



# City of Ann Arbor

301 E. Huron St.  
Ann Arbor, MI 48104  
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## Meeting Minutes Zoning Board of Appeals

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Wednesday, November 16, 2011

6:00 PM

City Hall - 301 E. Huron St. 2nd Floor

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### 1 CALL TO ORDER

*Chair Kuhnke called the meeting to order at 6:03 PM.*

### 2 ROLL CALL

*Chair Kuhnke called the roll.*

**Present:** 8 - Candice Briere, Wendy Carman, David Gregorka, Chair Carol A. Kuhnke, Sabra Briere, Erica Briggs, Alex Milshteyn, and Jason Boggs

**Absent:** 1 - Perry Zielak

### 3 APPROVAL OF AGENDA

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

### 4 APPROVAL OF MINUTES

4-a 11-1407 Zoning Board of Appeals Meeting Minutes of September 28, 2011

**A motion was made by Gregorka, seconded by Briere, that the Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.**

### 5 APPEALS AND ACTIONS

11-1213 ZBA11-017 822 Loyola Drive - Mariano Sastre is requesting one variance from Chapter 55 (Zoning) Section 5:57 (Averaging an Existing front setback line), of 1 foot 7 inches for expansion of an existing residential structure into the front setback; 26 feet 7 inches is required (Averaged Front Setback).

*Matt Kowalski gave the staff report.*

#### **SUMMARY:**

*Mariano Sastre is requesting Permission to Alter a Non-Conforming Structure and one variance from Chapter 55(Zoning) Section 5:57(Averaging an Existing Front Setback Line): a reduction of 1 foot 7 inches for expansion of an existing residential structure into the front setback; 26 feet 7 inches is the averaged front setback required (R1C requires 25 foot front setback without averaging).*

#### **DESCRIPTION:**

*The subject parcel is located at 822 Loyola Drive. The parcel is zoned R1C (Single-Family) and is located just north of Miller and east of Pomona.*

*The request is discussed in detail below:*

*The single-story house was built in 1955 and is 1,383 square feet. It is currently setback 26 feet 7 inches from the front property line. The subject parcel is 8,787 square feet and an unusually shaped corner parcel. The required minimum area for an R1C parcel is 7,200 square feet. The house is non-conforming for an encroachment into the rear setback. The petitioner is proposing to construct additions to the existing house including a new covered front porch and extensions of the living areas and garage. The proposed addition of the front porch results in the maximum encroachment into the required front open space of 1 foot 7 inches. The other additions to the house encroach 7 ½ inches.*

*Once constructed the proposed porch will be 25 feet from the front property line. Although the required front setback is 25 feet for the R1C zoning district, the averaged front setback at this location results in a required front setback of 26 feet 7 inches. The additions to the garage and living area of the house will be setback 26 feet from the front property line and will not encroach into the side setbacks.*

#### **STANDARDS FOR APPROVAL:**

*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 parcel is an unusual shaped conforming corner lot in the R1C Zoning District (required is 7,200 square feet, subject parcel is 7,999 square feet). The existing house was built in 1955 before current zoning setbacks. The house was built 26 feet 7 inches from the front setback line of Loyola. Adjacent houses in the area are built on similar sized parcels with similar front setbacks.*

*(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 variance is being requested for the addition of a covered front porch and several additions to the front of the existing house. The existing house does conform to the front and side setbacks. However, due to the unusual shape of the parcel, a rear corner of the house is located within the rear setback. As a result, there is limited room for expansion of the house in order to accomplish the goals of the homeowner.*

*(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 front variance is approved, the structure will be consistent with some houses in the neighborhood. Although the proposed porch would extend into the averaged front setback, the size and architectural design should minimize the impact to the surrounding neighborhood. The other additions proposed extend 7 inches into the*

averaged setback and should have minimal visual impact to the surrounding neighborhood. The standard setback for the R1D zone is 25 feet and the enclosed porch will extend to 25 feet. The subject parcel is located on a corner and the house adjacent on Loyola is also setback the same distance 26 feet 7 inches as the existing house.

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

The house was built in 1955 before current zoning standards were established. The parcel is an unusual shape and although the setback of the proposed addition meets the 25 foot setback requirement for the R1C District, the location of the adjacent house increases the required setback to 26 feet 7 inches.

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

The variance, if approved, will permit construction of a covered front porch and additions to the house with a maximum encroachment of 1 foot 7 inches into the required averaged setback. While the front porch will encroach the maximum of 1 foot 7 inches, the other additions will extend only 7 inches into the front setback. Due to the corner location of the parcel, unusual shape and total size of the additions, staff considers the requested variance to be minimal.

#### 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:

(a). The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.

The parcel is an unusual shape and was constructed before current zoning standards were in effect. Although the proposed additions will encroach a maximum of 1 foot 7 inches more than the existing house, the total square footage of the additions is minimal. After construction, no part of the structure will be closer than 25 feet from the front property line. The expansion will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance.

(b). The alteration will not have a detrimental effect on neighboring property

Staff does not feel that the requested variance would negatively affect any surrounding property. Although the proposed porch would extend 1 foot 7 inches, the other additions proposed extend only 7 inches into the averaged front setback. The house will remain single-story and will have no increase in height. The total size and architectural design of the new construction should minimize the impact to the surrounding neighborhood and represent a positive aesthetic upgrade to the property.

#### QUESTIONS TO STAFF BY THE BOARD:

None

Enter Carman

#### PRESENTATION BY THE PETITIONER:

*Mariano Sastre, MGS Design Builds, representing the petitioner explained the request.*

**QUESTIONS TO THE PETITIONER BY THE BOARD:**

*Gregorka asked since the request was so minor why couldn't the project be built within the existing setback.*

*Sastre responded that on the eastern appendage where the bathroom is they need to meet the minimal building requirements for the bathroom floorplan which includes a shower and basin. He said that the front living room will be bumped out with a cantilever and in order to allow the mason to do an aesthetically pleasing job on the front porch he needs the additional 1 foot, 6 inches or 7 inches. He noted that currently the garage isn't large enough to fit a car which is why they need the minor additional space in order to fit a standard car and since the owners need additional storage space he has added a mudroom.*

*Gregorka asked what the dimensions of the new garage would be and why they couldn't move the garage further back.*

*Sastre answered that from front to back it would be 22 feet, adding that the smallest size garage would be 21 feet in depth. He explained that they are trying to keep the massing of the garage to a minimal and given the presented elevations it would create hardships for them.*

**AUDIENCE PARTICIPATION:**

*None*

**BOARD DISCUSSION:**

*Kuhnke referenced correspondence to the Board in support of the project from neighbors.*

*Boggs asked if on the eastern side where the bathroom was if it would remain in the existing rear yard setback.*

*Kowalski responded, yes.*

*Gregorka asked how many houses were included in obtaining the averaging, and if staff knew what the average setbacks were across the street.*

*Kowalski answered that they had the one neighbor on the one side, and he didn't have averages for the parcels across the street.*

*Briggs commented that the lot size seems very unusual in that it is almost on a curve instead of on a traditional corner.*

*Carman expressed concern that the variance was for such a minor setback and asked the petitioner to explain why he couldn't simply slide the project further back.*

*The petitioner referenced the plans and explained the difficulties involved.*

*General discussion pursued.*

*Kuhnke said she didn't have an issue with the request.*

*Enter S. Briere.*

**A motion was made by Boggs, seconded by Milshteyn, that the Petition ZBA11-017; 822 Loyola be Approved.**

**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.**

**a) The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.**

**b) The alteration will not have a detrimental effect on neighboring property.**

**Friendly amendment made by Carman to add the words, "per submitted plans". Accepted.**

**Friendly amendment made by C. Briere to add a condition that the porch not be enclosed. Accepted.**

**On a roll call, the vote was as follows with the Chair declaring the motion carried.**

**Yeas:** 8 - Briere, Carman, Gregorka, Chair Kuhnke, Councilmember Briere, Briggs, Milshteyn, and Boggs

**Nays:** 0

**Absent:** 1 - Zielak

**11-1404**

ZBA11-019 912 Daniel Street - Dick Siegal is requesting permission to alter a non-conforming structure and one variance from Chapter 55, Section 5:57 (Averaging an Existing front setback line) of 8 feet 6 inches for the construction of a covered front porch into the front setback, 24 feet 2 inches is required (Averaged Front Setback).

*Matt Kowalski gave the staff report.*

**SUMMARY:**

*Dick Siegal is requesting two actions by the Zoning Board of Appeals to allow construction of a covered front porch in the required front open space: 1) permission to alter a non-conforming structure, and 2) a variance from Chapter 55, Section 5:57 (Averaging an Existing Front Setback Line) of 8 feet 6 inches from the averaged front setback requirement of 24 feet 2 inches.*

**DESCRIPTION:**

*The subject parcel contains a 920-square foot, single-family dwelling constructed in 1941. The parcel is zoned R2A (Two-Family) and is located on the corner of Brookridge and Daniel. The existing house is non-conforming because the required averaged front setback is 24 feet 2 inches and the existing covered front porch is setback 18 feet 3 inches from the front property line. In addition, the subject parcel is non-conforming for lot area; the required minimum lot area for R2A is 8,500 square*

feet and the subject parcel is 6,328 square feet.

The petitioner is proposing to construct a 44-square foot covered front porch addition to the front of the existing covered porch, which faces Daniel Street. The petitioner wishes to extend the existing porch deck 2 feet 7 inches closer to the front property line. The width of the porch will remain the same at 18 feet 7 inches. The porch addition will match the roofline where the existing front porch ends and provide a smooth structural transition. The porch will not be enclosed, and the roof will be supported by columns. Once constructed, the proposed porch will be 15 feet 6 inches from the front property line.

Although the required front setback is 25 feet for the R1D zoning district, the averaged front setback at this location results in a required front setback of 24 feet 2 inches. While the porch is only extending an additional 2 feet 7 inches into the required front setback, the total encroachment of the house after the addition will be 8 feet 6 inches.

#### STANDARDS FOR APPROVAL:

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 parcel is a non-conforming corner lot in the R2A Zoning District (required is 8,500 square feet, subject parcel is 6,328 square feet). The existing house was built in the 1940's before current zoning setbacks. The house was built 18 feet 3 inches from the front property line. The subject parcel is a triangular corner lot and the existing house is located in the southern half of the parcel with a significant grade change behind the rear of the house.

(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 variance is being requested for an addition to an existing covered front porch. Due to the topography of the site, the most useable part of the parcel is to the side and front of the house. If the variance is not granted, the existing porch can continue to be used and a ground level patio could be built, but not covered in the same location.

(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 approved, the structure will be consistent with some houses in the neighborhood. Although the proposed porch addition would extend farther into the averaged front setback, it is minimal in total size (44 sq ft), and will not be enclosed; this should minimize the impact to the surrounding neighborhood. The porch will not be extended any closer to the side property line or adjacent neighbors.

(d). That the conditions and circumstances on which the variance request is based

*shall not be a self imposed hardship or practical difficulty.*

*The house was built in the 1940's before current zoning standards were established. The subject parcel is a slightly triangular corner lot and the existing house is located in the southern half of the parcel with a significant grade change behind the rear of the house. As a result, the most accessible part of the parcel is the front yard and enlarged front porch will increase the usability of this area.*

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

*The variance, if approved, will permit construction of a covered front porch addition within the front setback. The unenclosed porch will have columns supporting it, but should have a minimal impact to the surrounding neighborhood. A covered front porch would be consistent with some porches in the neighborhood. Although an uncovered front patio could be built without the need for a variance, the size and encroachment of the covered front porch is minimal.*

#### *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:*

*(a). The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.*

*The parcel is an unusual triangle shape with a relatively steep slope limiting use of the rear yard. The house was constructed before current zoning standards were in effect. Although the proposed porch will encroach 2 feet 7 inches more than the existing porch, the width of the proposed porch addition will remain the same as the existing porch (18 feet 7 inches) and the expansion is modest.*

*(b). The alteration will not have a detrimental effect on neighboring property*

*Although the proposed porch will encroach more than the existing porch, it will not get any closer to the adjacent neighbor. The porch will not be enclosed and the extended*

*roof and floor should not cause a detrimental effect to the neighborhood. The increased size will enable a greater usability allowing a more active front yard, but should have a minimal impact to the surrounding neighborhood.*

#### *QUESTIONS TO STAFF BY THE BOARD:*

*Carman asked if the request would also be nonconforming for the rear and side setback.*

*Kowalski explained that the side was conforming but the rear setback would be nonconforming.*

*Carman commented that there seemed to be errors in the calculations as presented, since some were referenced in decimals and others in inches.*

*Kowalski noted that he had calculated and converted the decimals into feet and inches in his staff report and had double checked and verified the presented figures. He offered to look into the matter further if they requested.*

*PRESENTATION BY THE PETITIONER:*

*Dick Siegal, the builder representing the petitioner, explained the request and explained the hardships. He presented a list of 7 signatures from neighbors who were in favor of the project.*

*QUESTIONS TO THE PETITIONER BY THE BOARD:*

*The Board asked the petitioner for verification on measurements; how far the porch would be from the property line when it was built.*

*Siegal answered that it would be 15.5 feet or 15 feet, 6 inches.*

*General discussion pursued.*

*The Board agreed that the variance needed would be 8 feet, 8 inches from the required front setback of 24 feet, 2 inches.*

*AUDIENCE PARTICIPATION:*

*None*

*BOARD DISCUSSION:*

*Kuhnke referenced correspondence to the Board in support of the project from neighbors.*

*Carman stated that the variance was large for a small house and parcel and questioned if the variance requested is the minimum necessary to meet their needs.*

*Briggs said that while the variance is large there is a real need to make use of the porch given the small house. She felt the larger porch will not negatively affect the neighboring properties.*

*S. Briere said that her concern was that in granting the variance it would affect future setback averaging on the street.*

*General discussion pursued over setbacks in the neighborhood.*

*Kuhnke said that she didn't have an issue with the request.*

*Boggs added that he wasn't troubled with the setback issue, noting that given the small houses on this street, an open porch could be beneficial and even necessary to make the house livable. He noted that we are trying to encourage people to live in smaller homes and this need ties into that framework.*

*Milshteyn agreed adding that it could be beneficial for the needs of a growing family.*

*S. Briere asked staff what the minimal size floor plan was for this lot size and if the request would meet the minimum required.*

*Kowalski said that the minimal size floor area requirement had been removed with the recent zoning amendments.*

**A motion was made by Gregorka, seconded by Milshteyn, that the Petition ZBA11-019; 912 Daniel be Approved.**



**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.

a) The neighbors are in full support of the alteration based on the petition presented.

**BOARD DISCUSSION:**

*Carman felt that the motion should include details of what was being approved.*

*The Board noted that the motion on the variance would include such specific language.*

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

**Passed unanimously. Request granted.**

**Yeas:** 8 - Briere, Carman, Gregorka, Chair Kuhnke, Councilmember Briere, Briggs, Milshteyn, and Boggs

**Nays:** 0

**Absent:** 1 - Zielak

**A motion was made by Gregorka, seconded by Milshteyn, that the Variance ZBA11-019; 912 Daniel Street be Approved:**

Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:57 (Averaging Existing Front Setback) of 8 feet 8 inches from the required front setback of 24 feet 2 inches in order to permit building addition 15 feet 6 inches from the front property line, which extends the open porch per submitted plans, subject to the porch always remaining open, with the following finding of facts;

a. The alleged hardships are peculiar to the property and results from conditions which do not exist generally throughout the City, in that this specific property doesn't lend itself to an open space area in the rear.

b. It's on an unusual lot with a difficult terrain and setbacks.

c. The neighbors support this particular variance.

d. This porch size is a reasonable sized porch to meet the intended use.

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

**Passed unanimously. Request granted.**

**Yeas:** 8 - Briere, Carman, Gregorka, Chair Kuhnke, Councilmember Briere, Briggs, Milshteyn, and Boggs

**Nays:** 0

Absent: 1 - Zielak

**6      OLD BUSINESS**

**7      NEW BUSINESS**

**7-a    11-1406            January 2012 - June 2012 Zoning Board of Appeals Calendar Review**

**A motion was made by Gregorka, seconded by Milshteyn, that the January 2012 - June 2012 Meeting Calendar be Approved. On a voice vote, the Chair declared the motion carried.**

**Yeas:** 8 - Briere, Carman, Gregorka, Chair Kuhnke, Councilmember Briere, Briggs, Milshteyn, and Boggs

**Nays:** 0

**Absent:** 1 - Zielak

**8      REPORTS AND COMMUNICATIONS**

*BOARD DISCUSSION ON FUTURE ITEMS*

*The Board discussed plans for the December meeting and a separate working session.*

**A motion was made by Briggs, seconded by S. Briere, to hold a December ZBA working session and regular meeting, starting at 6 PM on December 7th.**

**On a voice vote, the Chair declared the motion carried.**

**COMMUNICATIONS TO THE BOARD**

*Briggs commented on an email received about the Public Notice language and that it would be a good idea for the Citizen Participation Committee to review these notices in their efforts to better communicate and receive participation from the public.*

*Board requested to be sent a copy of the notice that was sent out to the public.*

**9      AUDIENCE PARTICIPATION - (3 Minutes per Speaker)**

*None*

**10     ADJOURNMENT**

**Meeting unanimously adjourned: at 7:18 PM.**

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

**Adjourn**