



City of Ann Arbor

Formal Minutes

Zoning Board of Appeals

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Wednesday, September 28, 2016

6:00 PM

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

A **CALL TO ORDER**

Vice Chair Michael Dobmeier called the meeting to order at 6:09 p.m.

B **ROLL CALL**

Vice Chair Dobmeier called the roll.

Staff Present: Zoning Coordinator Jon Barrett

Present: 7 - Candice Briere, Heather Lewis, David DeVarti, Michael Dobmeier, Michael B. Daniel, Nicole Eisenmann, and Jeremy Peters

Absent: 2 - Nickolas Buonodono, and Kirk Westphal

C **APPROVAL OF AGENDA**

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

D **SPECIAL PRESENTATIONS**

None

E **APPROVAL OF MINUTES**

E-1 **[16-1393](#)** August 24, 2016 ZBA Minutes with Live Links

Moved by Daniel, seconded by Eisenmann to Approved the August 24, 2016 ZBA Minutes. Friendly amendment to postpone action to future ZBA meeting. On a voice vote the Vice Chair declared the motion approved.

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** **16-1390** ZBA16-21; 2003 Penncraft Court
Tim Rayburn, on behalf of property owner Matthew Steward are proposing an addition to connect the existing home to the detached garage. The project will require the following variances:

1) Chapter 55, Section 5:28, requires a 5-foot side setback for structures in the R1C zoning district. Applicant seeks a 1 foot 4-inch variance for a setback of 3 feet 8 inches.

2) Chapter 55, Section 28, requires a 25-foot front setback for structures in the R1C zoning district. Applicant seeks a 1foot 7-inch variance for a setback of 23 feet 5 inches.

Jon Barrett provided the following staff report:

DESCRIPTION:

The subject parcel is zoned R1C (Single-family) and the lot is 30,012 square feet in area, the home was built in 1941 and is 1,382 square feet in size. The subject property is located on a small cul-de-sac street just south of Arborview Boulevard.

DISCUSSION:

The petitioner would like to construct an addition from the home to the existing garage which is located more forward to the street than the home. Connecting the two structures means the garage will become part of the principal structure and will be required to meet the same setbacks as the home.

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 without the requested variances, the property owner will be required to construct a new garage and move it from its current location to meet the setback requirements. The existing garage has been in place for 25 years.

(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 without the variance a new garage would have to be constructed which would be cost prohibitive.

(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 no negative effect on neighboring properties. The new addition connecting the two structures will meet the required setbacks but the garage will not.

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

The rear yard has a steep sloped topography and the only building envelope for a garage is the front and side area where the applicant desires to leave the existing garage.

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

The variance being requested is minimal in size and due to the topography of the lot the buildable area is limited. Allowing the garage to remain in its existing location is a reasonable use of the land.

QUESTIONS BY BOARD TO STAFF:

None

PRESENTATION BY PETITIONER:

Tim Rayburn, 18501 Grass Lake Road, Manchester, applicant and contractor, was present and explained the application.

DeVarti noted the existing very minimal intrusion into the side setback which the garage has, and the new construction is totally in compliance.

LIST OF EXHIBITS PRESENTED:

Vice Chair Dobmeier noted the Board had received the following letters in support of the request:

*Otto Sellinger, 307 Doty Ave, Ann Arbor; Support
Myriam Sellinger, 307 Doty Ave, Ann Arbor; Support
Victor Sellinger, 307 Doty Ave, Ann Arbor; Support*

Moved by DeVarti, Seconded by Lewis, in Petition ZBA16-021; 2003 Penncraft Court, 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) A front yard setback variance of 1 foot 7-inch to allow a 23 feet 5 inch front setback along Penncraft Court.

2) A side yard setback variance of 1 foot 4-inch to allow a 3 feet, 8 inches setback on the side.

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 rollcall vote, the vote was as follows, with the Vice Chair declaring the motion carried. Vote: 6-1

Two Variances Granted

Yeas: 6 - Lewis, DeVarti, Vice Chair Dobmeier, Daniel, Eisenmann, and Peters

Nays: 1 - Chair Briere

Absent: 2 - Buonodono, and Councilmember Westphal

F-2 **16-1391** ZBA 16-022; 19 Ridgeway Street
Warren Samberg, property owner requests a variance from Chapter 55, Section 5:57 Averaging an existing front setback line. The west side of the property requires a 40-foot front setback. Applicant seeks a 17 foot 11-inch variance for a front setback of 22 feet 1 inch.

Jon Barrett provided the following staff report:

DESCRIPTION:

The subject parcel is zoned R1C (Single-family) and the lot is 10,802 square feet in area. The lot is considered a “through lot” due to the fact that it contains street frontage on both sides of the parcel. The lot is vacant and the applicant is proposing to construct a new single family home that is 2,793 square feet above grade and 1,987 square feet below grade. The vacant lot is in a small neighborhood north of Geddes Road just east of Nichols Arboretum. The lot has two front setbacks due to the street design being a peninsula like configuration.

DISCUSSION:

Mr. Samberg submitted a building permit (Bldg16-1676) application to the Building Inspections department on August 12, 2016 for a single family residence. The average front setback for the eastern front setback was configured and resulted in a 22-foot, 1-inch front setback requirement. The applicant applied the 22-foot, 1-inch setback to the western side of the property as well and designed his project based on those calculations. The application was under review for zoning compliance when it was determined that the western front setback is 40

feet due to the averaging of the adjacent properties (11 and 21 Ridgeway). 11 Ridgeway has an existing setback on the western side of the property of approximately 25 feet. 21 Ridgeway has an existing setback on the western side of the property of approximately 105 feet. When the two setback figures are added together and divided by the two, the resulting setback calculation is 65 feet. However, the code states, "In a residential zoning district, where the average of the established front setbacks of structures on all adjacent lots, which are located within 100 feet of either side of a lot and on which there are existing buildings, is greater than the required front setback specified in this chapter, a required setback line shall be provided on the lot equal to this greater average depth but not to exceed 40 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 the property has natural features which reduce the building envelope in which to construct the proposed home. The lot contains steep slopes and large trees which the applicant is choosing to protect. The steep topography on both sides of the lot are unique to this parcel and are unlike other properties within the City.

(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 without the variance a new single family residence will impose problems erecting the structure.

(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 granting of the variance will have a positive

impact on the adjacent property to the north. The proposed home is positioned to preserve the sunlight and natural features which the property to the north (11 Ridgeway) now enjoys. Without the variance the applicant will have to position the home closer to the east which will impact the property to the north.

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

The physical characteristics preventing this home to comply with the ordinance are the steep slopes which reduce the building envelope, the large trees that would have to be removed and the southern sunlight shining on the neighboring houses which would be blocked and be detrimental to the northern property.

(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 is designed to protect the natural of the site and the environment beyond the subject parcel.

QUESTIONS BY BOARD TO STAFF:

Daniel asked about the proposed setbacks on the north and south (side setbacks) of the property.

PRESENTATION BY PETITIONER:

Warren Samberg, 901 Berkshire Road, owner, architect, and applicant, was present and explained the application.

PUBLIC HEARING:

Linda Polley, 12 Ridgeway, Ann Arbor, spoke in opposition to the application.

Harold Borkin, 18 Ridgeway, Ann Arbor, spoke in opposition to the application.

LISTS OF EXHIBITS PRESENTED:

Vice Chair Dobmeier noted that the Board had received the following letters:

Donald and Ann Munro, 14 Ridgeway Street, Ann Arbor; Opposed
Susan Shore, 10 Ridgeway Street, Ann Arbor; Opposed
Susan and Paul Bass, 11 Ridgeway Street; Support
Gillian Feeley-Harnik, 4 Ridgeway Street; Opposed

Moved by Daniel, seconded by Eisenmann, to allow the applicant to rebut comments.

Moved by Daniel, seconded by Eisenmann, to allow the applicant to rebut comments. On a voice vote the Vice Chair declaring the motion carried.

Samburg explained he had tried to save all the existing trees on the site, therefore the variance is requested.

Moved by DeVarti, seconded by Peters, in Petition ZBA16-022; 19 Ridgeway 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 variance from Chapter 55, Section 5:57 Averaging an existing front setback line.

1) Front yard setback variance of 17 feet 11 inches to allow a front setback of 22 feet 1 inch along the western side of Ridgeway Street

- 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 petition and discussed the matter.

Moved by Peters, Seconded by DeVarti to postpone taking action.

On a roll call vote, the vote was as follows, with the Vice Chair declaring the motion defeated. Vote: 1-6

Yeas: 1 - Daniel

Nays: 6 - Chair Briere, Lewis, DeVarti, Vice Chair Dobmeier, Eisenmann, and Peters

Absent: 2 - Buonodono, and Councilmember Westphal

On a rollcall vote, the vote was as follows, with the Vice Chair declaring the motion defeated. Vote: 0-7

Variance Denied.

Yeas: 0

Nays: 7 - Chair Briere, Lewis, DeVarti, Vice Chair Dobmeier, Daniel, Eisenmann, and Peters

Absent: 2 - Buonodono, and Councilmember Westphal

F-3 **16-1392** ZBA 16-023; 1315 North Main Street
Michael Klement AIA, on behalf of property owners Gregory and Rachel Crouch, requests a variance from Chapter 55, Section 5:57 Averaging an existing front setback line. The average front setback has been established at 39 feet 10 inches. Applicant seeks a 4 foot 1-inch variance for a front setback of 35 feet 9 inches.

Jon Barrett provided the following staff report:

DESCRIPTION:

The subject parcel is zoned R4A (Multi-family) and the lot is 6,534 square feet in area. The R1C district standards will apply due to the proposed use being a single family home. The lot is currently vacant and fronts along North Main Street.

Discussion:

The petitioner would like to construct a new 32 foot by 32 foot (footprint) single family home.

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 property to the north is positioned to the rear yard and only has a 9 foot 4 inch rear setback. This home is non-conforming as it is encroaching 20 feet 8 inches into the rear setback and creates a difficulty for the subject property to meet the setbacks and therefore a variance is needed.

(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 home has been designed on a modest 32' by 32' footprint and that the living space will be stacked. The proposed home will fit within the building envelope (R1C district) except for the minimal average setback requested. The positioning of the proposed home will be 10 feet 9 inches further back from Main Street than the home directly to the south.

(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 home is designed to meet all the setback requirements except for the minimal front averaged setback. The applicant states that the project will not have a negative impact on the surrounding properties and that the neighbors have been in support of the project.

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

The vacant parcel has steep sloped topography and is relatively small in size. The grade change for the property from Main Street to the rear of the lot is approximately 19 feet. The other challenge for the subject parcel is the need to provide adequate backing and turning for vehicles in the driveway due to the fact that the property fronts on Main Street which is a

very busy thoroughfare. The averaging of setbacks reduces the building envelope and makes the lot difficult to construct a single-family residential unit.

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

The variance being requested is minimal in size and due to the topography of the lot the buildable area is limited.

QUESTIONS BY BOARD TO STAFF:

None

PRESENTATION BY PETITIONER:

Michael Klement, Architect and applicant for the project, was present and explained the application.

Greg Crouch, 1315 N. Main Street, owner, was also present and said her neighbor, Wendy was in support of the project, but she was currently in Sweden.

PUBLIC HEARING:

Paul Harrison, 1319 N, Main Street, Ann Arbor, read his letter of support to the ZBA.

Mike Mahon, 2450 James Street, Ann Arbor, Adaptive Building Solutions, builder for the project spoke in support of the project.

Bill McDonald, Building House, 1000 Mt Elliot Street, Detroit, supplier for the project of this pre-fabricated house was available and explained their product.

LISTS OF EXHIBITS PRESENTED:

Paul Harrison, 1319, 1321, 1325 N Main Street, Ann Arbor; Support

Moved by Peters, Seconded by Daniel, in Petition ZBA16-023; 1315 N Main 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 variance from Chapter 55, Section 5:57 Averaging an existing front setback

line.

1) Front yard setback variance of 4 feet 1 inch to allow a front setback of 35 feet 9 inches along North Main Street.

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 petition and discussed the matter.

On a rollcall vote, the vote was as follows, with the Vice Chair declaring the motion carried. Vote: 7-0

Variance Granted

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

Nays: 0

Absent: 2 - Buonodono, and Councilmember Westphal

G UNFINISHED BUSINESS

H NEW BUSINESS

I REPORTS AND COMMUNICATIONS

[16-1394](#) Various Correspondences to the ZBA

DeVarti requested staff to look into the possibility of having a couple of

alternates on the ZBA Board.

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 Peters, seconded by Briere, that the Meeting be Adjourned at 7.38 p.m. On a voice vote, the Vice 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.

*Candice Briere
Chairperson of the Zoning Board of Appeals*

*Mia Gale
Recording Secretary*

