Saugatuck Zoning Board of Appeals Meeting - *Proposed*
April 10, 2025, Minutes

The Saugatuck Zoning Board of Appeals
Met in regular session at 6:30 p.m.
City Hall, 102 Butler Street, Saugatuck, Michigan.

1. **Call to Order** by Chairman Kubasiak at 6:30 p.m.
   Attendance:
   Present: Chairman Kubasiak, Board Members Bont, Bouck, Crawford, & Raphael.
   Absent: None.
   Others Present: Director of Planning and Zoning Thompson, Deputy Clerk Williams, David Jirousek (Horizon Planning), Trent Cunningham (Fahey Schultz).

2. **Agenda Changes/Approval of Agenda:**
   Motion by Bouck, second by Bont, to approve the agenda for April 10, 2025, meeting as presented. Upon voice vote, motion carried unanimously.

3. **Approval of Minutes:**
   Motion by Crawford, second by Bouck, to approve the regular meeting minutes from January 9, 2025, Upon voice vote, motion carried unanimously.

4. **Public Comments:** None.

5. **Unfinished Business:** None**.**

6. **New Business:**
   A. 40 Butler St – Dimensional Variance Request.
   1. The Public Hearing was called to order by the Chair at 6:33 p.m.

   2. Summary by Director of Planning & Zoning Luke Thompson.
   Kevin Phillips from the Singapore Yacht Club has submitted an application to replace an existing fence at 40 Butler Street. The replacement fence will maintain the same height and footprint but does not meet the city's waterfront fencing ordinance, which requires a minimum 6:1 open space to solid material ratio within 25 feet of the water. While the

proposed fence fails this requirement, it must also comply with Michigan Building Code (which mandates pool fences block a 4-inch sphere) and EGLE regulations (which prohibit easily climbable fences for public pools). These safety codes conflict with the city's more visually open design requirement. The existing fence is already largely solid, and due to the surrounding buildings and current visual limitations, the Zoning Administrator does not believe the replacement significantly worsens view obstruction. Therefore, the variance is requested due to conflicting regulatory requirements, not due to proposed changes in size or location.

3. Presentation by the Applicant:

Kevin Phillips of the Singapore Yacht Club explained that the proposed fence replacement complies with the 48-inch height limit required by both local ordinance and Building Code, leaving no flexibility in that aspect. He detailed the strict technical specifications imposed by the Building Code and EGLE, including spacing, clearance from the ground, and upright placement, which make it extremely difficult to design a fence that meets all regulatory requirements while still conforming to the city's open space ordinance. The intent is not to obstruct views but to comply with safety and structural mandates. He noted that the only view potentially blocked would be from inside the pool. Additionally, the property landlord supports the proposed fence for both aesthetic and privacy reasons, especially to shield restaurant patrons from pool activity. The goal is to maintain a safe, compliant, and visually appropriate facility.

4. Public comment regarding the application:
   a. Supporting comments (audience and letters): None.
   b. Opposing comments (audience and letters): None.
   c. General comments (audience and letters): None.
   d. Repeat comment opportunity (Supporting, Opposing, General): None.

5. Public comment portion closed by the Chair at 6:45 p.m.

6. Commission deliberation:

The board went into deliberation, and they discussed the applicant's request for a variance to replace the existing pool fence at 40 Butler Street. The existing pool deck and pool area are very close to the waterfront, and the existing fence does not comply with the requirement that it maintain "a minimum ratio of six parts open space to one-part solid material" with 25 feet of the waterfront. The applicant states that the style of fencing required would not meet the state building code and EGLE requirements.

Section 154.143(F)(6) Waterfront. Fences located within 25 feet of the shore of any lake, river or stream shall not be greater than four feet in height and shall be wrought iron, open mesh, chain link, lattice, slatted or similar type fencing provided that a minimum ratio of six parts open space to one-part solid material is maintained.

ZBA Findings of Fact: ***Note: Applicant must show practical difficulty by demonstrating that all four standards are met.***

Standard 1: *That 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."* § 154.155(B)(1).

Bouck discussed the first standard, focusing on how strict compliance with zoning requirements would unreasonably burden the property owner. He argues that requiring an open style fence with a 6:1 open space ratio would prevent replacing a compliant pool safety barrier. He noted that state regulations for pool safety require fencing that prevents a 4-inch sphere from passing through, which conflicts with the open-style design mandated by the zoning ordinance. Bont, Bouck, Crawford, Kubasiak, and Raphael concluded that the standard was satisfied by the proposed plans.

Standard 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." § 154.155(B)(2).*

Crawford referenced the staff report, stating that granting the variance would do substantial justice by allowing replacement of an aging fence that ensures pool safety. He noted that the replacement fence would be similar in appearance and location to the existing one and would not increase visual or physical impact on adjacent property owners. Bont, Bouck, Crawford, Kubasiak, and Raphael concluded that the standard has been satisfied.

Standard 3: *"That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions." § 154.155(B)(3).*

Bont highlighted that this is a unique situation based on the pool's location on a waterfront lot, which triggers conflicting requirements He noted that few properties in the zoning district contain pools so close to the waterfront, making this a rare and specific circumstance not broadly shared by other properties. Bont, Bouck, and Crawford, Kubasiak, and Raphael agree that the standard has been met.

Standard 4: *"That the problem is not self-created or based on personal financial circumstances." § 154.155(B)(4).*

Raphael stated that the issue is not self-created or financially motivated but is driven by mandatory state safety regulations. He noted that the applicant is not requesting an expansion, encroachment, or height increase. Bont, Bouck, Crawford, Kubasiak and Raphael agree that the standard has been satisfied..

Motion by Bouck, second by Bont, to approve a variance to allow a solid fence exclusively for swimming pool screening within 25 feet of the waterfront at 40 Butler in accordance with the applicant's existing dimensional definition and materials based on the following findings, the standards 1, 2, 3, & 4 have all been evaluated, approved, and satisfied. Upon roll call vote, motion carried unanimously.

7. **Communications:** None.

8. **ZBA Comments:**
   - Chair Kubasiak raised a discussion about alternate members participating in Zoning Board of Appeals meetings. Bob Kubasiak raised a discussion about alternate members participating in Zoning Board of Appeals meetings. He suggested that alternates should be allowed to sit in on meetings, even if they can't vote, to learn about the process, get exposure, and become comfortable with board proceedings. He believes this helps alternates understand how the board works and provides valuable learning opportunities.

9. **Public Comments:** None.

10. **Adjournment.**

Motion by Bont, second by Bouck, to approve adjournment of the meeting. Upon voice vote, motion carried unanimously. Chair Kubasiak adjourned the meeting at 7:18 pm.

Respectfully Submitted,
Sara Williams
City Deputy Clerk