



# City of Ann Arbor

## Formal Minutes

### Zoning Board of Appeals

301 E. Huron St.  
Ann Arbor, MI 48104  
[http://a2gov.legistar.com/  
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

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Wednesday, January 25, 2017

6:00 PM

Larcom City Hall, 301 E Huron St, Second  
floor, City Council Chambers

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**A**      **CALL TO ORDER**

*Chairperson Briere called the meeting to order at 6:01 p.m.*

**B**      **ROLL CALL**

*Chair Briere called the roll.*

*Staff Present: City of Ann Arbor Zoning Coordinator, Jon Barrett and City  
Planner, Chris Cheng.*

**Present:** 8 - Candice Briere, David DeVarti, Kirk Westphal, Michael  
Dobmeier, Michael B. Daniel, Nicole Eisenmann, Jeremy  
Peters, and Todd Grant

**Absent:** 1 - Heather Lewis

**C**      **APPROVAL OF AGENDA**

**Moved by Peters, seconded by Dobmeier to approve the Agenda as  
presented. On a voice vote, the Chair declared the motion carried.**

**D**      **SPECIAL PRESENTATIONS**

*None*

**E**      **APPROVAL OF MINUTES**

**16-1753**      Zoning Board of Appeals Minutes of November 16, 2016

**Moved by Daniel, seconded by Peters to approve the 11/16/2016  
ZBA corrected minutes. On a voice vote, the Chair declared the  
motion carried.**

**E-1**      **17-0121**      Zoning Board of Appeals Minutes of December 14, 2016

Moved by Daniel, seconded by Peters to approve the 12/14/2016 ZBA minutes. On a voice vote, the Chair declared the motion carried.

**F** APPEALS AND HEARINGS

Public Hearings: Individuals may speak for three minutes. Please state your name and address for the record.

Comments about a proposed project are most constructive when they relate to: (1) City Code requirements, or (2) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.

**F-1**      17-0122      ZBA16-027; 813 Spring Street  
Richard L. Douglass and Marian S. Horowitz request permission to alter a non-conforming structure in order to construct a first floor bathroom addition to the rear of the existing residence. The proposed bathroom addition will measure nine feet (9), eight inches (8) deep by seven feet (7) wide for an approximate total of 69 square feet. The proposed rear addition will be constructed on the same level as the existing home and will be eleven feet (11) eight inches (8) from the rear property line.

*City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:*

**SUMMARY:**

*Richard L. Douglass and Marian S. Horowitz, property owners, request permission to alter a non-conforming structure in order to construct a first floor bathroom addition to the rear of their existing residence. The proposed addition will be eleven (11) feet, eight (8) inches from the rear property line, but will not encroach further into the setback than the existing structure.*

**BACKGROUND:**

*The property is zoned R2A; however, since it is a single family use the R1D setbacks are applicable. The R1D district requires a twenty (20) foot setback. The subject parcel is 4,356 square feet in size.*

**DESCRIPTION:**

*The new addition will be seven (7) feet by nine (9) feet, eight (8) inches wide for a total of sixty-eight (68) square feet. The addition will provide a*

*toilet, shower and sink, all of which will be accessible from the first floor. The home currently has one bathroom, which is on the second floor. The addition will eliminate the rear door entrance to the basement which originally existed to bring coal into the house for a coal-burning furnace. Applicants state this entrance has not been used in over ten (10) years.*

*Standards for Approval - Permission to Alter a Non-Conforming Structure*

*The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:*

*The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.*

*Applicant states that the proposed construction will not have a negative impact on the surrounding properties or have a detrimental effect to the aesthetics of the rear yard. The new addition will be constructed into the existing roof line and extend the additional seven (7) feet, which is the width of the proposed project. Petitioner states that if the home was built today it most likely would include a first floor bathroom.*

*QUESTIONS BY BOARD TO STAFF:*

*No questions.*

*PRESENTATION BY PETITIONER:*

*Richard L. Douglass and Marian S. Horowitz, property owners, 813 Spring Street, Ann Arbor, were present and explained their application, noting they both have medical conditions that require a first floor bathroom.*

*Douglass explained that the addition would not be seen from Spring Street, and would not be set further into the rear setback than the current setback. He noted the proposed addition would have a brick foundation with wood construction. He said the old coal shoot door would be enclosed.*

*Dobmeier asked Barrett if the rear structure is currently considered a porch or part of the house.*

*Barrett said the proposed addition is not encroaching further into the rear*

*setback, because then the applicant would need a variance; the applicant only needs Permission to Alter A Non-conforming Structure.*

*Barrett said the rear structure is considered a porch, and part of the house.*

**PUBLIC HEARING:**

*Noting no further public speakers, the Chair closed the public hearing.*

**LIST OF EXHIBITS PRESENTED:**

*The Chair noted the Board had received the following communications:*

*Heather Burrows, 826 Spring Street, Ann Arbor; Support*

**Moved by Westphal, seconded by Dobmeier, in Petition ZBA16-027; 813 Spring Street, Permission to Alter a Non-conforming Structure, based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS Permission to Alter a Non-conforming Structure, per submitted plans.**

**a) The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on the neighboring property.**

**BOARD DISCUSSION:**

*The members of the Board took into consideration the presented application and discussed the matter.*

**On a roll call, the vote was as follows, with the Chair declaring the motion approved. Vote: 8-0**

**Permission to Alter a Non-Conforming Structure GRANTED**

**Yeas:** 8 - Chair Briere, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

**Nays:** 0

**Absent:** 1 - Lewis

requesting a variance of four feet (4) from Chapter 47 Streets, Section 4:20 (4)(c). The required driveway width is twenty-four feet (24) and the applicants are proposing a twenty-foot (20) driveway width for a 13-story, approximate 70,000 square foot apartment building with ground floor retail and thirteen parking spaces on the north side of the building.

*City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:*

**SUMMARY:**

*South University-North East LLC, represented by Sean Havera, request a variance from Chapter 47 (Streets) Section 4:20 (c), a variance to permit a twenty (20) foot driveway width; twenty-four (24) is required.*

**DESCRIPTION AND DISCUSSION:**

*The proposed project is located in the D1, Downtown Core Zoning District, and will consist of a thirteen (13) story mixed use building containing first floor commercial and approximately forty (40) residential units. An existing 8-foot wide alley off South University is proposed to be widened, which leads to solid waste services and 12 surface parking spaces located on the north side of the site.*

**Standards for Approval - Chapter 47 (Streets) Variance**

*The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power, from the City of Ann Arbor Zoning Ordinance and Chapter 47(Streets), Section 4:20(9). The following criteria shall apply:*

*The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.*

*The variance requested will be in harmony with the general purpose and intent of Chapter 47 because the reduced driveway width will allow for safer pedestrian right of way in the vicinity of the project. This site is located midblock and should be designed to benefit the urban experience. The proposed modification will accommodate delivery vehicles as well as large emergency vehicles, while minimizing potential conflicts with passenger vehicles and pedestrians.*

*The City's Traffic Engineer, Systems Planning Department and DDA representatives have reviewed this variance request and support the reduced drive width as it minimizes the gap in the continuous street wall, helping provide a safer and better urban experience. When possible, preserving the street wall and streetscape of downtown buildings is desired. It is also anticipated that narrower street wall gaps will slow entering and exiting traffic to this site.*

*City Planner, Chris Cheng reviewed the site plan with the Board and explained upcoming zoning changes that will take place through the Zoning Ordinance Reorganization Project [ZORO] implementation.*

**QUESTIONS BY BOARD TO STAFF:**

*Grant asked if all future widths would go from 24 feet to 20 feet.*

*Cheng explained that after the zoning re-organization, it would be left up to the City's Engineering Department to decide on the necessary widths.*

*Westphal asked how the driveway is currently being used and if this opening could be less than the proposed 20 feet.*

*Cheng said it would be best to hear from the applicant how it is currently being used, but from past experience working with the City's Solid Waste staff and Safety Services staff he has learned that this site only has access off South University Avenue at this location and by reducing the width it would still allow the Solid Waste trucks to maneuver to access the site, pick up the trash, and exit the site.*

*DeVarti asked if the request is approved, would an on-street parking spot be lost.*

*Cheng responded that the applicant would have to make up any lost parking spaces.*

**PRESENTATION BY PETITIONER:**

*Tom Covert, Midwestern Consulting, 3815 Plaza Drive, Ann Arbor, together with Sean Havera, South University North East, Acting agent for Beatty Hawkins Limited Liability Company, 1717 South State Street, MI. 48104, were present and explained their application.*

*PUBLIC HEARING:*

*Alex Salvadero, 2080 South State Street, Ann Arbor, and Seth Penchansky, Daniels and Zermack Architects, 2080 South Street Street, Ann Arbor, were present on behalf of SCP South Forest LLC, stating they have plans to develop the adjacent property to the east at 1215 South University Avenue. He said they are working them and William Schlecht Law Firm, P.C., whose offices are located at 761 West Michigan Avenue, Suite L, Jackson, MI 49201. Tel: 517-782-7090.*

*Salvadero said the 8-foot alleyway has historically been used by other surrounding properties; they advised the ZBA, and requested it to be included in the record, that the developers SUNE and SCP South Forest LLC have come to an agreement of a non-exclusive easement along the west and south of the SUNE's project, for the pupose of accessing equipment, utilities, at the rear of 1215 South University.*

*Salvadero stated they have also reached an agreement for a reciprocal easement for an encroachment of airspace for construction and maintenance and as a result SCP and Mr. Schlecht have no objection to, and provide support for the application for variance and site plan approval, conditioned on the previous agreement.*

*Noting no further public speakers, the Chair closed the public hearing.*

*LIST OF EXHIBITS PRESENTED:*

*The Chair noted the Board had received the following communication:*

*Downtown Development Authority [DDA] Amber Miller, 150 South Fifth Avenue, Suite 301, Ann Arbor; Support*

**Moved by Peters, Seconded by Westphal, in Petition ZBA16-028; 1209, 1211 and 1213 South University Avenue, Variance: Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS the following variances from Chapter 47, Section 4:20 (4) (c)**

**1) Required driveway width variance of four (4) feet to allow a twenty (20) foot wide driveway when a twenty-four (24) foot driveway is required.**

**a) The alleged practical difficulties are peculiar to the property and**

result from conditions which do not exist generally throughout the City.

- b) That the practical difficulties, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.
- c) The variance, if granted, will not significantly affect surrounding properties.
- d) The circumstances of the variance request are not self-imposed.
- e) The variance request is the minimum necessary to achieve reasonable use of the structure.

*BOARD DISCUSSION:*

*The members of the Board took into consideration the presented application and discussed the matter.*

**On a roll call, the vote was as follows, with the Chair declaring the motion approved. Vote: 8-0**

**Variance GRANTED**

**Yeas:** 8 - Chair Briere, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

**Nays:** 0

**Absent:** 1 - Lewis

- F-3**      [17-0124](#)      ZBA16-029; 611 East University Avenue  
CCSHP Ann Arbor Two LLC, represented by Scott Betzoldt, are requesting a variance of four (4) feet from Chapter 47 Streets, Section 4:20 (4)(c). The required driveway width is twenty-four (24) feet and the applicants are proposing a twenty-foot (20) driveway width for an approximate 19,500-square foot site, to construct an approximate 134,000-square foot, 13-story building, 90 apartments, with retail on the ground floor, and two levels of parking for 56 cars. The building has frontage on both East University and Church Street.

*City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:*

**SUMMARY:**

*CCSHP Ann Arbor Two LLC, represented by Tom Covert, request a variance from Chapter 47 (Streets) Section 4:20 (c), a variance to permit a twenty (20) foot driveway width; twenty-four (24) is required.*



*DESCRIPTION AND DISCUSSION:*

*The proposed project is located in the D1, Downtown Core, District, and will consist of a thirteen (13) story, 134,000 square foot mixed-use building with retail on the ground floor, two (2) levels of parking for fifty-six (56) vehicles and ninety (90) residential apartment units.*

*Standards for Approval - Chapter 47 (Streets) Variance*

*The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power, from the City of Ann Arbor Zoning Ordinance and Chapter 47(Streets), Section 4:20(9). The following criteria shall apply:*

*The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.*

*The variance requested will be in harmony with the general purpose and intent of Chapter 47 because the reduced driveway width will allow for safer pedestrian right of way in the vicinity of the project. This site is located midblock and should be designed to benefit the urban experience. The proposed modification will accommodate delivery vehicles as well as large emergency vehicles, while minimizing potential conflicts with passenger vehicles and pedestrians.*

*The City's Traffic Engineer, Systems Planning Department and DDA representatives have reviewed this variance request and support the reduced drive width as it minimizes the gap in the continuous street wall, helping provide a safer and better urban experience. When possible, preserving the street wall and streetscape of downtown buildings is desired. It is also anticipated narrower street wall gaps will slow entering and exiting traffic to this site.*

*QUESTIONS BY BOARD TO STAFF:*

*Westphal asked if this site can be services from the alleyway to the south.*

*Staff explained that there was no alleyway to the south; this site abuts private property belonging to Zaragon.*

*Cheng explained that this request is unlike the previous request in that it is on private property and leads to a parking structure, but the dimensions being asked for are the same.*

*DeVarti asked if on the church side, there was any public property or if it was only private drives.*

*The developer responded that it is private.*

**PRESENTATION BY PETITIONER:**

*Scott Betzoldt, Midwestern Consulting, 3815 Plaza Drive, Ann Arbor, representing the developer was present to explain the proposed project and ZBA request.*

*Tim VanMatre, 7711 Bonhomme Avenue, St. Louis, MO, was also present to respond to enquiries from the Board.*

*DeVarti asked about access to parking behind buildings shown on aerial view. He said for the record he had served on the Downtown Development Authority [DDA] for several years and they worked on the issue of alleyways as well as narrowing the gaps whenever possible.*

**PUBLIC HEARING:**

*Noting no further public speakers, the Chair closed the public hearing.*

**LIST OF EXHIBITS PRESENTED:**

*The Chair noted the Board had received the following communication:*

*Downtown Development Authority, [DDA] Amber Miller, 150 South Fifth Avenue, Suite 301, Ann Arbor; Support*

**Moved by Westphal, Seconded by Dobmeier, in Petition ZBA16-029; 611 East University Ave, Variance: Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS the following variances from Chapter 47, Section 4:20 (4) (c)**

**1) Required driveway width variance of four (4) feet to allow a twenty (20) foot wide driveway when a twenty-four (24) foot driveway is required.**

- a) The alleged practical difficulties are peculiar to the property and result from conditions which do not exist generally throughout the City.
- b) That the practical difficulties, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.
- c) The variance, if granted, will not significantly affect surrounding properties.
- d) The circumstances of the variance request are not self-imposed.
- e) The variance request is the minimum necessary to achieve reasonable use of the structure.

*BOARD DISCUSSION:*

*The members of the Board took into consideration the presented application and discussed the matter.*

**On a roll call, the vote was as follows, with the Chair declaring the motion approved. Vote: 8-0**

**Variance GRANTED**

**Yeas:** 8 - Chair Briere, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

**Nays:** 0

**Absent:** 1 - Lewis

- F-4**      [17-0125](#)      ZBA16-030; 601 East Hoover Avenue  
Donna K. Tope, owner of the subject property is requesting a twenty-three (23) feet two-inch (2) variance from the required thirty-foot (30) rear yard in order to construct an addition comprising a bathroom, laundry room and fire safety egress stairs. The existing residence is non-conforming and has an existing rear yard of ten feet (10) one inch (1). The proposed addition will be six feet (6) ten inches (10) from the rear property line.

*City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:*

*DESCRIPTION AND DISCUSSION:*

*The subject parcel is a 2,265 square foot non-conforming corner lot that is currently being used as a rental property housing six occupants. The R1C district requires 7200 square feet. The property has five bedrooms*

*and one bathroom. The proposed addition will add a bathroom, laundry room, a sixth bedroom and a fire safety egress. The total addition will be approximately 360 square feet, 180 square feet per story.*

*Standards for Approval - Variance*

*The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:*

*(a). That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City.*

*The subject structure was built in 1901, prior to the establishment of zoning laws. Once zoning was established it placed the home into its current nonconforming status. Applicant states that it has been difficult to improve the property due to its nonconforming status.*

*(b). That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.*

*If the variance is denied, the applicant will not be able to construct the proposed addition. However, interior modifications could be permitted. Under current circumstances, the owner cannot make any additions or alterations to the existing footprint without Zoning Board of Appeals approval.*

*(c). That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.*

*If the variance is granted, the modified structure would be of similar massing and scale as the surrounding properties. The applicant states that the addition will not have an impact on the adjacent properties. The property currently has six (6) tenants and the addition will not increase the number of occupants.*

*(d). That the conditions and circumstances on which the variance*

*request is based shall not be a self imposed hardship or practical difficulty.*

*Due to the period of time the structure was built, zoning was not enacted and the required setbacks were not in place. However, the proposal of an addition to the structure is a self imposed hardship, and the owner could still complete interior improvements without expanding the square footage of the structure.*

*(e). A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure*

*If the variance is granted, the addition will be 320 square feet for both floors of the addition and will be six (6) feet ten (10) inches from the rear property line. The addition will include a bedroom, bathroom and improved laundry area.*

#### **QUESTIONS BY BOARD TO STAFF:**

*Daniel asked if there would be three exit/entrance doors with the addition.*

*Barrett explained that one of the existing doors would be replaced, making it two doors.*

*DeVarti asked if the rear porch would be removed and replaced by an addition that will go deeper into the rear yard setback than the existing porch*

*Barrett said correct, thus being the reason for the variance.*

*Westphal asked if this application is reminiscent of a prior petition the ZBA had heard.*

*Barrett said, correct, adding that the ZBA heard the request in May 2016.*

*Westphal asked what had changed in the petition since last time.*

*Barrett responded that the request is similar, and referred the question to the applicant.*

*Westphal asked if staff found anything unusual with the property relative to the others in the area.*

*Barrett said the circumstances are somewhat similar.*

*Grant asked about fire safety for occupants to be able to exit the structure from the second story.*

*Barrett said the plans state there will be an egress system installed for the second story.*

*Grant asked how many means of egress there would be so occupants could exit quickly and safely. He said in the application there is no mention of adding additional renters, so they currently have six (6) and that would remain as six (6) occupants in the structure, so maybe the reasoning for the addition is to make it a safer building.*

*Barrett said he believed there would be three (3) access points; one on the second story, and two (2) on the first floor. He verified that the house is currently a certified rental property.*

*DeVarti said he wanted to make a correction, that there would be an increase from five (5) to six (6) bedrooms. He said his understanding is that a spiral staircase isn't a fire code certified means of egress, and that he has had to remove one from his rental property on Huron Street and put in a straight one.*

*Barrett explained the application stated that the house currently houses six (6) occupants and will not go up in occupants; there are currently five (5) bedrooms that is proposed to increase to six (6) bedrooms in the house. He said as for the spiral staircase shown, the plans have not gone through a formal building/fire plan review yet.*

*Peters asked if staff knew of any other variances granted on E. Hoover [i.e. 605 E Hoover]*

*Barrett said none that he is aware of. He reviewed the applicant's submitted document showing neighboring properties and their setbacks.*

*Dobmeier asked if there were no changes to a prior request submitted to the ZBA, is there a limit as to how many times a request can be re-submitted to the ZBA.*

*Barrett read from the Zoning Board of Appeals By-Laws, Article 10, Section 6;  
'An Application for a rehearing shall be made in the same manner as for*

*an original hearing. The application for a rehearing shall be denied by the ZBA if the petitioner is unable to present evidence to show that there has been a substantial change in facts, circumstances, or scope, or nature of relief requested, or the ZBA approval has expired.'*

*Barrett said it is up to the Board to determine if they feel there has been a substantial change in an application.*

*Westphal asked for the vote from the previous hearing on this site.*

*Barrett said he didn't have the vote count, but knows that the variance request was denied last time.*

*Dobmeier said he had looked it up, noting the vote was four (4) in favor and four (4) against, so it didn't pass.*

**PRESENTATION BY PETITIONER:**

*Donna Tope, 2115 Nature Cove, Ann Arbor, stated that the current survey shows that the fence is on the property line, which verifies the County records that were previously shown at the earlier meeting.*

*Tope said several ZBA members who voted against her previous application said she had not shown any hardship. She said the ordinance itself says 'a hardship or practical difficulty'.*

*She said the changes are made to meet the health, safety and welfare needs of six (6) legal occupants; the house has always been approved for six (6) unrelated occupants, and has always passed the certificate of compliance allowing her to rent it to six (6) unrelated occupants, and they are not changing that. She continued to read through her answers on her application, and showed pictures to the Board from her phone.*

*Daniel asked about the differences in the May 2016 variance requests and the current request in feet and inches.*

*Tope said this addition has the same parameters and the only difference is that she is showing where the property line is.*

*DeVarti asked if Tope had spoken with the fire department about the spiral staircase.*

*Tope responded that her architect, L. Pollay, has said that it meets*

*everything, but when they go for building permits, they would make whatever changes they have to make for those kind of changes.*

*Grant asked if the laundry room is driving this addition.*

*Tope said the laundry and a second bathroom. She said having one bathroom she doesn't think it is adequate, or allow for maintaining sanitary conditions for her tenants, so having a second bathroom is driving this addition.*

*Dobmeier asked if the laundry and second bathroom drove the decision, what drove the decision to add another bedroom onto the house.*

*Tope said, "I could add a laundry room and a second bathroom into the existing house, but it doesn't give me the satisfaction or security or a second egress from the second floor, even without the sixth bedroom. Right now, four (4) occupants are allocated to the second floor, and the stairway down in this old house is, is, ... I'm not satisfied with it. It's costing a lot more to build an addition than it would be me to enclose the front porch and go up the front and ruin the real charming façade of that house and do like every other landlord has done, and I could put that stuff in there, but it doesn't give me that second stairway. I mean, I would build that second stairway, if you didn't allow me to build the sixth bedroom; I mean the sixth bedroom is there only because you are having to put this money into it anyway, it would cost a lot more to bump out the front, go up, it would look terrible, I didn't want to do that."*

*Eisenmann asked if the other tenants will have access to the staircase or will it only serve the one bedroom.*

*Tope said, "I will put in a new door between the existing bedroom at the rear, on the second floor, and that other bedroom, so that everybody can get out there, everybody can get out the front, everybody can get out both places. I'm just...these are old houses, and I like old houses, I love the neighborhood, I think, and it has the same problem that every other house in that neighborhood has, none of them comply to the Area, Placement regulations that were put on them, and this rear yard setback is the only thing that we are not compliant, so it just makes it very difficult to keep a property up to 2017-2016 standards when it was built in 1901".*

*Dobmeier asked if the reason for putting the addition at the rear of the house was for financial reasons, because it would cost more to put it in the front.*



*Tope said, "No".*

*Dobmeier asked why she wouldn't put the laundry room and bathroom into another part of the house within the existing footprint.*

*Tope said, "Because it doesn't work as well for my tenants and it doesn't give me that second stairway egress. It would be all piecemealed, and while it would be there, it wouldn't be in the best interest of the occupants."*

*Peters said while the code allows for six (6) occupants, does it require you to rent to six (6) people.*

*Tope said, "No, but I will tell you what is accurate, and that is that this addition does not increase my ability to get a higher financial return. I'll introduce you to Joel Holland, he is my prospective tenant for August 2017 to August 2018, and I charge six, I charge the same amount per person, whether I have six people or five people, and adding this bedroom does not allow me to, you know, put any more than six people in, and his group is six people."*

*Additional communication was provided by Tope.*

**PUBLIC HEARING:**

*Joel Holland, 541 West Thompson, Ann Arbor, read from a prepared statement in support of the request. The statement had been provided to the Board.*

*Noting no further public speakers, the Chair closed the public hearing.*

**LIST OF EXHIBITS PRESENTED:**

*The Chair noted the Board had received the following communication:*

*Joel Holland, 541 West Thompson, Ann Arbor; Support*

**Moved by Westphal, seconded by Eisenmann, in Petition ZBA16-030; 601 East Hoover Avenue, Variance: Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS the following variances from Chapter 55, Section 5:24.**

**1) A rear setback variance of twenty-three (23) feet two (2) inches**

from the required thirty (30) feet to allow an addition to the rear of an existing residential structure.

- a) The alleged practical difficulties are peculiar to the property and result from conditions which do not exist generally throughout the City
- b) That the practical difficulties, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.
- c) The variance, if granted, will not significantly affect surrounding properties.
- d) The circumstances of the variance request are not self-imposed.
- e) The variance request is the minimum necessary to achieve reasonable use of the structure.

**BOARD DISCUSSION:**

*The members of the Board took into consideration the presented application and discussed the matter.*

*Westphal said he couldn't see the request meeting more than one or two criteria instead of all five, and he couldn't see anything improving more than the convenience. He believed the house was purchased since the zoning code was created so the conditions are self imposed, knowing that you can't go deeper into the setbacks than are already established, and there is already perfectly good use of the structure at this point. He said parts of the house are cramped, it's affordable, and it's legal, and he appreciates the claim that the current owner will not raise the rent, but clearly when you invest in a property, the value goes up, and for all those reasons, I could not support this petition.*

*DeVarti asked staff a hypothetical question; if the applicant only went out the distance of the rear porch, and enclosed the porch, would they only need Permission to Alter, instead of a variance.*

*Barrett, said he believed so.*

*DeVarti said he would be more inclined to support a request for Permission to Alter a Non-conforming Structure than a variance, for the same reasons as stated by Westphal. He also suggested that the applicant get sign off on the spiral staircase as it gives him great concern.*

*Dobmeier echoed statements of Westphal and DeVarti, noting that his*

stance hasn't changed since the May 2016 meeting. He said since there are different standards that apply to Altering Non-conforming Structures, he would be open to considering it a little bit more, as long as it was within the same footprint of the house.

Dobmeier asked about the rehearing. He said Nick Buonodono, who is no longer on the ZBA had the questions that related to the rear property line, and while he didn't know if the Board would make a motion to consider rehearing this application, since additional information has been provided to the Board on the property lines and since there are new members on the Board since last time, he would vote yes on a re-hearing, even while he would vote no on the variance request.

Grant agreed with Westphal, DeVarti and Dobmeier, that the five criteria had not been met; the situation is self imposed in that there could be less people in there. He said he also had fire safety concerns since it is an old wooden structure. Grant liked the idea of pushing the structure into the current porch, as hypothetically mentioned by DeVarti. He said as the request currently stands he would have to vote no.

Peters asked if a request has to meet all of the standards or just a section of the sub-standards.

Barrett said it has to meet all of the standards and all the criteria for a variance to be approved.

Peters said, based on that and on the comments heard this evening, he will not be able to support the request.

Eisenmann said while she initially supported the request, she agreed that it doesn't meet all of the criteria and she would be voting no.

**On a roll call, the vote was as follows, with the Chair declaring the motion defeated. Vote: 1-7**

**Variance DENIED**

**Yeas:** 1 - Chair Briere

**Nays:** 7 - DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

**Absent:** 1 - Lewis

**G UNFINISHED BUSINESS**

**H**      **NEW BUSINESS****I**      **REPORTS AND COMMUNICATIONS**

**17-0126**    Various Correspondences to the ZBA

**Received and Filed**

**J**      **PUBLIC COMMENTARY - (3 Minutes per Speaker)**

(Please state your name and address for the record and sign in.)

**K**      **ADJOURNMENT**

**Moved by Westphal, seconded by Peters to adjourn the meeting at 7:42 p.m. On a voice vote, the Chair declared the meeting unanimously adjourned.**

Community Television Network Channel 16 live televised public meetings are also available to watch live online from CTN's website, [www.a2gov.org/ctn](http://www.a2gov.org/ctn), on "The Meeting Place" page (<http://www.a2gov.org/livemeetings>).

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- Cable: Watch CTN Channel 16 public meeting programming via Comcast Cable channel 16.

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Candice Briere  
Chairperson of the Zoning Board of Appeals

Mia Gale  
Recording Secretary