



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 24, 2016

6:00 PM

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

A **CALL TO ORDER**

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

B **ROLL CALL**

Chair Milshteyn called the roll.

Staff Present: Matt Kowalski, Jon Barrett

C **APPROVAL OF AGENDA**

A motion was made by Councilmember Westphal, seconded by Buonodono, that the Agenda be approved. On a voice vote, the Chair declared the motion carried.

D **APPROVAL OF MINUTES**

16-0253 Zoning Board of Appeals Meetings of January 27, 2016

A motion was made by Councilmember Westphal, seconded by Buonodono, that the Minutes be Approved by the Board and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

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 **16-0252** ZBA15-026; 211 West Davis
Maven Development is requesting three setback variances (R1C, Section 5:28):

1. A variance of 10 feet 5 inches to allow a 14 foot 7 inch front setback; 25 feet is required.
2. A variance of 3 feet 7 inches to allow a 1 foot 5 inch front setback; 5 feet is required.
3. A variance of 25 feet to allow a 5 foot rear setback; 30 feet is required.

Matt Kowalski provided the staff report.

UPDATE

This request was postponed at the December 16, 2015 and the January 27, 2016 ZBA meetings in order for the petitioner to address concerns expressed by Board members regarding the front setback distance request. The petitioner responded by increasing the proposed setback from 1 foot 4 inches originally proposed to to 14 feet 7 inches. This setback is consistent with the front setback of the proposed condominium development immediately adjacent to the west.

Summary

Dan Williams (Maven Development) is requesting 3 variances from Chapter 55 (Zoning) Section 5:28 (R1C) in order to re-construct an existing non-conforming structure. The structure will be a single-family dwelling upon completion.

- 1) *Front yard setback variance of 10 feet 5 inches to allow a 14 foot 7 inch front setback along West Davis.*
- 2) *Side yard setback (west) variance of 3 feet 7 inches to allow a 1 foot 5 inch side setback.*
- 3) *Rear yard setback variance of 25 feet to allow a 5 foot rear setback.*

Description and Discussion

The subject 3,840 square foot building is zoned R4C, however single-family structures in the R4C zoning district are subject to the R1C zoning standards (Chapter 55, Section 5:10.8(2) (c). The subject parcel is nonconforming for lot area, subject parcel is 4,965 square feet and the minimum conforming parcel size for R1C is 7,200 square feet. The building was built in approximately 1910 and is currently vacant. The first

historical records dated 1925 indicate that the building was used for a garage to store 20 cars. Other uses after that included car storage and limited warehousing. All documented uses of the building were not permitted uses within the R1C (or R4C) residential zoning district.

The petitioner intends to use this property as a single-family home, which is a conforming use in the R4C District. In order to use the property as single-family, the petitioner would like to re-construct the majority of the existing building. The building would be re-constructed on almost the exact same footprint as the existing building with the exception of the rear and front walls.

The rear wall is currently 1 foot four inches inside the property line and will be moved to 5 feet from the rear property line. The front wall is on the property line and will be moved 14 feet 7 inches inside the front property line which is consistent with the proposed condominium building adjacent to the west.

A garage and open court yard will be incorporated into the front of the building. The garage will provide two off-street parking spaces; one parking space is required by City Code. The remaining area of the building, approximately 2,160 square feet will be converted to a home including a kitchen, living area, two bedrooms and two bathrooms.

The existing single-story building is non-conforming for three of the required four setbacks as the building occupies the majority of the square-shaped parcel. There is currently zero setback for the front (West Davis) and one foot five inch setback for the west side and one foot four inch setback for the rear. At this point, it has not been determined the exact extent of what will be replaced, however it has been determined that enough of the structure will be replaced that it will exceed the changes permitted under Chapter 55, Section 5:87 (Structure non-conformance). As such, the petitioner is required to seek variances in order to re-construct the building with a slightly modified footprint.

Standards for Approval - Variance

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

- (a). That the practical difficulties are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City.*

The structure is legal non-conforming and was constructed in 1910 before zoning regulations were adopted. It had been historically used as a garage and storage building. The structure was constructed occupying the majority of the parcel with little or no minimum setbacks to the property line. The subject parcel is non-conforming for lot size (4,965 square feet, minimum R4C lot size is 8,500 square feet) and is a relatively shallow (65 feet deep) square shape.

(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.

The existing structure is in need of restoration and replacement of many structural elements. Any re-use of the building will likely require extensive restoration and ZBA permission. The small size and shallow depth shape, limit the buildable area of the parcel.

If the variances are not granted, the petitioner could try and repair and re-use the existing walls, but would be limited to a replacement value of less than 75% of the appraised value of the structure. Any re-use of the building for a non-conforming use would require ZBA approval to allow re-establishment of a non-conforming use.

(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.

Approval of the variances will result in the re-construction of an existing non-conforming structure. The structure was constructed in 1910 before any zoning standards were established and has been an established part of the neighborhood street presence since that time. The proposed single-family use is a conforming use in the R4C district and should be less detrimental to surrounding properties than the previous non-conforming uses.

(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 building is a legal non-conforming structure and was

constructed before zoning standards were established. The existing single-story building is non-conforming for all required setbacks, except the east side, as the building occupies the majority of the parcel. The building could be demolished and a new single-family home could be constructed on the parcel.

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

The variances are being requested in order to re-construct a non-conforming structure. The structure was reduced in size slightly, to reduce the front and rear variances that are being requested. The petitioner is planning on re-using historical structural elements which necessitate a similar size to the original structure.

PRESENTATION BY PETITIONER:

Dan Williams, Maven Development, 544 Detroit Street, Ann Arbor, was available to respond to the Board's enquiries.

DeVarti asked if the neighboring condo units that will be built will also have a set back of 14 feet, 7 inches.

Williams said yes.

DeVarti asked if they will be parallel to the sidewalk or perpendicular to Main Street.

Williams said they will run parallel with the street.

DeVarti asked if the condo buildings next door and this project would flow or if there would be any jog in setback.

Williams said they would run parallel with the street as shown on the plans.

DeVarti asked what the side setback of the neighboring condo development would be.

Williams said he believed it would be 15 feet on each side of the condo development.

DeVarti said then there would be plenty of space between the buildings.

He further enquired about landscaping.

Williams explained there would be plenty of trees separating the condo development from the houses on the west and this building to the east.

DeVarti asked about the proposed floor plan, adding that he realized the interior floor plan was not under the Board's purview.

BOARD DISCUSSION:

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

Moved by DeVarti, seconded by Candice Briere, in Petition ZBA15-026; 211 West Davis 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 5:28 (R1C):

- 1) Front yard setback variance of 10 feet 5 inches to allow a 14 feet 7 inches front setback along West Davis.**
- 2) Side yard setback (west) variance of 3 feet 7 inches to allow a 1 foot 5 inch side setback.**
- 3) Rear yard setback variance of 25 feet to allow a 5 foot rear 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.**

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

Variance Granted

Yeas: 7 - Briere, Chair Milshteyn, Buonodono, Lewis, DeVarti, Councilmember Westphal, and Daniel

Nays: 0

Absent: 1 - Dobmeier

F UNFINISHED BUSINESS

G NEW BUSINESS

H REPORTS AND COMMUNICATIONS

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

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

J ADJOURNMENT

A motion was made by Buonodono, seconded by Councilmember Westphal, that the Meeting be Adjourned at 6.27 p.m. On a voice vote, the Chair declared the motion carried.

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.

Alex Milshteyn
Chairperson of the Zoning Board of Appeals

Mia Gale
Recording Secretary