

**ZONING BOARD OF APPEALS
MEETING MINUTES
NOVEMBER 14, 2007
COUNCIL CHAMBERS
7:30 P.M.**

I. CALL TO ORDER

The meeting was called to order at 7:42 p.m.

II. ROLL CALL

Present: H. Vick, J. Bailey, J. Tillman, G. Udoji, R. Andrews

Absent:

Staff: N. Voght, City Planner, N. Schuette, Exec. Secretary

III. APPROVAL OF MINUTES – September 26, 2007, 2007

Commissioner Bailey moved to approve the minutes of September 26, 2007 with correction on page 8 (Support: J. Tillman) and the motion carried unanimously.

IV. PURPOSE OF MEETING

Discuss variances

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. 15 E. Michigan – Variance to allow a 12 ft tall pylon sign where a maximum of 8 ft. is permitted.

N. Voght presented his staff report stating that this is a request for a variance to allow a 12 ft high pylon sign where the Zoning Ordinance limits maximum signage to 8 ft in height. The applicant operates an

automobile dealership for new and used cars, including vehicle maintenance and repair. Three signs currently exist on the property; one wall sign and two pole/pylon signs. The westerly "Used Cars" pole sign, approximately 25 ft in height is proposed to be replaced with a 12 ft. high "Certified Used Cars" pylon-style sign. Both existing pole signs are non-conforming due to height.

The zoning is B4 General Business but in this case, it is also within the Entryway Overlay District. The Entryway Overlay District was adopted in 2000 to improve the appearance of major road corridors leading into the City by unifying landscaping, signage, parking and setbacks but it also has some additional signage restrictions. The Entryway Overlay District prohibits pole style signs and limits the height of freestanding signs to 8 feet.

Along the Michigan Avenue corridor, at least five signs have been installed/approved since this amendment and Voght listed these businesses as well as including pictures of signs. A variance to allow Enterprise Rent-a-Car a sign that was 13 ft. was denied in 2001. Concern was expressed at that time by granting a variance that set future precedent when the new zoning overlay envisioned 10 ft freestanding signage as a maximum.

Voght reviewed the standards with his comments as follows:

Standards for Variances. Section 122-879 provides findings that must be made by the Zoning Board of Appeals when a sign variance is requested. Note that these are different standards than provided for a typical dimensional variance.

Sec. 122-879. Appeal.

An appeal from the decision of the building inspector shall be heard by the zoning board of appeals.

- (1) *Variance. A variance may be allowed by the board only in cases involving practical difficulties or unnecessary hardships when the evidence in the official record of the appeal supports all of the following affirmative findings that:*
 - a. *The alleged hardship or practical difficulties, or both, are peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the city.*
 - b. *Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this article, 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.

Staff analysis of the proposed variance in relation to these standards follows:

a. The alleged hardship or practical difficulties, or both, are peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the city.

The site was developed as a car dealership prior to the establishment of the Entryway Overlay District and does not comply with the Overlay standards. It is also a small site for a dealership use, compared to those used for newer dealerships.

The narrative provided by the applicant describes the nature of the existing signs and proposed sign. It explains that the bottom of the required 8 ft. sign would be visually hindered by vehicles for display on the dealership lot, as shown in Attachment 2. Please note, however, that Attachment 2 does not accurately show the extent of the blockages described in the applicant's narrative. Attachment 6 to the narrative illustrates the appearance of the requested 12 ft. high sign in relation to the displayed vehicles. The requested 12 ft. sign allows the bottom of the sign to be above the top of displayed vehicles. These practical difficulties are peculiar to this use as it has been practiced by older car dealerships, and would not apply to other uses that do not rely on vehicle display along the front lot line. This standard is met.

b. Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this article, 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.

The public benefits of unified signage, landscaping, lighting and setbacks are clear. At least 5 other properties since 2000 have complied with either an 8 or 10 ft. maximum height, which has resulted in more unified signage height and more attractive signage. The requested variance would slightly increase the maximum allowed height to 12 ft. The applicant asserts that the vehicles on display, directly adjacent to the proposed sign, would impair visibility of the sign. However, there may be alternatives such as placing the sign within a small landscaped area to avoid placing vehicles directly next to the sign, parking shorter cars in the vicinity of the sign, or not parking cars next to the sign. Since the variance, if granted, would allow a permanent structure to be placed on the property, parking vehicles elsewhere or parking shorter cars near the proposed sign

should be considered. Without consideration of these alternatives, the extent of the individual hardship has not been established. More information is needed to further evaluate this standard.

The City of Ypsilanti Historic District Commission approved the proposed design for the new sign on October 9, 2007, with either an 8 ft. or 12 ft. height, depending on the outcome of the requested sign variance.

Voght added that there is some confusion on what exactly is allowed in the Overlay District. The original interpretation in 2000 was the provision of 10 ft maximum free standing signage but it also states that pole style signs are prohibited. The definitions of a pole sign in the signage ordinance states that anything over 8 ft is a pole sign. However, in the last couple of years, it was looked at it more closely and Voght is recommending that the board needs to look at this again since it is his opinion that the intent is to allow a 10 ft. sign. At this time, however, we are looking at the law that is on the books and this is the reason we have an 8 ft restriction for this Overlay.

Voght is not recommending approval of this variance unless the applicant can show that they could not place shorter vehicles next to the sign or refrain from putting vehicles right next to the sign. It is his opinion that this is a reasonable alternative and something that should be considered.

Board members questioned why previous applicants were allowed a 10' sign in the Overlay District and Voght responded that it was a matter of interpretation at that time when the ordinance was first adopted, pole vs pylon signs. He again stated that our sign ordinance needs to be updated.

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

Steve Sweitzer, resides in Brighton, General Manager – was in attendance representing Fischer Honda. He stated that they have been requested by American Honda Motor Company to change their used car signs to conform to other franchisees around the country and bring it up-to-date with their signage requirements. They have gone before the Historic District Commission who approved their request of a 12' sign. They currently have a 25ft sign which will come down. They have a limited amount of space on the west side of the property where their used cars are located. Mr. Sweitzer provided photographs of the current sign as well as the proposed sign. He also provided a mock-up of an 8' sign with a 6' SUV showing that the sign would significantly hinder their ability to display their merchandise.

Some questions were asked by the board regarding setbacks, practicality of landscaping, etc. to which Mr. Sweitzer reiterated that the area is limited since the property line ends at the sidewalk and they do not have the flexibility to add any landscaping. They do plan to update the lighting and improve the overall frontage appearance by eliminating the above ground cables, banners and non-forming light poles.

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

Some discussion was held by board members agreeing that it is an overall improvement and that it is difficult to market the product since cars are getting higher and 12' would not be unreasonable plus the fact that the lot size is limited. It would not affect the property rights of others. Voght pointed out that since cars are movable, it is possible to set the cars back or park smaller cars in order to limit the sign size to 10'. His question is how much individual hardship would it be to comply?

After further comments, Commissioner Andrews moved to approve the request for a variance to allow a 12 ft high pylon sign at 15 E. Michigan where the Zoning Ordinance limits maximum signage to 8 ft in height with the following findings:

1. The alleged hardship or practical difficulties, or both, are peculiar to the property of the person requesting the variance and result in conditions which do not generally exist throughout the city and reasons included in the staff report (page 4) dated November 9, 2007.
2. Further, allowing the variance will result in substantial justice being done, given that compliance with the ordinance would impair visibility of the sign given the current use of the surrounding space for display inventory.
3. The public benefit intended to be secured by this article is being met and is an improvement to the current signage.
4. No rights of any other property owners adjacent to the property would be affected.

The motion was supported by Commissioner Tillman and carried unanimously.

2. 434 Burton Court – Variance to allow a 21 ft rear setback where a minimum 25ft. is required.

Staff report was presented by N. Voght, City Planner, who stated that this is a rear yard setback variance for a rear addition constructed on

the west side of the existing single-family home. The addition resulted in a rear setback of 21 ft. where a minimum of 25 ft is required. The Building Department requested that permits be applied for by the owner. This house was constructed in 1954. It is essentially single family homes on this street. Voght reviewed the standards and recommended staff approval.

Standards for Variances. A variance from the literal enforcement of this Ordinance may be granted by the Zoning Board of Appeals only if all of the following standards are met:

- (a) ***Literal enforcement of this Ordinance will cause undue hardship to the applicant because of special conditions or circumstances which are very unique to the specific property such as: exceptional shallowness or shape of the property, exceptional topographic conditions, extraordinary situation of a building or structure, use or development of an adjacent property, or practical difficulties relating to the construction or structural changes on the site. Mere inconvenience or a desire to attain higher financial return shall not itself be deemed sufficient to warrant a variance.***

The existing location of the home on the lot is typical for lots in the city developed after 1940. The proximity of the home to adjacent property lines and a narrow rear setback make home additions difficult. The applicant built the addition with 12.2 feet of depth. The maximum depth to meet rear setback requirements would have been 8.2 feet. The lot depth of 80 feet is a practical difficulty in constructing any addition considering the setback requirements. This standard is met.

- (b) ***Such a variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district under the terms of this chapter. Granting of the variance shall not confer upon the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same district.***

Granting the variance would allow a children's playroom. The applicant states that neighboring properties have additions that are similar in depth. Aerial photographs and a site visit confirm that 3 of the 7 adjacent properties have similar additions. There is no record of building permits or variances for the non-conforming additions to these adjacent homes. An addition to the subject home built in conformance with setback

requirements would result in an area with little usable space and would present cost-benefit constraints. This standard is met.

- (c) ***The alleged hardships or practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property.***

The practical difficulty relates to the depth of the owner's lot and typical zoning setbacks required. The average city lot is deeper which allows for reasonable additions, while meeting setback requirements. With consideration of the owner's lot, the constraints imposed by setback requirements present difficulties for the owner in constructing any addition. This standard is met.

- (d) ***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.***

The granting of the rear yard setback variance to allow a 21 ft. setback versus the minimum 25 ft. required will likely have little effect on the adjacent residences, many of whom have similar additions on their houses. The addition is not visible from the rear. No complaints have been made regarding the addition. This standard is met.

- (e) ***The allowance of the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Ordinance, the individual hardships that will be suffered by a failure of the Board to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.***

Staff considers substantial justice being served by granting of the requested variance. The owner suffers hardships due to the setback requirements that make it difficult to build an addition due to the depth of the lot. It is unlikely that adjacent residences would be negatively impacted by the result of this variance. This standard is met.

- (f) ***A variance granted shall be the minimum variance that will make possible a reasonable use of the land, buildings or structure.***

The size of the addition is the minimum reasonably expected for an addition. With consideration of the shallow lot, this allows the owner reasonable use of their land. This standard is met.

Commissioner Vick asked how and when this addition was built and Voght responded that he did not know the answer. He asked the Building Department for some history but they also did not know how the addition was built without a permit. They have since determined that a permit was necessary, consequently, it came to Voght to review.

Commissioner Bailey moved to open the public portion of the hearing (Support: R. Andrews) and the motion carried unanimously.

Cassandra Agnew, owner of the property – stated that she is seeking a variance to the property. The house is small and she needs extra space. She was not aware that a permit had not been pulled by the contractor.

Commissioner Bailey moved to close the public portion of the hearing (Support: G. Udoji) and the motion carried unanimously.

A discussion was held by board members who agreed that it is not encroaching on neighbors and meets all criteria. There are a number of similar additions to other homes on the street.

Commissioner Bailey moved to approve the variance to allow the rear setback variance to allow a 21 ft rear setback, where Section 122-255 of the Zoning Ordinance requires a minimum of 25 ft. based on the following findings:

1. The shallow depth of the lot is a practical difficulty in allowing any reasonable rear house addition. While the lot depth is not unique to the subject property, both properties directly adjacent have benefited from identical additions with identical non-conforming rear setbacks.
2. The variance is necessary for enjoyment of a property right enjoyed by others in the same district, considering both neighboring properties have a very similar rear setback privilege.
3. The practical difficulties do not result from any actions of the present owner.
4. Granting of the variance would not cause injury to the adjacent properties or neighborhood, as the addition is not visible to the rear.
5. The variance is minimal by allowing a 12 ft. deep addition, which is a reasonable depth for a house addition.
6. Substantial justice will be done in balancing the intended public benefits of rear setbacks versus the individual hardship by not allowing the variance.

The motion was supported by Commissioner Udoji and carried unanimously.

VII. ADJOURNMENT

Since there was no further business, Commissioner Tillman moved to adjourn the meeting Support: J. Bailey) and the motion carried unanimously. The meeting adjourned at 8:50 p.m.