

MARSHALL TOWNSHIP ZBA MEETING

August 14, 2023 at 4:00 P.M.

AGENDA

- I. Call to Order
- II. Pledge of Allegiance
- III. Election Of Officers
- IV. Minutes of April 5, 2022
- V. Remarks from the audience concerning items not on the agenda
- VI. Old Business
- VII. New Business

A request for a dimensional variance, Rear Yard Set Back, the ordinance requires fifty (50') feet, the applicant is asking for a variance of Six feet (6'). The Property is Low-Density Residential District (R-1). The applicant is Robert and Jody Ulmer (16-501-030-00), 15170 Walters Drive, Marshall, MI 49068. Rear Yard, Set Back requirements are in 3-3 Spatial Requirements of the Marshall Township Zoning Ordinance.

- A) Open Public Hearing
 - B) Close Public Hearing
 - C) Board Discussion and Finding of Fact
 - D) Old Business
- VIII. Additional Commissioner Comments
 - IX. Additional Audience Comments
 - X. Adjourn

MARSHALL TOWNSHIP ZONING BOARD OF APPEALS
April 5, 2022,
Marshall Township Offices, 13551 Myron Avery Drive, Marshall, MI

PROPOSED 4-11-22
APPROVED _____

PRESENT: Alec Egnatuk, Chairperson, Marshall Township
Jeff Albaugh, Secretary, Marshall Township
Roger Caswell, Vice Chairperson, Marshall Township

ALSO PRESENT: Elizabeth and Wayne Wright, Applicants
Paul Anderson, Zoning Administrator
Michelle Wagley, Notified Property Owner
Jay Titus, Notified Property Owner
Drew Phillips
Robert Lyng

The meeting was called to order at 4:00 p.m. by Vice Chairperson Caswell who welcomed new member Alec Egnatuk. Mr. Egnatuk was recommended by the Planning Commission and confirmed by the Township Board to replace long time member Paul Kiessling who retired from the Planning Commission.

Bob Lyng led the Pledge of Allegiance. Secretary Albaugh called the roll announcing a quorum was present.

Motion by Albaugh, supported by Caswell, approve the minutes of the 6-14-21 meeting. Roll call vote: YES- Egnatuk, Albaugh and Caswell. NO-None. CARRIED.

Vice Chairperson Caswell announced the next order of business was election of officers.

Motion by Albaugh, supported by Caswell that Alec Egnatuk be elected Chairperson. Voice Vote. All YES. Motion carried.

Motion by Albaugh, supported by Egnatuk that Roger Caswell be re-elected as Vice Chairperson. VOICE VOTE. All YES. Motion carried.

Motion by Caswell, supported by Egnatuk that Jeffrey Albaugh be re-elected as Secretary. VOICE VOTE. All YES. Motion carried.

No remarks from audience regarding items not on the agenda and no old business.

Wright application, parcel # 16-180-006-00:

Chairperson Egnatuk indicated the matter before the Board was the request of the property owners for a variance of the 330-foot road frontage requirement to permit a split of the property to create a new lot for construction of an accessory dwelling as set forth in the application. The staff report is contained in the agenda packet. A proposed agreement between the Township and the Wright's is also part of the agenda packet for consideration if the Board determines a private road is applicable.

The Chairperson declared the public hearing open at this point. The Zoning Administrator indicated that Property owners of record as required by ordinance were notified and public notice was given. There was one comment received by the Administrator prior to the meeting from neighbors James and Donna Grove who indicated that they had no concerns with the request and made inquiry of several of the ordinance requirements.

Ms. Wright reviewed the intent of the application and the application. Board members Caswell and Albaugh indicated that this was one of the most complete and helpful applications that they have dealt with on the Board. Mr. Wright added further background as contained in the application.

Mr. Titus offered comments in support of the application and expressed the Wright's proposed was great for the neighborhood and township.

Michelle Wagley stated she did not have a problem with the request but she had experienced problems with a similar situation in another township and believes there are significant liabilities with a shared driveway. She expressed hope that the Wright's would think about these concerns.

Drew Phillips spoke in support of the application and noted he would be helping with the farm operations.

The Public Hearing was declared closed by the Chairperson with no one else seeking to be heard.

General discussion of the request ensued by Board members. Clarification was sought with an understanding reached that the easement and road access for the proposed new lot would be through an easement of no less than 30 feet with exact location to be determined by the County Road Department driveway permit.

Secretary Albaugh indicated that the Zoning Ordinance has several detailed requirements for private roads but that driveways serving 2 residences or less are not sufficiently detailed, thus leaving it to the ZBA to interpret the intent. He further noted that the request is consistent with the need for a private driveway not a private road, but the ordinance needs to be reviewed and clarified for future situations.

Motion by Caswell, supported by Albaugh that the ZBA adopt the narrative set forth in the application as its determination. ROLL CALL VOTE. YES: Egnatuk, Caswell and Albaugh. NO-None. MOTION CARRIED.

Motion by Albaugh, supported by Caswell, approve a dimensional variance to waive the road frontage requirement of 330 feet for creation of a new lot (split of current property) per the application. This variance is conditioned on a permanent easement for a private driveway of at least 30 feet in width from the road to the newly created lot on the westerly portion of the parent property as determined by any driveway cut approved by the County Road Department. Roll call vote: YES-Egnatuk, Albaugh, and Caswell. NO-None. CARRIED.

Motion by Albaugh, supported by Egnatuk, refer the need for clarification of the Zoning ordinance regarding private driveways and the standards for private roads considering the County Road Departments refusal to provide information needed to comply with existing ordinance requirements to the Township Board and Planning Commission. VOICE VOTE. All voting YES. Motion Carried.

No additional member comments or public comments.

Motion by Caswell, supported by Albaugh, the meeting be adjourned at 4:40 p.m. Voice Vote. MOTION CARRIED.


Jeffrey S. Albaugh, Secretary

Original: Township Clerk

CC: Zoning Administrator, Board of Appeals Members, Township Assessor, Applicant

A. PROPERTY INFORMATION

Property Address 15170 Walters Dr, Marshall, MI 49068
Parcel Number 16-501-030-00 Zoning District _____
Lot Size Frontage: _____ ft Depth: _____ ft Area: _____ Acres/Sq Ft Rectangle Irregular
Current use of property primary residence

B. APPLICANT INFORMATION

Applicant

Identify the person or organization requesting the Appeal:

Name Robert and Jody Ulmer Title Home Owner
Organization _____ Cell Phone 269-274-1180
Mailing Address 15170 Walters Dr Business Phone _____
City Marshall State MI Zip 49068 E-Mail parks51016@yahoo.com

The Applicant must have a legal interest in the subject property:

- Property Owner Purchaser by Option or Purchase Agreement
 Purchaser by Land Contract Lessee/Tenant

Property Owner Check here if Applicant is also Property Owner

Identify the person or organization that owns the subject property:

Name Robert and Jody Ulmer Title Home Owner
Organization _____ Cell Phone 269-274-1180
Mailing Address 15170 Walters Dr Business Phone _____
City Marshall State MI Zip 49068 E-Mail parks51016@yahoo.com

C. APPEAL INFORMATION

1. Date of Decision Being Appealed _____

2. Decision Making Entity

- Planning Commission Zoning Administrator Other

Applicant's Reason(s) for Appeal

Describe the decision being appealed and how the decision was made contrary to the proper requirements and standards of the Zoning Ordinance (use additional paper if needed).

Construction of addition to rear of house. Proposed addition falls 44' from property line which is 6 feet

less than the required 50 feet.

D. REQUEST AND AFFIDAVIT

The applicant must read the following statement carefully and sign below:

The applicant affirms and acknowledges the following:

- That the answers and statements contained in this application and enclosures are in all respects true and correct to the best of his, her or their knowledge.

Robert L Ulmer III

Applicant Name (printed)

Robert L Ulmer III

Applicant Signature

7/24/2023

Date

Filing Deadline and Distribution. An appeal from any decision or action shall be filed no later than 30 calendar days after the decision or action being appealed. Where an appeal has been filed, the Zoning Administrator shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action being appealed was made.

Section 3-3 Spatial Requirements

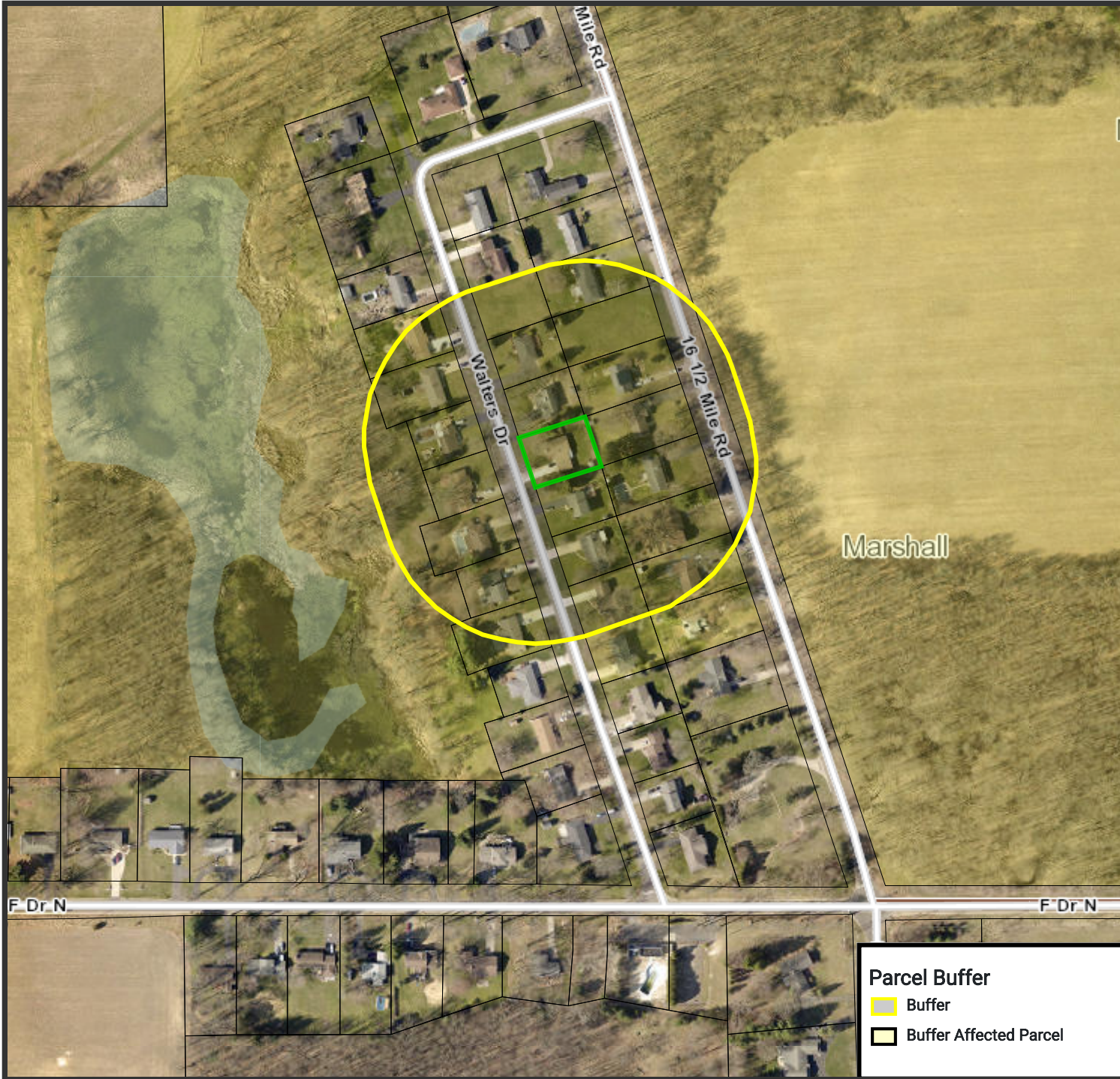
All lots shall meet the minimum area and width requirements of *Table 3.3*. New lots shall not be created, except in conformance with these requirements. All placement of buildings shall conform to the minimum spatial and dimensional requirements listed in *Table 3.3*.

Table 3.3 Spatial Requirements: Agricultural and Residential Districts								
Requirement		AG	R-1	R-2	R-3	MHP	OC	AB
Lots								
Min. Area (s.f.)	Sewer	2 ac	30,000	15,000	1	15 ac	5 ac	40 ac
	Septic	2 ac	30,000	30,000	-	15 ac	5 ac	40 ac
Min. Width (ft.)	Sewer	330	150	75	300	330	330	660
	Septic	330	150	150	300	330	330	660
Max. Lot Coverage		15%	20%	30%	35%	30%	10%	10%
Principal Building Setbacks								
Min. Front (ft.)		60	50	30	35	50	60	75
Min. Least Side (ft.)		50	20	10	50 ⁵	10	50	50
Min. Total Side (ft.)		100	40	25	100	-	-	100
Min. Rear (ft.)		50	50	35	50 ²	10	50	50
Principal Building Size								
Max. Height (ft.)		40 ³	35	35	35	16	40	40
Max. Stories		3	2 ½	2 ½	3	1	3	3
Min. GFA (s.f.)		800	800	800	600	800	800	800
Min. Average GFA (s.f.)		-	-	-	700	-	-	-
Accessory Buildings								
Max. Height (ft.)		25	18	25	15	15	25	40
Max. Stories		1	1	1	1	1	1	1
Accessory Building Setbacks								
Min. Front (ft.)		60	-	-	-	-	60	75
Min. Side (ft.)		5	5	5	5	5	5	50
Min. Rear (ft.)		5	5	5	5	5	5	50
Min. Separation from Principal Building (ft.)		10	10	10	10	10	10	10

¹ One (1) acre for the first dwelling unit of each multiple dwelling structure; 3,000 square feet for each additional dwelling unit containing two (2) or more bedrooms; 2,000 square feet for each additional dwelling unit containing less than two (2) bedrooms.

² No building shall be located less than 100 feet from the boundary of an AG, R-1, R-2, or R-3 Zoning District.

³ Maximum height requirement does not apply to farm buildings and structures.



Mailing 300'

15170 Walters Drive



Map Publication:
07/25/2023 8:31 AM



Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. Calhoun County expresses no warranty for the information displayed on this map document.

Parcel Buffer

- Buffer
- Buffer Affected Parcel

Marshall Township

AFFIDAVIT OF MAILING NOTICE

I, Paul Anderson, Zoning Administrator, certify that the Public Hearing, Zoning Board of Appeals for the property owner, is requesting a variance for the property Robert and Jody Ulmer (16-501-030-00), 15170 Walters Drive, Marshall, MI 49068. Rear Yard and Set Back requirements are in 3-3 Spatial Requirements of the Marshall Township Zoning Ordinance. It was mailed on August 28, 2023, to the attached list of property owners within three hundred feet of the above address.

Number of Notices Mailed: 25

Paul Anderson

Paul Anderson, Zoning Administrator

Marshall Township

NOTICE OF HEARING

Marshall Township
Calhoun County, Michigan

The Marshall Township Zoning Board of Appeals will hold a hearing on Monday, August 14, 2023, at 4:00 p.m. At 13551 Myron Avery Drive in Calhoun County, Michigan, for the purpose of hearing all persons interested in the following issue:

A request for a dimensional variance, Rear Yard Set Back, the ordinance requires fifty (50') feet, the applicant is asking for a variance of Six feet (6'). The Property is Low-Density Residential District (R-1). The applicant is Robert and Jody Elmer (16-501-030-00), 15170 Walters Drive, Marshall, MI 49068. Rear Yard, Set Back requirements are in 3-3 Spatial Requirements of the Marshall Township Zoning Ordinance.

The property is WALTERS PLAT LOT 19

Copies of the Marshall Township Zoning Ordinance and Zoning Map are available for inspection from Jeff Albaugh, Marshall Township Clerk (781-7976), by appointment. Monday through Wednesday, prior to said meeting. Or online at www.marshalltownship.org

NOTICE OF HEARING

Marshall Township
Calhoun County, Michigan

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Dated: July 24, 2023, Marshall Township Zoning Board of Appeals
By: Alec Egnatuk, Marshall Township Zoning Board of Appeals Chairperson

Please publish the above Notice in the Advisor/Chronicle on July 29, 2021. Please forward Proof of Publication and bill to Marshall Township at the Marshall Township Hall, 13551 Myron Avery Drive, Marshall, MI 49068.



Calhoun GIS

Area of Walters Drive



Map Publication:
07/26/2023 2:23 PM



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FetchGIS 

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. Calhoun County expresses no warranty for the information displayed on this map document.



Calhoun GIS



Map Publication:
08/07/2023 8:34 AM



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MARSHALL TOWNSHIP
13551 Myron Avery Drive
Marshall, MI 49068
(269)781-7976 Fax (269)781-4403
Hours: Monday ~ Thursday 8AM to 3:30 PM

FINAL DECISION OF THE MARSHALL TOWNSHIP ZONING BOARD OF APPEALS For an appeal by right of this decision to be timely, it must be made to the circuit court for the county in which the property is located within 30 days of the date of this order. (MCL 125.3606)

Appeal Number: 23-001

Hearing Date: 8-14-23

Applicant: Ulmer and Jody Elmer

Address: 15170 Walters Dr. Marshall, MI 49068 Parcel Number: (16-501-030-00)

Phone : (269) 789-0596

Type of Request to ZBA (**variance dimensional**, interpretation of zoning map, administrative appeal, other—please specify): 3-3 Spatial Requirements of the Marshall Township Zoning Ordinance. A request for a dimensional variance, Rear Yard Set Back, the ordinance requires fifty (50') feet, the applicant is asking for a variance to Six feet (6'). The Property is Low-Density Residential (RA).

ZBA Findings of Fact: _____

ZBA Decision: _____

Reasons for Decision: _____

Votes of ZBA Members: Signature(s) of Designated ZBA Member(s):

(Yes) (No) _____

(Yes) (No) _____

(Yes) (No) _____

I, _____, Secretary of the _____ Township

Zoning Board of Appeals, certify that on this date I witnessed the signatures set forth above and attest to the accuracy of this final decision report. _____

MARSHALL TOWNSHIP
13551 Myron Avery Drive
Marshall, MI 49068
(269)781-7976 Fax (269)781-4403
Hours: Monday ~ Thursday 8AM to 3:30 PM

8-14-23

STAFF REPORT For:

A request for a dimensional variance, Rear Yard Set Back, the ordinance requires fifty (50') feet, the applicant is asking for a variance of Six feet (6'). The Property is Low-Density Residential District (R-1). The applicant is Robert and Jody Ulmer (16-501-030-00), 15170 Walters Drive, Marshall, MI 49068. Rear Yard, Set Back requirements are in 3-3 Spatial Requirements of the Marshall Township Zoning Ordinance.

R1 Set Backs are lot size 30,000 s.f. and 150 feet of street frontage, front yard set back 50, side yard set back least side 20', total side yard 40', rear yard 50'.

Rear Yard Set Back – The practical difficulty was created by the Township. With updates to zoning, it has created the area on Walters Drive to create most properties, if not all, non-conforming properties. The lots do not meet the setbacks and would not allow for any additional expansion without getting a variance. This Property is an example of that. Please take a look at the GIS Setback sheet.

I recommend approval of the variance. To be worded, the addition will extend no more than 6' from the preexisting home towards the rear property line. I would also recommend that the ZBA consider asking the Township Board to consider refunding the application fee. A final recommendation would be for the Township Planning Commission to consider rezoning areas in the township that are non-conforming properties according to the Master Plan Update.

Paul Anderson

Paul Anderson
Marshall Township
Zoning Administrator