



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, August 23, 2017

6:00 PM

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

A **CALL TO ORDER**

Chair Briere called the meeting to order at 6:04 p.m.

B **ROLL CALL**

Chair Briere called the roll.

Present: 8 - Candice Briere, Heather Lewis, David DeVarti, Kirk Westphal, Michael Dobmeier, Michael B. Daniel, Todd Grant, and Julie Weatherbee

Absent: 1 - Nicole Eisenmann

C **APPROVAL OF AGENDA**

Approved unanimously as presented.

D **APPROVAL OF MINUTES**

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

Approved by the Board and forwarded to the City Council.

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

Approved by the Board and forwarded to the City Council.

D-3 [17-1174](#) Zoning Board Appeals Minutes of July 26, 2017

Approved by the Board as Amended and forwarded to the City Council.

E **HEARING AND APPEALS**

Chair Briere noted that Nicole Eisenmann recused herself from the meeting. Briere explained the following:

During the Planning Commission public hearing regarding the site plan, Eisenmann addressed the Planning Commission regarding aspects of the site plan. After discussion with the City Attorney's Office, she is recusing herself from the consideration of the variance for 1140 Broadway, consistent with the ZBA Bylaws regarding apparent conflict of interest. Under the Bylaws, she would normally disclose this apparent conflict and then leave the meeting during the deliberation. As this is the only item for consideration on the agenda this evening, she will not be in attendance at tonight's meeting.

17-1173 ZBA17-025; 1140 Broadway Street
Morningside Lower Town, LLC property owners for 1140 Broadway Street are requesting a variance from Chapter 59 Off-Street Parking Section 5:167. The ordinance requires one (1) parking space per residential dwelling unit for a total of six hundred twenty (620) spaces. The petition seeks to reduce the required parking to .9 spaces per unit for a total of five hundred fifty-eight (558) spaces. A variance is not being requested for the retail parking portion of the development.

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

SUMMARY:

Morningside Lower Town, LLC property owners for 1140 Broadway Street are requesting a variance from Chapter 59 Off-Street Parking Section 5:167. The ordinance requires one (1) parking space per residential dwelling unit for a total of six hundred twenty (620) spaces. The petition seeks to reduce the required parking to .9 spaces per unit for a total of five hundred fifty-eight (558) spaces. A variance is not being requested for the retail parking portion of the development.

DESCRIPTION:

The subject parcel is zoned PUD (Planned Unit Development) district, however the petitioner is seeking a rezoning to C1A/R (Campus Business Residential). The vacant site contains 6.4 acres and is located at the northeast corner of Maiden Lane and Broadway Street. The developer proposes to construct 620 residential units in three (3) buildings, as well as 4400 square feet of retail space.

DISCUSSION:

The development will include three (3) buildings, two contain apartments, and a third building will be condominium units. The proposed development site will have buildings from four to eight stories, and provide parking in a structure, as well as on site along access drives.

The proposed development will provide bike storage at a rate of one per unit, is located on transit lines, and is in close proximity to job centers.

Standards for Approval- Variance

The Zoning Board of Appeals shall have the authority to interpret this chapter and may in specific cases and after public notice and hearings in accordance with Chapter 55 of this Code grant variances and exceptions to these requirements, providing such variance or exception is in harmony with the general purpose and intent of the requirements.

The Broadway Street project meets the intent of the code as 90% of the residential parking requirements are being supplied. Additionally, the development will meet the commercial parking requirements.

The proposed development is in harmony with walkability and transit orientation. The site is located in close proximity to the major employment centers of the University of Michigan Health System and the central business district. The site also is within walking distance of more than one (1) dozen parks and recreational opportunities.

The site will benefit from several alternatives to vehicular transportation. Those transportation choices include bicycling, City bus (AATA), commuter rail (Amtrak), ride and bike sharing programs.

QUESTIONS BY BOARD TO STAFF:

Boardmember Mike Daniel inquired about the status of Morningside's rezoning request.

Barrett answered that the request has not been approved by City Council to date.

City Planner Alexis DiLeo added that the City Planning Commission has recommended the rezoning request for approval by City Council.

Boardmember Dave DeVarti inquired about alternatives to applying for a zoning variance with a site plan.

DiLeo answered that without a site plan, an area plan would be needed, and in order to pull permits a site plan is needed.

DeVarti inquired about the parking requirements of other zoning areas.

DiLeo responded that all commercial areas require one space per dwelling unit for residential purposes.

DeVarti inquired about the previous zoning of the 1140 Broadway site.

DiLeo answered O (Office), R4 (Multiple Family Dwelling), and C2 (Central Business/Business Service).

DeVarti inquired about the parking requirements of the current zoning of the 1140 Broadway site as they compare to the parking requirements of the site's previous zoning.

DiLeo answered that the average parking requirements of the previous zoning areas combined are comparable to the current zoning.

DeVarti inquired about parking issues being resolved as part of a Planned Unit Development (PUD) proposal.

DiLeo answered yes, a PUD allows one to customize their parking.

DeVarti inquired about the project needing to come before the ZBA if the project was a PUD proposal.

DiLeo answered, no.

Boardmember Todd Grant inquired about the number of tenants and the number of bedrooms that the proposed development would have.

Daniel inquired about parking spaces on the access roads in the development.

DiLeo answered, the access roads have parallel and perpendicular parking and those parking spots are included in the total parking offered.

Boardmember Kirk Westphal requested clarification on the nature of the requested variance as it relates to other variances that have come before the ZBA.

Barrett responded, that this requested variance needs to meet the spirit, harmony, and intent of the code. He added, when variances are requested from chapter 55, the zoning chapter, the petitioner has to meet one of the five criteria, Chapter 104, chapter 62, and chapter 59 do not require the five criteria.

Boardmember Julie Weatherbee inquired about the street parking spaces on the 1140 Broadway site.

DiLeo responded that all of the parking spots on the site are considered private spaces.

Westphal inquired about the location of the commercial parking for this site.

DiLeo answered, the developer can regulate the commercial parking however they see fit, and she added that the public street parking can also be used for the commercial area of the development.

DeVarti asked if the requested variance is tied to the development and developer.

DiLeo responded that change of ownership would not affect the site plan or variance, stating that the plan and variance run with the land.

DeVarti inquired about the possibility of a new developer coming in with a new site plan.

DiLeo answered that it is possible. She added that she doesn't think another developer would get much more mass on the site as the site is already close to the top of the floor area allowance in the zoning district. She added that if a new developer wanted to change the use of the project that the variance would not apply.

PRESENTATION BY PETITIONER:

Ronald Mucha, representing Morningside Lowertown LLC, offered to answer any questions and introduced Julie Kroll, the Traffic Engineer working with Morningside.

Julie Kroll, Parking Engineer representing Morningside Lowertown LLC, stated that she was available to answer any questions regarding the memo she provided or parking as it related to the Broadway Site.

Daniel requested information on the size of the proposed parking garage.

Mucha answered that it is possible to create a bigger garage to accommodate more spaces and explained that they want to meet the projected need for the parking demand. He explained that he does not believe that the parking need will be as great as what the code requires.

Grant inquired about the targeted tenant of the development and the number of parking spaces that would be provided for them.

Mucha explained that there are 814 bedrooms between the three buildings. He added that about 75% of the bedrooms are studio and one bedroom units and about 25% are two and three bedroom units. He added that the targeted tenants are likely to be involved with the medical campus.

Grant inquired about the number of residents who will own a car.

Mucha answered, most of the tenants will likely own cars.

Grant explained that if the developer built an overabundance of parking spaces, that there would be no issue selling those parking spaces to non-residents. He inquired about the reason for having fewer than 814 parking spots if there are 814 dwelling units.

Mucha answered, the estimated need for parking is lower than what the zoning requires. He discussed that there are a lot of alternatives to cars available to tenants. He gave the examples of walking, biking, busing, and ride sharing.

Kroll provided information regarding parking demand, stating that in Ann Arbor, 70% of individuals are using cars to get where they need to go. She cited a Downtown Development Authority (DDA) study stating that the DDA came to a similar conclusion. She added that the developer is providing 1 bicycle parking space per unit and charging the tenants for their parking spaces.

Westphal inquired about the possibility of overbuilding parking and

leasing out the extra spaces.

Mucha responded that the development is intending to house enough parking for the tenants, not create extra spaces.

Westphal inquired about the impact of overbuilding parking.

Mucha answered, it would create additional expenses.

Westphal inquired about the number of tenants that will be affiliated with the medical centers nearby.

Mucha responded, a significant amount.

DeVarti inquired about rent prices for the development.

Mucha responded that the goal is to have units at or around one \$1,000 dollars each.

DeVarti inquired about the cost to lease a parking space.

Mucha responded that the fee is undecided.

DeVarti inquired about students parking on the street for free instead of paying to lease a parking space.

Mucha responded that he estimates that most of the tenants will not be undergraduate students, they will be mostly medical students, graduate students, attending physicians, and others.

Devarti inquired about the reasons for not choosing a PUD for the development.

Mucha answered that not choosing a PUD is not related to parking.

Daniel inquired about the retail parking on the development site.

Mucha answered, it will be adjacent to the retail spaces.

Daniel inquired about residents parking in the retail spaces.

Mucha responded that the retail area would be signed and patrolled.

Lewis asked for clarification on if a studio apartment is considered a one bedroom apartment and about the hardship faced by the applicant.

Barrett stated that the variance doesn't have to display a hardship it has to meet the spirit and intent of the code.

Lewis inquired about the developer leasing excess parking spaces.

DiLeo explained that owners are free to manage their parking as they wish.

Daniel inquired about the number of parking spaces provided to the retail portion of the development.

Mucha answered, 16 spaces.

Daniel inquired about the number of floors in the parking structure.

Mucha replied, five stories.

Daniel inquired about the coverage of the parking structure if the developer was to build six stories instead of the proposed five.

Mucha answered that the parking structure would still be enclosed by the surrounding apartment buildings if an additional story was built.

Westphal inquired about the number of parking spaces provided to the tenants.

Mucha responded that it is estimated that they will need more parking than 70% but less than what is required.

Westphal inquired about the consequences of building too little parking.

Mucha answered, parking issues exist whether or not this variance is granted, and that he believes the requested variance is reasonable.

PUBLIC HEARING:

Steve Kaplan, 406 North Divison Street, stated that he is involved with running 300 apartments in and around Ann Arbor. He discussed parking, describing that people who are not staying in Ann Arbor for a long time have cars and houses elsewhere. He added that he always has parking spaces left over when his tenants have the option to lease them.

Donna Pointer, 1660 Broadway Street, expressed dissatisfaction with the parking variance request. She also described the need that the tenants will have for cars. Pointer explained the parking issues that currently exist on Broadway street. Pointer expressed that providing parking should be the responsibility of the developer.

Bill Stull, 1314 Broadway Street, stated that the developer is asking for 62 fewer spaces than are required. Stull explained that a car is needed for buying groceries and that the developer is experiencing no hardship for this variance. He also provided alternative plans for the proposed apartments.

Laura Stowe, 1327 Broadway Street, explained that 137 people objected to major aspects of this zoning change. Stowe added that people living in the proposed apartments will need a car. She expressed that the public should not be burdened to provide parking.

Andrew Pieknic, 711 Argo Drive, explained the purpose of a zoning code. He explained that people in the area are in favor of development, not the development that is requesting the variance. Pieknic offered to find 10 people against the development for every 1 person in support of it. He asked the Board to deny the variance request.

Bill Rosemary, 1206 Broadway Street, explained his experience living without a car for thirteen years. Rosemary shared data regarding vehicle ownership and use in Ann Arbor. He explained that the neighborhoods surrounding the development are not able to absorb any additional street parking from tenants.

Tom Stulberg, 1202 Traver Street, explained his connection to the development site. He stated that it is his personal and professional opinion to deny the variance. Stulberg further explained that although people do bike and walk to the various medical centers close by, people still need cars.

Glenn Hieber, 118 Maiden Lane Court #101, explained that he was elected Precinct Delegate of the 6th Ward in 2010 and 2012, and stated that he was at the meeting to speak on behalf of his constituents. He expressed dissatisfaction with the plan for 1140 Broadway Street as a whole, stating that it does not fit in with the area.

Ray Detter, 120 North Division Street, stated that he is a downtown

resident and a member of the Downtown Citizens Advisory Council. He referenced other developments by Morningside. He expressed various concerns.

Tom Blackwell, 1640 Broadway Street, explained that he attended the meeting to support the neighbors and the concerns they had. He described the limited street spaces that surround the 1140 Broadway site and stated that additional parking in the neighborhood would be a burden on the neighbors.

Andrew Strowe, 1327 Broadway Street, requested that the parking variance be rejected. He explained that there is no way of knowing how many tenants will have vehicles at this time. He expressed concern for where the tenants will park their cars.

Shannon Tatum, 1206 Broadway Street, expressed support for the concerns of her neighbors about the variance and asked that the Board deny it.

William Vangeest, 1039 Island Drive Court, Apartment 104, discussed that he believes he is a target tenant for the development. Vangeest explained that the bus could be utilized to get groceries. He also discussed the retail in the development as a solution to tenants getting groceries. He explained further that although he has lived without a car in Ann Arbor, he still relies on his car. He discussed the usage of zipcar and other ride sharing companies. He also discussed rent prices in the new development.

Grant inquired about tenant car ownership in the Island Drive Apartment complex.

Vangeest estimated that a large amount of tenants do own cars, and added that there are tenants that do not.

Janet Cannon, 1220 Pontiac Trail, stated that she believes she is also the target tenant for the development. Cannon explained that she does rent a house with others affiliated with the various medical centers, and explained further that parking is an issue for her.

Bohuslava Jelinkova, 1541 Broadway Street, explained a conversation that she had with a nurse who described her need for a car. Jelinkova described the safety issues involved with an influx of cars on Broadway Street.

LIST OF EXHIBITS PRESENTED:

Email from Frank, 910 Spring Street, Ann Arbor, Opposed
Email from Green, 1615 Harbal Drive, Ann Arbor, Opposed
Email from Kruz, 1810 Traver Road, Ann Arbor, Opposed
Email from Lozano, 1201 Broadway Street, Ann Arbor, Opposed
Email from Rosemurgy, 1206 Broadway Street, Ann Arbor, Opposed
Email from Stowe, 1327 Broadway Street, Ann Arbor, Opposed
Email from Stoll, 1314 Broadway Street, Ann Arbor, Opposed
Email from Tull, 1632 Broadway Street, Ann Arbor, Opposed
Letter From Peelle, 807 Jones Drive, Ann Arbor, Opposed

**Moved by, Dobmeier seconded by Westphal, in Petition ZBA17-025;
1140 Broadway 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 variances and exceptions to these requirements, providing such variance or exception is in harmony with the general purpose and intent of the requirements.

The following variances from Chapter 59, Section 5:167(6) per the submitted plans:

1. To allow a reduction in required parking to .9 spaces per unit.

Board Discussion:

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

On a roll call, the vote was as follows, with the chair declaring the motion granted. Vote 5-3

Variance GRANTED

Yeas: 5 - Chair Briere, Councilmember Westphal, Vice Chair Dobmeier, Daniel, and Weatherbee

Nays: 3 - Lewis, DeVarti, and Grant

Absent: 1 - Eisenmann

F **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 petitioners property and the extent to which a proposed project may positively or negatively affect the area.

G **NEW BUSINESS**

H **UNFINISHED BUSINESS**

H-1 **17-1235** Various Communication to the ZBA

Received and Filed

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

J **AJOURNMENT**

Moved by Devarti, seconded by Westphal that the meeting be adjourned at 8:12 p.m. On a voice vote, the Chair declared the meeting unanimously adjourned.

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.

Candice Briere
Chairperson of the Zoning Board of Appeals
kvl/