

**ZONING BOARD OF APPEALS
MEETING MINUTES
September 28, 2016
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:03 pm.

II. ROLL CALL

Present: J. Bailey, T. Roach, J. Albers, J. Talaga, H. Khan

Staff: B. Wessler, Planner II
C. Kochanek, Planner I
N. Schuette, Executive Secretary

Chairman Bailey welcomed two new members, Jared Talaga and Heather Khan to the board.

III. APPROVAL OF MINUTES

Commissioner Albers moved to approve the minutes of June 22, 2016 (Support: T. Roach) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Chairman Bailey stated the purpose of the meeting

V. OLD BUSINESS

1. Zoning Interpretation – 908 Pleasant Drive

Bonnie Wessler, City Planner, gave a presentation on this item stating that the applicant is asking for an interpretation of the western portion of the lot to be a "side". The parcel in question is a corner lot located northwest of the eastern curve of Pleasant Drive and is 0.12 acres. There is an existing 1,000 sq. ft. residential building constructed in 1932, with an attached garage, which is zoned R-1 Single Family Residential.

The applicant is seeking a determination on which of the lot lines at the 908 Pleasant property is considered "front," "rear," or "side," due to the unusual condition of being fronted on two sides by the same street.

According to Sec. 122-753, for corner lots in the R-1 and MD districts that were platted or of record prior to August 8, 1984, the front yard regulations apply only along the front lot line as designated in the plat and/or in the request for a building permit. The yard along the second street must meet the requirements for side yards on corner lots as specified in the district regulations. There is no specific designation of a front lot line for this property in the plat map (1925) or on a building department permit, hence the need for the Zoning Board of Appeals' interpretation.

It is the wish of the owner that the west side of the lot be interpreted as a side lot. With the lack of designation of a front lot line for this property on a plat map or on a building department permit, perhaps it is necessary to look at the clues provided by the house. The address is on the east side of the house. A walkway runs up to a recessed entryway door on the east side as well. There is no door on the south end of the structure.

Ms. Wessler referred to definitions noted in the current ordinance and also the ordinance dated 1925-1936 as well as a detailed discussion included in the staff report dated 19 August, 2016. She concluded with the fact that there are two potential conclusions that staff sees as supported under the current ordinance:

1. The east side is the front side, the south is the "street side" side, the north is the side, and the west is the rear.
 - o This is due to the north clearly being the side per ordinance at the time of construction, the presence of the "front door" on the east side designating it as the front, and the west being opposite the front yard.

OR

2. The east side is the front side, the south is the "street side" side, the north is the side, and the west is another side.
 - o This is due to the north clearly being the side per ordinance at the time of construction, the presence of the "front door" on the east side designating it as the front, and the west side being an interior lot line facing a side yard.

The first option is more aligned with the 1925-36 zoning ordinance definitions. Both options preserve the form of the neighborhood. Staff is recommending approval with details of findings noted in the staff report dated August 19, 2016.

Commissioner Albers asked for clarification on the rationale of the two options provided, which Ms. Wessler detailed.

Commissioner Albers moved to open the public portion of the hearing (Support: T. Roach) and the motion carried unanimously.

Evan Dority, 908 Pleasant Drive – stated that the code seemed to be ambiguous. He felt it was obvious which side should be considered the front entrance. None of the neighbors had any complaints on his intention to apply for this interpretation. The

purpose of applying would be to reinvest in an Ypsilanti home in an Ypsilanti neighborhood, and because his two daughters are getting to the age of wanting their own room, he would like to expand the home.

Commissioner Roach moved to close the public portion of the hearing (Support: J. Albers) and the motion carried unanimously.

Since there were no further comments, Commissioner Albers moved that the Zoning Board of Appeals find that in the case of 908 Pleasant Drive, the east side is the front side, the south is the "street side", the north is the side, and the west is the rear, with the findings as presented by staff that:

1. The north is clearly considered the side per ordinance at the time of construction due to its small size.
2. The presence of the "front door" on the east side, facing the street, strongly indicates that it is the front.
3. The west side, being opposite the front side, was considered a rear yard under the zoning ordinance at the time of construction.

The motion was support by Commissioner Roach and carried unanimously.

VI. NEW BUSINESS

1. Variance – 905 Hillside Ct.

Cynthia Kochanek, Planner, presented the staff report stating that the applicant is seeking approval of a variance to allow a carport within the side setback.

The property in question is 0.17 acres with frontage on the west side of Hillside Ct. There is an existing 9 sq. ft. single story residential building with a driveway and secondary entrance on the north side, and a 64 sq. ft. accessory structure in the northwest corner of the parcel. The property was approved for a variance from the front yard setback in 2001 in order to add an enclosed front porch. The property is zoned R-1 Single Family Residential.

The owner would like to have an attached 11' x 28' carport installed on the north side of the house. The current side setback on the north side of the property is 11.2 feet per the mortgage survey. A minimum 4 ft. side yard setback would apply.

The **application submitted** indicates that the post for the carport will be set 6" from the property line, with no mention of eave overhang. The **drawings submitted** indicate a carport width of 11'; as the house is only 1.2' from the property line, that would leave approximately 2.4" between the post and property line, not the 6" claimed. Also, the post sizes are inconsistent between the quote (4x6) and the drawings (6x6), and the measurement is not marked as being on center or edge to edge, making the precise request difficult to determine, as well as whether and how much the eaves of the carport would encroach on to the neighboring property. In addition, as drawn, a full size vehicle will not fit entirely under the carport front-to-back with the existing

entrance. An exact height for the carport is not indicated and fire rated construction may be required with the carport attached to the house.

Staff is recommending denial of the application for variance request to permit a carport to encroach on the side yard setback, as submitted on August 22, 2016, with the following findings:

1. The application does not show clearly and accurately the construction of the proposed carport in accordance with Sec 122-94(a)
2. That granting the variance would be injurious to adjacent property owners under Sec 122-94(b)(4).
3. That substantial justice will not be done under Sec 122-94(b)(5).
4. That the requested variance is not the minimum to make possible a reasonable use of the property under Sec 122-94(b)(6).

In reference to the eave overhang as drawn, it would overhang the current property line affecting the neighbor's yard.

Commissioner Roach moved to open the public portion of the hearing (Support: J. Albers) and the motion carried unanimously.

Doug Post, R&D Enterprises, 1216 Sherman – applicant, applying on behalf of the owner of the property. Mr. Post explained the discrepancies. When the original contract was drawn up, he was going to use 4x6, however, by the time they made the actual drawings, he found out while doing another project that the 6x6 actually worked better. He forgot to change the contract. In terms of the overhang, he also spoke with the owner who has no problem with him re-drawing and re-submitting the drawings making them clear and removing the overhang. The measurement from the house to the very end of the driveway is exactly 10'. If he drills with his auger right at the 10' mark, it would be difficult to do, so he tried to give himself some wiggle room. He will re-draw drilling the post right next to the concrete to be at 10'4" when abutted to the house. There would be a gutter.

907 Hillside to the north has no issue. The homeowner at 905 Hillside is the only resident that has no covered parking and at the advanced age of the owners, they really need it. Staff pointed out there was a variance given previously for the front porch, although Mr. Post does not know how this would affect this request. The homeowner called him prior to the meeting and said many years ago, the city approved a sale of 4' of property allowing 907 Hillside to build their garage, which restricted the current homeowner from being able to put anything in their side yard.

Chairman Bailey did notice that there is a garage at 907 Hillside that goes right up to the lot line. He asked the applicant if he would be able to get a car under the carport between the stoop and the end of the carport. Mr. Post responded that he is trying to work it out. Commissioner Roach asked if they had considered a portable temporary structure but Chairman Bailey added that he did not feel that this is something that staff would consider or is addressed in the ordinance.

Commissioner Roach moved to close the public portion of the hearing (Support: J. Albers) and the motion carried unanimously.

Mr. Post added that another option would be to remove some of the concrete and bring it in tighter but would be better to drill right in to the concrete.

Chairman Bailey noted that a letter had been received from Patricia Lamb at 903 Hillside stating that she had no objection to an attached structure being built at 905 Hillside Court and would recommend that the request be granted for that residential property. Correspondence was received from the neighbor on the north side in support of the carport; it was included in the meeting packet. Chairman Bailey also noted that this is a hardship that was created by the neighbor when they sold off 4'.

Commissioner Albers moved that the Zoning Board of Appeals **postpone** the variance request to permit a carport to encroach on the side yard setback, as submitted on August 22, 2016, with the findings submitted by staff as follows:

1. The application does not show clearly and accurately the construction of the proposed carport in accordance with Sec 122-94(a)
2. That granting the variance would be injurious to adjacent property owners under Sec 122-94(b)(4).
3. That substantial justice will not be done under Sec 122-94(b)(5).
4. That the requested variance is not the minimum to make possible a reasonable use of the property under Sec 122-94(b)(6).

The motion was supported by Commissioner Roach and carried unanimously.

VII. ADJOURNMENT

Since there was no further business, Commissioner Roach moved to adjourn the meeting (Support: H. Khan) and the motion carried unanimously. The meeting adjourned at 7:52 p.m.