



City of Ann Arbor

Formal Minutes

Zoning Board of Appeals

301 E. Huron St.
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

Wednesday, March 22, 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 6:06 p.m.

B **ROLL CALL**

Vice Chair Dobmeier called the roll.

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

Present: 8 - Heather Lewis, David DeVarti, Kirk Westphal, Michael
Dobmeier, Michael B. Daniel, Nicole Eisenmann, Jeremy
Peters, and Todd Grant

Absent: 1 - Candice Briere

C **APPROVAL OF AGENDA**

Westphal commented that since the Board had seen Agenda item E-5 several times, he asked staff if there had been a determination of 'significant change' in the latest submission before the Board, since their laws prohibit them from taking up a substantially similar application twice.

Jon Barrett, City of Ann Arbor Zoning Coordinator, stated under Article 10, Sub-Section 6, of the ZBA Bylaws, it says the Board can determine whether or not an application meets substantially different criteria; the decision lies with the Board to take a vote on the matter.

Westphal Moved to strike Agenda Item E-5 from the Agenda. Failed for lack of second.

APPROVAL OF AGENDA

Moved by Peters, seconded by DeVarti to approve the Agenda as presented. On a voice vote, the Vice Chair declared the motion carried.

D **APPROVAL OF MINUTES**D-1 [17-0407](#) February 22, 2017 ZBA Minutes with Live Links

Postponed until the next meeting.

E **APPEALS AND HEARINGS**

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.

E-1 [17-0408](#) ZBA17-003; 716 Packard Street
David Cesarini, property owner, is requesting a variance from Chapter 47, Section 4:20(4) (c) Curb cuts and driveway approaches. The applicant is seeking a one (1) foot three (3) inch variance to allow an existing curb cut to remain as constructed. The minimum width of a driveway at the public right of way is twenty-four (24) feet; the existing curb cut is twenty-two (22) feet nine (9) inches.

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

SUMMARY:

David Cesarini, property owner, is requesting a variance from Chapter 47, Section 4:20(4) (c) Curb cuts and driveway approaches. The applicant is seeking a one (1) foot, three (3) inch variance to allow an existing curb cut to remain as constructed. The minimum width of a driveway at the public right of way is twenty-four (24) feet; the existing curb cut is twenty-two (22) feet, nine (9) inches.

BACKGROUND:

The subject parcel is zoned C1A/R Campus Business Residential district and is an irregular triangle shaped lot that totals 3,659 square feet in area. The property owner completed site and commercial building improvements in the fall of 2016 establishing the new Domino's Pizza business today.

DESCRIPTION:

The petitioner requests to allow the existing curb cut to remain in its present location and not be required to complete the expansion of an additional one (1) foot three (3) inches; to the required twenty-four (24) 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 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 if the curb cut expansion is required, the building would be exposed to vehicles accessing the site. The north side curb cut has a City owned pole sign in proximity to the right of way.

(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 due to the irregular shape (triangular) of the lot and the close proximity of the building to the right of way (reduced setback) the reduced curb cut dimension is required for safety reasons.

(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 variance will not impact 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.

As previously stated the lot is small and irregular shaped. The building entrance has steps that may be exposed to vehicles entering the site on the south side of the curb.

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

The variance of one (1) foot, three (3) inches, is a minimal request and will maximize safety on the site.

QUESTIONS BY BOARD TO STAFF:

Boardmember Todd Grant asked about the request for change.

Barrett explained that the applicant was asking for the existing conditions to remain the same and the variance request was based on leaving the exiting curb cut.

Boardmember Heather Lewis asked about the curb-cut and the lining up of the driveway, noting that it seemed significantly reduced.

Barrett explained that the curb cut needs to be 24 feet at the public right-of way and the existing curb cut is 22 feet, 9 inches, adding that the property and existing building on the site is non-conforming.

Boardmember Dave DeVarti asked if the developer showed the curb cut to be 24 feet wide on the original site plan that went for approval, and that same curb cut they are now asking for a variance on.

Barrett said, yes.

Grant asked what would happen if they moved the curb cut 1 foot closer to the pole.

Barrett responded that they would just see it revellantly 1 foot to the pole.

Boardmember Kirk Westphal asked if larger trucks are allowed to come westbound into the parking lot and if so, would they be clipping the pole.

Barrett commented that he believed the delivery trucks are of smaller size and not full-size semi-trucks.

Peters asked if the pole could be re-located to another location on the site.

Barrett said the pole could be re-located.

Eisenmann asked if the City's Engineering Department had concerns with the existing curbcut?

Barrett said he had not received any concerns from them.

PRESENTATION BY PETITIONER:

David Cesarini, 25 Jackson Industrial Drive, Ann Arbor, property owner was present to explain the proposed project and ZBA request. He stressed the safety of the pedestrians on this corner location.

Matthew Zaia, 716 Packard Street, Ann Arbor, was also available to respond to enquiries.

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 Daniel, in Petition ZBA17-003; 716 Packard Street, Chapter 47 (Streets) Variance: The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.

a) The variance requested is in harmony with the general purpose and intent of the requirements of this Chapter.

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: 6-2

Variance GRANTED

Yeas: 6 - Lewis, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Peters, and Grant

Nays: 2 - DeVarti, and Eisenmann

Absent: 1 - Chair Briere

- E-2** [17-0409](#) ZBA17-004; 408 Wilder Place
Lindsay and Charles Christmas, property owners, are requesting the following: a one (1) foot variance from the five (5) foot side setback required by Chapter 55 Section 5:28; a one (1) foot variance from Chapter 55 Section 5:59 (c) for the construction of a carport within the side setback; and a three (3) foot four (4) inch variance from Chapter 55 Section 5:57 to allow a new front porch to encroach into the twenty-three (23) foot three (3) inch average front setback.

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

SUMMARY:

Lindsay and Charles Christmas are requesting three variances from Chapter 55 Zoning. The requests are as follows:

- 1. A variance from Section 5:28 (R1C Single-Family) of one (1) foot from the required side setback of five (5) feet.*
- 2. A variance from Section 5:59 Accessory Buildings of one (1) foot from the required side setback of 3 feet for the proposed detached carport.*
- 3. A variance from Section 5:57 Average existing front setback line of three (3) feet four (4) inches from the averaged front setback twenty-three (23) feet three (3) inches.*

Description and Discussion:

The subject parcel is a 4,791 square foot lot and zoned R4C but reverts to the R1C single-family district as it is a single-family use. The existing single-family home was built in 1940 and currently conforms to the district setback requirements.

The request is discussed in detail below:

The modifications will convert the home from a two (2) bedroom, one (1) bath, one thousand twenty (1,020) square foot, two (2) story structure to a three (3) bedroom, two and a half (2.5) bath, one thousand, seven hundred ninety-five (1,795) square foot residence. The second story will contain a master bedroom and master bathroom. The existing four-season room will be demolished and converted to a finished basement and a new two (2) story above. An unenclosed detached carport on the north side of the property is proposed, with an attached shed for the storage of lawn equipment and outdoor items and a front porch extending twenty-two (22) feet in length and six (6) feet in depth.

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 shape of the parcel is unique because it narrows significantly at the rear portion of the lot. The applicant also states that the lot has sloping topography. The home was built in 1940, prior to the zoning regulations being adopted.

(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 applicant states that it is their intention to reside at the property long term and the additions are required for their growing family.

(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 variances requested are minimal and will not have an impact on the

adjacent properties due in part to the shape of the lots and the positioning of the homes. The front setback variance is being requested because of the construction of a front porch. The front porch will complete the architectural design of the home.

(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 1940 prior to the existing zoning regulations, which were established in the 1960's, thus creating a practical hardship that was not self imposed.

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

If the three variances are granted the impact will be minimal and will address a safety issue arising from the current driveway placement and vehicular traffic. Currently, the driveway is located in a blind spot for the owners and moving it to the other side of the property will provide better visibility when backing onto the public right-of-way.

PRESENTATION BY PETITIONER:

Lindsay and Charles Christmas, 408 Wilder Place, Ann Arbor, property owners were present to respond to enquiries.

Paul Bertin, 23169 Farmington Road, Farmington, Architect, was also present to explain the project.

PUBLIC HEARING:

Brad Moore, 2232 S Main Street, # 406, Ann Arbor, Architect in Ann Arbor, said he is in full support of this project and felt it was wonderful to have residents making investments into these homes, without compromising or negatively affecting the neighborhood.

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 John Zainea, 410 Wilder Place; Support

Email from Cushman-Lagerstrom, CPA, 407 Wilder Place; Support

Move by Peters, seconded by DeVarti, in Petition ZBA17-004; 408 Wilder Place -- Variance 1):

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 5:28, Section 5:59 (c) and Section 5:57 to allow:

- 1) A one (1) foot variance to allow the left rear corner of the residence to encroach into the five (5) foot side setback**
 - 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.

Moved by DeVarti, seconded by Lewis, to amend motion to read:

- 1) A two (2) foot variance to allow the left rear corner of the residence as shown in the submitted plans, to encroach into the five (5) foot side setback.**

VOTE ON AMENDMENT:

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

AMENDMENT APPROVED

Yeas: 7 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, and Peters

Nays: 1 - Grant

Absent: 1 - Chair Briere

BOARD DISCUSSION:

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

VOTE ON MAIN MOTION FOR VARIANCE 1):

On a roll call, the vote was as follows, with the Vice Chair declaring the motion approved. Vote 8-0

AMENDED VARIANCE GRANTED

Yeas: 8 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

Nays: 0

Absent: 1 - Chair Briere

BOARD DISCUSSION:

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

Move by DeVarti, seconded by Westphal, in Petition ZBA17-004; 408 Wilder Place -- Variance 2):

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 5:28, Section 5:59 (c) and Section 5:57 to allow:

2) A one (1) foot variance to allow a carport to encroach one (1) foot into the side setback

- 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.

VOTE ON MOTION FOR VARIANCE 2):

On a roll call, the vote was as follows, with the Vice Chair declaring the motion **DEFEATED**. Vote 4-4

VARIANCE DENIED

- Yeas:** 4 - Lewis, Councilmember Westphal, Daniel, and Grant
- Nays:** 4 - DeVarti, Vice Chair Dobmeier, Eisenmann, and Peters
- Absent:** 1 - Chair Briere

Move by DeVarti, seconded by Lewis, in Petition ZBA17-004; 408 Wilder Place -- Variance 3):

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 5:28, Section 5:59 (c) and Section 5:57 to allow:

3) A three (3) foot four (4) inch variance to allow a front porch to encroach into the twenty-three (23) foot three (3) inch average front setback.

- 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.

VOTE ON MOTION FOR VARIANCE 3):

On a roll call, the vote was as follows, with the Vice Chair declaring the motion Approved. Vote 8-0

GRANTED

Yeas: 8 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

Nays: 0

Absent: 1 - Chair Briere

- E-3** [17-0410](#) ZBA17-005; 333 East Jefferson Street
J. Bradley Moore & Associates, representing 333 E. Jefferson LLC, request an alteration to a non-conforming structure to finish attic space in an existing duplex. Currently, the duplex has seven (7) bedrooms; if approved the duplex will have twelve (12) bedrooms. The alteration will result in an additional nine hundred and thirty-five (935) square feet of living space, the footprint remains unchanged.

Jon Barrett, provided the following staff report:

SUMMARY:

J. Bradley Moore & Associates is requesting permission to alter a non-conforming structure by converting the existing attic space into living space for the existing occupants.

BACKGROUND:

The subject parcel is zoned R4C (Multiple-Family Residential District) and located on East Jefferson Street. The parcel is non-conforming for required lot size: subject parcel is 5,009 square feet; minimum lot size is 8,500 square feet. The structure was built in 1901 and is 2,284 square feet. Currently, the duplex has six (6) bedrooms; if approved the duplex will have twelve (12) bedrooms. The alteration will result in an additional nine hundred and thirty-five (935) square feet of living space, the footprint remains unchanged.

DESCRIPTION:

The petitioner would like to convert the attic to living space to provide more living accommodations to the existing tenants but will not change the footprint of the structure. The existing structure is a registered rental duplex with a total of two (2) three (3) bedroom units with twelve (12) occupants. It is zoned R4C, which permits a maximum occupancy of six unrelated people per unit according to Zoning code, for a maximum of 12 occupants in the structure. Due to the fact that the lot does not meet the minimum lot area requirement of 8,500 square feet, the existing structure is a legal non-conforming structure with two units.

As noted above, Chapter 55, Section 5:87 (1)(a) states that a nonconforming structure may be maintained or restored, but no alteration shall be made to a nonconforming structure unless one of the following conditions are met:

(a) The alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this chapter and that it will not have a detrimental effect on neighboring property.

If the alteration is approved, the rental unit will have twelve (12) bedrooms and four and a half (4.5) baths. There are three (3) dormers proposed, one (1) along the west side of the home and two (2) smaller dormers along the east side of the home.

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.

Permission is being requested in order to convert existing attic space to habitable space, which will increase the number of bedrooms from six (6) to twelve (12) so every tenant will have their own bedroom. The conversion of this attic will not expand the footprint or maximum height of the structure. The multiple-family use is consistent with the surrounding uses and the additional habitable space should not have a detrimental effect on adjacent properties.

QUESTIONS BY BOARD TO STAFF:

DeVarti expressed concern that the request did not state both 331 and 333 E Jefferson since the request was for both addressed.

He asked about the need for fire escapes from the third floor bedrooms.

Barrett explained that building code and rental housing code conformity would be reviewed when construction plans are submitted.

Lewis asked if the house was in a historic district.

Barrett said no, explaining that the proposed changes would not change the footprint of the existing house, only the upper level attic space would have added dormers, to allow 6 persons in each unit, per City code.

PRESENTATION BY PETITIONER:

Bradley Moore, 2232 S Main Street, # 406 Ann Arbor, Architect for the project was present to respond to enquiries.

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:

Bernard J. Alpern, 325 E Jefferson, Ann Arbor: Support
Peter Deininger, Cappo Management, LLC, 318 E Jefferson, 422
Hamilton, 432 Hamilton, 432 S Division, 428 S Division, 426 S Division.
Ann Arbor; Support
Tom Wagner, 441 Hamilton Place, Ann Arbor; Support
Jim Kosteva, 441 Hamilton Place, Ann Arbor; Support

Moved by Peters, seconded by Daniel, Petition ZBA17-005; 333 East Jefferson Street -- 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.

BOARD DISCUSSION:

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

Moved to Amend Motion to add the following after ...per submitted plans, 'and exterior elevations'

On a roll call vote, the vote was as follows, with the Vice Chair declaring the motion approved. Vote: 5-3

AMENDMENT APPROVED

Yeas: 5 - Lewis, DeVarti, Councilmember Westphal, Eisenmann, and Peters

Nays: 3 - Vice Chair Dobmeier, Daniel, and Grant

Absent: 1 - Chair Briere

VOTE ON MAIN MOTION:

On a roll call vote, the vote was as follows, with the Vice Chair declaring the motion approved. Vote: 8-0

PERMISSION TO ALTER GRANTED

Yeas: 8 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

Nays: 0

Absent: 1 - Chair Briere

ZBA took a 5 minute recess.

- E-4** [17-0411](#) ZBA17-006; 2999 Nixon Road
Toll MI VI Limited Partnership, property owners, seek relief from Chapter 104, Section 8:434 (1)(a) and (1)(b) to allow an eight (8) foot tall, one hundred (100) percent opaque wooden fence at the North Oaks property line along the M-14 road frontage.

Jon Barrett, provided the following staff report:

SUMMARY:

Toll MI VI Limited Partnership, is requesting a variance from Chapter 104 Fences Section 8:434 (1)(a) and (1)(b) to allow an eight (8) foot tall, one hundred (100) percent opaque fence to be installed along the M-14/US-23 highway. The site is zoned R4A with conditions. One condition requires the site to be developed per the site plan as approved by City Council. The district requires a minimum of fifteen (15) foot and a maximum forty (40) foot front setback.

DESCRIPTION AND DISCUSSION:

The subject parcel is located at the northwest corner of Nixon and Dhu Varren Road intersection. It is bounded on three (3) sides by public rights-of-way. A front lot line is defined as any lot line abutting a right-of-way. The new community (North Oaks) is being developed by Toll Brothers shows thirteen (13) approved units to be located within forty (40) feet of east bound M-14 right of way. The proposed fence will be seven hundred (700) feet in length with mature Black and White Spruce landscaping to accompany the fence. The petitioner states the objective of the fence is to dampen and abate vehicle and truck noise as well as the views of traffic along M-14.

The applicant states that the property is unique because of the close proximity of the residential units to the highway. The units were positioned at their location due to the preservation of natural features in the interior of the site and the subject units were squeezed to the northern exterior of the subdivision. Additionally, these units are at an elevation of thirteen

(13) feet above the highway. The proposed fence would reduce the decibel level by 4dba according to a third-party engineering firm specializing in residential and commercial acoustics.

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

(1) Fences located in residential districts:

(a) In the required front open space shall not exceed 4 feet in height and 50% opacity

(b) Shall not exceed 6 feet in height and 80% opacity in any part, which is 25 feet behind the front setback line.

The proposed fence would reduce the decibel level by 4 dba according to a third-party engineering firm specializing in residential and commercial acoustics.

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:

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 an eight (8) foot tall fence will not have a negative impact on the surrounding communities visually or acoustically. The communities include Barclay Park, Foxfire and the commercial property Green Things Farm. The closest neighboring property will be located approximately three hundred and twenty (320) feet from the fence. Additionally, the noise study indicates that Green Things Farm will be the only property that could potentially be impacted by noise reflection.

QUESTIONS BY BOARD TO STAFF:

Westphal asked if the insulation of the fence would have an influence on

any of the trees.

Barrett said no, only brush could be removed, so not to impact the approved site plan.

Lewis asked about the location of the fence along the freeway.

Jon explained that the applicant would have to follow a survey to keep the fence on their most northerly property line and out of MDOT's right-of-way.

PRESENTATION BY PETITIONER:

Andy Brown, 28004 Center Oak Ct.# 200, Wixom, was present to respond to enquiries.

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 communications opposed to or in support of this request.

Moved by Peters, seconded Westphal, by Petition ZBA17-006; 3381 Nixon 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 the following variances from Chapter 104, Section 8:434 (1)(a) and 8:434 (1)(b)

1. To allow an eight (8) foot tall, one hundred (100) percent opaque wooden fence at the North Oaks property line along the M-14 road frontage.

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 vote, the vote was as follows, with the Vice Chair declaring the motion approved. Vote: 8-0

VARIANCE GRANTED

Yeas: 8 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

Nays: 0

Absent: 1 - Chair Briere

- E-5** [17-0412](#) ZBA17-007; 601 East Hoover Avenue
Donna K. Tope, property owner, requests a variance from Chapter 55, Section 5:24. A variance request of nineteen (19) feet eleven (11) inches to allow for an addition to an existing non-conforming residence. The property owner is proposing to remove the unenclosed covered rear porch and replace it with an enclosed addition in the same footprint. The existing rear yard setback of ten (10) feet one (1) inch will remain unchanged.

Jon Barrett, provided the following staff report:

SUMMARY:

Donna K. Tope, property owner, requests a variance from Chapter 55, Section 5:24. A variance request of nineteen (19) feet eleven (11) inches to allow for an addition to an existing non-conforming residence. The property owner is proposing to remove the unenclosed covered rear porch and replace it with an enclosed addition in the same footprint. The existing rear yard setback of ten (10) feet one (1) inch will remain unchanged.

DESCRIPTION AND DISCUSSION:

The subject parcel is a 2,265 square foot non-conforming corner lot that is currently being used as a rental property housing six occupants. The R1C district requires 7,200 square feet. The property has five bedrooms and one bathroom. The proposed addition will add a bathroom, laundry room, a sixth bedroom and a fire safety egress. The total addition will be approximately 220 square feet, 110 square feet per story.

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 structure was built in 1901, prior to the establishment of zoning laws. Once zoning was established it placed the home into its current nonconforming status. Applicant states that it has been difficult to improve the property due to its nonconforming status.

(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.

If the variance is denied, the applicant will not be able to construct the proposed addition. However, interior modifications could be permitted. Under current circumstances, the owner cannot make any additions or alterations to the existing footprint without Zoning Board of Appeals approval.

(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.

If the variance is granted, the modified structure would be of similar massing and scale as the surrounding properties. The applicant states that the addition will not have an impact on the adjacent properties. The property currently has six (6) tenants and the addition will not increase the number of occupants.

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

Due to the period of time the structure was built, zoning was not enacted and the required setbacks were not in place. However, the proposal of an addition to the structure is a self imposed hardship, and the owner could still complete interior improvements without expanding the square footage of the structure.

(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 be 220 square feet for both floors of the addition and will be ten (10) feet one (1) inch from the rear property line. The addition will include a bedroom, bathroom and improved laundry area.

QUESTIONS BY BOARD TO STAFF:

Westphal asked if there had been any contemplated exterior modifications as part of this application.

Barrett stated that he was not aware of any, deferring the question to the applicant.

PRESENTATION BY PETITIONER:

Donna Tope, 601 E Hoover, Ann Arbor, owner, was present to respond to enquiries.

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 communications opposed to or in support of this request.

Moved by Daniel, seconded by DeVarti, in Petition ZBA17-007; 601 East Hoover Avenue -- 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 5:24

1) A rear setback variance of nineteen (19) feet eleven (11) inches from the required thirty (30) feet to allow an addition to the rear of an existing residential structure.

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 vote, the vote was as follows, with the Vice Chair declaring the motion defeated. Vote: 3-5

VARIANCE DENIED

Yeas: 3 - Lewis, Daniel, and Grant

Nays: 5 - DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Eisenmann, and Peters

Absent: 1 - Chair Briere

- E-6** **17-0413** ZBA17-008; 400 East Stadium Boulevard
Ann Arbor Golf & Outing Club is requesting a twenty-eight (28) foot variance from Chapter 104 Section 8.434 (2) Fences, to allow a forty (40) foot tall netting-style fence along the north property line, fronting Stadium Boulevard.

Jon Barrett, provided the following staff report:

SUMMARY:

Ann Arbor Golf & Outing Club is requesting a variance from Chapter 104 Fences, Section 8.434(2) in order to install a forty (40) foot tall fence (netting system) along the northern property line. The fence will be approximately six hundred and fifty (650) feet in length and is adjacent to East Stadium Boulevard directly across the street from the University of

Michigan football stadium.

DESCRIPTION AND DISCUSSION:

The subject parcel is located at the southeast corner of East Stadium and Main Street intersection. It is bounded on two (2) sides by public rights-of-way. A front lot line is defined as any lot line abutting a right-of-way. The property is zoned AG Agricultural open-space district.

The new sidewalk project being installed by the City was started on November 21, 2016 and is scheduled to be completed on August 21, 2017. The approximate length of the sidewalk will be one thousand two hundred (1,200) lineal feet. This will complete the final sidewalk gap along Stadium Boulevard. Approximately one hundred and nine (109) trees six (6) inches in diameter or greater have been removed along with brush and undergrowth for the project. The estimated cost of the project when complete will be twelve (12) million dollars.

The following requirements are excerpts from Chapter 104, Section 8:434(2):

In other than residential districts, fences may be extended to twelve (12) feet in height without restriction as to solid matter or closed construction.

The proposed fence would reduce the decibel level by 4dba according to a third-party engineering firm specializing in residential and commercial acoustics.

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:

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 the forty (40) foot tall fence will not have a negative impact on the surrounding properties as the stadium directly across the street is the only property that could be affected from a visual

standpoint. The fence will improve safety for pedestrians and motorists along the corridor. Additionally, the Public Services Area is in support of this variance request.

QUESTIONS BY BOARD TO STAFF:

Lewis asked about the proposed 10 foot high cyclone fence by the City and if both of the fences would be fronting on Stadium.

Barrett explained that the City would be installing a 10-foot high cyclone fence as shown on the plan, along with the 40 foot high netting installed by the applicant, both facing Stadium Blvd.

Westphal asked if there are plans to plant trees to screen the netting. He also asked if there were elevation plans when driving by.

Barrett explained that all the trees that had been along this site, had been removed by the City in order for the sidewalk project to be completed.

DeVarti asked if the netting would be located behind the retaining wall that is along the right-of-way.

Barrett said yes.

PRESENTATION BY PETITIONER:

Mike Rein, along with several other members from Golf and Outing, 400 E Stadium Blvd., Ann Arbor, were present to respond to enquiries.

Tom Bourque and Dave Kreiger were also present.

PUBLIC HEARING:

Tom Bourque, Golf and Outing, explained that they did not want to do this project but this is what they have to do to make it safe so balls are not flying out into the street.

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 communications opposed to or in support of this request.

Moved by Peters, seconded by Kirk, in Petition ZBA17-008; 400 East Stadium 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 104 Fences, Section 8:434 (2)

To allow a forty (40) foot tall, netting-style fence, along the north property line, fronting Stadium Boulevard.

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 vote, the vote was as follows, with the Vice Chair declaring the motion approved. Vote: 8-0

VARIANCE GRANTED

Yeas: 8 - Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, Peters, and Grant

Nays: 0

Absent: 1 - Chair Briere

F UNFINISHED BUSINESS

None

G NEW BUSINESS

None

H REPORTS AND COMMUNICATIONS

[17-0414](#) Various Correspondences to the ZBA

Received and Filed

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

None

J ADJOURNMENT

Moved by Peters, seconded by Westphal, that the meeting be Adjourned at 10:09 p.m. On a voice vote, the Vice Chair declared the motion carried.

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.

Candice Briere
Chairperson of the Zoning Board of Appeals