



# 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, October 28, 2015

6:00 PM

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

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**A**      **CALL TO ORDER**

*Chair Milshiteyn called the meeting to order at 6:03 p.m.*

**B**      **ROLL CALL**

*Milshiteyn called the roll.*

**Present:** 5 - Candice Briere, Alex Milshiteyn, David DeVarti, Kirk Westphal, and Michael Dobmeier

**Absent:** 4 - Nickolas Buonodono, Heather Lewis, Evan Nichols, and Michael B. Daniel

**C**      **APPROVAL OF AGENDA**

**D**      **APPROVAL OF MINUTES**

**15-1351**      September 23, 2015 ZBA Meeting Minutes with Live Links

**Moved by DeVarti, seconded by Dobmeier, 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.)

**ROLL CALL**

**Present:** 6 - Candice Briere, Alex Milshteyn, Heather Lewis, David DeVarti, Kirk Westphal, and Michael Dobmeier

**Absent:** 3 - Nickolas Buonodono, Evan Nichols, and Michael B. Daniel

**E-1**    [15-1346](#)

ZBA15-021; 1512 Morton Ave - Returning Item  
Shawn and Karen Schaefer are requesting one side yard setback variance (R1D Zoning, Section 5:29) of 4 inches to allow a 2 foot 8 inch side yard setback for a building addition; 3 feet is required.

*Matt Kowalski presented the following staff report:*

**DESCRIPTION AND DISCUSSION**

*UPDATE: This petition was postponed at the September 23rd ZBA meeting in order to allow the applicant time to work on potential modifications to the plan. At this time, there have been no changes to the plan as originally presented.*

*The subject parcel is located at 1512 Morton, east of Lincoln, west of Baldwin. The parcel is zoned R1D (Single-Family Residential).*

*The request is discussed in detail below:*

*The existing single-story house is 1,606 square feet and was built in 1924. The house is setback 5 feet 11 inches from the west side property line and 11 feet 2 inches from the east side property line; the minimum required side setback is 3 feet. In summer of 2014 the petitioner completed construction on an enclosed porch on the southwest corner of the house. The permit as approved showed the porch at 3 feet from the adjacent property line. The porch was inspected and passed final inspection by the City of Ann Arbor in October 2014.*

*In the spring of 2015 a complaint was filed with the City regarding construction of the porch. The complaint was assigned a code case and follow up was conducted by City Staff. Through the course of the investigation staff requested a boundary survey from the home owner to verify construction according to plans. A boundary survey is considered very accurate and is not required for submission of building permits. The survey results indicated that while the porch complies with the required setback at the southwest corner, it encroaches 4 inches into the side yard setback at the northwest corner of the screened porch. While the line of the porch is straight, the reason for the difference is due to the original*

house being constructed at a slight angle on the lot. A stone wall lining the rear of the porch does encroach 8 inches into the side setback, however, per Chapter 55 (Zoning), Section 5:54 Required Open Space, "Certain architectural features, such as cornices, eaves, gutters, and chimneys may project 2 feet into required open space." The required setback calculation is measured to the actual foundation of structures. Due to the limited encroachment, there is no habitable space located in the setback, and the majority of the porch conforms to the setback requirements.

#### *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 parcel is 6,621 sq ft and is a conforming R1D lot for lot area. The parcel is conforming for lot width; required width is 40 feet, subject lot is 50 feet wide. The existing house was constructed in 1924 with the enclosed porch completed in 2014. The slight angle in the placement of the original house on the lot resulted in the encroachment into the setback. The construction was inspected and approved; however, Building inspectors are not surveyors and do not measure exact distances to property lines.*

(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.*

*The variance is being requested in order to permit the owner to allow an enclosed porch to encroach a maximum of 4 inches into the side setback. If the variance is denied the petitioner will need to remove the side wall of the porch and re-construct the porch to comply with the required setback. The petitioner could also remove the porch completely and construct a patio on the ground in the setback up to the property line. Patios are not structures, and as a result, do not need to adhere to setback standards.*

(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 encroachment varies from 0 to 4 inches maximum and should not affect the rights of the neighborhood property owners. The intent of setbacks is to protect the separation of structures in order to help protect health, safety and livability of property. Removal of the porch and reconstruction 4 inches over will not have any discernible impact on neighboring properties. A privacy fence exists between the subject property and the property immediately adjacent to the west.*

*(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 constructed in 1924 before existing zoning code requirements, but the existing house complies with required setbacks. A smaller screened porch could have been constructed without the need for a variance. The porch was planned for a three foot setback and was built and inspected according to approved plans. However, due to the construction of the original house at a slight angle, the final porch construction resulted in a side yard encroachment.*

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

*The requested variance will allow a small triangular corner of the screened porch, less than 5 square feet extend a maximum of 4 inches into the side setback. There will be no actual habitable space in this area, it is the corner of the wall that encroaches. Due to the angle of the house away from the west side property line, the requested variance is minimal.*

#### **QUESTIONS BY BOARD TO STAFF:**

*Arrival of Heather Lewis at 6:08 p.m.*

*Lewis requested a recap of the request and staff report.*

*Kowalski reviewed the request.*

#### **PRESENTATION BY PETITIONER:**

*Angela Jackson, 126 S. Main Street, Ann Arbor, representing the petitioner and owner, Shawn Schaefer of 1512 Morton Avenue, Ann Arbor, was present to respond to the Board's enquiries. She said the hardship to the petitioner with this request is the fact that the structure is already constructed and the petitioner followed all requirements of the City in constructing the enclosed rear porch and they were not aware of the partial three inches of encroachment of a small part of the foundation only and non-habitable space, that was encroaching due to their original house being built at a slight angle which was not taken into consideration when their contractor built the porch. She said the financial hardship of correcting the slight encroachment of 3 inches would cost the petitioner \$ 20,000 to re-construct it. She added they do not believe that a reconstruction and correction of the 3 inches would alter any complaints from the neighbor, which they have claimed are from light and noise coming from the porch.*

**PUBLIC HEARING:**

*Norton Fogel, 1510 Morton Ave, Ann Arbor, said he is the neighbor to 1512 Morton Avenue, the Schaefer's. He said he had written an email to the Schaefer's asking them to make adjustments to their porch, such as add siding to the upper part of the glass enclosed porch as well as support their proposed fence variance for a taller fence between them. He said the only response he got back was from the Schaefer's attorney, who said the Schaefer's weren't going to make any alterations per their requests. He said, "The response also included notice about them being aware that we rent out our home 5 times a year during the football season and they would be following up on making sure the City ordinances were followed regarding that matter". He said, "We would withdraw our complaint against the Schaefer's if the ZBA would grant us a variance to build a 10-foot tall fence". He acknowledged that the decision was up to the Zoning Board of Appeals to grant it or not. He said he realized that the City does not have any ordinances against light or sound but as people are building larger homes on small lots in Ann Arbor, he suggested that the City begin looking at this and protecting the neighbor's right to privacy, and their right to have darkness and quiet in their backyard. He said they just want to maintain solitude and quiet in their backyard and house.*

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

**LIST OF EXHIBITS PRESENTED:**

*Drew Denzin, 1506 Shadford, Ann Arbor; Support*  
*Joe Malcoun, 1500 Morton, Ann Arbor; Support*  
*Dave and Sue McCreadie, 1514 Morton Ave, Ann Arbor; Support*  
*Liam and Christine Ayers, 1508 Morton Ave, Ann Arbor; Support*  
*Angela Jackson, Hooper Hathaway, P.C., 26 South Main St., Ann Arbor; Support/Representative*  
*Norton and Becky Fogel, 1510 Morton Ave, Ann Arbor; Opposed*

**BOARD DISCUSSION:**

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

**Moved by DeVarti, seconded by Briere, in Petition ZBA15-021; 1512 Morton, 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 5:32A (R4A, Multiple-Family) of 4 inches from the required side setback of 3 feet, per 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 structure.**

**On a roll call vote, the vote was as follows with the Chair declaring the motion carried. Vote: 6-0**

**Variance Granted**

**Yeas: 6 -** Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, and Dobmeier

**Nays: 0**

**Absent:** 3 - Buonodono, Nichols, and Daniel

**E-2**    [15-1347](#)    ZBA15-022; 814 Sylvan Avenue - ITEM WITHDRAWN-PUBLIC HEARING ONLY

Michael T. Van Goor is requesting permission to alter a non-conforming structure in order to construct a second story addition over the existing structure. The footprint of the structure will not be increased.

*Chair Milshteyn explained that the application had been withdrawn by the petitioner after the public hearing notices had been sent out and published, so a public hearing would still be held.*

**PUBLIC HEARING:**

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

**Received and Filed**

**E-3**    [15-1348](#)    ZBA15-023; 818 Henry Street  
Sam Copi is requesting one front yard setback variance from Chapter 55(Zoning) Section 5:34(Averaging Front Setback), of 2 feet 6 inches to allow a 14 foot 8 inch front setback; 17 feet 2 inches is required (averaged front setback).

*Matt Kowalski presented the following staff report:*

**DESCRIPTION AND DISCUSSION:**

*The subject parcel contains a 2,222-square foot, duplex dwelling constructed in 1920. The parcel is zoned R4C (Multiple-Family) and is non-conforming for lot area; the required minimum lot area for R4C is 8,500 square feet and the parcel is 6,011 square feet. The current front setback measures 19 feet 8 inches to the covered stoop. The house was constructed in a line with adjacent houses to the east and slightly behind the front of the house immediately to the west. The required setback for R4C is 25 feet; however using the required averaging section to include adjacent houses within 100 feet the required setback is reduced to 17 feet 2 inches.*

*The petitioner is proposing to construct and cover a 28 foot 9 inch by 5 foot front porch addition to the existing covered stoop on the first floor and construct a new porch (uncovered) on the second floor which would be the same size as the first floor porch. After construction, both porches of the*

*house would encroach 2 feet 6 inches into the averaged front setback of 17 feet 2 inches. The total area of the encroachment is approximately 232 square feet per floor.*

*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 non-conforming lot in the R4C Zoning District (required is a minimum lot size of 8,500 square feet; parcel is 6,011 square feet). The existing house was built in the 1920's before current zoning setbacks, when the current front setback was enacted the house was made non-conforming. The house, including the covered stoop, was built 19 feet 8 inches from the front property line. The R4C required setback is 25 feet; however the averaging of adjacent parcels adjusts the setback to 17 feet 2 inches. Adjacent neighborhood houses used in the averaging requirement were also constructed before current zoning standards.*

*(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 and cover a front porch on the first floor and an uncovered porch on second floor of the house. If the variance is not granted, the petitioner could re-construct the existing covered stoop and add 2 and a half feet to the front without requiring a variance. The porch could not extend across the front of the house as proposed due to the minimal depth of 2 feet 6 inches in front of the bay projections of the house.*

*(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. The first floor porch is being enlarged and covered, the second floor porch will not be covered. A covered front porch would be an aesthetic improvement to the property and will enable residents to use the porch offering same protection from the elements. The addition will not be extended any closer to side property lines and a signed petition from adjacent neighbors was submitted.*

*(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 1920's before current zoning standards were established. Changes in the zoning code after construction of the house made the house non-conforming. The existing stoop is sufficient in size to be used only for ingress/egress to the existing front doors.*

*(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 covered front porch on the first and second floor. At the narrowest point, the porch is less than 5 feet wide and is a minimal depth for the addition of chairs. The second floor porch will be built on the roof of the first floor and will not be covered. Given design constraints of two front doors to the duplex and bay projections along the front of the house, total useable area of the porch is minimal.*

**QUESTIONS BY BOARD TO STAFF:**

*None*

**PRESENTATION BY PETITIONER:**

*Jim Korf, 800 Junction, Plymouth MI, Architect for the petitioner, was present and explained the project and was available to respond to the Board's enquiries. He explained the existing porch is borderline dangerous, and the neighbors are all in support of the project.*

**PUBLIC HEARING:**

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

*LIST OF EXHIBITS PRESENTED:*

*A petition in support of the proposed project was submitted with signatures and addresses of 10 neighbors.*

*BOARD DISCUSSION:*

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

**Moved by C. Briere, seconded by DeVarti, in Petition ZBA15-023; 818 Henry - 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 5:57 (Averaging Existing Front Setback) of 2 feet 6 inches from the required front setback of 17 feet 2 inches to allow a front setback of 14 feet 8 inches, per 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 structure.**

**On a roll call vote, the vote was as follows with the Chair declaring the motion carried. Vote: 6-0**

**Variance Granted**

**Yeas:** 6 - Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, and Dobmeier

**Nays:** 0

**Absent:** 3 - Buonodono, Nichols, and Daniel

- E-4    [15-1349](#)    ZBA15-024; 918 Packard Road  
Carl O. Hueter is requesting Permission to Alter a Non-Conforming structure and two front yard setback variances from Chapter 55(Zoning) Section 5:34, in order to construct a front porch addition: 1) A variance of 6 feet allow a 19 foot front setback; 25 feet is required; 2) A variance of 13 feet 4 inches to allow an 11 foot 8 inch front setback; 25 feet is required.

*Matt Kowalski presented the following staff report:*

**DESCRIPTION AND DISCUSSION:**

*The subject parcel contains a 1,954-square foot two-family structure constructed in 1900. The parcel is the corner lot of McKinley Avenue and Packard Road. It is zoned R4C (Multiple-Family) and is non-conforming for lot area; the required minimum lot area for R4C is 8,500 square feet and the parcel is 5,793 square feet. The duplex is non-conforming for an encroachment of 3 feet into the side yard setback, required setback is 5 feet. The current front setback measures 25 feet to the Packard front of the existing house, not including a small uncovered stoop. The current front setback measures 14 feet at the closest point along the McKinley Avenue frontage. The required setback for R4C is 25 feet.*

*The petitioner is proposing to remove the existing uncovered stoop and construct a 25 foot by 6 foot covered front porch addition to the Packard front of the house which will wrap around the corner of the house to include a 12 foot by 6 foot front porch along the McKinley frontage. After construction, the porch of the house would encroach 6 feet into the front setback of 25 feet along Packard. While the proposed porch and the existing house extend into the McKinley street front setback, Section 5:58 of Chapter 55 (Zoning) allows corner lots to have a minimum of 25 foot wide building envelope. When that section is applied to this parcel, the porch along McKinley is within the 25 foot building width and does not require a variance. Although the public notice had noted this porch as requiring a variance, staff confirmed the application of this section of code after the notice was published. The total area of the front porch is approximately 150 square feet.*

*Chapter 55: Section 5:58. - Corner lot setback on the side street.*

*Any corner lot shall have a minimum required open space on the side street equal to the required front open space of the zoning district in which it is located; provided, however, that this does not reduce the width*

*suitable for a building on any lot of record to less than 25 feet.*

*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:*

*(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.*

*The petitioner is asking to modify an existing non-conforming duplex structure. The footprint of the existing house will be expanded into the front setback for the addition of a front porch. No part of the structure will be built closer to the side or rear property line than currently exists. The majority of the house is in conformance with the side setback; however an approximately 10 foot by 3 foot projection encroaches into the side yard leaving a 2 foot setback in that area. There will be no addition to the floor area of the house, only the proposed 150 square foot unenclosed front porch.*

*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 non-conforming lot in the R4C Zoning District (required is a minimum lot size of 8,500 square feet; parcel is 5,793 square feet). The existing house was built in 1900 before current zoning setbacks. The house was constructed 25 feet from the front property line with only a small uncovered front stoop. Any expansion of the existing stoop or covering will trigger the need for a setback variance. The R4C required setback is 25 feet; adjacent houses are setback similar to the subject property.*

*(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 and cover a 150 square foot front porch on the house. If the variance is not granted, the petitioner could construct an enclosed porch only on the McKinley (south) front of the structure with permission to Alter a Non-Conforming Structure from the ZBA.*

*(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 that have very similar front porches. The existing stoop will be removed and the porch will be constructed and covered in order to allow for a useable area in the front yard. A covered front porch would be an aesthetic improvement to the property and will enable residents to use the porch offering same protection from the elements. The addition will not be extended any closer to side property lines and no objections were received from 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 house was built in 1900 before current zoning standards were established. Changes in the zoning code after construction of the house made the house non-conforming. The existing stoop is sufficient in size to be used only for ingress/egress to the front doors and cannot be enlarged without permission from the ZBA.*

*(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 covered front porch. The porch is 6 feet wide which is a minimal depth for the addition of chairs while maintaining the ability to walk around them. Given the total useable area of the porch is approximately 150 square feet, the requested variance is minimal.*

*QUESTIONS BY BOARD TO STAFF:*

*None*

*PRESENTATION BY PETITIONER:*

*Carl O Hueter, 1321 Franklin Blvd., Ann Arbor, Architect and petitioner reviewed the request with the Board, noting that this house was similar to a face without a nose, in that it didn't have a front porch, like most of the neighboring houses do. He said their request fits right in with the average porch size and depth of porches within two blocks of this parcel, going either way on Packard.*

*DeVarti asked about the front stoop and if the proposed porch would come out beyond that existing stoop.*

*Hueter said yes, it would come out 2 more feet.*

*PUBLIC HEARING:*

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

*LIST OF EXHIBITS PRESENTED:*

*None*

*BOARD DISCUSSION:*

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

**Moved by DeVarti, seconded by Briere, in Petition ZBA15-024; 918 Packard Road - Permission to Alter a Non-Conforming structure; Based on the following findings of fact and in accordance with the established standards for approval, 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, with the following criteria;**

**(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, and**

**Two (2) front yard setback Variances from Chapter 55(Zoning) Section 5:34, in order to construct a front porch addition:**

- 1) A variance of 6 feet allow a 19 foot front setback when 25 feet is required;
- 2) A variance of 13 feet 4 inches to allow an 11 foot 8 inch front setback when 25 feet is required.

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, with the following criteria:

(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.

(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). 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.

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

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

**Yeas:** 6 - Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, and Dobmeier

**Nays:** 0

**Absent:** 3 - Buonodono, Nichols, and Daniel

**E-5**     [15-1350](#)

ZBA15-025; 408 Glendale Street

Biondo Design is requesting one front yard setback variance from Chapter 55(Zoning) Section 5:29, of 5 feet 6 inches to allow a 19 foot 6 inch front setback; 25 feet is required.

*Matt Kowalski presented the following staff report:*

*DESCRIPTION AND DISCUSSION:*

*The subject parcel contains a 945-square foot single-family structure constructed in 1943. The parcel is zoned R1D (Single-Family) and is conforming for lot area; the required minimum lot area for R1D is 5,000 square feet and the parcel is 5,445 square feet. The current front setback measures 21 feet 8 inches to an existing approximately 36 square foot uncovered porch. The required setback for R1D is 25 feet; however using the required averaging section to include adjacent houses within 100 feet, the required setback is reduced to 24 feet 6 inches.*

*The petitioner is proposing to remove the existing porch and construct a 17 foot 7 inch by 6 foot covered front porch addition to the house. After construction, the porch of the house would encroach 5 feet into the averaged front setback of 24 feet 6 inches. The total area of the front porch is approximately 105 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 R1D Zoning District (required is a minimum lot size of 5,000 square feet; parcel is 5,445 square feet). The existing house was built in the 1940's before current zoning setbacks. The house was constructed with only a 36 square foot uncovered front porch approximately 22 feet from the front property line. Any proposed covering of the existing front porch will also trigger the need for a setback variance. The R1D required setback is 25 feet; however the averaging of adjacent parcels adjusts the setback to 24 feet 6 inches. Adjacent neighborhood houses used in the averaging requirement were also constructed before current zoning standards.*

*(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 and cover a 105 square foot front porch on the house. If the variance is not granted, the petitioner could re-construct (but not cover) the existing porch. The porch could not extend across the front of the house without permission to Alter a Non-Conforming Structure from the ZBA.*

*(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. The porch is being enlarged and covered in order to allow for a useable area. A covered front porch would be an aesthetic improvement to the property and will enable residents to use the porch offering same protection from the elements. The addition will not be extended any closer to side property lines and a signed petition from adjacent neighbors was submitted.*

*(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 1940's before current zoning standards were established. Changes in the zoning code after construction of the house made the house non-conforming. The existing porch is sufficient in size to be used only for ingress/egress to the front doors and cannot be enlarged without permission from the ZBA.*

*(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 covered front porch. The porch is 6 feet wide which is a minimal depth for the addition of chairs while maintaining the ability to walk around them. Given the total useable area of the porch is approximately 105 square feet, the requested variance is minimal.*

**QUESTIONS BY BOARD TO STAFF:**

None

*PRESENTATION BY PETITIONER:*

*Kevin Biondo, 408 Glendale, designer and builder for the project explained the project to the Board, noting that two neighbors were new construction and one had received a variance to build her house at the current setback. She said the neighbors all love the plans, and it will be an asset to the neighborhood.*

*DeVarti asked for clarification on the request.*

*Biondo explained the setback request.*

*PUBLIC HEARING:*

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

*LIST OF EXHIBITS PRESENTED:*

*Ann Steiner, 1809 Fair Street, Ann Arbor; Opposed.  
A petition in support of the proposed project was submitted with signatures and addresses of 6 neighbors.*

*BOARD DISCUSSION:*

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

**Moved by DeVarti, seconded by Dobmeier, in Petition ZBA15-025;408 Glendale - 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 5:57 (Averaging Existing Front Setback) of 5 feet from the required front setback of 24 feet 6 inches to allow a front setback of 19 feet 6 inches, per 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 structure.**

**Yeas:** 6 - Briere, Chair Milshteyn, Lewis, DeVarti, Councilmember Westphal, and Dobmeier

**Nays:** 0

**Absent:** 3 - Buonodono, Nichols, and Daniel

**F UNFINISHED BUSINESS**

**G NEW BUSINESS**

**H REPORTS AND COMMUNICATIONS**

**15-1352** Various Correspondences to the ZBA

**Received and Filed**

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

(Please state your name and address for the record)

**J ADJOURNMENT**

**Moved by Councilmember Westphal, seconded by DeVarti, that the meeting be adjourned at 7:02 p.m. On a voice vote, the Chair declared the motion carried.**

*Community Television Network Channel 16 live televised public meetings are also available to watch live online from CTN's website, [www.a2gov.org/ctn](http://www.a2gov.org/ctn), on "The Meeting Place" page (<http://www.a2gov.org/livemeetings>).*

*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](http://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](http://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*