



# CITY OF MARINE CITY

## Zoning Board of Appeals Meeting Agenda

Marine City Fire Hall, 200 South Parker Street

Regular Meeting: Wednesday, March 4, 2020 7:00 PM

- 
1. **CALL TO ORDER**
  2. **PLEDGE OF ALLEGIANCE**
  3. **ROLL CALL:** Chairperson Kim Weil; Commissioners Mark Bassham, James Turner; Planning Commissioner Graham Allan; City Commissioner Cheryl Vercammen; City Manager Elaine Leven
  4. **APPOINT CHAIRPERSON**
  5. **COMMUNICATIONS**
  6. **APPROVE AGENDA**
  7. **PUBLIC COMMENT** *Anyone in attendance is welcome to address the Zoning Board of Appeals. Please state name and limit comments to five (5) minutes.*
  8. **APPROVE MINUTES**
    - A. Zoning Board of Appeals Regular Meeting – October 2, 2019
  9. **UNFINISHED BUSINESS**
  10. **NEW BUSINESS**
    - A. Public Hearing – Variance Request 20-01
      - Vincent Cataldo, 536 S. Water Street & 533 S. Market Street
    - B. Board Member Training – City Attorney Davis
  11. **ADJOURNMENT**

**City of Marine City  
Zoning Board of Appeals  
October 2, 2019**

A regular meeting of the Marine City Zoning Board of Appeals was held on Wednesday, October 2, 2019 in the Fire Hall, 200 South Parker Street, Marine City, and was called to order by Chairperson Weil at 7:00 pm.

The Pledge of Allegiance was led by Chairperson Weil.

**Present: Chairperson Kim Weil; Commissioners Mark Bassham, James Turner; Planning Commissioner Graham Allan; City Commissioner Cheryl Vercammen; Building Official Susan Wilburn; City Manager Elaine Leven, City Clerk Kristen Baxter**

**Communications**

No Communications were received by the Board.

**Approve Agenda**

Motion by Commissioner Turner, seconded by Commissioner Bassham, to amend the Agenda, as follows:

Change the word *request* with *replace* on SUBJECT line of Building Official Wilburn's variance review letter for 6563 S. River Road

All Ayes. Motion Carried.

**Approve Minutes**

Motion by Commissioner Turner, seconded by Commissioner Bassham, to approve the Minutes of the Regular Meeting of the Zoning Board of Appeals held September 4, 2019. All Ayes. Motion Carried.

**Public Comment**

None.

## **Unfinished Business**

None.

## **New Business**

### Public Hearing – Variance 19-05 – Dennis & Linda Maurey, 6563 South River Road

Chairperson Weil announced that the Zoning Board of Appeals would conduct a Public Hearing to receive public comments for and against the proposed Variance request by Dennis and Linda Maurey for replacement of a fence on the St. Clair River frontage of a residential property.

Chairperson Weil opened the Public Hearing at 7:03 pm.

Building Official Wilburn stated that the applicants would like to tear down the old fence and replace the entire fence. She stated that the ordinance specifically said ZBA approval was required.

Applicant Linda Maurey stated that the fence was estimated at approximately 30 years old and was damaged during a storm in August. She said that, due to the uniqueness of the fence, she has been unable to find anyone in the County to replace the damaged portion of the fence.

Chairperson Weil commented that he has seen the specific type of fence replicated.

Mrs. Maurey provided photographs and a video showing the uniqueness of the property and how the waves of northbound freighters caused damaging and dangerous conditions due to the L-shape. She stated that she was concerned about kids wandering into her yard and said that the property needed to be secured to protect their liability.

City Commissioner Vercammen stated she had lived on the water her whole life and that no one had fences on the front of their property. She suggested that the applicants repair their existing fence. She also said she was concerned about replacing the existing 3 foot fence with a higher 4 foot fence.

Commissioner Turner commented that the ordinance was only changed in 2016 and the Board didn't have language to address a pre-existing condition. He stated that the applicants were only trying to maintain their fence and said that it was important to look

at the photos provided with uniqueness of 75 feet of side seawall where the water comes rolling in. He reiterated that the applicant needed the fence to save their liability.

Chairperson Weil closed the Public Hearing at 7:23 pm.

Planning Commissioner Allan asked if a motion could be made to approve a variance for replacement of the damaged 60 feet of fence with conforming materials. He stated that if the applicants want to repair the fence with conforming materials, they could work with Building Official to determine what was conforming.

Commissioner Turner said the intent of the 2016 ordinance amendment was to prevent people from putting up new fences. He said that the Board needed to focus on verbiage to allow for a pre-existing condition and then send to the City Commission.

Planning Commissioner Allan agreed and said that if it was allowed and that you were grandfathered in, it needed to be stated.

Building Official Wilburn reminded the Board that you could repair an existing non-conformity, but you cannot replace it.

Motion by City Commissioner Vercammen, seconded by Planning Commissioner Allan, to deny Variance 19-05 for replacement of a fence on the St. Clair River frontage of a residential property based on the application, the applicant's presentation and testimony, and the record presented at the hearing and based on the following particulars which support a denial of the variance sought:

- 1) Obscuring fence which is chain link.
- 2) Fence located on St. Clair River frontage of residential property.
- 3) No unique circumstances or hardship.
- 4) Repair to fence acceptable; replacing existing fence will make it a brand new fence.

**Roll Call Vote.** Ayes: Allan, Vercammen. Nays: Weil, Bassham, Turner.  
Motion Failed.

Motion by Commissioner Turner, seconded by Chairperson Weil, to approve variance 19-05 for replacement of a fence on the St. Clair River frontage of a residential property based on the application, the applicant's presentation and testimony, the record presented at the hearing and based on the following particulars which support the variance sought:

- 1) Property owner is requesting to replace a pre-existing fence that was damaged.
- 2) Removing the fence could cause liability concerns due to the seawall on south side causing undue hardship and unique circumstances.

**Roll Call Vote.** Ayes: Weil, Bassham, Turner. Nays: Allan, Vercammen.  
Motion Carried.

Public Hearing – Variance 19-06: Joanne & James Cottrell, 610 South Main Street

Chairperson Weil announced that the Zoning Board of Appeals would conduct a Public Hearing to receive public comments for and against the proposed Variance Request by Joanne and James Cottrell to split an existing lot into two lots.

Chairperson Weil opened the Public Hearing at 7:43 pm.

Building Official Wilburn advised the Board that the applicants would like to split an existing lot into two lots. She stated that ZBA approval was required due to the non-conforming status caused by the proposed split. She said, if approved, the lot with the residential structure would be at least 7200 square feet (Lot 2) and the lot with the barn would be approximately 4779 square feet (Lot 1).

Applicant Joanne Cottrell stated that the property had been in the family since 1850 and their request was to have the lot split so they could sell the house and keep the historic barn. She explained that their father had combined both lots into one parcel and that it was originally two parcels. By returning the lots to the original descriptions, she said they would be creating two non-conforming lots. Their solution was to create a conforming lot where the house was as it was only short by approximately seven feet, and proposed adding the additional footage (from Lot 1) to meet the 7200 square foot requirement. The barn would then be on a non-conforming lot.

Building Official Wilburn reminded the applicant that (Lot 1) would not meet the ordinance to have a house built on it, if the barn was torn down.

Chairperson Weil closed the Public Hearing at 7:51 pm.

Motion by City Commissioner Vercammen, seconded by Commissioner Turner, to approve Variance 19-06 and allow the applicants split existing lot into two lots based on the application, the applicant's presentation and testimony, the record presented at the hearing and based on the following particulars which support the variance sought:

- 1) Meets the minimum requirement with adding the seven feet from the west side going toward the barn, making the lot that the house is sitting on a conforming lot. And, due to the lot being split in the past.
- 2) Unique historic property.

**Roll Call Vote.** Ayes: Weil, Bassham, Turner, Vercammen. Nays: Allan.  
Motion Carried.

### **Other Business**

None.

### **Adjournment**

Motion by Planning Commissioner Allan, seconded by Commissioner Turner, to adjourn at 7:53 pm. All Ayes. Motion Carried.

Respectfully submitted,

Kristen Baxter  
City Clerk



# CITY OF MARINE CITY

303 S WATER ST.  
MARINE CITY, MI 48039  
PHONE (810) 765-8846 • FAX (810) 765-1040

02.20.2020

To: Zoning Board of Appeals

Re: 504 Water St. (JGM Mixed Use Building)

Parcel id#: 74-02-475-0209-000 & 74-02-475-0210-000

Dear Board Members,

- Applicant will in the near future do a "Lot Combine" on these two parcels.
- Must meet all Michigan Building Codes 2015 version
  - This includes 2 hr rated assemblies at zero lot lines.
- The first floor B group must be ADA compliant. Also the ingress and egress to all public walks, and parking places.
- Photometrics, Plantings, Parking space quantities to meet Cities Ordnnances.

Tracy Kallek,

A handwritten signature in blue ink, appearing to be "Tracy Kallek", written over a horizontal line.

Building Official/Zoning Admin



City of Marine City  
 Building Department  
 303 S. Water St.  
 Marine City, MI 48039  
 (810) 765-9011  
 buildingdepartment@marinecity-mi.org

# Zoning Board of Appeals Application

Application Fees:  
 Residential - \$200.00  
 Commercial/Industrial - \$300.00  
 (Receipt Code: ZBAFEE)

NOTE: Additional fees may be assessed by City Planning and/or Engineering Consultants

The Zoning Board of Appeals meets on the first Wednesday of each month. Applications must be filed at least thirty (30) days prior to a scheduled meeting. The City must notify the surrounding property owners within a 300-foot radius from the address on this application.

Please submit the following documents:

1. Completed Zoning Board of Appeals application
2. **9 copies** of the plot plan of the subject property drawn to scale depicting *(if applicable)*:
  - A. Shape and dimensions of the property
  - B. All existing and proposed structures to be erected, altered, or use changed
  - C. Building-to-building and building-to-property line relationships
  - D. Location of any trees in the affected area measuring at least 6" in diameter
3. Proof of ownership
  - \* If the applicant is not the owner of the land, please provide a document (land contract, purchase agreement, option to purchase, etc.) that indicates the applicant's interest in the property as well as a notarized letter from the property owner indicating no objection to the request.
4. Any other information which the applicant feels will aid the City in its review

Your application will not be considered unless all required information is provided at the time of submission, and all required fees have been paid.

**Building permits must be obtained within one year of approval of your variance**

**Address of property where variance is being requested:**

533 Market 2 ———— > Water Street Parcel # 74-02-475-0210-000  
 74-02-475-0209-000

**Applicant/Owner Information:**

Applicant(s) Name: Vincent Caralao

Address: 6775 Serenity St. Clair MI 48079  
Street City State Zip

Phone: 586 295 7604 Email: INFUZ Ltd @Comcast.net

Owner Name (if different from Applicant): IGM property

Address: 504 Water Marine City MI 48039  
Street City State Zip

Phone: 810 765 4800 Email: \_\_\_\_\_





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## Variance Request Information:

Type of Review Requested: Appeal:   x    
 Interpretation:   x   (only need to complete project description section)

### Current Property Status:

Subject property is zoned:   B-1     CBD  

Total Square Footage of property:   16,206   Circle One: Corner Lot   Interior Lot   Waterfront Lot

Number of Structures on property:   1   Percentage of lot coverage by structure/s:   49   %

Type/Use/Size of Each Structure:   COMMERCIAL w/ RES. UP  

**Project Description:** For an appeal describe the proposed project and variance requested, and include details about each structure affected. For an interpretation provide the specific section of the ordinance and the request:

NEW MIXED USE BLDG. IS WITHIN 10' SIDEYARD  
to the South. Easements will ASSURE  
NO Bldg CAN BE BUILT WITHIN THE 10'  
SETBACK OF CONCERN. AGREEMENT w/  
ADJACENT LAND OWNER HAS BEEN APPROVED.

Percentage of lot coverage by structure/s, including proposed variance:   NA   %

Proposed Overall Building Height (if applicable):   NA



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**For a variance to be granted, the Applicant must prove a practical difficulty exists  
 RESPONSES TO ALL OF THE FOLLOWING MUST DEMONSTRATE A PRACTICAL DIFFICULTY**

- 1) Strict enforcement of the provisions of the Zoning Ordinance would cause practical difficulties and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district or render conformity with such restrictions unnecessarily burdensome

Explain: TO ASSURE REQUIRED PARKING IS PROVIDED ON SITE  
--- WITH SURPLUS (ALLEVIATING MUNICIPAL SPACES); THE BLDG. WIDTH  
MUST BE HELD AS SHOWN.

- 2) Conditions and circumstances are unique to the property and are not similarly applicable to other properties in the same zoning district

Explain: THE PARCEL RESULTS A PARKING LOT TO THE SOUTH.  
THIS OPEN SPACE ... AND NEW EASEMENTS CREATED  
ALONG THE P.L., ENSURE NO BLDG. CAN BE BUILT WITHIN 10'.

- 3) Conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property

Explain: PROPERTY AND ORD. REQUIRING 10 FT. EXCEEDS  
BLDG CODE REQTS. FIRE RATED CONST. IS PROVIDED  
TO MEET ALL CODES.

- 4) The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district

Explain: WITH THE ADDED EASEMENTS, THE PROPERTY  
WILL MEET THE INTENT OF THE ORDINANCES.

- 5) The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance

Explain: THE EASEMENTS ASSURE THAT A 10'  
SEPARATION FOR ANY BUILDINGS WILL REMAIN  
ON TITLE



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*I (We) hereby attest that all the information provided in this application, and attachments submitted, are true and correct to the best of my (our) knowledge and belief.*

*[Handwritten Signature]*  
 Applicant's Signature 2/9/20  
 Date

*[Handwritten Signature]*  
 Property Owner's Signature 2/13/2020  
 Date

**CITY OFFICE USE ONLY**

Appeal #: 20-01

Fee Amount Paid: \$ 300.00

Reviewed By: \_\_\_\_\_  
 Building Official

Date Paid: February 12, 2020  
 \_\_\_\_\_  
 City Manager

**PUBLIC NOTICE**

**CITY OF MARINE CITY  
ZONING BOARD OF APPEALS**

In compliance with Michigan Zoning Enabling Legislation, the General Ordinances of the City of Marine City, and the Rules and Regulations of the Marine City Zoning Board of Appeals, please take notice that on Wednesday, March 4, 2020, at 7:00 PM in the Marine City Fire Hall, 200 South Parker Street, Marine City, Michigan, the Marine City Zoning Board of Appeals will hold a Public Hearing to consider a Zoning Variance Application, as follows:

**ZBA Appeal No. 20-01:**

**Applicant** Vincent Cataldo, is requesting a variance to reduce the side yard set-back from 10' to 5' (in part) for the purpose of constructing a commercial building with residential units, for the following properties zoned B-1 (Central Business District):

**536 S Water Street, Marine City, Parcel # 74-02-475-0209-000, with the following legal description:** N 1/2 OF LOT 26 AND S 1/2 OF LOT 35 BLK 18 MAP OF THE VILLAGE OF MARINE AS RECORDED IN LIBER E OF PLATS PGS 41, 42 & 43 ST CLAIR COUNTY REGISTER OF DEEDS

**533 S Market Street, Marine City, Parcel # 74-02-475-0210-000, with the following legal description:** N 1/2 OF LOT 25 & S 1/2 OF LOT 34 BLK 18 MAP OF THE VILLAGE OF MARINE AS RECORDED IN LIBER E OF PLATS PGS 41, 42 & 43 ST CLAIR COUNTY REGISTER OF DEEDS

Citizen comments are welcome and may be given in person at the Public Hearing. Written comments will also be received at the Marine City Offices, Zoning Board of Appeals, 303 South Water Street, Marine City, Michigan 48039, until 5:00 pm on March 4, 2020. The application is on file at the City Offices and may be inspected during regular business hours.

Kristen Baxter  
City Clerk  
February 13, 2020