



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, December 13, 2017

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**

Present: 7 - Candice Briere, David DeVarti, Kirk Westphal, Michael Dobmeier, Nicole Eisenmann, Todd Grant, and Julie Weatherbee

Absent: 2 - Heather Lewis, and Michael B. Daniel

C **APPROVAL OF AGENDA**

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

D **APPROVAL OF MINUTES**

D-1 [17-1863](#) Zoning Board of Appeals Meeting Minutes of November 15, 2017

Attachments: 11-15-2017 ZBA Minutes .pdf

Moved by DeVarti, seconded by Grant and approved unanimously by the Board and forwarded to the City Council.

E **HEARINGS AND APPEALS**

E-1 [17-1862](#) ZBA17-034; 1005 and 1015 Newport Road
Erik Jensen, representing property owners, is seeking a ten (10) foot variance from Chapter 55 Zoning Section 5:27 (Area, Height and Placement Regulations). The property is zoned R1B Single-Family, which requires a minimum lot width of seventy (70) feet. The variance request will reduce the lot width to sixty (60) feet to enable the subject property to

complete a land division.

Attachments: 1005 Newport Rd Staff Report with Attachments .pdf

SUMMARY:

Erik Jensen, representing property owners, is seeking a ten (10) foot variance from Chapter 55 Zoning Section 5:27 (Area, Height and Placement Regulations). The property is zoned R1B Single-Family, which requires a minimum lot width of seventy (70) feet. The variance request will reduce the lot width to sixty (60) feet to enable the subject property to complete a land division.

DESCRIPTION AND DISCUSSION:

The subject parcel currently contains two (2) separate dwelling units. The homes were built in 1930 and 1936.

The request is discussed in detail below:

The petitioner is proposing to divide the 120 foot wide lot into two 60 foot wide lots. All required setbacks for the R1B Zoning District will still apply. The minimum lot width for a lot in the R1B Zoning District is 70 feet. Both proposed lots will meet the minimum lot area required for the R1B District: 10,000 square feet is required and both proposed lots will be 13,110 square feet. The existing lot contains 26,266 square feet in area.

If the variance is granted, the applicant will be required to submit an application, fee and required information to be reviewed by City Staff prior to approval of the Land Division by the City of Ann Arbor. Approval of the requested variance does not indicate approval of the Land Division.

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 subject property is surrounded by 60 foot

wide lots and the proposed variance would be compatible with the surrounding neighborhood. The existing non-conforming condition (two principal dwellings on one lot) is unusual and the owners will bring the property into conformity with the current ordinance.

(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 applicant desires to make major improvements to the property by demolishing the existing deteriorated structures and replacing with new homes. In order to construct two (2) new homes compliant with the R1B district requirements the existing parcel requires a land division and the variance is needed to enable this action.

(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 variance will allow two (2) single family houses to be constructed on 60 foot wide lots. Most of the adjacent lots maintain a 60 foot wide lot width, the addition of two single-family houses in this area is consistent with adjacent land uses and general development pattern.

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

The lot was previously combined (from two platted lots into one) prior to 1965 by a previous owner. The current conditions are not self-imposed or actions conducted by the current owner.

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

The applicant states in order to make reasonable use of the land a minimal variance is necessary. The variance requested of ten (10) feet is only a 14% request. The lots that will be created will be compatible with the adjacent neighbors.

QUESTIONS BY BOARD TO STAFF:

Boardmember Dave DeVarti inquired about the future owners of the lot needing to come before the Zoning Board of Appeals due to the lot being non-conforming.

Barrett explained that any future owners would be able to build within what the code allows.

Boardmember Mike Dobmeier inquired about the adjacent lot widths.

Barrett answered that the lots in neighborhood are around 60 feet wide, and that it would be in character with the surrounding neighborhood to create two lots with a 60 foot width.

Boardmember Todd Grand inquired about the property being previously split into two separate lots, and then later put back together.

Barret answered that he was unable to confirm the history of the lot however the applicant does believe that to be the correct history.

PRESENTATION BY PETITIONER:

Erik Jensen, 5401 Jacob Road, representing the petitioner, explained that if the variance is granted, the homeowner wishes to build on one lot and sell the other to provide a home for her brother-in-law. He added that the buildings are in poor shape and it would be a benefit to the neighborhood to clean up the lots and build nicer houses.

Dobmeier inquired about the plans for the lots.

Jensen answered that one lot will be kept and built on by the current owner, and that the other lot will be sold in order to finance the new build on the lot that the owner keeps.

**Moved by DeVarti, seconded by Dobmeier in petition ZBA17-34;
1005 and 1015 Newport Rd**

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:

A variance of ten (10) feet in order to complete a land division. The R1B district requires a minimum lot width of seventy (70) feet. The variance reduces both lot widths to sixty (60) feet.

- 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.

BOAD DISCUSSION:

The Board discussed the benefits to the neighborhood if the variance is granted.

On a roll call, the vote was as follows with the Chair declaring the motion approved. Vote 7-0

Variance: GRANTED

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

Nays: 0

Absent: 2 - Lewis, and Daniel

- E-2** [17-1864](#) ZBA17-035; 302 West Hoover Ave
Joseph and Nicole Hubert, property owners, are requesting a sixteen (16) foot variance from Chapter 55 Zoning Section 5:28 (Area, Height and Placement Regulations). The use of the property is single-family residential so the setbacks for the R1C district are applied. The variance request will reduce the rear yard setback from thirty (30) feet to fourteen (14) feet.

Attachments: Staff Report for ZBA17-035 302 W Hoover with Attachments .pdf

SUMMARY:

Joseph and Nicole Hubert, property owners, are requesting a sixteen (16) foot variance from Chapter 55 Zoning Section 5:28 (Area, Height and Placement Regulations). The use of the property is single-family residential so the setbacks for the R1C district are applied. The variance request will reduce the rear yard setback from thirty (30) feet to fourteen (14) feet.

BACKGROUND:

The property is zoned R4C, multi-family, and is located west of South Main Street. The home was constructed in 1947 and is approximately 800 square feet in size. The lot is non-conforming as it is just above 3600 square feet.

DESCRIPTION:

The owners will be demolishing the existing dwelling and constructing a new single-family residence. The proposed new home will be an 1156 square foot, two (2) story contemporary residence upon completion.

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 applicants state that the lot is small (3,607 square feet) and is irregular in shape. The rear property line has a sharp angle in the northwest side of the lot. The sharp angle of the lot produces a 19 foot building envelope on the west side of the lot.

(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 applicants state that the failure to grant the variance will result in the inability to have an attached garage for their new home plans.

(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 owners of the property state that the overall impervious coverage of the proposed new site construction will be less than what is existing. The owners claim that the proposed construction will not have a negative effect on adjacent 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 request is not self-imposed.

(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 the minimum necessary to achieve the desired results for their construction needs.

QUESTIONS BY BOARD TO STAFF:

Weatherbee inquired about the size of the proposed house.

Barrett answered that the square footage of the proposed home would be 2,560 square feet.

DeVarti and Westphal inquired about considering the application differently due to the property being zoned single family.

Barrett answered that the lot size does not permit a multifamily unit.

Barrett answered that the lot size only permits a single family residence.

DeVarti commented on denying rear setback variances for rental properties, inquiring if the property could be a rental property. He inquired about individual rooms in the house being rented out.

Barrett answered that the maximum amount of tenants allowed is six.

PRESENTATION BY PETITIONER:

Joseph Hubert, 302 West Hoover Avenue, thanked the Board for their service. He explained his love for Ann Arbor and shared that he has lived in his neighborhood for 12 years. He added that he wants to stay in his home long term.

Richard Foley, representing the applicant, explained the lot and the restrictions on the buildable area due to the lot size. He further explained the plans for the new house, sharing that the new design would help with stormwater mitigation on the property.

DeVarti asked the applicant if the variance request is the minimum required.

Foley answered, yes.

Weatherbee inquired about moving the driveway and curb cut to the portion of their parcel that is longer.

Foley answered that there is a utility line on that portion of the parcel, therefore they cannot use that space for a driveway.

Boardmember Nicole Eisenmann inquired about the exterior wall of the proposed house as it relates to the existing house. She also inquired about foundation location.

Foley answered that the existing home is extending 23 feet and three inches from their backyard fence and the proposed building is 14 feet. He explained that the second level cantilevers out over the first level, and that the foundations are in the approximate same locations.

Weatherbee inquired about the difference between the existing house and the proposed house in terms of how far they encroach into the backyard.

Barrett clarified that the applicant is requesting a 16 foot variance for a 14

foot rear yard.

Grant clarified that the square footage of the new house would be 2,560 square feet. He inquired about alternative plans to build a new house with less square footage than what the applicant is proposing.

Foley answered, yes.

DeVarti inquired about a total tear down as opposed to creating an addition.

Foley answered that a total tear down is being requested.

Kenneth Graf, 200 W. Hoover Ave, explained that his property neighbors the applicant's property and he expressed support for the variance request.

Chair Briere noted the correspondence received.

Letter from Graf, 200 West Hoover Avenue, Ann Arbor, Support

Letter from Grove, 401 Wilder Place, Ann Arbor, Support

Letter from Krajcovic, 315 West Davis Avenue, Ann Arbor, Support

Letter from Lagerstrom, 407 Wilder Place, Ann Arbor, Support

Letter from Law, 306 West Hoover, Ann Arbor, Support

Moved by DeVarti, seconded by Dobmeier, in Petition ZBA17-35; 302 W Hoover Ave

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, (Area, Height and Placement regulations) to allow:

A variance of sixteen feet in order to construct a new residential dwelling. The rear yard requirement is 30 feet. The result will be a fourteen foot rear yard. The residence 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.

BOARD DISCUSSION:

The Board discussed the size of the proposed house relating to others in the neighborhood. They also commented that when a building is being torn down and a new building is being built, there are fewer hardships than there are when trying to add to an existing structure.

On a roll call, the vote was as follows with the Chair declaring the motion denied. Vote: 0-7

Variance: DENIED

Yeas: 0

Nays: 7 - Chair Briere, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Eisenmann, Grant, and Weatherbee

Absent: 2 - Lewis, and Daniel

F 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.

G NEW BUSINESS

None.

H UNFINISHED BUSINESS

None.

I **REPORTS AND COMMUNICATIONS**

I-1 [17-1935](#) Various Correspondence to the ZBA

Attachments: Email from Leary.pdf

Received and Filed

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

K **ADJOURNMENT**

Moved by Dobmeier, seconded by Grant that the meeting be adjourned at 7:05 p.m. On a voice vote, the Chair declared the meeting unanimously adjourned.

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Candice Briere
Chairperson of the Zoning Board of Appeals
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