



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, June 28, 2017

6:00 PM

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

A **CALL TO ORDER**

Vice Chair Dobmeier called the meeting to order at 6:00 p.m.

B **ROLL CALL**

Vice Chair Dobmeier called the roll.

Staff Present: City of Ann Arbor Zoning Coordinator, Jon Barrett.

Present: 7 - Heather Lewis, David DeVarti, Kirk Westphal, Michael Dobmeier, Nicole Eisenmann, Todd Grant, and Julie Weatherbee

Absent: 2 - Candice Briere, and Michael B. Daniel

C **APPROVAL OF AGENDA**

Approved as presented

D **APPROVAL OF MINUTES**

Tabled

D-1 **[17-0998](#)** April 26, 2017 ZBA Minutes with Live Links

Postponed to the Zoning Board of Appeals due back on 7/26/2017

D-2 **[17-0999](#)** May 24, 2017 ZBA Minutes with Live Links

Postponed to the Zoning Board of Appeals due back on 7/26/2017

E **HEARING AND APPEALS**

Public Hearings: Individuals may speak for three minutes. Please state your name and address for the record.

Comments about a proposed project are most constructive when they relate to: (1) City Code requirements, or (2) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area. (Please state your name and address for the record and sign in)

- E-1** [17-0997](#) ZBA17-019; 2146 Amelia Place
David and Krista Golden, property owners, are requesting a variance from Chapter 55 Zoning; Section 5:27 in order to construct an approximately one hundred eighty (180) square foot enclosed porch. The required rear yard setback for the district is forty (40) feet. The request of fourteen (14) feet four (4) inches will allow the new porch to be twenty-five (25) feet eight (8) inches from the rear property line.

City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:

SUMMARY:

David and Krista Golden, property owners, are requesting a variance from Chapter 55 Zoning; Section 5:27 in order to construct an approximately one hundred eighty (180) square foot enclosed porch. The required rear yard setback for the district is forty (40) feet. The request of fourteen (14) feet, four (4) inches will allow the new porch to be twenty-five (25) feet, eight (8) inches from the rear property line.

BACKGROUND:

The property is zoned R1B, single-family residential, which requires a forty (40) foot rear yard setback. The lot size is ten thousand, two hundred, thirty-six (10,236) square feet in area and the home was built in 1985.

DESCRIPTION:

The new covered rear porch will replace the existing porch, which has deteriorated in the last thirty (30) years. The new porch will not encroach any further into the rear setback than the previous porch.

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.

Applicant states that without a variance, any proposed addition could not be constructed as the home is forty-one (41) feet from the rear property line.

(b). That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

There is a six (6) foot change in elevation from the back of the home to the rear property line. Applicant states that due to this grade change an addition off the rear of the home is necessary in order to effectively utilize the rear yard.

(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.

There will be little to no impact on surrounding properties as there is a vegetative buffer to the rear property. The proposed structure will be in the same footprint as the existing porch; thereby posing no further encroachment into the setback.

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

Applicant states that due to sloping topography and the home facing the south, a covered porch is desirable to maximize the potential of the rear yard.

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

The variance requested is minimal in size and will not have a negative impact on the abutting property.

*QUESTIONS BY BOARD TO STAFF:**PRESENTATION BY PETITIONER:*

David and Krista Golden, 2146 Amelia Place, Ann Arbor, petitioner and owner, were present to explain the application and respond to inquires.

Boardmember Dave Devarti asked if the requested variance would be for a year-round structure.

David Golden answered no, that it would not be heated or cooled.

Devarti stated that he would be supportive of this variance if the proposed structure was to have screened windows instead of glass windows.

Boardmember Nicole Eisenmann asked if the existing deck/walkway around the structure would be covered by the proposed roof.

Goldens answered that they were seeking a variance to replace the entire structure, therefore the proposed roof would cover where the previous deck/walkway was.

Lewis asked for clarification on the footprint of the new structure.

David Golden answered that the new structure's walls would extend to where the existing deck/walkway is, making the footprint of the proposed structure the same as the current one.

Boardmember Kirk Westphal asked if the Goldens purchased the home with this structure on it.

Goldens answered, yes.

Westphal asked if the Goldens knew that the structure was non-conforming when they purchased the house.

Goldens answered, no.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

The Vice Chair noted the Board had received the following communications:

*Email from Warren-Jensen, 2150 Amelia Place, Ann Arbor; Support
Email from Wakipild, 2125 Ridge Avenue, Ann Arbor; Support
Email from Birchler, 2140 Amelia Place, Ann Arbor; Support*

**Moved by DeVarti, seconded by Westphal, in Peititon
ZBA17-019;2146 Amelia 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 the following variances from Chapter 55, Section 5:27, Area, Height and Placement regulations to allow:

A one hundred eighty (180) square foot enclosed porch to be constructed twenty-five (25) feet eight (8) inches from the rear property line. This will require a fourteen (14) foot (4) inch variance. The porch is to be constructed per the submitted plans.

- 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:

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

On a roll call, the vote was as follows with the Vice Chair declaring the motion approved. Vote: 7-1

Variance GRANTED

Yeas: 6 - Lewis, Councilmember Westphal, Vice Chair Dobmeier, Eisenmann, Grant, and Weatherbee

Nays: 1 - DeVarti

Absent: 2 - Chair Briere, and Daniel

- E-2** **17-1000** ZBA17-020; 1902 Independence Boulevard
Jean Carlberg, property owner, is requesting a variance from Chapter 55 Zoning, Section 5:54(2)(b) Open Space; of three (3) feet six (6) inches in order to install a two (2) foot by four (4) foot generator in the front setback. The average front setback is twenty-one (21) feet six (6) inches. If the request is approved the front setback will be established at eighteen (18) feet.

City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:

SUMMARY:

Jean Carlberg, property owner, is requesting a variance from Chapter 55 Zoning, Section 5:54(2)(b) Open Space; of three (3) feet six (6) inches in order to install a two (2) foot by four (4) foot generator in the front setback. The average front setback is twenty-one (21) feet six (6) inches. If the request is approved the front setback will be established at eighteen (18) feet.

BACKGROUND:

The property is zoned R1C, single-family residential, and is located on a corner lot. The corner lot requires two (2) front yards. The lot is eight thousand four hundred fifty (8450) square feet in size. The existing residence is approximately one thousand eight hundred and eighty-eight square feet in size and was built in 1940.

DESCRIPTION:

The two (2) foot by four (4) foot generator is required to be installed a minimum of five (5) feet from the home for proper ventilation.

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.

Applicant states that locating the generator to the rear of the house would require a forty (40) foot connection to the gas meter. The generator needs to be located as close to the gas meter as possible and on the same side of the residence.

(b). That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

If the variance is denied, locating the generator to the rear yard creates an unsafe situation by running a gas line over a long distance.

(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 generator will not be visible at the proposed location due to the existing heavily vegetated corner side of the lot. The closest residence is a minimum of fifty (50) feet from the subject property.

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

Applicant states that the generator is necessary due to the frequency of power outages in the area.

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

The variance requested is minimal in size and will not have a negative impact on the abutting property.

QUESTIONS BY BOARD TO STAFF:

Devarti asks if the generator is being placed in the side yard, and asks what the side yard setback regulations are.

Barrett confirms that since this property is a corner lot, the generator is being placed in the front yard, and states that the intention of current zoning regulation is to keep mechanical equipment out of front yards.

Westphal asks if this type of equipment is treated the same as an air conditioner.

Barret responds, yes.

Lewis asks if the lot next to the petitioners property is empty.

Barret confirms that it is and comments that it is owned by the petitioner.

PRESENTATION BY PETITIONER:

Jean Carlberg, 1902 Independence Blvd, Ann Arbor, Owner and Petitioner, was present to explain the application and respond to inquiries.

Boardmember Julie Weatherbee expressed support of this variance request because she believed that the neighbors of the petitioner would not be impacted in a negative way if this variance is granted.

Davarti commented that due to the proposed location of the generator, the substantial amount of vegetation on the property, and the location of the existing gas meter that he would be in support of this variance request.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

The Vice Chair noted the Board had received the following communications:

Email from Moreno, 1938 Camelot Rd, Ann Arbor; Support

Email from Van Fasaan, 1933 Camelot Rd, Ann Arbor; Support

Moved by Devarti, seconded by Daniel, Petition ZBA17-020; 1902 Independence Blvd, Variance:

Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS the following variances from Chapter 55, Section 5:54 (2)(b) Open Space to allow: A two (2) foot by four (4) foot generator to be located in the front setback. The generator will be installed eighteen (18) feet from the average front setback. The average front setback required is twenty-one (21) feet six (6) inches.

- 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:

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

On a roll call, the vote was as follows with the Vice Chair declaring the motion approved. Vote: 7-0

Variance GRANTED

Yeas: 7 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Eisenmann, Grant, and Weatherbee

Nays: 0

Absent: 2 - Chair Briere, and Daniel

- E-3** **17-1001** ZBA17-021; 904 Willow Street
Canopy Landscapes, representing property owners Ken and Patty Miller, are requesting a variance from Chapter 55 Section 5:29 in order to construct a ninety-one (91) square foot enclosed rear porch. The required

rear yard setback is twenty (20) feet. The request of nine (9) feet six (6) inches will allow the new porch to be ten (10) feet six (6) inches from the rear property line.

City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:

SUMMARY:

Canopy Landscapes, representing property owners Ken and Patty Miller, are requesting a variance from Chapter 55 Section 5:29 in order to construct a ninety-one (91) square foot enclosed rear porch. The required rear yard setback is twenty (20) feet. The request of nine (9) feet, six (6) inches will allow the new porch to be ten (10) feet, six (6) inches from the rear property line.

BACKGROUND:

The property is zoned R1D, single-family residential, which requires a twenty (20) foot rear yard setback. The lot size is three thousand, five hundred, twenty-eight (3,528) square feet in area.

DESCRIPTION:

The new addition will replace the previous porch, which was demolished due to its dilapidated condition. The new porch will not encroach any further into the rear setback than the previous porch.

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 previous covered porch was deteriorated and has already been demolished. Currently, the rear door which provides egress to the backyard is not operational as there is no way to access the rear yard. The change in elevation is significant and there is a need for a rear porch.

(b). That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

Without a variance the rear door which provides egress becomes unusable.

(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 covered porch will be seven (7) feet in depth from the back of the house and is virtually the same footprint as the previous covered porch that has already been removed. There is a vegetative buffer between the subject property and the abutting property. There will be no visual impact on the neighboring 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 home is already encroaching into the twenty (20) foot rear setback and any addition will require a variance. The lot is small and limits the homeowners from any addition or new construction to the back of the home.

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

The variance requested is minimal in size and will not have a negative impact on the abutting property.

QUESTIONS BY BOARD TO STAFF:

PRESENTATION BY PETITIONER:

Vern Moore, Canopy Landscapes, 3860 Trade Center Dr, Ann Arbor, Petitioner, was present to explain the application and respond to inquiries.

Patricia Mares Miller, 904 Willow St, Ann Arbor, Owner, was also present to explain the application respond to inquiries.

Devarti commented that although the houses in this area are built closely together, the neighbors would not be impacted negatively from the installation of this small structure. He also stated that although he raised the issue of the three season porch with the previous petitioner, he sees this as a modest and necessary replacement.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

The Vice Chair noted the Board had not received any communication in support or objection to the request.

**Moved by Westphal, seconded by DeVarti, in Petition ZBA17-021;
904 Willow Street, Variance:**

Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS the following variances from Chapter 55, Section 5:29 Area, Height and Placement regulations to allow: A ninety-one (91) square foot enclosed rear porch to be constructed ten (10) feet six (6) inches from the rear property line. The variance request is for a total of nine (9) feet six (6) inches. The porch shall be constructed per the submitted plans.

- 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:

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

On a roll call, the vote was as follows with the Vice Chair declaring the motion approved. Vote: 7-0

Variance GRANTED

Yeas: 7 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Eisenmann, Grant, and Weatherbee

Nays: 0

Absent: 2 - Chair Briere, and Daniel

E-4

17-1002

ZBA17-018; 1510 Morton Avenue

Rebecca and Norton Fogel, property owners, are requesting a variance from Chapter 104 Fences. The maximum height allowed for a fence in a residential district is eight (8) feet. Applicants request to construct a ten (10) foot tall fence in the side yard requiring a two (2) foot variance.

City of Ann Arbor Zoning Coordinator, Jon Barrett, provided the following staff report:

Summary: Rebecca and Norton Fogel are requesting a variance from Chapter 104 Fences Section 8:434 (1)(c) to allow a ten (10) foot tall, one hundred (100) percent opaque fence to be installed in the rear yard. The property is zoned R1D, single-family residential.

Background and Description:

The subject parcel is located on the south side of Morton Avenue due east of Packard Street. The property is six thousand six hundred twenty-one (6621) square feet in area and the home was built in 1927. The applicants are requesting to install four (4) eight (8) foot wide panels of ten (10) feet height and one hundred (100) percent opaque along the eastern property line within their rear yard. The fencing will be adjacent to the neighbor's porch.

The applicant states that the fence will neutralize the residual effects of lighting and noise from the neighbors screened porch.

The following requirements are excerpts from Chapter 104, Section 8:434(1)(c):

(1) Fences located in residential districts:

(c) Shall not have a height greater than eight (8) feet at locations other than those described in subsections (a) and (b).

Standards for Approval (Variance):

The Zoning Board of Appeals has all powers 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:

The Zoning Board of Appeals of the City of Ann Arbor may, after a hearing in accordance with the established procedures of the Board, in its sound discretion and in the interests of the public health, safety or welfare of the inhabitants of the community, reduce or remit the requirements of this Chapter in individual cases.

The petitioner states that allowing a ten (10) foot tall fence will not have a negative impact on the surrounding properties. The fence will allow for increased privacy for both parties involved.

QUESTIONS BY BOARD TO STAFF:

Weatherbee asked if the proposed fence would be an addition to the existing fence on the property.

Barrett responded that it would be an independent fence and it would be on the petitioner's property.

Weatherbee asked if the fence located on the neighbor's property would remain.

Barrett responded, yes.

Grant inquired about the zoning variance history of the Mortons and their neighbors.

Barrett accurately confirmed the history of zoning variances between the two properties.

Westphal inquired about lighting code and regulations regarding residential properties.

Barrett replied that lighting codes do exist and explained how they relate to the presented variance request.

Westphal asked Barrett if he recalled the previous petition that was related to the properties involved with the current petition.

Barrett stated that the previous petition was prior to his employment.

Grant asked if any properties other than the properties that the fence is between would be impacted.

Barrett answered that it is his assessment that it would just be one single fence between two properties.

Boardmember Mike Dobmeier asked if granting this variance would allow the petitioner to build a ten (10) foot tall fence on their entire property.

Barrett answered that it would be for four (4) ten (10) foot tall and eight (8) feet wide panels, creating a fence length of thirty-two (32) lineal feet.

PRESENTATION BY PETITIONER:

Rebecca and Norton Fogel, 1510 Morton Ave, Ann Arbor, Petitioner and Owner, were present to explain the application and respond to inquiries.

Eisenmann asked the petitioners to clarify where the fence they are requesting to build would begin and end.

Nortons answered that it would begin at the same point that their neighbors opaque seven (7) foot fence begins.

Devarti asked if the Morton's yard is currently fenced in.

Mortons answered, yes.

Eisenmann asked for clarification on if there would be a gap between

fences and whether or not items would collect there and become problematic.

Mortons answered that they would have access to the inside and be able to weed wack if needed.

Devarti asked Barrett if there were regulations regarding the finished and structural sides of fences and what direction the sides need to be facing when the fence is installed.

Barrett answered that there is no requirement for the direction for finished or structural sides of fences to face, however, he encourages property owners to have the structural side of the fence on the inside.

Westphal asked if the requested fence would be needed if the type of lighting on the neighboring property was different.

Mortons responded that there are many reasons for installing the fence and the lighting is one of them.

Boardmember Lewis asked if porch on the adjacent property has screened in or glass windows.

Mortons answered that it has screened in windows.

Lewis also inquired if the fence would be built on the exact property line.

Mortons answered no.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

The Vice Chair noted the Board had received the following communications:

*Email from Ayers, 1508 Morton Ave, Ann Arbor; Opposed
Email from Florey, 1507 Morton Ave, Ann Arbor; Support
Email From Shaefer, 1512 Morton Ave, Ann Arbor; Opposed
Email From Shaefer2, 1512 Morton Ave, Ann Arbor; Opposed*

Motion Petition ZBA17-018; 1510 Morton Ave., Variance: Based on

the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby **GRANTS** the following variances from Chapter 104 Fences, Section 8:434 (1)(c):

To allow a ten (10) foot tall, one hundred (100) percent opaque fence to be installed in the rear yard. The fence is to be installed along the east property line for a total length of forty (32) feet.

After a hearing in accordance with the established procedure of the board, in its sound discretion and in the interests of the public health, safety or welfare of the inhabitants of the community, reduce or remit the requirements of this chapter in individual cases.

BOARD DISCUSSION:

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

On a roll call, the vote was as follows with the Vice Chair declaring the motion approved. Vote: 7-0

Variance GRANTED

Yeas: 7 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Eisenmann, Grant, and Weatherbee

Nays: 0

Absent: 2 - Chair Briere, and Daniel

G UNFINISHED BUSINESS

F NEW BUSINESS

H REPORTS AND COMMUNICATIONS

H-1 **17-1003** Various Correspondences to the ZBA
Recieved and Filed.

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

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

J **ADJOURNMENT**

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/VideoOnDemand.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.

Michael Dobmeier
Vice Chairperson of the Zoning Board of Appeals
kvl/