



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, May 23, 2018

6:00 PM

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

A CALL TO ORDER

Chair Briere called the meeting to order at 6:01 p.m.

B ROLL CALL

Chair Briere called the roll.

Present: 7 - Candice Briere, David DeVarti, Kirk Westphal, Michael B. Daniel, Nicole Eisenmann, Julie Weatherbee, and Charlotte Wilson

Absent: 2 - Michael Dobmeier, and Todd Grant

C APPROVAL OF AGENDA

Moved by DeVarti, seconded by Westphal, and approved unanimously as presented.

D APPROVAL OF MINUTES

D-1 [18-0912](#) Minutes of the April 25, 2018 ZBA Meeting

Attachments: Minutes of the 4-25-2018 ZBA Meeting .pdf

Moved by Westphal, seconded by Weatherbee, approved unanimously as presented, and forwarded to the City Council.

E HEARINGS AND APPEALS

E-1 [18-0913](#) ZBA18-013; 2386 Placid Way
Benjamin A. and Denyce G. Kerner, property owners, are requesting a 16 foot two inch variance from Chapter 55 Zoning Section 5:27 (Area Height and Placement Regulations). The property is zoned R1B and has a 40 foot rear yard requirement. The residence is currently non-conforming as it is 38.7 feet from the rear property line. The owners are requesting to construct

a 15 foot by 15 foot addition to the rear of the home.

Attachments: ZBA18-013; 2386 Placid Way Staff Report w Attachments .pdf

Summary:

Benjamin A. and Denyce G. Kerner, property owners, are requesting a 16 foot two inch variance from Chapter 55 Zoning Section 5:27 (Area Height and Placement Regulations).

The property is zoned R1B and has a 40 foot rear yard requirement. The residence is currently non-conforming as it is 38.7 feet from the rear property line. The owners are requesting to construct a 15 foot by 15 foot (275 square feet) addition to the rear of the home.

Background:

The property is zoned R1B, single family, and is located in the Traver Lakes subdivision, south of Dhu Varren Road and north of Traver Boulevard. The home was constructed in 1977 and is approximately 1,975 square feet in size. The lot size is 10,200 square feet.

On October 20, 1971 the Zoning Board of Appeals granted the Traver Lakes Subdivision variances to 96 lots of the 105 single-family homes that were constructed. The variances were for front and rear setbacks. Unfortunately, the dimensional distance and the applicable lots, were not included in the motion or the minutes.

Additionally, the Board should be made aware that the petitions listed below were granted dimensional variances from the R1B 40 foot rear yard requirements:

- A) 93-Z-30; 2420 Placid Way: a nine foot variance from the 40 foot rear yard requirement*
- B) 98-Z-20; 2234 Placid Way: a four foot six inch variance from the 40 foot rear yard requirement*
- C) ZBA10-015; 2428 Placid Way: a 13 foot six inch variance from the 40 foot rear yard requirement*

Description:

The variance being requested is a result of the owners desire to construct a sick room along with a study at the rear of the home. The R1B district requires a 40 foot rear yard, which the existing structure does not meet. If the variance is granted the addition will be 23 feet ten inches from the rear property line.

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 applicants state that the variance is needed to accommodate a desired addition to the rear of the home to accommodate impaired mobility by the owner.

(b). That the alleged hardships are 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.

Without the variance the owners state that alternative (one-floor) housing will need to be obtained.

(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.

Granting the variance will allow for an addition that will be compatible with the materials and design of the existing home. The applicants contend that the addition will not deter from the character of the neighborhood.

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

The applicants contend that the variance request is not self-imposed but arises out of medical needs.

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

The new addition will not encroach any further into the rear setback than the existing deck that is on the other side of the home.

QUESTIONS FROM BOARD TO STAFF:

Boardmember Westphal inquired about the history of the site.

Barrett explained the variance history at the location of the development, and that the record from the 1971 variance is extremely vague.

Boardmember DeVarti inquired about the open space at the site and the streets.

Boardmember Weatherbee inquired about the other properties near by that were granted variances.

PUBLIC HEARING:

Benjamin Kerner, Property owner at 2386 Placid Way, explained the proposed project, the low impact it would have on the neighborhood, neighbor support, and the Home Owner's Association support. He shared that it is his birthday.

DeVarti inquired if the addition would be two stories, and if today was actually the applicant's birthday.

Kerner answered that the addition would be one story, and that it is, in fact his birthday.

DeVarti wished Kerner, a fellow Gemini a Happy Birthday, and shared that it is also his birthday.

Kerner explained that the size room requested is the minimum required for the need for a sick room and study, and it would be the same rough size as the existing porch.

Kreg Norgaard, Architect for the project, explained the proposed design for the addition. He gave additional information on the background and history of the site.

Otis Jones, 2382 Placid Way, Ann Arbor, spoke in support of the

proposed variance.

Abraham Marzhan, 2845 Tuebingen Parkway, Ann Arbor, expressed support for the requested variance.

**Moved by DeVarti, seconded by Westphal, in Petition ZBA18-016;
2386 Placid Way**

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 5:27, (Area, Height and Placement regulations) to allow:

A variance of sixteen feet two (2) inches, in order to construct a fifteen foot by fifteen foot addition to the rear of the residence. The rear yard requirement is 40 feet. The result will be a twenty-three foot rear yard. The addition is to be built per the submitted plans:

- 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 land or structure.**

BOARD DISCUSSION:

The Board discussed the possibility of many people living in the area requesting variances due to the properties being non-conforming, the proper course of action for such a circumstance, and the possibility of a blanket variance or a rezoning.

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

Vote: 7-0

Variance: GRANTED

Yeas: 7 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Weatherbee, and Wilson

Nays: 0

Absent: 2 - Vice Chair Dobmeier, and Grant

E-2 [18-0914](#) ZBA18-014; 1817 Washtenaw Avenue
Ryan Regan and Adriana Rodriguez, property owners, are requesting a variance from Chapter 104 Fences, Section 8:434 (1) (b) Restrictions. The owners are requesting relief to install an eight foot tall 100 percent opaque fence starting 35 feet behind the front property line at the southeast corner of the subject property.

Attachments: ZBA18-014; 1817 Washtenaw Ave Staff Report w Attachments .pdf

Summary:

Ryan Regan and Adriana Rodriguez, property owners, are requesting a variance from Chapter 104 Fences, Section 8:434 (1) (b) Restrictions. The owners are requesting relief to install an eight foot tall, 100 percent opaque fence starting 35 feet behind the front property line at the southeast corner of the subject property.

Background and Description:

The subject property is a triangular shaped lot located at the intersection of Washtenaw Avenue and Vinewood Boulevard. The property is 22,259 square feet in area and the home was built in 1914. The applicants are requesting an eight (8) foot tall 100 percent opaque fence in the area of the yard that limits the size of a fence to six (6) feet in height and eighty percent opacity. The proposed fence will be located in the southeast portion of the property adjacent to the neighboring church. The fence will be 75 feet in length, of which, 40 feet will be in the area requiring the variance.

The applicant states that the fence is needed to dampen and abate vehicle and truck noise from Washtenaw Avenue.

The following requirements are excerpts from Chapter 104, Section 8:434(1) (b):

(1) Fences located in residential districts:

(c) Shall not exceed six (6) feet in height and 80 percent opacity in any part which is 25 feet behind the front setback line.

Standards for Approval Chapter 104 Fences (Variance):

The Zoning Board of Appeals has all powers 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:

The Zoning Board of Appeals of the City of Ann Arbor may, after a hearing in accordance with the established procedures of the Board, in its sound discretion

and in the interests of the public health, safety or welfare of the inhabitants of the community, reduce or remit the requirements of this Chapter in individual cases.

The petitioner states that the combination of lot shape, slope, proximity and level of traffic noise are peculiar to this property and do not exist generally throughout the City.

QUESTIONS FROM BOARD TO STAFF:

The Board asked questions regarding the location, style, and size of the fence.

DeVarti registered a complaint regarding a noncompliant fence near to proposed fence.

PUBLIC HEARING:

Ryan Regan, 1817 Washtenaw Ave, Ann Arbor, property owner, explained their hardship due to the house's close proximity to the Washtenaw Avenue, and the steep slope of the yard. He explained that the fence is intended to mitigate noise and allow his family to enjoy their backyard.

Adriana Rodriguez, 1817 Washtenaw Ave, Ann Arbor, property owner, explained the surrounding areas and fences in the area. She explained

that their request is what they believe to be the minimum required.

Sam Cope, 818 Henry Street, Ann Arbor, explained that he apologizes if he has appeared out of order, and explained that it is the Chair's duty to call order to the meeting, not the duty of City Staff. He shared that he respects the democratic government of Ann Arbor, and that he supports the variance for the fence. He expressed concern with tenants being treated differently than property owners.

**Moved by DeVarti, seconded by Weatherbee, Petition ZBA18-014;
1817 Washtenaw 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 104 Fences, Section 8:434 (1)(b):

To allow an eight (8) foot tall, one hundred (100) percent opaque fence to be installed in the side yard. The fence is to be installed along the southeast property line for a total length of seventy-five feet, of which forty feet will require the variance.

After a hearing in accordance with the established procedure of the board, in its sound discretion and in the interests of the public health, safety or welfare of the inhabitants of the community, reduce or remit the requirements of this chapter in individual cases

BOARD DISCUSSION:

The Board discussed noise, fence height, fence placement, hardship, and impacts on the surrounding areas.

On a voice vote, the vote was as follows with the Chair declaring the motion passed. Vote: 7-0

Variance: GRANTED

Yeas: 7 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Weatherbee, and Wilson

Nays: 0

Absent: 2 - Vice Chair Dobmeier, and Grant

E-3 **18-0915** ZBA18-015; 1106 Michigan Avenue
Bowers and Associates, representing property owners are requesting a three foot 11 inch variance from Chapter 55 Zoning Section 5:57 Averaging an Existing Front Setback Line in order to construct a new covered front porch. The average front setback is 20 feet ten inches and the new requested dimension will be 16 feet 11 inches. If approved, the new covered porch will be 24 feet wide by nine feet eight inches in depth.

Attachments: ZBA18-015; 1106 Michigan Ave Staff Report w Attachments .pdf

Summary:

Bowers and Associates, representing property owners are requesting a three foot 11 inch variance from Chapter 55 Zoning Section 5:57 Averaging an Existing Front Setback Line in order to construct a new covered front porch. The average front setback is 20 feet ten inches and the new requested dimension will be 16 feet 11 inches. If approved, the new covered porch will be 24 feet wide by nine feet eight inches in depth.

Background:

The subject property is located south of East University and east of Packard Street. The property is zoned R2A, and currently is a certified five bedroom rental house. The home was built in 1915 and is approximately 2,300 square feet in size.

Description:

The proposed porch will be located in the same footprint as the existing porch but will include an overhead roof. The porch will be approximately 234 square feet in size and will be consistent with the architecture style and materials of the home.

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.

The applicant states that the neighboring properties are similar single-family rentals on the east side and to the west are multi-family structures which increases the average front setback.

(b). That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

A variance will allow the owners to construct a new porch and roof over the existing footprint. The purpose of the new roof will help to prevent water damage to the basement foundation which is below the existing porch.

(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 improvements to the porch will have no negative effects to the neighboring properties while allowing reasonable improvements to the subject 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 home was built in 1915, prior to the establishment of the average front setback ordinance. The proposed porch is designed to maintain the setbacks as they were when the neighborhood was initially developed.

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

The variance being requested is three (3) feet eleven inches which is the minimum dimension needed in order to construct a roof over the existing porch foundation.

QUESTIONS FROM BOARD TO STAFF:

The Board inquired about the zoning of the property, and the proposed plans for the porch.

Barret answered that the property is zoned R2A, and that the variance will run with the land for the request, he further explained that the ZBA can have language in the motion that requires the area to remain unenclosed.

PUBLIC HEARING:

Mark Wright, representing Bowers and Associates, the Architects representing the owners, explained the proposed plans for the porch.

**Moved by DeVarti, seconded by Eisenmann, in Petition ZBA18-015;
1106 Michigan 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 5:57, Averaging an Existing Front Setback Line to allow:

A variance of three (3) feet eleven inches in order to construct a new front porch that is nine (9) feet eight (8) inches wide by 24 feet long. The average front setback is twenty- feet ten inches. The front porch is to be built per the submitted plans:

- 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 land or structure.**

BOARD DISCUSSION:

The Board discussed the size of the proposed porch, the porches on neighboring homes, the existing porch size, properties near to the university, the future of the property.

On a roll call vote, the vote was as follows with the Chair declaring the motion defeated. Vote: 2-5

Variance: DENIED

Yeas: 2 - Daniel, and Weatherbee

Nays: 5 - Chair Briere, DeVarti, Councilmember Westphal, Eisenmann, and Wilson

Absent: 2 - Vice Chair Dobmeier, and Grant

- E-4** [18-0916](#) ZBA18-016; 812 Henry Street
Heidi Mitchell, property owner, is requesting permission to alter a non-conforming structure. Owner is seeking to create habitable floor area in the attic space and attach to an existing second floor unit. No exterior alterations or additions are proposed for the existing structure which does not meet the lot size, lot width, front and side setbacks for the R4C district.
- Attachments:** ZBA18-016; 812 Henry Street Staff Report w Attachments .pdf

Summary:

Heidi Mitchell, property owner, is requesting permission to alter a non-conforming structure. Owner is seeking to create habitable floor area in the attic space and attach to the existing second floor unit. The unit is an efficiency and will be expanded to a two bedroom unit. No exterior alterations or additions are proposed for the existing structure which does not meet the lot size, lot width, front and side setbacks for the R4C district.

Background:

The subject parcel is zoned R4C (Multiple-Family Residential District) and is located on Henry Street just south of East Stadium Boulevard. The subject parcel is 7,405 square feet in size. The minimum lot size for the

district is 8,500 square feet, and the lot width requirement for the district is 60 feet. The subject property is 50 feet in width. The structure was built in 1901 and is 2784 square feet in size. Currently, the residence houses 11 occupants in four dwelling units.

Description:

If the alteration is approved, the rental home will have ten residents which will be a decrease in overall density. The proposed construction will elevate the living standards of the occupants thereby lessening the number of tenants by one.

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.

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.

If the alteration is approved, the rental unit will continue to have four units in the property but the total occupants will decrease. The petitioner has stated in their application that the internal modification will not have a negative effect on the neighboring properties due to the similar zoning of the surrounding properties.

QUESTIONS BY BOARD TO STAFF:

Weatherbee inquired about parking at the site.

Barrett answered that there is a plan to create additional parking at the site.

Westphal inquired about the number of occupants after the proposed addition.

Barrett answered that the home has 11 individuals and after the alterations there will be 10 individuals living there according to the application.

PUBLIC HEARING:

Rob Boroughs, representing the petitioner, explained the proposed plans for the alteration to the non-conforming structure.

Heidi Mitchell, property owner, explained her intentions to improve the property.

Sam Cope, 818 Henry Street, Ann Arbor, neighbor to the Petitioner, explained that potholes in the area recently were fixed. He expressed support for the variance and shared that he believes it would be good for the neighborhood. He explained that parking in the area is not an issue unless its a football Saturday. He explained that he is attending the meeting because he received a postcard from the City. He explained that it is to bad that staff from the Housing Commission is not able to be at the meeting.

**Moved by DeVarti, seconded by Westphal, in Petition ZBA18-016;
812 Henry 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.

- 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.**

COMMISSION DISCUSSION:

None.

On a voice vote, the vote was as follows with the Chair declaring the motion approved. Vote: 7-0

Permission: GRANTED

Yeas: 7 - Chair Briere, DeVarti, Councilmember Westphal, Daniel, Eisenmann, Weatherbee, and Wilson

Nays: 0

Absent: 2 - Vice Chair Dobmeier, and Grant

F PUBLIC HEARINGS

G NEW BUSINESS

None.

H UNFINISHED BUSINESS

None.

I REPORTS AND COMMUNICATIONS

I-1 [18-0917](#) Various Communication to the Zoning Board of Appeals

Attachments: Email from Fisher Regarding 1106 Michigan Ave .pdf, Email from Bilek - Regarding 2386 Placid Way.pdf, Letter from Copi- Regarding 812 Henry .pdf, Email from Zajonc -Regarding 1106 Michigan Ave .pdf, Email from Sturm-Regarding 1817 Washtenaw .pdf, Letter from Saunders .pdf, Model Drawing from Norgaard.pdf

Received and Filed

J PUBLIC COMMENTARY - (3 Minutes per Speaker)

None.

K ADJOURNMENT

**Moved by Wilson, seconded by Eisenmann to adjourn the meeting
at 8:03 p.m.**

Adjourned unanimously.

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Candice Briere
Chairperson of the Zoning Board of Appeals
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