



City of Ann Arbor

Formal Minutes

Zoning Board of Appeals

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Wednesday, July 23, 2014

6:00 PM

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

A **CALL TO ORDER**

Chair Milshteyn called the meeting to order at 7:04 p.m.

B **ROLL CALL**

Chair Milshteyn called the roll.

Present: 6 - Alex Milshteyn, Perry Zielak, Ben Carlisle, Sally Petersen, Nickolas Buonodono, and Evan Nichols

Absent: 3 - Candice Briere, Wendy Carman, and Heather Lewis

C **APPROVAL OF AGENDA**

A motion was made by Zielak, seconded by Councilmember Petersen, that the Agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.

D **APPROVAL OF MINUTES**

14-1164 June 25, 2014 ZBA Minutes with Live Links

Milshteyn noted that the rollcall on the top of pg 6 should reflect that Candice Briere was present and voted Yea on ZBA14-006; 207 East Kingsley Setback Variance.

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

ROLL CALL - Revised

Arrival of Heather Lewis.

Present: 7 - Alex Milshteyn, Perry Zielak, Ben Carlisle, Sally Petersen, Nickolas Buonodono, Heather Lewis, and Evan Nichols

Absent: 2 - Candice Briere, and Wendy Carman

E **APPEALS AND HEARINGS**

E-1 **14-1163** ZBA14-009; 1154 Olden Road
Van Hunsberger is requesting a variance from Chapter 55 (Zoning) Section 5:27 (R1B, Single-Family Dwelling District), of 1 foot to allow an addition to a single-family structure into the required side setback. The required side setback is 6 feet 6 inches.

Matt Kowalski presented the following staff report:

DESCRIPTION AND DISCUSSION:

The subject parcel is located at 1154 Olden, south of Sunset, east of Pomona. The parcel is zoned R1B (Single-Family Residential).

The request is discussed in detail below:

The existing single-story house is 1,624 square feet and was built in 1956. The house has no basement and is setback 9 feet 9 inches from the east side property line and 7 feet 6 inches from the west side property line; the minimum required side setback is 5 feet with a total of two sides to equal 14 feet. The petitioner is proposing to convert the existing garage to living space and construct a 20 foot by 24 foot 6 inch addition to the front and east side of the structure. The addition will extend 1 foot into the east side required setback of 6 feet 6 inches, for a proposed setback of 5 feet 6 inches. Due to the angle of the parcel and the location of the house, there is only a small triangle portion of the new wall which is actually located in the side setback. There is no habitable space located in the setback, and the majority of the addition will conform to the setback requirements. After construction, there will be no garage and two exterior legal parking spaces located in front of the proposed addition, but behind the front setback of 30 feet.

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 .42 acre (18,100 sq ft) and is a conforming R1B lot. The

existing house was constructed in 1956 with the enclosed garage 9 feet 9 inches from the east side property line. The parcel is an unusual trapezoidal shape, 50 feet wide at the front and 201 feet wide at the rear lot line. There is a significant slope up from the rear of the house to the rear property line.

(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 construct an addition to the front of the existing house. If the variance is denied the petitioner could propose a smaller addition that fits within the required setback or 'shave' off a corner of the proposed addition.

(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 proposed addition extends a triangular corner of the structure into the required side setback. Due to the location of the house at an angle on the parcel, the house extends farther away from the side property line towards the rear of the parcel.

(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 1956 before existing zoning code requirements, but the existing house does comply with required setbacks. A smaller addition could be constructed on the front without the need for a variance. There is limited area for an addition to the rear or other side of the house due to the extensive vegetation and significant slope up away from the house.

(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 triangular corner of the house, less than 5 square feet extend a maximum of 1 foot into the side setback. There will be no actual habitable space in this area, it is the corner of the wall that encroaches. Due to the angle of the house away from the east side property line, the requested variance is minimal.

QUESTIONS BY BOARD TO STAFF:

Nichols asked if the garage would be expanded.

Kowalski showed on the plans that the proposed garage line-up would be consistent and even with the house on the west side.

PRESENTATION BY PETITIONER:

Van Hunsberger, 2008 Hogback Road, Ann Arbor, Applicant and Architect for the project was present and explained the request and application.

Petersen asked if a future property owner would like to build a garage, what options would they have available.

Hunsberger said the way the addition interior is laid out, they could reconfigure it to make a garage, but there was no additional available space on the site for a garage.

Nichols asked how many feet the wall would have to be pulled back to stay within the setback.

Hunsberger said they would lose about 4 feet to stay within the setback, and given the door swing it would make it a non-usable space for the property owner's purposes.

Nichols said their criteria is not to give the homeowner the maximum possible use of the property, but rather to give them reasonable use of the property, and he felt it would still be giving the owners reasonable use of the property if they took 4 feet off and they would then no longer need the variance.

Hunsberger said they tried several different ways to push everything back as far as possible but given the difficult lot shape they were not able to fit in the addition for a workable studio space in any other way.

Petersen asked if there would be any financial benefit to the owners with the proposed addition.

Hunsberger said, no. Hunsberger said if the proposed addition were to be built from scratch or if it were to be built on a neighboring lot, it would meet the setback requirement as it is proposed and would not need a variance.

Lewis asked about the elevation plans, noting that if they were to push

the wall back by 4 feet, a future owner would not be able to use it as a garage.

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

LISTS OF EXHIBITS PRESENTED:

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

*Robert and Mary Ellen Joynt, 1148 Olden Road, Ann Arbor
Brian Barber, 1261 Bending Road, Ann Arbor*

BOARD DISCUSSION:

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

Motion made by Zielak, Seconded by Buonodono, in the Case ZBA14 009; 1154 Olden Road, 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 5:27 (R1B Single Family Zoning district) of 1 foot to allow an addition to a single family structure into the required front setback from 6 feet 6 inches to 5 feet 6 inches, per submitted plans:

- a. The alleged practical difficulties are exceptional and peculiar to the property and the person requesting the variance 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. Allowing the variance, will result in substantial justice being done, concerning 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.**
- d. That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.**
- e. The variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.**

**On a voice vote, the vote was as follows with the Chair declaring the motion carried. Approved: 6-1
Setback Variance Granted.**

Yeas: 6 - Chair Milshteyn, Zielak, Carlisle, Councilmember Petersen, Buonodono, and Lewis

Nays: 1 - Nichols

Absent: 2 - Briere, and Carman

F UNFINISHED BUSINESS

G NEW BUSINESS

H REPORTS AND COMMUNICATIONS

14-1165 Various Correspondences to the ZBA

Received and Filed

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

None

J ADJOURNMENT

A motion was made by Zielak, seconded by Buonodono, that the meeting be Adjourned at 7:25 p.m. On a voice vote, the Chair declared the motion carried.

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Alex Milshteyn
Chairperson of the Zoning Board of Appeals

Mia Gale
Recording Secretary