



CITY OF MARINE CITY

Zoning Board of Appeals Meeting Agenda

Marine City Fire Hall, 200 South Parker Street

Regular Meeting: Wednesday, December 5, 2018, 7:00 PM

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1. **CALL TO ORDER**
 2. **PLEDGE OF ALLEGIANCE**
 3. **ROLL CALL:** Chairperson Kim Weil; Commissioners Mark Bassham; Planning Commissioner Graham Allan; City Commissioner Cheryl Vercammen; Building Official Susan Wilburn; City Manager Elaine Leven
 4. **COMMUNICATIONS**
 5. **APPROVE AGENDA**
 6. **APPROVE MINUTES**
 - A. Zoning Board of Appeals Regular Meeting – November 7, 2018
 7. **PUBLIC COMMENT** *Anyone in attendance is welcome to address the Zoning Board of Appeals. Please state name and address. Limit comments to five (5) minutes.*
 8. **UNFINISHED BUSINESS**
 - A. Public Hearing ~ Appeal #18-07 – Whittlesey Development, Ltd., 827 Degurse Avenue
 9. **NEW BUSINESS**
 10. **OTHER BUSINESS**
 11. **ADJOURNMENT**

**City of Marine City
Zoning Board of Appeals
November 7, 2018**

A regular meeting of the Marine City Zoning Board of Appeals was held on Wednesday, November 7, 2018 in the Fire Hall, 200 South Parker Street, Marine City, and was called to order by Chairperson Weil at 7:00pm.

The Pledge of Allegiance was led by Chairperson Weil.

Present: Chairperson Weil; Commissioners Bassham, Filo, Vercammen;
Planning Commissioner Allan; Building Official Wilburn; City Manager Leven; and
Deputy Clerk Desmarais

Absent: None

Also in Attendance: City Attorney Robert Davis

Communications

Received:

- Resignation Letter – Eric Cottrell

Motion by Planning Commissioner Allan, seconded by Commissioner Vercammen, to receive and file the Communication. All Ayes. Motion Carried.

Approve Agenda

Motion by Commissioner Filo, seconded by Commissioner Vercammen, to approve the Agenda, as presented. All Ayes. Motion Carried.

Approve Minutes

Motion by Commissioner Filo, seconded by Commissioner Vercammen, to approve the Minutes of the Regular Meeting of the Zoning Board of Appeals held August 1, 2018, as presented. All Ayes. Motion Carried.

Public Comment

None.

Unfinished Business

None.

New Business

Public Hearing ~ Appeal #18-06 – Thomas Vertin, 1300 South Parker

City Attorney Davis briefly outlined the procedure for Variances and stated the following:

- The Board was provided a worksheet to keep notes on each Variance requested and it was meant to help them gather evidence for a motion.
- The Board's decision was final and could only be appealed by the Circuit Court.
- Any motion made had to be backed by evidence that was presented to the Board and part of the record.
- A Board member could second a motion and add a friendly amendment to the original motion to add further evidence and facts.

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 Thomas Vertin, for property located at 1300 South Parker. The Variance request was for an increase in the maximum height requirements to accommodate performing arts academy and theatre.

Chairperson Weil opened the Public Hearing at 7:08pm.

Building Official Wilburn advised that the applicant was asking to increase the height from 40' to 48' for the portion of the building facing Chartier Street.

Thomas Vertin, the applicant, stated the following:

- He was looking to increase the height of the building to allow for a flywheel hoist, which would be their next step to expand their theatre businesses.
- Their current theatres had brought in numerous visitors to Marine City and had helped increase the local economy, and this would have a further positive impact.
- The proposed theatre would seat approximately 350 people and house a performing arts academy.
- Adequate parking would be provided at the proposed property.

- Mr. Klingler was the current owner of the property, but if the variance was approved, he would move forward with purchasing the property.

Bob Klingler, 7075 South River Road, stated that he was the current owner of the property and he had an environmental impact study done at the proposed location in the past and the property was clean. He said the project would tie that portion of the City to downtown and expand the cultural center, which would help with beautification and tourism in that area.

Commissioner Vercammen questioned what had been on the property in the past. Mr. Klingler answered that it had been a parking lot and warehouse.

Phil Oleksiak, 546 Chartier, spoke in opposition of the Variance and proposed project. He made the following statements:

- He resided across the street from 1300 South Parker and was concerned about the traffic, as well as the noise and light pollution.
- The property was zoned L-1 – Light Industrial, and the project did not meet those zoning requirements.
- Site Plans and drawings were not submitted at the time of the application submittal.
- Concerned about the environmental impact as his research showed there was a leaking oil tank underneath the property.
- He saw no hardship or practical difficulty due to the enforcement of the zoning ordinance and said the Variance requested was a want and not a need.

Commissioner Filo stated that zoning was addressed by the Planning Commission and not the Zoning Board of Appeals.

City Attorney Davis reminded the Board to use the material and record to decide if the variance should be granted. He said the Variance would stay with the land and that the current property owner was present at the meeting and consented to the application. He stated that the Board was not there to decide if the use was appropriate.

Chairperson Weil clarified that the Board needed to discuss and decide if the Variance to increase the maximum height should be approved.

Bob Klingler, 7075 South River Road, said that there would be two entrances and exits for the parking lot to help the flow of traffic, and lighting on the property could be directed so that it did not affect residents nearby.

Thomas Vertin, applicant, made the following statements:

- He was willing to address any environmental issues as he had done with other projects in town, and would resolve any other issues should the Variance be approved.
- He wanted to keep this project in Marine City, and the location was ideal due to parking capacity.

Bill Haas, 203 Pleasant Street, stated that he was concerned about parking, traffic and any negative impact it would cause to the area.

Chairperson Weil closed the Public Hearing at 7:58pm.

Motion by Chairperson Weil, seconded by Commissioner Bassham, and friendly amended by Commissioner Vercammen, to approve Appeal #18-06 to increase the maximum height requirements based on the record as a whole including the application, Building Official Wilburn's report, the applicant testimonial, the feedback received from the Public Hearing, and the following points:

- The undo-hardship was that the applicant needed the increased maximum height to accommodate for equipment to operate the theatre.
- The unique circumstance was that the applicant needed to upgrade the existing building for a proposed theatre and performing arts academy.
- The proposed building was not blocking the view for any residents, and did not impede the residents of Chartier Street.

Roll Call Vote.

Ayes: Weil, Allan, Bassham, Filo, Vercammen

Nays: None

Motion Carried.

Public Hearing ~ Appeal #18-07 – Whittlesey Development, Ltd., 827 Degurse Avenue

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 Whittlesey Development, Ltd., for property located at 827 Degurse Avenue. The Variance Request was to reduce the side setback from 20' to 10'.

Chairperson Weil opened the Public Hearing at 8:04pm.

Mr. Whittlesey, applicant, stated that he requested the Variance due to the lot being long and narrow. He also stated that several other properties on Degurse Avenue had 10' setbacks instead of the 20' required by the current Ordinance.

Bob Klingler, 7075 South River Road, stated that he owned the building on the West side of 827 Degurse Avenue and wanted clarification on the location that the Variance was requested for.

Building Official Wilburn said that there was a County drain located behind the property and a Drain Commission permit would be required. She stated that the Variance was to reduce the setback between the lot line and building.

Mr. Whittlesey, applicant, said that the current fence was located 1' inside the property line.

Bob Klingler, 7075 South River Road, said that he had been required to install a tree line to separate the industrial and residential areas. He was concerned that the tree line buffer and swale on his property would be harmed if the Variance was approved as presented.

Building Official Wilburn reminded the Board that Site Plan approval by the Planning Commission would be required as well.

The Board was made aware that the Public Notice that had been mailed to property owners regarding the Variance request had inaccurate information pertaining to the location on the property of 827 Degurse Avenue that the Variance was being requested.

Chairperson Weil closed the Public Hearing at 8:20pm.

Motion by Planning Commissioner Allan, seconded by Commission Filo, to table the item until the December 5, 2018 meeting due to not being in possession of adequate prints and plans from the applicant.

Roll Call Vote.

Ayes: Weil, Allan, Bassham, Filo, Vercammen

Nays: None

Motion Carried.

City Manager Leven stated that the City strived to get plans from applicants, and despite applicants wanting things to move quickly, that plans were needed in order for the Board to make a decision.

Other Business

None.

Adjournment

Motion by Commissioner Filo, seconded by Commissioner Vercammen, to adjourn at 8:20pm. All Ayes. Motion Carried.

Respectfully submitted,

Elizabeth Desmarais
Deputy Clerk

Kristen Baxter
City Clerk

8-A Zoning Board of Appeals Application



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

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 in which there are appeals for consideration. Applications must be filed at least thirty (30) days prior to a scheduled meeting. Application fee must be paid in full before your application is added to the Agenda. The City must notify the surrounding property owners within a 300-foot radius from the address on this application.

Site Plan requirements for all dimensional variance requests must include the following:

- 1) Minimum site plan submittal shall be based on a land survey prepared and sealed by a registered land surveyor or registered engineer.
- 2) The plan must be drawn to scale.
- 3) The plan must include property lines and dimensions, all structures and buildings (existing and proposed), all setback dimensions, driveways, and all adjacent uses and structures of adjoining lots.

Your application will not be considered unless all required information is provided at the time of submission, and any/all required fees are paid for prior to the meeting date.

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

Address of property where variance is being requested:

827 Degurse 02-001-1013-400
Number Street Parcel #

Applicant/Owner Information

Applicant(s) Name: Whittlesey Development Ltd.
Address: 3534 23 Mile St. New Baltimore MI 48047
Street City State Zip
Phone: 586-716-2300 Email: ted@whittlesey.com
Owner Name (if different from Applicant): VIVSON LLC
Address: 827 Degurse Marine City MI 48039
Street City State Zip
Phone: 810-765-3900 Email: John.e.vjind.com



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Variance Request Information

Subject property is zoned: Industrial Size of Lot: 162 x 658
Total Square Footage: 106,546 Circle One: Corner Lot Interior Lot Waterfront Lot
Number of Buildings on lot now: 1
Percentage of lot coverage by building/structure now: 11.2 %

Type/Use/Size of Each Building:

Metal Manufacturing

Describe Proposed Building/Structure, Addition, Fence, Sign, Etc.:

Building Addition

Complete as it pertains to each situation; e.g. complete all for buildings, height & length for fence, etc.

Height: 18 Width: 60 Length: 224 Sq. Footage: 11,940

Height: _____ Width: _____ Length: _____ Sq. Footage: _____

Height: _____ Width: _____ Length: _____ Sq. Footage: _____

Percentage of lot coverage with proposed building/structure, addition, fence, etc.: 21.5 %

Setbacks after completion of proposed project:

Front: _____ Rear: _____ Side: 20 Side: 20

REASON FOR APPEAL: Narrow Lot, Existing Building is less than 20 ft
Addition to meet existing building, All other building in sub
encroach on 20ft setback



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For a variance to be granted, the Applicant must prove a unique circumstance or an undue hardship relating to his/her situation by answering the questions below and providing supporting evidence

- 1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not generally applicable to other land, structures or buildings in the same zoning district

NO _____ YES X

If yes, explain: Industrial Sub was set up with narrow and deep lots. The side yard setback limits the use of the property

- 2) A strict enforcement of the zoning ordinance would cause a practical difficulty and literal interpretation of the provisions of the zoning ordinance would deprive me of rights commonly enjoyed by other properties in the same zoning district under the terms of the zoning ordinance

NO _____ YES X

If yes, explain: Industrial Buildings in Sub division have 10' side yard setbacks

- 3) The special conditions and circumstances do not result from the actions of me, the applicant, or my predecessor

NO _____ YES X

If no, explain: _____

- 4) Granting the variance requested will not bestow upon me, the applicant, any special privileges that are denied by the zoning ordinance to other lands, structures or buildings in the same zoning district

NO _____ YES X

If no, explain: _____



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- 5) Will approval of this appeal change the character of your immediate neighborhood and/or the zoning district in which the property is located?

NO X YES _____

If yes, explain: _____

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

Thomas M. White

10/18/18

Date

Owner's Signature

LEA

10-18-18

Date

CITY OFFICE USE ONLY

Appeal #: 18-07

Fee Amount Paid: \$ 300.00

Date Paid: 10-18-2018

Reviewed By: _____

Building Official

City Manager

[illegible]

ZONED 1-1

CITY OF MARINE CITY

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

To: Chairman and Members of the Marine City Zoning Board of Appeals
From: Susan Wilburn, City of Marine City Building Official
Date: October 18, 2018
Project Location: 827 Degurse
Subject: Requesting permission to reduce side setbacks

VARIANCE.

(a) A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

(b) The crucial points of ***VARIANCE*** are:

1. Undue hardship;
2. Unique circumstances; and
3. Applying to property.

(c) A ***VARIANCE*** is not justified unless all 3 elements are present in the case.

1. *VARIANCE REQUESTED:*

This is a 2.77 acre parcel. The variance requested is to reduce the West side set-back from 20' required to 10'.

The existing building on the site is an existing non-conformity and has a side setback of 10'. The proposed addition would match the setback of the existing building.

UNIQUE CIRCUMSTANCE OR UNDUE HARDSHIP:

1. "Narrow lot, existing building is less than 20 ft, addition to meet existing building. All other building in sub encroach on 20 ft setback."
2. "Industrial sub was set up with narrow and deep lots. The side yard setback limits the use of the property."
3. "Industrial buildings in subdivision have 10' side yard setbacks."

ORDINANCE:

REGULATIONS SCHEDULE

§ 160.195 SCHEDULE.

Table follows below.

SCHEDULE LIMITING HEIGHT, BULK DENSITY AND AREA BY ZONING DISTRICT

<i>Minimum Zoning Lot Size Per Unit</i>	<i>Maximum Height of Structures</i>		<i>Minimum Yard Setback (per lot in feet)</i>	<i>Minimum Floor Area Per Unit (sq. ft.)</i>			<i>Max. % of Lot Area Coverage by All Buildings</i>		
<i>Zoning District</i>	<i>Area in sq. ft.</i>	<i>Width in feet</i>	<i>In Stories</i>	<i>In Feet</i>	<i>Front</i>	<i>Each Side</i>	<i>Rear</i>		
I-1 Light Industrial	—	—	—	40	50(j)	20(j,l)	(j,l,i)	—	—

(J) Parking shall be permitted in required yard space after approval of the parking plan layout and points of access by the Planning Commission.

(L) No building or structure shall be located closer than 50 feet to the outer perimeter (property line) of the district when the property line abuts any residential district. A completely obscuring wall not less than 6 feet in height or a 6-foot chain link type fence and a 20-foot wide greenbelt planted in accord with the minimum requirements as provided herein, shall be provided when side or rear yards are abutting land zoned for residential use. Required side yard may be used for off-street parking or loading and unloading provided that in such instances the Planning Commission shall review and approve the proposed parking and site plan to determine that sufficient access to the rear of the building is provided for fire fighting or other emergency type equipment.

(l) Off-street loading space shall be provided in the rear yard in the ratio of at least 1 space per each establishment and shall be provided in addition to any required off-street parking area. Off-street loading space shall further meet the requirements hereof.

REVIEW:

Enclosed with this memo is a copy of the Zoning Board of Appeals Application along with applicants' explanation.

If approved, the project will require review by Wade Trim and the Planning Commission for site plan approval.

OWNER	OWNER2	PROP_ADDRESS_COMBIN	OWNER_ADDRESS	OWNER_CITY	OWNER_OWNER_ZI
VERNIER COREY		104 MURRAY CT	104 MURRAY CT	MARINE CITY	MI 48039-155
TEWKESBURY RYAN D		109 MURRAY CT	109 MURRAY CT	MARINE CITY	MI 48039-155
BAAB LLC		807 DEGURSE AVE	7249 FLAMINGO	CLAY	MI 48001
RYDER MARTIN I		628 METROPOLIS ST	628 METROPOLIS ST	MARINE CITY	MI 48039-154
BIG RIVER ASSET MANAGEMENT INC		814 DEGURSE AVE	1867 RIVER RD	SAINT CLAIR	MI 48079
MERRILL GREGORY/MARIA		600 METROPOLIS ST	600 METROPOLIS ST	MARINE CITY	MI 48039
824 DEGURSE LLC		824 DEGURSE AVE	7075 S RIVER RD	MARINE CITY	MI 48039
MARINE CITY		DEGURSE AVE	300 BROADWAY	MARINE CITY	MI 48039
JOHNSON STEVEN/KAREN		108 MURRAY CT	108 MURRAY CT	MARINE CITY	MI 48039
MANUFAC LLC		837 DEGURSE AVE	1555 NEW MILFORD SCHOOL R	ROCKFORD	IL 61109
PENNAZOLI MICHAEL T/ELIZABETH A		606 METROPOLIS ST	606 METROPOLIS ST	MARINE CITY	MI 48039-154
HOSFORD BENJAMIN M, HOSFORD CAROLYN		107 MURRAY CT	107 MURRAY CT	MARINE CITY	MI 48039-155
DRUMMOND INVESTMENTS LLC		766 DEGURSE AVE	766 DEGURSE AVE	MARINE CITY	MI 48039-010
HOKE DI ANN		704 METROPOLIS ST	704 METROPOLIS	MARINE CITY	MI 48039
MARINE CITY		BROADWAY ST	300 BROADWAY	MARINE CITY	MI 48039
DRUMMOND INVESTMENTS LLC		DEGURSE AVE	766 DEGURSE AVE BOX 98	MARINE CITY	MI 48039-152
KOHLER ADAM L H/W, KOHLER CARRIE		110 MURRAY CT	110 MURRAY CT	MARINE CITY	MI 48039
HOPE CONNER D		106 MURRAY CT	6464 SPRINGBORN	CHINA	MI 48054
VIVJON LLC		827 DEGURSE AVE	827 DEGURSE	MARINE CITY	MI 48039
ERICKSON HOLDINGS INC		817 DEGURSE AVE	817 DEGURSE AVE	MARINE CITY	MI 48039
MECHANICAL FABRICATORS INC		770 DEGURSE AVE	770 DE GURSE	MARINE CITY	MI 48039
ZIMMERMAN DEVELOPMENT CO LLC		796 DEGURSE AVE	5763 RIVER RD	EAST CHINA	MI 48054
CHARTER TWP OF EAST CHINA		DEGURSE AVE	5111 RIVER RD	EAST CHINA	MI 48054-417
GREEN DAWN MARIE L		105 MURRAY CT	105 MURRAY CT	MARINE CITY	MI 48039-155

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, December 5, 2018, 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. 18-07

Applicant Whittlesey Development LTD, is requesting the following variance for **827 Degurse, Marine City**:

- ❖ A variance to reduce the West side set-back from 20 feet required to 10 feet

The legal description of the subject property, zoned in the I-1 (Light Industrial), is currently shown on the tax roll, as follows:

Parcel # 74-02-1013-400

BEG S 89D 2M 50S E 619.35' FROM NW COR SUP CENTER ST PLAT, TH N 1D 37M 48S W 733.09', TH S 87D 2M E 161.95', TH S 0D 13M 13S E 726.81', TH N 89D 2M 50S W 143.69' TO BEG EXC N'LY 30' FOR DEGURSE ST SECTION 1 T3N R16E 2.55 A

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 December 5, 2018. The application is on file at the City Offices and may be inspected during regular business hours.

Kristen Baxter
City Clerk
November 18, 2018