

**Zoning Board of Appeals
August 24, 2022 Regular Meeting**

STAFF REPORT

Subject: ZBA 22-2019; 1115 Fountain Street

Summary:

Anna Milanowski, property owner, is requesting relief from Section 5.32.2 Alteration to a Nonconforming Structure to construct an attached garage. A variance from Section 5-17-1 of 4 feet 9 inches from the required rear setback of 30 feet is also required. The property is zoned R1C, Single-Family Dwelling District and is nonconforming for setbacks.

Background:

The subject property is located within the Water Hill neighborhood at the southwest corner of the intersection of Fountain Street and Robin Road. The residence was built in 1956 and is approximately 984 square feet.

Description:

The proposed addition would be 642 square feet and would contain an accessory dwelling unit. The addition will be five feet from the side property line which complies with the required setback for the district. The front of the addition will be behind the front building line of the existing house and will be 27 feet 5 inches from the front property line along Fountain. The addition will encroach four feet nine inches into the rear setback which triggers the need for the rear setback variance

The property is nonconforming as it does not meet the required average front setback of 40 feet along Fountain. The existing structure is 19 feet 8 inches from the front lot line. The proposed addition will be behind the front of the existing structure but will still be located within the front setback. The maximum averaged front setback is 40 feet which applies in this case because all adjacent structures are setback greater than 40 feet from the property line. The new addition will meet the side setback and will not encroach further into the front setback than the existing structure.

Standards for Approval- Alteration to a Nonconforming Structure

The Zoning Board of Appeals has all the power granted by State law and by Section 5.32.2, Application of the Variance Power from the UDC. The following criteria shall apply:

- A) The alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this chapter and that it will not have a detrimental effect on neighboring property.

We would like to build an accessory dwelling unit as an addition to our house. Our corner lot is uniquely problematic because it has two side yards, no backyard. Thus without a zoning variance and considering current zoning setbacks, we are left with an unbuildable lot.

Any addition to the structure would require Zoning Board of Appeals action. Required setbacks make the lot unbuildable without a variance. The parcel is a corner lot, subject to two averaged front setbacks. The adjacent structures used for averaging of the front setback are fronting a different street with the rear yards along Fountain. However Zoning code considers these yards as a front since they are directly adjacent to a public Right of Way (ROW) thus increasing the required front setback. The narrowest part of the subject lot is 62 feet wide and with a required front setback of 40 feet and side setback of 5 feet there is a lot width of approximately 17 feet encroaching into the existing house.

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 UDC. The following criteria shall apply:

Applicant Response (regular type), *staff response, if any (italics)*

- (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.***

Our lot is essentially unbuildable given the zoning setback laws. Our house is located on a very small corner lot with two side yards and no backyard. Unfortunately, we do not have neighbors on either side, thus are faced with the most restrictive setback law. Our goal with this build is to create an accessory dwelling unit, without a variance granted, this is simply not possible.

It is correct that any addition to the structure would require Zoning Board of Appeals action. Required setbacks make the lot unbuildable without a variance. This is not common in the City. The adjacent structures used for averaging of the front setback are fronting a different street with the rear yards along Fountain. However Zoning codes considers these yards as a front since they are directly adjacent to a public Right of Way (ROW) thus increasing the required front setback.

- (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.***

Our lot is unique in that we have two side yards and no neighbors on either side to create an average setback. We would like to build on Fountain St. to the left of our garage, but are currently faced with front yard setback requirements.

- (c). *That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the Practical difficulties 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.

Without a variance we will not be able to build onto our property at all, thus eliminating the option of creating a ADU in our neighborhood. As long-time citizens of Ann Arbor we feel passionately about being part of the solution of the housing difficulties in Ann Arbor and without a variance we will not be able to add any extra housing to our property.

There are no houses immediately adjacent to the proposed addition. The addition is modest size and comparable to the adjacent structures. The rear yard of the subject property is adjacent to the side yard of the neighboring property and over 80 feet to the closest neighboring structure.

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

Giving us this variance would help us create an ADU on our property which would help add housing to the city in an area that has little space for expansion. We are also hoping to create a small area on the ground level for a workshop. This would partially be used to help with a small handyman/carpentry business in the city.

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

We do not need this addition to our house, but we feel like it would be something that the city and neighborhood could use.

The requested variance is minimal. As stated previously, the application of the averaged front setbacks and corner lot requirements make the site unbuildable without a variance. The proposed addition is modest size, behind the front line of the existing house and respects the side setback.

Respectfully submitted,



**Matt Kowalski AICP
City Planner**