



# 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, February 25, 2015

6:00 PM Larcom City Hall, 301 E Huron St, Second floor, City Council  
Chambers

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**A**      **CALL TO ORDER**

*Chair Milshteyn called the meeting to order at 6:00 p.m.*

**B**      **ROLL CALL**

*Chair Milshteyn called the roll.*

*Staff Present: City Planner Chris Cheng*

**Present:**    7 -    Alex Milshteyn, Perry Zielak, Nickolas Buonodono,  
                                         Heather Lewis, Evan Nichols, David DeVarti, and Kirk  
                                         Westphal

**Absent:**    2 -    Candice Briere, and Ben Carlisle

**C**      **APPROVAL OF AGENDA**

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

**D**      **APPROVAL OF MINUTES**

**15-0245**      January 28, 2015 ZBA Minutes with Live Links

**A motion was made by Zielak, seconded by Councilmember  
Westphal, 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      15-0246**      ZBA14-012; 3600 Plymouth Road - PUBLIC HEARING ONLY  
Michael Boggio is requesting one variance from Chapter 55 (Zoning)  
Section 5:10.23 (3)(b) C3 - Fringe Commercial, a variance to permit a

drive-thru facility between the public right-of-way (US-23) and the principal building.

*PUBLIC HEARING:*

*Chair Milshteyn explained that this item would be returning before the ZBA after it has been heard before the City Planning Commission.*

*He opened the public hearing for 3600 Plymouth Road.*

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

**E-2**     [15-0247](#)

ZBA15-001; 1511 Wells Street

Summit Homebuilding is requesting permission to alter a non-conforming structure in order to expand the non-conforming structure by constructing an addition to the rear of the existing structure which will be located 2 feet from the side property line; property line required setback is 5 feet.

*Chris Cheng provided the following staff report:*

*DESCRIPTION AND DISCUSSION:*

*The subject parcel is located at 1511 Wells, in between Lincoln Avenue and Martin Place and across from Burns Park. There is a public alley that borders the parcel on the east side. The parcel is zoned R2A (Two-Family Residential District). The house is two stories and is 1,659 square feet. The house was built in approximately 1915.*

*The petitioner is proposing to remove a small non-conforming two-story addition on the rear of the house that is 2 feet from the east side (alley) property line and construct a new one-story addition 2 feet from the east side property line and over 12 feet from the west property line. The addition measures approximately 20 wide by 18 feet long.*

*The parcel is non-conforming for lot area (8,500 sq. ft. required, 4,355 sq. ft. existing) and the house is non-conforming for the east side yard setback (5 feet required, 0 provided). The addition will match the existing architectural form of the house, and will be setback the same distance from the east property line (public alley) as the existing house. A small section of the existing house is setback 0 feet from the east property line. No part of the addition will extend any closer to the side property lines than the existing structure. The footprint of the existing house will be expanded 18 feet toward the rear of the site, but will remain out of the required rear setback.*

*Standards for Approval*

*The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:*

*The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.*

*The parcel is extremely narrow, 33 feet; the R2A zoning district requires 60 feet for the minimum lot width. The home was constructed before current zoning standards were in effect. Application of the required setbacks leaves 23 feet for a buildable width of the parcel. The proposed addition will be set back 2 feet from the side property line and be consistent with the existing architecture of the house.*

*Staff does not feel that the requested variance would negatively affect any surrounding property. The subject house is located in an area of houses with similar density and scale. The house will be enlarged, however the addition will be 50 feet from the rear property line and buffered from adjacent parcels by a shared driveway on one side and an alley on the other side. The proposed addition will not be any closer to the side or front property lines than the existing house and it will remain out of the required rear setback. The new addition will not be visible from the street and surrounding structures are on approximately the same size parcels. The expansion will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance.*

#### **QUESTIONS BY BOARD TO STAFF:**

*DeVarti asked if the small section on the rear of the home would be removed or not.*

*Cheng said it was unclear to him, and suggested clarification from the applicant.*

*Westphal asked about the difference between permission to alter a non-conforming structure and a variance.*

*Chris explained the difference, noting that permission to alter a non-conforming structure was a lesser request than a variance.*

#### **PRESENTATION BY PETITIONER:**

*Robert McCowan, Summit Homebuilding, 4672 Willowbrook Lane, Ann Arbor, contractor and applicant was available to respond to the Board's enquiries and explain the application.*

*Thomas Cunningham, 1511 Wells Street, owner, was also available to respond to questions.*

*McCowan said the small section on the rear of the home would not be removed. He also clarified that the rear setback will be 36.5 feet (not 50 feet) which still meets the intent of the code, noting that the code requires 30 feet.*

*DeVarti commented of which 6 feet will be open and not enclosed porch.*

*McCowan said, correct, open porch.*

*Cunningham stated that he had spoken with his neighbors that surround the backyard and provided signatures of four of those neighbors, and noted that the fifth neighbor was in the audience and she had noted that she had no objection.*

**PUBLIC HEARING:**

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

**LIST OF EXHIBITS PRESENTED:**

*Petition of support signed by neighbors;*

*Talman Borgers, 1503 Wells Street, Ann Arbor  
Adam Meier, 1139 Lincoln Avenue, Ann Arbor  
Dan Handam, 1135 Linclon Avenue, Ann Arbor  
Enoch Brater, 1507 Wells Street, Ann Arbor*

**BOARD DISCUSSION:**

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

*DeVarti said he favored the application strongly noting that he had walked the alley today and that the house that sits on the west sits substantially far back in the corner and not within visual view. He said he didn't see any detriment to the neighborhood and that it was an alteration worth supporting, which he would be supporting.*

**Moved by Zielak, seconded by Buonodono, in Petition ZBA15-001; 1511 Wells Avenue, Permission to Alter a Non-conforming structure, based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby grants permission to alter a non-conforming**

structure, per submitted plans.

a) The alternation complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.

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

**Permission to Alter a Non-conforming Structure Granted.**

**Yeas:** 7 - Chair Milshteyn, Zielak, Buonodono, Lewis, Nichols, DeVarti, and Councilmember Westphal

**Nays:** 0

**Absent:** 2 - Briere, and Carlisle

**E-3**     [15-0248](#)

ZBA15-002; 2900 Jackson Avenue  
Metro Detroit Signs is requesting a variance from Chapter 61(Signs & Outdoor Advertising) Section 5:502 (1), of 304-square feet to allow an existing 2-faced pole sign to be re-faced. The maximum amount of signage allowed for this site is 200-square feet and the total proposed is 504-square feet.

*Chris Cheng provided the following staff report:*

**BACKGROUND:**

*The petitioner, Metro Detroit Signs, is requesting a variance on behalf of Wyndham Hotels, from Chapter 61, Section 5:502 (1) for the expansion of a 2 two-sided cabinet style sign fronting Jackson Avenue. The variance includes an increase of sign area from the existing sign of 166-square feet and an overall variance of 306-square feet above the allowable 200-square feet allowed for this building.*

*The subject parcel is zoned R5 (Hotel-Motel District) and the building was constructed in 1962 and used as a hotel use since then. The petitioner has installed 179-square feet of wall signs on the existing hotel building and is seeking to add an additional 328-square feet of signage on the existing pylon sign.*

*Per City records, the existing 194-square foot pylon sign was approved in 1985. Additional wall signs for the hotel were submitted in 1987 and the application was denied. This site applied for a sign area variance of 451-square feet from the Sign Board of Appeals in 1998 for additional wall signs and was tabled. The petitioner did not return to the Board to be heard.*

*The sign application was originally submitted on December 1, 2014 and the Sign Plan Reviewer communicated with the petitioner they could have the pylon sign or the wall signs per sign code but not both. The petitioner resubmitted the sign application on December 3, 2014, to install the wall signs and was informed any additional sign area above 200-square feet needs approval from the ZBA to exceed this amount. These wall signs total 178.5-square feet and have been installed.*

*Chapter 61 addresses sign area in the following section:*

*5:502 Exterior Business Signs.*

*(1) Exterior Business Signs*

*Each ground floor business is permitted exterior on-premises signs having an area totaling 2 square feet per linear feet of ground floor frontage. The total area of such signs may not exceed 200 square feet. Such signs may contain a total of 10 message units and shall meet the placement standards contained in this section.*

*Standards for Approval - Variance*

*The Zoning Board of Appeals has the power granted by State law and by Section 5:517, Application of the Variance Power from Chapter 61, the City of Ann Arbor Sign Ordinance. The following criteria shall apply (petitioner's response in italics, staff's response in regular type):*

*(a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the city.*

*The petitioner states this site as other hotels in the area have a pylon sign/monument sign. There was a name change for the hotel and they would like to use and expand the cabinet sign and recover the existing base of the pylon sign.*

*Staff discussed the sign alternatives with the petitioner on options for signs at this site. The petitioner decided to install the wall signs and seek an area variance from the ZBA for the pylon sign. The location of the pylon sign does not impede the flow of on-coming traffic nor create a dangerous viewing situation while either entering or exiting this site per the City Traffic Engineer. There is no effect on neighboring properties as the pylon sign does not block other structures in the area. From a safety perspective, this sign is the only sign perpendicular to Jackson Avenue at this site and would alert customers to the business entrance.*

*(b) 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 the failure of the Board to grant a variance and the rights of others whose property would be affected by the allowance of the variance.*

*This is an existing pylon sign and we are proposing to change out the cabinet sign.*

*Staff agrees that approval of the sign area variance would not negatively impact other property owners, and the proposal does not cause negative traffic impacts. The proposed monument sign is setback 50-feet from Jackson Avenue and meets the message unit, height and setback requirements of Chapter 61.*

*(c) Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?*

*The petitioner states the site was over the allowed square footage when they installed prior sign packages.*

*Staff research shows the 194-square foot pylon sign was installed and additional wall sign applications were denied afterwards. A variance was applied for and tabled to allow for additional signs on site. It should be noted directional, parking and traffic control signs under a certain size are permitted by sign code and not counted toward the overall allowable sign area on site.*

*Staff recognizes the challenge by the petitioner to make improvements to their hotel while allowing the existing business to continue promoting their business; the petitioner was provided options on the sign area for this site and elected to install wall signs in lieu of re-facing the existing pylon sign. The proposed increase in the size of the cabinet portion of the pylon sign combined with existing wall signs exceeds the maximum amount of sign area on site by 306-square feet. The existing signs on site are close to the maximum allowed and should be sufficient to facilitate business identification and promotion.*

#### **QUESTIONS BY BOARD TO STAFF:**

*DeVarti noted that he had visited the site and asked if the smaller signs on the site are counted towards the applicant's total allowable signage.*

*Cheng, said yes, he would calculate the specific identified signs in the photographs, adding that if the signs are directional or for parking he would not count them towards the allowable signage.*

*DeVarti asked if the smaller pole signs had been included in the total signage.*

*Cheng said yes.*

*Westphal asked for clarification that when the original signage was approved for the hotel/motel that the applicant was given a choice to install smaller wall signs on the building which would allow them to install the pole replacement signage, or if they maxed out their allowable signage on large wall signs they would not be able to install the pole replacement signage.*

*Cheng said that is correct, that the applicant had been informed that if they used up their signage they would have to come before the Zoning Board of Appeals for a variance to request permission to install additional signage in the pole sign.*

*Westphal asked if other hotels/motels have requested permission to exceed their allowable signage.*

*Cheng said, he wasn't sure, but believed this is the first variance request for signage and the City doesn't receive requests too often from sites that are allowed up to 200 square feet of signage such as this site does. He said he would have to do some research to find out how much signage other hotels/motels have and if they have installed signage that was not permitted. He explained that upon receiving complaints the City will follow-up with enforcement on work done without permission and permits.*

*Westphal commented that the hotel/motel signage at Briarwood is more of the low monument type signage and not the tall suburban pole signage.*

*Cheng said he wasn't sure about those signs, but said they could be 'business center' signs which would be allows for strip malls with more than five (5) businesses. He said each separate business would be allowed to have separate signage on a monument sign as well as on their businesses in the strip mall.*

*Zielak asked about the total signage the site would have with the existing and the proposed signage and if it would put them way over the limit.*

*Cheng said it would put them way over, noting that they had 178.5 square feet of existing signage and could legally add an additional 21.5*



*square feet of signage without a variance.*

*DeVarti asked if the applicant could use the pre-existing old Clarion sign.*

*Cheng said, no, because they are allowed a total of 200 square feet of signage on site.*

*Nichols asked if under the Clarion Hotel days if they had the smaller signs.*

*Cheng said he tried researching the issue and wasn't sure, but he believes they did have some of them because they re-faced some of them since they were not new.*

**PRESENTATION BY PETITIONER:**

*Paul Detters, Metro Detroit Signs, 23544 Hoover Road, Warren, MI, was available to respond to the Board's enquiries. He stated that the current owners purchased the hotel in 2001 and were not privy to previous signage issues. He said the reason for going with the choice of signage that they did when they had the choice was because it was a bit of a misnomer because the existing Clarion signage was shown as 194 square feet per side, which was almost 400 square feet for both sides and what they are now proposing is actually only 163 square feet, which is significantly smaller than what is there; however based on how the ordinance is calculated now, that sign in and of itself exceeded any signage that would have been allowed, even though its much closer to conformity than what the existing Clarion sign was. He said, faced with that and the rebranding the owners have to go through for changing their brand, the easiest way for them was to go with the wall sign route at the time, and then explore this with the pylon sign, which would go from 30 foot height down to 24 feet.*

*Detters clarified that they had changed the faces in some of the existing signage and noted the importance of the need for the added pylon signage.*

*Antoine Altawil, General Manager of Wyndham Garden Hotel, was also available to respond to enquiries and explained the application.*

*Lewis asked about the previous wall signage of the Clarion Hotel.*

*Altawil said he wasn't sure, but believed there were three box signs, with approximately 75 square feet of total signage combined.*

*Lewis about the way the signage is calculated.*

*Cheng explained that if they were boxed in they would calculate the length times width, but with channel letters, they allow them to remove the dead space between the lettering.*

**PUBLIC HEARING:**

*Janine Maddock, 3101 Hilltop Drive, Ann Arbor, spoke on behalf of her neighbors in opposition to the application.*

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

**LIST OF EXHIBITS PRESENTED:**

*Tom and Ann Lamkin-Ferranti, 3055 Hilltop Drive, Ann Arbor; Opposed  
Marie Lane, 2969 Hilltop Drive, Ann Arbor; Opposed  
Diane Scarpace, Lakewood Subdivision; Opposed  
Margaret Kruse Connors and Neighbors; Opposed  
Jim Osborn, 3106 Hilltop Drive, Ann Arbor; Opposed*

**BOARD DISCUSSION:**

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

*Westphal pointed out the ordinance, criteria, previous notification provided to the applicant back in December about available choices to them, and neighborhood feedback about not wanting suburban style signage and light pollution. He said he was finding it difficult to find acceptable criteria to support the request.*

*Nichols said he didn't feel it would be substantial justice to exempt a business who perhaps didn't do enough due diligence before purchasing the property to find out about limited signage available to them. He echoed Westphal's sentiments on the request and said he didn't think he would be supporting the request.*

*Zielak, said as a previous member of the City's Sign Board of Appeals, together with Chair Milshteyn they had seen sign variances come before them, and that in each case, some choices had to be made, and he felt that this applicant made that choice when they decided on the larger wall signage, back in December. He agreed with the previous Board members who spoke.*

*DeVarti said when he was young he had worked hard as a community activist in favor of establishing a sign ordinance. He noted that the more signage there is along Jackson Road, the harder it will become to see*

*the smaller freeway entrance sign to enter Interstate 94. He said he cannot support the variance for added signage and urged the petitioner to work with staff to be able to come up with the necessary signage within the allowable sign code, as he expressed it was important for the people to know where to turn to enter the hotel.*

*Westphal asked if the current banner covering the sign was legal.*

*Cheng said no, the banner is illegal and must be removed.*

*Milshteyn said one of his main concerns about the request was setting a precedent for future businesses wanting more and more signage, and therefore he couldn't support the request.*

*Lewis said she felt it was important for the applicant to have a sign in this location for their business, but she would not be supporting the request.*

**Moved by Zielak, seconded by Nichols, in Petition ZBA15-002; 2900 Jackson Avenue, a variance from Chapter 61. A variance may be allowed by the Board in cases involving practical difficulties or unnecessary hardships only when the evidence in the official record of the appeal supports all the following affirmative findings.**

- a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.**
  
- b) 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.**

**On a roll call, the vote was as follows with the Chair declaring the motion defeated.**

**Variance Request Denied.**

**Yeas:** 0

**Nays:** 7 - Chair Milshteyn, Zielak, Buonodono, Lewis, Nichols, DeVarti, and Councilmember Westphal

**Absent:** 2 - Briere, and Carlisle

**F UNFINISHED BUSINESS**

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

*DeVarti thanked the Planning staff and City Attorney, Kevin McDonald, for providing helpful Zoning Board of Appeal resource material and said he understood staff is working on additional training which he feels will be very helpful to him and other new members. He said he really appreciated the input and is looking forward to doing a briefing session when it becomes available.*

**15-0249**      Various Correspondences to the ZBA

**Received and Filed**

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

**A motion was made by Zielak, seconded by Buonodono, that the Meeting be Adjourned at 6:54 p.m. On a voice vote, the Chair declared the motion carried.**

**Alex Milshteyn**  
**Chairperson of the Zoning Board of Appeals**

**Mia Gale**  
**Recording Secretary**

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