



**CITY OF WALLED LAKE  
ZONING BOARD OF APPEALS  
MONDAY, SEPTEMBER 30, 2019**

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

**ROLL CALL:** Easter, Hecht, O'Rourke, Rundell

**ABSENT:** Gunther

**OTHERS PRESENT:** Consultant Building Official Wright, Recording Secretary Stuart

**REQUESTS FOR AGENDA CHANGES:** None

**ZBA 9-1-19 MOTION TO EXCUSE BOARD MEMBER GUNTHER FROM TONIGHT'S MEETING**

Motion by Hecht, seconded by O'Rourke: CARRIED: To excuse Board Member Gunther from tonight's meeting.

Roll Call Vote

Ayes (4) Hecht, Rundell, O'Rourke, Easter  
Nays (0)  
Absent (1) Gunther  
Abstention (0)

**APPROVAL OF MINUTES:**

**ZBA 9-2-19 APPROVAL OF THE JULY 29, 2019 ZONING BOARD OF APPEALS MEETING MINUTES**

Motion by Rundell, seconded Hecht: CARRIED: To approve the July 29, 2019 Zoning Board of Appeals meeting minutes.

**COMMUNICATION:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

**1. Public Hearing**

*Open Public Hearing 7:34 p.m.*

Public Hearing

Case: 2019-06  
Applicant: Michael Wagner  
Location: 447 Sparks Lane  
Request: Non-Use Variance

This matter relates to property located at 447 Sparks Lane. The applicant is seeking variance of Article 17 Section 17.01 Schedule of Regulations This property is located in R-1A district as such the required side yard setback is 25' combined with one side being at least 10'. This proposed structure is not in compliance as they are proposing only a 4'4" setback, this proposal would then make this lot non-compliant with the required combined 25' side yard setback requirement. As proposed one side existing is 17' with the other proposed side being 4'4" combined this would be only 21'4".

Chairman Easter reviewed the variance request as posted on agenda and introduced applicant Mr. Michael Wagner.

Applicant Mr. Michael Wagner, 447 Sparks Lane – said he is planning to demolish the detached garage as it is in disrepair, leaning sideways, floods when it rains, and is under grade compared to his home. Mr. Wagner said he would like to build an attached two car garage and then eventually reside and reroof the home and garage to match. Mr. Wagner explained in order to get a two-car garage with as little room on either side, it puts him at 4.4 feet from the lot line. There is not a whole lot of room. He is hoping to have two-car garage as he is getting married in the spring and would like to be able to park their cars in a garage.

Chairman Easter reiterated to the board, in addition to the garage Mr. Wagner is proposing to also rehab the house itself with new siding and roof. Chairman Easter said it is nice to have improvements within the city.

Mr. Wagner said his neighbors were approving of the new structure and glad to hear about it. Mr. Wagner explained the neighbor who faces the garage was also approving of the new structure. Mr. Wagner explained the existing structure was held by rope, so it did not fall onto its side. Mr. Wagner said the current structure is six feet from lot line, five feet from the rear so it is currently noncompliant now and the new proposed structure is much better.

Member Hecht asked if the grade is being built up to meet the house.

Mr. Wagner explained the grade on his property is low now and by increasing the grade six inches this would bring home and garage to a level grade. Mr. Wagner explained his home sits lower than the road now.

Chairman Easter said any plans would be reviewed by Building Official Wright.

Building Official Wright explained the site plan provided in the packet is what the applicant submitted and that is what drove the need for a variance. Because of the location being less than 5 feet, this places the structure under the fire wall protection requirement. The applicant mentioned making the neighbor happy about putting windows on that side for aesthetics but that cannot be done with the requirement of fire rated walls. Mr. Wright explained when you get within five feet of the property line, all walls have to be one-hour fire rated assembly which makes the window option a no go.

Mr. Wagner said to make the pitches match, the slope cannot be made any lower.

Mr. Wagner said the windows are not a must. Mr. Wagner said if he can come in under five feet in his design that makes the whole process a lot easier or if he can do double drywall as required for fire. Mr. Wagner said he has a low front wall and in order to make the roof pitches match he cannot go narrower because he will run out of slope for the roof.

Building Official Wright explained there are a couple challenges to meet if the variance is granted such as impervious surface; the water drain off and how it will be controlled along the property line, a swale may be necessary. Mr. Wright said these are challenges to look at as the applicant goes through the building process.

Chairman Easter said the R1-A square footage for lot size is 9,600 in the applicant's zoning district. Mr. Easter explained the applicant's lot is only 8,000 square feet, the lot is already nonconforming presenting an initial challenge. Chairman Easter said the current side yard total is only 23.8 feet and does not meet the 25-foot requirement and applicant is looking at 24.4 feet in his proposal. Chairman Easter said the encroachment on the five feet is key but if applicant cannot do without 7 ½ inches, this is something to work out, it does make a lot more cuts. Chairman Easter said he was in favor of 5-foot side yard setback not 4.4 feet.

Mr. Wagner said if he can go generate 5 feet for setback can windows then be placed.

Mr. Wright said yes, once at 5 feet or more the fire rated walls do not have to be.

Chairman Easter said the other challenge is the 35% impervious coverage.

Mr. Wagner said it is hard for him the figure out exactly because he believes on Sparks Lane his lot goes to the center of the road and he is not sure how this play into the impermeable surface measurement, is that taken into account. Mr. Wagner explained he was hovering right around 30-35% with the road being counted but if he uses his full lot size and does not count the road he is 20-25%.

Chairman Easter said he would like to see a 5-foot side yard setback, applicant started at 23.8 feet and the lot is platted at only 8,000 square feet as opposed to 9,600 square feet it does present a challenge. Chairman Easter explained it is positive to create something that looks nice and rehab is encouraged.

Mr. Wagner said he does have a swale in his backyard goes towards the East Bay pond and that will be redone eventually along with the gutters to prevent water from flowing into his home.

Chairman Easter clarified that Sparks Lane will not be counted as part of the 35% impervious surface calculation.

*Close Public Hearing 7:38 p.m.*

**Audience Participation**      None

**ZBA 9-3-19      MOTION TO APPROVE VARIANCE REQUEST 2019-06 FOR 447 SPARKS LANE A NON-USE VARIANCE FROM ARTICLE 17.01 SCHEDULE OF REGULATIONS AS THIS PROPERTY IS LOCATED IN THE R-1A DISTRICT AS SUCH THE REQUIRED SIDE YARD SETBACK IS 25' COMBINED WITH THE ONE SIDE BEING AT LEAST 10'. THE PROPOSED STRUCTURE IS NOT INCOMPLIANCE AND THE APPROVAL GRANTED IS FOR ONLY A 5-FOOT SETBACK ON THE SOUTH SIDE OF THE PROPERTY WHERE A 4.4 FOOT SETBACK WAS REQUESTED**

Motion by O'Rourke, seconded by Hecht, CARRIED: To approve variance motion to approve variance request 2019-06 for 447 Sparks Lane a non-use variance from Article 17.01 Schedule of Regulations as this property is located in the R-1A district as such the required side yard setback is 25' combined with the one side being at least 10'. The proposed structure is not in compliance and the approval granted is for only a 5-foot setback on the south side of the property where a 4.4-foot setback was requested.

**Roll Call Vote**

Ayes (4)	Rundell, O'Rourke, Hecht, Easter
Nays (0)	
Absent (1)	Gunther
Abstention (0)	

**2. Public Hearing**

*Open Public Hearing 7:39 p.m.*

Case:	2019-07
Applicant:	Michelle and James Arnold
Location:	541 E. Walled Lake Drive
Request:	Non-Use Variance

This matter relates to property located at 541 E. Walled Lake Drive. The applicant is requesting variance of Article 21.10, Accessory buildings, structures, and uses as an accessory structure

from the Walled Lake Zoning Ordinance for placement of a decorative fence on the waterfront property. 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.

Chairman Easter reviewed the variance request as posted on agenda and introduced applicant Mrs. Michelle Arnold.

Mrs. Arnold explained they are proposing a variance request for approval of a fence on their waterfront lot. Mrs. Arnold explained they worked with a fence contractor and there was a permit mix up and the contractor only pulled a fence permit for the house parcel not the lake front parcel. Mrs. Arnold explained she is requesting variance for the fence on the waterfront lot that is already existing.

Member Hecht clarified with the applicant, that they hired a contractor to do the work and the contractor failed to apply for a variance and the fence was already placed on the waterfront lot.

Mrs. Arnold said yes.

Member Rundell asked if there have been any complaints.

Building Official Wright said he is not aware of any.

Mrs. Arnold explained people have noticed the fence, but it is unobtrusive, it is a low fence.

Chairman Easter said he visited the site and measured the height and its highest point, and it is only 38 inches. Chairman Easter explained a lot of the lake front lots are grandfathered in with the existing fences on the waterfront side. Mr. Easter explained this does not mean a fence should be placed there as it goes against the ordinance. Mr. Easter explained however, the fence defines the property borders and is it attractive. Chairman Easter explained the applicant's waterfront lot is wide and the fence does establish a boundary and deters unwanted visitors.

Member Hecht explained the fence is against the code and he does not want to see people putting up fences and going against the code.

Mrs. Arnold explained a unique item for her property is the lakefront property is a separate parcel from her home parcel.

Building Official explained this is the issue, the lots are two separate defined lots with two parcel numbers. Mr. Wright explained if the house and waterfront lot were all one parcel, the fence would not be an issue however, the fence would have to stop so far back from the lake. Mr. Wright explained because there are two separate parcels and the code does not allow a primary structure on a separate non principal use lot.

Chairman Easter explained the ordinance also calls out height requirements for waterfront lots. Mr. Easter explained he measured the fence on the site and its highest point is only 38 inches. Mr. Easter said the language in the code is vague, fences are noted but does not separate them

from structures. Most consider interpret a structure as a building. Chairman Easter explained if variance is granted, the structure would be defined as a fence and allowable height of only 38 inches. Mr. Easter explained back in time, this lot was the old drive in located within the city, and it was never fenced now this lot is being used as a single-family home.

Close Public Hearing 7:55 p.m.

**Audience Participation**      None

**ZBA 9-4-19      MOTION TO APPROVE VARIANCE REQUEST FOR CASE 2019-07 541 E WALLED LAKE DRIVE A NON-USE VARIANCE FROM ARTICLE 21.10, ACCESSORY BUILDINGS, STRUCTURES, AND USES FOR PLACEMENT OF A DECORATIVE FENCE OF ONLY 38 INCHES IN HEIGHT ON THE WATERFRONT PROPERTY ASSOCIATED WITH 541 E. WALLED LAKE DRIVE**

Motion by Hecht, seconded by Rundell: CARRIED: To approve variance request for case 2019-07 541 E Walled Lake Drive a non-use variance from Article 21.10, accessory buildings, structures, and uses for placement of a decorative fence of only 38 inches in height on the waterfront property associated with 541 E. Walled Lake Drive.

Roll Call Vote

Ayes (4)      O'Rourke, Hecht, Rundell, Easter  
Nays (0)  
Absent (1)      Gunther  
Abstention (0)

**ADJOURNMENT**

**ZBA 9-5-19      MOTION TO ADJOURN**

Motion by Rundell seconded by Hecht, CARRIED, to adjourn the meeting at 8:01 p.m.

  
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Jennifer Stuart  
Recording Secretary

*approved*  
*11-25-19*

  
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Jason Easter  
Chairman