



City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
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Meeting Minutes Zoning Board of Appeals

Wednesday, November 20, 2013

6:00 PM

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

A CALL TO ORDER

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

B ROLL CALL

Chair Milshteyn called the roll.

Present: 8 - Candice Briere, Wendy Carman, Alex Milshteyn, Perry Zielak, Sally Petersen, Nickolas Buonodono, Heather Lewis, and Evan Nichols

Absent: 1 - Ben Carlisle

C APPROVAL OF AGENDA

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

D APPROVAL OF MINUTES

[13-1437](#)

Zoning Board of Appeals Meeting Minutes of October 23, 2013

A motion was made by Zielak, seconded by Nichols, that the Minutes be Approved by the Board and forwarded to City Council. On a voice vote, the Chair declared the motion carried.

E APPEALS AND HEARINGS

E-1 [13-1439](#)

ZBA13-018; 2575 South State Street
Germain Motors is requesting four 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 44% Small Car parking spaces on

site; a maximum of 30% is permitted.

4. A variance from Chapter 62 (Landscape and Screening), Section 5:602(2)(d): A request to waive the requirement of required landscape islands every 15 feet for the car storage area.

Matt Kowalski presented the following memorandum:

SUBJECT: ZBA13-018; 2575 South State Street

DATE: November 20, 2013

Staff is requesting a postponement of this variance request at this time. The variances are required as part of a petition that is scheduled for action at the November 19th City Planning Commission meeting. However, at that meeting, the petition is recommended for postponement. In accordance with established ZBA policy the variance request will be re-scheduled for the next available meeting after Planning Commission action.

Project Summary:

Germain Motors, is requesting four 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 44% Small Car parking spaces on site, a maximum of 30% is permitted.*
- 4) A variance from Chapter 62 (Landscape and Screening), Section 5:602(2)(d): A request to waive the requirement of required landscape islands every 15 feet for the car storage area.*

The site currently contains 791 vehicle parking spaces, with an additional 248 parking spaces proposed for a total of 1,039 Parking spaces. The additional vehicle parking spaces are proposed along the southern half of the State Street frontage, along the Oak Brook 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. The petitioner is also requesting one variance from Chapter 62 to eliminate the requirement for required interior landscape islands in the car inventory and display areas.

A motion was made by Zielak, seconded by Nichols, that the Resolution/Public Hearing be Postponed Indefinitely. On a roll call, the vote was as follows with the Chair declaring the motion carried.

Yeas: 8 - Briere, Carman, Chair Milshteyn, Zielak, Councilmember Petersen, Buonodono, Lewis, and Nichols

Nays: 0

Absent: 1 - Carlisle

E-2 [13-1441](#)

ZBA13-023; 2940 Butternut Street

Mark Compton is requesting one variance from Chapter 55 (Zoning) Section 5:28 (R1C), of 9 feet for expansion of an existing residential structure into the front setback; 25 feet is required.

Matt Kowalski presented the following staff report:

SUMMARY:

Mark Compton is requesting one variance from Chapter 55(Zoning) Section 5:28 (R1C), of 9 feet for expansion of an existing residential structure into the front setback; 25 feet is required.

DESCRIPTION AND DISCUSSION:

The subject parcel contains a 1,130 square foot, single-family dwelling constructed in 1958. The parcel is zoned R1C (Single-Family) and is located on the corner of Butternut and Springbrook, just south of Packard. The existing setback measures 26 feet to the main house. The petitioner would like to add a 13 foot by 12 foot (156 square feet) uncovered deck to the Butternut front of the existing house. The deck will not have columns supporting it, but will be elevated approximately 2 feet to the level of the front door. The proposed deck would be located at the section of the house which is inset 2 feet from remaining front façade. As a result, the 12 foot deck extension away from the house results in only a 10 foot extension into the front yard. At the location of the new deck the existing house is setback 28 feet, so the 12 foot deck extension will result in a 16 foot front yard setback. The required setback is 25 feet, so a 9 foot variance is required. The parcel is conforming for lot area; the required minimum lot area for R1C is 7,200 square feet and the parcel is 8,712 square feet.

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 R1C Zoning District (required is a minimum lot size of 7,200 square feet; parcel is 8,712 square feet). The existing house was built in 1958 before current zoning setbacks. The house currently has no front porch; historical records do indicate that a 4 foot by 13 foot front porch previously existed at the same location as the proposed porch. The subject parcel is a corner lot and is subject to two front setbacks.

(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 deck on the front of the

house. Due to the location of the house on a corner there is small rear yard (15 feet in depth) and two larger front yards. If the variance is not granted, a front stoop (Maximum 20 square feet) or ground level patio can be built without a variance.

(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 approved, the structure will be consistent with a number of houses in the neighborhood and will add a useable outdoor amenity to the front of the house which has no existing front porch. Although constructing the deck does require a variance, it will not be covered or enclosed. This should minimize the impact to the surrounding neighborhood. The deck 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 the 1958 before current zoning standards were established. The house was built 26 feet from the front property line with a partially covered 4 foot by 13 foot front porch. The previous front porch was structurally failing and was removed a couple years ago. Any porch or deck added to the front of this structure would require a variance.

(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 an uncovered front deck 16 feet from the front property line along Butternut. The previous porch that was removed measured 4 feet by 13 feet (52 square feet) and did not allow for the placement of outdoor furniture. The proposed deck measures 12 feet by 13 feet (156 square feet), however it will not be covered and should have a minimal impact to the surrounding neighborhood.

QUESTIONS BY BOARD TO STAFF:

Carman asked staff to explain why the applicant needed a variance when the request was for an uncovered deck and not a porch.

Kowalski explained that the City considers anything that has construction 'footings' (vs. on-grade patios) to be a permanent structure, which is why it triggered a need for a variance. He added that such structures and accessory structures have to be built within the required setback.

Zielak asked about the proposed height of the structure off the ground.

Kowalski believed it would be elevated approximately two (2) feet.

Carman asked if stoops are allowed to be built without variances.

Kowalski responded that the code does allow for exemptions for a maximum twenty feet [or i.e. four by five foot] stoops that are allowed to be covered, strictly for ingress and egress.

Lewis asked about the location of the proposed steps and railing since they were not

shown in the provided plans.

Kowalski stated that the applicant might be able to answer that specific question, but added that steps are allowed and are not required to be counted within the required setback.

PRESENTATION BY PETITIONER:

Mark Compton, 2940 Butternut Street, property owner, was present and explained the application.

J. McGinnis, 2940 Butternut Street, was also present and responded to the Board's question.

Carman noted that she was concerned that there were no 3 dimensional plans submitted, showing railings, steps and height from ground.

McGinnis said that Home Depot had said that the deck would not be more than 36 inches, but with the added fill-dirt, the height would not be more than 24 inches off the ground.

Carman asked how the Board could proceed without specified plans of the project.

Kowalski responded that the Board could include a maximum height in their motion.

Zielak asked how high the proposed railing would be.

The applicants said they believed it would be a standard three feet high.

Stephen Kunselman, 2885 Butternut Street, neighbor, stated that a lot of the Board's questions are Building code questions and the deck would be built and permitted by the Building Department. He said he did not understand why the questions were a part of the appeal for a setback variance, adding that they did not feel that those questions would be a part of the discussion and they did not feel comfortable answering those questions. He said the applicant has already submitted the building application and plans to the Building Department and it was unfortunate that the plans did not make it into the ZBA application. He said the review from the Building Department is what led to the ZBA variance request. He said he, and all his neighbors, his step-father who lives next door, are all very supportive of this and would like to see this investment in their neighborhood. He said he has lost 30% of his property value with the dis-investment in their neighborhood over the past few years and given that the neighborhood is a low-income neighborhood according to Federal Neighborhood Stabilization Program. He asked the Board to please give the applicant their approval.

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

LIST OF EXHIBITS PRESENTED:

Chair Milshteyn noted that the Board had received the following letters in support of the request:

*Dan and Stephanie Curnayn, 3126 Springbrook Street, Ann Arbor.
Judith Schmitt, 3127 Springbrook Street, Ann Arbor.*

BOARD DISCUSSION:

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

There was a 5 minute break to review parliamentary procedure and whether the ZBA required three dimensional plans to be associated with an application.

It was clarified that the provided plans fulfilled the requirements for submittal.

Motion made by Zielak, Seconded by Nichols, in Petition ZBA13-023; 2940 Butternut Street, 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 5:28 (R1C Single-Family) of 9 feet from the required 25 feet front setback, per submitted plans to the Building Department:

- 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.

Friendly Amendment offered by Carman, Accepted by Zielak, Agreed by Nichols, to add the following wording to the motion:

...to allow construction of a 13 x 12 foot deck, 26 inches off the ground with a 3 foot high railing with no more than a 50% opacity.

With amended motion to read:

Motion made by Zielak, Seconded by Nichols, in Petition ZBA13-023; 2940 Butternut Street, 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 5:28 (R1C Single-Family) of 9 feet from the required 25 feet front setback, per submitted plans to the Building Department, to allow construction of a 13 x 12 foot deck, 26 inches off the ground with a 3 foot high railing with no more than a 50% opacity;

- 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.

BOARD DISCUSSION:

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

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

carried. Approved: 8-0. Variance Granted.

Yeas: 8 - Briere, Carman, Chair Milshteyn, Zielak, Councilmember Petersen, Buonodono, Lewis, and Nichols

Nays: 0

Absent: 1 - Carlisle

F **UNFINISHED BUSINESS**

G **NEW BUSINESS**

H **REPORTS AND COMMUNICATIONS**

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

J **ADJOURNMENT**

A motion was made by Zielak, seconded by Nichols, that the meeting be Adjourned. On a voice vote, the Chair declared the motion carried.

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