  
Abstain (0)

Chairman Easter explained it is a maze of underground piping coming up to valves to control gas so to put hard surface over plumbed lines beneath the ground it is not conducive to project maintenance. He said after reviewing the road compaction and discussed early in meeting he does not see an issue with it. Chairman Easter explained the plan shows the area will be gated and fenced.

**ZBA 1-3-21 MOTION TO GRANT VARIANCE TO SECTION 51-19.03(13) A VARIANCE FROM SECTION 51-19.03(13) A VARIANCE FROM THE HARD-SURFACE REQUIREMENTS FOR OFF-STREET DRIVEWAYS, ACCESS LANES, AND MANEUVERING AREAS TO ALLOW GRAVEL SURFACE AND IS CONDITIONAL UPON PLANNING COMMISSION SITE PLAN APPROVAL**

Motion by O'Rourke, seconded by Easter, UNANIMOUSLY CARRIED: To grant variance from Section 51-19.03(13) a variance from the hard-surface requirement for off-street driveways, access lanes and maneuvering areas to allow gravel surface and approval is conditional upon the applicant obtaining site plan approval from the planning commission.

Roll Call Vote

Ayes (5)      Rundell, O'Rourke, Arnold, Gunther, Easter  
Nays (0)  
Absent (0)  
Abstain (0)

Mr. Steil thanked the board for hearing their case this evening.

**DISCUSSION:**      None

**ADJOURNMENT**

**ZBA 1-4-21      MOTION TO ADJOURN**

Motion by Gunther seconded by O'Rourke, CARRIED, to adjourn the meeting at 8:01 p.m.

  
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Jennifer Stuart  
Recording Secretary

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Jason Easter  
Chairman

*approved 3/29/21*