



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, May 24, 2017

6:00 PM

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

A **CALL TO ORDER**

Chair Candice Briere called the meeting to order at 6:02 p.m.

B **ROLL CALL**

Chair Briere called the roll.

Staff Present:

City of Ann Arbor Zoning Coordinator, Jon Barrett

City Planner, Matt Kowalski

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

Absent: 1 - Todd Grant

C **APPROVAL OF AGENDA**

Moved by Councilmember Westphal, seconded by Mike Daniel, that the Agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.

D **APPROVAL OF MINUTES**

D-1 **17-0630** Zoning Board of Appeals Meeting Minutes of March 22, 2017

Moved by Westphal, seconded by Heather Lewis, that the Board Approve the March 22, 2017 ZBA Minutes and forwarded to the City Council. Approved Unanimously.

E **HEARINGS AND APPEALS**

Comments about a proposed project are most constructive when they relate to: (1) City Code requirements, or (2) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.

- E-1** [17-0832](#) ZBA17-017; 302 Pauline Boulevard
Lee Hollander, property owner, is requesting a variance from Chapter 55 Zoning Section 5:59 (1) (c) Accessory Buildings. The owner seeks to construct a new detached garage on the existing foundation. The zoning ordinance requires a three (3) foot setback from the rear property line. The variance request is for less than three (3) inches from the required setback, thereby allowing the new detached garage to be located a total distance of two (2) feet nine (9) inches from the rear property line.

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

Summary:

Lee Hollander, property owner, is requesting a variance from Chapter 55 Zoning Section 5:59 (1) (c) Accessory Buildings. The owner seeks to construct a new detached garage on the existing foundation. The zoning ordinance requires a three (3) foot setback from the rear property line. The variance request is for less than three (3) inches from the required setback, thereby allowing the new detached garage to be located a total distance of two (2) feet nine (9) inches from the rear property line.

Description and discussion:

The subject parcel is zoned R1D (Single-family) and the lot is 3,800 square feet in area. The new garage will be twenty (20) feet by eighteen (18) feet with two (2) stories for a total of seven hundred twenty (720) square 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 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.*

Applicant states that the foundation has been in existence for approximately one hundred (100) years and is structurally sound and can be used for the new detached garage.

(b) That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

Applicant states that the foundation is poured concrete and cannot easily be moved.

(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 variance is three (3) inches and a minimal request.

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

The parcel is unusually small (3800 square feet) and limits the applicants ability to relocate the detached garage.

(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 minimal in size and will not have a negative impact on the abutting property. There two (2) existing garages that abut one another are in close proximity to the property line and will not pose a detrimental situation.

Questions by Board to Staff:

DeVarti asked if the neighbor's garage was built up to, or on the lot line.

Barrett said he believed so.

Westphal asked if the chainlink fence was on the subject property and if it was conforming.

Barrett said the fence can go up to the property line or on it.

Presentation by Petitioner:

Lee Hollander, 302 Pauline Blvd., property owner and applicant, was present to explain the proposed project and respond to the Board's enquiries.

Public Hearing:

Noting no further speakers, the Chair closed the public hearing.

List of Exhibits Presented:

Chair Briere noted the Board had received the following communication in support of the request:

*Wendy Rampson-Gage, 305 Pauline Blvd., Ann Arbor -- In Support
**Moved by DeVarti, seconded by Dobmeier, in Petition ZBA17- 017;
302 Pauline Boulevard, for a 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 5:59 (1) (c), Accessory Buildings to allow:

- 1) A three (3) inch variance to allow a new two (2) story detached garage to be constructed two (2) feet nine (9) inches from the rear property line.**
- a) The alleged practical difficulties are peculiar to the property and result from conditions which do not exist generally throughout the City**
- b) That the practical difficulties, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.**
- c) The variance, if granted, will not significantly affect surrounding properties.**
- d) The circumstances of the variance request are not self-imposed.**
- e) The variance request is the minimum necessary to achieve**

reasonable use of the structure.

Board Discussion:

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

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

Variance GRANTED

Yeas: 8 - Chair Briere, Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, and Weatherbee

Nays: 0

Absent: 1 - Grant

E-2 [17-0833](#) ZBA17-015; 1420 East Stadium Boulevard
Quatro Construction is requesting a variance from Chapter 55 (Zoning) of 21.87 feet from the required rear setback of 30 feet for a rear setback of 8.13 feet, a variance from Chapter 47 (Streets) of 5 feet is requested to allow driveway widths of 35 feet (Maximum 30 feet) for two driveways on the site. A variance from Chapter 62 (Landscape and Screening) to reduce a portion of the Conflicting Land Use Buffer to a minimum of 8 feet.

City Planner, Matt Kowalski, provided the following staff report:

Summary:

Quatro Construction is requesting:

A variance from Chapter 55 (Zoning) of 21.87 feet from the required rear setback of 30 feet for a rear setback of 8.13 feet;

A variance from Chapter 47 (Streets) of 5 feet is requested to allow driveway widths of 35 feet (Maximum 30 feet) for two driveways on the site.

A variance from Chapter 62 (Landscape and Screening) to reduce a portion of the Conflicting Land Use Buffer to a minimum of 8 feet.

Description and Discussion:

The site is located on the southwest corner of East Stadium Boulevard

and Packard Road.

The petitioner seeks to demolish the existing 2,360 square foot gas station/convenience store building and construct a new 4,000 square foot, single-story gas station and convenience store with four gasoline dispensing pumps capable of servicing 8 cars. The gasoline pumps will be covered by a 24 foot by 95 foot building canopy. There will be 14 vehicle parking spaces provided for the convenience store, plus an additional 8 spaces for vehicles at the gas pumps. A total of 2 Class C bicycle spaces (1 bicycle hoop) will be located along the northeast side of the building and adjacent to the sidewalk leading to Packard. There are currently 4 curb cuts leading to the site, two curb cuts will be removed as a result of this project.

The site currently has two zoning designations P (Parking) and C3 (Fringe Commercial). The western approximately one third of the site is zoned P. Due to deed restrictions, this area cannot contain a structure of any type and must remain parking. As a result, the building and gas canopy must be constructed on the remaining eastern two thirds of the site which is zoned C3; no rezoning is required.

The site plan requires that several variances be granted from the Zoning Board of Appeals (ZBA). The first variance is for the driveway widths to East Stadium and Packard Road. The drives are designed five feet wider than the maximum required width in order to allow for solid waste and gasoline tanker trucks to enter the site safely and most efficiently.

A variance of 7 feet from the 15-foot wide Conflicting Land Use Buffer (CLUB) is also required along the south property line. A corner of the proposed building does encroach into the CLUB a maximum of eight feet for a total encroachment of 141 square feet. The encroachment is a triangle shape that decreases from a maximum encroachment of seven feet to zero feet, which provides the required 15 foot buffer.

A variance for the rear setback is also required. The petitioner has worked on several different designs for this site while working with staff and the neighborhood in order to minimize neighborhood impact and allow for safe and efficient vehicular and pedestrian traffic to the site. In February of 2017 the petitioner held a neighborhood meeting to discuss plan options for the site. The majority of neighborhood residents supported the current plan being considered including all required variances. Due to the unique constraints of the deed restriction for the western third of the site, neighborhood concerns, vehicle circulation, the petitioner feels the

proposed location is the best to minimize impacts to the neighborhood and light pollution from the gas pump canopy.

Standards for Approval - Chapter 47 (Streets) 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 and Chapter 47(Streets), Section 4:20(9). The following criteria shall apply:

The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.

All of the variances requested will be in harmony with the general purpose and intent of Chapter 47 because they will allow for safer access to and from the site. The modifications proposed will assist delivery vehicles as well as large emergency vehicles navigate the site efficiently and minimize potential conflicts with passenger vehicles.

The proposed drive configuration will eliminate two of the existing four curb cuts. The two new curb cuts are relocated farther from the intersection of Stadium and Packard. The proposed curb cuts will result in increased safety for the customers and pedestrians at both locations. Given the existing layout of the site and surrounding land uses, all of the requested variances are reasonable.

The City's Traffic Engineer has reviewed and supports the variance requests as proposed.

Standards for Approval - Chapter 62 (Landscape and Screening) 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 and Chapter 62, Section 5:609. The following criteria shall apply:

Upon an appeal filed to the zoning board of appeals in accordance with the procedures of Chapter 55, a variance may be granted from the strict application of the provisions of this chapter in cases involving practical

difficulties or hardships when the evidence supports that the public benefit intended to be secured by this chapter will exist with less than the required landscaping or screening.

As previously mentioned, the petitioner is proposing to construct a 4,000 square foot gas station and convenience store on a C3(Fringe Commercial) zone site. The adjacent properties are all zoned R1C, which requires a 15 foot wide conflicting land use buffer along the side(west) and the rear(south) of the parcel. The conflicting land use buffer width is met on the west (side) of the site. However, a variance is requested from Conflicting Land Use Buffer (CLUB) width requirements for the south (rear) property line buffer.

The variance for the south buffer is requested in order to reduce the required 15 foot width down to a minimum of 8 feet for a section along the north property line. The encroachment is a triangle shape that decreases from a maximum encroachment of eight feet to zero feet, which provides the required 15 foot buffer. The total encroachment into the CLUB is 141 square feet. This encroachment is offset by an additional buffer area totaling 143 square feet adjacent. City Code does allow this offset encroachment, but only for existing buildings. Since the building is new, a variance from the CLUB standard is required.

The remaining buffer areas will meet all code requirements. All required landscaping will be installed in the buffer area; variance is only for a section of the width. Although not required, the petitioner will construct a new 8 foot high fence along the south and western property lines for additional screening to the adjacent neighborhoods. Staff has received numerous letters of support from the neighborhood for the variance request and feels that the public benefits of Chapter 62 are being met if the variance is granted. The variance request was reviewed and is supported by staff responsible for landscape plan review.

Standards for Approval - Chapter 55 (Zoning) 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 site currently has two zoning designations P (Parking) and C3 (Fringe Commercial). The western approximately one third of the site is zoned P. There is also a unique deed restriction filed with the existing gas station construction, the area zoned P cannot contain a structure of any type and must remain parking until said deed restriction is released. As a result, the building and gas canopy must be constructed on the remaining eastern two thirds of the site which is zoned C3.

(b) That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

If the variance is denied, the applicant will not be able to construct the proposed building in the current location. The plan could be re-designed with the building located at the corner of the intersection and the canopy with gas pumps located in the rear. This design will place the main activity and traffic including driveways closer to the adjacent residential neighborhood to the south. While the building is not permitted to be in the 30 foot buffer, parking and drive aisles can be constructed to within 15 feet of the south property line.

(c) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.

If the variance is granted, the main vehicular traffic, noise and activity will be partially screened by the proposed building. This will contribute a more significant public benefit to the neighborhood than re-designing the site to meet code, which places the main activity and impact closer to the neighborhood. The petitioner held a neighborhood meeting to discuss plan options with the residents. The neighborhood residents have submitted numerous letter of support for the current plan.

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

As mentioned previously, a deed restriction placed in the 1950s on the property limits the area available on the site for construction of any structure. Within the available area, the required rear setback of 30 feet, and the minimum 10 foot front setback, push the building to be at the

corner and canopy and gas pumps to be located to the rear of the site. The petitioner has been working on different versions of the site plan since March 2015 and has been to Planning Commission four times and held numerous meeting with neighborhood residents. All feedback from Planning Commission and residents was directing the petitioner to the current plan.

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

The petitioner has been working on versions of the site plan since March 2015. After numerous meetings with the Planning Commission and adjacent neighbors, the current plan was developed. Given the site public feedback, site restraints, and minimal area need for safe circulation and efficiency, the requested variance is reasonable.

Questions by Board to Staff:

Westphal asked about the Deed restriction and its' time of release.

Kowalski noted that it had come about a long, long time ago, with much collaboration between the collaborating parties. He deferred the question to the applicant.

DeVarti asked if the proposed fencing on the west side would be similar to the existing fence on the eastern side.

Kowalski said it would meet code to allow visibility.

Westphal asked about the proposed lighting of the building.

Kowalski reviewed the proposed lighting, pointing out that there would not be lighting on the rear of the building.

Presentation by Petitioner:

Scott Munzel, Applicant Attorney, was present to respond to enquiries from the Board.

Richard Lawrence, owner of Circle K, was in attendance.

Todd Quatro and staff, Quatro Construction, were also present to respond to the Board's enquiries.

Public Hearing:

Lindsey McDivitt, 1419 Iroquois Place, explained her involvement and advocating for a neighborhood-friendly site plan. She spoke strongly in support for the "alternative plan" over the 'by-right' site plan. She asked for assistance in addressing continued light concerns, activity and traffic on the site, since the business is placed so close to residences. She requested the ZBA grant the variances.

Garrett Scott, 1421 Iroquios Place, also reviewed his concerns with the close proximity of the proposed Circle K business, while stressing his and support for the "alternative plan", over the 'by-right' plan. He requested that the variances be granted.

Jill Schliff, 1423 Iroquios Place, explained she lives close-by the new development and her children walk and bike to and from school daily; she asked the ZBA grant the variances in order to allow building of the "alternative plan" of Circle K.

Noting no further speakers, the Chair closed the public hearing.

List of Exhibits Presented:

Chair Briere noted the Board had received many communications in support of the request.

**Moved by DeVarti, seconded by Westphal, in Petition ZBA17-015;
1420 East Stadium Boulevard for a 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 5:46 (C3 – Fringe Commercial), rear setback:

A 21.87-foot variance to allow a new building to be constructed 8.13 feet from the rear property line.

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

and

Chapter 47(Streets) Variance:

The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.

A variance of 5 feet is requested to allow driveway widths of 35 feet (Maximum 30 feet) for two driveways on the site

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

and

Chapter 62 Variance:

Upon an appeal filed to the Zoning Board of Appeals in accordance with the procedures of Chapter 55, a variance may be granted from the strict application of the provisions of this chapter in cases involving practical difficulties or hardships when the evidence supports that the public benefit intended to be secured by this chapter will exist with less than the required landscaping or screening.

A variance of 2 feet from Chapter 62 (Landscape and Screening) to reduce a portion of the Conflicting Land Use Buffer to a minimum of 8 feet.

a) The public benefit intended to be secured by this chapter will

exist with less than the required landscaping buffer width.

Board Discussion:

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

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

Variances GRANTED

Yeas: 8 - Chair Briere, Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, and Weatherbee

Nays: 0

Absent: 1 - Grant

F NEW BUSINESS

G UNFINISHED BUSINESS

H REPORTS AND COMMUNICATIONS

[17-0834](#) Various Correspondences to the ZBA

Received and Filed

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

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

J ADJOURNMENT

Moved by Westphal, seconded by DeVarti, that the meeting be Adjourned at 7:02 p.m. On a voice vote, the Chair declared the motion carried.

The complete record of this meeting is available in video format at www.a2gov.org/ctn, or is available for a nominal fee by contacting CTN at (734) 794-6150.