

**Zoning Board of Appeals
July 24, 2024, Regular Meeting**

STAFF REPORT

Subject: ZBA 24-0025; 1015 Broadway Street

Summary:

Emily Palacios, representing the property owner, is seeking a variance of 1,683 square feet from Table 5.17-4 Mixed Use Zoning District Dimensions. The owners are applying for an administrative land transfer of 807.5 square feet to be transferred to the abutting property. The district requires a minimum lot area of 6,000 square feet and the current nonconforming lot size is 5,124.5 square feet. The property is zoned C-3 Fringe Commercial District.

Background:

The subject property is located on the northside of Broadway Street and the Huron River in the Lower Town neighborhood. The structure was built in 1935 and the Northside Grill is the current tenant. The parcel is 5,140 square feet in area.

Description:

The owner applied for a Land Division application (LD24-0005) on April 10, 2024. Koli Enterprises LLC, is the owner of 1015 Broadway Street and 1006 Pontiac Street. The property at 1006 Pontiac Street is a certified duplex rental, zoned C3, Fringe Commercial District. The parcel is 13,503 square feet in area and will be 14,310.5 square feet in area if the variance for the land transfer is approved.

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: "The practical difficulties here are exceptional and peculiar to the subject lot and are not the result of conditions existing generally in the city. The practical difficulties are rooted in platted lots and structures that long pre-date zoning in the City of Ann Arbor. The block in which the subject lot is located was part of a separate village that became incorporated into Ann Arbor in 1867 and platted as an Assessor's Plat. The block contains one of the oldest structures in Ann Arbor, the Anson Brown Building, which was built in 1832 and is located immediately west of the subject lot. The business located on the subject lot (Northside Grill) has been operating at this location for more than 30 years in the former location of Wurster Dairy Company, and later Cloverleaf Dairy, dairies that

served the Lower Town neighborhood. The property owner seeks to better align existing land uses within the block with lot lines to eliminate the partial parking space encroachments on Lot 5 associated with the shared, common parking lot that occupies Lot 8 to the west and north of the restaurant lot. Short of clearing the entire block and re-subdividing the land, there's no practical means of bringing the restaurant lot into compliance with the minimum lot area requirement by adding land to the west (occupied by historic buildings) or east (occupied by an alley that separates the restaurant lot from a former gas station that is the site of on-going environmental investigations). Adding land from Lot 8 (where the common parking lot is located) is not practical. That would only increase the land use encroachment that the property owner wants to rectify and minimize by pushing the restaurant lot into the parking lot circulation lane. The historical nature of the practical difficulties is what makes them exceptional and peculiar to the subject lot and not a condition generally seen throughout the City."

- (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: "The property owner seeks to better align existing land uses to lot lines. Continued encroachment of portions of parking spaces on the Lot 5 portion of the restaurant lot is more than a mere inconvenience or hinderance to obtaining a higher financial return. It substantially hinders the property owner from developing independent long-term plans for both the restaurant lot and Lot 8 because lenders and investors disfavor projects where uses on one lot encroach on other land and are not capable of standing alone. This not only impedes future improvements but impacts the property owner's ability to sufficiently maintain a suitable status quo. The loss of parking would be a substantial hardship to not only the restaurant but other users of buildings on the block. Reducing the lot area of the restaurant lot by excluding the portion of Lot 5 that is encroached by parking spaces and transferring the land area to Lot 8 (shared common parking lot) cleans up the encroachment in a manner that is not detrimental to the restaurant use, not detrimental to Lot 8, and not detrimental to the remaining historic structures on the block."

- (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 lot area variance will result in substantial justice. The variance will transfer lot area from the subject lot to the adjacent Lot 8 and align land uses and lot lines in a rational manner. Approving the lot area reduction will be a benefit to the subject parcel and the parcel to which the lot area will be transferred. The variance and attendant lot area transfer will have no detrimental impact on the rights of other property owners. Granting the variance also results in substantial justice when considering the public benefits intended to be secured by

Zoning Board of Appeals
July 24, 2024

Chapter 55, including encouraging continued investment in historic neighborhoods and commercial districts important to the shared history of the City of Ann Arbor and the orderly development of commercial uses and infrastructure necessary to support those uses.”

- (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: *“The conditions and circumstances giving rise to this variance request are not self-created or self-imposed practical difficulties. They arise from the existing built environment surrounding the restaurant lot. Specifically, the platted lot pattern, historic structures, alley, and environmentally impacted site to the north of the alleyway.”*

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

Applicant response: *“The requested variance (minimum lot area reduction) is the minimum required to generally align existing land uses to lot lines (by transferring the encroached portion of Lot 5 to Lot 8) and make a reasonable continued use of the restaurant lot and structure possible. The property owner has excluded the rear of Lot 4 from this request to minimize the variance sought.”*

Respectfully submitted,



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