



City of Ann Arbor

Formal Minutes

Zoning Board of Appeals

301 E. Huron St.
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
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Wednesday, August 24, 2016

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 6:01 p.m.

B **ROLL CALL**

Chair Briere called the roll.

Staff Present: Zoning Coordinator Jon Barrett

Present: 9 - Candice Briere, Nickolas Buonodono, Heather Lewis,
David DeVarti, Kirk Westphal, Michael Dobmeier, Michael
B. Daniel, Nicole Eisenmann, and Jeremy Peters

C **APPROVAL OF AGENDA**

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

D **SPECIAL PRESENTATIONS**

*Chair Briere presented Alex Milshteyn with a Certificate of Appreciation,
thanking him for his 6 years of service on the Zoning Board of Appeals.
Planning Manager Brett Lenart and Boardmembers thanked him for his
service.*

E **APPROVAL OF MINUTES**

E-1 **[16-1229](#)** July 27, 2016 ZBA Minutes with Live Links

**Moved by Westphal, seconded by Daniel, that the Minutes be
Approved by the Board and forwarded to the City Council. On a
voice vote, the Chair declared the motion carried.**

F **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.

- F-1** **16-1230** ZBA16-019; 716 Packard Street
David Casarini and Matthew Zaia on behalf of Faramarz Farahanchi are applying for the following variances from the City of Ann Arbor zoning ordinance:
- 1) Chapter 59, Section 5:167 Off-Street Parking, eleven spaces are required and two will be provided for a nine space variance request.
 - 2) Chapter 55, Section 5:143(c) requires a 10-foot setback. Applicant seeks a full 10-foot variance to allow for the construction of a 153 square foot attached walk-in cooler to be built to the property line.
 - 3) Chapter 62, Section 5:603 Landscape and Screening requires a 15-foot landscape buffer. Applicant proposes a 7-15 foot varying buffer width between the subject property and the abutting residential use.
 - 4) Chapter 62, Section 5:602(c) requires a 10-foot landscape buffer strip between the public right of way and the vehicle use area. Applicant seeks the full 10-foot variance from this requirement.

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

Summary:

David Cesarini and Matthew Zaia on behalf of Faramarz Farahanchi are applying for the following variances from the City of Ann Arbor zoning ordinance:

- 1) Chapter 59, Section 5:167 Off-Street Parking, eleven spaces are required and two will be provided for a nine space variance request.*
- 2) Chapter 55, Section 5:43(c) requires a 10-foot front setback. Applicant seeks a full 10-foot variance to allow for the construction of a 153 square foot attached walk-in cooler to be built to the property line.*

3) Chapter 62, Section 5:603 Landscape and Screening requires a 15-foot landscape buffer. Applicant proposes a 7-15 foot varying buffer width between the subject property and the abutting residential use.

4) Chapter 62, Section 5:602(c) requires a 10-foot landscape buffer strip between the public right of way and the vehicle use area. Applicant seeks the full 10-foot variance from this requirement.

Description:

The subject parcel is zoned C1A/R Campus Business Residential district and is an irregular triangle shaped lot which totals 3,485 square feet in area. The existing building is 1,100 square feet in size and was the former Bell's Pizza. The surrounding zoning is both C1A and C1A/R and is comprised of both residential and retail uses. The property is being presented to the City Planning Commission on August 16, 2016 for recommendation to City Council.

Discussion:

The petitioner proposes adding a 153 square foot walk-in cooler to the north side of the new restaurant. The walk-in cooler is considered a structure that is required to meet the ten foot front setback. The proposal is for a zero setback and the cooler will be built up to the property line. The cooler will be accessed directly from the interior of the building.

The applicants are proposing two parking spaces and eleven are required due to building size. Additionally, two variances involving landscaping will be required. One variance will be of varying width (7-15 feet) between the subject business and the abutting residential use. A new perennial hedge will be installed, however, due to the proximity of the two structures a fifteen foot wide buffer cannot be achieved. Lastly, the ten foot landscape buffer strip is being requested to be waived as the applicant states it cannot be installed due to the lack of property between the right of way and the parking area. However, some landscaping will be installed per the attached site plan.

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.

Applicant states that due to an irregular triangle shaped lot and the zoning ordinance applying two front setbacks the only option is to keep the building as it is and to build an addition to the only allowable area.

(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 size and shape of the lot make it extremely difficult to make improvements to the structure. The limited area and existing curb cuts limit building expansion and parking lot improvements.

(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 that the variance will have a positive effect on neighboring properties. There will be a half a million dollar investment into the property with state of the art updates and improvements. The building will undergo major elevation upgrades which will be an asset to the corridor.

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

As previously stated the lot is small and irregular shaped. The building location at the rear of the property limits the expansion possibilities. Neither of these hardships were self imposed by the applicant as these conditions have been existing for decades.

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

The variances, if approved, will permit construction of a 153 square foot walk-in cooler, parking lot and landscaping alterations which will be an overall improvement to the property and business corridor at this

centrally located intersection within the campus area.

QUESTIONS BY BOARD TO STAFF:

Westphal asked if the site currently meets our standards for storage or keeping fences in repair, noting there seems to be a lot of items being stored on the property.

Barrett referred the question to the applicant, adding that he believed the issue would be resolved with the newly proposed construction on the site.

Daniel asked how many current parking spaces the site has.

Barrett said he believes there are 5 parking spots, but they have never been approved, but have existing for a very long time; they would be considered legal nonconforming. He explained that because the applicant is proposing the new site plan, they are required to bring it up to code, which is what triggers a ZBA variance request; because the site is so constricting, they are not able to fit in the required 11 parking spaces.

PRESENTATION BY PETITIONER:

David Cesarini, 716 Packard Street, Ann Arbor and Matthew Zaia, Dominos Pizza, were present and explained the application.

DeVarti asked if the current walls would be replaced.

Zaia responded, no, they would stay, only be refinished.

DeVarti said he would like to see the walk-in cooler not go all the way to the sidewalk, noting the bicycle traffic, and public space in the area, especially on game days.

Zaia explained that the cooler would be specially made for them, and they realize the space is tight; they are proposing an architectural metal fence that would match the material of the top end of the building and wrap around so the walk-in cooler isn't facing the street and isn't visible.

Westphal asked if the property line was at the sidewalk, referencing the mortgage survey.

Zaia said, they have ordered a full property survey that would be completed within a week, and the cooler would go all the way up to the

sidewalk.

Westphal said the plans showed a gap between the walk-in cooler and the proposed fence; he said it would be greatly appreciated if the fence could be right up to the cooler.

Dobmeier asked about the proposed mechanical equipment.

Zaia said it would be located on top of the building, and would be a high energy efficient condenser, which doesn't fire as loud as traditional ones.

Dobmeier asked for verification that the dumpster would be located next to the cooler.

Zaia said yes, it would be a roll-out style with a double-door swing closing that area off from the exterior.

Dobmeier asked for the applicant to explain the presented renderings and any proposed changes from what was depicted.

Zaia reviewed the materials and changes with the ZBA.

Lewis asked if there was a reason for not tearing down the building and starting again.

Zaia said, yes, many reasons, one being that they would be required to build a smaller building. He explained that this non-traditional store site would be designated specifically for walk-in customers and delivering by bicycle.

Eisenmann asked about materials of the wrap-around enclosure and about signage.

Zaia referenced the slides showing where signage letters would be. He said the enclosure would be architectural metal, as would be on the building, going to the top of the walk-in cooler and continuing around, so it will look like it's a part of the building.

Eisenmann asked if they propose to add signage to the enclosure part of the cooler.

Zaia said, no, they will not put any signage on that area.

Eisenmann asked about the proposed ramp on the plans.

Zaia explained that they would be installing a ramp leading to their front glass door, noting that they would be using the current back door as their front doors.

DeVarti said he couldn't go with a 10-foot setback variance for the construction of the walk-in cooler, and he likes the project, but isn't able to vote in support of the application because of the lack of a setback.

Peters asked if it was possible to postpone the vote until the survey was completed.

Briere responded, yes, adding that they could discuss the matter during deliberation.

Buonodono asked where the existing outside seating would go.

Zaia said they would be included inside the building, where 4 seating spaces are proposed.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

No communications were received.

Moved by Westphal, seconded by Daniel, in Petition ZBA16-019; 716 Packard Street - Variances; Based on the following findings of fact and in accordance with the established standards for approvals, the Zoning Board of Appeals hereby GRANTS the following variances from the City of Ann Arbor zoning ordinance:

1) Chapter 59, Section 5:167 Off-Street Parking, eleven spaces are required and two will be provided for a nine space variance request.

2) Chapter 55, Section 5:143(c) requires a 10-foot setback. Applicant seeks a full 10-foot variance to allow for the construction of a 153 square foot attached walk-in cooler to be built to the property line.

3) Chapter 62, Section 5:603 Landscape and Screening requires a 15-foot landscape buffer. Applicant proposes a 7-15 foot varying

buffer width between the subject property and the abutting residential use.

4) Chapter 62, Section 5:602(c) requires a 10-foot landscape buffer strip between the public right of way and the vehicle use area. Applicant seeks the full 10-foot variance from this requirement.

(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.

(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.

(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.

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

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

BOARD DISCUSSION:

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

On a rollcall vote, the vote was as follows, with the Chair declaring the motion carried. Vote: 7-2.

Four Variances granted.

Yeas: 7 - Chair Briere, Lewis, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Eisenmann, and Peters

Nays: 2 - Buonodono, and DeVarti

G **UNFINISHED BUSINESS****H** **NEW BUSINESS****I** **REPORTS AND COMMUNICATIONS**

[16-1231](#) Various Correspondences to the ZBA

Received and Filed**J** **PUBLIC COMMENTARY - (3 Minutes per Speaker)**

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

K **ADJOURNMENT**

Moved by Westphal, seconded by Peters, that the meeting be Adjourned at 6:59 p.m. On a voice vote, the Chair declared the motion carried.

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contacting CTN at (734) 794-6150.

*Candice Briere
Chairperson of the Zoning Board of Appeals*

*Mia Gale
Recording Secretary*