

**ZONING BOARD OF APPEALS
MEETING MINUTES
January 24, 2018
CITY COUNCIL CHAMBER
7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order at 7:00 pm.

II. ROLL CALL

Present: J. Albers, C. Garcia, H. Khan, J. Symanns, J. Talaga

Staff: C. Kochanek, Preservation Planner
Nan Schuette, Executive Director

III. APPROVAL OF MINUTES

Commissioner Garcia moved to approve the minutes of November 29, 2017 (Support: J. Symanns) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Chairman Albers stated the purpose of the meeting.

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. 75 Catherine – Variance

Ms. Kochanek stated that this is a request for approval of a variance front the front, street side and rear setback requirements in Sec 122-432(b). This property is on the southeast corner of the intersection of Catherine and Chidester Streets. The parcel is 1.03 acres with frontage on Catherine St. There is an existing 7,615 sq. ft. structure on site.

The applicant is looking to add an addition to the northeast section of the building as well as to the south side of the building. A new concrete parking area is proposed and the drive access off Catherine St will be maintained. The applicant is subject to a front yard setback of 25', a street side yard setback of 15' and a rear yard setback of 25' due

to the adjacent zoning of CN to the south. The applicant has proposed setbacks for 12.79' at the front yard, 5.12' at the street side yard and 16.25' at the rear yard. It should be noted that the lot line on Catherine is angled and that the existing structure is actually at or over the street side (Chidester St) lot line.

The property is zoned PMD, which allows for medical marijuana grow/manufacturing facility after approval as a special land use. The Planning Commission is also reviewing this project for the expansion of the special use and site plan review. Staff recommended that the Planning Commission table their application at their January 17, 2018 meeting in order to allow ZBA to review the variance prior to Planning Commission review. This expansion is being requested due to changes in State law with the passage of the Medical Marijuana Facilities Licensing Act which now allows for commercial growing and processing of medical marijuana, instead of the smaller caregiver model. Aspens Gardens is pursuing a commercial grow license from the State.

Ms. Kochanek reviewed all of the standards for variances pointing out the various differences in all the requested setbacks as well reviewing the land use and surrounding area. Staff recommended denial of this request noting various findings.

Committee Talaga asked about the potential square footage that would be lost in the reconfiguration, to which Ms. Kochanek responded.

Commissioner Talaga moved to open the public portion of the hearing (Support: H. Khan) and the motion carried unanimously.

Anthony LaRussa, 112 Watson, Apt 2, Detroit – applicant stated that the building was not rezoned because they wanted to expand, it was done because of the State's requirements conforming with their new regulations, although they would probably have had to do it eventually so are doing it ahead of schedule. They would be willing to sacrifice the rear setback. He would like the front setback since it affects the functionality of the building.

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

Commissioner Talaga asked staff about notices being sent out to neighbors and Ms. Kochanek responded that notices were sent to parties within the 300 ft requirement. Staff has not received any emails, letters or phone calls regarding this request.

Much discussion was held on the pros and cons of each setback with responses from staff, after which, motions were made on each.

Commissioner Symanns moved that the Zoning Board of Appeals approve the variance request of 12.21' from the front yard setback requirement in Sec 122-432(b) for 75 Catherine St/Aspen Gardens with the following findings:

1. The alleged practical difficulties on which the variance request is based has not been created by any person presently having an interest in the property under the terms of the zoning ordinance Sec122-370(b)(3).
2. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, per Sec122-370(b)(4).

The motion was supported by Commissioner Talaga. A roll call vote was taken with a vote of 5:0.

Commissioner Talaga moved that the Zoning Board of Appeals approve the variance request of 9.88' on the street side yard setback requirement in Sec122-432(b) for 75 Catherine St/Aspen Gardens with the following findings:

1. The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property under the terms of the zoning ordinance Sec122-370(b)(3).
2. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, per Sec122-370(b)(4).

The motion was supported by Commissioner Khan. A roll call vote was taken with a vote of 5:0.

Commissioner Symanns moved that the Zoning Board of Appeals deny the variance request from the rear yard setback requirement in §122-432(b) for 75 Catherine St/Aspen Gardens with the following findings:

1. The literal enforcement of this chapter does not pose a practical difficulty to the applicant because of special conditions or circumstances which are unique to the specific property, per §122-370(b)(1).
2. The granting of this variance may be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, per §122-370(b)(4).
3. The requested variance is not the minimum variance that will make possible a reasonable use of the land, buildings, or structure, per §122-370(b)(6).

The motion was supported by Commissioner Talaga. A roll call vote was taken with a vote of 5:0.

VII. ADJOURNMENT

Since there was no further business, Commissioner Garcia moved to adjourn the meeting (Support: H. Khan) and the motion carried unanimously.

The meeting adjourned at 7:48 p.m.