



CITY OF MARINE CITY

Zoning Board of Appeals Meeting Agenda

Marine City Hall, 260 South Parker Street

Regular Meeting: Wednesday, April 5, 2023 7:00 PM

Public Hearing: Variance Request 23-01

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1. **CALL TO ORDER**
 3. **PLEDGE OF ALLEGIANCE**
 4. **ROLL CALL:** Chairperson Kim Weil; Commissioners Mark Bassham, James Turner; Planning Commissioner Graham Allan; City Commissioner Roehrig; Interim City Manager Jim Heaslip
 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 – December 7, 2022
 9. **UNFINISHED BUSINESS**
 10. **NEW BUSINESS**
 - A. Public Hearing – Variance Request 23-01
 - K&M Developments, 6609 S. Parker Street
 11. **ADJOURNMENT**

**City of Marine City
Zoning Board of Appeals
December 7, 2022**

A regular meeting of the Marine City Zoning Board of Appeals was held on Wednesday, December 7, 2020 at 260 South Parker St., Marine City, and was called to order by Chairperson Weil at 7:04 pm.

The Pledge of Allegiance was led by Chairperson Weil.

Present: Chairperson Kim Weil; Board Members Mark Bassham, James Turner; Planning Commissioner Graham Allan; City Commissioner Rita Roehrig; City Manager Holly Tatman, Deputy Clerk Michele Goodrich

Also in Attendance: City Attorney Robert Davis; Building Official Tracy Kallek

Training Session

City Attorney Davis presented and discussed the Zoning Board of Appeals 2022 Training Packet.

Communications

None.

Approve Agenda

Motion by Planning Commissioner Allan, seconded by Board Member Turner, to approve the Agenda. All Ayes. Motion Carried.

Public Comment

None.

Approve Minutes

Motion by Board Member Turner, seconded by Planning Commissioner Allan, to approve the Minutes of the Regular Meeting of the Zoning Board of Appeals held March 4, 2020. All Ayes. Motion Carried.

Unfinished Business

None.

New Business

Public Hearing – Variance #22-01: 452 S. Market St.

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 David Papin and Marilyn Papin at 452 S. Market St.

Motion by Chairperson Weil, seconded by Planning Commissioner Allan, to open the Public Hearing on Variance Request 22-01: 452 S. Market St. at 7:38pm. All Ayes. Motion Carried.

Chairperson Weil read aloud a letter received at the City Offices on 12/06/2022, submitted by Chris and Suzanna DeVeney in opposition of the variance request.

Chris DeVeney spoke in opposition of the variance request, and informed the Board that his family was still dealing with the aftermath of the fire that destroyed the Papin's garage and the damage it caused to his family. He stated that he wanted his neighbor to be able to have a garage, he just did not want it so close to his home. He advised that he was more concerned with the safety of his family than maintaining a relationship with his neighbor.

Marilyn Jean Papin spoke to the existing conditions on her block regarding the proximity of garages to homes and questioned how to remedy structures being so close together throughout the City, as a whole.

David Papin spoke in favor of the variance request. He informed the Board that he would like to rebuild his garage on the existing footprint and that he had no basement or attic to store his supplies. He stated that the fire was an act of arson.

Tracy Kallek, Marine City Building Official, informed the Board that the process to rebuild the garage structure included filling out a building permit application, which the applicant knew would be denied, the next step was to fill out a Zoning Board of Appeals application with the denied building permit to bring before the Board. Through an investigation into the permit application, it was determined the original garage was poured 1.52' from the lot line as found by surveyors for a project at a neighboring property, and the submitted plot plan showed 3 feet, which was determined to be not accurate and the garage was

considered non-conforming. He further explained to the Board that the current project was being worked on without proper permits and that the walls were framed. Additionally, there was a 6' DTE easement, on each side of the power line, that put the proposed garage in the DTE Right of Way and that the Board could not grant a variance on a DTE Easement. To bring the garage into the schedule of regulations, it would need to adhere to the 3' setback.

William Klaassen, City Commissioner and former Marine City Building Official, stated his opinion that there was a previous variance granted for the garage back in the 1990s.

Deputy Clerk Goodrich read a statement from the City Clerk in an email to the Board: "Specifically related to the alleged variance from the 1990s: no records of said alleged variance exist per the Building Department." Building Official Kallek also stated that the ZBA Minute Book was reviewed and they were in sequential order dating back to 1997, with no record of a variance.

City Attorney Davis reminded the Board that there was an intervening statute and referenced Statute 160.212. "Should any structure be destroyed by any means to an extent of more than 60% of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed" outside of the existing ordinance.

Chairperson Weil questioned if the only way to conform was to cut 3 feet off the structure and if the applicant's situation was unique enough to warrant a variance.

Board Member Bassham stated that they had to recognize the DTE easement.

Chairperson Weil confirmed that the Certificate of Occupancy was null and void because of the 60% loss.

Marilyn Papin commented that the issue of structures being too close together was all over the City.

Board Member Turner stated that the structure could be rebuilt, it just needed to be moved.

Chairperson Weil called to the audience three times, requesting if anyone wanted to be heard on Variance Request 22-01. Hearing none. Motion by Board Member Turner, seconded by Planning Commissioner Allan, to close the Public Hearing at 8:17pm. All Ayes. Motion Carried.

Building Official Kallek reminded the Board that DTE required 6 feet on either side of a utility pole. City Attorney Davis stated that the ZBA did not have the authority to enforce DTE's rights.

Chairperson Weil questioned if the Certificate of Occupancy was no longer valid as the fire took down the entire structure. City Attorney Davis responded that was correct because the rebuild was under the intervening statute which required a return to compliance.

Planning Commissioner Allan asked the Building Official if there was a reason the whole garage could not be moved to eliminate the fire danger and fire risk. Building Official Kallek responded that there was not.

Board Member Turner stated that the applicant's hardship would be the cost associated with tearing out the foundation and footings.

Building Official Kallek stated that there were many ways around removing the existing footings in the building code. Planning Commissioner Allan stated that one remedy would be to remove the whole garage and bring the entire structure into compliance.

Building Official Kallek informed the Board that they were not there to design the structure for the applicant however, reminded them that there were ways to achieve everything necessary to adhere to the setbacks and still allow for a garage structure.

Planning Commissioner Allan stated that unfortunate as it was, there was already an experience with a fire and that the new structure needed to be brought into compliance with the requirement for 3' setbacks and that even though there are other buildings in the City that have a similar issue, we cannot create solutions by extending the problem. He made the motion to deny the variance request 22-01.

Board Member Bassham stated that they needed to abide by current statutes.

City Attorney Davis stated that what he believed Planning Commissioner Allan was conveying, was that there was nothing in the record to justify the intrusion into the 3 foot setback; that there were no peculiar circumstances or anything unique.

Motion by Planning Commissioner Allan, seconded by Board Member Bassham, to deny variance request 22-01: 452 S. Market Street, based on the information that it did not meet the 3 foot setback requirement, that there was already an experience with fire that showed the risk and that extending a variance was not the correct way to bring everything

into compliance. Planning Commissioner Allan further stated that he believed there was a way to slide the garage over and accomplish everything the applicant wanted to. The applicant did not demonstrate a practical difficulty and did not demonstrate that compliance with the ordinance was impossible. The applicant did not provide any evidence of a unique property condition to justify the variance request. Roll Call: Ayes: Weil, Allan, Bassham, Turner, Roehrig. Nays: None. Motion Carried.

Turner and Roehrig qualified their vote: voting against the variance based on the information presented and the compromise offered that the Building Official and applicant work towards a solution in the building of a new structure.

Adjournment

Motion by Board Member Turner, seconded by Planning Commissioner Allan, to adjourn at 8:37 pm. All Ayes. Motion Carried.

Respectfully submitted,

Michele Goodrich
Deputy Clerk

Shannon Adams
City Clerk



10a

CITY OF MARINE CITY

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

12/16/2021

To: Marine City Zoning Board

Re: 6609 S Parker parcel id# 74-02-825-003-000

Also known as: 'The Tag-a-long'

The applicant is requesting a dimensional variance of 27'-6" where a 50'-0" set back is required between MHP and the adjacent R-1A. The current set back on the north property line is 3' and 5' depending on what concrete slab is measured. This request, if granted will help with its non-conformity which is the intent of the Zoning Enabling Act.

By allowing the dimensional variance, the applicant will be required to visit the Planning Commission for further oversight.

This is the best use of the property that the City can hope for, and we will see the property cleaned up which is the goal.

Respectfully, Tracy Kallek

Building Official/Zoning Admin

City of Marine City



City of Marine City
 Building Department
 260 S. Parker
 Marine City, MI 48039
 (810) 765-9011
 tkallek@cityofmarinecity.org

Zoning Board of Appeals Application

Application Fees:
 Residential - \$500.00 Commercial/
 Industrial - \$1000.00 (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:

6609 S. PARKER ST. 74-08-825-003-000
 Number Street Parcel #

Applicant/Owner Information:

Applicant(s) Name: K & M DEVELOPMENT GROUP, LLC
 Address: 35210 CRICKLEWOOD BLVD., NEW BALTIMORE, MI 48047
 Street City State Zip
 Phone: (586) 615-0592 Email: DIAMONDHOMESETTING6@GMAIL.COM
 Owner Name (if different from Applicant): AT RIVERS EDGE RESORT LLC
 Address: 505 MAPLE ST., MARINE CITY, MI 48039
 Street City State Zip
 Phone: (248) 322-9900 Email: EWENCROBICHEAUX@GMAIL.COM



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Variance Request Information:

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

Current Property Status:

Subject property is zoned: MHP

Total Square Footage of property: 118,489 Circle One: Corner Lot Interior Lot Waterfront Lot

Number of Structures on property: 7 Percentage of lot coverage by structure/s: 25 %

Type/Use/Size of Each Structure: 5 MOBILE HOMES OF VARIOUS SIZES AND 1 2-STORY STORAGE STRUCTURE @ 20' X 33'

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:

THE EXISTING MOBILE HOMES WILL BE REMOVED, A NEW ROAD WILL BE INSTALLED, THE ENTIRE PROPERTY WILL BE THOROUGHLY CLEANED UP AND RENOVATED, ALL APPROPRIATE UTILITIES WILL BE INSTALLED AS WELL TO CONCRETE PADS, FOR USE OF THE PROPERTY AS AN RV PARK. THE EXISTING 2-STORY STRUCTURE WILL BE BUITED AND RENOVATED FOR USE AS THE PARK'S LAUNDRY, RESTROOMS, SHOWER AND OFFICE. AS AN RV PARK, THE PROPERTY WILL BE SUBJECT TO THE W-M ZONING DISTRICT REGULATIONS, WHICH REQUIRE A 50' SETBACK FROM A RESIDENTIAL PROPERTY LINE. THE ADJACENT PROPERTY TO THE NORTH IS ZONED R-1A. THE VARIANCE SOUGHT IS

Percentage of lot coverage by structure/s, including proposed variance: * 25 %
 * LESS THAN 5%. WHEN ALL PDS ARE PRESENT, @ 25%
 Proposed Overall Building Height (if applicable): N/A

TO REDUCE THE SIDE YARD SETBACK FROM 50' TO 25'.



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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: STRICT ENFORCEMENT OF THE ORDINANCE WOULD ALTER UTILITY PLACEMENT, INCREASE PER LOT COSTS, AND DECREASE THE NUMBER OF LOTS USED FOR RECREATION BY CITIZENS BY APPROXIMATELY 1/3.

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

Explain: THIS IS THE ONLY PROPERTY IN THE AREA ZONED MHP, SO NO OTHER PROPERTIES IN THE AREA ARE SIMILARLY SITUATED.

- 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: THE PROPERTY WAS ZONED MHP LONG BEFORE THE OWNER'S PREDECESSOR IN TITLE OWNED THE PROPERTY. THOSE PROVISIONS WILL ONLY AFFECT THE APPLICANT'S PROPOSED FUTURE USE OF THE PROPERTY.

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

Explain: THERE ARE NO OTHER PROPERTIES SIMILARLY SITUATED.

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

Explain: AN RV PARK IS A PERMITTED USE UNDER §160.068 OF THE ZONING ORDINANCE, AND THERE EXIST NOW AND HAVE FOR SOME TIME, STRUCTURES CLOSER TO THE NORTHERN PROPERTY LINE THAN WILL BE THE CASE WITH APPLICANT'S PROPOSED USE.



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I (We) herby 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.

 Applicant's Signature

 Date

 Property Owner's Signature

 Date

CITY OFFICE USE ONLY

Appeal #: _____

Fee Amount Paid: \$ _____

Date Paid: _____

Reviewed By: _____

Building Official

City Manager

March 2, 2023

Zoning Board of Appeals
City of Marine City
260 South Parker St.
Marine City, Michigan 48039

To Whom it may Concern:

This letter shall confirm that I have no objection to K&M Development Group, LLC's request for a zoning variance concerning the side-yard setback at the property located at 6609 South Parker Road, in Marine City.

Owner:
At Rivers Edge Resort LLC

By: The Estate of Anthony Joseph Robicheaux,
deceased

By: _____
Ellen C. Robicheaux
Its: Personal Representative

STATE OF MICHIGAN)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged as executed the ____ day of March 2023 by the Estate of Anthony Joseph Robicheaux, deceased, by Ellen C. Robicheaux, Personal Representative.

Notary Public, _____ County, Michigan
Acting in _____ County
My commission expires: _____

PUBLIC NOTICE

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

Notice is hereby given pursuant to the requirements of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, the General Ordinances of the City of Marine City, and the Rules and Regulations of the Marine City Zoning Board of Appeals that on Wednesday April , 5 2023, beginning at 7:00 PM, or as soon thereafter as the agenda allows, at the Marine City Municipal Offices, 260 S. 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. 23-01

Applicant: K & M Development, 35210 Cricklewood Blvd, New Baltimore, Michigan 48047 requesting a Zoning Ordinance Variance for property located at 6609 S. Parker Street, Marine City,

Tax Parcel ID Number 74-02-825-0003-000

LOT 2 SUPERVISORS NICKEL PLAT T3N R16E SEC 01

Variance request is to allow a zoning set back of 25 feet which is less than the 50 feet as required per ordinance.

A complete copy of the application may be examined at Marine City Municipal Offices, 260 S. Parker Street, Marine City, Michigan, prior to the public hearing, during the City's regular business hours, Monday through Thursday, 8:00 AM through 6:00 PM. Citizen comments are welcome and may be given at the Public Hearing. Written comments may be addressed to the Zoning Board of Appeals at the municipal office address above until 5:00pm on April 4, 2023.

Jason A. Bell
Interim City Clerk
March 13, 2023

**PUBLIC NOTICE – PUBLIC HEARING
CITY OF MARINE CITY
ZONING BOARD OF APPEALS**

Dear Property Owner:

March 13, 2022

You are receiving notice of this Public Hearing as you are listed as owning a piece of property within 300ft of the below mentioned parcel where the owner has requested a zoning variance and under Michigan Zoning and Enabling Act 110 of 2006 and Marine City Ordinance §160.305, notice of the requested variance and public hearing is required.

If you have any questions, please contact the Building Official or City Offices at 810-765-8846.

Jason A. Bell
Interim City Clerk

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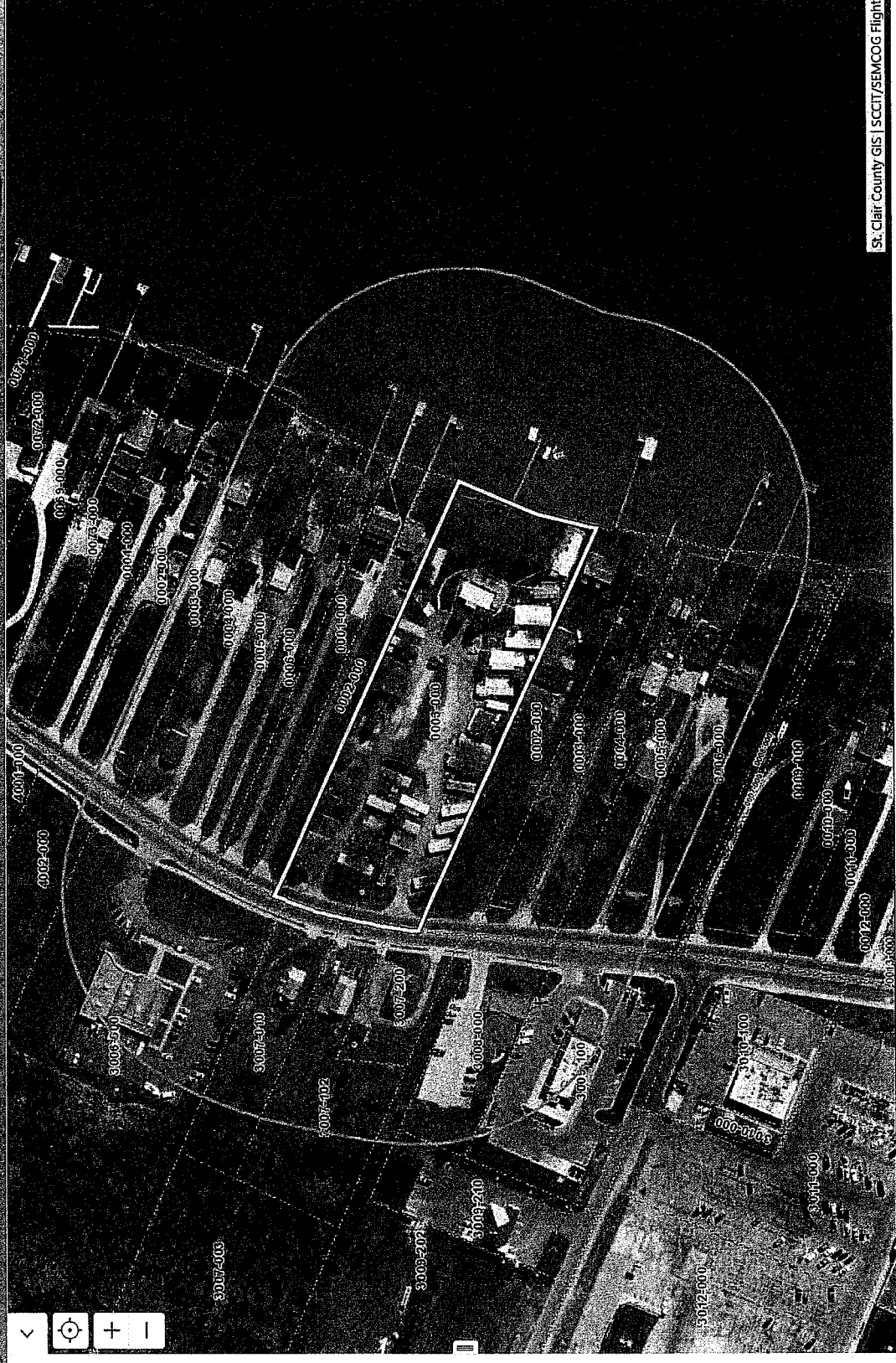
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Jason A. Bell,
Interim City Clerk
March 13, 2023

Welcome to the Basic Viewer: 2010 Aerial
 Click on any neighbor parcel to view its details.



Identify Results (43)

43 Results Found

(1) Drawings

(21) Found Parcel: View Detail Click >>

(21) Tax Parcel Labels