



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, April 27, 2016

6:00 PM

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

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: Matt Kowalski, Jon Barrett

Present: 8 - Candice Briere, Alex Milshteyn, Heather Lewis, David DeVarti, Kirk Westphal, Michael Dobmeier, Michael B. Daniel, and Nicole Eisenmann

Absent: 1 - Nickolas Buonodono

C **APPROVAL OF AGENDA**

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

D **APPROVAL OF MINUTES**

16-0633 February 24, 2016 ZBA Meeting Minutes with Live Links

Moved by Briere, seconded by Daniel, to approve the minutes with the correction that Briere was present at the meeting, and that the minutes be forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

16-0634 March 23, 2016 ZBA Meeting Minutes with Live Links

Moved by DeVarti, seconded by Lewis, to approve the minutes and forward to City Council. On a voice vote, the Chair declared the

motion carried.

E APPEALS AND HEARINGS

- E-1** **16-0635** ZBA 16-006; 2790 Carmel Street
Nichole Lorenz is requesting a variance from Chapter 55, Section 5:59 1b, to allow for an accessory structure to remain in the front setback. Accessory structures are only allowed in the side and rear setback areas for single family uses.

Jon Barrett provided the following staff report:

Summary

Nichole Lorenz, property owner, is requesting one variance from Chapter 55 (Zoning) Section 5:59 1(b) (Accessory Buildings), to allow the existing play structure to remain in the front open space of the single family residence.

Description and Discussion

The subject parcel is located at 2790 Carmel Street at the corner of Carmel and Easy streets. The parcel is zoned R1B (Single Family Residential). The single-family house was built in 1953 and is 1,296 square feet in floor area. The house is located on a corner lot.

The request is discussed in detail below:

The petitioner is proposing to allow the existing play structure, (approximately 8'x8'x10'), that was built without permits to remain in its current location in the front open space. A Notice of Violation was sent to the property owners on January 13, 2016 informing them of the violation.

According to Chapter 55, 5:59 1(b): "Accessory buildings shall not be erected in any required front open space."

The definition of accessory building states: "A subordinate structure, whether attached or detached, on the same lot as the principal building."

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 parcel is 13,024 square feet and approximately 85 feet wide at the front and approximately 180 feet deep. The parcel is conforming for the R1B district. The subject property is a corner lot and allows for adequate area to locate an accessory structure of this size.

(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.

If the variance is denied, the applicant will be afforded the opportunity to re-locate the playhouse to the rear yard of the property and this will not have a detrimental impact on the property. The status of the single family use will not be jeopardized.

(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.

If the variance is granted, the accessory structure will be allowed to remain in the front open space and will be the only property in the neighborhood with an accessory structure in the front yard.

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

The conditions and circumstances have been self imposed as the applicant never obtained a Zoning Compliance permit to have the structure built. If application was made with the City, it is the Zoning offices duty to inform the property owners the allowable locations per the Code.

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

If the variance is denied there will still be a reasonable use of the land and the structure can be located in the rear yard.

QUESTIONS BY BOARD TO STAFF:

Westphal noting letters of support for the play structure asked what prompted the violation notice.

Barrett explained that he received a complaint. He noted letters to the Board that were in opposition as well as in support.

Daniel asked if there was anything in the backyard that would obstruct this type of structure from being built there.

Barrett said no, there was available space.

PRESENTATION BY PETITIONER:

Ben Lorenz, 2790 Carmel Street, Ann Arbor, owner, was available to respond to the Board's enquiries. He explained that his family works with several other families and they home-school their children. He said this was a homeschooling project that was designed by the children and they located the structure in the front yard primarily for safety reasons because they have no view of their backyard from their house and since the structure is already in place they would like a variance to allow it to stay, since it's become a gathering spot for the neighborhood and contributed to the betterment of the neighborhood. He said they have learnt a civic lesson to the tune of \$500.00.

Lewis asked if the structure is in a tree.

Lorenz said the structure has 3 legs and is tied into the tree at one edge.

DeVarti asked for verification that the structure has no floor.

Lorenz said correct.

DeVarti commented that the structure really doesn't have a roof on top either and is open in the back.

Lorenz said they had planned to install the roof when they received the violation letter, and the structure will not be enclosed in the back.

DeVarti asked when the structure was built.

Lorenz said last fall.

Daniel said the concept of a fort is something that he supports, and he wishes he had access to more forts when he was a child, because they are fun. He asked about the view if the structure were in the backyard.

Lorenz said there is really no view of the backyard from inside the house because of the location of the garage.

Daniel asked about which kids come and play on the structure, if they were any kids in the neighborhood.

Lorenz said yeah, they are like the playhouse in the neighborhood.

DeVarti said the house has a big picture window up front and the fact that there is no wall on the backside, would you say you have clear and easy visual access to watching the kids at play when you are in the living room.

Lorenz said, yeah, and potentially that was by design, and they see this as a 5-year lifespan max and they see this as a short term endeavor.

PUBLIC HEARING:

Desmon, Iris, Layla, Elle, said they like playing tag and 'groundies' around the play structure, and they like to hang on the boards that they are planning to put a roof on, and they really like to play on there and they hope to keep it, because they come over there a lot since they are in a home-school group and it's based on playing, and also nearby there is Allan School and a group of kids from there always come up and play for a few minutes. They said they like the slide and they spent every second week-end building it, and they drew on the boards before it was built, and they like the windows that flip round, and they have a big play group and they would call it a community playhouse or public tree-house, or the best tree-house in the whole world.

Jeannine Palms, 2656 Easy Street, Ann Arbor, spoke in support of the request.

Kathryn Waissi, 2735 Carmel Street, Ann Arbor, spoke in opposition of the request; noting that her name, and her husband's name as well as her children's names and ages were included on the petition that the owners

circulated in the neighborhood and she does not want their names associated with this petition as she feels the petition was misleading and incorrect.

Sue Symington, 2649 Carmel Street, Ann Arbor, spoke in opposition of the request.

Nicole Lorenz, 2790 Carmel, Ann Arbor, owner and petitioner spoke in support of their family's request and read a letter of support.

Nick Durrie, 1444 Jewett Street, Ann Arbor, spoke in support of the request, noting that he was one of the builders and is a licensed builder and architect.

Carisa Wilder, 1444 Jewett Street, Ann Arbor, spoke in support of the request.

LIST OF EXHIBITS PRESENTED:

*Victoria & Dwight Cendrowski, 2870 Easy Street, Ann Arbor; Support
Perry Engstrom, 527 E. Liberty, Ann Arbor; Support
Robert and Kathryn Waissi, 2735 Carmel Street, Ann Arbor; Opposed
Sandra Lowry, 2636 Carmel Street, Ann Arbor; Opposed
John and Sue Symington, 2649 Carmel, Ann Arbor; Opposed
Cara Crisostomo, 2990 Easy Street, Ann Arbor; Support
Miriam Vincent, 2810 Easy Street, Ann Arbor; Support
Karen Richardson, 2619 Easy Street, Ann Arbor; Support
Ann Blumenthal and Peter Gaskell; 2655 Easy Street, Ann Arbor;
Support
Tara Habeck, 2640 Easy Street, Ann Arbor; Support
Ron Lev & Kathleen Nolan, 2645 Easy Street, Ann Arbor; Support*

Petition ZBA16-006; 2790 Carmel 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 a variance from Chapter 55, Section 5:59 1b (R1B, Single-Family) to allow an accessory structure to remain in the front setback.

- a) The alleged hardships are peculiar to the property and results from conditions which do not exist generally throughout the City
- 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.

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

Variance Denied. Vote: 1-7

Yeas: 7 - Briere, Chair Milshteyn, Lewis, Councilmember Westphal, Dobmeier, Daniel, and Eisenmann

Nays: 1 - DeVarti

Absent: 1 - Buonodono

E-2 [16-0636](#)

ZBA 16-008; 601 East Hoover Avenue
Donna K. Tope is requesting a 12-foot rear setback variance from Chapter 55, Section 5:34. A 30-foot rear setback is required in the R4C zoning district. Applicant proposes to build a 2-story addition to the rear of the existing nonconforming dwelling with a rear setback of 18 feet.

Jon Barrett provided the following staff report:

Summary

Donna Tope is seeking a 12 foot variance from the required 30 foot rear setback requirement for the R4C district. The requested variance is from Chapter 55 Section 5:34. The variance would permit an overall 18 foot distance from the addition to the rear property line.

Description and Discussion

The subject parcel is a 2,265 square foot non-conforming corner lot that

is currently being used as a rental property housing six occupants. The property has five bedrooms and one bedroom. The petitioner is proposing to construct a two story 8'x20' addition (approximately 320 square feet of area) to the rear of the home which will replace the existing 5'x18' covered porch. The proposed two-story addition will add a bathroom, first floor laundry room, upgrade existing cabinets, appliances and air conditioning. A new bedroom, closet space and an expanded living room floor area.

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.

Currently, the existing covered porch extends into the rear setback and is nonconforming. The proposed addition will extend an additional 3 feet into the rear setback. The homes in this area are all nonconforming and contain very small lots. The area is at the edge of campus and is a high density neighborhood.

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 structure was built prior to the establishment of zoning laws. Once zoning was established it placed the home into its current nonconforming status.

(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.

If the variance is denied, the applicant will not be able to construct the proposed addition. However, interior modifications could be permitted. Under current circumstances, the owner cannot make any additions or alterations to the existing footprint without Zoning Board of Appeals approval.

(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.

If the variance is granted, the modified structure would be of similar massing and scale as the surrounding properties. The additional bedroom would be consistent with density and student housing character of this neighborhood.

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

Due to the period of time the structure was built, zoning was not enacted and the required setbacks were not in place. However, the proposal of an addition to the structure is a self imposed hardship, and the owner could still complete interior improvements without expanding the square footage of the structure.

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

If the variance is granted, the addition will be 320 square feet for both floors of the addition and will be 12 feet from the rear property line. The addition will include a bedroom, bathroom and improved laundry area.

QUESTIONS BY BOARD TO STAFF:

DeVarti asked if the existing house is already in the rear setback.

Barrett said yes, the house is non-conforming as it exists.

DeVarti asked if there were any records of a building permit for the porch.

Kowalski said he searched the current database and didn't find anything, noting that it goes back about 10 years.

PRESENTED BY PETITIONER:

Donna Tope, 2115 Nature Cove, # 305, Ann Arbor, said she was representing the owner, which is her son. She reviewed her proposed plans for the house and was available to respond to the Board's enquiries. She provided a handout to the Board.

Milshteyn asked for a survey and proposed plans, noting that approvals are given based on submitted plans.

Tope said plans cost money and if they are not allowed to build what they are proposing they can save that money. She said the City's zoning department would review the building plans as part of the building permit process.

DeVarti asked about the comment that Tope was working with an architect.

Tope said they have retained Lincoln Poley and he will draw up the plans if they are approved tonight.

DeVarti said the Board would like to see the schematics to help them make their decision.

Tope said it's not part of the requirement and you have the certificate of compliance in the Building Department and staff can provide that if you require it.

PUBLIC HEARING:

Noting no public speakers the Chair closed the public hearing.

LIST OF EXHIBITS PRESENTED:

None

Moved by Briere, seconded by Daniel, to postpone agenda item until next ZBA meeting. On a rollcall vote the vote was as following with the Chair declaring the motion approved.

Request postponed. Vote: 6-2

Yeas: 6 - Briere, Chair Milshteyn, Lewis, Dobmeier, Daniel, and Eisenmann

Nays: 2 - DeVarti, and Councilmember Westphal

Absent: 1 - Buonodono

E-3 [16-0637](#)

ZBA 16-009; 3900 Research Park Drive

Zoller Properties LLC is requesting 3 variances from Chapter 47, Streets Section 4:20. A variance from the 15-foot radii approach requirement; a 25-foot radii approach is requested. A second variance from the 60-foot wide curb cut requirement to allow two curb cuts of 70 feet and 70.3 feet. A third variance from the required 30-foot driveway opening requirement, to allow two driveway openings of 31 feet and 32 feet.

Matt Kowalski presented the following staff report:

Summary: Mannik Smith Group and Zoller Properties are requesting the following variances:

- 1. One variance from Chapter 47 (Streets) Section 4:20, a variance to permit a 25 foot approach radii, 15 feet is required.*
- 2. One variance from Chapter 47 (Streets) Section 4:20, a variance to permit a 70 foot and 70.3 foot wide curb cuts, 60' wide curb cuts are required.*
- 3. One variance from Chapter 47 (Streets) Section 4:20, a variance to permit a 31 foot and a 32 foot driveway opening, 30' is required.*

Description and Discussion:

The site is currently two vacant lots located on the Research Park Drive. The petitioner is proposing to construct a 44,525 square foot single-story research and sales office with a product display area and warehouse. The new building will contain 29,850 square feet of research and office, 13,500 square feet of warehouse and 1,175 square feet of garage area. Zoller designs and manufactures precision tools for measuring, presetting and balancing machines. This building is designed to be the North American headquarters of the company and will supply some limited small parts and will provide product training and display of Zoller equipment. The project site plan currently proposes 88 exterior vehicle parking spaces, with an additional 3 parking spaces located in a small attached garage. There will be 11 covered Class A bicycle parking spaces

provided within the enclosed garage. A loading dock area and truck well for deliveries and pickups will be located at the rear of the building.

The project proposes a total of three curb cuts (two requiring variances) leading to Research Park Drive. All curb cuts will be used to access the vehicle parking as well as the loading dock area. Variances (width and turning radius), for the two southern curb cuts are required in order to construct the requested driveways. The variances are supported by Engineering staff to help preserve landscaping as well as increase safe turning radius by large trucks.

Standards for Approval - Chapter 47 (Streets) 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 and Chapter 47(Streets), Section 4:20(9). The following criteria shall apply:

The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.

All of the variances requested will be in harmony with the general purpose and intent of Chapter 47 because they will allow for safer access to and from the site. The modifications proposed will assist delivery vehicles as well as large emergency vehicles navigate the site efficiently and minimize potential conflicts with passenger vehicles.

The proposed drive configuration will allow for more direct access to the proposed loading area in the rear of the building. Utilizing the proposed curb cuts will result in increased efficiency for the customers of Zoller by requiring that trucks both enter and exit from the southern curb cuts leading to Research Park Drive. Given the existing layout of the site and surrounding land uses, all of the requested variances are reasonable.

The City's Traffic Engineer has reviewed and supports the variance requests as proposed.

QUESTIONS BY BOARD TO STAFF:

DeVarti noted that part of Mallett's Creek is open in this location; he

asked if they are granting an easement to the City due to that.

Kowalski said the petitioner's property goes up to the creek but doesn't include it, and they are required to include a 25 foot landscape buffer.

PRESENTED BY PETITIONER:

Tim Walther, Mannik and Smith Group, representing the petitioner was present to respond to the Board's enquiries and explained the application request.

DeVarti asked about easements, noting they are not under the purview of the ZBA.

Walther explained the easements on the site.

PUBLIC HEARING:

Noting no public speakers the Chair closed the public hearing.

LIST OF EXHIBITS PRESENTED:

None

Moved by Briere, seconded by Eisenmann, in Petition ZBA16 009; 3900 and 3928 Research Park Drive; Chapter 47 (Streets) Variance: The Zoning Board of Appeals shall have the authority to interpret this Chapter and may, in specific cases involving practical difficulty or unnecessary hardship, grant variances or exceptions from the requirements of this Chapter providing such a variance or exception is in harmony with the general purpose and intent of this Chapter.

a) The variance requested is in harmony with the general purpose and intent of the requirements of this Chapter.

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 approved.

Variances Granted

Yeas: 8 - Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, Dobmeier, Daniel, and Eisenmann

Nays: 0

Absent: 1 - Buonodono

F UNFINISHED BUSINESS

G NEW BUSINESS

H YEARLY ORGANIZATIONAL MEETING

H-1 [16-0639](#) Election of Officers

ELECTION OF VICE CHAIR:

A motion was made by DeVarti, seconded by Briere, to nominate Mike Dobmeier, as Vice Chair of the Zoning Board of Appeals.

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

Yeas: 8 - Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, Dobmeier, Daniel, and Eisenmann

Nays: 0

Absent: 1 - Buonodono

ELECTION OF CHAIR

A motion was made by Milshteyn, seconded by DeVarti, to nominate Candice Briere as Chair of the Zoning Board of Appeals.

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

Yeas: 8 - Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, Dobmeier, Daniel, and Eisenmann

Nays: 0

Absent: 1 - Buonodono

H-2 [16-0640](#) Approval of July 2016 - June 2017 ZBA Meeting Schedule

Moved by DeVarti, seconded by Westphal, to approve the July 2016 – June 2017 ZBA Meeting Schedule.

On a voice vote, the vote was as follows with the Chair declaring the motion carried.

H-3 [16-0641](#) Review of ZBA Rules and Procedures

No changes were proposed. Received and Filed

I **REPORTS AND COMMUNICATIONS**

[16-0642](#) Various Correspondences to the ZBA

The Annual Report was Received and Filed.

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

K **ADJOURNMENT**

Moved by Daniel, seconded by Briere, to adjourn at 7:45 p.m. On a voice vote, the Chair declared the motion carried.

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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.

*Alex Milshteyn
Chairperson of the Zoning Board of Appeals*

*Mia Gale
Recording Secretary*