



# City of Ann Arbor

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

## Meeting Minutes Zoning Board of Appeals

---

Wednesday, January 22, 2014

6:00 PM

City Hall, 301 E. Huron Street, 2nd Flr.

---

### A CALL TO ORDER

*Chair Milshteyn called the meeting to order at 6:20 p.m.*

### B ROLL CALL

*Chair Milshteyn called the roll.*

**Present:** 5 - Candice Briere, Wendy Carman, Alex Milshteyn, Sally Petersen, and Heather Lewis

**Absent:** 4 - Perry Zielak, Ben Carlisle, Nickolas Buonodono, and Evan Nichols

### C APPROVAL OF AGENDA

**A motion was made by Councilmember Petersen, seconded by Briere, that the Agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.**

### D APPROVAL OF MINUTES

[13-1537](#)

Zoning Board of Appeals Minutes of November 20, 2013

**A motion was made by Carman, seconded by Councilmember Petersen, 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

E-1 [13-1538](#)

ZBA13-018; 2575 South State Street

Germain Motors is requesting three variances:

1) A variance from Chapter 59(Off-Street Parking), Section 5:168: A request to provide tandem parking spaces for car storage with a total maximum space depth of 48 feet.

2) A variance from Chapter 59(Off-Street Parking), Section 5:168: A request to provide aisle widths of 20 feet for the car storage area of the site, 22 feet is required.

3) A variance from Chapter 59 (Off-Street Parking), Section 5:168: A request to provide a maximum of 40% Small Car parking spaces on

site, a maximum of 30% is permitted.

*Matt Kowalski presented the following staff report:*

**SUMMARY:**

*Germain Motors is requesting three variances:*

- 1) A variance from Chapter 59 (Off-Street Parking), Section 5:168: A request to provide tandem parking spaces for car storage with a total maximum space depth of 48 feet.*
- 2) A variance from Chapter 59 (Off-Street Parking), Section 5:168: A request to provide aisle widths of 20 feet for the car storage area of the site; 22 feet is required.*
- 3) A variance from Chapter 59 (Off-Street Parking), Section 5:168: A request to provide a maximum of 40% Small Car parking spaces within the car sales area; a maximum of 30% is permitted.*

**DESCRIPTION AND BACKGROUND:**

*The parcel is zoned M1A (Limited Light Industrial) and is located on the corner of South State Street and Oakbrook Drive. There are three buildings on the site that are composed of auto showrooms and service functions for Porsche/Audi, Volkswagen and Honda. The petitioner currently has a site plan under review for additions to two of three building as well as expansion of the parking areas on the site. Planning Commission recommended approval of the site plan contingent upon the approval of the variances requested. If the variances are approved, the project will proceed to the February 3rd City Council meeting for final action.*

*The site currently contains 791 vehicle parking spaces, with an additional 234 parking spaces proposed for a total of 1,015 Parking spaces. The additional vehicle parking spaces are proposed along the southern half of the State Street frontage, along the Oakbrook frontage and in the rear car storage lots. The majority of parking spaces are used for vehicle display and storage. The vehicle storage area is located in the rear of the site and is composed of two large parking areas divided by an engineered vegetated slope and retaining wall. The petitioner is requesting three variances from Chapter 59 (Parking) in order to provide tandem parking, reduced aisle widths and exceed the maximum percentage (30%) of small car parking spaces within the car storage area.*

**Chapter 59 (Off-Street Parking) Variance - Standards for Approval**

*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 59, Section 5:566. The following criteria shall apply:*

*The Zoning Board of Appeals shall have authority to interpret this chapter and may in specific cases and after public notice and hearings in accordance with Chapter of this Code grant variances and exceptions to these requirements, providing such variance or exception is in harmony with the general purpose and intent of the requirements. The procedural requirements for appeals under Chapter 55 shall be applicable to appeals under this chapter.*

55

*The variances requested by the petitioner are the result of the use of the parcel for automotive dealerships. Due to the nature of the business, a larger number of vehicles are stored on the site for different periods of time. Chapter 59 does not have*

standards for car storage areas, and as a result, the access and dimensional requirements for standard parking lots are applied.

One row of tandem parking will be provided along South State Street and an additional row of parking along Oakbrook. This area will be used as additional area for new vehicle display and will be constructed using porous pavers. This parking expansion will comply with required setbacks, and only requires the variance to permit the tandem arrangement.

The Zoning Board of Appeals approved similar requests in 2005 in order to provide tandem parking along Oak Brook as well as in the rear storage area. These areas are being expanded under the proposed site plan, so additional approvals are required.

The intent of Chapter 59 is to ensure all developments have safe and sufficient parking for customers and employees. Vehicles stored in the affected areas will only be moved by employees, and the parking area for customers will not have stacked parking. The use of tandem parking, reduced parking space and aisle dimensions in the storage area allows the petitioner to reduce the impervious surface on the site while still providing storage capacity for vehicles.

#### QUESTIONS BY BOARD TO STAFF:

Carman asked staff if the parking that is located perpendicular along State Street is stacked parking.

Kowalski responded, yes, and that the cross-hatching [textured] portion on the plans is representing porous pavement. He explained that at the request of the Planning Commission and staff the petitioner has added some porous pavers [bricks] in that area and along West Oakbrook as well.

Petersen asked staff if other dealerships in Ann Arbor have requested stacked parking.

Kowalski said there is only one other dealership in the City and that they have not requested a variance for stacked parking.

Carman noted that the applicant was asking for a maximum space depth of 48 feet but they were not proposing that depth everywhere on the site.

Kowalski said, correct; showing on the site plan that the 48 feet space depth would only be for the triple spaces in the back, while the ones along the front area would be double-stacked spaces.

Carman asked where customer parking spaces would be located.

Kowalski reviewed the proposed site plan with the Board.

Milshteyn asked how many vehicles currently can be parked and how many are being requested.

Kowalski responded that currently the site contains 791 spaces and they are proposing 1,015 spaces.

#### PRESENTATION BY PETITIONER:

John Oney, Architectural Alliance, Worthington, OH, was present and explained the

application.

*J.P. Lambers, General Manager for Germain Motors was present.*

*Rick Meader, Washtenaw Engineering Landscape Architect and Civil Engineer for the project was also present to respond to questions from the Board.*

*Carman questioned the date of the correct plan-set noting that the Board had plans from the application submitted in November as well as January 15th.*

*Kowalski noted the most recent plan-set would move on to City Council if the variances were granted by the ZBA.*

*Lewis asked for an explanation of a green wall.*

*Meader said it is a 'living wall' constructed of concrete with wells inside the wall to hold dirt so plants can be planted directly in the wall and can grow to cover the whole wall.*

*Petersen said she was somewhat baffled by the applicant's response to Section 4, Number 5 on the application regarding the condition that prevents the applicant from complying with the ordinance and how the condition came about. She noted that the response stated, "The condition has been ongoing. Auto manufacturers have inventory requirements that the individual dealerships need to provide to continue their required lack of performance". She asked what the required lack of performance meant.*

*Lambers said he wasn't sure, but clarified that the dealership has to meet the manufacturer's requirements based upon their sales value, and since their sales value has almost doubled in the last 12 months they expect the dealership to have a 90 day capacity based on their sales. He said they are meeting the demands of the manufacturer as well as the customer. He said maybe the application response was intended to mean that the old facility was under-performing.*

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

**LIST OF EXHIBITS PRESENTED:**

*Chair Milshcheyn noted that the Board had not received any communication in support or opposition of the request.*

**Motion made by Carman, Seconded by Briere, in Case ZBA13-018; 2575 South State Street, that the Zoning Board of Appeals GRANTS 3 variances from Chapter 59 (Off-Street Parking) Section 5:168:**

- 1) To provide tandem parking spaces for car storage with the total maximum space depth of 48 feet, per submitted plans.**
- 2) To provide aisle widths of 20 feet for the car storage areas of the site; where 22 feet is required, per submitted plans.**
- 3) To provide a maximum of 40% Small Car parking spaces within the car sales area; where a maximum of 30% is required, per submitted plans, and contiguous on the usage of this property be remaining as an auto dealership, given the following findings of fact:**
  - a) There are no special standards available at the current time for auto dealer**

uses

b) That parking for customers will remain appropriate

c) That the changes will include porous pavers to reduce impervious surface and limit disturbance of natural features

d) That we find these variances are in harmony with the general purpose and intent of the requirements

*BOARD DISCUSSION:*

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

**On a voice vote, the vote was as follows with the Chair declaring the motion carried. Approved: 5-0. Variances Granted.**

**Yeas:** 5 - Briere, Carman, Chair Milshteyn, Councilmember Petersen, and Lewis

**Nays:** 0

**Absent:** 4 - Zielak, Carlisle, Buonodono, and Nichols

**E-3**     [14-0018](#)

ZBA13-025; 305 West Keech Ave

David Bona is requesting one variance from Chapter 55(Zoning) Section 5:28 (R1C), of 12 feet 2 inches for expansion of an existing residential structure into the front setback; 25 feet is required.

*Matt Kowalski presented the following staff report:*

*SUMMARY:*

*David Bona is requesting one variance from Chapter 55 (Zoning) Section 5:29 (R1D), of 12 feet 2 inches for expansion of an existing residential structure into the front setback; 25 feet is required.*

*DESCRIPTION AND DISCUSSION:*

*The subject parcel contains a 1,176 square foot, single-family dwelling constructed in 1926. The parcel is zoned R1D (Single-Family) and is located on West Keech, just west of South Main. The existing setback measures 18 feet 3 inches to the main house, required setback is 25 feet. As a result the existing house is non-conforming for encroachment into the front setback. The parcel is conforming for lot area; the required minimum lot area for R1D is 5,000 square feet and the parcel is 5,265 square feet.*

*The petitioner is proposing to construct a new covered, but not enclosed, front porch measuring 6 feet by 22 feet or 132 square feet. The front setback to the porch will be 12 feet 10 inches. The porch roof addition will match the rooflines of the structure and will be supported by columns. Previously, the house had a covered front porch that extended along the entire front line of the house. Sometime before 1988 that porch was enclosed as shown in the attached picture from the 1988 City Assessor records. The petitioner will be incorporating this enclosed space into the living area and will be adding the new porch to the front of this. The total encroachment of the house after the porch addition will be 12 feet 2 inches.*

*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 subject parcel is a conforming lot in the R1D Zoning District (required minimum lot size of 5,000 square feet; parcel is 5,265 square feet). The existing house was built in the 1926 before current zoning setbacks. The house, including the previous covered porch, was built 18 feet 3 inches from the front property line. The R1C required setback is 25 feet.*

*(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 variance is being requested in order to construct a covered front porch. Due to the location of the existing structure with the front setback line, a porch could not be constructed on the front of the structure without a variance. A ground level patio could be built, but not covered in the same location.*

*(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.*

*Although a covered front porch does require a variance, it will not be fully enclosed and is minimal in total size (132 sq ft). The existing front line of the house is consistent with structures located along the south side of Keech. The house is located on the curve of Keech and the proposed porch will extend further into the front setback. The porch will not be extended any closer to the side property line or adjacent neighbors.*

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

*The house was built in 1926 before current zoning standards were established. The house was constructed 18 feet 3 inches from the front property line. Historical records indicate that the house did have a covered front porch at one time, but it was enclosed before 1988 by a previous owner.*

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

*The variance, if approved, will permit construction of a covered front porch within the front setback. The unenclosed porch will have a depth of 6 feet and will have a total area of 132 square feet. The front porch will have columns supporting it and encroach further into the front setback than adjacent structures. A covered front porch would be consistent with some porches in the neighborhood.*

*QUESTIONS BY BOARD TO STAFF:*

*Carman noted that it might be fair to offer the applicant a chance to postpone the hearing until another meeting since the applicant would need all five present members to vote in favor of the request in order for the variance to be granted.*

**PRESENTATION BY PETITIONER:**

*David Bona, Architect for the the application was present on behalf of the owner. He said since the owner was out of town he couldn't confer with him on the postponement and that the March ZBA meeting would work better for them. He asked if he would be able to revise the application before the March meeting.*

*Matt Kowalski said yes, and if the request differed from the existing it would need to be re-noticed.*

*Noting no public speakers, the Chair declared the public hearing closed.*

**LIST OF EXHIBITS PRESENTED:**

*Chair Milshteyn noted that the Board had received the following communications in opposition to the request:*

- Douglas Jewett & Kate Barald, 404 West Keech Ave.*
- Jill Thacher, 1108 Belmar Place.*
- Wendy Rampson, 305 Pauline Blvd.*

**A motion was made by Carman, seconded by Councilmember Petersen, that the Application/Public Hearing be Postponed to the March ZBA meeting.**

**COMMISSION DISCUSSION:**

*Carman suggested that given the objections from neighbors, it might behoove the applicant to speak with the neighbors who have concerns.*

**On a voice vote, the Chair declared the motion carried.**

**Yeas:** 5 - Briere, Carman, Chair Milshteyn, Councilmember Petersen, and Lewis

**Nays:** 0

**Absent:** 4 - Zielak, Carlisle, Buonodono, and Nichols

**F UNFINISHED BUSINESS**

**G NEW BUSINESS**

**H REPORTS AND COMMUNICATIONS**

[13-1539](#)

Various Correspondences to the ZBA

Received and Filed

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

**J ADJOURNMENT**

**A motion was made by Councilmember Petersen, seconded by Briere, that the Meeting be Adjourned. 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](http://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](http://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](http://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.*