



# 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)

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Wednesday, July 27, 2016

6:00 PM

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

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**A**      **CALL TO ORDER**

*Chair Candice Briere called the meeting to order at 6:05 p.m.*

**B**      **ROLL CALL**

*Chair Briere called the roll.*

*Staff Present: Zoning Coordinator Jon Barrett*

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

**Absent:** 1 - David DeVarti

**C**      **APPROVAL OF AGENDA**

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

**D**      **APPROVAL OF MINUTES**

**16-1112**      Zoning Board of Appeals Meeting Minutes of June 22, 2016

**Moved by Westphal, seconded by Milshteyn, 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**

Public Hearings: Individuals may speak for three minutes. Please state your name and address for the record.

Comments about a proposed project are most constructive when they relate to: (1) City Code requirements, or (2) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.

- E-1**     **16-1113**     ZBA16-016; 215 N. Division Street  
Ali Ozbeki and Hanna Realty, LLC are requesting relief from Chapter 55, Zoning Section 5:87, Structure nonconformance, to finish a basement into additional floor area and increasing the size of one unit in a multi-family duplex. The new floor area will be part of the existing upstairs apartment unit on the first floor. The basement area will contain an additional bathroom and bedroom.

*City of Ann Arbor Zoning Coordinator, Jon Barrett provided the following staff report:*

**SUMMARY:**

*Ali Ozbeki, managing director of Hanna Realty LLC, is requesting permission to alter this non-conforming structure by converting the existing basement to living space. The basement will contain one bedroom and bathroom and will be included as part of unit 1, the upstairs apartment.*

**BACKGROUND:**

*The subject parcel is zoned R4C (Multiple-Family Residential District) and located on North Division Street. The parcel is non-conforming for required lot size: subject parcel is 2,918 square feet; minimum lot size is 8,500 square feet. The structure was built in 1901 and is 2,266 square feet.*

**DESCRIPTION:**

*The petitioner would like to convert the basement to living space with one bedroom, and a bathroom which will result in the expansion of floor area being used for occupancy, but will not change the footprint of the structure. The existing structure is a registered rental duplex with a total of six bedrooms. It is zoned R4C, which permits a maximum occupancy of six unrelated people per unit according to Zoning code, for a maximum of 12 occupants in the structure. The structure is currently permitted a total maximum of ten occupants based on Rental Housing code and unit configuration. Due to the fact that the lot does not meet the minimum lot*

*area requirement of 8,500 square feet, the existing structure is a legal non-conforming structure with two units. The proposed plan would increase the total number of bedrooms from six to seven and increase the number of occupants to eleven.*

*As noted above, Chapter 55, Section 5:87 (1)(a) states that a nonconforming structure may be maintained or restored, but no alteration shall be made to a nonconforming structure unless one of the following conditions are met:*

*(a) The alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this chapter and that it will not have a detrimental effect on neighboring property.*

*If the alteration is approved, the new bedroom and bathroom in the basement (and all other planned improvements) will be inspected and will be required to meet all housing and building codes for health and safety, including emergency egress. If the variance is not approved, the petitioner will not be able to use the basement as a living space.*

*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.*

*Permission is being requested in order to convert existing basement space to habitable space which will be joined to the existing first floor unit of a legal nonconforming duplex. The conversion of this basement will not expand the footprint or maximum height of the structure. The multiple-family use is consistent with the surrounding uses and the addition of one bedroom and one bathroom to the structure should not have a detrimental effect on adjacent properties.*

**QUESTIONS BY BOARD TO STAFF:**

*Lewis asked if there would be a connection on the interior, and if there would be any exterior changes.*

*Barrett explained that the basement would be made accessible through interior stairs from the main floor, and that both units would be connected. He reiterated that there would not be any exterior changes or enlargement of the existing footprint of the structure.*

*Westphal asked if any zoning ordinance would require the exterior of the house to be painted, expressing concern for the current condition, since it was a registered rental house.*

*Barrett said nothing within the zoning code would require the exterior of the house to be painted.*

*Milshteyn asked how many units would be allowed in this structure given its current size and lot size.*

*Barrett said two (2) units; since it was a duplex. He explained there is currently one (1) unit on the first floor and one (1) unit on the second floor, and the additional square footage that is being proposed to be added in the basement would be part of the first floor unit.*

*Milshteyn asked if the property owners could make the additional basement square footage a separate unit.*

*Barrett said, no.*

**PRESENTATION BY PETITIONER:**

*David Lewis, 440 S. Main Street, #2, Ann Arbor, Architect for the project, explained that there are two front doors; one accesses the first floor unit and the other accesses the upstairs unit. He said there is an existing stair from the first floor unit down to the basement, which will be fixed up so it isn't so steep if they are given the approval on their request this evening.*

*Lewis explained that the back door is just a back door to the house that just happens to be half way down the staircase leading to the basement. He said the only exterior change would be replacing an existing basement window with an egress window, which will be for the bedroom in the basement. Lewis said the house is in the Historic District and they have already received Historic District Commission permission to replace the basement window with an egress window.*

*Milshteyn said in reviewing the presented plans of adding a kitchenette*

*and refrigerator, it looks like this basement addition will be a third unit added to the structure, especially since it has its own entrance.*

*Lewis said the owner understands it is not legal to have three (3) units in this building so he's not going to make it a third unit, but he did want the occupant that will occupy that bedroom, to have the convenience of making themselves a cup of coffee right there, instead of going upstairs to the kitchen.*

*Milshteyn asked if there was any common space in the basement, like shared laundry room, that would need to be access by the other tenants.*

*Lewis said he believed there was only storage and unfinished space in the basement, along with the furnace.*

*Ali Ozbeki, 26484 Mandalay Street, Novi, owner, was present to respond to enquiries of the Board. He said this building didn't have laundry services, but laundry facilities were in the neighboring building, which he also owns, and the tenants from this building would have access to that building to use those facilities.*

*Lewis explained that the exterior door leads downstairs and there is a separate door into the area where the furnace is located as well as a separate door to where the bedroom would be.*

*Daniel asked if they would be required to have additional parking space.*

*Lewis said they would not be required to add a parking space since they are not adding another unit.*

*Ozbeki said he currently charges his tenants \$75.00 per month to try to discourage them from bringing their own cars.*

*Heather Lewis asked if there currently was a door at the top of the stairs, leading to the basement.*

*Ozbeki said yes. He explained the ingress/egress doors as well as the interior layout of the existing stairs.*

*Heather Lewis said she understands how it's looking more and more like a separate efficiency unit being added in the basement.*

*Ozbeki said the City doesn't allow it and so they won't add a third unit.*

*Barrett explained that City staff have met with Mr. Ozbeki on at least three different occasions to discuss at length that this added square footage cannot become an added unit and the City's Rental Housing Division will be inspecting the house to make sure it isn't a triplex. He said in order to be a separate unit it would need a stove and a refrigerator, which this bedroom doesn't have.*

*Westphal commented that the siding on the house was beautiful, and asked the owner to do whatever he could to keep it looking neat, since the neighbors would appreciate it greatly.*

*Ozbeki said he had painted the house two years ago and power-washed it two years ago and any missing concrete on the stoop had been fixed, and it was in great condition. He apologized for the dated pictures he had provided to the Board.*

**PUBLIC HEARING:**

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

**LISTS OF EXHIBITS PRESENTED:**

*Chair Briere noted that the Board had not received any letters in support/opposition of the request.*

**BOARD DISCUSSION:**

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

**Moved by Westphal, seconded by Lewis, in Petition ZBA16-016; 215 North Division, Permission to Alter a Non Conforming Structure, based on the following findings of fact and in accordance with established standards for approval, the Zoning Board of Appeals hereby grants permission to alter a non-conforming structure, per submitted plans.**

**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 rollcall vote, the vote was as following with the Chair declaring the motion granted. Vote: 8-0**

**Permission to Alter Granted**

**Yeas:** 8 - Chair Briere, Milshteyn, Buonodono, Lewis, Councilmember Westphal, Vice Chair Dobmeier, Daniel, and Eisenmann

**Nays:** 0

**Absent:** 1 - DeVarti

**E-2**     [16-1114](#)

ZBA16-017; 1601 Avondale Avenue

Carl O. Hueter is representing the owners of the property at 1601 Avondale. The applicants are seeking a variance from Chapter 55 Section 5:59 1(d). A fenced in hot tub area is to be removed and replaced with a 16 foot by 6 foot enclosed storage room. This addition along with the garage will cover the rear open space by 47%. The zoning ordinance allows for structures to cover up to 35% of the rear open space. Therefore, a variance of 12% rear open space coverage is being requested.

*City of Ann Arbor Zoning Coordinator, Jon Barrett provided the following staff report:*

**SUMMARY:**

*Carl O. Hueter, is requesting a variance from Chapter 55, Section 5:59 1(d); Accessory Buildings. The current allowable rear open space that can be occupied by an accessory structure is 35%. Applicant seeks a 12% variance for a total of 47% coverage for the combined (existing garage) accessory structures.*

**DESCRIPTION:**

*The subject parcel is zoned R1C (Single-family) and the lot is 9,844 square feet in area. The dwelling is 2,100 square feet in size and was built in 1960. The home is built on a corner lot and is 80 feet by 123 feet in size.*

**DISCUSSION:**

*The petitioner would like to construct a 7'x16' (112 square feet) fully enclosed unheated addition to the front of the existing garage. Currently there is a 172 square foot hot tub enclosure that will be removed and replaced with the proposed enclosure.*

**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.*

*Applicant states that due to a corner lot and the zoning ordinance applying two front setbacks, there is an additional average front setback which increases the setback to 34 feet 6 inches. The corner lot scenario also reduces the buildable rear yard area by 42% because the front yard setback eliminates a large area of the rear yard.*

*(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.*

*Applicant states that the hardships and practical difficulties lie within the home having two front setbacks, no basement and limited storage space. If the variance is not granted, then the owners will not be able to construct an enclosure due to the fact that there isn't any buildable area remaining on the lot.*

*(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 applicant states that the variance will have no negative effect on neighboring properties. The new enclosed structure will be 34% smaller than the existing enclosed hot tub area. The proposed enclosure will also be further from the neighboring western property.*

*(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 were existing at the property when the current owners purchased the home. The zoning ordinance imposes a double front setback and additional 9'6" average setback thereby reducing the rear yard buildable area as compared to a lot with single street frontage.*

(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 7'x16' (112 square foot) which will be a total reduction of 34% or 60 square feet of impervious surface coverage.*

**QUESTIONS BY BOARD TO STAFF:**

*Briere asked if the existing hot-tub enclosure will be removed and be replaced by the proposed storage area.*

*Barrett said correct.*

*Briere asked for verification that the proposed changes would decrease the impervious surfaces on the site.*

*Barrett said correct, showing the setback area on the slide.*

*Lewis asked what the difference was between the wall that is attached and a fully obscured fence.*

*Barrett said it had to do with zoning terminology, structures and coverage; given it is attached to the garage it becomes one whole structure in a rear open space; open space coverage.*

*Daniel asked if the storage area would look like the rest of the structure in materials and colors.*

*Barrett said the applicant had said they would try to match up the materials as closely as possible.*

*Westphal said it looks like the space between the garage and the house was created subsequent to the construction of the house.*

*Barrett said, yes, he believed so; that this addition was built into the garage to connect to the entire house.*

*Westphal said he assumed it had been done through permits.*

*Barrett said, yes, since the garage is unheated and uninhabitable space, it doesn't create a setback violation. Barrett noted it only exceeds the*

*allowable open space.*

**PRESENTATION BY PETITIONER:**

*Carl Hueter, 1321 Franklin Blvd., Architect, for the project, was present representing the owners and applicants. He said the house was built in 1960 and the additions were put on in 1988 under permits from the City. He said the enclosure discussed is 7x16 ft, and will be sided, and will look very much like the current hot tub enclosure.*

**PUBLIC HEARING:**

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

**LISTS OF EXHIBITS PRESENTED:**

*Chair Briere noted that the Board had received the following letters in support of the request.*

*Sue Ulrey, 1631 Avondale Avenue, Ann Arbor; Support*

**BOARD DISCUSSION:**

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

**Moved by Dobmeier, seconded by Milshteyn, in Petition ZBA16 017; 1601 Avondale Avenue, Variance, Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS the following variances from Chapter 55, Section 5:59 (R1C) per submitted plans:**

- 1) To allow the rear open space to be occupied by 47% coverage when 35% is the maximum allowable coverage. This will allow the removal of an existing hot tub area to be removed and replaced with a smaller enclosed storage area.**
- 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 rollcall vote, the vote was as following with the Chair declaring the motion carried. Vote: 8-0

**Variance Granted**

**Yeas:** 8 - Chair Briere, Milshteyn, Buonodono, Lewis, Councilmember Westphal, Vice Chair Dobmeier, Daniel, and Eisenmann

**Nays:** 0

**Absent:** 1 - DeVarti

**F UNFINISHED BUSINESS**

**G NEW BUSINESS**

**H REPORTS AND COMMUNICATIONS**

[16-1115](#) Various Correspondences to the ZBA

**Received and Filed**

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

(Please state your name and address for the record and sign in.)

**J ADJOURNMENT**

**Moved by Westphal, seconded by Milshteyn, that the meeting be Adjourned at 6:45 p.m. On a voice vote, the Chair declared the**

**motion carried.**

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Candice Briere  
Chairperson of the Zoning Board of Appeals

Mia Gale  
Recording Secretary