



**CITY OF WALLED LAKE
ZONING BOARD OF APPEALS
(ELECTRONIC MEETING PLATFORM)
MONDAY, OCTOBER 26, 2020**

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

ROLL CALL: Arnold, Easter, Gunther, Hecht, 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 10-01-20 APPROVAL OF THE SEPTEMBER 28, 2020 ZONING BOARD OF APPEALS MEETING MINUTES

Motion by O'Rourke, seconded Easter: CARRIED: To approve the September 28, 2020 Zoning Board of Appeals meeting minutes.

COMMUNICATION:

UNFINISHED BUSINESS:

1. Case: 2019-05
Applicant: Michael Petryczkowycz
Location: 566 E. Walled Lake Drive
Request: Non-Use Variances

This matter relates to property located at 566 E. Walled Lake Drive zoned R-1B. Impervious surface exceeds allowable square footage of 35% total sq. footage of lot. Lot is 3,124 sq. feet which would allow 1,093 sq. feet of impervious surface. The proposed is 1,789 sq. feet and per Section 17.02 (m) allows only 35% impervious surface of lot coverage. Section 17.02 (n) requires a side yard total of 12.5 feet, with the least side being 3.5 feet. Applicant requests a variance from Section 17.02 (n) to maintain a 3-foot-wide concrete walk in the existing 3-foot-wide side yard adjacent to the existing detached garage. This lot was a preexisting non-conforming lot. Section 18.02 (a) allows for direct replacement or repair but not to increase nonconformity which was done.

Chairman Easter asked for clarification on the print regarding sidewalk on the one side is 3, 2 or 2.6 feet.

Applicant Michael Petryczkowycz said it is 2.6 feet. He said his neighbor, Mr. Vargo did not have any concerns with the 2.6 feet.

Chairman Easter said the concern with this work is it was done without a permit.

Applicant Mr. Petryczkowycz said yes a permit is now been applied for.

Building Official Wright said the board was seeking a solution for drainage an impervious surface into backyard. The applicant met with engineer. He said the applicant suggested a seawall with a ditch in front of it but that would not work out. He said board has been waiting for applicant for some time to provide resolution. Building Official Wright said the applicant was contacted by code enforcement to appear before the board with plan before the end of the year and still no resolution has been provided by applicant.

Chairman Easter asked if this was a matter of negatively affecting neighbor's property or matter of water runoff from property running to lake.

Building Official Wright said there are concerns with fact home in close to road and salt and other things running into the lake. He asked for the board to keep in mind there was also concrete work done behind garage.

Applicant Mr. Petryczkowycz said the concrete pad behind the garage was always there it was 116 sq feet he only added 3 more feet to pad. He looked at drywells to resolve the impervious surface issue and said it did not make sense to him for the price and cost and tear up yard. He said the plot plan shows water existing on the neighboring property which is a vacant lot. He said the water is absorbed by his land and neighbor's land before it hits to lake. He said the pitch is on the neighbor's property owned by Mr. Keith Vargo. Mr. Petryczkowycz said Mr. Vargo does not have a problem with his plan. Mr. Petryczkowycz said he has vacant lots all around him and no one is complaining about his concrete.

Chairman Easter said grade elevated from the seawall,, added concrete with greater impervious surface.

Mr. Petryczkowycz said he pulled permits from EGLE for seawall and that is installed and approved by EGLE. He said new sod has been placed and looks nice. He said his gutter system in between home and structure the gutters overlap, no water hits the ground at all.

Chairman Easter said the home to the south, does that homeowner have a pad there, he is adjacent to a creek that abuts to the road and it crosses under the road.

Mr. Petryczkowycz said this neighbor does home have a concrete pad. He said it does look like a lot of concrete, but the lot is small, and the home is very small. He said his lot is small, the driveway fits one car. He said the sidewalk to house and back patio that's maybe 160 square feet.

Chairman Easter said he reviewed site and open spaces and in regard to a cistern and depth of lot to the lake, the applicant would be at water level pretty quick. Chairman Easter said Engineering a field over that distance would not alleviate much and there is a concrete pad to the south and an creek that can accept water runoff.

Mr. Petryczkowycz said he trying to make the site nice.

Vice Chairman Hecht said the applicant brings up valid points, his largest concern is that work was done without permits and against the applicant had to be reached out to by code enforcement to come before the board with resolution. He said this is a repetitive action.

Mr. Petryczkowycz said he thought the city was shut down with COVID.

Vice Chairman Hecht said it is repetitive action doing work before getting permits. Mr. Hecht said the board wants to see improvements, but applicant has to communicate with the board. Mr. Hecht said he does not feel it is a reason to deny but the applicant has to work with the city, he has to come with options. He said applicant must work with the city.

Commissioner O'Rourke said he agrees with Vice Chairman Hecht and asking for apologies versions permission is not correct path. Commissioner O'Rourke asked as far as Mr. Vargo's lot, is there anything in writing stating he is ok with this other than verbal from applicant. Commissioner O'Rourke said the drainage during winter and spring time with salt, etc. and asked about drainage to the lake. He said there is continual development around and across the lake and there needs to a defined drainage plan. He said there needs to be defined direction for drainage, salt drainage and how the winter thaw will be addressed.

Commissioner Gunther said the board has not heard anything from Mr. Vargo and he has been notified enough. He said he know Mr. Vargo enough and if he was unhappy with this he would be saying something. Commissioner Gunther said none of the problems for the applicant are of his own doing and he is struggling with if the board has any type of argument.

Chairman Easter putting cement over the gravel is the issue. Chairman Easter said to make the improvements he has done does help the property for sure compared to how it was before. Mr. Eater said the lot is short, it is one of the tiniest lots. He opined it is counterproductive to have an engineered field, a cistern that is only 2 ft by 12 ft won't hold anything it will breach and will reach the lake. He said in his 30 years of engineering experience, water will run to the lake. He said the water will always make it to the lake. Chairman Easter asked if there was a way to improve this situation as a stipulation to variance approval. Has applicant submitted new home construction plans?

Michael Petryczkowycz said he has submitted plans to the city before COVID but that was tabled until the impervious surface is resolved.

Chairman Easter asked if the existing deck is coming off.

Mr. Petryczkowycz said the deck framing will be there but all new deck materials, the existing footprint of the home will not be changed, the home will all be new with 4 bedrooms and two and half bathroom.

Chairman Easter asked if applicant addressed water run off can he add that to new house plans.

Mr. Petryczkowycz said he is not sure what he is going to do to address water runoff. He said he may do drywells.

Building Official Wright said issues were brought up in previous meetings such as the concrete behind the garage, ordinance 51.21.45 item number 9, which discusses open paved terraces and porches cannot be closer than six feet to lot line. He said the concrete behind garage the patio is closer than six feet. He said now that applicant has modified it by adding 3 new feet, it has to be brought into compliance. He said the applicants plan for new home construction will be reviewed by engineering. He said applicant has to provide engineered plans of how water will be addressed.

Chairman Easter said the applicant is going ahead with anew build and asked him if he can address the drainage at that time.

Building Official Wright said everything is great when applicant says they are going ahead with new build but may want to look at some sort of contingency for this in case building is never done.

Mr. Petryczkowycz said he has invested money; he has paid \$300,000 for this small lot. He said the gutters will be the same, he is not making home bigger, what is expanding is the height for second floor. He said the garage is not being taken down. He said he is going to clean it up and make it nicer.

City Planner Ortega said he wanted to point out for the variance being considered tonight, if the proposed is 17.89 square foot that is 57% lot coverage which is an extremely covered lot. He explained the impervious surface requirements and setbacks requirements is to allow for some storm water maintenance and treatment of water. He said there are new modern building techniques such as storm water treatments on roof, replacement of existing landscaping with more pervious materials. He said another option is to wait on granting this variance for when new home construction comes back before the board and review variances at same meeting.

Chairman Easter said the applicant virtually has no lot to begin with and how to move this forward for improvement.

City Attorney Vanerian explained conditions can be attached to variance. He said the more difficult would be what would those conditions be for this particular case when the new construction is not very well defined at this point. He said yes you can but at a loss how to identify, describe, and articulate what those conditions would be.

Commissioner O'Rourke he said he respects the applicant purchased lot; however, the lot can only max out what the lot can hold. He said based on concrete already laid down, applicant is trying to fit more onto this property with new home design for drainage and setbacks. He said the applicant may be trying to put more on the property than what the to can hold.

Commissioner Gunther said the applicant purchased lot the lots to the east and west are unbuildable. He said the applicant bought a lot that was grandfathered, and the board is telling him he cannot make any improvements. Mr. Gunther said this is not due to applicant, it was cut this way.

Vice Chairman Hecht said he agrees with commissioner Gunther, however the applicant is a builder, and he knew this would be an issue. He said the applicant continuing to have issues with code enforcement, he is not a new home buyer who does not know these things, he does this for a living.

Commissioner Gunther said he does not want the applicant to not build, the water runoff, if east and west lot are unbuildable the water runoff is not an issue.

Chairman Easter said just as Planner Ortega said there are new building methods and water management materials with the new build and that far outweighs the impervious surface issues.

Vice Chairman Hecht said he agrees, we want a home built there and there are additional items the board can place on approval. Plus, the lots on east and west are not buildable. He said he is concerned with applicant doing things without permits. He needs to understand this for the future.

Commissioner Arnold said he agrees this may be an opportunity to fix some outstanding issues. However, the rub is the applicant did do work without permits but the board should look at moving forward with new build.

Mr. Petryczkowycz said the concrete pad in the back may be removed and pavers will be placed there. He said the home is nor monstrous, it will be beautiful home. He said the home will have hardy board and stone; it will look nice.

Building Official Wright said there was conversation about lots being unbuildable, the ordinance requires drainage to be contained on applicants own lots. He said lots cannot have their drainage going on other lots. He said for the board and applicant cannot take the vacant lots into consideration.

Chairman Easter said the concrete in back and steps, concession prior to building would it be fair in the variance granting rear concrete pad, the board request it be removed in order to provide for necessary drainage for new build. Plans turned in with revised area in the back, the concrete.

Close Public Hearing 8:10 p.m.

ZBA 10-2-20 MOTION TO APPROVE 2019-05 APPLICANT TO ALLOW IMPERVIOUS SURFACE CONTINGENT UPON ADDRESSING WATER ISSUES IN THE NEW CONSTRUCTION AT A LATER DATE WITH NECESSARY CONCESSION RESTRICTION TO ALLOW PROPER ADEQUATE WATER RETENTION OF LOT 19

Vice Chairman Hecht requested to abstain. City Attorney Vanerian explained board members cannot abstain because they do not wish to vote and asked Vice Chairman Hecht his reason for wishing to abstain. Was it due to financial interest or personal interest?

Motion by Gunther, seconded by Easter: CARRIED: To approve case 2019-05 impervious surface variance request to allow impervious surface contingent upon addressing water issues in the new construction at a later date with necessary concession restriction to allow proper adequate water retention of lot 19.

Roll Call Vote

Ayes (6) Gunther, Hecht, Rundell, O'Rourke, Arnold, Easter
Nays (0)
Absent (0)
Abstain (0)

NEW BUSINESS:

Board discussed agenda item #2, Case 2020-08 prior to agenda #1 case 2020-07. Motion numbers reflect.

1. Case: 2020-07
Applicant: Martin Yono
Location: 244 S Pontiac Trail
Request: Non-use Variance

This matter relates to property located at the above referenced location. Per the ordinance an accessory structure is not permitted on a lot unless there is a principle use already lawfully established on the same lot. The applicant is requesting variance from Article 21.00 General Provisions of the Walled Lake Zoning Ordinance as follows:

- Article 21.10, Accessory buildings, structures, and uses as an accessory structure from the Walled Lake Zoning Ordinance for placement of a fire pit on waterfront lot;
- Article 21.10, Accessory buildings, structures, and uses as an accessory structure from the Walled Lake Zoning Ordinance for placement of a brick paver patio on the waterfront lot;
- Article 21.10, Accessory buildings, structures, and uses as an accessory structure from the Walled Lake Zoning Ordinance for placement of a 3ft decorative fence on waterfront lot;
- Article 21.10, Accessory buildings, structures, and uses as an accessory structure from the Walled Lake Zoning Ordinance for placement of a brick paver walkway on the waterfront property.

City Planner Ortega explained a fence is considered a structure it is an accessory structure. An accessory structure is allowed with a primary use. He said since adoption of zoning ordinance, the lakefront lots are legally non-conforming, they can only approve them with special use approval or variance. A split rail fence is consistent with current city policy, you can see through it, it defines personal boundary but does not impede view of the lake. City Planner Ortega said people wish to have a view of the lake, a split rail fence would be appropriate. He said other people have been adhering with a 30 inch versus a 36-inch fence.

Chairman Easter asked a split rail is within ordinance.

City Planner Ortega said a 30-inch fence keeps within ordinance.

Commissioner Gunther asked if applicant is agreeable to 30-inch fence.

Applicant Mr. Yono said is agreeable to a 30-inch fence.

CM 10-4-20 MOTION TO APPROVE VARIANCE REQUEST FOR FENCE ON WATERFRONT LOT CONSISTENT WITH SPLIT RAIL AND NOT TO EXCEED 30 INCHES

Motion by O'Rourke, seconded by Arnold: CARRIED: To approve variance request for fence on waterfront lot consistent with split rail and not to exceed 30 inches.

Roll Call Vote

Ayes (6) Hecht, Rundell, O'Rourke, Arnold, Gunther, Easter
Nays (0)
Absent (0)
Abstain (0)

City Planner said this is a legally non-conforming use, you are expanding the use. However, one other issue, there is a 30-foot front yard setback and 35 ft waterfront yard setback. However, they can only encroach up to 12 feet when open porch or terrace. He explained the lot entire lot is only 37 feet deep. With the lots, it only leaves a 7-foot build envelope. However, applicant will be seven feet from water, usually it would be 18 but applicant has such small lot.

Chairman Easter said it is a brick paver patio and walkway.

City Planner Ortega asked if pavers are usually installed with sand.

Commissioner Gunther said pavers are usually pervious and the patio is seven feet from seawall not water.

Applicant Mr. Yono said he can move the brick pavers at any time if necessary they are not permanent.

Chairman Easter asked Building Official Wright if pavers do come as pervious installation not all with mortar.

Building Official Wright said yes, if installed as pervious versus impervious.

Chairman Easter asked what type of brick pavers applicant will be using.

Building Official said the city engineer would be involved for review to ensure impervious surface.

Close Public Hearing 8:42 p.m.

**CM 10-5-20 MOTION TO APPROVE VARIANCE REQUEST FOR 2020-07 BRICK
PAVER WALKWAY, BRICK PAVER PATIO, AND FIRE PIT ON
WATERFRONT LOT**

Motion by Arnold, seconded by Gunther: CARRIED: To approve variance request for 2020-07 for brick paver walkway, brick paver patio, and fire pit on waterfront lot.

Roll Call Vote

Ayes (6) O'Rourke, Arnold, Gunther, Hecht, Rundell, Easter
Nays (0)
Absent (0)
Abstain (0)

2. Case: 2020-08
Applicant: Martin Yono
Location: 230 S Pontiac Trail
Request: Non-use Variance

Chairman Easter reviewed the ordinance request, this matter relates to property located at the above referenced location. Per the ordinance an accessory structure is not permitted on a lot unless there is a principle use already lawfully established on the same lot. The applicant is requesting variance from Article 21.00 General Provisions of the Walled Lake Zoning Ordinance as follows:

- Article 21 Section 21.13 (2) Fence and Wall Requirements. Applicant is proposing a 6-foot privacy fence. Fences located between the front of the house and the rear of the house shall not exceed 4.5 feet; fences located at the rear of the house shall not exceed 6 feet in height.

Applicant Mr. Martin Yono said he wishes to keep it uniform and keep it six feet all the way along. He said there is a five-foot section alongside of the home that he wishes to keep consistent with six feet all the way along the fence line.

Chairman Easter explained the applicant is asking for five feet of six foot.

Commissioner Rundell asked if the home is sold, what happens to fence. What is the point of five feet if the rest of it is covered?

Mr. Yono explained said he will be ending the fence, to keep it uniform, and the home is set back far enough.

Commissioner Gunther asked for clarification of fence.

Commissioner Hecht asked what the status was of the fence ordinance was.

City Attorney Vanerian said there is an ordinance amendment in process it has not made its way along through the process yet.

Commissioner O'Rourke asked for clarification of fence.

Applicant Mr. Yono said the fence is all in the back, it is about 4 feet along side of the home.

Vice Chairman Hecht asked City Attorney Vanerian if the applicant sells the home, there would be no issues with fence in the future if ownership changes.

City Attorney Vanerian said yes, if ownership changes hands, the variance is granted for property.

Chairman Easter asked if the fence was on 244 S Pontiac Trail the fence would be running completely along side of 230 S Pontiac Trail.

City Attorney Vanerian said it depends on what lot the fence is on. If the home at 244 S Pontiac Trail wishes to place a six-foot fence they could because the home is set more forward.

ZBA 10-3-20 MOTION TO APPROVE CASE 2020-08 FOR FENCE VARIANCE LOCATED BETWEEN THE FRONT OF THE HOUSE AND THE REAR OF THE HOUSE TO EXCEED 4.5 FEET TO ALLOW FOR A 6 FOOT FENCE

Motion by Gunther, seconded by Hecht: CARRIED: To approve case 2020-08 for fence variance located between the front of the house and the rear of the house to exceed 4.5 feet to allow for a 6-foot fence.

Roll Call Vote


Ayes (6) Hecht, Rundell, O'Rourke, Arnold, Gunther, Easter
Nays (0)
Absent (0)
Abstain (0)

DISCUSSION: None

ADJOURNMENT

ZBA 10-6-20 MOTION TO ADJOURN

Motion by Gunther seconded by Rundell, CARRIED, to adjourn the meeting at 7:50 p.m.



Jennifer Stuart
Recording Secretary

Dennis O'Rourke
Commission Member

approved
1/25/21

DRAFT