



**CITY OF WALLED LAKE
ZONING BOARD OF APPEALS
MONDAY, MARCH 28, 2022**

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

PLEDGE TO FLAG & INVOCATION

ROLL CALL: Ackley, Easter, Arnold, Gunther, Rundell

ABSENT:

There being a quorum present, the meeting was declared in session.

OTHERS PRESENT: Consultant City Planner Ortega, Building Official Wright, City Attorney Vanerian, Confidential Assistant Jaquays, and Recording Secretary Stuart

REQUESTS FOR AGENDA CHANGES: None

APPROVAL OF MINUTES:

ZBA 03-01-22 APPROVAL OF THE JANUARY 31, 2022 ZONING BOARD OF APPEALS MEETING MINUTES

Motion by Gunther, seconded Rundell: CARRIED: To approve the January 31, 2022 Zoning Board of Appeals meeting minutes.

COMMUNICATION:

Recording Secretary Stuart read into the record correspondence from Mr. Jerry Anderson of 127 S. Pontiac Trail and Mr. Tim Vorce of 148 S. Pontiac Trail.

March 28, 2022

Walled Lake ZBA

*From: Mr. Jerry Anderson
127 S. Pontiac Trail
Walled Lake, MI 48390*

Subject: 174 S. Pontiac Trail (Parcel ID # 17-34-412-038) request for a shed on the waterfront lot.

Case 2022-04

Dear Zoning Board of Appeals members,

Having reviewed the applicant's plans and reasons for wanting to build a shed on the property, I could not agree more that the variances should be approved.

The current setbacks of 30 feet from the lake and 30 feet from Pontiac Trail are unrealistic based on how close the road is to the lake.

The low profile of the shed fits the lot and does not affect views of the lake for neighboring owners.

*Thanks
Jerry Anderson*

*Tim Vorce
148 S. Pontiac Trail
Walled Lake, MI 48390*

Re: Case 2022-04

Jennifer,

This is in reference to a structure proposed by my neighbor Frank Christopher (I live 2 doors down). I have reviewed the structure plan that Frank has submitted, and I think it would be a great addition to the waterfront. Please approve this project.

*Sincerely,
Tim Vorce*

UNFINISHED BUSINESS: None

NEW BUSINESS:

1. 2022-04
Applicant: Frank Christopher
Location: 174 S. Pontiac Trail – Parcel ID# 17-34-411-003, 17-34-411-038,
17-34-412-002
Request: Non-use Variance

This matter relates to the above referenced property. Applicant proposes constructing a 320 sq. ft. beach storage shed on the waterfront portion of applicant's single-family waterfront lot which would require two (2) setback variances from the following sections of the Zoning Ordinance:

- Section 51-21.10(c)(2) b. requires accessory structures on waterfront lots to be setback a minimum of thirty ft. (30') from the water's edge as required by Article 17.00 "Schedule of Regulations". Applicant proposes constructing a 320 sq. ft. beach storage shed setback nine ft. (9') from the water's edge which requires a twenty-one ft. (21') variance from the thirty ft. (30') waterfront yard setback requirement.
- Section 51-21.10(c)(2) a. requires accessory structures on single family waterfront lots to be setback a minimum of thirty ft. (30') from an adjoining street as required by Article 17.00 "Schedule of Regulations". Applicant proposes constructing a 320 sq. ft. beach storage shed setback twenty ft. (20') from Pontiac Trail, an adjoining street, which requires a ten ft. (10') variance from the thirty ft. (30') front yard setback requirement.

Mr. Brandon M. Grysko, attorney for Mr. Christopher provided the board enlarged pictures of what was provided in the applicant's packet. Attorney Grysko explained the applicant is wanting to place this structure for the safety and welfare of their family and guests. Attorney Grysko explained the odd shaped lot abuts the lake and this shelter would avoid crossing back and forth across S. Pontiac Trail from home to waterfront lot. Attorney Grysko explained how busy Pontiac Trail is in this area. Attorney Grysko explained this project provides substantial justice to the applicant, the city received two letters of support from neighboring residents, and the Planning Commission provided support and approved their special land use request and site plan. Attorney Grysko explained the granting of these two variances would allow the applicant to construct this shed. Attorney Grysko explained there was no opposition from city departments, no site line impediments from the roadway, the structure is entirely invisible to traffic passing by, and the design keeps in character with the community. Attorney Grysko said his client is requesting approval from the ZBA.

Audience Participation

Mr. Adrian Hill, 162 S. Pontiac Trail – said he has looked at the plans, and this structure will help with the safety of the owners and their guests traveling back and forth across S. Pontiac Trail. Mr. Hill said he fully supports the proposal and the need for the shed. Mr. Hill explained having seen the rendering he feels it is in conjunction with the existing landscaping and will enhance the site.

Mr. Dennis Kaiser, 813 E. Walled Lake – said he agrees with the applicant's attorney and the proposed plans. Mr. Kaiser said this proposal will be much safer for storage on the waterfront and he agrees with its construction.

Board Member Gunther asked why there was no communication provided by the city planner in the ZBA packet.

City Attorney Vanerian explained this case went before the Planning Commission and reviews were provided to the Planning Commission. Attorney Vanerian explained the review letters described the project and the need for the variances. Attorney Vanerian explained the Planning Commission did approve the special land use request for use of the lot contingent upon granted variances from the ZBA.

City Attorney Vanerian explained waterfront lots cannot house an accessory structure as a shed within 30 feet of the waterfront edge that includes even principal structures such as a home. Attorney Vanerian explained these 30-foot setbacks create a buffer zone around the lake and it helps to enhance the views of the lake. Attorney Vanerian explained a 30-foot setback requirement is required for the waterfront yard setback as well as the roadside setback.

Chairman Easter explained the planning consultant's work was done for the planning commission and this is different than the five criteria to be met before the ZBA to grant a variance. He asked why the report was not in the packet.

Attorney Vanerian explained the ZBA findings are not up to city staff or its consultants if the five criteria are met. Attorney Vanerian explained each of those requirements are set forth in the ZBA application questionnaire. Attorney Vanerian explained the applicant is the one who bears the burden of meeting the five criteria for granting of a variance. Attorney Vanerian explained these are legal requirements, they do not have anything to do with planning and it is up to the ZBA to review the facts of each case. Attorney Vanerian explained it is up to the ZBA board not the planning consultant. Attorney Vanerian explained the criteria are legal requirements, and the board can request a legal review however a legal review cannot be unsolicited. Attorney Vanerian explained if the ZBA board would like input from staff, the board can have a legal review from the city attorney.

Chairman Easter explained this is the first time the consultant planner, McKenna & Associates, has not provided a review, and this is the first case of this nature the board has heard. Chairman Easter explained the board does make its own decision. Chairman Easter explained this is going to be the first case of this type in Walled Lake and this will be a pivotal one. Chairman Easter requested a legal review.

City Attorney Vanerian agreed there will be more, the city may have to rewrite the ordinance to allow shed structures on waterfront lots.

Mayor Ackley explained the planning commission minutes provided in the packet laid out comments on the issues. Mayor Ackley explained the concerns of sidewalks in this area; the DDA and council are currently reviewing sidewalks, however there are already sidewalks on the opposite side along Pontiac Trail. Mayor Ackley explained she does not see why to have sidewalks on both sides of the road in this area, it is not cost effective. Mayor Ackley explained that she did not recall always receiving a detailed report from the consultant city planner. Mayor Ackley explained the city planner is present and available this evening. Mayor Ackley explained she read the applicants application and the five criteria are outlined very well. Mayor Ackley explained the applicant's proposal has been well thought out we can see that it is not going to be visible from Pontiac Trail. Mayor Ackley explained the applicant, Mr. Christopher has always maintained the lot, the arborvitae was placed as a condition when he came before the ZBA board for fencing on his waterfront lot. Mayor Ackley explained Mr. Christopher should not be penalized because the board feels there should be changes to make to the ordinance. Mayor Ackley explained she did not see a problem with the information provided this evening.

Chairman Easter explained this is new, sheds on the waterfront lots, there are some details the ZBA board should work out. Chairman Easter asked city planner Ortega about the sidewalk.

Consultant planner Ortega explained a sidewalk is required per ordinance however, there have been several instances when the planning commission did not require a sidewalk. Planner Ortega explained the cost benefit analysis of placing a sidewalk on both sides may not provide a positive result. Planner Ortega explained as a city, focus on connecting sidewalks in desirable locations. Planner Ortega explained the connection on the southbound side of Pontiac Trail might not be necessary at this time, the sidewalk would dead end and only serve the property on that side of the road.

Chairman Easter said he agrees, he wanted to make sure it was not missed.

Planner Ortega explained the city should look at the ordinances, is there is a trend with variance requests. Planner Ortega explained the planning commission discussed amending the ordinances to permit this type of structure on the lakefront/waterfront lots. Planner Ortega explained the applicant has gone through the process, first to establish a principal use of the waterfront site with a special land use approval. Planner Ortega explained the issue is there is not a sufficient build envelope for the structure to meet setback requirements.

Chairman Easter explained if these variance requests go forward, looking at Novi, structures vary from shipping containers to extremely nice structures on the waterfront lots. Chairman Easter opined the ordinances needs to address structure height, materials, and spacing for future requests that will be coming in.

Mayor Ackley said she agrees the ordinance needs to be reviewed. Mayor Ackley opined this is a first-class plan and she has a problem calling this a shed, this is a unique, nice-looking structure, it is not visible from the road. Mayor Ackley said based on the criteria provided, she will vote to approve this case and then move forward with ordinance amendment.

Board Member Gunther said this is a beautiful design, but this proposal will open pandoras box. Mr. Gunther said the city must address this ordinance. Mr. Gunther asked why stipulations were placed to prevent power and water. Mr. Gunther explained people will find a way and it could lead to improper installation. Mr. Gunther explained there is a need to rewrite the ordinance to use the property. Mr. Gunther opined what we do not want is a lean to on the lots. Mr. Gunther said there will be neighbors not as conscientious as Mr. Christopher.

Mayor Ackley explained to the board the length of time it took to review and amend the fence ordinance; it was almost two years. Mayor Ackley said she does not see the fairness when there is this type of proposal for improvement.

Board Member Gunther said he agrees but there needs to be speed in amending the ordinance.

Chairman Easter explained there is already another similar case for next month. Mr. Easter said there is a lot of positive here with this proposal. Mr. Easter said he reviewed the lot dimensions

provided and asked why the structure was not proposed to be placed on the single-family lot with the home.

City Attorney Vanerian explained the site chosen does not allow for an adequate building envelope. Attorney Vanerian said regarding comments of opening pandoras box, these applications are all on a case-by-case basis. Attorney Vanerian explained the factors contained in the special land use and site plan applications and based on the factors in the ordinance, the planning commission acted as a gate keeper. Attorney Vanerian explained the planning commission, as the gate keeper, has the authority to request obtaining zoning board of appeal approvals. Attorney Vanerian said the planning commission has authority to deny a special land use request. Attorney Vanerian said the planning commission approved this applicant's request for special land use. Attorney Vanerian explained we do want to protect to views from the road, site line for traffic, and the applicant to be able to use the structure safely.

Consultant Planner Ortega said for points of clarification on comments of the site plan itself, the ZBA can look at a lesser variance. Planner Ortega explained the site is in the R1A district. Planner Ortega explained structures cannot be in the required side yard setback. Planner Ortega explained the lot start to taper in depth, there is only a narrow space.

Chairman Easter said the applicant would still need a variance Mr. Easter asked why the proposal was not placed on the wider side versus the narrow side of the lot.

Planner Ortega explained there is a change in the topography, it slopes up on the east side versus the west and the grade may increase exposing the 10-foot structure.

Chairman Easter said Board Member Gunther mentioned utilities. Mr. Easter said the proposal is very nice and you would want to utilize the structure to its fullest and there are probably those that have electrical possibly illegally. Mr. Easter said the ZBA would not wish to restrict these utilities. Mr. Easter asked about screening and existing arborvitae.

Consultant Planner Ortega explained in the amended ordinance, screening was addressed and there is language that allows visibility through the screening. Planner Ortega said as Mayor Ackley indicated, the applicant came before the ZBA for a fence on the waterfront lot and part of the approval was the condition to shield the fence structure at that time and the applicant placed arborvitae.

Mayor Ackley explained when the variance for the fence came before the ZBA some time ago, the arborvitae was approved by the ZBA.

Planning Commission Liaison Mr. Wolfson asked if the setback of 30 feet was there, would it need a variance. Mr. Wolfson explained there are other plots of land along the waterfront with docks taken out for the winter and placed on the lots for storage and visibly seen all season. Mr. Wolfson said the applicant's site, is well screened and he does not see a problem with this improvement.

Attorney Vanerian explained there is not one size fits all approach. Attorney Vanerian explained there is a different view of a platted lot when utilizing the zoning ordinance. Attorney Vanerian explained the definition in the zoning ordinance, can include multiple lots under single ownership. Attorney Vanerian explained single ownership, the zoning of the lot between the lake and the road, be treated different than the lot where the home is built. Attorney Vanerian explained a single lot ownership or the two parcel lots owned by same owner, should they be treated separately. There is no one single answer. Attorney Vanerian explained some lots have underlying zoning; single or multiple family, these are all factors. Attorney Vanerian explained there is not right or wrong answer. Attorney Vanerian explained because of this, there is not a precedent that can be set, each case will be reviewed separately.

ZBA 03-02-22 MOTION TO APPROVE ZBA CASE 2022-04, 174 S. PONTIAC TRAIL GRANTING VARIANCE FROM SECTION 51-21.10(C)(2)B. PERMITTING A 20 FOOT SETBACK VARIANCE FROM THE 30 FOOT WATERFRONT SETBACK REQUIREMENT ALLOWING A 9 FOOT SETBACK AND SECTION 51-21.10(C)(2)A. PERMITTING A 10 FOOT SETBACK FROM THE 30 FOOT FRONT YARD REQUIREMENT ALLOWING A 20 FOOT SETBACK FROM PONTIAC TRAIL THE MOTION BASED ON THE FINDINGS THE APPLICANT HAS MET THE REQUIRED SHOWING AS THE REASONS SET FORTH IN THE APPLICANTS APPLICATION

Motion by Gunther seconded Arnold: CARRIED: To approve ZBA case 2022-04 , 174 S. Pontiac Trail granting variance from Section 51-21.10(c)(2)b. permitting a 20-foot setback variance from the 30-foot waterfront setback requirement allowing a 9-foot setback and Section 51-21.10(c)(2)a. permitting a 10-foot setback from the 30-foot front yard requirement allowing a 20-foot setback from Pontiac Trail the motion based on the findings the applicant has met the required showing as the reasons set forth in the applicants application.

Roll Call Vote

Ayes (5) Gunther, Rundell, Ackley, Arnold, Easter
Nays (0)
Absent (0)
Abstain (0)

ZBA 03-03-22 MOTION TO SEND TO COUNCIL REQUEST FOR REVIEW OF ORDINANCE AND AMENDMENT

Motion by Ackley, seconded by Easter: CARRIED: To send to council request for review of ordinance and amendment.

Roll Call Vote

Ayes (5) Rundell, Ackley, Arnold, Gunther, Easter
Nays (0)
Absent (0)
Abstain (0)

Planning Commission Liaison Mr. Wolfson said the review of master plan is coming due, it has been five years.

ADJOURNMENT

ZBA 03-04-22

MOTION TO ADJOURN

Motion by Gunther seconded by Rundell, CARRIED, to adjourn the meeting at 8:35 p.m.

Jennifer Stuart
Recording Secretary

Jason Easter
Chairman