



City of Ann Arbor

Formal Minutes

Zoning Board of Appeals

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Wednesday, September 24, 2014

6:00 PM

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

A **CALL TO ORDER**

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

B **ROLL CALL**

Chair Milshteyn called the roll.

Present: 6 - Candice Briere, Wendy Carman, Alex Milshteyn, Perry Zielak, Nickolas Buonodono, and Evan Nichols

Absent: 3 - Ben Carlisle, Sally Petersen, and Heather Lewis

C **APPROVAL OF AGENDA**

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

D **APPROVAL OF MINUTES**

14-1420 Zoning Board of Appeals Meeting Minutes of July 23, 2014

Milshteyn noted that on page 1 it should reflect that Heather Lewis was present.

A motion was made by Zielak, seconded by Buonodono, 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**

E-1 **14-1421** ZBA14-011; 309 Wesley Street

Kayla Conrad is requesting permission to alter a non-conforming structure and one variance from Chapter 55 (Zoning) Section 5:29 (Single-Family), of 5 feet for expansion of an existing residential structure into the rear setback; 20 feet is required.

Matt Kowalski presented the following staff report:

DESCRIPTION AND DISCUSSION:

The subject parcel is zoned R1D (Single-Family) and is located on the corner of Wesley and Harbrooke, just south of Arborview, north of Huron. The structure is an existing legal non-conforming duplex in a single-family zoning district. The petitioner resides in one half of the duplex and rents out the other half. The duplex structure is 1,768 square feet or approximately 884 square feet per unit with 2 bedrooms in each unit. It was built in 1941.

The petitioner is proposing to construct a 204 square foot addition to the first floor and second floor on the south side of the house. There is also a 180 square foot two-story addition proposed on the north side of the house that conforms to zoning and does not require a variance. There will be no bedrooms added to the either unit of the duplex. The lot is a corner which requires the south line of the parcel to be considered the rear lot line requiring a 20 foot rear setback. There is an existing detached two car garage located within the rear setback, which is permitted by zoning code. The proposed single-story addition will extend 10 feet into the attached garage, and 5 feet into the required rear setback. The new addition will place 45 square feet of floor area within the required setback. The second story addition will conform to the 20 foot required rear setback. The two-car garage will become a one-car garage.

The applicant is applying for a permit in order to add a driveway off of Harbrooke. This driveway will provide one legal parking space and will replace the parking space removed from the existing two-car garage. The property will remain non-conforming for parking, 3 spaces are required (1 ½ spaces per unit), 2 spaces will be provided.

If the variance is granted, staff recommends approval with the condition that the permit for the additional driveway from Harbrooke is approved and the legal parking space in this location is constructed. Per Chapter 55, Article IX(Zoning Board of Appeals) Section 5:97 (General Provisions), 'The Board of Appeals may attach conditions to any affirmative decision, provided such conditions are in accordance with this Code...'

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 construct additions to the north and south side of the house. These additions will increase the floor area of a non-conforming structure, but will not increase occupancy permitted. The addition to the north will be two-stories and will measure 6 feet by 15 feet and located over 30 feet from the front property line along Harbrooke. The addition to the north will measure approximately 16 feet by 17 feet and will be a partial two story addition. This addition will extend into the existing garage space and be located 26 feet from the front property line of Wesley, it will not extend beyond the front line of the existing structure. The additions will not extend any closer to neighboring properties than the existing structure. Planning Staff has not received any communications neighborhood residents.

Standards for Approval - Variance

The Zoning Board of Appeals have 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 5,000 square feet, subject parcel is 5,488 square feet). The parcel is a corner lot, subject to two front setbacks and an unusual 'pie wedge' shape with an angled side property line.

(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 for additions to an existing 1,768 square foot duplex, each unit is approximately 884 square feet. Due to the irregular lot shape, corner lot restrictions and minimal lot size, there is limited area to construct an addition that complies with the setbacks on the site. A smaller addition could be constructed between the garage and the existing house and the north front without the need for 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 massing of the structure will be consistent with some houses in the neighborhood. Although the proposed addition would extend into the rear setback, the existing garage between the addition and the rear property line should help minimize the impact to the surrounding neighborhood. Planning Staff has not received any communication from the neighborhood regarding this request.

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

The existing house was constructed before the current zoning code was in effect. The subject parcel is conforming for lot size, containing a legal non-conforming duplex. The addition is requested in order to permit a single-story expansion of one unit of the duplex.

(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 single story addition extending 5 feet into the rear setback (south) of 20 feet. The second-story addition on this side of the house will be constructed 30 feet from the rear lot line. The variance will permit the encroachment of 45 square feet of structure into the rear setback. The addition will remove one legal parking space and require the construction of an additional drive from Harbrooke.

QUESTIONS BY BOARD TO STAFF:

Carman asked if the house itself currently conforms to the setbacks.

Kowalski said yes.

Nichols asked about the parking spaces.

Kowalski reviewed the parking options on the site.

PRESENTATION BY PETITIONER:

Kayla Conrad, 309 Wesley Avenue, Ann Arbor, owner was present and explained the request and application.

The Architect for the project was also present and explained the desires of the owner and the various options available to them.

Buonodono asked about the applicant's response provided in Section 4.2, noting that they had answered no to that the hardships or practical difficulties are more than mere inconvenience, inability to obtain a higher financial return.

The Architect said they are not improving the unit for a higher financial return but to attract a long-term tenant and to help them stay even with their investment.

Teri Minton, 1303 Harbrooke Avenue, Ann Arbor, neighbor said they were surprised at the extent of the changes and that they would need to construct a second driveway. She said no other properties in the neighborhood have two driveway and adding a driveway would make it less conforming with the neighborhood and more nonconforming. She said they have concern about cutting a driveway only 5 feet from the base of the tree and less than 20 feet from the stop sign and very close to the corner of the oddly angled 4-way intersection of Harbrooke/Wesley. She said the

John Michael McNew, 1303 Harbrooke Avenue said he believed the proposed location of the added driveway would be dangerous when exiting.

Kowalski clarified that the owner did not need a variance to install a second driveway, if it met all other City codes.

Zielak asked how they could avoid creating confusion in case the added driveway did not meet other City codes. He asked if they could add stipulations to the motion for the variance.

Kowalski said yes.

Buonodono said he would be voting no on the application because of the response in the application Section 4.2.

Nichols said he too would be voting no because the applicant had other viable options and alternatives available to them, which they had clearly demonstrated to the Board.

Carman said she felt that the petitioner misunderstood the Section 4.2 question on the application.

Briere said she had similar concerns as stated by Nichols noting that the applicant had other options available to them by simply mirroring the proposed design.

Milshteyn agreed.

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

LIST OF EXHIBITS PRESENTED:

Chair Milshteyn noted that the Board had received the following communications opposed to the request.

Teri Minton & JM McNew, 1303 Harbrooke Avenue, Ann Arbor

BOARD DISCUSSION:

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

Motion made by Zielak, seconded by Briere, In Petition ZBA14-011; 309 Wesley, 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.

On a roll call, the vote was as follows with the Chair declaring the motion defeated. Denied: 1-5

Permission to Alter a Non-conforming structure Denied.

Yeas: 1 - Carman

Nays: 5 - Briere, Chair Milshteyn, Zielak, Buonodono, and Nichols

Absent: 3 - Carlisle, Councilmember Petersen, and Lewis

Carman noted that if the petitioner didn't receive approval to alter a nonconforming structure the variance request would not be applicable.

F UNFINISHED BUSINESS

G **NEW BUSINESS****H** **REPORTS AND COMMUNICATIONS****14-1422** Various Correspondences to the ZBA

Kowalski noted that no new applications for the October ZBA meeting had been received so the meeting would be cancelled.

Received and Filed

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

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

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- *Cable: Watch CTN Channel 16 public meeting programming via Comcast Cable channel 16.*

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Alex Milshteyn
Chairperson of the Zoning Board of Appeals

Mia Gale
Recording Secretary