



City of Ann Arbor

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

Wednesday, June 26, 2013

6:00 PM

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

A CALL TO ORDER

Chair Milshteyn called the meeting to order at 6:04 p.m.

B ROLL CALL

Chair Milshteyn called the roll.

Present: 6 - Candice Briere, Wendy Carman, Alex Milshteyn, Perry Zielak, Sally Petersen, and Nickolas Buonodono

Absent: 1 - Ben Carlisle

C APPROVAL OF AGENDA

The agenda was unanimously Approved as presented. On a voice vote, the Chair declared the motion carried.

D APPROVAL OF MINUTES

D-1 [13-0788](#) Zoning Board of Appeals Meeting Minutes of May 22, 2013

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

E APPEALS AND HEARINGS

E-1 [13-0784](#) ZBA13-012; 2629 Kimberley Road
Rosalie Meiland, is requesting one variance from Chapter 55 (Zoning), Section 5:28, to permit the creation of two parcels that are 56 feet wide, 60 feet is the minimum parcel width for the R1C Zoning District, both proposed parcels will meet the minimum area (7,200 square feet) required for a R1C parcel.

SUMMARY:

Rosalie Meiland, is requesting one variance from Chapter 55 (Zoning), Section 5:28, to permit the creation of two parcels that are 56 feet wide, 60 feet is the minimum parcel width for the R1C Zoning District, both proposed parcels will meet the minimum area (7,200 square feet) required for a R1C parcel.

DESCRIPTION AND DISCUSSION:

The subject parcel is vacant and addressed as 2629 Kimberley, north of Packard. The parcel is zoned R1C (Single-Family Residential). The existing parcel was originally platted as Lot 91 and Lot 92 of the Kimberley Hills Subdivision. The lots in the subdivision were platted in 1922 with 66 feet for the original lot widths.

The request is discussed in detail below:

The petitioner is proposing to divide one 112 foot wide lot into two 56 feet wide lots. All required setbacks for the R1C Zoning District will still apply. The minimum lot width for a lot in the R1C Zoning District is 60 feet. Both proposed lots will meet the minimum lot area required for the R1C District: 7,200 square feet required and both proposed lots will be 7,859 square feet.

The existing lot was originally two 66 foot wide lots that were combined pre-1970 for a total parcel width at that time of 132 feet. In 1970, the northern 19.70 feet of the parcel was transferred to the adjacent parcel (Lot 93) to the north, establishing the existing 112 foot lot width.

If the variance is granted, the applicant will be required to submit an application, fee and required information to be reviewed by City Staff prior to approval of the Land Division by the City of Ann Arbor. Approval of the requested variance does not indicate approval of the actual Land Division.

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 lot is .36 acre (15,722 sq ft) and is 112 feet wide by approximately 140 feet deep. The existing lot is a conforming R1C lot for both lot width required (60 feet) and lot area required (7,200 square feet). The existing lot was formed by a previous owner through the combination of two platted lots and subsequent division of the northern 19.70 feet in order to solve a building encroachment from the adjacent lot to the north.

(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 in order to facilitate the division of one lot into two lots that are 4 feet less than the required lot width. Each resulting lot could be used to construct a single-family house. If the variance is not granted, the existing lot can still be used to construct one single-family house.

(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.

Approval of the variance will allow two –single family houses to be constructed on 56

foot lots. Although most of the adjacent lots maintain a 66 foot wide lot width, the addition of two single-family houses in this area is consistent with adjacent land uses and general development pattern.

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

The lot combination (from two platted lots into one) and the subsequent division of the north 19 feet to the adjacent lot was completed pre-1970 by the previous owner.

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

The existing lot could be used to construct one-single family house, however the petitioner is request a variance for 4 feet from the required lot width. A variance of 4 feet would represent 9% of the required width of 60 feet. Each lot will be conforming for minimum lot area, with an excess of over 600 square feet in area for each lot. As noted above, if the variance is granted all required setbacks (25 feet-front, 30 feet-rear, 5 feet-sides) would still apply for the construction of new houses. Two single-family homes would be a reasonable and consistent use of the land in this neighborhood.

QUESTIONS BY BOARD TO STAFF:

Milshiteyn asked staff about nearby R1B zoning requirments for front lot width.

Kowalski responded that the lot width requirement for R1B is 70 feet.

PRESENTATION BY PETITIONER:

Rosalie Meiland, 412 S. Revena, property owner was present to explain the application. She said the area had been developed in the 1950's by people who came from Chelsea. She explained that the people who had previosly owned this lot had also owned a double-lot immediately to the south of it, on which they built a house. She said they shaved off a slice and sold it to the neighbors to the north so they could put up a parking structure. She said there are still a couple of remaining areas along the street that are double-lots but they are dissappearing fast.

Meiland said her husband and her bought the lot in 1984, believing it was a double-lot, and over the years they have had a lot of expenses related to the empty parcel, such as the property taxes last year alone that were \$ 1,533.00. She said she kept the grass cut because kids liked to play there, so lawn care and tree trimming has been an expense for several months of the year. She said she noticed that one of the neighbors had stated in their oppositions that they had wanted to step up to cut the grass, but they had never told her. She said she had also paid liability insurance on the empty parcel because neighborhood kids like to climb the trees. She said it had not been a slam-dunk investment for them.

Meiland added that realtor Ms. Elizabeth Bryan, who had participated in many home sales and purchases in the neighborhood, stated that there is no reason for concern that the division of the parcel and the building of two houses will have a negative effect on the home prices. She said while several neighbors have shared their dismay of the possibility of losing the last open empty lot on Kimberley Road, she noted that she has offered to sell the lot to several neighbors who might be interested in the upkeep of the empty lot; however, no one was interested. She stated that the neighbor directly to the south of the parcel had said that she has enjoyed the large

empty lot as her side yard for 21 years and would not oppose the division.

Petersen asked Meiland what information they were provided regarding the lot, or the possibility of it being a double-lot, when they purchased the house.

Meiland responded that her husband and the realtor were involved in the purchase and she wasn't involved. She explained that the neighborhood isn't a neighborhood of McMansions, but has houses of varying sizes and age and two smaller homes will suit nicely on the lot.

PUBLIC HEARING:

Noting no public speakers the Chair declared the public hearing closed.

LISTS OF EXHIBITS:

Chair Milshteyn noted that the Board had received the following letters/emails in objection to the request:

Christine Clisham, 2525 Kimberley Road, Ann Arbor.

Ingeborg Gaiser, 2515 Kimberley Road, Ann Arbor.

Gail Dodge Reisdorph, 2506 Kimberley Road, Ann Arbor.

Amanda and Ian McLaren, 2630 Kimberley Road, Ann Arbor.

Elizabeth Veach and Aaron Burch, 2600 Kimberley Road, Ann Arbor.

Elgin Clingaman, 2520 Kimberley Road, Ann Arbor.

BOARD DISCUSSION:

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

Zielak asked if both proposed lots, without the variance, would meet the minimum lot size.

Kowalski said, yes.

Carman asked if the variance would in any way make the lots conforming.

Kowalski said, no, adding that they are assuming the proposed structures would be conforming but the lots would be non-conforming.

Carman asked about the applicants comment that the house on lot 90 is built too close to the lot line.

Kowalski said that in reviewing the site plan it does look like the house is non-conforming since it is built 2 feet too close to the lot line. He noted that there is no variance on file for that parcel and he isn't sure when the house was built or if it could be an addition.

Carman asked if the house was constructed before it was annexed into the City.

Kowalski said he didn't know.

Motion made by Zielak, Seconded by Petersen, in Petition ZBA13-012; 2629 Kimberley Road, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:28 (R1C) of 4 feet from the required lot width of 60 feet to permit the creation of two 56 foot wide lots, per submitted plans, and based on

the following findings of fact and in accordance with the established standards for approval;

- 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:

Carman stated that she believed the variance request did not meet the standards because it was self imposed; not by the applicant but legally, the precedent in the State of Michigan is that once you give off a piece of your property that becomes self imposed. She pointed to the Boatyard case. She said in principal she is against the notion that they split lots to create non-conforming lots. She said if this lot was completely unusable without allowing the request, she would think twice about her position, but since it is a usable lot, and while it might not bring them as much money as splitting it into two pieces, it still is a usable lot and therefore, she couldn't support the request.

Briere said she agreed with Carman, adding that she is concerned with the precedent that this action would set if they grant a variance that will allow people to split lots that are smaller than what the ordinance standards allow. She said the purpose of having a standard is to keep a minimum size and since this is a usable and conforming lot currently and to create two non-conforming lots just for the purpose of being able to build and sell two houses on two lots does not meet the standards at all and therefore, she opposed the request.

Milshteyn agreed with comments made by Carman and Briere.

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

Request Denied: 1-5.

Yeas: 1 - Zielak

Nays: 5 - Briere, Carman, Chair Milshteyn, Councilmember Petersen, and Buonodono

Absent: 1 - Carlisle

E-2 [13-0785](#)

ZBA13-013; 1383 Bemidji Drive
Daniel Lorts is requesting one variance from Chapter 55(Zoning) Section 5:30, of 4 feet from the required 5 foot side setback in order to permit an unenclosed balcony 1 foot from the side property line.

SUMMARY:

Daniel Lorts is requesting one variance from Chapter 55(Zoning) Section 5:30(R2A), of 4 feet from the required 5 foot side setback in order to permit an unenclosed balcony 1 foot from the side property line.

DESCRIPTION AND DISCUSSION:

The subject parcel is located at 1383-85 Bemidji, just north of West Liberty. The parcel is zoned R2A (Two-Family Residential). The structure was constructed as a duplex in 1966 and is 2,510 square feet in floor area.

The request is discussed in detail below:

The existing duplex is setback 5 feet from the side property line (required side setback is 5 feet) and has a 7 by 20 foot (140 square feet) second story deck that extends onto the adjacent property 2 feet. The petitioner is proposing to remove the existing second story deck and re-construct a deck that will measure 20 by 4 feet (80 square feet) and will be 1 foot from the side property line after completion. The deck will be 8 feet from the ground level and remain unenclosed underneath.

According to Chapter 55, 5:54, an attached deck is not permitted within the required side open space. The proposed deck will extend 4 feet from the side of the house and will result in a one foot side setback, requiring a variance of four feet from the side setback requirement of 5 feet. There is 5 feet between the house and the side property line. The adjacent property to West is also zoned R2A with a required 5 foot side setback. The house on this lot (1400 W Liberty) is approximately 100 feet from the proposed deck.

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 practical difficulties 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 parcel is .25 acre (10,977 sq ft) and is a conforming R2A lot. The existing house was constructed in 1966 exactly at the 5 foot side setback with a seven foot wide deck encroaching onto the adjacent property 2 feet. The required side setback is 5 feet for the adjacent property and the house on this lot is approximately 100 feet from the proposed deck.

(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.

The variance is being requested in order to permit the owner to perform structural repairs through re-construction of the deck. If the variance is not granted, the deck would need to be removed and the door wall sealed off securely to prevent egress.

(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.

The existing deck encroaches 2 feet onto the adjacent neighbor's property. The proposed plan would eliminate this encroachment, but still allow a deck within the required side setback, one foot from the property line. The deck as proposed would be over 100 feet from the nearest structure and visually buffered by dense vegetation. The required side setback on the adjacent property is 5 feet.

(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 constructed in 1966 at the five foot required side setback. It is unclear if the deck was constructed at that time; however city records do indicate that the deck was constructed prior to 1976.

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

The requested variance will allow a 4-foot wide deck, which can be considered close to the minimum dimension necessary to make reasonable use of this particular structure minimal in area and dimensions. However, it would place an elevated deck one foot from the side property line. The requested size of 4 feet by 20 feet is more conforming than the existing deck, which encroaches 2 feet over the property line onto the adjacent property. The deck will be reduced in size from 140 square feet to 80 square feet and from 7 feet wide (2 foot encroachment onto neighbors property) to 4 feet in wide (proposed setback 1 foot). Building code requires a minimum of 3 feet in width for any exterior decks.

PRESENTATION BY PETITIONER:

Daniel Lorts, 1383 Bemidji Drive, Ann Arbor, property owner was present to explain the application.

PUBLIC HEARING:

Noting no public speakers the Chair declared the public hearing closed.

LIST OF EXHIBITS PRESENTED:

Chair Milshteyn noted that no correspondence had been received in support or opposition of the application.

Audience requested to speak to the Board.

Board accepted and the Public Hearing was reopened.

Rebecca Kale, 1400 West Liberty, Ann Arbor, stated that she owned the next house and she asked if the balcony will be the same style with supports. She said they are not in opposition if it does not negatively affects their property.

Lorts explained that the three existing support posts will be re-used and will not be on the neighbors property, so it will be better for the neighbor.

BOARD DISCUSSION:

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

Motion made by Carman, Seconded by Briere, in Case ZBA13-013; 1383

Bemidji that the Zoning Board of Appeals hereby grants a variance of 4 feet from the 5 foot required side setback to allow reconstruction of the deck, per submitted plans, based on the following findings of fact;

- a) The alleged practical difficulties are peculiar to this property and doesn't exist elsewhere throughout the City.
- b) That the practical difficulties, which result from failure to grant this 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, but will improve the situation.
- d) The circumstances of the variance requested are not self-imposed.
- e) The variance request is the minimum necessary to achieve a reasonable use of this structure.

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

Approved: 6-0. Variance Granted.

Yeas: 6 - Briere, Carman, Chair Milshteyn, Zielak, Councilmember Petersen, and Buonodono

Nays: 0

Absent: 1 - Carlisle

E-3 [13-0786](#)

ZBA13-014; 1030 Baldwin Avenue
Edward Linkner is requesting one variance from Chapter 55(Zoning) Section 5:27, of 11 feet 6 inches from the required 40 foot rear setback in order to permit an addition to the house 28 feet 6 inches is required.

SUMMARY:

Edward Linkner is requesting one variance from Chapter 55(Zoning) Section 5:27, of 11 feet 6 inches from the required 40 foot rear setback in order to permit an addition to the rear of the house, 28 feet 6 inches from the rear property line.

DESCRIPTION AND DISCUSSION:

The subject parcel is located on Baldwin, just south of Cambridge, west of Washtenaw and contains a 4,712-square foot, single-family dwelling constructed in 1913 before setbacks were established. The parcel is conforming for lot size (12,760 sf; required is 10,000 sf) and zoned R1B (Single-Family). The existing house encroaches into the required rear setback 7 feet. The required rear setback is 40 feet, and the house is set back 33 feet from the rear property line.

The petitioner is proposing to construct a 9 foot 6 inch by 19 foot, 175-square foot addition to the rear of the existing house. The proposed addition will be next to the rear section of the house which already extends into the rear setback 7 feet. The addition will extend the building line an addition 4 feet 6 inches for a total encroachment of 11 feet 6 inches into the rear setback. The new addition will not be visible from the street and will not be any closer to the side property lines than the existing house.

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 practical difficulties 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 existing house was constructed before zoning in 1913 to the rear of the property and is non-conforming due to a 7 foot encroachment into the rear setback. The subject parcel is not exceptional or peculiar in size or shape, it is a rectangle and conforms to the minimum lot area and width requirements of the R1B Zoning District.

(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.

The variance is being requested for the proposed 175 sq ft addition to the rear of the house. The addition will only encroach 4 feet 6 inches closer to the rear property line than the existing house. If the variance is not granted, the petitioner could not construct an addition to the rear of the house.

(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.

Allowing the variance will result in an addition to the existing structure that will encroach 4 feet 6 inches further into the rear open space than the existing structure. If the variance is approved, the addition should not have a negative impact on surrounding structures. The existing house is 5 feet 3 inches from the north side property line and the new addition will be 17 feet from the north side property line. The addition is not visible from a public street and the parcel has extensive mature landscaping producing a visual buffer to adjacent properties.

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

The existing house encroaches into the required rear setback and was the house was constructed in 1913. The location of the house within the rear setbacks prohibits any addition to the rear without ZBA action.

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

The variance is being requested for a proposed addition of 175 square feet. The addition will extend 4 feet 6 inches further into the rear open space than the existing structure and will be 17 feet from the closet side property line.

PRESENTATION BY PETITIONER:

Edward Linkner, MD. 1030 Baldwin Avenue, Ann Arbor, property owner, was present to explain the application.

Mary Kalmes, Architect, was present and explained the project.

PUBLIC HEARING:

Noting no public speakers the Chair declared the public hearing closed.

LIST OF EXHIBITS PRESENTED:

Chair Milshteyn noted that the Board had received the following letters in support of the request:

David Burgoyne, 1722 Cambridge Road, Ann Arbor, MI.
Support petition signed by 16 neighbors from the front, side and rear of the subject parcel.

BOARD DISCUSSION:

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

Motion made by Zielak,, Seconded by Briere, in Petition ZBA13-014; 1030 Baldwin, the Zoning Board of Appeals hereby grants a variance from Chapter 55, Section 5:27 (R1B One-Family) of 11 feet 6 inches from the required 40 foot side setback, per submitted plans, and based on the following findings of fact and in accordance with the established standards for approval;

- 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.

Friendly Amendment offered by Carman, and accepted by Briere, to add the following condition to the variance:

Subject to no further incursion into what would have been assumed to have been the required 40 foot setback.

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

Approved: 6-0. Conditional Variance Granted.

Yeas: 6 - Briere, Carman, Chair Milshteyn, Zielak, Councilmember Petersen, and Buonodono

Nays: 0

Absent: 1 - Carlisle

E-4 [13-0787](#)

ZBA13-015; 3985 South State Street
Washtenaw County Road Commission is requesting two variances from Chapter 61 (Signs and Outdoor Advertising) Section 5:502 of 14 feet and 6 feet from the required 15 foot ground sign setback in order

to replace the existing sign with two new ground signs set back 1 foot and 9 feet from the property line.

MEMORANDUM TO ZONING BOARD OF APPEALS REGARDING REVISED REQUEST

FROM: Chris Cheng, City Planner
DATE: June 26, 2013

SUBJECT: ZBA13-015, 3985 S. State St.

City Council recently passed amendments to Chapter 61, Signs and Outdoor Advertising, at their June 17, 2013 City Council Meeting. One of these amendments reduces the required setback for a ground sign from 15 feet to 5 feet.

Due to this recently reduced sign setback requirement, only one of the two proposed ground signs located at 3985 S. State St. requires a setback variance. The proposed ground sign facing S. State St. has a 9 foot setback and now meets the minimum setback requirement; a setback variance is no longer required. The proposed ground sign facing W. Ellsworth continues to require a setback variance of 4 feet for the proposed 1 foot setback from the public right-of-way.

REVISED variance request : Washtenaw County Road Commission is requesting one setback variance from Chapter 61, Signs and Outdoor Advertising, Section 5:502 (2) (b) of 4 feet from the required setback of 5 feet to permit construction of one - 5 foot tall monument sign setback 1 foot from the West Ellsworth right-of-way line.

SUMMARY OF ORIGINAL SUBMITTED REQUEST [See Revised Request Above]:

Washtenaw County Road Commission is requesting two setback variances from Chapter 61, Signs and Outdoor Advertising, Section 5:502 (2) (b) of 14 feet and 6 feet from the required setback of 15 feet to permit construction of two - 5 foot tall monument signs setback 1 foot and 9 feet from the right-of-way line.

BACKGROUND:

The petitioner, Washtenaw County Road Commission, is requesting variances on behalf of Choice Quick Lube, located at 3985 S. State St., from Chapter 61, Section 5:502 (2)(b) for the placement of 2 two-sided monument signs fronting S. State St. and Ellsworth Rd. The variances include a reduction from the required 15 feet setback from the right-of-way to 1 foot and 9 feet.

The subject parcel is zoned C3 (Fringe Commercial District) and the building was constructed in 1972. The Washtenaw County Road Commission is proposing intersection improvements at South State Street and West Ellsworth Road for a new roundabout. This new roundabout requires additional right-of-way, reducing the site size and right of way fronting South State Street and West Ellsworth at 3985 S. State St. This right of way acquisition requires the existing monument sign at the southwest corner of the site be removed. The petitioner proposes two new ground signs fronting South State Street and West Ellsworth.

Chapter 61 addresses sign height and setback requirements in the following sections:

5:502 Exterior Business Signs.

(2) (b) Ground Signs.

Signs not structurally attached to the building shall be at least 15 feet from any street or from any lot line of the premises. Such signs shall have a maximum height starting at 3 feet in height at the right-of-way line, and increasing 1 additional foot for each 2 feet the sign is set back from the right-of-way line, provided that, if it is located within 20 feet of the building, it may have the same maximum height as could a sign located on the building, provided that the height of any such sign shall not exceed 25 feet.

Standards for Approval - Variance

The Sign Board of Appeals has the power granted by State law and by

Section 5:517(4), Application of the Variance Power from the City of Ann Arbor Sign Ordinance. The following criteria shall apply:

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

The petitioner states that acquisition of additional public right of way for the roundabout benefits the public and removal of the existing ground sign is necessary for this improvement. Relocating the ground sign in the general area behind the newly established right of way would place the sign in the existing parking lot.

This existing ground sign is V-shaped giving the business exposure on both S. State St and W. Ellsworth Road. The petitioner is requesting two setback variances for two signs allowing the business to continue receiving exposure from both roadways.

Staff agrees the reduction in the required setbacks from 15-feet to 1-foot and 9-feet does not impede the flow of on-coming traffic nor create a dangerous viewing situation while either entering or exiting this site per the City Traffic Engineer. There is no effect on neighboring properties as the ground signs do not block other structures in the area.

From a safety perspective, these are the only signs perpendicular to the street at this site and would alert customers to the business entrance.

(b) 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 the failure of the Board to grant a variance and the rights of others whose property would be affected by the allowance of the variance.

The relocation of the ground sign is needed for public improvements to the S. State and Ellsworth intersection. This is not a self-imposed hardship requested by the business owner.

Staff contends that approval of the setback variances would not negatively impact other property owners, and the proposal does not cause negative traffic impacts. The petitioner proposes to setback the monument sign as far as practicable to be seen from traffic while not being located in the parking lot.

The proposed monument signs meet the sign area and message unit requirements of Chapter 61.

Staff recognizes the challenge presented to the petitioner to make improvements to the intersection while allowing the existing business to continue promoting his

business; the proposed reduction in the sign setbacks on the property should be sufficient to facilitate business identification and promotion.

PRESENTATION BY PETITIONER:

Curt Brochue, Washtenaw County Road Commission, 555 N Zeeb Road, Ann Arbor, was present and explained the application.

Daniel Troyka, Conlin, McKenney & Philbrick, P.C. 350 S. Main Street, Suite 400, Ann Arbor, Attorney representing Washtenaw County in the condemnation action was present and explained the request.

Ronald Reynolds, Vercruysse Murray & Calzone, 31780 Telegraph Road Suite 200, Bingham Farms, MI 48025, Attorney representing Choice VC, property owner, in the condemnation action was present and explained the request.

PUBLIC HEARING:

Noting no public speakers the Chair declared the public hearing closed.

LIST OF EXHIBITS:

Chair Milshteyn noted that the Board had received the following letters in support of the request:

Ronald Reynolds, Vercruysse Murray & Calzone, 31780 Telegraph Road Suite 200, Bingham Farms, MI 48025 [Attorney representing Choice VC, property owner].

Motion made by Carman, Seconded by Zielak, in Petition ZBA13-015; 3985 S. State Street, that the Zoning Board of Appeals grants a variance of 4 feet from the required 5 foot setback from the right-of-way along Ellsworth, to allow a 5 foot monument sign, setback 1 foot from the right-of-way and 9 feet from the sidewalk, per submitted plans, given the following findings of fact:

- a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.
- b) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the Chapter and the individual hardships that will be suffered by a failure of the Board to grant the variance and the rights of those whose property would be affected by the allowance of the variance.
- c) That the variance is being requested by the Washtenaw County Road Commission and the new sign will be 9 feet from the sidewalk which protects safety issues of pedestrians.

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

Approved: 6-0. Variance Granted.

Yeas: 6 - Briere, Carman, Chair Milshteyn, Zielak, Councilmember Petersen, and Buonodono

Nays: 0

Absent: 1 - Carlisle

F UNFINISHED BUSINESS

G NEW BUSINESS

H REPORTS AND COMMUNICATIONS

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

None

J ADJOURNMENT

A motion was made by Zielak, seconded by Briere, that the Meeting be Adjourned at 7:13 p.m. On a voice vote, the Chair declared the motion carried.

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

Live Web streaming is one more way, in addition to these listed below, to stay in touch with Ann Arbor City Council and board and commission actions and deliberations.

- *Video on Demand: Replay public meetings at your convenience online at www.a2gov.org/government/city_administration/communicationsoffice/ctn/Pages/VideOnDemand.aspx*
- *Cable: Watch CTN Channel 16 public meeting programming via Comcast Cable channel 16.*

The complete record of this meeting is available in video format at www.a2gov.org/ctn, on "The Meeting Place" page (<http://www.a2gov.org/livemeetings>), or is available for a nominal fee by contacting CTN at (734) 794-6150.