



Saugatuck Zoning Board of Appeals Meeting August 10, 2023, Minutes

The Saugatuck Zoning Board of Appeals
Met in regular session at 7:00 p.m.
City Hall, 102 Butler Street, Saugatuck, Michigan.

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

Attendance:

Present: Vice Chair Bouck, Board Members Crawford, & Hundreiser.

Absent: Chairman Kubasiak, Board Members Bont & McPolin.

Others Present: Director of Planning, Zoning, & Project Management Ryan Cummins, & Deputy Clerk and DPW Administrative Assistant Sara Williams, City Attorney Jacob Witte

- 2. Agenda Changes/Approval of Agenda:** Approved.

Motion by Hundreiser, second by Crawford to approve the agenda for August 10, 2023, meeting as presented. Upon voice vote, motion carried 3-0.

- 3. Approval of Minutes:**

Motion by Crawford, second by Hundreiser, to approve the minutes from June 8, 2023, as submitted. Upon voice vote, motion carried 3-0.

- 4. Public Comments:** None.

- 5. Unfinished Business:** None.

- 6. New Business:**

A. 321 Water Street – Fence Height:

1. The Public Hearing was called to order by the Chair at 7:01 p.m.

2. Summary by Director of Planning, Zoning & Project Management Ryan Cummins.

The applicant requests a dimensional variance to construct a fence at 321 Water Street to increase the height to six feet and ten inches (6'10") instead of the maximum six-foot (6') fence height, an increase of 10 inches (10"). The request relates to Section 154.143 (E)(4) of the Zoning Ordinance.

Fences located within a rear or side yard shall not exceed six feet in height measured from the surface of the ground...

The property is located in the C-2 Water Street East (WSE) District zoning district. The corner lot is approximately 3,700 square feet, with commercial businesses on each side. The C-2 WSE allows a variety of uses: retail services, accommodations, restaurants, and residential dwellings.

3. Presentation by the Applicant:

Marilyn Migliore was in person to present her application for 321 Water Street. She is requesting to increase her fencing ten inches at the height of the peak. She is surrounded by mainly commercial properties. The Boardwalk is on one side, and on the other side and behind her home there are vacation rentals. The increase in the height of the fence would provide her with a little bit more privacy in addition to improving the overall look of her property. What she is trying to do is capture the look of the fencing on the gate on her driveway and recreate that look for her fencing around the backyard of her property and sort of replicate that look.

The builder for the applicant, Brad Northmond, said he is the one that will complete the work for Marilyn. He said that they are not constructing a fence, the support posts are already there. When the fence was put in originally, both sides of the fence are finished to all of the structures hidden from all sides from all angles and from any restaurants or business. Both sides of the fence are already finished today. He said that what they are proposing is just to replace the boards that are weathered and worn on the inside the fence with new material with the exception that in the middle of those sections, they're six foot 10 inches, which would match the fence gate. The gate is six foot 10 inches now.

4. Public comment regarding the application:

- a. Supporting comments: 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 7:32 p.m.

6. Commission deliberation:

The board went into deliberation and discussed a dimensional variance to construct a fence at 321 Water Street to increase the height to six feet and ten inches (6'10") instead of the maximum six-foot (6') fence height, an increase of 10 inches (10"). The request relates to Section 154.143 (E)(4) of the Zoning Ordinance.

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, Crawford, & Hundreiser found this standard is met because:*

Commercial businesses are located on each side of the subject lot, and higher fences exist along the existing fence line on abutting properties. While a conforming fence could be built, the ZBA may consider conformity unnecessarily burdensome based on conditions and adjacent uses and structures.

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). Bouck, Crawford, and Hundreiser found this standard is met because:*

The request is not extreme (10”) and is only enough to provide reasonable visual relief of the view of nearby businesses, structures, and higher fences. As such, a variance may give substantial relief to the applicant and allow for justice for neighboring property owners. Commercial businesses subject to site plan review may be approved to include fences higher than six feet (6’), so it is not uncommon to find higher fences in the downtown area, now or in the future. A lesser relaxation would defeat the purpose and need for the higher fence (visual screening).

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). Bouck, Crawford, and Hundreiser found this standard is met because:*

The site is unique based on its location in a commercial/mixed use zoning district, commercial uses on each side, and nonconforming fencing abutting the property lines.

Standard 4: *“That the problem is not self-created or based on personal financial circumstances.” § 154.155(B)(4). Bouck, Crawford, and Hundreiser found this standard is met because:*

While the higher fence is desirable from the personal perspective of the applicant, they did not create the circumstances and characteristics of abutting land uses and structures. Additionally, the variance request has no relationship to the project cost.

7. Commission action: ZBA Decision (Approve):

Motion by Crawford, second by Hundreiser, to approve a variance to increase the allowable fence height to six feet and ten inches (6’10”) instead of the maximum six-foot (6’) fence height, an increase of 10 inches (10”), based on the positive findings documented in the staff memo provided to the ZBA for its August 10, 2023, meeting. This approval is contingent upon the construction of the fence being in substantial conformance with the location, design, and height as proposed and included in the ZBA variance applicant materials. Upon roll call vote, motion carried 3-0.

7. **Communications:** None.

8. **ZBA Comments:**

Vice Chair Bouck said that he had no other comments other than to thank everyone for coming to tonight’s meeting and the preparation that goes into it.

9. **Public Comments:** None.

10. Adjournment: *Motion by Hundreiser, second by Crawford to adjourn. Motion carried unanimously. The meeting was adjourned at 7:42 pm by Vice-Chair Bouck.*

Respectfully Submitted,
Sara Williams
City Deputy Clerk