

**APPROVED MINUTES  
WATER RESOURCES & ADVISORY BOARD**

A meeting of the Water Resources & Advisory Board held on **Tuesday, February 1, 2022 at 7:00 p.m.** in the Geer Conference Room at City Hall, 27600 Jefferson Circle Drive, St. Clair Shores, Michigan.

**PRESENT**

**Chairman:** Joe Claycomb

**Commissioners:**  
Ronald Dest  
Alex Lince  
Robert Michielutti, Jr.  
Michael Monaghan

**ABSENT**

Warren Danford  
Robert Krompatic  
Glenn Sexton, Building Official

**ALSO PRESENT**

Jim Osterhout, Building Official  
Ayla Klein, Recording Secretary  
Denise Pike, Community Development Director  
Robert Ihrle, City Attorney

Theresa Paulus, 22650 Bayview  
Larry Rekowski, 49090 Jefferson

**CALL TO ORDER**

Claycomb called the meeting to order at 7:00 p.m.

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited by those in attendance.

**APPROVAL OF DECEMBER 7, 2021 MEETING MINUTES**

**Dest made a motion, supported by Monaghan to approve the December 7, 2022 Meeting Minutes.**

**AYES: All**  
**NAYS: None**  
**ABSENT: Danford, Krompatic**

## Lake Case #22-2021 & Lake Case #33-2021

Claycomb said the contractor for both of these cases is not present at this time.

**Monaghan made a motion, supported by Lince to Table Lake Case #22-2021 and Lake Case #33-2021 until the contractor or petitioner is present.**

**Ayes: All**  
**NAYS: None**  
**ABSENT: Danford, Krompatic**

### **DISCUSSION ON WATER RESOURCES BOARD MEMBERS' ROLES AND RESPONSIBILITIES**

Robert Ihrle, City Attorney said he wanted to hear what the board members have to say and to answer questions. He explained that a lot of the law is black, white and some gray areas. We recently had a case where we had a request to reconstruct a boat house and it was denied by the Water Resource Board. The appeal to the Water Resource Board is to City Council. The petitioner did appeal to City Council. The City Council was prepared to hear the appeal. Some questions were raised as to the interplay between the Water Resource Board, the Zoning Board of Appeals, and City Council. One councilman asked for clarification on that and the appeal got tabled. It has not been rescheduled to another date, pending our discussion and what we decide to do in that particular matter. The petitioner asked for permission to build a boat house. He previously asked for a variance on the side yard setback and was denied at this body. The question has arisen as to what authority the Water Resource Board has with respect to granting variances when it has to do with riparian rights in regards to canals and the lake. Historically, we have advised the Water Resource Board that it is not a variance granting board. The Zoning Board of Appeals typically grants variances to the strict confines of our ordinances, such as setback, height, and use variance.

Monaghan commented that the petitioner came to us months ago and applied for a permit to put in seawall in the boathouse. He was advised at the time that he cannot take down a certain percentage of the boat house. He was in front of the board a couple of times in regards to the structure. Not having the experience as a marine contractor, he took down more than what was required. When he came here to rebuild that boathouse, he was told that the amount of the boathouse that was removed was more than allotted amount. It is his opinion that the individual took down more than the allotted amount of the boathouse and now he can build back four posts and a roof, but not enclose it.

Mr. Ihrle said the petitioner indicated that he was told that he could construct the boathouse after he deconstructed the boat house. Monaghan said that we never said that and we would never allow that. He said Mr. Ihrle agreed that he shouldn't be given the right to put it back up.

Monaghan said that he stated that ignorance is no excuse for the law.

Mr. Ihrle indicated if there was a cause of hardship that we have to worry about riparian rights, but Monaghan said riparian rights are straight off your property and not to the left or right.

Monaghan said that he stated that now he can only put up 4 sticks and a roof.

Monaghan said that it should comply with the city ordinances.

Mr. Ihrle said that the decision that was made by the Water Resource Board in November 2021 is what the petitioner appealed. Whether he was told that or not makes no difference, the ordinance is what the ordinance is. Mr. Monaghan is correct that the petitioner took down a certain percentage. Regardless of the reason he took it down, it was the city's opinion and this board's opinion that because he took down more than 60% of the boathouse, he lost his non-conformity. The ordinance does say 60% not including the

foundation. The boathouse sits on the seawall. That is not included in the 60%. He took down more than 60% and lost his non-conformity. He went before the Zoning Board of Appeals for a shed and for an extension. Those requests were turned down at Zoning Board of Appeals. With respect to residential riparian property, all marine related structures such as boat house, catwalk, docks, etc. shall be regulated under the Water Resource ordinance. The question is when the Water Resource Board grants or denies a request and sends them back to the Zoning Board of Appeals, is the Zoning Board of Appeals correct in handling that or sending it back to the Water Resource Board. There's nothing to look up in our law or state law to make that determination to a large degree. Should the Water Resource Board be addressing setback issues? His opinion is it should not. That should be handled by and heard by the Zoning Board of Appeals. He said for issues on riparian matters this Water Resource Board essentially said to the petitioner, you took down your structure, it's clear in our ordinance that a boathouse can only have a roof and not sidewalls, so we are permitted to deny you for that issue. The method of appeals is City Council. He feels this board made the right decision in this case. The other issues that he went to Zoning Board of Appeals was for changes and set back and he got turned down by the Zoning Board of Appeals. That is his opinion.

Monaghan suggested that we should have recommendation from the city. He doesn't think we check the experience of the contractors. He thinks when these permits are pulled, they should be reviewed by the city. The l's need to be dotted and the t's need to be crossed before it comes before this board. In the case of variances, he feels the petitioner should go to his neighbors and the adjoining neighbors should agree.

Mr. Ihrie said your recommendation of city administration to look at the request and make a recommendation is done by some cities that way. St. Clair Shores does not. He thinks it's a good idea, but he thinks it would take a lot of time. He thinks it's a good suggestion.

Mr. Ihrie said one question he has on this particular case is it looks like a permit was given and then they received a violation in October.

Denise Pike, Community Development Director said she believes that he got the permit to build the shed and it can abut the garage, but cannot enter into the garage. The petitioner did adjoin the two and that's why he received the violation.

Mr. Ihrie said his recommendation to City Council is that this will be on their watch.

Lince said when we discussed this, we didn't have the language of the Zoning Board of Appeals ordinance. We need clarification on the side yard setback. This contractor did not do the work that was originally approved. He went on his own.

Mr. Ihrie said on November 9<sup>th</sup>, the issue wasn't the setback, that issue came up about the setback. He referred to the November 9<sup>th</sup> minutes when Eric Shepherd clarified that this board can't grant variances. Any kind of variance needs to go to the Zoning Board of Appeals. This board that night made the decision to deny the request because our ordinance denied the boathouse because the sidewalls. He supports the decision this board made.

The board members asked questions and Mr. Ihrie clarified that the Zoning Board of Appeals handles the setback.

Lince asked if a contractor gets a permit from this board, if that contractor doesn't follow that work that is done in the permit and wants to come back, how does that get policed and can we reject it.

Ms. Pike stated that if it is something that is related to the permit that he received it would be inspected. If it is not built to approval, it would be a violation. The inspectors will go out and check to make sure it was built to the permit and if it is not, they will receive a violation.

Mr. Ihrie, said it came here because it was much confusion. He came to the Water Resource Board and was denied. Now he has his decision and the proper appeal process. It went through the proper channels.

Lince asked for clarification and Ms. Pike explained the permitting side and that this board should consider the less technical side and the vision, aesthetics, and character of the city.

Mr. Ihrie stated that St. Clair Shores works hard to do the right thing in an efficient and honest way.

There was discussion about setback.

Ms. Pike told the board when considering approval to ask if what is being requested is consistent with the surrounding properties.

Mr. Ihrie said this board can base an approval subject to the Zoning Board Approval if it needs a variance.

**Monaghan made a motion, supported by Michielutti to Uutable Lake Case #22-2021 and Lake Case #33-2021 and put them back on the agenda as the contractor arrived and is present.**

**AYES: All  
NAYS: None  
ABSENT: Danford, Krompatic**

**Lake Case #22-2021 – Marine One LTD on behalf of Scott and Susan Davis – 33904 Jefferson – Install 50 linear feet of replacement seawall within 12 inches waterward from the existing seawall structure. Placement of 5.5 cubic yards of riprap at waterward toe of replacement seawall prior to placing 13 cubic yards of backfill obtain from a clean, upland source landward of replacement seawall. Installation of a 70-foot-long by 4-foot-wide dock with a 10-foot-long by 15.8-foot-wide boat hoist on the south-facing side of the dock. Approved at 9/14/21 Water Resources Meeting, being reheard to review revisions to EGLE permit. Revision includes installation of 57’8” linear feet of 2-foot-wide walk around the dock to service the hoist and two additional spring piles.**

Dest asked a question about the dock and the contractor explained.

**Monaghan made a motion, supported by Lince to approve Lake Case #22-2021 – Marine One LTD on behalf of Scott and Susan Davis – 33904 Jefferson – Install 50 linear feet of replacement seawall within 12 inches waterward from the existing seawall structure. Placement of 5.5 cubic yards of riprap at waterward toe of replacement seawall prior to placing 13 cubic yards of backfill obtain from a clean, upland source landward of replacement seawall. Installation of a 70-foot-long by 4-foot-wide dock with a 10-foot-long by 15.8-foot-wide boat hoist on the south-facing side of the dock. Approved at 9/14/21 Water Resources Meeting, being reheard to review revisions to EGLE permit. Revision includes installation of 57’8” linear feet of 2-foot-wide walk around the dock to service the hoist and two additional spring piles.**

**AYES: All  
NAYS: None  
ABSENT: Danford, Krompatic**

**Lake Case #33-2021 – Marine One LTD on behalf of Murdoch Hertzog – 33514 Jefferson – Remove existing dock. Install a 62-foot long by 4-foot wide dock perpendicular to the existing seawall, located southwest of the existing boat hoist and approximately 19 feet from the southwest property line. Tabled at 12/7/21 Water Resource Meeting.**

Dest asked about the dimensions and the setback.

Larry Rekowski, Marine One LTD said they are taking a section out and are making it a larger setback.

**Dest made a motion, supported by Monaghan to approve Lake Case #33-2021 – Marine One LTD on behalf of Murdoch Hertzog – 33514 Jefferson – Remove existing dock. Install a 62-foot long by 4-foot wide dock perpendicular to the existing seawall, located southwest of the existing boat hoist and approximately 19 feet from the southwest property line. Tabled at 12/7/21 Water Resource Meeting.**

**AYES: All  
NAYS: None  
ABSENT: Danford, Krompatic**

**ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD - None**

**AUDIENCE PARTICIPATION - None**

**ADJOURNMENT**

**Monaghan made a motion, supported by Lince to adjourn the meeting.**

**AYES: All  
NAYS: None  
ABSENT: Danford, Krompatic**

Meeting adjourned at 8:05 p.m.

[THE PRECEDING MINUTES ARE A SYNOPSIS OF A WATER RESOURCES & ADVISORY BOARD MEETING AND DO NOT REPRESENT A VERBATIM RECORD.]