



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, February 28, 2018

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 6:05 p.m.

=B **ROLL CALL**

Chair Briere called the roll.

Present: 8 - Candice Briere, David DeVarti, Kirk Westphal, Michael B. Daniel, Nicole Eisenmann, Todd Grant, Julie Weatherbee, and Charlotte Wilson

Absent: 1 - Michael Dobmeier

C **APPROVAL OF AGENDA**

Chair Briere noted that item E-6 has been removed from the agenda, she explained that the case is no longer being considered by the ZBA.

Moved by Westphal, seconded by Weatherbee, and approved unanimously with changes.

D **APPROVAL OF MINUTES**

D-1 **18-0253** Minutes of the January 24, 2018 ZBA Meeting

Attachments: 1-24-2018 ZBA Minutes .pdf

Moved by DeVarti, seconded by Westphal, and approved unanimously as presented.

Yeas: 7 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Grant, and Weatherbee

Nays: 0

Absent: 1 - Vice Chair Dobmeier

Recused: 1 - Wilson

E **HEARINGS AND APPEALS**

- E-1** **18-0247** ZBA18-001; 2398 East Stadium Boulevard
Trader Joe's, representing Lamp Post Limited, is seeking a 16 foot nine (9) inch variance from the 30 foot rear yard setback and a nine (9) foot variance from the side setback. Chapter 55 Zoning Section 5:43 Area, Height and Placement regulations require a minimum of 30 feet for structures in the C-1, Local Business District when abutting residentially zoned land. The variance will allow the installation of a ninety-eight square foot cooler at the rear of the property.

Attachments: Staff Report for ZBA18-001 2398 E Stadium Blvd with Attachments .pdf

Summary:

Don Strack, Director of Construction for Trader Joe's, representing the owners Lamp Post Limited, is seeking two variances from Chapter 55 Zoning Section 5:43 Area, Height, and Placement regulations. A 16 foot nine (9) inch variance for the rear yard setback and a nine (9) foot variance for the side yard setback is required for the installation of a 98 square foot cooler at the rear of the building of an existing Trader Joe's retail center.

Background:

The property is zoned C1, local business district, and is located on the south side of Stadium Boulevard and east of Saint Francis Drive. The zoning ordinance allows for zero side and rear yard setbacks for C1 districts, except when a property abuts residentially zoned land. The business abuts two (2) apartment complexes along Medford Road and therefore the 30 foot side and rear setbacks are applicable. The property is currently non-conforming as it does not meet the 30 foot setbacks for both the side and rear property lines.

Description:

A new 12 foot six (6) inch by seven (7) foot ten (10) inch cooler will be installed to provide additional area to an existing small stocking area.

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 applicant states that the existing receiving area is non-conforming and there is no alternative location to install the proposed cooler. The cooler is to be installed behind a sound and screening wall where it will not be visible to adjacent properties.

(b). That the alleged hardships are 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 installation of a new cooler will provide increased stocking area to an existing smaller interior area that is no longer adequate or feasible.

(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 the variance will have little impact on surrounding properties as the cooler will not create noise or produce negative visual aesthetics. The existing sound and screening barrier wall will provide a buffer for the adjacent residential 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 applicants contend that the variance is necessary as this is the only possible location for the cooler and will not interfere with the other tenants in the complex.

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

The existing area is being used as open storage for seasonal displays and extra equipment. By allowing the cooler to be installed in the proposed location would give purpose and function to the space and eliminate some outdoor storage.

Questions from Board to Staff:

None.

Presentation by Petitioner:

Eric Beaman, architect for the project representing Trader Joe's, explained that the need for a new cooler came from the manager of the store requesting additional cooling space to allow for the store to keep more stock on hand. He added that the increased storage space would allow for fewer deliveries, which would decrease the amount of delivery trucks in the parking lot. He explained an outdoor cooler is needed due to very little feasible indoor space. He described the cooler, explaining that it is nine feet tall and will not make any exhaust or noise. He explained it will take roughly three weeks for assembly and installation and that the noise during that time will be minimal due to the prefabrication of the cooler materials.

Boardmember Mike Daniel inquired where the cardboard boxes and other items stored in the area would go if the cooler would be installed.

Beaman answered that he is not involved in those store operations.

Boardmember Dave DeVarti inquired about the process for recycling pickup at the Trader Joe's location.

Beaman answered that the recycling containers are wheeled out before pick-up. He added that the new cooler would be about the same size as the blue tarped area shown in the presentation.

DeVarti added that the parking in the lot where the Trader Joe's store is has presented problems in the past and suggested a right-of-way through the adjacent parking lot.

Boardmember Julie Weatherbee inquired about noise coming from the cooler.

Beaman answered that the cooler itself will have no noise when running,

due to the thick panels that will absorb any sound from the interior fans.

Boardmember Nicole Eisenman inquired about the cooler being constructed in the location of the employee restroom.

Benman answered that due to a required exit door and a grade change the cooler cannot be built in that location

Public Hearing:

William Levak, 2125 Medford Road, Apt. 6, Ann Arbor, inquired about the height of the cooler.

Benman answered that the cooler would be nine feet tall, not able to be seen from the opposite side of the fence that exists around the back of the Trader Joe's store.

Levak expressed dissatisfaction with the proposed plans and made alternate suggestions for cooler locations. He also commented on traffic in the area.

Noting no further public speakers, the Chair closed the Public Hearing.

Moved by DeVarti, seconded by Grant in petition ZBA18-001; 2398 E Stadium Boulevard

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 5:43, Area, Height and Placement regulations) to allow:

A variance of 16 feet nine (9) inches from the rear setback and a nine (9) foot variance from the side setback , in order to install a 98 square foot cooler at the rear of the property. The cooler is to be installed 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 land or structure.

Board Discussion:

The board discussed size and location of the proposed cooler. They also discussed the impact the installation and existence the cooler would have on the surrounding areas.

On a roll call, the vote was as follows with the Chair declaring the motion denied. Vote: 4-4

Variance: DENIED

Yeas: 4 - Chair Briere, DeVarti, Councilmember Westphal, and Grant

Nays: 4 - Daniel, Eisenmann, Weatherbee, and Wilson

Absent: 1 - Vice Chair Dobmeier

E-2 **18-0248** ZBA18-002; 216 Bucholz Court
Mitch Gasche, representing property owner David Greiner, is requesting permission to alter a non-conforming structure. The applicant is seeking to widen the existing dormer at the front of the residence from the current dimension of thirteen feet in width to twenty-six feet eight (8) inches. The new construction will not encroach further into the existing front setback of six (6) feet four (4) inches.

Attachments: Staff Report for ZBA18-002 216 Bucholz Ct with Attachments .pdf

Summary:

Mitch Gasche, representing property owner David Greiner, is requesting permission to alter a non-conforming structure. The applicant is seeking to widen the existing dormer at the front of the residence from the current dimension of 13 feet in width to 26 feet eight (8) inches. The new construction will not encroach further into the existing front setback of six

(6) feet four (4) inches.

Background:

The subject parcel is zoned R1D (single-family) and is located west of North Seventh Street and West Park. The existing two (2) bedroom home consists of approximately 925 square feet and is situated on a lot containing 3,441 square feet. The home was built in 1910 and is six (6) feet three (3) inches from the front property line.

Description:

The lot is non-conforming as it does not meet the 5,000 square foot minimum lot size for the R1D district. Additionally, the structure is non-conforming as it does not meet the district front setback of 25 feet and the average front setback established from the adjacent properties. The applicants are requesting permission to alter the non-conforming structure in order to construct a new front porch with a dormer addition above that will contain a third bedroom on the second floor. The existing porch and dormer are thirteen feet in width and the new construction will increase the width to 26 feet eight (8) inches, however, the addition will not encroach further into the existing setback. The depth of the porch will be eight (8) feet eight (8) inches for a total of approximately 231 square feet. 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:

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 to increase the width of the front porch to allow for second story improvements to an existing non-conforming structure. The new construction will not encroach further into the front setback and will not have any negative impacts on surrounding properties.

Questions from Board to Staff:

DeVarti commented that the existing structure lines up with those around it and inquired about the front yard setback for the property.

Barrett answered that the applicant is seeking permission to alter a non-conforming structure, not a setback variance.

Presentation by Petitioner:

Mitch Gasche, representing property owner David Greiner, explained that the house was built in the early 1900's. He stated that it was determined that a considerable amount of the front of the home would need to be replaced due to age and condition of the home. He added that no changes are being made to the home in terms of footprint, and further clarified that the request is for an alteration to a non-conforming structure.

Public Hearing:

Noting no further speakers, the Chair closed the Public Hearing.

**Moved by DeVarti, seconded by Eisenmann, in petition ZBA18-002;
216 Bucholz Court**

Permission to alter a non-conforming 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 the neighboring property.

Board Discussion:

The Board discussed concern with the applicant possibly tearing down the entire home and rebuilding, it was determined that in order for that to occur, additional variances would be needed.

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

Vote: 8-0

Permission: GRANTED

Yeas: 8 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Grant, Weatherbee, and Wilson

Nays: 0

Absent: 1 - Vice Chair Dobmeier

- E-3** **18-0249** ZBA18-003; 2502 Packard Street
McKinley Incorporated, representing Packard Square LLC, is seeking a variance of fourteen feet from the front setback and a seven (7) foot height variance to allow installation of a freestanding identification sign. Chapter 61 Signs Section 5:502 Exterior Business Signs requires signs to be located a minimum of two feet behind the property line for every one (1) foot in height. The variance will allow the sign to be located twenty feet behind the property line and seventeen feet in overall height.

Attachments: Staff Report ZBA18-003 2502 Packard St with Attachments .pdf

Summary:

McKinley Inc. representing Packard Square, LLC is requesting two variances from Chapter 61 5:502(2)(b) Ground Signs to allow for a free-standing identification ground mounted sign to be located 20 feet from the property line and 17 feet in height. The code requires a 17 foot tall sign to be a minimum of 34 feet from the property line.

Background:

The subject parcel is zoned C1B (Community Convenience Center) and will be a mixed-use development with approximately 23,500 square feet of retail space, 249 apartment units and 460 parking spaces. Previously, the property applied for a sign variance in June of 2016 (ZBA16-015). That request (which was denied) was to locate a 10 foot sign two (2) feet from the property line. The new sign dimensions will be a 10 foot by eight (8) foot four (4) inch cabinet affixed to a seven (7) foot base.

Chapter 61 addresses sign height and setback requirements in the following sections:

5:502 Exterior Business Signs (2) (b) Signs not structurally attached to a

building shall be at least five feet from all property lines. Such signs shall be permitted a maximum height of one foot for each two feet the sign is set back from the nearest property line, provided that the height of any such sign shall not exceed 25 feet.

Standards for Approval - Variance

The Zoning Board of Appeals has the power granted by State law and by Section 5:517(4), Application of the Variance Power from the City of Ann Arbor Sign Ordinance; The following criteria shall apply:

(a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the city.

The petitioner states that the five (5) foot change in elevation from the right of way to the sign location inhibits visibility from the street. The sign cabinet is installed on a seven (7) foot base to assist with the change in topography.

(b) 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 the failure of the Board to grant a variance and the rights of others whose property would be affected by the allowance of the variance.

Applicant states that approval of the variance will improve visibility for residents, emergency services, shoppers and visitors to the property. The variance will not have a detrimental impact on neighboring properties.

(c) Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

Petitioner states that conditions preventing compliance with the ordinance are not self imposed but are the result of grade change. There is no possible way to erect a visible sign within the current code requirements.

Questions from Board to Staff:

None.

Presentation by Petitioner:

Jennifer Van Volkinburg, representing McKinley Incorporated, explained that McKinley Incorporated is the receiver of the site, The George, formerly known as Packard Square. She explained further that there was a sign application approved in the past but it has expired.

Boardmember Todd Grant commented on the elevation change between the sidewalk and the proposed sign location.

Eisenmann inquired about the exterior of the base of the sign, whether or not the address will be on the proposed sign, and she inquired about retail signage.

Van Volkinburg answered that the exterior of the lower part of the proposed sign will be concrete and surrounded by a berm, she explained that the address of the property will not be on the sign, and that retail signs will be on the designated retail areas.

Boardmember Westphal inquired about the need for additional signage as well as the previously approved sign.

Van Volkinburg answered that having a street level sign will provide clarity to drivers and people who are new to the community, she added that the previously approved sign was larger than the current proposed sign.

Barrett clarified that the previous sign was approved in error by previous City of Ann Arbor staff, he stated that the sign permit was never issued.

DeVarti inquired about the receivership circumstances that McKinley is in related to this application.

Jim Fink, attorney representing McKinley Incorporated explained the process of receivership as it related to this application.

DeVarti inquired about the type of rental the property is.

Van Volkinburg answered that standard leases of 12 months will be offered.

Public Hearing:

Noting no further speakers, the Chair closed the Public Hearing.

List of Exhibits Presented:

The Chair noted the Board had received the following communications:

Email from Mancherian, 1485 King George Boulevard, Ann Arbor, Opposed.

Moved by DeVarti, seconded by Grant in petition ZBA18-003; 2502 Packard Street

Chapter 61 Variance:

Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS two variances from Chapter 61, Section 5:502 (2) (b) (Ground signs) to allow a 17 foot tall sign to be installed 20 feet from the property line per submitted plan.

a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.

b) 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.

Board Discussion:

The board further discussed the sign size, location, and the signage history at the project site.

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

Vote: 8-0

Variance: GRANTED

Yeas: 8 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Grant, Weatherbee, and Wilson

Nays: 0

Absent: 1 - Vice Chair Dobmeier

E-4 **18-0250** ZBA18-004; 440 Highland Road
Rochman Design Build, representing property owners, is requesting a twenty-five foot variance from Chapter 55 Zoning Section 5:27 Area, Height and Placement Regulations, in order to construct a detached carport in the required front setback. The ordinance requires a 30 foot setback for structures in the R1B residential district.

Attachments: Staff Report for ZBA18-004 440 Highland Rd with Attachments .pdf

Summary:

Rochman Design Build, representing property owners, is requesting a twenty-five foot variance from Chapter 55 Zoning Section 5:27 Area, Height and Placement Regulations, in order to construct a detached carport in the required front setback. The ordinance requires a 30 foot setback for structures in the R1B residential district.

Background:

The property is zoned R1B, single-family residential, and is located north of Geddes Avenue. The home was built in 1920 and is approximately 2,310 square feet in size.

Description:

The applicant is seeking to construct an 18 foot by 20 foot detached carport in the front setback. The new carport will have a covered walkway connecting to a screened porch at the rear of the residence. A new single story addition will be added to the rear corner of the home on the carport side of the property. The addition, covered walkway and rear porch will all be located in the side yard and will meet the side setback requirement of five (5) 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.

The applicant states that the lot is triangular and irregular in shape. The home was built prior to current zoning regulations and has two (2) front setbacks which results in a limited building envelope. The topography of the lot is directing water towards the home which will be mitigated with the construction.

(b). That the alleged hardships are 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 project is intended to provide a safer and more useable path from the driveway to the entrance of the house that will be protected from the elements and resolve water issues at the foundation.

(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 work is concentrated at the rear of the house which serves as the side yard and "secondary" front yard. The property that will be affected the most by this addition is to the west in the cul-de-sac.

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

The existing irregular shaped lot and two (2) front setbacks were not self-imposed or created by the current property owners.

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

All proposed work is meeting the required setbacks with the exception of

the detached carport.

Questions from Board to Staff:

Chair Briere asked for clarification on the detached garage.

Barrett answered that the garage is considered detached because it does not share a load-bearing wall and is not enclosed.

Presentation by Petitioner:

Susan Arhein of Rochman Design Build, representing the property owner, provided a brief history of the development of the neighborhood and explained that the homeowners have lived in the house for over 20 years. She explained that due to the construction, age, and location of the existing garage there is a water drainage problem that will be mitigated by the new garage location. She explained that the proposed carport is designed to complement the house and that there will be concealed locations for garbage and recycling.

DeVarti inquired about how the existing garage space will be used.

Arhein answered that the area will be reconstructed into closet and basement space.

Public Hearing:

Noting no further speakers, the Chair closed the Public Hearing.

List of Exhibits Presented:

The Chair noted the Board had received the following communications:

Email from Romano, 431 Highland Road, Ann Arbor, Opposed.

Email from Schweitzer, 5 Highland Land, Ann Arbor, Support.

Email from Eckstein, (address unknown), Opposed.

**Moved by DeVarti, seconded by Eisenmann, in petition ZBA18-004;
440 Highland 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 55, Section 5:27 Area, Height and Placement regulations to allow:

An 18 foot by 20 foot detached carport in the front setback. The ordinance requires a 30 foot front setback. The detached carport will be five (5) feet from the front property line. The carport 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 Board discussed alternate options for the garage location, aging in space, the neighbor's opinions, lot size and shape, and neighborhood trends.

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

Vote: 0-8

Variance: DENIED

Yeas: 0

Nays: 8 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Grant, Weatherbee, and Wilson

Absent: 1 - Vice Chair Dobmeier

- E-5** **18-0251** ZBA18-005; 615 East Huron Street
Steve Dykstra Hobbs & Black Architects, representing property owners A.J. Capital Partners, is seeking a 22 foot 10 inch variance from the required one hundred thirty foot maximum tower diagonal. The variance will allow the construction of a new elevator shaft which will increase the building diagonal to 152 feet 10 inches. The owners are also seeking permission to alter a non-conforming structure to construct a new rooftop restaurant and lounge. The current building height is one 147 feet seven (7) inches and the maximum allowable height is 120 feet. The overall building height will not increase, but the alteration will allow for expansion of the existing rooftop conditions.

Attachments: Staff Report for ZBA18-005 615 E Huron St with Attachments .pdf

Summary:

Steve Dykstra Hobbs & Black Architects, representing property owners A.J. Capital Partners, is seeking a 22 foot 10 inch variance from the required one hundred thirty foot maximum tower diagonal. The variance will allow the construction of a new elevator shaft which will increase the building diagonal to 152 feet ten (10) inches. The owners are also seeking permission to alter a non-conforming structure to construct a new rooftop restaurant and lounge. The current building height is 147 feet seven (7) inches and the maximum allowable height is 120 feet. The overall building height will not increase, but the alteration will allow for expansion of the existing rooftop conditions.

Background:

The property is zoned D1, downtown district, and is located at the northwest corner of the East Huron Street and South State Street intersection. The current use of the property is a hotel and was built in 1970.

Description:

The applicant is proposing to construct a new elevator shaft to the east side of the building which will extend the existing non-conforming diagonal dimension of the tower to 152 feet. The maximum allowable diagonal dimension allowed by the zoning ordinance is 130 feet which was established in 2015 after the building was built. The new elevator shaft will provide accessibility to a new rooftop bar and restaurant area.

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 applicant states the diagonal requirement was added to the zoning ordinance after the subject building was constructed.

(b). That the alleged hardships are 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 contends that installing a code compliant elevator shaft to the interior of the building is not feasible.

(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 the variance will have little impact on surrounding properties as the protrusion of the elevator shaft is minimal. The elevator shaft is six (6) feet six (6) inches in width and is a small increase when considering the entire building mass.

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

The intent of the code is to achieve slender tower structures. The existing building nearly complies and the proposed addition has minimal impact.

(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 an approximate two (2) percent increase to the

existing dimension and will not be a noticeable increase in massing.

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 construct a rooftop bar with an outdoor deck area. The existing building exceeds the allowable East Huron 1 character district overall building height of 120 feet. The ordinance was amended on July 20, 2015 to reduce building heights in this downtown district from 150 feet in height. The proposed height will not exceed the height of the existing mechanical equipment rooms. The proposed addition will be oriented to the south, opposite from the neighboring properties. The existing building height will not increase.

Questions from Board to Staff:

DeVarti clarified that the existing height is of the building is taller than what code allows due to rezoning. He inquired about the current zoning of the property. He also inquired about the building next to the property.

Barrett answered that the property is zoned D1. He added that the building next to the property seeking the variance has an approved site plan under the current code.

Daniel inquired about how late people would be allowed in the outdoor space.

Barrett answered that he doesn't know the proposed hours of the outdoor space, he added that the noise ordinance is enforced by the Police Department.

Presentation by Petitioner:

Steve Dykstra, of Hobbs and Black Architects, representing the petitioner explained that the intent of the project is to provide an amenity to hotel guests and the Ann Arbor community. He added that it is not feasible to

expand any of the existing interior elevators, and described that an additional elevator would be an express elevator to the rooftop. He added that neighborhood meetings guided the design of the space. He clarified that a variance for the elevator is needed, due to the diagonal of the building slightly expanding. He added that no additional height is being added to the building.

Weatherbee referenced a letter from Ray Detter received by the Board and inquired about the neighborhood meetings.

Luke Bonner, Bonner Advisory Group, explained that five neighborhood meetings were held in order to gain insight from neighbors. He added that there will be around 30 additional parking spaces added to the area through an agreement with the Hub and another change in operations. He provided information on the noise on the ground floor cooling systems. He provided details regarding operation and setup of the lounge area, stating that the hours of the space will go until around midnight, he also added that the views from the rooftop will be into the City and not into neighborhoods.

Weatherbee inquired about the appearance of the proposed elevator.

Dykstra explained that the elevator will be neutral in color with glass element accents.

Westphal inquired about accessibility to other floors.

Dykstra explained that the proposed elevator would only go to the new amenity on the roof.

Eisenmann inquired about a lobby outside of the existing elevator.

Dykstra explained that plans for lobby construction have not been finalized.

Noting no further speakers, the Chair closed the Public Hearing.

List of Exhibits Presented:

The Chair noted the Board had received the following communications:

Email from Duquette, Sloan Plaza, Ann Arbor, Support

Email from Dunlap, (address unknown), Ann Arbor, Neutral

Email from Detter, (address unknown), Ann Arbor, Neutral

Moved by Daniel, seconded by Westphal, in petition ZBA18-005; 615 E Huron 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 5:10.20 (a) Downtown Character Overlay Districts to allow:

A variance of 22 feet ten (10) inches, in order to construct a new elevator shaft which increases the building diagonal to 152 feet 10 inches. The elevator shaft is to be built 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 land or structure.**

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 to construct a new rooftop restaurant and lounge. The construction will be built 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 Board discussed the intent of the zoning of the property, the amenities offered by the proposed elevator, and the exterior façade.

DeVarti stated for the record that communication was received from Rehberger at 413 East Huron Street, Ann Arbor, in opposition of the proposed project at 615 East Huron Street and asked that the Board review it.

On a voice vote, the vote was as follows with the Chair delcaring the motion approved.

Vote: 5-3

Permission: GRANTED

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

Nays: 3 - DeVarti, Eisenmann, and Wilson

Absent: 1 - Vice Chair Dobmeier

E-6 [18-0252](#) ZBA18-006; 2964 Hickory Lane
Charles Braham, representing property owners, is seeking a variance from Chapter 47 Streets, Section 4:20 (3) (e) Curb cuts and driveway approaches. The variance will allow the newly constructed driveway to remain in its current location.

Attachments: Staff Report for ZBA18-006 2964 Hickory Ln with Attachments .pdf

Withdrawn

F **PUBLIC HEARINGS**

None.

G **NEW BUSINESS**

None.

H **UNFINISHED BUSINESS**

None.

I **REPORTS AND COMMUNICATIONS****I-1** **18-0254** Various Communication to the ZBA

Attachments: Rendering from Petitioner of ZBA18-005.pdf, Email from Detter .pdf, Email from Dunlap .pdf, Email from Duquette .pdf, Email from Eckstein .pdf, Email from Mancherian.pdf, Email from Rehberger .pdf, Email from Romano .pdf, Email from Schweitzer .pdf, Email from Spangler received on 3-1-2018.pdf

Received and Filed

J **PUBLIC COMMENTARY - (3 Minutes Per Speaker)**

None.

K **ADJOURNMENT**

Moved by Daniel, seconded by Eisenmann that the meeting be adjourned at 8:35 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/

