



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, March 25, 2015

6:00 PM

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

A **CALL TO ORDER**

Chair Milshteyn called the meeting to order at 6:07 p.m.

B **ROLL CALL**

Chair Milshteyn called the roll.

Staff Present: City Planner Chris Cheng

Present: 5 - Candice Briere, Alex Milshteyn, Perry Zielak, Evan Nichols, and David DeVarti

Absent: 4 - Ben Carlisle, Nickolas Buonodono, Heather Lewis, and Kirk Westphal

C **APPROVAL OF AGENDA**

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

D **APPROVAL OF MINUTES**

15-0366 February 25, 2015 ZBA Minutes with Live Links

A motion was made by Zielak, seconded by Nichols, 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 **15-0363** ZBA14-012; 3600 Plymouth Road
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.

Chris Cheng provided the following staff report:

DESCRIPTION AND DISCUSSION:

The subject parcel is located at the southwest corner of Plymouth Rd and US-23 entrance ramp and proposes an approximately 3,000-square foot, single-story back with a three-lane drive-thru facility. The parcel is conforming for lot size (45,433 sf; required is 6,000 sf) and zoned C3 (Fringe Commercial District). The proposed bank is conforming for zoning setbacks.

Chapter 55 was amended in 2014 prohibiting drive-thru facilities located between the principal building and a street. The proposed drive-thru facility is facing the US-23 entrance ramp and is considered a street as it is public right-of-way.

It is unlikely the proposed drive-thru will be visible from US-23 with the existing trees and proposed landscaping screening this site. The drive-thru facility will be located approximately 150-feet from the entrance ramp.

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.

There is a large green space between the drive through area and the US-23 ramp. There are numerous deciduous and coniferous trees proposed to be planted between the drive through facility and the US-23 ramp to provide screening.

The proposed drive-thru facility conforms to the required front setbacks and is setback nearly 10-feet from the entrance ramp. As stated by the petitioner, the bank will be screened with existing and proposed landscaping and will be well screened.

This is not a typical corner lot with two fronts. The US-23 entrance ramp is considered a street as it's public right-of-way.

(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.

If the variance is not granted, the petitioner could not construct a drive-thru facility at this location due to stacking and queuing problems. This site has two frontages and the proposed eastern location best hides this drive-thru facility from pedestrians and traffic.

(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 bank has received site plan approval from the City Planning Commission. The site plan provides safe pedestrian connections to the site and was reviewed and approved by the city traffic engineer for safe traffic circulation.

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

The recently amended code prohibiting drive-thru facilities between buildings and streets was to hide the facility from public view. By placing this facility on the east side of the site with existing and proposed landscaping it will be difficult to see from both Plymouth Road and US-23.

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

The variance allows for the petitioner to utilize a drive-thru facility that is difficult to be seen from public-rights-of-way and is setback approximately 150-feet from US-23.

QUESTIONS BY BOARD TO STAFF:

DeVarti asked if the lot split already happened and the Special Exception Use had been granted by the Planning Commission.

Cheng responded yes, and explained that the Special Exception use was

approved at the March 17th, 2015 City Planning Commission meeting. He said the land division and the rezoning had also been approved and if this request is granted by the ZBA, their project proposal would go on to City Council for approval.

Nichols asked why the request has been on the agenda multiple times.

Cheng explained that the item ended up being bumped several times at the Planning Commission level; once due to weather and another time due to lack of a quorum.

Milshiteyn commented that there was also a tree involved.

Cheng noted that there was a landmark tree that they were trying to save, so the drives were reconfigured to allow that to happen.

PRESENTATION BY PETITIONER:

Michael Boggio, MBA Architects, 30100 Telegraph Road, #216, Bingham Farms, 48025, Architect for the project, was available to respond to the Board's enquiries. He requested that the item be tabled until a future meeting when there was a full Board present.

Milshiteyn said the Board would take his request under deliberation.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

None

BOARD DISCUSSION:

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

DeVarti said he was in favor of the request, adding that he had driven the sight and felt the proposal was a good use of the site.

Nichols agreed with DeVarti, and encouraged the screening they have. He said he didn't believe that when the code was discussed and decided

that it had in mind an on-ramp and he was in favor of granting the request at tonight's meeting, even though the applicant had requested postponement.

Briere agreed, noting that she didn't think that the intent of the code took into consideration the fronting of public right-of-way to be a freeway on-ramp as in this situation. She felt the applicant had done a good job with the landscaping and making every attempt to screen it as best they can, so she supported the request.

Zielak stated he was in agreement with his fellow ZBA members on their statements and felt that it would be best to move the request forward in light of the fact of how many times the item has already appeared on their agenda.

Moved by Zielak, seconded by Briere, in Petition ZBA14-012; 3600 Plymouth Road, a Variance: Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:10.23(3)(b) (C3- Fringe Commercial) in order to permit a drive-thru facility between the public right-of-way (US-23) and the principal building.

- 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.**

On a roll call, the vote was as follows with the Chair declaring the motion carried. Vote: 5-0.

Variance Granted.

Yeas: 5 - Briere, Chair Milshteyn, Zielak, Nichols, and DeVarti

Nays: 0

Absent: 4 - Carlisle, Buonodono, Lewis, and Councilmember Westphal

E-2 [15-0364](#)

ZBA15-003; 712 Gott Street

Daniel Pressel is requesting permission to alter a non-conforming structure in order to expand the non-conforming structure by constructing a front porch addition 8 feet 7 inches from the front property line; existing structure is 8 feet 7 inches from front property line; required setback is 10 feet (averaged front setback minimum).

Chris Cheng provided the following staff report:

BACKGROUND:

The subject parcel is zoned R1D (Single-Family Residential District) and located on Gott Street, north of Miller Road. The parcel is non-conforming for required lot size: subject parcel is 4,486 square feet; minimum lot size is 5,000 square feet. The structure was built in 1901 and is 1,842 square feet.

DESCRIPTION:

The petitioner would like to construct an approximately 55 square foot covered porch addition to the front (west side) of the house. There is an existing 4 foot 11 inch by 12 foot 1 inch front porch that will be reconstructed and increased in length along the front of the house by 11feet 3 inches. After construction the entire front porch will be 23 feet 4 inches long by 4 feet 11 inches deep and 110 square feet. The proposed porch will be unenclosed and will match the architectural design of the house. The new porch will not be any closer to the front property line than the existing porch. The existing house is non-conforming for the front setback at 8 feet 7 inches to the existing covered front porch.

The required front setback which is based on averaging of existing neighboring properties is less than 10 feet. However, Chapter 55(Zoning), Section 5:57(Averaging an existing front setback) allows the averaged setback to be reduced only to a minimum of 10 feet. A variance is not required because the new porch addition will not encroach any further into the front setback than the existing porch.

Standards for Approval - Permission to Alter a Non-Conforming Structure

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 home was constructed before current zoning standards were in effect. The proposed porch addition will be constructed to match the depth of the porch that was originally constructed on the house. The porch will be setback 8 feet 7 inches from the front property line consistent with the existing front porch.

The subject parcel is non-conforming for lot size required and the placement of the house near the front property line limits the area available for an addition to the rear of the house. The expansion of the porch will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance and remaining consistent with other houses on the neighborhood. Staff does not feel that the requested permission would negatively affect any surrounding property. The subject house is located in an area of houses with similar density and scale.

QUESTIONS BY BOARD TO STAFF:

None

PRESENTATION BY PETITIONER:

Daniel Pressel and Patricia Laskowsky, 712 Gott Street, Ann Arbor, homeowners, were available to explain the request and respond to the Board's enquiries.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

None

BOARD DISCUSSION:

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

DeVarti said he visited the site today, and could report that the neighbors on both sides of the applicant's house have similar open porches that would be in line with the applicant's porch. He said he felt the application was reasonable and promoted eyes on the street which is safety for the neighborhood and he supported the request.

Zielak said he likes porches and he linked the proposed plan for this application in that it does not further encroach into the setback. He said he agreed with DeVarti and planned on supporting the request.

Moved by Zielak, seconded by Briere, in Petition ZBA15-003; 712 Gott Street, Permission to alter a nonconforming 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, for the purpose of constructing a covered un-enclosed front porch.

a) The alteration 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 vote, the vote was as follows with the Chair declaring the motion carried. Vote: 5-0

Permission to Alter a Non-conforming Structure Granted.

Yeas: 5 - Briere, Chair Milshteyn, Zielak, Nichols, and DeVarti

Nays: 0

Absent: 4 - Carlisle, Buonodono, Lewis, and Councilmember Westphal

E-3 [15-0365](#)

ZBA15-004; 3010 Hickory Lane
Ann Arbor Racquet Club is requesting a front yard setback from Chapter 55 (Zoning) Section 5:25 (AG; Agricultural), of 6 feet 11 inches for construction of a new structure into the Huron Parkway front setback; 40 feet is required.

Chris Cheng provided the following staff report:

DESCRIPTION AND DISCUSSION:

The Racquet Club is a private athletic club and the petitioner proposes removing the existing tennis facility building as it is not handicap accessible and requires numerous upgrades and constructing a single-story 3,533-square foot tennis facility building further to the east. This new location places the northeast corner of the building into the front setback.

The parcel is zoned AG (Agriculture District) and is located on the southeast corner of Geddes Ave and Hickory Lane. The subject parcel is conforming for lot area; the required minimum lot area for AG is 100,000 square feet and the subject parcel is 340,373 square feet.

The proposed northeast corner of the tennis building encroaches approximately 7 feet into the required 40-foot front setback off Huron Parkway entrance ramp and requires a setback variance from the Zoning Board of Appeals. This Huron Parkway entrance ramp is no longer used by vehicles and has been converted into a pedestrian walkway.

As part of the 1997 site plan approval for the pool expansion at this site, variances were approved to waive parking lot lighting requirements and to encroach ten feet into the front setback to expand the pool.

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 fronted by 3 public rights-of-way with the eastern right-of-way no longer used by vehicular traffic. This Huron Parkway entrance ramp has since been closed and converted to a pedestrian walkway.

(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 for the new building and interior site sidewalk connections to be ADA accessible and employing sound storm water drainage on site.

(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 the proposed addition would extend into the required front setback, it is minimal in total size as it is approximately 7 feet of the northeast corner of the proposed building. The building 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.

This site was originally used as a farm and it was zoned AG (Agriculture District) due to the lot size, private recreational use, and location of the surrounding golf course and single-family uses. The subject parcel is surrounded by 3 frontages. The petitioner proposes the location of this building into the front setback to accommodate both ADA accessibility and to properly drain storm water away from this area.

(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 the northeast corner of the building within the front setback. The proposed building will have a minimal impact to the surrounding neighborhood. The size of the encroachment into the front setback is minimal.

Staff does not feel that the requested variance would negatively affect any surrounding property. The subject building is located in an area away from the neighborhood and allows the facility to be ADA compliant. The expansion will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance.

QUESTIONS BY BOARD TO STAFF:

Zielak asked why sidewalks were not included, specifically knowing it is right by Geddes and that there is a non-motorized path there and Gallup Park is located almost directly across the street.

Cheng said it was discussed at the March 17th City Planning Commission meeting, where the project was approved. He said the petitioner has requested that the sidewalk be waived and they will ask that from the City Council. He said they have received a waiver two previous times, adding that the City is planning to install a sidewalk on the northern side of Geddes. He said there are currently no sidewalks throughout the neighborhood, but it is something that the City's Public Services Department always asks for since it is a requirement to ask for sidewalks.

Milshiteyn asked if the City Planning Commission asked for sidewalks to be installed.

Cheng said the Planning Commission passed a motion recommending to City Council that the sidewalks be installed.

Milshiteyn clarified that the waiver of sidewalks did not pass at Planning Commission.

PRESENTATION BY PETITIONER:

Scott Betzoldt, Midwestern Consulting, 3815 Plaza Drive, Ann Arbor, Engineer for the project, along with Architect and Club Manager, were available to explain the request and respond to the Board's enquiries.

Betzoldt requested that if an unfavorable vote was eminent then he would request tabling until a future meeting when there were more Board members present.

PUBLIC HEARING:

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

LIST OF EXHIBITS PRESENTED:

Xin Jing, M.D. and Leilei Lin, 3003 Hickory Lane, Ann Arbor; Opposed

BOARD DISCUSSION:

The members of the Board took into consideration the presented petition

and discussed the matter.

Nichols recommended that the request be tabled until there are more Board members present.

Zielak agreed with Nichols.

DeVarti agreed with the Board on the postponement.

Moved by Briere, seconded by Zielak, that the Board Postpone taking action until a future meeting. On a roll call, the vote was as follows with the Chair declaring the motion carried. Vote: 5-0

Postponed

Yeas: 5 - Briere, Chair Milshteyn, Zielak, Nichols, and DeVarti

Nays: 0

Absent: 4 - Carlisle, Buonodono, Lewis, and Councilmember Westphal

F UNFINISHED BUSINESS

G NEW BUSINESS

H REPORTS AND COMMUNICATIONS

DeVarti stated that he would like the ZBA to draft a resolution expressing dislike of the UM athletics sign, which should be presented to the Regents of the University of Michigan. He said he would like the ZBA to get into policy making instead of merely reacting to what comes before them.

Milshteyn responded that the issue should be directed to the City Attorney's office, since policy making is the charge of City Council. He requested staff to follow-up on how the matter should be handled.

H-1 Update on ZORO

Milshteyn gave an update on the up and coming ZORO.

H-2 [15-0367](#) 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 Nichols, that the meeting be Adjourned at 6:50 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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