

**Zoning Board of Appeals  
May 22, 2024, Regular Meeting**

**STAFF REPORT**

**Subject: ZBA 24-0018; 518 W Summit Street**

**Summary:**

Thomas Waters, property owner, is seeking a 15 foot variance from Section 5.18.5 Averaging an Established Front Building Line. The property is applying for a land division to create a new parcel on the Fountain Street side of the lot. The average front setback is 40 feet on the Fountain Street side and the owner is seeking to reduce the front setback to 25 feet. The property is zoned R2A, Two-Family Dwelling District.

**Background:**

The subject property is located at the intersection of West Summit Street, Hillcrest Drive and Fountain Street in the Waterhill neighborhood. The home was built in 1901 and is approximately 1,176 square feet in size. The parcel contains 12,022 square feet and has frontage along Hillcrest Drive and Fountain Street.

**Description:**

Section 5.18.5 requires an average front setback for residentially zoned properties to be measured from adjacent homes within 100 feet on the same side of the street as the subject property. The three properties to the north of the subject property have front setbacks that exceed the 40 foot maximum that can be applied. Therefore, the established average front setback along Fountain Street for the subject property is 40 feet, which exceeds the R2A district requirement of 25 feet.

**Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5.29.12, Application of the Variance Power from the Unified Development Code (UDC). 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.***

*Applicant response: "There are multiple conditions that make this circumstance atypical and unique to the property. The atypical adjacent lots being through lots in combination with the parent lot being a three-frontage corner lot. The rest of houses along Fountain Street, both north and south, all have setbacks of ~25 feet.*

*On the west, the Fountain St setback would normally be determined by houses addressed and accessed by Fountain Street. In this circumstance, there are a small number of through lots that span from Hillcrest to Fountain that are not characteristically common to the neighborhood and are addressed and accessed by Hillcrest.*

*On the East, there is a 207-year old native Black Walnut landmark tree, if we move the property line any further east, we would be infringing on the critical root zone of the landmark Walnut tree.”*

- (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.**

*Applicant response: “It includes substantially more than both. Without the variance the buildable size available per unit is relatively small and narrow, making multiple dwelling units unlikely. The currently required setback would make the building placement look out of character for the street and neighborhood, unusually placed in the middle of a very public yard, relative to the rest of the houses along Fountain Street. Moving the proposed property line east to accommodate a larger floor plate in support of more housing density would then put the landmark native black walnut tree in jeopardy by subjecting the 207-year old tree to construction and root damage.”*

- (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.**

*Applicant response: “Granting the variance would allow for a building that is consistent in frontage placement and character with the rest of the Fountain Street and the Waterhill neighborhood while also making multiple units practically possible, consistent with other multi-unit buildings along both Fountain Street and Summit Street and in line with the city's stated goals for increased housing density, while protecting a 207 year old landmark native Black Walnut tree.”*

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

*Applicant response: “It is not self-imposed but the result of our lot being a corner lot, and the atypical adjacent lots being through lots in combination with the parent lot being a three-frontage corner lot. The rest of houses along fountain, both north and south, all have setbacks of ~25 feet. The conditions make it practicality unrealistic to allow for multiple dwelling units, in line with the cities stated goals, while also protecting this landmark 207-year old black walnut tree or preserving the character of the neighborhood.”*

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

*Applicant response: “The proposed variance would be for frontage setback that is*

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*consistent with the character of the neighborhood.”*

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jon Barrett". The signature is stylized with a large initial "J" and "B".

**Jon Barrett- Zoning Coordinator  
City of Ann Arbor**