

1. Zoning Board Of Appeals Regular Meeting Agenda

Documents:

[01- ZBA AGENDA 10-26-16.PDF](#)

2. Zoning Board Of Appeals Regular Meeting Packet

Documents:

[OCTOBER 26, 2016 ZBA MEETING PACKET.PDF](#)

Agenda
Zoning Board of Appeals
Council Chambers
Wednesday, October 26, 2016 - 7:00 P.M.

I. Call to Order

II. Roll Call

John Bailey, Chair	P	A
Jake Albers, Vice Chair	P	A
Heather Khan	P	A
Tom Roach	P	A
Jared Talaga	P	A

III. Approval of Minutes

- September 28, 2016

IV. Purpose of Meeting

V. Old Business

VI. New Business

- Variance, 213 S Hamilton-accessory structure dimensional variance
Public Hearing

VII. Adjournment

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**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.
 - 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.
 - 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.



City of Ypsilanti
Planning and Development Department

October 13, 2016

Staff Review of Variance Application
213 S Hamilton St-Garage Addition
213 S Hamilton St

GENERAL INFORMATION

Applicant: Benjamin Westbrook & Carolyn Clayton
213 S Hamilton St
Ypsilanti, MI 48197

Project: 213 S Hamilton St-Garage Addition

Application Date: September 27, 2016

Location: East side of S Hamilton St between Woodward and Catherine Streets

Zoning: CN-Core Neighborhood

Action Requested: Approval of a dimensional variance to allow the garage to be expanded over the maximum size allowed for an accessory structure

Staff Recommendation: Denial

PROJECT AND SITE DESCRIPTION

213 S Hamilton St is on 0.28 acres with frontage on the east side of Hamilton St. There is an existing ~2,100 square foot single story duplex with driveway access north of the structure and a 440 square foot accessory building to the northeast of the house. No variances have previously been approved for this property.

The structure is zoned **CN-Core Neighborhood**. The owner would like to expand the current garage horizontally as well as vertically to accommodate additional parking, storage and studio space. The addition would add 748 square feet to the south and the east of the current structure thus increasing the total footprint to 1,188 square feet, more than half of the building footprint of the main dwelling. 800 square feet is the maximum allowed building footprint for an accessory structure, thus the proposed expansion will make the structure a total of 388 feet more than allowed. The apartment house building type chart indicates that "there is a maximum of two accessory buildings." There is no mention that both of the accessory structures together need to be less than 800 square feet, so this could be interpreted to mean that two accessory structures can be placed on the lot of up to 800 square feet each, or a total of 1,600 square feet.

Figure 1: Subject Site Location

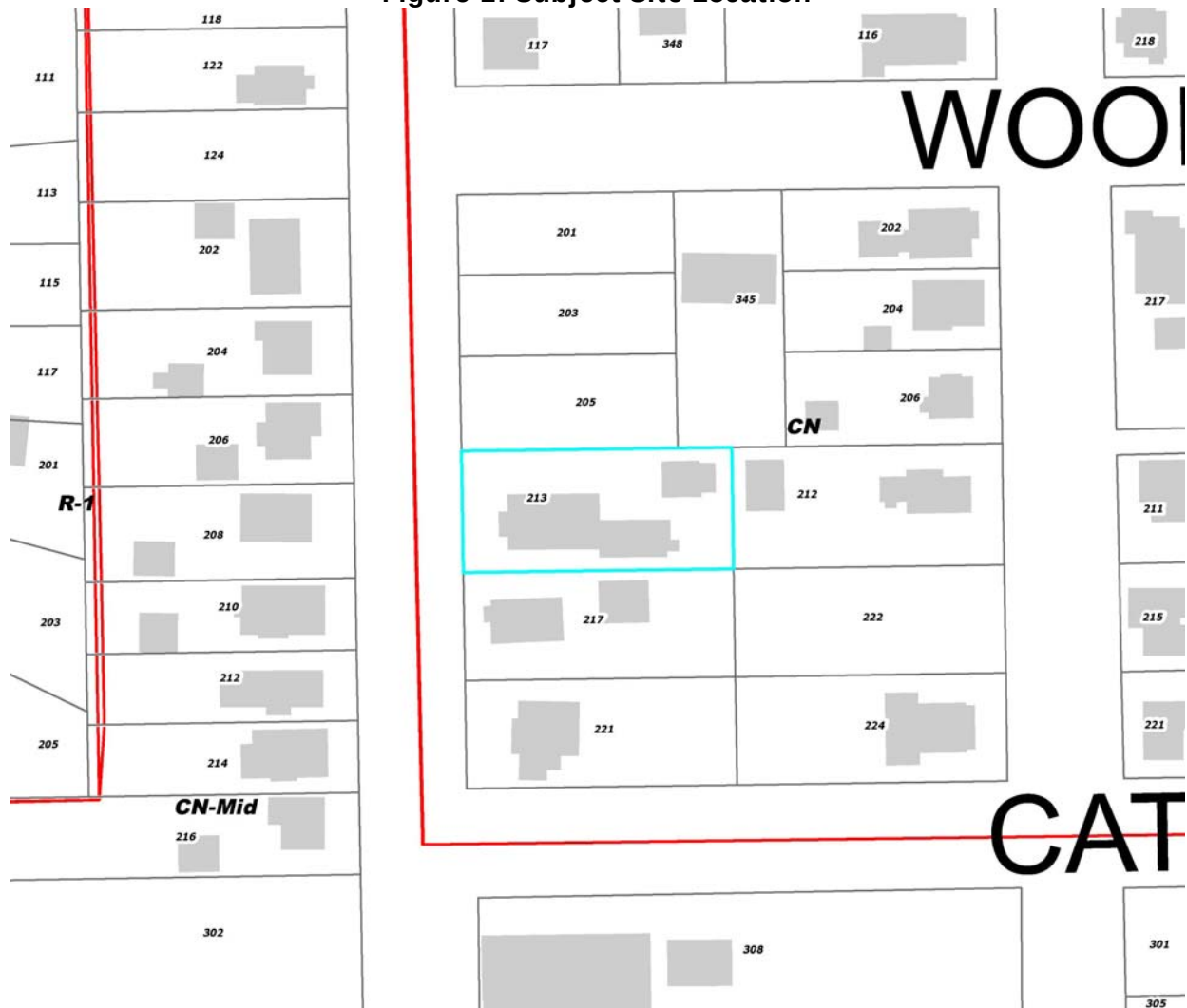


Figure 2: Site Close-up

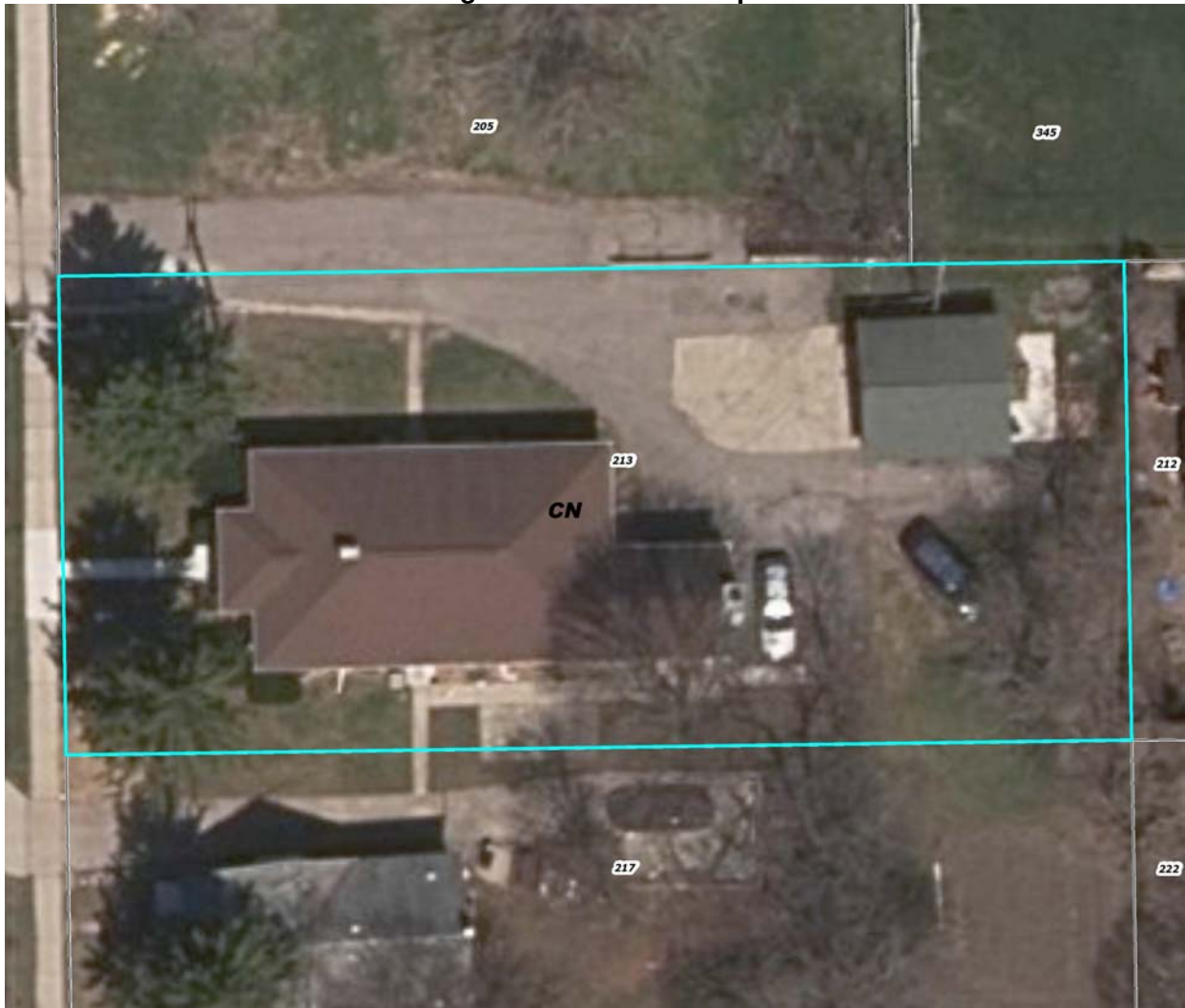


Figure 3: photograph of site



Figure 4: photograph of current garage



Figure 5: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	Vacant Lots	CN-Core Neighborhood
EAST	Single family homes	CN-Core Neighborhood
SOUTH	Single family homes	CN-Core Neighborhood
WEST	Single family homes Two-Family home	CN-Mid-Core Neighborhood Mid

ORDINANCE**§122-274****Sec. 122-274 Building Type Regulations****AH****APARTMENT HOUSE**

Detached residential buildings converted to contain two or more dwelling units. They are located on lots that accommodate the associated parking and outdoor living areas for several dwellings. Each may have its own entrance.

LOT REQUIREMENTS	MIN	MAX
A - Lot Width (ft)	40	120
B - Lot Depth (ft)	100	150
C - Lot Size (sf)	4,000	18,000
D - Lot Coverage (%)	--	50
BUILDING ENVELOPE	MIN	MAX
E - Street Setback (ft)	15 ⁽¹⁾⁽²⁾	25
F - Side Setback (ft)	5	--
G - Rear Setback (ft)	20	--
H - Frontage Buildout (%)	60	80
ACCESSORY BUILDING ENVELOPE	MIN	MAX
I - Street Setback (ft)	30 ⁽¹⁾	--
J - Side Setback (ft)	5	--
K - Rear Setback (ft)	5	--
L - Building Footprint (sf)	--	800
Note: There is a maximum of two accessory buildings.		
BUILDING HEIGHT	MIN	MAX
M - Principal Building (st)	1	3
N - Accessory Structure(s) (ft)	--	15
PARKING PROVISIONS	Location: Side, street-side yard, and rear yards	
PRIVATE FRONTAGES	Required: Porch or Stoop	

⁽¹⁾ If located on Washtenaw Avenue must build no more than 10ft from future right-of-way line

⁽²⁾ The street setback will be determined by the average of the front yards of existing buildings on the same street side and block in which the new building is being proposed in residential districts only.



EXAMPLE

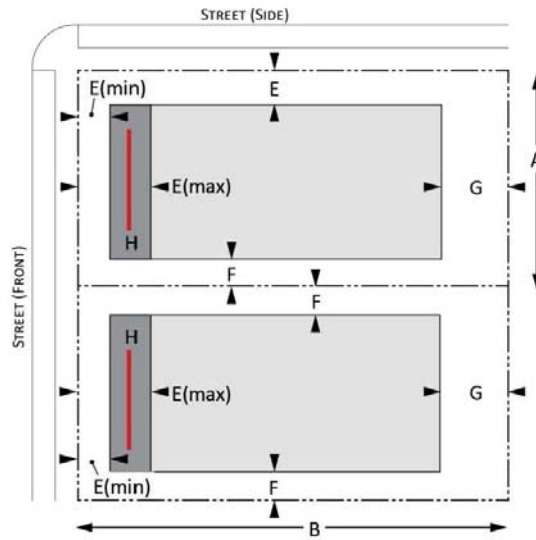
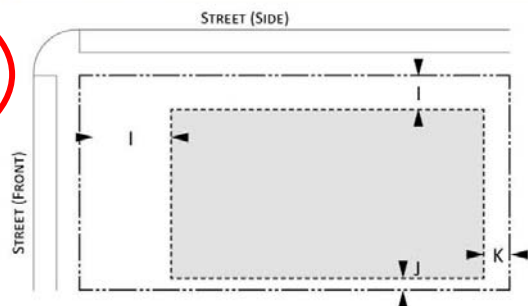
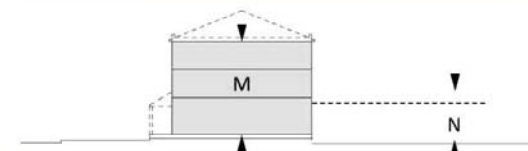
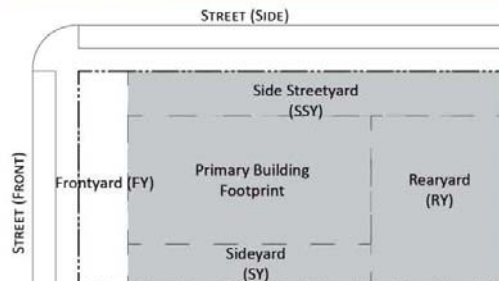
LOT REQUIREMENTS AND BUILDING ENVELOPE**ACCESSORY STRUCTURE ENVELOPE****BUILDING HEIGHT****PARKING LOCATION**

Figure 6: Current Lot Dimensions

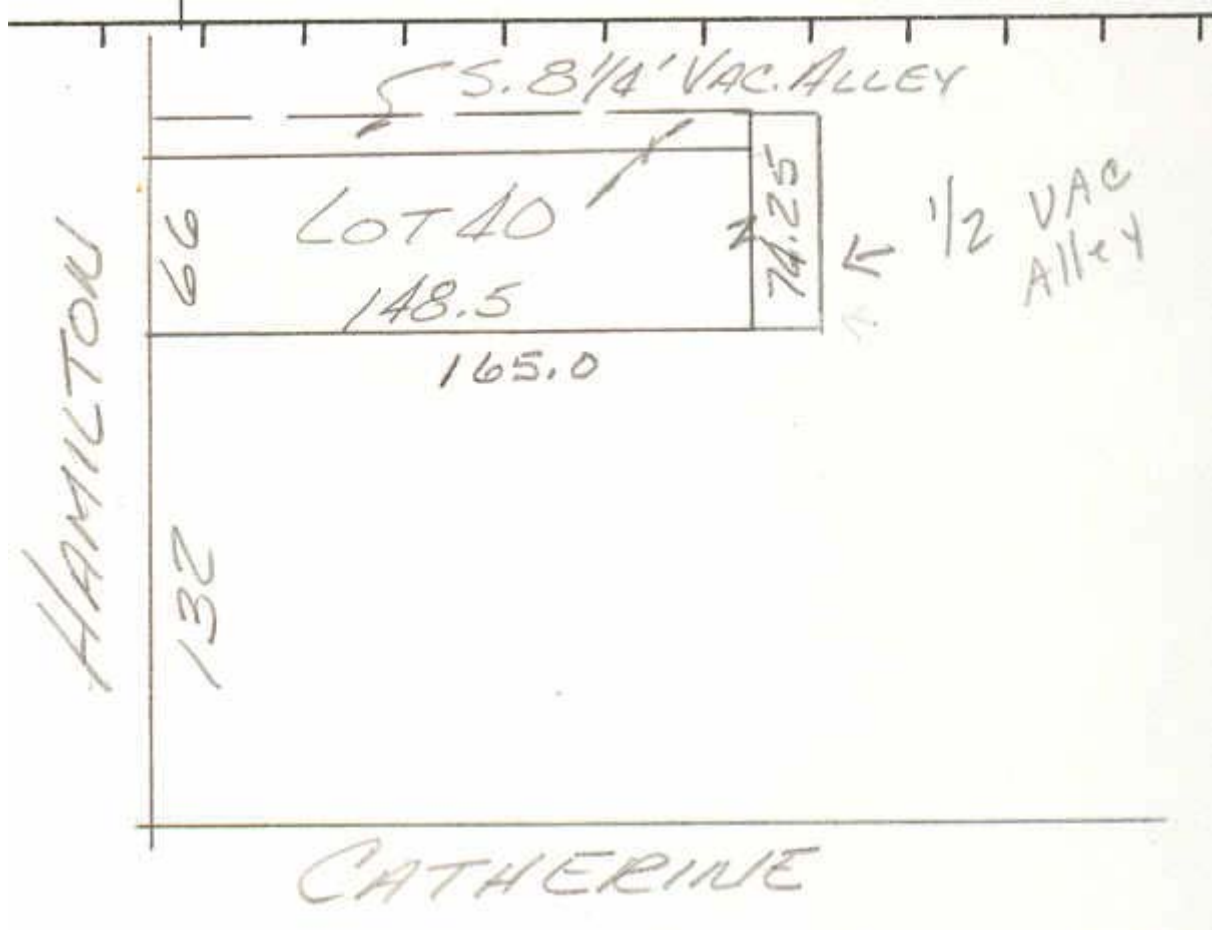
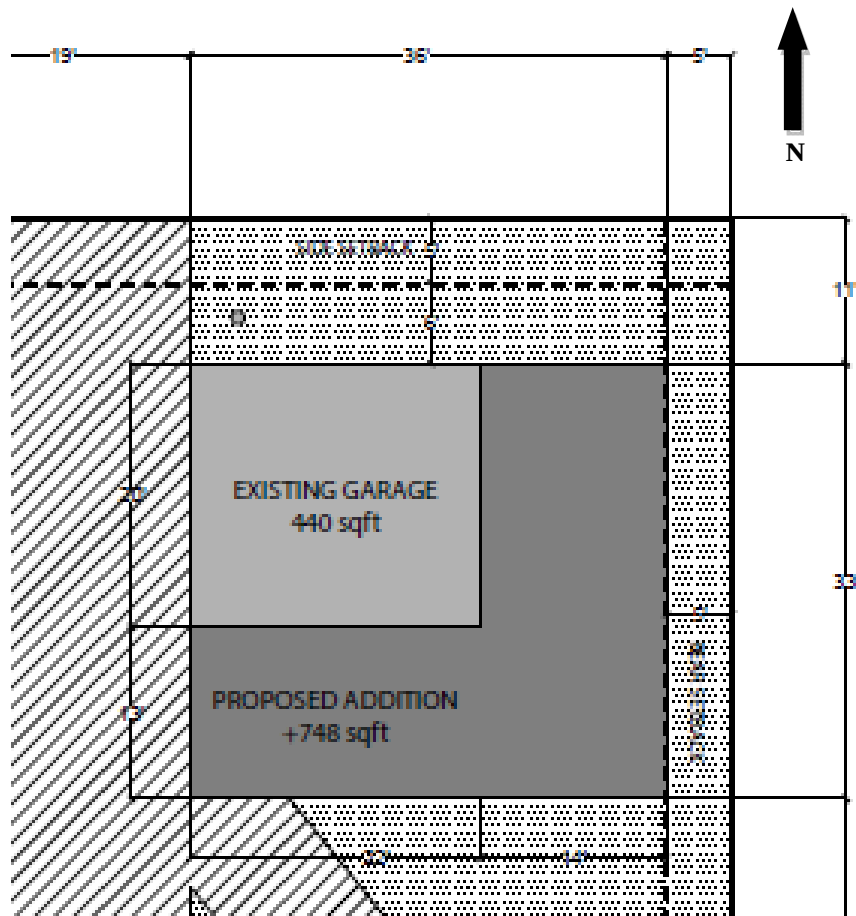


Figure 7: Proposed Addition



STANDARDS

§122-94(b)

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.

- (1) Literal enforcement of this chapter will pose practical difficulties to the applicant because of special conditions or circumstances which are 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 difficulties relating to 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 applicant notes that practical difficulty is found in the need to expand the covered parking options for the property and to create an artist studio space. The applicant states that they opted to expand the building footprint rather than add a full 2nd story on the accessory structure so as to not exceed the height restrictions. The site is not exceptional in regards to lot area, topographic conditions nor is there any extraordinary situation in regards to the building or development in the area. This standard is not met.

- (2) Such 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 lands, structures, or buildings in the same district.*

Many other residences in the area have accessory structures on their lots; almost all of them are less than 800 square feet. There is one other accessory structure in the vicinity and in the Core Neighborhood zoning that is larger than 1,000 square feet at 118 S Washington St. However, this particular accessory structure is attached to the main structure by a breezeway and a three car garage was permitted by right at the time of its construction. The variance for 118 S Washington was only required for the breezeway since it was constructed larger than the permitted 8' width. If granted, this variance could confer upon the applicant a special privilege that is currently not permitted in the district. This standard is not met.

- (3) 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.*

The duplex and the current site configuration is not the creation of the current owner/applicant. However covered parking is not required for all occupants, and the current garage should provide enough space for two cars. Up to an additional 360 square feet could be added to the current garage and still meet the maximum accessory structure square footage while providing additional covered parking and/or some additional storage/studio space. Another option is to build a separate additional accessory structure. This standard is not met.

- (4) 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 garage addition as submitted does not appear to be detrimental to the public or injurious to other property in the area. The plans indicate that the accessory structure will meet the required setback requirements. This standard is met.

- (5) *The allowance of 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 zoning board of appeals to grant the variance, and the rights of others whose property would be affected by the allowance of the variance.*

No individual hardships appear as though they will be suffered as a result of denial of this variance. Many homes in Core Neighborhood either do not have any covered parking at all or have an accessory structure that is under the required square footage. This standard is not met.

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

It is unclear as to whether any other options were explored in order to add additional parking and studio space and we welcome more information from the applicant on options that they've pursued. These other options include the following:

- Less space could be added to the garage in the proposed configuration in order to make the garage more functional while keeping the square footage of the accessory structure at or near the 800 square foot maximum.
- Another option mentioned above is building a separate additional accessory structure but it is unclear if that would fit into the current lot considering setbacks and that option may not fit the needs of the applicant.
- The ZBA could approve the proposed structure but restrict the current and any future owners from building a second accessory structure on the lot.

This standard is not met.

STAFF RECOMMENDATION

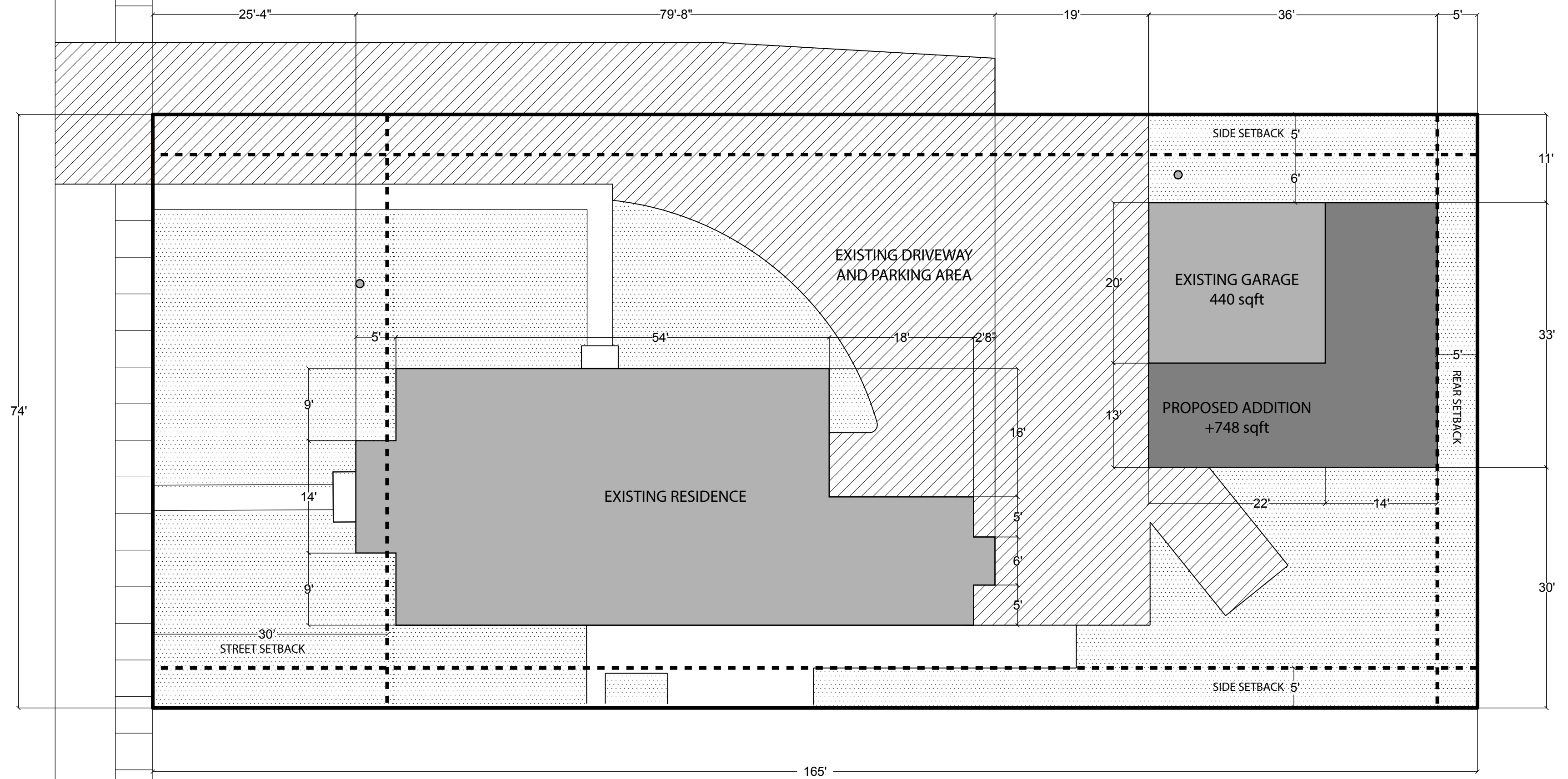
Staff recommends the Zoning Board of Appeals **deny** the dimensional variance request to allow an accessory structure to be expanded over the allowed maximum square footage, as submitted on September 27, 2016, with findings that

- the applicant does not show sufficient practical difficulty in accordance with §122-94(b)(1),
- that granting of this variance is not necessary for the preservation and enjoyment of a substantial property right enjoyed by others in the same district under §122-94(b)(2);
- that substantial justice will not be done under §122-94(b)(5);
- and that the requested variance may not be the minimum to make possible a reasonable use of the property under §122-94(b)(6).

Cynthia Kochanek
Associate Planner, Community & Economic Development Division

c.c. File
 Owner

↓ S HAMILTON ST



SITE PLAN

SCALE: 3/32" = 1'

Parcel: 11-11-39-178-004

213 S HAMILTON ST

YPSILANTI, MI 48197

Owner: Benjamin Westbrook

VARIANCE APPLICATION

SEPTEMBER 28, 2016





City of Ypsilanti
Planning & Development Department

One South Huron • Ypsilanti, MI 48197
Phone: (734) 483-9646 • Fax: (734) 483-7260
www.cityofypsilanti.com

**Non-refundable
Planning Fee:**
Single-family application
fee: \$200
All others: \$450

VARIANCE APPLICATION

Applicant*

Name Benjamin Westbrook & Carolyn Clayton		
Address 213 S Hamilton St		
#B		
City Ypsilanti	State MI	Zip 48197
Phone / Fax [REDACTED]		E-Mail [REDACTED]

*If applicant is not owner of property, a written, notarized statement from the owner authorizing this application must be included.

Property

Name of project Garage	
Address 213 S Hamilton St.	
List all parcel identification numbers included in development: 11-11-39-178-004	
Legal description of property (may be attached): Lot 40 & S 1/2 vacated alley on North and W 1/2 vacated alley on East. Orig. plat.	
Current Zoning: CN	Current Use: owner-occupied duplex w/ garage
Attach an accurate, scaled drawing, of the property showing: • all property lines and dimensions correlated with the legal description • the location and dimensions of all existing and proposed structures and uses on property • any roads, alleys, easements, drains, or waterways which cross or abut the property and the lot area and setback • dimensions necessary to show compliance with the regulations of this Ordinance	

Request for Variance

Description of proposed project We'd like to expand our garage to have one additional bay, and storage and studio space behind and above.

Section of Ordinance (chapter, article, section, subsection format, please)

Chapter 122 Article VI Section 122.274 (page 104 of zoning ord. pdf.)

How the proposed project is contrary to ordinance:

The proposed expansion creates a building with a footprint larger than 800 sq. ft.

Practical difficulties which prevent compliance:

We'd like to expand the covered parking options for our property, and also create additional artist studio space. Given the height restrictions in the zoning ordinances we opted for a slightly larger building footprint rather than a full second floor.

Unique circumstances regarding the property (i.e. shape, topography, etc) which prevent compliance:

As an owner-occupied duplex, we'd like to be able to offer ample parking and storage to our tenants, and for ourselves.

Signature

I hereby attest that the above information is accurate. I am authorized to and grant permission to the City of Ypsilanti staff to be on the subject property for the purposes of preparing staff reports and/or evaluating this application.

Signature:



Date:

9.27.16

Print Name:

Ben Westbrook