



CITY OF MARINE CITY

Zoning Board of Appeals Meeting Agenda

Marine City Fire Hall, 200 South Parker Street

Regular Meeting: Wednesday, June 5, 2019, 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; Building Official Susan Wilburn; City Manager Elaine Leven
4. **COMMUNICATIONS**
5. **APPROVE AGENDA**
6. **APPROVE MINUTES**
 - A. Zoning Board of Appeals Regular Meeting – March 6, 2019
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 – Variance Request 19-02 ~ Tamika & Charles Brodeur: 158 North Fifth Street
 - B. Board Member Training – City Attorney Davis
10. **OTHER BUSINESS**
11. **ADJOURNMENT**

**City of Marine City
Zoning Board of Appeals
March 6, 2019**

A regular meeting of the Marine City Zoning Board of Appeals was held on Wednesday, March 6, 2019 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 Kim Weil; Commissioners Mark Bassham, Terry Filo, James Turner; Planning Commissioner Graham Allan; Building Official Susan Wilburn; City Manager Elaine Leven; and Deputy Clerk Elizabeth Desmarais

Absent: City Commissioner Cheryl Vercammen

Communications

No Communications were received by the Board.

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 Filo, seconded by Planning Commissioner Allan, to approve the Minutes of the Regular Meeting of the Zoning Board of Appeals held December 5, 2018, as presented. All Ayes. Motion Carried.

Public Comment

None.

Unfinished Business

None.

New Business

Public Hearing ~ Appeal #19-01 –Mike Thomas, 1242 South Belle River 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 Mike Thomas, for property located at 1242 South Belle River Avenue. The Variance Request was for the parking of personal vehicles on a stone parking lot.

Chairperson Weil opened the Public Hearing at 7:02 pm.

Building Official Wilburn stated that the applicant already had an approved Variance to store RV's and boats on the property, but was looking for an additional Variance to allow personal vehicle parking. She also cited that the Planning Commission had approved the Site Plan for the applicant's open marketplace concept.

Chairperson Weil requested a clarification on the total square footage, which was corrected by the applicant to a total of 1.56 acres.

Mike Thomas, applicant, stated that he wanted to start an open marketplace that would be open on specified days only. He said he currently had the following Variances:

1. Year round storage
2. RV and boat storage
3. Gravel surface parking instead of a solid surface

He told the Board that the Planning Commission had approved his proposed Site Plan for an open marketplace with sixty vendors and customer parking at their February 11, 2019 meeting contingent upon the personal vehicle parking Variance being approved by the ZBA.

Chairperson Weil closed the Public Hearing at 7:11 pm.

Potential drainage issues were a concern by the Board, but Building Official Wilburn stated that drainage would not be a problem. She also reminded the Board that the Site Plan approval by the Planning Commission encompassed both parcels, but the Variance Request was only for one parcel and each parcel had two different zonings.

Mr. Thomas said that he intended to run the marketplace from April to October and store RVs and boats from October to April; his personal RV's would potentially be there year round.

City Manager Leven said that if the Board approved the Variance without any stipulations, that it would allow for year round storage of personal vehicles, RV's and boats. She suggested adding the stipulation that personal vehicle parking would be allowed there in conjunction with the usage of the marketplace.

Motion by Commissioner Turner, seconded by Planning Commissioner Allan with a friendly amendment, to approve Appeal #19-01 for the parking of personal vehicles on the property in conjunction with the usage of the open marketplace based on the record as a whole including the application, Building Official Wilburn's report, the applicant testimonial, the fact that no feedback was received from the notified property owners, and the unique circumstances presented. All Ayes. Motion Carried.

Other Business

None.

Adjournment

Motion by Planning Commissioner Allan, seconded by Commissioner Bassham, to adjourn at 7:35 pm. All Ayes. Motion Carried.

Respectfully submitted,

Elizabeth Desmarais
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 Appeals Application.. 9-A

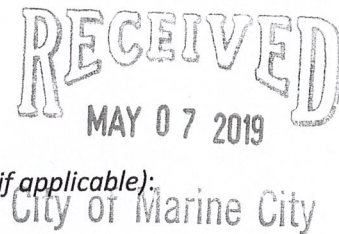
Application Fees:
Residential - \$200.00
Commercial/Industrial - \$300.00
(Receipt Code: ZBAFEE)

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:

158 North Fifth St. 74-02-925-0031-000
Number Street Parcel #

Applicant/Owner Information:

Applicant(s) Name: Tamikia + Charles Brodeur
Address: 158 N. Fifth St. Marine City Mi 48039
 Street City State Zip

Phone: _____ Email: _____

Owner Name (if different from Applicant): _____

Address: _____
 Street City State Zip

Phone: _____ Email: _____



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

Variance Request Information:

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

Current Property Status:

Subject property is zoned: _____

Total Square Footage of property: 50 x 100 Circle One: Corner Lot Interior Lot Waterfront Lot

Number of Structures on property: 3 Percentage of lot coverage by structure/s: _____%

Type/Use/Size of Each Structure: House, Garage, Shed

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:

an enclosed front porch, need options. House is
26 feet from Sidewalk
after covered porch it will be 18 feet from the
Sidewalk

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

Proposed Overall Building Height (if applicable): _____



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Zoning Board of Appeals Application

Application Fees:
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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: I need Sufficient Space for my mobility limited mother and daughter to get in and out of the house with protection from the weather

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

Explain: I do have a Smaller Size lot and still would like to stay in the area but would like to make the best use of my Property home for our household needs.

- 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: I did not own the property when the rules were Set when I bought the property we did not have the Special Circumstances that we have now

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

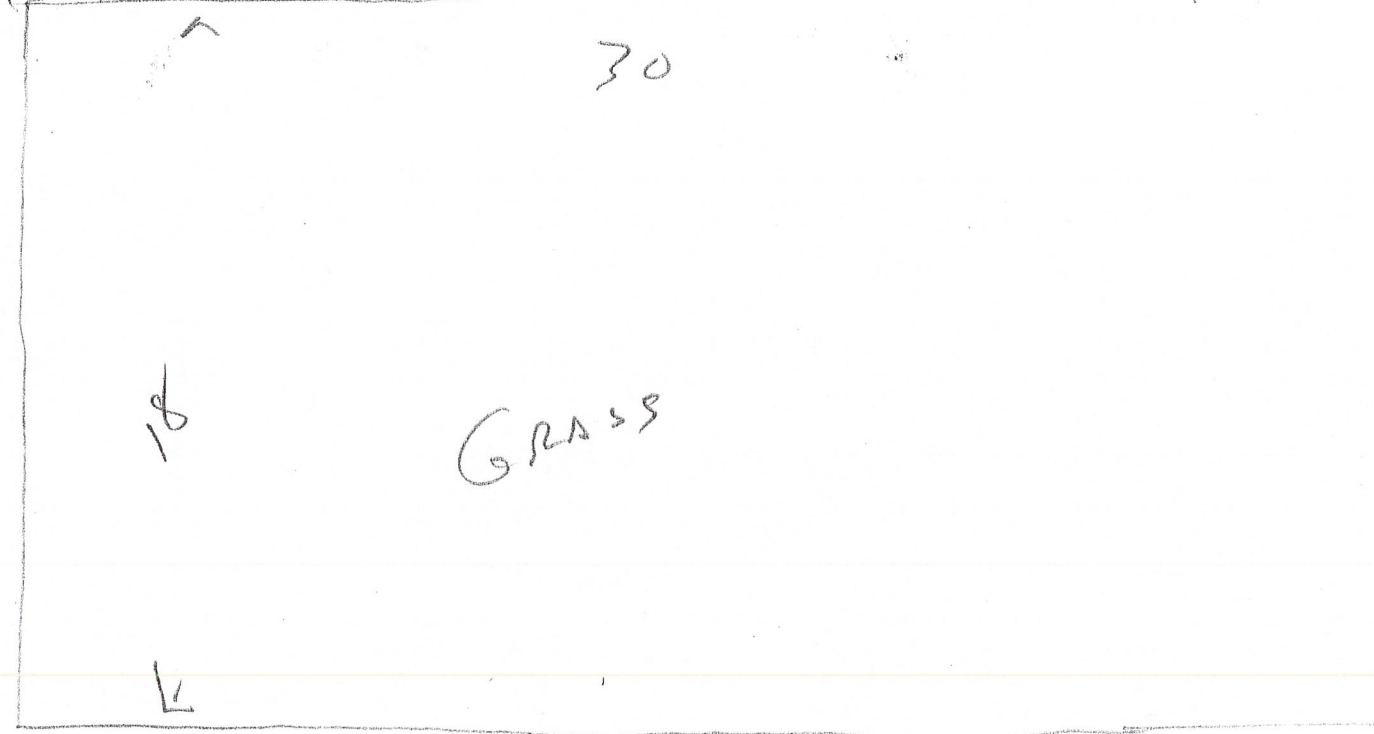
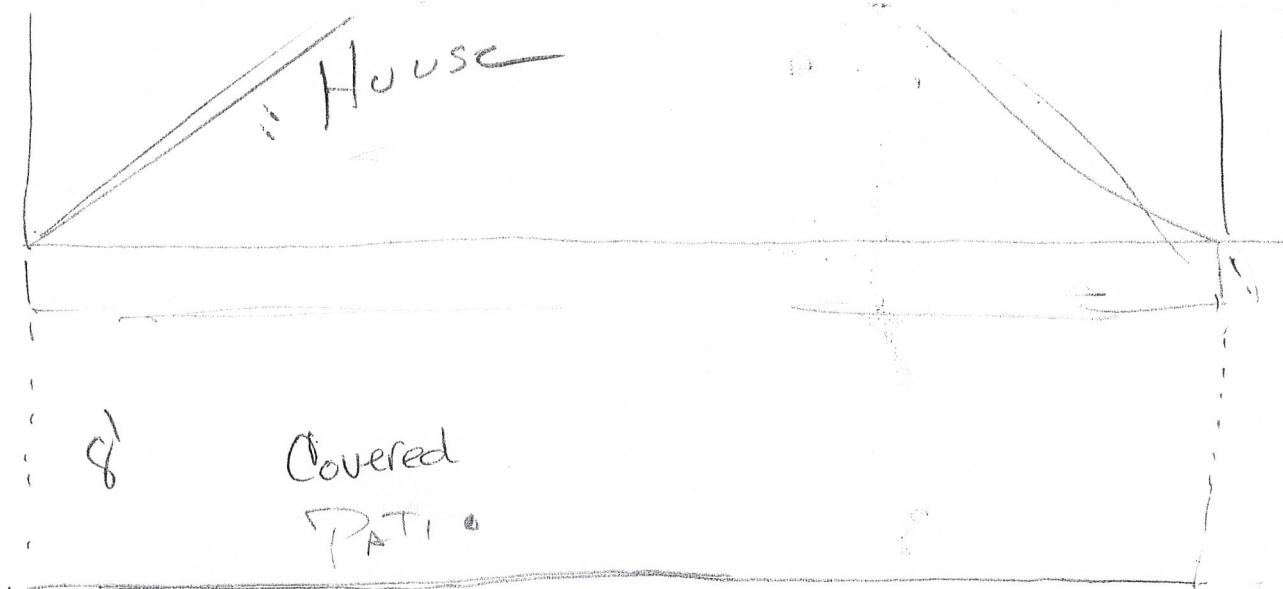
Explain: No I dont think its giving me special privileges

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

Explain: the porch will not reach out further than other propertys in my area

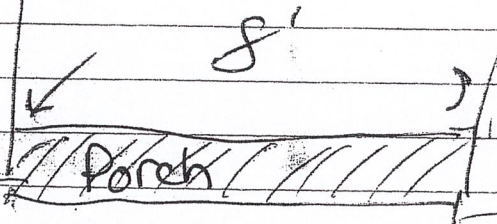
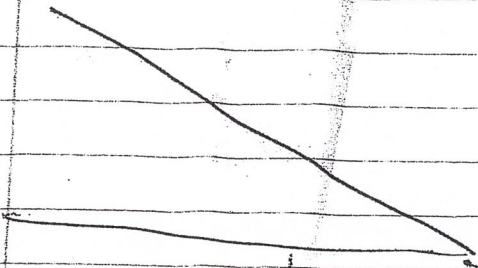


DRIVE WAY

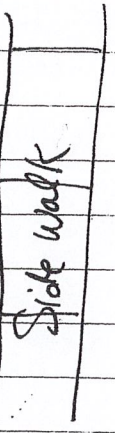


SIDEWALK

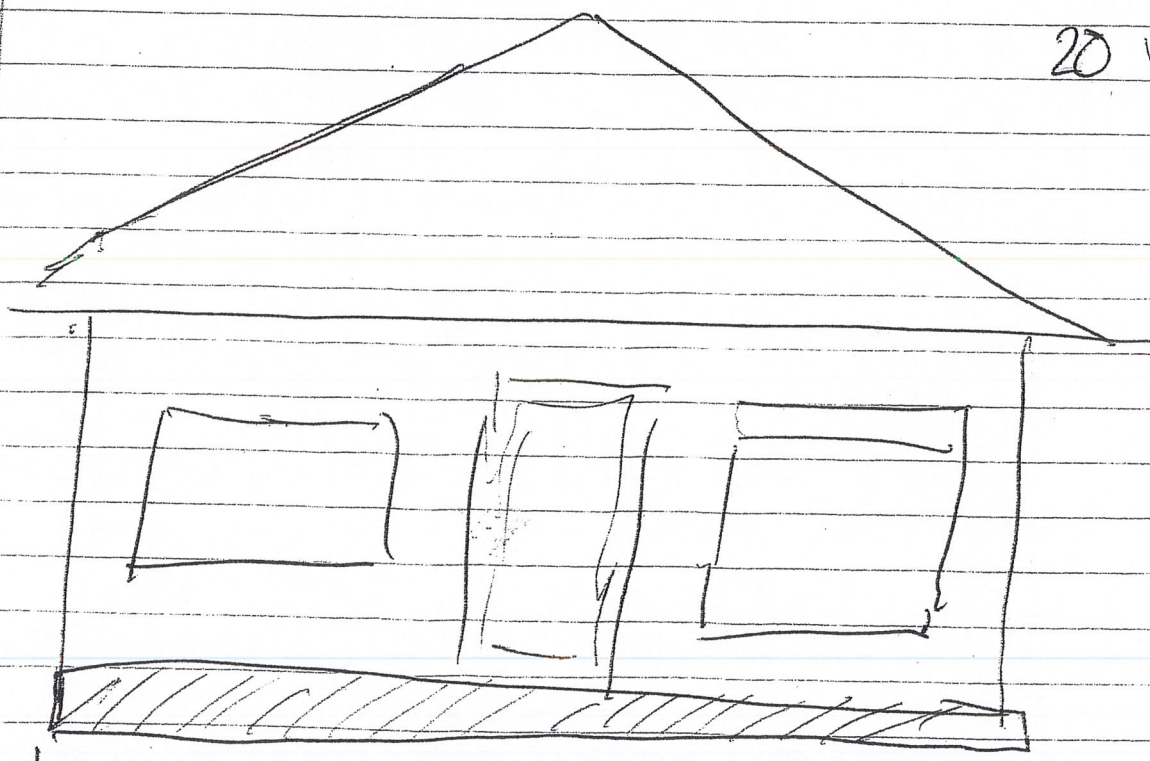
PROPERTY LINE



18'
Grass



20 Variance



- 20'

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: May 8, 2019

Project Location: 158 N. Fifth

Subject: Variance request for reduced front set-back to add a covered front porch.
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 for reduced front set back to construct an 8' X 20' covered front porch. The lot size is 50' X 100'. The depth of this property qualifies it for reduced front setback of 20'.

The request is for a reduction to an 18' front set back.

UNIQUE CIRCUMSTANCE/HARDSHIP: "I need sufficient space for my mobility limited mother and daughter to get in and out of the house with protection from the weather."

ORDINANCE:

160.195 SCHEDULE.

SCHEDULE LIMITING HEIGHT, BULK DENSITY AND AREA BY ZONING DISTRICT

<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>		
R-1A One-family Res.	7,200(a)	60(B)	2	25	25 (c,o)	8(d,0)	40(o)	(e)	35%

160.196 NOTES TO SCHEDULE.

(C) In residential districts where lots border on a lake, river, or canal, the established water or shoreline may be considered the front of such lots. A setback of 30 feet for all principal and accessory structures shall be provided on the street side of any lot or parcel of land. The setback from the water or shoreline shall equal the average setback of those buildings on abutting properties or where no building exists on abutting properties the setback shall equal the average of those existing in the block or as established by the Board of Appeals.

(O) Reduced setbacks for nonconforming lots of record (and for lots that are otherwise conforming but have a depth of less than 120 feet) located in the R-1A District and which were lawfully created prior to the effective date of this chapter shall be permitted in accordance with the following schedule:

(1) For lots having a depth of less than 120 feet, and for corner lots having a width of less than 75 feet, the minimum required front yard setback may be reduced to 20% of the average depth of the lot provided that:

(a) It shall not be less than the average of the front setbacks of principal structures on adjacent lots fronting on the same street (or the average front setbacks of principal structures in the block fronting on the same street).

(b) In no instance shall it be less than 15 feet.

COMMENTS: If approved, the homeowners will be required to provide positive identification of the property line when submitting for a building permit.

The front set backs of the neighboring homes are currently in line with the home.

300 FOOT NOTICES

MARKEL BRIAN L/CHERYL
139 N FIFTH ST
6032 MARSH RD
MARINE CITY
MI
48039-1514

ARPAN ERIC
143 N FIFTH ST
143 N 5TH ST
MARINE CITY
MI
48039-1514

MARCATH RAYMOND B
N 152 N SIXTH ST
152 N 6TH ST
MARINE CITY
MI
48039-1515

BABEL MELVIN/BETTY
N 162 N SIXTH ST
162 N 6TH ST
MARINE CITY
MI
48039-1515

TOTZKE VERNA P
151 N FIFTH ST
151 N FIFTH ST
MARINE CITY
MI
48039

JANDRON DANIEL R/MICHELE M
165 N FIFTH ST
165 N FIFTH ST
MARINE CITY
MI
48039-

JONES JEFFREY
N 166 N SIXTH ST
P.O. BOX 605
MARINE CITY
MI
48039-1515

CURRAN COLEEN
N 168 N SIXTH ST
168 N SIXTH ST
MARINE CITY
MI
48039

LUTZ TIMOTHY A, LUTZ VICKI LYNN
800 METROPOLIS
800 METROPOLIS ST
MARINE CITY
MI
48039-1549

KARGULA SHELLEY
N 117 N SIXTH ST
117 N 6TH ST
MARINE CITY
MI
48039-1516

FRYE JASON D
N 125 N SIXTH ST
125 N SIXTH
MARINE CITY
MI
48039

BROWNE SIDNEY JR/ANNA
N 131 N SIXTH ST
4280 PLANK RD
MARINE CITY
MI
48039-

BRELOSKI DOMINIC
N 135 N SIXTH ST
5850 PLANK RD
MARINE CITY
MI
48039

WOOD RICHARD/DEANNA
N 145 N SIXTH ST
145 N 6TH ST
MARINE CITY
MI
48039-1516

ALLOR RANDOLPH D/CHERYL A
N 163 N SIXTH ST
163 N SIXTH ST
MARINE CITY
MI
48039

MICOFF DANNY L/MARGARET L
N 167 N SIXTH ST
167 N 6TH ST
MARINE CITY
MI
48039

ALGONAC RENTAL SYSTEMS LLC
N 171 N SIXTH ST
6100 KING RD
MARINE CITY
MI
48039

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, June 5, 2019, 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. 19-02

Applicants Tamika and Charles Brodeur, are requesting the following variance for **158 North Fifth Street, Marine City**:

- ❖ A variance to reduce the front set-back from 20' to 18' for the purpose of constructing a 8' x 20' covered front porch

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 # 74-02-925-0031-000

LOT 15 BLK 2 AARON G. WESTBROOKS ADDITION TO THE VILLAGE OF MARINE CITY 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 June 5, 2019. The application is on file at the City Offices and may be inspected during regular business hours.

Kristen Baxter
City Clerk
May 13, 2019

CITY OF MARINE CITY
ZONING BOARD OF APPEALS
2019 TRAINING
JUNE 5, 2019



"I WANT A RECORD"

**AGENDA
ZBA TRAINING
2019
WEDNESDAY, JUNE 5, 2019**

- I. INTRODUCTION.**
- II. LEARNING TO THINK AND WORK IN REVERSE. PRESERVING THE RECORD BY MAKING THE RECORD.**
- III. APPELLATE DIVISION V. "LEGISLATOR".**
- IV. STANDARD OF REVIEW USED BY THE CIRCUIT COURT.**
 - a. MCL 125.3606**
- V. THE RECORD TO THE ZBA. FOLLOW THE CONCEPT, "LET IT ALL IN".**
 - a. MCL 125.3604**
- VI. THE AGGRIEVED PARTY.**
 - a. MCL 125.3604(1)**
- VII. THE KEY - THE "MOTION" MAKER. THE MOTION MUST BE WELL STATED, THOROUGH BASED ON FACTS DEVELOPED BY THE RECORD.**
 - a. State the "grounds" MCL 125.3604(1)**
 - b. Decision is Final MCL 125.3605**
- VIII. THE RECORD TO THE COURT.**
 - a. MCL 125.3606**
- IX. PRACTICAL DIFFICULTY IS A BALANCE.**
 - a. MCL 125.3604(7)**

MICHIGAN ZONING ENABLING ACT (EXCERPT)
Act 110 of 2006

125.3606 Circuit court; review; duties.

Sec. 606. (1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

- (a) Complies with the constitution and laws of the state.
- (b) Is based upon proper procedure.
- (c) Is supported by competent, material, and substantial evidence on the record.
- (d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

(2) If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

(3) An appeal from a decision of a zoning board of appeals shall be filed within whichever of the following deadlines comes first:

- (a) Thirty days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson.
- (b) Twenty-one days after the zoning board of appeals approves the minutes of its decision.
- (4) The court may affirm, reverse, or modify the decision of the zoning board of appeals. The court may make other orders as justice requires.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008;—Am. 2010, Act 330, Imd. Eff. Dec. 21, 2010.

MICHIGAN ZONING ENABLING ACT (EXCERPT)
Act 110 of 2006

125.3605 Decision as final; appeal to circuit court.

Sec. 605. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided under section 606.

History: 2006, Act 110, Eff. July 1, 2006.

MICHIGAN ZONING ENABLING ACT (EXCERPT)
Act 110 of 2006

125.3604 Zoning board of appeals; procedures.

Sec. 604. (1) An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the grounds of any determination made by the board.

(2) An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

(3) An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.

(4) Following receipt of a written request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in section 103.

(5) If the zoning board of appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103. However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3).

(6) At a hearing under subsection (5), a party may appear personally or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

(7) If there are practical difficulties for nonuse variances as provided in subsection (8) or unnecessary hardship for use variances as provided in subsection (9) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as otherwise allowed under this act.

(8) The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

(9) The authority to grant variances from uses of land is limited to the following:

(a) Cities and villages.

(b) Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

(c) Townships and counties that granted a use variance before February 15, 2006.

(10) The authority granted under subsection (9) is subject to the zoning ordinance of the local unit of government otherwise being in compliance with subsection (7) and having an ordinance provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

(11) The authority to grant use variances under subsection (9) is permissive, and this section does not require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

History: 2006, Act 110, Eff. July 1, 2006;—Am. 2008, Act 12, Imd. Eff. Feb. 29, 2008.