



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, December 17, 2014

6:00 PM

City Hall, 301 E. Huron Street,
Basement Conference Rooms

A **CALL TO ORDER**

Chair Milshteyn called the meeting to order at 6:03 p.m.

B **ROLL CALL**

Chair Milshteyn called the roll.

Present: 8 - Candice Briere, Alex Milshteyn, Perry Zielak, Nickolas Buonodono, Heather Lewis, Evan Nichols, David DeVarti, and Kirk Westphal

Absent: 1 - Ben Carlisle

C **APPROVAL OF AGENDA**

A motion was made by Zielak, seconded by Buonodono, that the agenda be approved as presented. On a voice vote, the Chair declared the motion carried.

D **APPROVAL OF MINUTES**

[14-1749](#) November 19, 2014 ZBA Minutes with Live Links

A motion was made by Nichols, seconded by Zielak, 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 **[14-1750](#)** ZBA14-017; 1038 Baldwin Avenue
Lincoln Poley is requesting a variance from Chapter 55 (Zoning) Section 5:27 (R1B, Single-Family Dwelling District), of 16 feet 9 inches to allow an addition to a single-family structure into the required rear setback. The required rear setback is 40 feet; proposed rear setback will be 23 feet 3 inches.

Matt Kowalski presented the following staff report:

DESCRIPTION AND DISCUSSION:

The subject parcel is located on Baldwin, just south of Cambridge, west of Washtenaw and contains a 4,275-square foot, single-family dwelling constructed in 1913 before setbacks were established. The parcel is conforming for lot size (12,760 sf; required is 10,000 sf) and zoned R1B (Single-Family). The existing house is conforming for zoning setbacks, The attached garages do extend into the required rear setback up to 7 feet 1 inch from the rear property line. Chapter 55 does allow attached garages to extend into the rear setback up to 3 feet from the rear property line, as long as there is no living space above or within the structure. The required rear setback is 40 feet, and the house is set back 45 feet from the rear property line.

The petitioner is proposing to construct a 24 foot 3 inch by 18 foot 4 inch addition, 405-square foot addition to the rear of the existing house. Currently two garages are attached to the rear of the house, a two car garage and a single car garage. The garages do conform to the zoning setback requirements. The two car garage will be removed and the proposed addition will be constructed in the same location. The attached one car garage will remain adjacent to the proposed addition and is 7 feet from the rear property line. The new addition will not be visible from the street and will not be any closer to the side property lines than the existing structures.

Due to the existing first floor elevation of the house, the first floor of the proposed addition will be built over a crawl space to allow for a consistent floor grade inside the house. The height of the addition will be 18 feet 4 inches to the midpoint of the gabled roof. The existing garage is approximately 10 feet in height.

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 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.

The existing house was constructed before zoning in 1913 and is conforming to the rear setback requirements. The subject parcel is not exceptional or peculiar in size or shape, it is a rectangle and conforms to

the minimum lot area and width requirements of the R1B Zoning District.

(b). That the practical difficulties 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 the proposed 405 sq ft addition to the rear of the house. The addition will encroach 16 feet 9 inches closer to the rear property line than the living space of the existing house, but not beyond the footprint of the existing garages. If the variance is not granted, the petitioner could not construct an addition to the rear of the house at this location.

(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.

Allowing the variance will result in an addition to the existing structure that will extend living space 16 feet 9 inches further into the rear open space than the existing house. There are two attached garages currently in this space and the new addition will be built in the same footprint as the two car garage. The one car garage will remain attached to the new addition separating the addition from the rear property line.

The proposed addition will be 8 feet taller than the existing garage, but will not extend any closer to the side or rear property line than any existing structure. The new addition will be 17 feet from the north side property line. The addition is not visible from a public street and the parcel has extensive mature landscaping and a privacy fence producing a visual buffer to adjacent properties.

(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 in 1913 up to the rear setback line. The location of the house near the rear setback line limits the area available for an addition to the rear without ZBA action.

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

The variance is being requested for a proposed addition of 405 square feet. The addition will extend 16 feet 9 inches further into the rear open

space than the existing house and will be replacing an attached two garage in the same location. It will be 17 feet from the closest side property line.

QUESTIONS BY BOARD TO STAFF:

Nichols asked if the lot was considered standard.

Kowalski said the lot was considered a conforming lot.

Wesphal asked staff if they considered there to be many similar such lots in the City.

Kowalski said when looking at this particular street the lot sizes and massing were similar.

DeVarti commented that several of the larger parcels on Baldwin already have structures that are built too close to lot lines since they were in existence before the Zoning ordinance was established.

PRESENTATION BY PETITIONER:

Lincoln Poley, 234 Nickels Arcade, Ann Arbor, Architect for the project, was present and explained the application.

Ruth Schekter and Bill Zirinsky, owners were also present to respond to enquiries.

Nichols asked why the addition couldn't be built in the east setback (front).

Poley said the minimum front setback wouldn't leave enough space for the addition and they were trying to maximize the use of the existing kitchen and dining room location in the back.

Nichols asked if it would be doable but inconvenient.

Poley said he didn't believe it would be the best for the neighborhood to have an addition located in the front setback.

PUBLIC HEARING:

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 in support of the request:

Dr. Linkner, 1030 Baldwin, Ann Arbor; Support

David and Cynthia Burgoyne, 1722 Cambridge Road, Ann Arbor; Support

Eric and Kris Meves, 1706 Cambridge Road; No objection/Neutral

BOARD DISCUSSION:

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

DiVarti stated that he wanted the Board to know he has known the petitioner for many years since they moved into this neighborhood but he has no conflict of interest or economic gain from the relationship. He said he felt the addition on the front of house would take away from the look of the existing house, adding that he likes to see these kind of additions in his neighbor and he supports the request.

Westphal concurred with previous comments, adding that he appreciates flexible living arrangements and being able to adapt to changes that occur in families, but said he had trouble matching up all of the criteria for granting zoning variances with the request. He said the parcel didn't seem exceptional nor the placement of the house and didn't feel that the request presented a personal hardship.

Nichols said he concurred with Westphal on the parcel configuration and said he was concerned with setting a precedent on converting garages to living space.

Briere asked about the required front yard setback based on the averaging.

Kowalski said it could only go to a maximum of 40 feet per code.

Zielak said for him the prominent aspect was the substantial justice being done from this request and the minimal impact, given that the addition would encompass the existing footprint and go above the existing roofline.

Milshteyn said if it were new construction he would be hesitant to vote in favor of the request; he agreed with Zielak, and felt that the request for less existing garage space and more living space was reasonable and not out of the ordinary from what they look at on a regular basis.

Nichols added that it was not compelling to approve the existing

conforming space, the garage, into non-conforming space.

DiVarti said the hardship is that the zoning code overlaid an existing house, and they can't move the whole house forward into the front setback.

Nichols said he felt the Board should be wary in considering that as a hardship since there are many houses in Ann Arbor that existed before the zoning code was applied and people bought their homes knowing the existing restrictions. He said granting variances with that reasoning would open the flood-gates and he didn't believe that was the direction they wanted to go.

Lewis asked if converting the existing garage space to living space would still require a variance.

Kowalski said, yes.

Move by Zielak, seconded by Briere, in Petition ZBA14-017; 1038 Baldwin Avenue, Variance:

Based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:27 (R1B One-Family) of 16 feet 9 inches from the required 40 foot side setback, resulting in a new setback of 23 feet 6 inches, per submitted plans;

- a) The alleged practical difficulties are peculiar to the property and result from conditions which do not exist generally throughout the City**
- b) That the practical difficulties, 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.**
- c) The variance, if granted, will not significantly affect surrounding properties.**
- d) The circumstances of the variance request are not self-imposed.**
- e) The variance request is the minimum necessary to achieve reasonable use of the structure.**

**On a roll call, the vote was as follows with the Chair declaring the motion carried. Approved: 6-2
Rear Setback Variance Granted.**

- Yeas:** 6 - Briere, Chair Milshteyn, Zielak, Buonodono, Lewis, and DeVarti
- Nays:** 2 - Nichols, and Councilmember Westphal
- Absent:** 1 - Carlisle

F UNFINISHED BUSINESS

G NEW BUSINESS

H REPORTS AND COMMUNICATIONS

14-1751 Various Correspondences to the ZBA
Received and Filed

I PUBLIC COMMENTARY - (3 Minutes per Speaker)

J ADJOURNMENT

A motion was made by Zielak, seconded by Nichols, that the meeting be Adjourned at 6:30 p.m. On a voice vote, the Chair declared the motion carried.

Alex Milshteyn
Chairperson of the Zoning Board of Appeals

Mia Gale
Recording Secretary

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

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