



City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
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Meeting Minutes Zoning Board of Appeals

Wednesday, September 28, 2011

6:00 PM

City Hall, 301 E. Huron Street, 2nd Flr.

ZONING BOARD OF APPEALS

1 **CALL TO ORDER**

Chair Kuhnke called the meeting to order at 6:05 PM.

2 **ROLL CALL**

Chair Kuhnke called the roll.

Present: 6 - Candice Briere, Chair Carol A. Kuhnke, Sabra Briere, Erica Briggs, Jason Boggs, and Perry Zielak

Absent: 1 - Alex Milshteyn

3 **APPROVAL OF AGENDA**

Approved as presented.

4 **APPROVAL OF MINUTES**

4-a 11-1208 5-25-2011 ZBA Approved Meeting Minutes

A motion was made by Councilmember Briere, seconded by Briere, that the Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

4-b 11-1209 6-22-2011 ZBA Approved Meeting Minutes

A motion was made by Councilmember Briere, seconded by Briere, that the Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

5 **APPEALS AND ACTIONS**

5-a 11-1211 ZBA11-015 703-705 North Fifth Avenue - Tom Fitzsimmons, is requesting one variance from Chapter 47 (Streets), Section 4:20, in order to permit two street openings; one street opening is the maximum allowed.

SUMMARY: Tom Fitzsimmons is requesting one variance from Chapter 47 (Streets), Section 4:20(2):

1. *A variance to allow a total of two curb cuts, 1 curb cut is permitted.*

DESCRIPTION:

The parcel is located on N. Fifth Avenue between Summit and Beakes. A residential duplex is currently under construction on the site. The petitioner is requesting two 10 foot wide curb cuts in order to allow each unit to have a separate driveway accessed directly to North Fifth Avenue. According to Chapter 47, a maximum of one curb cut is allowed for parcels with less than 100 feet of street frontage. The subject parcel has 66 feet of frontage. The petitioner is approved for one curb cut 24 feet wide that would separate (see plan drawings) on private property to two separate driveways. The curb cut as approved requires turning movements once the drive is on private property. Allowing two parallel curb cuts will permit straight access from the street to drive. If the variance is approved, the total width of the curb cut onto a public street will be reduced from 24 feet to a total 20 feet for two curb cuts. While the two separate curb cuts may increase the safety of residents backing out of the drives, Engineering staff has examined the variance application and expressed some concern regarding adding another potential conflict point given the number of drives in the vicinity.

QUESTIONS TO STAFF BY THE BOARD: None

PRESENTATION BY THE PETITIONER:

Timothy Vachon, Representing the petitioner, Tim Fitzsimmons, explained that they wanted to keep the existing driveway and add a second driveway for the two separate site condominiums on site.

QUESTIONS TO THE PETITIONER BY THE BOARD:

Brier asked for an assessment on how the proposed additional curb-cut would affect on-street parking.

Vachon responded that there might be additional parking available inbetween the curb-cuts, but didn't believe the on-street parking would be affected by the additional curb-cut.

Kuhnke asked why the curb-cut opening was narrower than the driveways and if the wider driveway would affect pedestrians.

Vachon answered that it was simply intended to present less to the street and he didn't think the difference in widths would affect the pedestrian experience.

Brier asked if the proposed changes would reduce the impervious surface at this site.

Vachon said, yes, and it would add more greenspace to both units.

Brier asked if the changes would allow the cars to turn around and exit nose first or if they would be forced to back out.

Vachon said they would have to back out.

Briggs asked if it would be possible to enlarge the interior island.

Vachon said it was kept small to allow safe maneuvering in and out of the driveways.

AUDIENCE PARTICIPATION:

Cheryl and Robert Catton and Deborah and Marc Renner, the owners were present to respond to any questions from the Commission.

COMMISSION DISCUSSION:

Briggs asked staff regarding the Engineering staff comments of concerns for the addition of a potential conflict point.

Kowalski explained that the Engineering staff weren't opposed to the proposal and their concerns were directed more to the cars exiting onto the street from two driveways.

Brier asked what the standard lot size was in the original platt.

Kowalski didn't have an exact size, but said that in viewing the aerial one can see that the 66 feet seems to be the standard size.

Boggs references the code for curb-cuts and asked if there were two separate parcels, each with a frontage of 33 feet would each one be allowed a separate curb-cut.

Kowalski said, yes.

Brier asked if the parcel could be divided into two separate parcels.

Kowalski responded that the parcel wouldn't meet the minimum lot width so the Planning Department wouldn't accept such a request.

Brier asked if it was possible to park between the lots.

The Board believed it would be possible to park but it might not be a legal parking spot.

General discussion pursued regarding the request.

A motion was made by Boggs, seconded by Briggs, that the Petition ZBA11-015 703-705 North Fifth Avenue be Approved.

Based on the following findings of fact and in accordance with the established standards for approval, Chapter 47, Section 4:20, the Zoning Board of Appeals hereby grants a variance of 1 curb cut in order to permit a total of 2 curb cuts onto North Fifth Avenue.

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 request will be in harmony with the purpose and intent of Chapter 47. The variance as proposed per submitted plans is similar to most of the driveways in the area and it will create the least amount of hardship for the residents of the parcel to exit their driveways. The variance as proposed will reduce the driveway width from 24 feet to 20 feet and does not appear to have any affect on on-street parking.

On a roll call, the vote was as follows with the Chair declaring the motion

carried.

Yeas: 6 - Briere, Chair Kuhnke, Councilmember Briere, Briggs, Boggs, and Zielak

Nays: 0

Absent: 1 - Milshteyn

5-b 11-1212

ZBA11-016 808 Greene Street - Lewis/Greenspoon Architects are requesting Permission to Alter a Non-conforming Structure in order to permit the expansion of an existing Single-Family residential structure.

SUMMARY: David Lewis and Bonnie Greenspoon are requesting permission to alter a non-conforming structure as described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance.

DESCRIPTION:

The subject parcel is located at 808 Greene Street, south of Hill Street. The parcel is zoned R4C (Multiple-Family Residential District). The single-family house was built in 1901 and is 1,207 square feet. The house is non-conforming for front and rear setbacks; one parking space exists on the site and one space is required. The existing house has four bedrooms, a kitchen and dining area and a partial second story which extends along the front half of the house. The house has been vacant since 2007.

The petitioner is proposing to extend the second story to the rear of the house with an addition containing 378 square feet for a total floor area of 1,585 square feet. There will be no expansion of the existing footprint of the house; the proposed addition will not extend any closer to the property lines than the existing house. The interior of the house will be re-configured to contain 4 bedrooms on the second floor and a bedroom, dining room, kitchen and living room on the first floor. When completed, the house will contain a total of 5 bedrooms. According to the Zoning Code, the maximum occupancy of the house is 6 unrelated people and will not be increased if the addition is constructed.

STANDARDS FOR APPROVAL

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:

(a). The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.

The footprint of the existing house will not be expanded; the petitioner is asking to modify an existing non-conforming structure. The addition will add one bedroom; however it will not increase the maximum occupancy of the house (6 people). After construction, the structure will continue to be used as a single-family home and is generally consistent with other surrounding uses.

Staff considers this request to be minimal in context of the surrounding land uses. The expansion will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance.

(b). The alteration will not have a detrimental effect on neighboring property

The subject parcel lies on Greene Street in an area heavily occupied by student

rental housing and larger apartment buildings. The existing house is surrounded on all sides by multi-family buildings of similar density. This existing small single-family house is unique in this area.

Staff does not feel that the requested alteration would negatively affect any surrounding property. As stated previously the surrounding uses are more intense and this addition will be a positive architectural modification to the structure. The proposed expansion allows re-occupancy of a long vacant structure and will bring the structure into conformance with all Building and Housing codes.

QUESTIONS TO STAFF BY THE BOARD:

None

PRESENTATION BY THE PETITIONER:

David Lewis, Lewis Greenspoon Architects, representing the petitioner explained the request.

QUESTIONS TO THE PETITIONER BY THE BOARD:

Brier asked where residents would park and if they would be able to provide the minimal required parking.

Lewis responded that there is a driveway on the northern side of the house that leads to a parking lot to the north of the house, adding that their driveway is the second curb-cut from the corner. He said parking requirements will be met since the house is single-family with only 1 parking space required.

AUDIENCE PARTICIPATION:

Bob Miller, the owner was present to respond to questions from the Board.

COMMISSION DISCUSSION:

None

A motion was made by Briggs, seconded by Zielak, that the Petition ZBA11-016; 808 Greene be Approved.

Permission to alter a nonconforming 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 as per submitted plans and that the addition will not expand the footprint of the house.

a) The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.

b) The alteration will not have a detrimental effect on neighboring property

On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 6 - Briere, Chair Kuhnke, Councilmember Briere, Briggs, Boggs, and Zielak

Nays: 0

Absent: 1 - Milshteyn

5-c 11-1213 ZBA11-017 822 Loyola Drive - Mariano Sastre is requesting one variance from Chapter 55 (Zoning) Section 5:57 (Averaging an Existing front setback line), of 1 foot 7 inches for expansion of an existing residential structure into the front setback; 26 feet 7 inches is required (Averaged Front Setback).

Petitioner wasn't present for the hearing. Chair requested staff to follow up with Petitioner within the following week.

Item Dismissed until further notice.

5-d 11-1214 ZBA11-018 804 Mt. Vernon Avenue - David Coupland is requesting one variance from Chapter 55 (Zoning) Section 5:57 (Averaging an Existing front setback line), of 5 feet for expansion of an existing residential structure into the front setback; 34 feet 6 inches is required (Averaged Front Setback).

SUMMARY: David Coupland is requesting one variance from Chapter 55 (Zoning) Section 5:57(Averaging an Existing Front Setback Line): a reduction of 5 feet for expansion of an existing residential structure into the front setback; 34 feet 6 inches is the averaged front setback required (R1C requires 25 foot front setback without averaging).

DESCRIPTION:

The subject parcel is located at 804 Mt. Vernon. The parcel is zoned R1C (Single-Family) and is located south of West Madison.

The request is discussed in detail below:

The petitioner is proposing to construct a 132-square foot covered front porch addition to the existing single-family house. The house was built in 1928 and is 1,746 square feet. Currently the house is setback 30 feet from the front property line, which includes an existing 4 foot by 6 foot enclosed entryway to the house, which will be removed with the addition of the front porch. There is also a small front stoop which is not covered and will also be removed with the proposed construction.

The petitioner wishes to replace the existing entryway and stoop with a 6 foot by 22 foot (132 square feet) covered, but unenclosed, porch. The new porch will extend 22 feet across the front of the house. Once constructed, the porch will be 29 feet 10 inches from the front property line. Although the required front setback is 25 feet for the R1D zoning district, the averaged front setback at this location results in a required front setback of 34 feet 6 inches. Once the front porch is covered, it will not be permitted to be located within the front setback. The roof of the porch will be supported by columns and designed to be architecturally compatible with the design of the existing house.

STANDARDS FOR APPROVAL - VARIANCE:

The Zoning Board of Appeals have 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 parcel is a conforming lot in the R1C Zoning District (required is 7,200 square feet, subject parcel is 7,700 square feet). The existing house was built in the 1920's before current zoning setbacks. The house was built 30 feet from the front setback line of Mt Vernon. Adjacent houses in the area are built on similar sized parcels with similar front setbacks.

(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.

The variance is being requested for the addition of a covered front porch to the existing house. The existing stoop is not covered and it is sized solely for ingress and egress to the house. If the variance is not granted, a patio could be built, but not covered in the same location.

(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 front variance is approved, the structure will be consistent with some houses in the neighborhood. Although the proposed porch would extend into the averaged front setback, it is minimal in total size (132 sq ft), which should minimize the impact to the surrounding neighborhood. The normal standard setback for the R1C zone is 25 feet and the enclosed porch will be setback 29 feet. The proposed porch will represent a positive architectural amenity to the house and will increase usability of the front yard.

(d). That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.

The house was built in the 1920's before current zoning standards were established. The existing front stoop can be used solely for ingress and egress. In order to construct a safe, useable front porch that is covered, a variance would be needed.

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

The variance, if approved, will permit construction of a covered front porch extending into the averaged front setback five feet. However, the porch will be four feet behind the 25 foot setback required in the R1C District. The porch will have columns supporting it, but should have a minimal impact to the surrounding neighborhood. A covered front porch is a reasonable request and would be consistent with some other porches in the neighborhood. Although an uncovered front patio could be built without the need for a variance, the impact to the immediate neighbors of the covered front porch is minimal.

QUESTIONS TO STAFF BY THE BOARD:

Kuhnke asked staff if this is an issue that is currently being reviewed by the City as to whether a covered porch that isn't enclosed is subject to a front setback and the averaging.

Kowalski responded yes, this is on the list of items to be discussed. He added that the City has consistently required that covered front porches cannot be in the required front setbacks. He commented that there might have been inconsistencies in the past regarding interpretation of the averaging section of the code.

PRESENTATION BY THE PETITIONER:

David Coupland, Owner and Petitioner was present and explained the project.

QUESTIONS TO THE PETITIONER BY THE BOARD:

None

AUDIENCE PARTICIPATION:

None

COMMISSION DISCUSSION:

Brier asked if there was any historic information available as to what the setback was for the platted area.

Kowalski said no, but offered that the aerial photograph showed that all the houses were built in a straight line.

Boggs pointed out that in viewing the submitted aerial, there was more variation on front porches built in the front yard setback, across the street from the petitioner.

A motion was made by Zielak, seconded by Briggs, that the Petition ZBA11-018; 804 Mt. Vernon be Approved.

Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:57 (Averaging Existing Front Setback) of 5 feet from the required front setback of 34 feet 6 inches in order to permit building additions 29 feet 6 inches from the front property line as per submitted plans and ON THE CONDITION that the proposed porch not be enclosed.

- a) The alleged hardships are peculiar to the property and results from conditions which do not exist generally throughout the City
- 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.
- 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.
 - i. The petitioner proposes to remove a portion of the existing structure in order to accommodate the proposed structure.
 - ii. The porch will fit with the character of the neighborhood.
 - iii. The porch will not create a large massing that will be offensive to the neighborhood.
 - iv. The porch will not have a negative impact from the street.
 - v. The structure will be within the approved front set-back for the R1C zoning district.

vi. The porch is minimally sized to accomodate the needs of a front porch.

On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 6 - Briere, Chair Kuhnke, Councilmember Briere, Briggs, Boggs, and Zielak

Nays: 0

Absent: 1 - Milshteyn

6 **OLD BUSINESS**

7 **NEW BUSINESS**

8 **REPORTS AND COMMUNICATIONS**

11-1230 July 2010 - 2011 ZBA Activity Report

Received and Filed

9 **AUDIENCE PARTICIPATION - (3 Minutes per Speaker)**

10 **ADJOURNMENT**

Meeting adjourned at 7:22 PM.

A motion was made by Councilmember Briere, seconded by Briere, that the meeting be Adjourned. On a voice vote, the Chair declared the motion carried.

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