

# Zoning Board of Appeals

## Regular Meeting Agenda

Monday, July 23, 2012  
7:00 p.m., Council Chambers



City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – June 23, 2012
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

### **NEW BUSINESS – NORTHSIDE MARINA PERMIT APPROVAL EXTENSION**

6. The City of South Haven is requesting a variance to provide relief from zoning ordinance section 1406-2 in order to extend the time limit for a site plan approval previously granted by the planning commission. The project involves improvements to Northside Marina located at 148 Black River Street. The parcel number for the subject property is 80-53-745-001-00.

### **7. Adjourn**

RESPECTFULLY SUBMITTED,

Linda Anderson  
Zoning Administrator

South Haven City Hall is barrier free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Hall.

# Zoning Board of Appeals

## Regular Meeting Minutes

Monday, June 25, 2012  
7:00 p.m., Council Chambers



City of South Haven

### 1. Call to Order by Ingersoll at 7:00 p.m.

### 2. Roll Call

Present: Apotheker, Paull, Wheeler, Wittkop, Ingersoll  
Absent: Henry

### 3. Approval of Agenda

Motion by Wittkop, second by Apotheker to approve the June 25, 2012 Regular Meeting Agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – April 23, 2012

Motion by Apotheker, second by Wheeler to approve the April 23, 2012 Regular Meeting Minutes as written.

All in favor.

Motion carried.

### 5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

#### **NEW BUSINESS – Dimensional Variance Request**

6. Don and Kathy Raklovits, 77 Clinton Street, request a variance from Article IV, Section 402 in order to attach a garage to the residence, resulting in nonconformance to the rear (north) setback requirements. The setback proposed will be three (3) feet from the north lot line. The ordinance requires attached garages to be located no less than 25 feet from the rear lot line in the R1-A zone. The applicant is also requesting relief from the lot coverage maximum of 40 percent. The addition will bring the lot coverage to 41 percent. The parcel number for the subject property is 80-53-184-012-00.

Anderson introduced the request and explained the reason for the variance request. The variance would allow construction of an attached garage 3' from the property line instead of the 25 feet required in the ordinance. There is also a request to permit 41 percent lot coverage where 40 percent is the maximum permitted. Due to Mrs. Raklovits' mobility challenges, caused by arthritis, Anderson feels the applicant has a demonstrated hardship and approval of this variance would not set a negative precedent in the neighborhood.

Ingersoll asked about the proximity of the garage to the lot line and the garage belonging to the neighbor at the rear of the lot. Anderson explained that the neighbor to the rear came in and looked at the plans and said there would be a total of 5' between the two garages. Anderson explained that if the garages were closer than that, a fire wall would be required.

**Don Raklovits, 77 Clinton Street.** The main purpose of the request is his wife's safety and since they are full-time residents, winter snow and ice are an issue. Raklovits noted this is a manufactured home so he does have the plan to do some other modifications to give the home a more traditional look. Ingersoll asked if the extra depth of the garage is to have a workshop. Raklovits noted that they would be removing the existing shed and all of their storage for gardening equipment and other items. The extra depth of the garage will be to accommodate those items needing storage.

Apotheker questioned whether the neighbor's garage is actually 2 feet from the lot line. Anderson explained that the neighbor came in to ask about the set backs to the rear of both properties and stated that his garage was actually 3 feet from his lot line. He had no issue with approving the variance as submitted. Anderson reminded the members that the City does not survey properties nor does the City involve itself in any possible dispute over lot lines; lot lines are a civil matter between neighbors. Ingersoll suggested the board could make the approval contingent on there actually being 5 feet between the garages for fire safety. Anderson agreed that could be part of the approval stated in the motion.

The Board discussed whether or not to consider the lot coverage.

Motion by Wittkop, second by Wheeler to close the public hearing. All in favor. Motion carried.

Apotheker, Wittkop and Wheeler said their concerns were already addressed.

Motion by Paull, second by Apotheker to approve the setback variance request along with the 41 percent lot coverage with the recommendation that there be at least 5 feet between the two garages.

A roll call vote was taken:

Ayes: Paull, Wheeler, Wittkop, Apotheker, Ingersoll  
Nays: None

Motion carried.

**7. Election of Officers 2012-2013**

Motion by Apotheker, second by Wheeler to elect Ingersoll as Chair and Wheeler as Vice-Chair.

All in favor. Motion carried.

**8. Adjourn**

Motion by Apotheker, second by Wheeler to adjourn at 7:16 p.m.

All in favor.

Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary



**Agenda Item #7  
Northside Marina Approval Extension**

**City of South Haven**

**Background Information:**

On December 2, 2010, the planning commission approved a site plan for improvements to Northside Marina. In November of 2011, the city again went before the planning commission to ask for some minor amendments to the plan as well as request an extension to the one-year limit on the previous approval.

The planning commission granted the extension for sixty (60) day, the limit allowed by the ordinance. Many planning commissioners expressed a desire to extend the approval for a longer time but were bound by ordinance restrictions. The ordinance, Section 1406 -2, does not provide for any extensions beyond the sixty (60) days. The city is asking for relief from section 1406-2 to allow an extension to December 31, 2012.

The delay in beginning construction was due to the lengthy state review process and the resultant delay in the design phase of the project. With all approvals now obtained, the city is currently bidding the project and plan for construction to begin at the end of this summer season. The fall timing is necessary so as not to disrupt the use of the north beach during the busiest season.

**Recommendation:**

Staff recommends granting the variance from zoning ordinance section 1406-2 and extending the deadline for obtaining the construction permits and begin construction until December 31, 2012.

**Support Material:**

Application and narrative  
Findings of Fact

Respectfully submitted,  
Linda Anderson  
Zoning Administrator

**ZONING VARIANCE REQUEST**  
**CITY OF SOUTH HAVEN**  
**BUILDING DEPARTMENT**  
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090  
FOR INFORMATION CALL 269-637-0760

**NOTE: Incomplete applications will not be processed. A fee of \$300 will be required at the time the application is submitted.**

Name: City of South Haven Date: 6/19/12  
Address: 539 Phoenix St, South Haven Phone: 269-637-0775  
Address of Property in Question: 148 Black River St Present Zoning of Property: B-3

Name of Property Owner(s): City of South Haven

Present Zoning of Neighboring Properties to the :

North RM-1 South River East B-3 West B-3

Which Sections of the South Haven Zoning Ordinance are you requesting a variance from? Please indicate Section and Paragraph numbers. (City staff will help determine which variance(s) are required).

Section(s): 1406-B - extension of site plan approval

Under Article XXII, Section 2205 of the South Haven Zoning Ordinance, the Zoning Board of Appeals may not grant a variance from the regulations within the Ordinance unless certain conditions exist. No variance in the provisions of this Ordinance shall be authorized unless the Board finds, from reasonable evidence, that all of the following standards have been met:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

The timing of construction will eliminate construction nuisance during the summer season.

2. Such variance will not impair the intent and purpose of this Ordinance.

No changes are proposed from the previously approved site plan.

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

1. Schedule construction during off-season
2. Public input process creates a long design phase
3. State review of plans causes a long design phase.

4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

*not a factor.*

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

*variance request is not related to character of property.*

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

*not self-created*

7. 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.

*not applicable*

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

*We are requesting an extension of the deadline for construction to the end of the year.*

9. That the variance will relate only to property under the control of the applicant

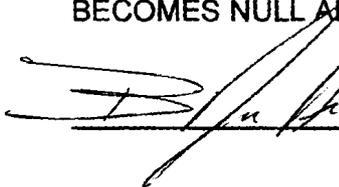
*Yes.*

I hereby give permission for the members of the Zoning Board of Appeals and City Staff to access and inspect the property in question for the purpose of gathering information to make an informed decision on this variance request.

  
\_\_\_\_\_  
Property Owner

6-19-12  
Date

THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND SUBMITTED TO THE ZONING BOARD OF APPEALS FOR THEIR REVIEW. I REALIZE THAT ANY INFORMATION THAT I SUPPLY THAT IS NOT CORRECT COULD VOID ANY DECISION BY THE BOARD. I ALSO ACKNOWLEDGE THAT IF THE VARIANCE IS GRANTED BY THE BOARD, THE WORK WITHIN THE REQUEST MUST BE CARRIED OUT WITHIN ONE YEAR OF THE PUBLIC HEARING OR THE VARIANCE BECOMES NULL AND VOID.

  
\_\_\_\_\_  
Applicant Signature

6-19-12  
Date

June 19, 2012

TO: Linda Anderson, Zoning Administrator

FR: Paul VandenBosch, Harbormaster 

RE: Variance Request, North Side Marina Project

The North Side Marina project has gone through site plan review and was approved on December 2, 2010, and amended on November 3, 2011. It is my understanding that our site plan approval has lapsed.

We are bidding the project out to start at the end of the boating season, with permitting work to start around September 2012, and demolition of the existing structure after October 15, 2012.

We originally came to the Planning Commission seeking site plan approval prior to completing architectural design. Our goal was to obtain zoning approval before expending dollars on design work. After approval, we went through the design process, which took time and included input from boaters and the public. Upon completion of design, we submitted minor amendments to the site plan for approval, and obtained a 60 day extension to the deadline.

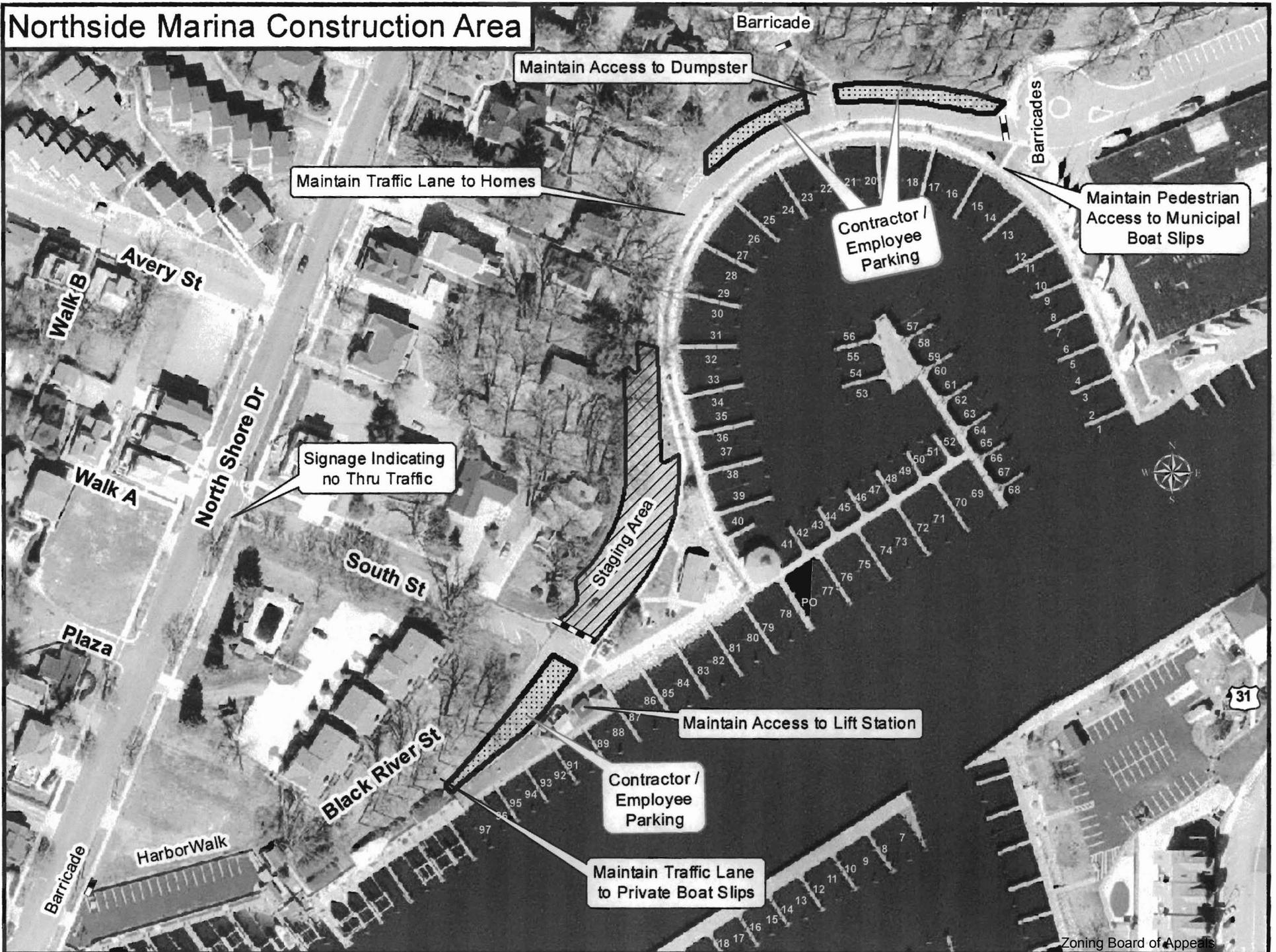
Because this is a grant funded project, the State of Michigan reviews the plans in detail, which can take many months. The North Side Marina project required two reviews by the State of Michigan, each of which was a two month review process. This review process caused the City to miss the deadline for a Spring 2012 construction.

Because of the slow moving nature of grant-funded projects, and the need to time this project to avoid affecting boaters at the marinas, I am requesting an extension of the site plan approval through the zoning appeal process.

The exceptional circumstances related to this request are that the City desires to complete the project in the off-season, at a time when there is no impact to boaters and minimal impact to adjacent neighborhood. In addition, the need for public input on this highly visible public project and the requirements for state review of the project caused a design phase which takes longer than one year.

The project is currently being bid out with a construction start date of October 15. We expect that building permit permits will be applied for in August, September or October of this year. Our request for a variance is to be allowed an extension on zoning approval to the end of 2012.

# Northside Marina Construction Area



# STAFF FINDINGS OF FACT

## CITY OF SOUTH HAVEN ZONING BOARD OF APPEALS

**DATE:** July 23, 2012  
**ADDRESS:** 148 Black River Street  
**ZONING DISTRICT:** B-3 Waterfront Business  
**LOT DIMENSIONS:** Irregular  
**LOT AREA:** 13,068 square feet  
**LOT COVERAGE:** NA  
**REQUIRED SETBACKS:** NA  
**EXISTING SETBACKS:** NA  
**PROPOSED SETBACKS:** NA

**VARIANCE REQUEST:** The City of South Haven requests a variance from zoning ordinance section 1406-2 in order to allow a continuation of a previously granted site plan approval. The project requiring the extension is the proposed improvements to the Northside Marina at 148 Black River Street. The parcel number for the property is 80-53-745-001-00. The city intends to begin construction immediately following the summer season in order to avoid a nuisance or inconvenience to the public. The city is asking for the extension to be in effect until December 31, 2012.

### DIMENSIONAL VARIANCE STANDARDS

City of South Haven Zoning Ordinance Section 2205:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.

**Properties in this area are of a waterfront/resort character. This request does not in any way affect the surrounding properties.**

2. Such variance will not impair the intent and purpose of this Ordinance.

**This project has already received planning commission site plan approval. Any issues that may have been found have been addressed and corrected. There is no conflict with the intent of the zoning ordinance.**

3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).

**This is not a dimensional variance and the above standards do not apply.**

4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

**This is not a dimensional variance and the above standards do not apply.**

5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or

recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

**This is not a dimensional variance and the above standards do not apply.**

6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.

**This is not a dimensional variance and the above standards do not apply.**

7. 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.

**This is not a dimensional variance and the above standards do not apply.**

8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

**This is not a dimensional variance and the above standards do not apply.**

9. That the variance will relate only to property under the control of the applicant.

**The variance request only involves the property owned by the applicant.**