

### **CITY OF MARINE CITY**

### **Zoning Board of Appeals Meeting Agenda**

Marine City Fire Hall, 200 South Parker Street Regular Meeting: Wednesday, April 4, 2018, 7:00 PM

- 1. CALL TO ORDER
- 2. PLEDGE OF ALLEGIANCE
- 3. **ROLL CALL:** Chairperson Kim Weil; Commissioners Mark Bassham, Cheryl Vercammen; Planning Commissioner Graham Allan; City Commissioner James Turner; Building Official Susan Wilburn; City Manager Elaine Leven
- 4. **COMMUNICATIONS** 
  - A. ZBA Training Follow-Up
- APPROVE AGENDA
- 6. **APPROVE MINUTES** 
  - A. Zoning Board of Appeals Regular Meeting March 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
- 9. **NEW BUSINESS** 
  - A. Public Hearing ~ Appeal #18-02 William & Amy Tranchemontagne, 330 North Market Street
- 10. OTHER BUSINESS
- 11. ADJOURNMENT

## ROBERT CHARLES DAVIS City of Marine City Attorney

TO:

City Manager, Elaine Leven

FROM:

**Robert Charles Davis** 

RE:

ZBA Follow-up Issues

DATE:

March 12, 2018

This is a follow-up to the ZBA training meeting. Attached are the following:

Exhibit 1

**ZBA Findings Guide** 

Exhibit 2

**ZBA Motion Guide** 

Robert Charles Davis

/emm

Attachment

# EXHIBIT 1

### CITY OF MARINE CITY ZBA FINDINGS GUIDE

The Board of Appeals may, upon appeal of a specific case, grant a variance from the terms of the zoning ordinance. A variance from terms of the zoning ordinance shall not be granted by the board of appeals unless and until:

A written application for a specific and defined variance is submitted and there is record evidence supporting the following:

a. That 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.
Yes No
Supported by the following findings in the record:
b. That a strict enforcement of the zoning ordinance would cause a practical difficulty and that literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
Yes No Supported by the following findings in the record:
c. That the special conditions and circumstances do not result from the actions of the applicant or his or her predecessor.
Yes No
Supported by the following findings in the record:
d. That granting the variance requested will not confer on the applicant any special privileges that are denied by the zoning ordinance to other lands, structures or buildings in the same zoning district.
/es No
Supported by the following findings in the record:

# EXHIBIT 2

### **MOTION TO GRANT VARIANCE**

I move to grant the variance 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.
- 2.
- 3.
- 4.
- 5.

### MOTION TO DENY VARIANCE

I move to deny the variance based on the application, the applicant's presentation and testimony, the record presented at the hearing and based on the following particulars which support a denial of the variance sought:

- 1.
- 2.
- 3.
- 4.
- 5.

### City of Marine City Zoning Board of Appeals March 7, 2018

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

The Pledge of Allegiance was led by City Commissioner Turner.

Present: Commissioners Bassham, Vercammen; Planning Commissioner Allan; Alternate Commissioners Cottrell and Filo; City Commissioner Turner; Building Official Wilburn; City Manager Leven; and Deputy Clerk McDonald

Absent: Chairperson Weil

Also in Attendance: City Attorney Robert Davis

### **Approve Agenda**

Motion by Planning Commissioner Allan, seconded by Commissioner Bassham, to approve the Agenda, as presented. All Ayes. Motion Carried.

### **Approve Minutes**

Motion by Commissioner Bassham, seconded by Planning Commissioner Allan, to approve the Minutes of the Regular Meeting of the Zoning Board of Appeals held January 3, 2018, as presented. All Ayes. Motion Carried.

### **Public Comment**

None.

### **Unfinished Business**

None.

### **New Business**

### Public Hearing ~ Appeal #18-01 - Melissa Fisher, 240 South Water Street

City Commissioner Turner announced that the Zoning Board of Appeals would conduct a Public Hearing to receive public comments for and against the proposed Variance Requests by Melissa Fisher, for property located at 240 South Water Street. The Variance Requests were to reduce the side setback requirements from ten feet to six feet (per Ordinance 160.195) to construct a stairwell on the side of the proposed addition and to extend the proposed front balcony two feet over the sidewalk.

City Commissioner Turner opened the Public Hearing at 7:02pm.

Applicants Melissa and Jeremy Fisher approached the Board and stated that the reason they requested the variances was due to the fact that they had to turn business away in the winter months and were running out of space at the current business. They said that expansion of the business was the next step for their business venture.

Commissioner Bassham questioned whether the current cement slab under the patio was footed for the proposed addition and whether drainage and other potential issues were considered. In addition, he asked if the neighbors on the north end of the proposed addition were far enough away to allow for the setback.

The applicants responded by stating that everything was up to code and ready for the proposed addition; they had hired an engineer for the project to ensure that all requirements had been met. They said that they were in good standing with the north end neighbors and the proposed addition would be eight feet away from them.

Commissioner Vercammen questioned whether the upstairs egress was for emergencies and if the proposed mezzanine would be seasonal. She also expressed concern about the possibility of someone dropping something from the proposed balcony onto the sidewalk due to the two foot overhang.

The applicants confirmed that the egress was for emergencies only and the mezzanine would be for seasonal use. Additionally, they said they were going to utilize a railing on the balcony to address the concern of items dropping onto the sidewalk below.

City Commissioner Turner closed the Public Hearing at 7:10pm.

Building Official Wilburn said that the proposed stairwell on the side of the building was six feet from the property line and the ordinance required a ten foot side setback. She

stated that there were no front setbacks required by the ordinance and the proposed balcony overhung the sidewalk by two feet.

Commissioner Bassham stated that he appreciated the effort that was put towards properly submitting the application and request by the applicants.

Motion by Planning Commissioner Allan, seconded by Commissioner Bassham, to approve Appeal #18-01 based on the record as a whole including the application, Building Official Wilburn's report, the applicant testimonial, and the fact that no public comments were received. Further, it was believed that this was an adequate remedy that would not harm the adjacent neighbors and, in addition, similar variances had been approved.

Roll Call Vote.

Ayes: Allan, Bassham, Vercammen, Turner

Nays: None Motion Carried.

### **Training – City Attorney Robert Davis**

The Board received training from City Attorney Robert Davis regarding the proper procedures and practices of being a Zoning Board of Appeals member.

### **Other Business**

None.

### Adjournment

Motion by Commissioner Bassham, seconded by Commissioner Vercammen, to adjourn at 8:13pm. All Ayes. Motion Carried.

Respectfully submitted,

Elizabeth McDonald Deputy Clerk

Kristen Baxter City Clerk



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: ZBAFFE)

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 w	here variance is being rec	uested:			
330	Markets	7		02-475-0	590-000
Number	Street		•	Parcel #	
Applicant/Owner Info	ormation	d.	/		
Applicant(s) Name:/	VilliAm + Amy To	ranchemont	agne		
Address: 330	N. Market	Marine	City	M	48039
Stree	t	City	/	State	Zip
Phone:		Email:	*** Interdictable (Action	gasassassassassassassassassassassassassa	A-000.
Owner Name (if differer	nt from Applicant):	Market 14			
Address:	agents ***		The state of the s		
Stree	workerfully automorphism bit in a comment	City	850ail.7.60mas	State	Zip
Phone:		Email:	D	AID	Open 150 410 and a second

FEB 2 6 2018

City of Marine City



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: ZBAPTE)

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

Variance Request Information					
Subject property is zoned: R1-A	Size of Lot: 40 x 120				
Total Square Footage: 4800	Circle One: Corner Lot Interior Lot Waterfront Lot				
Number of Buildings on lot now: 1 House Ishe	Δ				
Percentage of lot coverage by building/structure now: 33 %					
Type/Use/Size of Each Building:  HOUSE 25 x 61  Shed 6 x 10 x 7'7"					
Total outside Height 19"  Complete as it pertains to each situation; e.g. complete all for	les. 598" clear interior Sidewall Height (ced 24" on Center 4" SiDewall eaves				
Height: 7'9 Width: 7' Length	:/6 /Sq. Footage://2				
Height: Width: Length	: Sq. Footage:				
Height: Length	:Sq. Footage:				
Percentage of lot coverage with proposed building/structure, addition, fence, etc. House + New Shed = 34.1 %					
Setbacks after completion of proposed project:					
Front: 57 to seaway Rear: Approx 58 SS	ofshed				
REASON FOR APPEAL: We have an existing 6 x 10 shed on an existing 5/AB on AN					
already & setback & the Shed sitting I' back from slab edge. We need to extend the shed to A 7x16 because of a now confarming lot there is no other place for					
the shed to A 7x16 because of a now con	farming lot there is no other place for				
typical garden supplies. Therefore, putting new shed on same I set back on SMB. which then brings the side of the Ished towards our home I'					
which then brings the side of the shed towards our home 1'					
Closer leaving 3' between how vest towards the street 6'.	ise + shed and extend it				
VEST towards the street 61.	Page   2				



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

**Building Official** 

### 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

For a variance to be granted, the Applicant must prove a unique circumstance or an undue hardship relating to his/her situation Explanation of above stipulation: We're aking, to have A tr wouldn't be able to fit anything on the lot 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 Owner's Signature **CITY OFFICE USE ONLY** Appeal #: 18-62 Fee Amount Paid: \$ 200,00 Date Paid: 2-26-2018 Reviewed By:

City Manager

1=12 RIVER Seawall 401 Proplot 40×120 Shed 6 x 10' SlAB it is on 7'2" x 10'8" HOUSE 25 X 6/=1525 25 35% of prop can be used for All BLDGS proposed shed 7x16x7'9" 4800 35%=1680 - 1525 of House 11' 4" 155 sq FT 10FT 6 proprosed shed size 7 x 16 = 112 sq ft Streptin

### 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:

2-16-18

Project Location: 330 N. Market

Subject:

Variance request for expanding a non conforming accessory structure

This property is zoned R1-A.

#### 160.004 CONSTRUCTION OF LANGUAGE.

#### 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.

**VARIANCE REQUESTED:** The variance request is to increase the size of the existing shed from 6' X 10' to 7' X 16'.

The shed currently on the property is an existing non conformity.

**COMMENTS:** The current ordinance allows for accessory structures to be located in the rear yard only. In the case of waterfront property, the street side of the property is considered the rear yard. The current shed is located in the side yard.

The shed does not meet the current ordinance for accessory structure minimum required side setback which is 3', or the minimum distance to main building (home) which is 10'.

#### **ORDINANCE:**

### 160.213 ACCESSORY BUILDINGS AND STRUCTURES.

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

- (A) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.
  - (B) Accessory buildings shall not be erected in any required yard, except a rear yard.
- (C) An accessory building not exceeding 1 story or 14 feet in height may occupy not more than 25% of a required rear yard, plus 40% of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
- (D) No detached accessory building shall be located closer than 10 feet to any main building nor shall it be located closer than 3 feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than 2 feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right- of-way.

# 160.212 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES.

- (A) Intent.
- (1) It is the intent of this chapter to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their survival.
- (2) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.
- (3) Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

- (D) *Nonconforming structures*. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such structure may be enlarged or altered in a way which increases its nonconformity, for example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.
- (2) Should such 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 except in conformity with the provisions of this chapter. This provision shall not apply to nonconforming residential structures provided the residential structure is rebuilt in the exact location and manner in which it was originally constructed as determined by the Building Official. If the Building Official determines the proposed reconstruction is substantially different than that of the original structure, all applicable requirements of the ordinance shall be met. If the structure was located within the existing dedicated public right-of-way or easement, the structure shall not be reconstructed in that location.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

**UNIQUE CIRCUMSTANCE/HARDSHIP:** "We're asking to have a bit bigger shed, but keep existing setback by grandfathering it in since setback is already established. We have a non conforming lot and therefore by using the setback the City has now, we wouldn't be able to fit anything on the lot and causing us a hardship."

### **300 FOOT NOTICES**

Parcel No., Owner, Address, Legal

74-02-475-0585-000,"SCHEEL DAVID F/JILL P","304 N MAIN ST","LOT 6 EX THE N 20' THEREOF BLK 52 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0587-000,"BILLOCK PAUL J & ANN F","322 N MARKET ST","LOT 2 & S 4.76' OF LOT 3 BLK 53 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0590-000,"GRETKIEREWICZ R/SPADA R ET-AL","330 N MARKET ST","NLY 16.48' OF LOT 3 & S 23.52' OF LOT 4 BLK 53 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0579-000,"DANNEELS WILLIAM W/MARGARET E","206 WESTMINSTER","LOT 1 EXC N 20' OF W 20' & S'LY 20' OF LOT 2 EXC W 20' BLK 52 VILLAGE OF MARINE"

74-02-475-0629-000,"SCHARNWEBER MICHAEL/DOROTHY","270 N MARKET ST","N 50' OF BLK 57 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-175-0000-000,"BARTON CLUB CONDOMINIUM","BARTON CLUB CONDOMINIUM","BARTON CLUB CONDOMINIUM PLAN NO 2 MASTER DEED RECORDED LIBER 968 PAGES 554 TO 585 CERTIFICATE AMENDMENT LIBER 986 PAGES 961 TO 963"

74-02-475-0584-000,"EDWARDS STEVEN/JUDY","312 N MAIN ST","WLY 20' OF N LY 20' OF LOT 1 & W LY 20' OF S LY 20' OF LOT 2 & S 20' OF LOT 5 & N 20' OF LOT 6 BLK 52 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0593-000,"WESLER FRANCES C TRUST","420 N MAIN ST","N 16' OF LOT 1 & S 40' OF LOT 2 BLK 54 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0630-000,"FETTERLY JAMES/BARBARA TRUST","256 N MARKET ST","S 50' OF N 100' OF BLK 57 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0446-000,"BRYSON JACOB D","274 N MAIN ST","LOT 10 & THE N 25' OF LOT 11 BLK 41 MAP OF THE VILLAGE OF MARINE"

74-02-475-0592-000,"CORDEN HELEN TRUST","406 N MAIN ST","W 140' OF LOT 1 EX THE N 16' THEREOF BLK 54 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0588-000,"KUBIAK ROBERT/MILDRED","326 N MARKET ST","S 39' OF THE N 55.48' OF LOT 3 BLK 53 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0581-000,"EMERY KAYLA D","331 N MARKET ST","LOT 2 EX THE S 20' THEREOF ALSO LOT 3 BLK 52 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0583-000,"JANNETTE JENNIFER ET-AL","318 N MAIN ST","LOT 5 EX THE S 20' THEREOF BLK 52 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0586-000,"STERLING BERT C/KAREN J","304 N MARKET ST","LOT 1 BLK 53 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0444-000,"BEALS GARY W/EVELYN L","205 WESTMINSTER","LOT 9 EX THE S 10' THEREOF BLK 41 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0594-000,"OSTERLAND GEORGIA/LINWOOD","430 N MAIN ST","LOT 2 EX THE S 40'
THEREOF BLK 54 MAP OF THE VILLAGE OF MARINE NOTE; FOR LOT 3 SEE MC-3001 T3N R16E SEC 01"

74-02-475-0445-000,"BEATTIE ROBERT/DANETTE R","259 N MARKET ST","S 10' OF LOT 9 & LOT 8 EX THE S 40' THEREOF BLK 41 MAP OF THE VILLAGE OF MARINE"

74-02-475-0591-000,"SAPH JAY, TRUSTEE","344 N MARKET ST","LOT 1 BLK 54 EXC N 16' & EXC W 140' & EXC THAT PART S OF A LINE, BEG E 4' FROM NW COR LOT 4 BLK 53,TH NE'LY 3.6', TH E'LY 89.1' (REF; C.C. ACTION 445-2 RECORDED IN L 936 P. 445) MAP OF THE VILLAGE OF MARINE"

74-02-475-0582-000,"POLIO STEVEN, POLIO JENNIFER","334 N MAIN ST","LOT 4 BLK 52 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01"

74-02-475-0589-000,"STONE MARY ANN/MICHAEL","336 N MARKET ST","LOT 4 EX S 23.52' BLK 53 & THAT PART OF LOT 1 BLK 54 LYING S OF A LINE, BEG E 4' FROM NW COR LOT 4 BLK 53,TH NE'LY 3.6',TH E'LY 89.1' (REF C.C. ACTION 445-2 RECORDED IN L 936 P 445) MAP OF THE VILLAGE OF MARINE

### **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, April 4, 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. 18-02

Applicants William and Amy Tranchemontagne, are requesting the following variances for 330 North Market Street, Marine City:

❖ A variance to increase the size of the existing shed from 6' x 10' to 7' x 16'.

The legal description of the subject property, zoned in the R1-A (One-Family Residential), is currently shown on the tax roll, as follows:

### Parcel # 74-02-475-0590-000

## NLY 16.48' OF LOT 3 & S 23.52' OF LOT 4 BLK 53 MAP OF THE VILLAGE OF MARINE T3N R16E SEC 01

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 April 4, 2018. The application is on file at the City Offices and may be inspected during regular business hours.

Kristen Baxter City Clerk March 12, 2018