



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, March 23, 2016

6:00 PM

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

A **CALL TO ORDER**

Chair Milshteyn called the meeting to order at 6:05 p.m.

B **ROLL CALL**

Milshteyn called the roll.

Staff Present: Matt Kowalski, Jon Barrett

Chair Milshteyn welcomed the newest member, Nicole Eisenmann, to the Zoning Board of Appeals.

Present: 7 - Alex Milshteyn, Nickolas Buonodono, Heather Lewis, David DeVarti, Michael Dobmeier, Michael B. Daniel, and Nicole Eisenmann

Absent: 2 - Kirk Westphal, and Candice Briere

C **APPROVAL OF AGENDA**

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

D **APPROVAL OF MINUTES**

None

E **APPEALS AND HEARINGS**

E-1 **16-0440** ZBA16-003; 709 N. Fourth Avenue

Matt Kowalski presented the following staff report:

Summary

Eugene Eavy is seeking permission to alter a non-conforming structure and one rear setback variance from Chapter 55 (Zoning), Section 5:28 (R1C Single-family) of 3 feet 4 inches from the required rear setback of 30 feet for a rear setback for 26 feet 8 inches.

Description and Discussion

The subject parcel is a 9,583 square foot corner lot that is zoned R4C (Multi-family). A single family residence is the current use of the property so R1C (Single-family) guidelines prevail. The existing 3,096 square foot single-family home was built in 1967 and is non-conforming along the south side setback.

The request is discussed in detail below:

The petitioner is proposing to construct an 18'x24'3" addition (approximately 432 square feet of area) to the rear of the home and construct an infill addition of a triangular section of the home along the south side of the residence. If approved the structure will be 26 feet 8 inches from the rear property line. The required side yard setback is 5' and the existing structure is 4'8" from the side property line. The addition will be consistent with the existing structure setback and not encroach further into the required side setback.

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.

Currently, the existing structure encroaches into the south (side) yard setback. The proposed addition(s) will not further increase the building's non-conformity as they are demonstrated in line with the existing encroaching south building elevation.

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 property is rectangular in shape, and doesn't demonstrate any topographical constraints. The rear property line (west) is demonstrated at a slight angle, and is not completely parallel with the front property line.

(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.

Applicant states that they intend to reside at the property for a number of years and they have a growing family so the additional space is requested to accommodate their needs. The addition may be shifted to the north somewhat, however, due to the slight angle of the rear property line it is likely the size of the proposed addition could not be accommodated without a variance.

(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.

Applicant states that the address to the south (701 N Fourth) there are two garages, one attached and one detached, so the addition will not interfere with their view shed. To the west is the 'Near North' project which was four story multi-family development approved, but never constructed. The site is currently vacant, so there will be no impact to any residents. The addition is proposed to be on the south side of the lot, which is furthest from 711 N Fourth so the addition will not have a negative impact to the northern neighbors.

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

Even though the rear line of the property runs at a slight angle to the south, we do not believe this reduces the building envelope. If the building addition was reduced slightly (3.5 feet) it would meet the rear yard setback.

(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 total 432 square feet. The impact to the surrounding properties will be minimal.

QUESTIONS BY BOARD TO STAFF:

None

PRESENTATION BY PETITIONER:

Eugene Zach, 709 N Fourth Avenue, owner and applicant was available to respond to the Commission's enquiries. He said they purchased the house in 2002 and have since added several children to their family as well as an aged parent that needs a live-in caregiver; these changes have brought on the proposed modifications.

Mary Kalmes, 538 Glendale Circle, Architect for the project was also available to respond to enquiries.

DeVarti asked if the proposed rear addition would extend as far back as the rear deck.

Kalmes said she believed the current deck comes to the rear setback, and they would be removing that deck and replacing it with an enclosed addition.

DeVarti asked if the addition would be 18 feet deep.

Kalmes said yes.

DeVarti asked if there was a reason it had to be 18 feet and not 14 feet.

Kalmes said part of the problem is an existing fireplace that extends 2 feet on the rear so it reduces that space by 2 feet, and anything smaller than the proposed size didn't seem worth investing in the project, along with the needs for that proposed space. She said they had the support of

both neighbors on either side and given the Near North property behind them they didn't think this proposed project would interfere with anyone.

DeVarti asked about the location of the existing fireplace.

Kalmes said it is located at the back of the house and with the proposed step-down addition they would be making the fireplace a 2-sided fireplace.

Lewis asked about the rear doors.

Kalmes explained that if the doors swing in they are not required to put a landing.

DeVarti said he was struggling with the need to go into the rear setback as well as the need for a 30-foot setback in the rear in this area.

Kalmes said it seems like it makes sense given the ambiguity of what will come in the rear one day.

DeVarti said since one of the neighbors, John Hilton, has spoken out in favor of the project, and knowing he has tremendous concern for the community and community values that he wants to live in a vibrant and healthy Ann Arbor community carries some significant weight for him.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

*John Hilton and Eve Silberman, 701 N. Fourth Avenue, Ann Arbor;
Support*

*Margaret Schlanker and Steve Globberman, 711 N. Fourth Avenue, Ann Arbor;
Support*

BOARD DISCUSSION:

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

Moved by Daniel, seconded by DeVarti, in Petition ZBA16 003; 709

N. Fourth Avenue, 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, 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 neighboring property.

Variance:

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 5:28 (R1C, Single Family) of 3 feet 4 inches from the required rear setback of 30 feet in order to permit construction of a building addition 26 feet 8 inches from the rear property line.

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.

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

Variance granted.

Yeas: 7 - Chair Milshteyn, Buonodono, Lewis, DeVarti, Dobmeier, Daniel, and Eisenmann

Nays: 0

Absent: 2 - Councilmember Westphal, and Briere

E-2 [16-0441](#) ZBA16-004; 2210 Avalon

Jon Barrett provided the following staff report.

Summary

Mary Susan Creswell is seeking one front setback variance from Chapter 55 (Zoning); A variance from Section 5:27 (R1B Single Family) of 9 feet 2 inches from the required front setback of 30 feet.

Description and Discussion

The subject parcel is a 10,367 square foot corner lot that is zoned R1B (Single family). The existing single family home was built in 1954 and is non conforming for the front setback along Avalon Place.

The request is discussed in detail below:

The petitioner is proposing to construct a 5 by 10 front porch addition of 50 square feet with a covered entry. The current porch is non conforming as it is only 24'11" from the front property line. If approved the new porch will be 20'10" from front property line.

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.

The existing structure currently encroaches within the required front yard setback. While, the addition of the proposed front porch will further increase the structures non conformity, it will not have a detrimental effect on neighboring property.

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 existing home is non conforming in regard to the existing front yard setback currently encroaching 5'1" into the required front yard setback. The practical difficulty / exceptional circumstances are found in the layout of the home, and the existing configuration of the structure on the lot. Currently, the main entry is provided on the side of the structure. The applicant is interested in adding a small porch for a front main entry of off the living room.

(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 front setback variance is being requested in order for the applicant to construct a small front porch entry. Without the proposed variance no additions will be allowed along the front building elevation.

(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 applicant states that the neighbors to the west will not be affected if the variance is granted, as the current site lines are already blocked by the house. The applicant also states that the site lines to the east will incur minimal impact and the other neighboring properties views are being blocked by trees and vegetation. Any other properties in the cul de sac will have an enhanced view shed as the proposed project will improve the curb appeal of the subject residence.

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

The home was originally built in 1954 at the end of a short cul de sac street and the subject property has been wedged at the end of the street

which has created a smaller lot with reduced front setbacks.

(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 impact to the surrounding properties will be minimal. The proposed covered front porch measures approximately 5' by 10' and will be 50 square feet.

QUESTIONS BY BOARD TO STAFF:

None

PRESENTATION BY PETITIONER:

Melanie Grabarkevicz, 564 W. Middle Street, Chelsea, spoke on behalf of the applicant, explaining the proposed plan and noting that there are tree lines on both sides of the house so the neighbors won't have good views of the house. She read a letter of support from the following neighbor; John A. Clark.

DeVarti asked if they were keeping the existing front porch.

Grabarkevicz said yes, and adding a small entry to that.

DeVarti asked if they would be tying into the front entry porch.

Grabarkevicz explained that the spaces would not be contiguous in order to not encroach even more.

Brian Burkett, Meadowlark Builders, was also present to respond to construction questions on behalf of the applicant. He explained that making the design contiguous would have made the proportions too large from what they were looking to achieve and a larger variance would be required.

DeVarti said he believed that if the variance was granted they would be able to modify the plans in order to allow them direct access to the front porch.

Lewis asked if they would be dropping 3 columns.

Burkett said yes.

Dobmeier asked about the stairway coming off the new porch in comparison to the setback.

Grabarkevicz said it was very close.

Dobmeier noted it was more that they both needed to shifted over and it was more for the covered portion that they needed the variance.

DeVarti said he'd experienced this same issue with a variance he once requested and found out you don't need a variance if the porch isn't covered. He said he felt it was a technicality that he quibbled with all the time. He said the existing step that the petitioner has doesn't count as encroaching into the front setback because it doesn't have a roof over it.

LIST OF EXHIBITS:

*Phillip Hanna, 2211 Avalon Place, Ann Arbor; Support
John Clark, 2214 Avalon Place, Ann Arbor; Support
Ann Ashley, 2311 Vinewood Blvd., Ann Arbor; Support
Charles and Hildebrant Burch, 2200 Avalon Place, Ann Arbor; Support
Sumer; Opposed*

BOARD DISCUSSION:

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

Moved by Dobmeier, seconded by Buonodono, in Petition ZBA16 004; 2210 Avalon Place, Variance: 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 5:28 (R1C, Single Family) of 9 feet 2 inches from the required front setback of 30 feet in order to permit construction of a building addition 20 feet 10 inches from the front property line.

- 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.

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

Variance Granted

Yeas: 7 - Chair Milshteyn, Buonodono, Lewis, DeVarti, Dobmeier, Daniel, and Eisenmann

Nays: 0

Absent: 2 - Councilmember Westphal, and Briere

E-3 [16-0442](#) ZBA16-005; 2821 Platt

Jon Barrett presented the following staff report:

Summary

Min Zhong and Bob Griess are seeking a rear setback variance from Chapter 55 (Zoning); A variance from Section 5:28 (R1C Single-family) of 25 feet 6 inches from the required rear setback of 30 feet.

Description and Discussion

The subject parcel is an 8,407 square foot lot that is zoned R1C (Single-family). The property is rectangular with a flat topography. The site currently has a detached garage in the right southeast corner of the property. The structure is 4'6" from the rear property line, therefore it is nonconforming for encroachment into the rear setback; 30 feet is required. All other required setbacks are compliant. The property owners are seeking to convert the garage into a single family dwelling and the leave the structure in its current location. There will be no expansion to the existing footprint; however, the height will be increased from a single-story to two stories. The proposed single family will be a 40'2"x26'3" two story structure totaling 1,055 square feet. The variance requested will allow the structure to remain in its current location and be used for

residential purposes.

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.

Applicant states that the practical difficulty is the current location of the detached structure which was built sometime before 1965. The garage was built as an accessory structure for the residence located at 2839 Platt Road directly to the south. The situation is unique to the property.

(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.

Applicant states that it would be a financial burden to pay to demolish and remove the existing structure in order to create a similar size structure that would meet the required setbacks. The owners claim it is not their desire to achieve a higher financial return by building a larger structure than they require.

(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.

Owners claim that the variance will not negatively impact the neighboring properties and will not be enlarged and is of similar size to the adjacent residential properties. Applicant states that portions of the proposed residence will be taller but will be a similar height as the adjacent residential properties. The color and type of siding will match the siding that has existed for decades. The massing of the proposed single family dwelling will be a "salty box" style and the windows will be re-located to more desirable locations to the benefits of the occupants.

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

The owners claim the 1,055 square feet of existing space is too valuable to remove and allowing the existing location near the rear property line would not negatively impact the neighboring properties.

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

The structure is not being expanded from its current location, variances are required due to its conversion to habitable space. However, because of the large size of the parcel, a dwelling could be constructed to meet current yard and setback requirements.

QUESTIONS BY BOARD TO STAFF:

Lewis asked if the structure had ever been a living space.

Barrett said no.

Lewis asked about utilities to the structure.

Dobmeier asked if this structure had previously been a part of a larger parcel.

Barrett said it might have been and suggested asking the petitioner.

PRESENTATION BY PETITIONER:

Robert Griess, 2009 Devonshire, said he didn't know the history more than that it was very old and the house next door is connected to this structure with electric wires, so they were probably a part of a single property. He said the electricity is currently not connected, and there is no obvious plumbing. He said there are things that look like pipes that are sliced off and there is a concrete floor.

Daniel asked about the separate garage further back on the property and asked if there was also a separate house located on the parcel.

Griess said no and referenced the aerial view slide, noting there is a back porch to this garage and a slanting sidewalk, and this garage is the only

structure on this parcel.

DeVarti asked if the petitioner had recently purchased the lot.

Griess said in December of 2014.

DeVarti said when he walked the lots it looked like the 3 contiguous lots had been once owned by the same person, with the curb cut on Norwood that lined us directly with the garage door of this structure. He said both the wires and the little walkway connecting this structure with the neighboring house made him believe they had once belonged together.

DeVarti asked about the boundary lines.

Griess said the distance to the side boundary from the garage is 6 feet, and 5 feet is required.

DeVarti said this structure looked like a complete teardown and since they were going to be adding a new foundation why not just tear it down and put up a new structure.

Griess said it was more economical to convert it into a house than tear it down.

DeVarti asked if they had spoken to the Building Department and if they were okay with their proposal.

Griess noted that since the garage is on a slab, it would have to be inspected and if they didn't have the 42-inch foundation it would have to be increased.

Dobmeier asked how much of the existing building would remain versus what would be torn down.

Griess said the existing footprint would remain; most of the walls would be kept and the height would be increased, so they are not tearing it down. DeVarti asked if they would replace the existing corrugated metal siding.

Griess said the architect they had spoken to felt it was in good condition and could stay.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

BOARD DISCUSSION:

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

Moved by DeVarti, seconded by Buonodono, in Petition ZBA16 005; 2821 Platt Road Variance: 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 5:28 (R1C, Single Family) of 25 feet 6 inches from the required rear setback of 30 feet in order to permit conversion of an accessory structure to a residence, the structure is located 4 feet 6 inches from the rear property line.

- 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.**

On a rollcall vote, the vote was as follows with the Chair declaring the motion failed.

Variance Denied

Yeas: 1 - Dobmeier

Nays: 6 - Chair Milshteyn, Buonodono, Lewis, DeVarti, Daniel, and Eisenmann

Absent: 2 - Councilmember Westphal, and Briere

F **UNFINISHED BUSINESS****G** **NEW BUSINESS****H** **REPORTS AND COMMUNICATIONS**

16-0443 Various Correspondences to the ZBA

Received and Filed

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

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

J **ADJOURNMENT**

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

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Alex Milshteyn
Chairperson of the Zoning Board of Appeals

Mia Gale
Recording Secretary