



# 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, November 15, 2017

6:00 PM

Larcom City Hall, 301 E Huron St, Sixth  
floor, conference room

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#### **A** **CALL TO ORDER**

Chair Briere called the meeting to order at 6:04 p.m.

#### **B** **ROLL CALL**

**Present:** 8 - Candice Briere, Heather Lewis, David DeVarti, Kirk Westphal, Michael Dobmeier, Michael B. Daniel, Todd Grant, and Julie Weatherbee

**Absent:** 1 - Nicole Eisenmann

#### **C** **APPROVAL OF AGENDA**

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

#### **D** **APPROVAL OF MINUTES**

D-1 [17-1783](#) October 25, 2017 ZBA Minutes with Live Links

**Attachments:** 10-25-2017 ZBA Minutes with Live Links.pdf

Moved by Westphal, seconded by DeVarti and approved unanimously by the Board and forwarded to the City Council.

#### **E** **HEARINGS AND APPEALS**

E-1 [17-1784](#) ZBA17-031; 621 Madison Place  
Onna Solomon, property owner, is requesting a variance from Chapter 55 Zoning Section 5:28 (Area, Height and Placement regulations). Applicant is seeking to construct a 13 foot by 18 foot addition to the rear of the existing residence that will be 20 feet from the rear property line. The property is zoned R1C and requires a rear yard setback of 30 feet, therefore, a ten

(10) foot variance will be required.

**Attachments:** ZBA 17-031 Staff Report with Attachments .pdf

**SUMMARY:**

*Onna Solomon, property owner, is requesting a variance from Chapter 55 Zoning Section 5:28 (Area, Height and Placement regulations). Applicant is seeking to construct a 13 foot by 18 foot addition to the rear of the existing residence that will be 20 feet from the rear property line. The property is zoned R1C and requires a rear yard setback of 30 feet, therefore, a ten (10) foot variance will be required.*

**BACKGROUND:**

*The property is zoned R1C, single-family residential, and is located between South Seventh Street and Eberwhite Elementary school. The home was built in 1948 and is approximately 1,224 square feet in size.*

**DESCRIPTION:**

*The new addition will contain an entryway and mudroom along with a dining area for an approximate total of 260 square feet on the first floor. The second floor will be 125 square feet and will accommodate a new closet for an existing bedroom and a new bathtub for an existing bathroom. The combined square footage of both floors will be 385 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.*

*he applicants state that the addition and renovation to the residence will result in improved access and modernization to the back entryway to the home. Without the variance, much needed repairs to the wood deck and windows will not move forward.*

*(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.*

*The front entrance to the home is farther than the rear entrance and is halfway down a steeply sloped drive that presents access challenges in poor weather conditions. The home is also small and lacks key necessities for this growing family.*

*(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 applicants state the variance will have little impact on surrounding properties as detached garages and vegetation help eliminate any visual impacts that the addition may have.*

*(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 as the front yard has topography and sloping issues. The back of the house currently is located almost to the 30 foot rear setback which would require a variance with any type of addition.*

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

*The variance requested is for ten (10) feet or 33 percent of the total rear yard setback requirement. The applicants state that this is a minimal request and still affords them the opportunity to make a reasonable use of the land.*

#### **PRESENTATION BY PETITIONER**

*Onna Soloman property owner, explained that she has lived in the house for nine years and has two young sons. She explained that her neighbors have been involved with the planning process and that they are in favor of the addition, as shown by the letters of support. She explained that their*

*current main entrance to their home is through their small galley kitchen where it gets very slippery due to tracked in rain and snow. She stated that they would like to modernize, improve, and make their space more useful to their family.*

*Kasey Vilet, contractor, explained all other areas to construct an addition did not make functional sense for the family, he shared that they are looking to mitigate a safety and usability issue in their kitchen. He added that the plans for the addition are about two or three feet extending beyond the existing deck on the property. He explained that the front entrance of the house is too steep for practical use during the winter and that the main entrance for the family is through the kitchen.*

*Boardmember Todd Grant inquired about the inconvenience that is being experienced by the applicant that allows them to be granted this variance.*

*Vilet explained that the homeowner is working with a tight space which presents a safety issue, he explained that in the current layout of the kitchen, the door opens up into the gas stove, the floor gets slippery during the winter months.*

*Soloman explained that due to the steep front part of the house and the location of the driveway and garage, the back door is the primary exit and entrance for their home.*

*Grant inquired about the use of ramps to make the front door entrance accessible for the family.*

*Vilet answered that due to the steep grade change, installing a ramp system would take up a large amount of the front yard.*

*Daniel inquired about the entrance into the dining room.*

*Soloman answered that the dining room entrance is not used because the dining room is small and the door would open up into the furniture there.*

*DeVarti inquired about working to add on an addition that is the minimum needed.*

*Vilet answered that creating a small addition doesn't solve the functional and safety issues that the family is facing*

*DeVarti inquired about the setback on the second floor.*

*Grant inquired about creating a three foot mudroom.*

*Vilet answered that the proposed second floor addition will not extend as far as the first floor addition. He also explained that extending the kitchen by 3 feet to create a mudroom would be too small and not cost effective.*

*Daniel inquired about enclosing the front porch.*

*Lewis inquired about the flat roofs shown in the application.*

*Soloman answered that the addition would have slanted roofs and that they are not interested in enclosing the front porch.*

**Moved by DeVarti, seconded by Grant, that Petition ZBA17-031; 621 Madison Place be postponed to a future meeting.**

**BOARD DISCUSSION:**

*The board discussed postponing the application to a meeting date in the future to allow the applicant to resubmit plans.*

**On a roll call, the vote was as follows with the Chair declaring the motion approved. Vote: 6-2**

**Motion APPROVED**

**Yeas:** 6 - Chair Briere, Lewis, DeVarti, Vice Chair Dobmeier, Grant, and Weatherbee

**Nays:** 2 - Councilmember Westphal, and Daniel

**Absent:** 1 - Eisenmann

- E-2**      [17-1785](#)      ZBA17-032; 1107 South State Street  
1107 South State LLC, represented by Carl O. Hueter, are seeking relief from Chapter 55 Zoning Section 5:87 Structure non-conformance. The owners are proposing to alter a nonconforming structure by constructing a two (2) story addition to the rear of the existing multi-family residence. The addition will be eight (8) feet by 24 feet in size and contain two (2) bathrooms and an egress stair system to the basement.

**Attachments:**      ZBA17-032 Staff Report with Attachments.pdf

**SUMMARY:**

1107 South State LLC, represented by Carl O. Hueter, are seeking relief from Chapter 55 Zoning Section 5:87 Structure non-conformance. The owners are proposing to alter a nonconforming structure by constructing a two (2) story addition to the rear of the existing multi-family residence. The addition will be eight (8) feet by 24 feet in size and contain two (2) bathrooms and an egress stair system to the basement. The result of this construction will be a four unit rental property being converted into a duplex.

**BACKGROUND:**

The subject parcel is zoned R4C (multiple family) and is located south of Arch Street across the street from the University of Michigan athletic facilities. The property is non-conforming as it contains 5,270 square feet and 8,500 is required in the R4C district. Additionally, the building does not meet either of the side yard requirements of 12 feet. However, due to the structure converting to a duplex, the R2A setbacks are applied and the addition will meet both the side and rear setbacks (see survey).

Previously, the subject property received Zoning Board of Appeals approval to alter a non-conforming structure to modify the roof and add a bedroom to the third floor (ZBA13-007).

**DESCRIPTION:**

The structure is currently a four unit apartment building and was built in 1910. The first floor consists of a one (1) bedroom apartment and a studio apartment. The second floor has a four (4) bedroom apartment and the third floor a two (2) bedroom apartment. The four unit is being converted into a duplex. The new configuration will consist of a first and second floor four (4) bedroom apartment and a second and third floor five (5) bedroom apartment. The number of allowable occupants will remain the same, fixed at twelve tenants.

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:

**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 a two (2) story addition containing two (2) bathrooms and an egress stairwell for the duplex. The location of the addition will meet the rear setback requirements of the district and will be in line with the existing structures side walls. The addition will have little to no impact on the adjacent rental houses.*

**QUESTIONS BY BOARD TO STAFF:**

*DeVarti inquired about the setback requirements for the addition.*

*Barrett answered that the setback requirements are being followed.*

*Weatherbee inquired about past applications to the Zoning Board of Appeals and if there is a limit that can occur.*

*Barrett answered that there is no limit for coming before the ZBA.*

*Westphal inquired about why the lot is non-conforming and why the applicant isn't requesting a larger addition.*

*Barrett answered that the lot does not meet the required lot size for the district, making it a nonconforming lot.*

**PRESENTATION BY PETITIONER:**

*Carl O. Hueter, explained that the rental housing market in Ann Arbor is requiring a higher quality of life. He explained that the owners of the property want to improve the existing rental property to compete with new development in the City of Ann Arbor. He explained that the proposed alteration will be an improvement and comply with all rules.*

*DeVarti asked if the project is a full remodel of the existing property.*

*Hueter answered, yes.*

*Weatherbee inquired about the location of the bathroom on the second*

*floor of the existing house.*

*Hueter answered that the bathroom on the second floor will be in a different location in the remodeled home. He clarified that it will not stick out on the front of the house like the current bathroom does.*

**Moved by Dobmeier, seconded by Westphal in Petition ZBA17-032; 1107 South State 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.**

*BOARD DISCUSSION:*

*The board expressed satisfaction with the owners wanting to improve their property.*

**On a roll call, the vote was as follows with the chair declaring the motion approved. Vote: 8-0**

**Yeas:** 8 - Chair Briere, Lewis, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, Grant, and Weatherbee

**Nays:** 0

**Absent:** 1 - Eisenmann

- E-3**      [17-1786](#)      ZBA17-033 155 North Maple Road  
Brixmoor Property Group is requesting a variance from Chapter 61 Signs, Section 5:502 (1) Exterior Business Signs. The owners are proposing 246 square feet of signage for new commercial construction of a fitness center located at the Maple Village Shopping Center. The ordinance provides for a maximum of 200 square feet of signage. The sign package will consist of three (3) sets of 40" LED illuminated channel letters, with one (1) set on the north, east and west elevations of the building.

**Attachments:**      ZBA17-033 Staff Report with Attachment.pdf

**SUMMARY:**



*Brixmoor Property Group is requesting a variance from Chapter 61 Signs, Section 5:502 (1) Exterior Business Signs. The owners are proposing 246 square feet of signage for new commercial construction of a fitness center located at the Maple Village Shopping Center. The ordinance provides for a maximum of 200 square feet of signage. The sign package will consist of three (3) sets of 40" LED illuminated channel letters, with one (1) set on the north, east and west elevations of the building.*

**DESCRIPTION AND DISCUSSION:**

*The site is located on the southwest corner of South Maple Road and Jackson Avenue across from Veterans Park. The property is zoned C3 Fringe commercial district. The existing English Gardens business will be demolished and replaced with a 34,000 square foot fitness center. The new building will be located in the northeast section of the shopping center. The proposed project was submitted as Site Plan project 17-010 and was formally approved in August of 2017.*

*The Zoning Board of Appeals has the power granted by State law and by Section 5:517, Application of the Variance Power from Chapter 61, the City of Ann Arbor Sign Ordinance. The following criteria shall apply (petitioner's response in italics, staff's response in regular type):*

*(a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the city.*

*At the request of the City of Ann Arbor to respect the new ordinance for building setbacks of 25' from the right-of-way the need for the third set of signage on the west elevation and the need for a third sign identifying the building entrance pushes the total signage over the 200 square feet allowed.*

*The subject property has the same setback requirements as all parcels zoned C3 Fringe Commercial within the City of Ann Arbor. There are no known unique or special circumstances that distinguish this property from any similarly zoned property. The applicant can reduce the font size of each channel letter set and may install the same number of signs on three elevations.*

*(b) 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 the 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 tenant's acceptance of the building setback from Maple Road and their ability to revise the interior layout design from the prototype is consistent with their continued cooperation with the community to promote the redevelopment of the existing shopping center. Acceptance of this additional 46 square feet of signage is reasonable.*

*The applicant will not suffer a hardship without the granting of the variance, the ability to install signs on three (3) wall elevations remains the same. The rights of others will not be affected if a variance is granted.*

*(c) Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?*

*The conditions for the added signage is a result from the City of Ann Arbor imposed building setback requirements, which forced a change in the location of the entrance door location.*

*All properties within the City of Ann Arbor have building setback requirements. If the variance denied the applicant still has the option of installing 200 square feet of signage.*

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

*Grant inquired about the work done with the City of Ann Arbor and the applicant.*

*Barrett answered that the applicant has an approved site plan.*

*Grant inquired about the need for a third set of signage.*

*Barrett answered that the applicant has up to two hundred square feet of signage, and they are applying to be allowed an additional 46 square feet.*

*DeVarti inquired about the logo being a part of the 200 square feet allowed.*

*Chair Briere asked for clarification on the orange graphics on the*

*submitted plans.*

*Barrett answered that the graphics are not part of the sign variance being applied for, however they are considered signs.*

*PRESENTATION BY PETITIONER:*

*Dwayne Hine, senior project manager with Brixmor Property group, gave a brief explanation of the presented sign application. He added that the orange graphics on the submitted plans have been a part of the plans since the plans were submitted to the Planning Commission.*

*Lewis inquired about the orange graphics on the sides of the building.*

*Hine answered that they are not windows but similar to window boxes where they are built into the building and frame a graphic.*

*Lewis inquired about the possibility of putting windows where the orange graphics are and then covering the windows with the graphics.*

*Barrett answered that covering the windows with the graphics would be considered signage.*

*Garry Collins, with Fitness International, introduced himself to the board and shared larger prints of the exterior of the proposed building. He explained that the orange graphics on the sides of the building do not include photos or words, just branded art work. He explained that he does not feel that the orange graphics are considered signage.*

*Dobmeier inquired about the location of the main entrance to the building.*

*Collins answered that the double doors are the main entrance.*

*Lewis asked the applicant if they would have included the orange graphics in their sign package if they knew it would be considered signage.*

*Collins answered that the orange graphics are an essential part of the buildings identity, and he explained their efforts to create a good presence on Maple Street.*

*Barrett answered that the orange graphics are not part of the application.*

*He read the definition of a sign, "A name, identification, description, display, light, balloon, banner, or illustration which is affixed to, or painted, or otherwise located or set upon or in a building, structure or piece of land and which communicates information or directs attention to an object, product, place, activity, person, institution, organization, or business and which is visible from any public street, sidewalk, alley, park, or public property. The definition includes any support structure, lighting, or other accessory features. The definition includes interior and exterior signs but not signs primarily directed at persons within the premises of the sign owners. The definition does not include goods displayed in a window. The definition does not include religious symbols or paintings which do not display lettering and do not advertise a business, product or service."*

*Lewis asked the applicant if they would have asked for a larger variance if they knew the orange graphics were considered signage.*

*Hine answered, yes.*

*Barrett further responded to sign related questions by referencing the definition of a sign from the City of Ann Arbor Zoning Code.*

*Westphal inquired about the petitioner's hardship required for a variance.*

*Hine answered that due to the adherence to the desires of the Planning Commission, the LA Fitness building is not proposed to be built in the desired location of the developer. Due to the location, additional signage is needed.*

*Mark Salma, Vice President for Redevelopment with Brixmor Property Group, expressed support for the comments of his associates, he explained that he and his team have worked to meet the expectations of the city and that he feels that LA Fitness is a tremendous amenity to offer to the Ann Arbor community. He compared the signs of the LA Fitness building and the near by Steinmart and Homegoods signs.*

*Weatherbee commented that one of the advantages of the LA Fitness building being close to the street is that larger signage isn't needed. She also commented that LA Fitness is somewhere where people do not spontaneously make a trip to, like they might at Homegoods or Steinmart. She stated that LA Fitness is an intentional destination and that seeing the signage is not going to prompt a trip to workout.*

*Daniel expressed agreement with Weatherbee's statements. He added*

*that the visibility of the gym from the windows will allow people to know clearly what is going on.*

*Grant commented he does not have a problem with an additional 46 square feet of signage.*

*Heather Lewis commented that she likes the location of the building. She added that she wishes the sign application included the orange graphic because of the interest they provide. She expressed support for the variance request.*

*Daniel commented that the needs of the developer can be met without a variance.*

*DeVarti commented on the accommodations that the developer has made for the City of Ann Arbor, explaining that being closer to the street means they can accomplish the signage they need within what is allowed.*

*Westphal commented that the need for signage can be met without requiring a variance.*

*Lewis inquired about postponing the application to a later meeting to include all of the desired signage.*

*Hine asked for clarification on the type of signage that the board is in favor of.*

*Daniel inquired about restrictions on signage.*

*Barrett answered that the locations or types of signs cannot be restricted based on the preference of the Board. He explained that signs are enforced based on what the code allows.*

*He added that the board is voting on the information provided in the application provided by applicant. He explained that the board is voting on whether or not to allow the applicant to have 246 square feet of signage.*

*DeVarti and Daniel expressed concern with voting on a sign variance and not knowing what the sign will look like.*

*Barrett explained that signs aren't permanent fixtures and the variance runs with the land and that a future tenant would also have 246 square feet of signage if the variance is granted.*

*Weatherbee added that when the petitioner went before the Planning Commission for site plan approval, they did make changes to please the commission. She added that the Planning Commission also made accommodations to please the petitioner. She explained that the Planning Commission approval was not contingent on being granted variances or other items.*

*Barrett explained that signs are not part of the site plan approval package.*

**Moved by DeVarti, seconded by Westphal, in Petition ZBA17-033;  
155 N Maple Rd**

**Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a 46 square foot variance from Chapter 61, Section 5:502 (1)(Exterior Business Signs). The subject business will install three (3) sets of 40" illuminated channel letters.**

**a) That the alleged hardships or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.**

**b) 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.**

*BOARD DISCUSSION:*

*The board discussed the definition of signage, the presented sign package, and the locations of the proposed signs.*

**On a roll call, the vote was as follows with the Chair declaring the motion denied. Vote: 2-6**

**Variance: DENIED**

**Yeas:** 2 - Lewis, and Grant

**Nays:** 6 - Chair Briere, DeVarti, Councilmember Westphal, Vice Chair Dobmeier, Daniel, and Weatherbee

**Absent:** 1 - Eisenmann

**F PUBLIC HEARINGS**

*None.*

**G NEW BUSINESS**

*None.*

**H UNFINISHED BUSINESS**

*None.*

**I REPORTS AND COMMUNICATIONS**

I-1 [17-1787](#) Various Correspondence to the ZBA

**Attachments:** Letter from Nesler.pdf

**Received and filed.**

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

*None.*

**K ADJOURNMENT**

*Moved by Westphal, seconded by Weatherbee that the meeting be adjourned at 8:08 p.m. On a voice vote, the Chair declared the meeting unanimously adjourned.*

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>).

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Candice Briere  
Chairperson of the Zoning Board of Appeals  
kv/