

25 January 2016

## **Ann Arbor Zoning Board of Appeals Action**

### **Request for variances 211 west Davis, Ann Arbor, Michigan**

To the members of the City of Ann Arbor Zoning Board of Appeals:

We are residents of this neighborhood in which this proposed project is to be placed. We built a new house on a vacant lot here in 1998. We are both architects and have been in practice in Ann Arbor for over forty years.

A zoning variance is a very special accommodation granted to an individual property, in which the property owner is requesting a change in the laws of the City of Ann Arbor, because their property has some hardship and/or practical difficulty unique to its character that will not allow it to be practically developed within the context defined by the zoning ordinance laws.

It is the responsibility of the petitioner to accurately and factually define and defend their case to the Zoning Board of Appeals as to what this unique condition is and why there is no other alternative to reach compliance other than this variance procedure.

We feel, in this case, this defense is flawed, being inaccurate, unclear and insufficient in many of its aspects.

211 West Davis is noted as containing a single story concrete block warehouse with a roof structure composed of wood bow string trusses. In the context of the petition it is noted the building is insufficient in its original construction, deteriorating and collapsing. The petitioner intends to tear the building down and save the trusses for reuse. It is very important to note. The plan is to demolish the failing building structure before the proposed new single family residence is built.

A review of the history of this property shows in 1904, 1905, 1907 and 1910 the City directories indicate no building was on this site. Some information was found by City staff to indicate there was a structure on this site in late 1910. In 1925, for the first time on record, the Sanborn maps shows the current structure evident as part of the 909 Main Street residence as a separate structure distant from the residence. So sometime between 1910 and 1925 this building was constructed. It was used as a garage (commercial, because of its size?) and warehouse. (Is there any phase one information regarding possible contaminates from this garage use?)

The property is 75 feet wide and about 66 feet deep. It has an area of 4,945 square feet. In this neighborhood within an area of four blocks of this property there are 34 single family parcels equal or less in area. Many of these are mostly compliant with the current zoning setbacks. Most of these sites are 95 to 105 feet in depth, 45 feet or about in width.

To the written petition in order as they appear:

- A) The first defense is noted as; "The intent of this project is to preserve an unusual 19<sup>th</sup> century structure." As the factual history stated above demonstrates, this building was not constructed until the 20<sup>th</sup> century. This initial statement is untrue and raises suspicion as to the following defense points given, to which they wish the Zoning Board of Appeals members buy into.
- B) They further cite the "rare" bowstring trusses." A brief search on line show, wood bowstring trusses were produced in abundance between 19teens into the 1960's. One manufacturer even cites they built so many trusses as to reach around the world four times. This amounts to about

1.7 million trusses, from just one manufacture. These early bow string trusses had inherent structural problems and were prone to collapse under differential loading. Once this was discovered they fell into disuse. They also were implicated in a number of recorded tragic deaths of firefighters. They were used profusely in the early half of the 20<sup>th</sup> century as an economical means of clear spanning floor areas in many types of commercial and industrial buildings. It appears the petitioner chooses to reuse these trusses, which locks their design into needing to be the 75 foot width/span of the trusses. This is a self-imposed hardship.

- C) They cite the property is unique due to the fact the building occupies the majority of the site. Yet one can look downtown eight blocks away and in numerous commercial neighborhoods around town to see several hundred examples of buildings built out over their entire lot. This condition is not unique.
- D) They cite the building is deteriorating and collapsing.

Section 4 comments, where the petitioner must prove a practical difficulty and/or hardship unique to this property, not self-imposed, ONLY resolvable by a variance;

- 1) The only unique feature of this property that imposes a practical difficulty and/or hardship is its 66 foot depth. It is not a designated historical structure either by Ann Arbor, The State of Michigan or the Federal government. We found no reference indicating any known organization had an interest in preserving this building as being historical. They give no listing of the “many” other buildings they refer to. We find there are about a dozen examples in the west side of Ann Arbor. It is not attached to a single family residence as they infer.
- 2) They cite compliance with the required/mandated setbacks would require the building to be demolished, BUT they are already tearing the building down having cited the poorly constructed and failing condition of the building. They cannot use the demolition of this building as a defense when they have to tear the building down anyways. They also note this building as a “neighborhood landmark”, YET the second to last paragraph of this submission calls this building out as “a neighborhood eyesore” they cannot have it both ways in their defense.
- 3) This defense seems to want us to believe that granting these variances will allow this structure to undergo a “renovation”. Again they are tearing the building down. There will be nothing to renovate.
- 4) “The property is very small”; this condition is not unique to this neighborhood as noted above. All of these existing properties demonstrate that appropriated applied architectural talent can produce a building design compatible to meet the required zoning setbacks. There are many, many design plan books available which more than adequately provide example after example of suitable designs to fit this site. It is their choice to present a single story design in their defense. This is a self-imposed hardship. A normal 2400 square foot house is 24 to 36 feet in depth and 32 to 50 feet wide, two stories in height. This neighborhood is filled with examples of compliant solutions. There are also numerous examples of properties working with the existing site topography to achieve compliance. Our house is 40 x 32 feet and 2200 square feet set into a hillside condition.

Item 5:

Why are we citing the “alteration to a non-conforming use” standards? They are tearing down the existing structure. This section of the City code is not applicable and has no relevance to this petition.

Again they cite, “The proposal is to convert the existing structure”. There is no conversion going on. They are tearing down the existing structure.

There is a courtyard noted to be placed into the defined front yard setback. We have no elevation to refer to, just a plan. This looks to be a solid wall construction with two openings in it. The City of Ann Arbor has a fence ordinance that is separately applied to front yards, which would not allow this. This ordinance was created to preserve the front yards as part of the public visual right-of-way. Why is there not a request for variance to the fence ordinance as part of this petition?

They also note here they are tearing down the structure because of its collapsing walls.

They then claim the proposed design will reduce the mass of the building along the sidewalk and note the building is a "neighborhood eyesore". They further indicate the creation of a new single family residence (The only development allowed on this parcel).

They conclude with their proposal for the resolution: "The renovation and partial reconstruction of a non-conforming building." As the facts/truth bears out, this is neither a renovation nor partial reconstruction, since they are tearing down the structure before commencing any new work AND since this existing building is being torn down the non-conforming structure ordinance section does not apply.

To the variances being requested:

It is evident that this property is deficient in depth. Application of the current front and rear setbacks would render a narrow 16 foot deep strip of compliant developable land area; this in our minds is the only defensible practical difficulty and hardship to this property. One of the defining aspects of the residential neighborhoods in Ann Arbor are the uniform presence of front yards as presented to the public streets. These front yards are part of the visual public domain, as the noted fence ordinance was constructed to preserve. This aspect is so important that the City's zoning ordinance has a section in it, such that in a neighborhood where the neighboring houses have front setbacks greater than the required front setback mandated any new residence must comply with that greater setback.

This parcel has sufficient width to construct a single family residence as demonstrated by the many 45 foot lot width properties already built out in this neighborhood.

We feel that one could reasonably support a variance to the rear yard setback of this parcel because of the practical difficulty and hardship of the property depth, from the stipulated 30 feet to six feet (the five feet certain code requirements make the wall into a fire rated assembly with minimum windows also the practicality of being able to maintain the property). Also because of the site topography this places the proposed new structure down and partially out of site of the adjacent neighbor's house and rear yard to the south. This would give a 41 foot by 65 foot area on the lot to construct a house. Both the required R1C zoning 25 foot front yard and 5 foot side yard setbacks should remain intact.

This petitioner has inadequately presented a case for requesting variances to their property. They have not been factual, argue their case from both sides and generally fail to give any solid credence to hardship and uniqueness to this property other than what we have pointed out.

We respectfully ask, this board consider reducing this request for variance to just the supportable rear yard setback.

Sincerely,

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