



**CITY OF SAUGATUCK
REGULAR MEETING ZONING BOARD OF APPEALS
FEBRUARY 10, 2022 – 7:00 PM**

In person meeting

1. Call to Order/Roll Call
2. Agenda Changes
3. Approval of Minutes: December 9, 2021
4. New Business:
 - A. 143 Park Street – Two Docks Public Hearing Interpretation or variance request
 - B. 2021 Annual report
5. Unfinished Business: None
6. Communications: None
7. Public Comments:
8. ZBA Comments:
9. Adjourn:

This public meeting will be held in person at Saugatuck City Hall. Interested parties may attend in person or participate by using Zoom video/audio conference technology.

Join online by visiting:
<https://us02web.zoom.us/j/2698572603>

Join by phone by dialing:
(312) 626-6799
-or-
(646) 518-9805

Then enter “Meeting ID”:
269 857 2603

Please send questions or comments regarding meeting agenda items prior to meeting to:

cindy@saugatuckcity.com

Public Hearing Procedure

- A. Hearing is called to order by the Chair
- B. Summary by the Zoning Administrator
- C. Presentation by the Applicant
- D. Public comment regarding the application
 - Participants shall identify themselves by name and address
 - Comments/Questions shall be addressed to the Chair
 - Comments/Questions shall be limited to five minutes
 - 1. Supporting comments (audience and letters)
 - 2. Opposing comments (audience and letters)
 - 3. General comments (audience and letters)
 - 4. Repeat comment opportunity (Supporting, Opposing, General)
- E. Public comment portion closed by the Chair
- F. Commission deliberation
- G. Commission action

Proposed Minutes
Saugatuck Zoning Board of Appeals Meeting
Saugatuck, Michigan, December 9, 2021

The Saugatuck Zoning Board of Appeals met in regular session at 7:00 p.m. at City Hall, 102 Butler Street, Saugatuck, Michigan via Zoom technology due to constraints with Covid-19.

1. **Call to Order** by Chairperson Kubasiak at 7:00 p.m.

Attendance:

Present: McPolin, Bouck, Muir, Hundrieser, & Kubasiak

Absent: Bont, Zerfas

Others Present: Zoning Administrator Osman

2. **Approval of Agenda:**

Bouck made a motion, 2nd by Muir to approve the agenda as submitted. Upon roll call the motion carried unanimously.

3. **Approval of Minutes:**

Bouck offered a correction to the minutes in the public comment section where the comments by Jane Underwood were expanded to better reflect the intent of the comments.

Bouck made a motion, 2nd by Muir, to approve the minutes as corrected. Upon roll call the motion carried unanimously.

4. **New Business:**

A. Public Hearing 994 Holland Street setback.

Open public hearing at 7:08 by Kubasiak. ZA Osman gave a brief overview of the application. Renee and Chris Draves described the circumstances under which they came to the conclusion to place the shed and covered patio in this location.

Phil Miller and Suzy Richardson of 996 Holland spoke in opposition to this variance request and submitted a letter as well. They are the ones that border the property where the fence is. They are very concerned about the light bleed, noise, electricity of the covered patio. They have plenty of deck area for outdoor entertainment.

Sandra Weintraub neighbor also spoke in opposition. Concerned about the character of the neighborhood. That there is not a condition that would support a variance.

A letter was received by Dan Fox in support of the variance and was read into the record.

A letter was received by Melissa Smith of 1035 Holland Street in opposition and was read into the record.

The email from Sandy Weintraub in objection was read into the record.

The letter of objection from Suzy Richardson and Phil Miller was read into the record.

Sandra Weintraub specifically requested the variance be denied.

The public hearing was closed at 7:27.

A question was asked about the height – applicants responded that it would be a normal height shed, but not higher than the neighbors shed, and it might have water to run irrigation. It will be a storage shed. The patio would be used if they want to get out of the sun or if it started to rain.

The dimensions of the structure was clarified to be 24 x 8.

The roof of the patio would be the same as the roof of the shed.

Electricity would be run to the shed and the patio.

Member Bouck commented that it is a self-created condition and read the definition of a practical difficulty. Osman (incorrectly) stated that this definition for a use variance not a dimensional variance.

The landscaper brought the setback issue to their attention.

Standard one: the board found that it would allow more use of the yard but the variance does not prevent them from using the property for a permitted use.

Standard two: the shed could be located elsewhere.

Standard three – There is some topography issue and the property is unique because the slope is steep and the house is set back far from the road and the river.

Standard four – The issue of financial is not likely to be a problem, but it does not meet the standard as it is self-created.

A motion was made by Bouck 2nd by Muir, that based upon our analysis of the four standards required to issue a variance that we deny the variance for an eight by twelve shed and an eight by twelve covered patio that would be three feet from the property line where 7 feet is required for a variance of 4 feet at 994 Holland Street, and the staff report is attached as part of the findings of fact noted above. Upon roll call the motion carried unanimously.

4 (B) The 2022 meeting schedule was reviewed.

Those are the 2nd Thursday of every month.

McPolin made a motion to adopt the meeting dates as presented, 2nd by Muir. Upon roll call the motion carried unanimously.

5. Unfinished Business: None

6. Communications: None

7. Public comment:

Sandy Weintraub – Thank you for your time and thoughtful consideration.

Jane Underwood – Thanks to Jim Bouck for adding more of her thoughts to her comments.

Renee Draves – Thank you and clarify that the shed and patio can be built at a seven foot setback.

8. Reports of Officers and Committees:

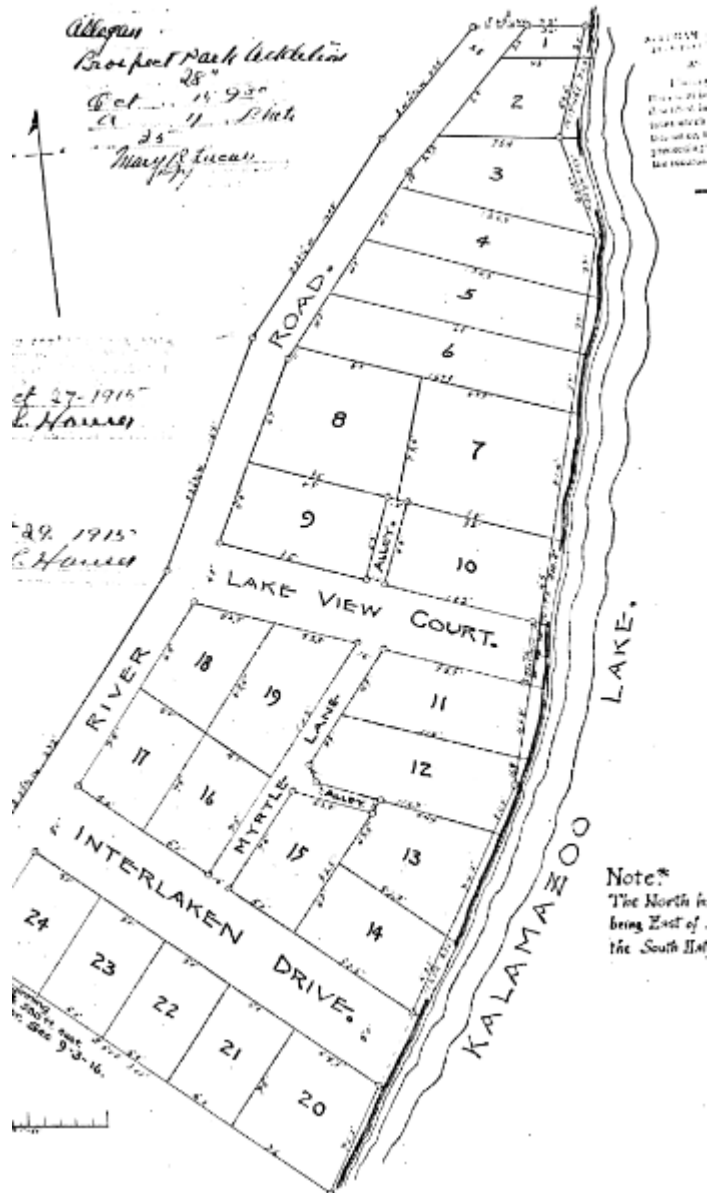
Happy holidays by Hundrieser.

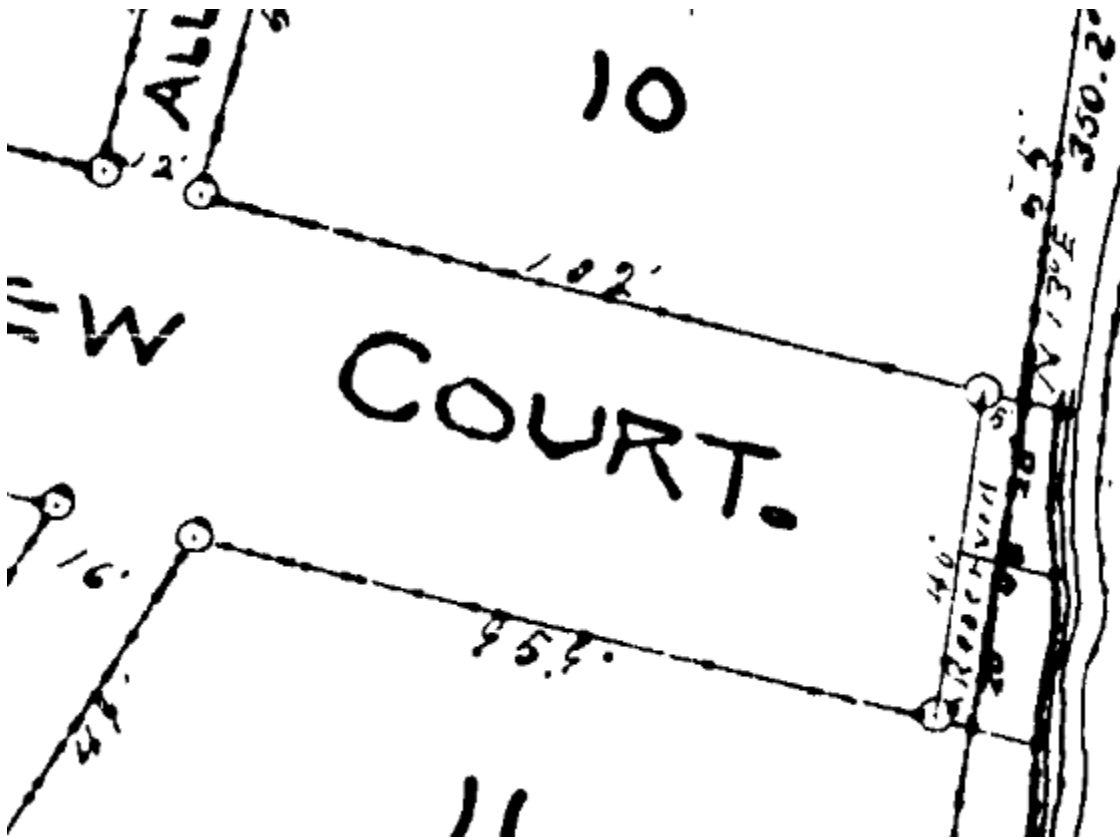
9. Adjournment: Motion was made by McPolin 2nd by Hundrieser to adjourn the meeting at 7:59 PM. Upon roll call the motion passed unanimously.

Respectfully Submitted,

Jamie Wolters
City Clerk

Know All Men by these Presents, That I, Elizabeth B. Herbert, as proprietor, have caused the land embraced in the annexed plat to be surveyed, laid out, and platted, to be known as Prospect Park addition to the village of Sangawau, Allegan county, Mich., and that the streets and alleys as shown on said plat are hereby dedicated to the use of the public. The portion marked "reserved" is for the exclusive use of the owners and occupants of lots 9, 10, 11, 15, and 19, for dockage and other boating and waterway purposes. (See Note 5.) The Eastern Tier of Lots extends to the edge of Kalamazoo Lake.





2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.

Comment: Since the applicant owns more than parcel, it could be appropriate to have more than one dock. A deed restriction that the two parcels could not be sold independently is a possibility. Property owners on either side have two docks.

3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.

Comment: The fact that the property owner owns two parcels divided by the old Myrtle Lane as platted, and that the plat included a “reserved” portion for the purposes of dockage and other boating and waterway purposes as noted in the plat, sets this property as different than other lots in the neighborhood and area.

4. That the problem is not self-created or based on personal financial circumstances.

Comment: The plat was created in 1915 Elizabeth B. Harbert. Mr. Nassar purchased the two parcels from James Penny in 2015. Mr. Nassar owns multiple boats, he does not intend to rent out the docks in any manner.

RECOMMENDATION: We bring to your attention that pursuant to section 154.156 that if the applicant is not able to meet all the required standards noted above, the Board shall deny the request. If the Board finds that the hardship or practical difficulty is not unique, but common to several properties in the area, the finding shall be transmitted by the Board to the Planning Commission who will determine whether to initiate an amendment to the Zoning Code.



Zoning Board of Appeals Application

LOCATION INFORMATION

APPLICATION NUMBER ____ - ____

Address 143 Park St Parcel Number 57-700-005-00

APPLICANTS INFORMATION

Name Alvin Nassar Address / PO Box 3343 W. Commercial Blvd # 103
City Fort Lauderdale State FL Zip 33309 Phone 954-600-7418
Interest In Project Property Owner E-Mail ajnassar@alinian.com
Signature _____ Date January 4, 2022

OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)

Name _____ Address / PO Box _____
City _____ State _____ Zip _____ Phone _____

I hereby authorize that the applicant as listed above is authorized to make this application for proposed work as my agent and we agree to conform to all applicable laws and regulations of the City of Saugatuck. I additionally grant City of Saugatuck staff or authorized representatives thereof access to the property to inspect conditions, before, during, and after the proposed work is completed or to gather further information related to this request.

Signature _____ Date _____

CONTRACTORS/ DEVELOPERS INFORMATION (UNLESS PROPOSED WORK IS TO BE DONE BY THE PROPERTY OWNER)

Name D.K. Construction, Inc. Contact Name Lewis W Alexander
Address / PO Box 346 W 15th St City Holland
State MI Zip 49423 Phone 616-795-8667 Fax 616-494-0980
License Number Fed. ID 38-3260721 Expiration Date _____

PROPERTY INFORMATION

Depth 114 Width 46.8 Size .122 Acres Zoning District PSR-1 Current Use Residential
Check all that apply: Waterfront ☒ Historic District _____ Dunes _____ Vacant _____
Application Type: Interpretation _____ Dimensional Variance _____ Use Variance ☒

REQUEST DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)

Requesting a variance to install a second dock on applicants waterfront. See attached drawing.

D.K. Construction, Inc is acting as agent for A.J. Nassar. See attached agency letter.



SITE PLAN REQUIREMENTS (SECTION 154.061)

A site plan and survey showing the following information shall be submitted with the coverage of this application and other required information as outlined below. (Please note that not all will apply for minor waterfront construction)

Y N NA

- | | | | |
|-------------------------------------|-------------------------------------|--------------------------|---|
| ☒ | ☐ | ☐ | Dimensions of property of the total site area, |
| ☐ | ☒ | ☐ | Contours at 2-foot intervals |
| ☒ | ☐ | ☐ | Locations of all buildings |
| ☐ | ☒ | ☐ | Other structures on adjacent properties within 100 feet of the property, including those located across the street from the property |
| ☐ | ☒ | ☐ | Parking areas |
| ☐ | ☒ | ☐ | Driveways |
| ☐ | ☒ | ☐ | Required and proposed building setbacks |
| ☒ | ☐ | ☐ | Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing rights-of-way and pavement widths; |
| ☐ | ☒ | ☐ | Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate; |
| ☐ | ☒ | ☐ | Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths; |
| ☐ | ☒ | ☐ | Proposed water supply and wastewater systems locations and sizes; |
| ☐ | ☒ | ☐ | Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain; |
| ☐ | ☒ | ☐ | Proposed common open spaces and recreational facilities, if applicable; |
| ☐ | ☒ | ☐ | Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials; |
| ☐ | ☒ | ☐ | Signs, including type, locations and sizes; |
| ☐ | ☒ | ☐ | Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives; |
| ☐ | ☒ | ☐ | Exterior lighting showing area of illumination and indicating the type of fixture to be used. |
| ☐ | ☒ | ☐ | Elevations of proposed buildings drawn to an appropriate scale shall include:
1. Front, side and rear views;
2. Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and
3. Exterior materials and colors to be used. |
| ☐ | ☒ | ☐ | Location, if any, of any views from public places to public places across the property; |
| ☐ | ☒ | ☐ | Location, height and type of fencing; and |



- ☐ ☐ ☐ The name and address of the person and firm who drafted the plan, the seal of the professional responsible for the accuracy of the plan (licensed in the state) and the date on which the plan was prepared.
- ☐ ☐ ☐ Other information as requested by the Zoning Administrator

DIMENSIONAL VARIANCE REQUEST STANDARDS PER SECTION 154.155(B)

Please respond to each of the following questions. As part of your request to obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:

- (1) Explain how strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

n/a

- (2) Explain how a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

The additional dock is within the applicants riparian area and would not interfere with neighboring properties.

- (3) Explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and

n/a

- (4) Explain how the problem is not self-created or based on personal financial circumstances.

n/a



USE VARIANCE REQUEST STANDARDS PER SECTION 154.155(C)

Please respond to each of the following questions. As part of your request to obtain a use variance, the applicant must show an unnecessary hardship by demonstrating that all of the following standards are met:

- (1) Please explain how the property in question cannot be used for any of the uses permitted in the district in which it is located;

n/a

- (2) Please explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions;

n/a

- (3) Please explain how by granting the variance, the essential character of the neighborhood would not be altered; and

No change in the upland neighborhood. Just an additional dock in the applicants riparian water area.

- (4) Please explain how the problem is not self-created or based on personal financial circumstances.

n/a



OFFICE USE ONLY:

Application Complete _____ Date _____ Fee Paid _____ Date Paid _____

Date Notice Sent _____ Date Resident Notification _____ Hearing Date _____

Notes: _____

Motion to Approve _____ Deny _____

Findings of Fact:

Chair Signature _____ Vote _____

Member Signature _____ Vote _____

Member Signature _____ Vote _____

Member Signature _____ Vote _____

Member Signature _____ Vote _____

D.K. CONSTRUCTION, INC.

DOCKS SEAWALLS PILEDIVING

DREDGING WELDING REPAIRS

346 WEST 15TH STREET- HOLLAND, MI 49423

PH-616-494-0970 FAX-616-494-0980

I authorize D.K. Construction, Inc. to act as my agent in obtaining the necessary permits with the Department of Environmental Quality and the Army Corps of Engineers on my proposed project (*Required information for processing *)

* Property owner name/telephone # ALVIN NASSAR 954-600-7418
Print Phone #

Date: 8-21-2021 * Property owner signature [Signature]

* 143 PARK ST. Saugatuck MI 49453
Project Address City State Zip

*Mailing Address: (if different) 3343 West COMMERCIAL Blvd, Suite 103
FORT LAUDERDALE FL 33309

Email Address: ALNASSAR@ALINIANN.COM

*Property tax identification #: _____

Please fill out the following information to assist the DEQ in finding your location.

Is there an access road to the project? yes ☒ no ☐ private ☐ public

Name of roads at closest main intersection _____ and _____

Directions from main intersection _____

Style of house or building on site ☒ ranch ☐ 2story ☐ cape cod ☐ bi-level

☐ cottage ☐ pole barn ☐ other (describe) Grey

Color Grey Color of adjacent property houses and/or buildings White

House number 143 Address is visible ☒ house ☐ garage ☐ mailbox ☐ other

Street name PARK ST Fire lane _____ Lot number _____

Describe the best and nearest visible landmark to the project site _____

*Please complete the following information for all adjacent property owners.

Property owners name Address City State Zip

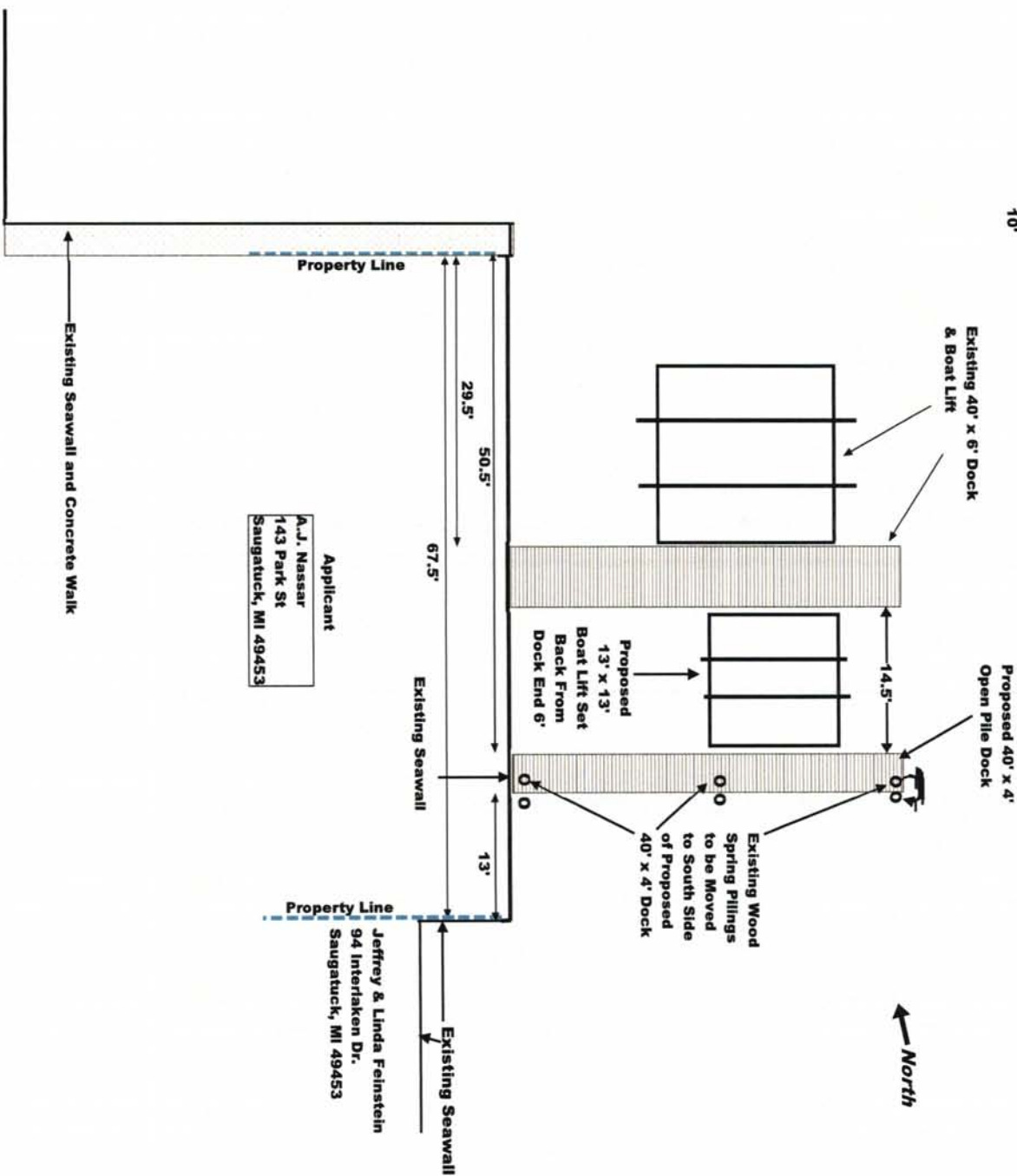
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Existing & Proposed Plan View
 Applicant: A.J. Nassar
 Agent: D.K. Construction, Inc.
 County: Allegan
 Body of Water: Kalamazoo Lake
 Date: October 5, 2021

Kalamazoo River

10'

North



Applicant

A.J. Nassar
 143 Park St
 Saugatuck, MI 49453

Jeffrey & Linda Feinstein
 94 Interlaken Dr.
 Saugatuck, MI 49453

Randy Kling
 153 Park St.
 Saugatuck, MI 49453

63941

MAJOR CONSTRUCTION. All waterfront construction and set forth in §§ 154.205et seq. requiring a major construction permit.

MARINA. A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a **MARINA** under this chapter.

MINOR CONSTRUCTION. All waterfront construction as set forth in §§ 154.206et seq. requiring a minor construction permit.

WATERFRONT CONSTRUCTION

§ 154.200 PURPOSE.

It is the purpose of this chapter is to establish requirements and procedures for the construction, location and use of piers and docks, pilings, bulkheads and mooring buoys in and immediately adjacent to the waters of the Kalamazoo River and Kalamazoo Lake within the city, to regulate dredging and backfill below the ordinary high water mark, and to provide for administration and enforcement of this chapter.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.201 OBJECTIVES.

The objective of this chapter is to facilitate the minimal disturbance of the natural ecology and as well as the Kalamazoo River and Kalamazoo Lake for recreational purposes, to minimize interference with riparian rights of other property owners, and to promote the public health, safety and general welfare.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.202 UNSAFE STRUCTURES.

(A) Use prohibited. No owner or occupant of premises on which a pier or dock, bulkhead, boat hoist, mooring buoy or other such waterfront structure has deteriorated or fallen into disrepair or has been damaged by fire, ice or other casualty shall permit the use thereof, and the owner or occupant shall either remove the unsafe structure or place it in a safe and sound condition and until removed or placed in a safe and sound condition, shall post a warning notice and block access thereto.

(B) Removal of structures. Any dilapidated or dangerous waterfront structure in existence along the waterfront of the city shall constitute a public nuisance and shall be removed or repaired within 30 days after notice of the condition has been given to the owner of the property involved.

(C) Notice. If such a dilapidated or dangerous waterfront structure exists, the Zoning Administrator shall send a notice of the condition to the owner of the premises as is disclosed by the last tax roll of the city at such address as is shown thereon, by certified mail. The notice shall require that the dangerous structure be removed or repaired. Any person who fails, refuses or neglects to repair or remove such a dangerous or dilapidated structure within the time limits above provided for shall be guilty of a violation of this code. (Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.203 OTHER AGENCY PERMITS.

(A) The issuance of a permit pursuant to this chapter shall not relieve the applicant from obtaining any required permit or approval from the Department of Army Corps of Engineers, the Michigan Department of Environmental Quality or such other federal or state regulatory agency when required by federal or state law.

(B) The obtaining of a permit or approval from the Department of Army Corps of Engineers, Michigan Department of Environmental Quality or such other federal or state agency shall not relieve the applicant from complying fully with this chapter and obtaining a permit pursuant to its provisions.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.204 LIMITATIONS ON USE.

(A) No watercraft shall be moored to a dock, pier or spring piling in such a manner that would result in an overhang of more than ten feet.

(B) The use of any dock, pier or spring piling for the mooring of any watercraft currently used or generally designed for use as a construction barge shall be permitted in riparian rights areas adjacent to residential properties.

(C) Mooring of a construction barge for periods not exceeding ten days in any calendar year for the sole purpose of dock construction or maintenance at the property where the construction or maintenance is occurring is expressly permitted.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.205 MAJOR CONSTRUCTION REGULATIONS.

(A) Permit. Prior to commencement of any major waterfront construction, a permit shall be obtained from the city in accordance with the procedures contained in this chapter. The city can attach reasonable conditions to the granting of any permit.

(B) Major construction defined.

(1) The construction of a bulkhead, dock, pier, boat hoist and/or other structure extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is to rent, lease or otherwise make available to the general public space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment, a condominium or a marina.

(2) Major construction shall also include any pier or dock, whether for commercial or private use, which extends into the waters of the Kalamazoo River or Kalamazoo Lake more than 45 feet as measured from the Ordinary High Water, elevation 581.5 International Great Lakes Datum (IGLD). A major construction permit shall always be required for waterfront construction in connection with the establishment, use or expansion of a private or commercial marina where permitted under §§ 154.023 through 154.041 of this code.

* * * * *

§ 154.206 MINOR CONSTRUCTION REGULATIONS.

(A) Permit. Prior to the commencement of the minor waterfront construction as hereinafter defined, a permit shall be obtained from the Michigan Department of Environmental Quality or successor agency.

(B) Minor construction defined.

(1) Construction of bulkheads, piers or docks, mooring buoys, boat hoists or other structures extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is for the private use of the facility or facilities by the property owner, and not for rent, lease or availability to the general public as a commercial facility or yacht club.

(2) The purpose of this classification is to permit relatively inexpensive construction of any pier or dock, not longer than 45 feet, at any one single-family residential parcel of land. Construction is limited in magnitude to that which might be done for the personal benefit of the owner and immediate family members.

(C) Pier or dock construction.

(1) Piers, docks or spring piles constructed pursuant to this subchapter shall not extend outboard more than 45 feet from the bulkhead or shoreline, the length of which shall be measured from the bulkhead, or at a location on the bottom of ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD) whichever is less.

(2) All piers or docks shall be substantially constructed and meet generally accepted construction standards.

(3) Finger piers shall not exceed 30 feet in length.

(D) Number of piers or docks. Only one pier or dock shall be allowed for each residential lot or parcel. City-owned property shall be exempt from this provision. The City Council shall determine the appropriate number of docks allowed on city property.

(E) Bulkheads. Bulkheads may be in accordance with permits issued by the U.S. Army Corps of Engineers and/or the Michigan Department of Environmental Quality and § 154.205(E)(1).

(F) Backfill and dredging. Backfill and dredging in minor construction projects shall be controlled the same as set forth in § 154.205(E)(2).

(G) Boat hoists. Boat hoists shall be permitted for seasonal use. A boat hoist may be installed in place of a pier or dock or at the end of a pier or dock, but in such case shall extend not more than 45 feet from the bulkhead or ordinary high water mark, International Great Lakes Datum (IGLD).

(H) Mooring buoys. A single mooring buoy may be located directly off the shore or bulkhead; however, it must meet USCG design standards and lighting requirements for buoy and boat. No more than one single mooring buoy shall be permitted per parcel or lot. A lot may have both one dock and one buoy.

(I) Permit procedure.

(1) An application for minor waterfront construction permit shall be filed with the Zoning Administrator.

(2) The application shall be available at the City Clerk's office and shall require the following information:

(a) The applicant's full name, mailing address, and telephone number;

(b) The address and property identification number of where proposed construction activity will occur;

(c) Intended use for the proposed waterfront construction;

(d) A statement as to why the construction will not cause pollution, impair or destroy the water, or any natural resources;

(e) The dates the proposed waterfront construction is intended to commence and be completed;

(f) A copy of an approved permit from the applicable federal and state agencies including the Michigan Department of Environmental Quality or the US Army Corp of Engineers. A waterfront construction permit shall not be issued by the city without receipt of these required permits.

(g) A sketch plan showing the proposed waterfront construction in appropriate form as set forth in the permit application.

(3) Upon receipt of a complete application, the Zoning Administrator shall cause notice to be sent to the adjacent property owners of the subject property, by first class mail utilizing tax record information, a letter explaining the general nature of the proposed minor waterfront construction project. The Zoning Administrator shall approve the application if it meets the requirements of this section.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 091109-1, passed 11-9-2009)

§ 154.999 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than \$9 and not more than \$500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) Any violation of the provisions of this chapter shall constitute a nuisance per se and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of

the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(D) Nothing herein shall be construed or interpreted to limit the authority of the city or its officers, bodies or commissions to revoke any approvals previously granted to the extent permitted by law.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

Interpretations: The ZBA is authorized to issue an official interpretation of the zoning ordinance. Interpretations may be related to either the text of the zoning ordinance or to the boundaries of the zoning map.

Unlike legal opinions or recommendations of consultants, an interpretation by the ZBA establishes the meaning of the matter being interpreted and is deemed to be the actual meaning of the ordinance from that point forward, unless the ZBA's interpretation is appealed to the courts.

Several rules of thumb may help in making interpretations.

- a) Base map interpretations on the zoning ordinance itself and any relevant historical information. Commonly, these rules are of the "walk like a duck" variety. In other words, if it appears as though the zoning boundary follows a river, it should be assumed to follow the river, or a road right-of-way, or some other physical feature. Where the boundary is unclear, the ZBA should take into account past zoning history (if any) and the potential effect of a determination on surrounding properties.
- b) Interpret the text of the zoning ordinance based on a thorough reading of the ordinance in order not to have the effect of amending the ordinance.
- c) Give weight to reasonable practical interpretations by administrative officials if applied consistently over a long period of time.
- d) Keep records of all interpretations. Once an interpretation is rendered, it is the official position of the community as to that provision. Consistency in decision making is important for the long-term.
- e) Generally, if equally convincing points are put forth by the zoning administrator and an individual affected by an interpretation, fairness dictates that the person most affected by the interpretation should prevail.

In other words, where two Zoning interpretations are reasonably equal, the benefit of the doubt should be given to the property owner rather than the zoning administrator.

Once an interpretation is made, it is advisable for the planning commission to review the matter to determine whether or not an amendment to the ordinance is needed to further clarify the language (for a text interpretation), or to review the zoning map to determine a specific location of a zoning boundary (for a map interpretation).



To: Saugatuck City Council
From: Zoning Board of Appeals
Date: January 10, 2022
Re: 2021 Zoning Board of Appeals Activities

The purpose of this memo is to provide an overview on the activities for the Zoning Board of Appeals for the 2021 calendar year. During 2021, the Zoning Board of Appeals met six times for the following activities at each meeting:

June

- 17 – public hearing for 443 Park Street – tabled due to widespread internet outage
- 22 – continued public hearing for 443 Park Street – tabled to July 14

July

- 14 – public hearing for 184 Park Street front yard setback – approved
- 14 – deliberation regarding 443 Park Street
- 28 – Closed session regarding 443 Park Street

August

- 12 - adopted the written decision as prepared by counsel

December

- 9 - denied a setback variance for a shed and a patio at 994 Holland Street.

If you should have any further questions, please contact Zoning Administrator Cindy Osman.