

1. ZBA Agenda

Documents:

[01- ZBA AGENDA 9-27-17.PDF](#)

2. ZBA Packet

Documents:

[ZBA PACKET 9-27-17.PDF](#)

Agenda
Zoning Board of Appeals
Wednesday, September 27, 2017 - 7:00 P.M.
City Hall-Council Chambers, 1 S Huron St
Ypsilanti, MI 48197

I. Call to Order

II. Roll Call

Jake Albers, Chair	P	A
Cisco Garcia, Vice Chair	P	A
Heather Khan	P	A
Jennifer Symanns	P	A
Jared Talaga	P	A

John Bailey	P	A
Tom Roach	P	A

III. Approval of Minutes

- August 23, 2017

IV. Purpose of Meeting

V. Old Business

- None

VI. New Business

- 1430 Witmire- Variance
Public Hearing

VII. Adjournment

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**ZONING BOARD OF APPEALS
MEETING MINUTES
August 23, 2017
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

Absent: None

Staff: C. Kochanek, Preservation Planner
J. Meyers, Community Development Manager

III. APPROVAL OF MINUTES

Commissioner Talaga moved to approve the minutes of July 26, 2017 (Support: C. Garcia) 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. Appeal of Administrative Decision – 433 Worden

Staff report was presented by the Preservation Planner, Cynthia Kochanek. Ms. Kochanek explained to the Zoning Board of Appeals as laid out in the staff report that Ms. Lupian purchased 433 Worden at tax foreclosure auction in 2016. Upon taking possession, she began work on restoring it to the last apparent use as a two-family dwelling. However, the property had not been legally occupied or used as a two-family residence since approximately 2009, had been through two tax foreclosure auctions, had water service shut off in 2009, and rental certifications had lapsed and not been renewed in 2009.

Further, the property had been rezoned from R2, which permitted two-family or single-family by right, to R1, single-family residential in 2015; R1 does not permit for two-family residences by right. Ms. Lupian was informed via postal mail in June that the previous two-family use had been determined to be abandoned, thus could not be restored; however, a single-family use was acceptable at this location.

Uses of structures or land generally fall into three broad categories: legal conforming, wherein a property and use conform to all current ordinances; legal non-conforming, wherein a property was initially approved under a certain set of regulations no longer in effect and could not be permitted as-is under the ordinance in effect at the present moment; and unlawful nonconforming, wherein a use could not be or was not approved under the ordinance that was in effect when it commenced. Zoning ordinances generally outline under what conditions a property may be considered legal nonconforming, and include provisions for legal nonconforming properties regarding changes of use, the possibility for expansion, changes of occupancy or ownership, removal or destruction, and abandonment.

In this case, staff made the determination under §122-349(e) of the Zoning Code of Ordinances that any legal nonconforming use that may have been present had been abandoned, and that such abandonment was evidenced by the actions noted above: the two tax foreclosures, the loss of water service which rendered the property uninhabitable, and the failure to maintain the certifications necessary to legally rent one or more of the two units.

Jennifer Symanns questioned if the water meter was removed or if there was just a water bond placed on the property. The ZBA requested additional information on this.

Commissioner Symanns moved to open the public portion of the meeting (Support: J. Talaga) and the motion carried unanimously.

Brenda Lupian, 2355 McKinley was in attendance.

Brenda Lupian questioned why she was not informed of the change and indicated that she would have went about renovating the building in a different way if she would have known that she could not have two units.

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

Commissioner Symanns indicated that she felt the use was abandoned through the zoning ordinance Sec. 122-349 (7) Failure to maintain current licenses, certificates, permits, registrations or other appropriate documentation for the nonconforming use; (8) Bank or tax foreclosure; but would need further clarification on (1) One (1) or more utility meters, such as water, gas and electricity to the property, have been removed; because no evidence was provided that the water meter was removed.

Commissioner Symanns moved that the Zoning Board of Appeals affirm the administrative decision, with the following findings:

1. Per the provisions of §122-203 and §122-349(e), the two-family use at 433 Worden had been abandoned with findings; current licenses, certificates, permits, registrations, or other appropriate documentation had not been maintained since 2009; and the property had been foreclosed upon for taxes.
2. The City Planner acted within the scope of the authority provided under §122-381, "Duties and Enforcement Powers," when issuing a notice of violation.

Commissioner Kahn supported the motion and it was carried unanimously.

VII. ADJOURNMENT

Since there was no further business, Commissioner Symanns moved to adjourn the meeting (Support: J. Talaga) and the motion carried unanimously.

The meeting adjourned at 7:21 p.m.



September 19, 2017

**Staff Review of Variance Application
1430 Witmire Garage Extension
1430 Witmire St**

GENERAL INFORMATION

Applicant: Faith Shepard
1430 Witmire St.
Ypsilanti, MI 48197

Project: 1430 Witmire Garage Extension

Application Date: August 22, 2017

Location: North side of Witmire between Mansfield and Cornell

Zoning: R-1, Single-Family residential

Action Requested: Approval of a variance from the front setback requirement in §122-422(b)(2)

Staff Recommendation:

PROJECT AND SITE DESCRIPTION

Parcel # 11-11-05-308-015 is on the north side of Witmire between Mansfield and Cornell. The parcel is 0.33 acres with frontage on Witmire in the College Heights neighborhood. There is an existing ~2,355 square foot structure on site with an attached garage.

The applicant is looking to add a ~5' (4' 9"?) addition on the front of the garage, thus decreasing the front setback. The applicant is subject to a front yard setback of 25' or where an existing front yard setback line has been established by existing residential dwellings occupying 50 percent or more of the frontage within the same block on the same side of the street, the depth of the front yard must be within the range so established. Staff determined that the 25' front setback did not apply since the other properties on the north side of Witmire were closer than 25' thus the range of front setbacks would apply.

Only two property surveys were on file with the City, one for 1430 Witmire and one for 1454 Witmire. The survey for 1430 Witmire shows a 28.125' existing front setback and the survey for 1454 Witmire shows a 27' setback (note: there is an error in the attached staff letter and figures regarding this setback, it is listed incorrectly at 37.5'). With only two surveys on file but five properties on the north side of the street, staff used GIS to determine the average setbacks for all of the properties on the north side of Witmire. The average range was determined to be

19.4' to 23.1'. 1430 Witmire was determined to have an average front setback of 23.1', with a ~5' addition to the front of the garage that would take the front setback to 18.1', 1.3' less than the closest front setback on the north side of the street. The applicant is requesting a variance from the front setback as determined by staff and required in §122-422(b)(2).

Figure 1: Subject Site Location



Figure 2: Site Close-up (2015)

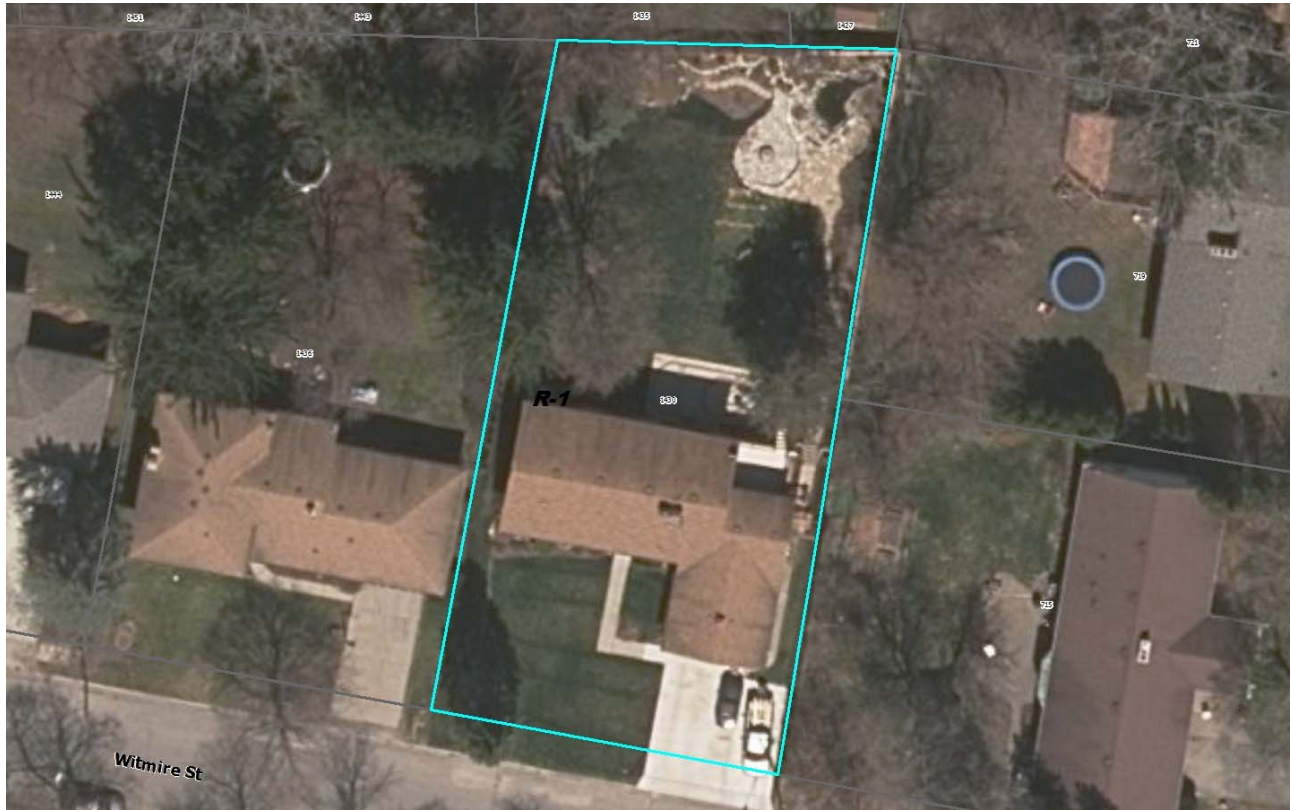


Figure 3: photograph of site (Google image)



Figure 4: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	Single family homes	R-1, Single family residential
EAST	Single family homes	R-1, Single family residential
SOUTH	Single family homes	R-1, Single family residential
WEST	Single family homes	R-1, Single family residential

ORDINANCE**§122-422****Sec. 122-422. Non-Use and Dimensional Regulations. (R-1)**

(a) OVERALL SITE REGULATIONS	
(1) Maximum Lot Coverage	
Residential Uses	35%
Non-residential Uses	50%
(2) Parking Setbacks <i>(non-residential uses only; residential uses covered by §122-682)</i>	
Front & side street yard	Not allowed
Side and rear yards	10 feet
(3) Minimum Lot Width	
Lot width	45 ft.
(4) Outdoor Lighting	
See §122-609	

(b) PRINCIPAL AND ATTACHED ACCESSORY STRUCTURES		
<i>Also subject to Article VI, Division 4</i>		
(1) Height		
Maximum height	30 feet or 2.5 stories	See exceptions in §122-613.
(2) Residential Uses		
Lot size, minimum	5,000 square feet	
Front yard setback, minimum	25 feet	Where an existing front yard setback line has been established by existing residential dwellings occupying 50 percent or more of the frontage within the same block on the same side of the street, the depth of the front yard must be within the range so established.
Side yard setback, minimum	4 feet	
Side yards (combined) setback, minimum	12 feet	
Street Side yard setback, minimum	8 feet	
Rear yard setback, minimum	25 feet	
Corner Lots	Platted or of record after August 8, 1984	Front yard regulations apply to each street side of the corner lot. The rear yard requirements for a corner lot apply to the open space which is opposite and most distant from the front lot line as designated in the plat and/or in the request for a building permit.
	Platted or of record prior to August 8, 1984	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.
Usable floor area, minimum	500 sf	
(3) Non-residential uses		

(b) PRINCIPAL AND ATTACHED ACCESSORY STRUCTURES*Also subject to Article VI, Division 4*

Front yard minimum	25 feet	Where an existing front yard setback line has been established by existing residential dwellings occupying 50 percent or more of the frontage within the same block on the same side of the street, the depth of the front yard must be within the range so established.
Side yard minimum	8 feet	
Side yards (combined) minimum	Equal to the height of the structure or the setbacks required for residential uses, whichever is greater.	
Street side yard minimum	8 feet	
Rear yard minimum	25 feet	
Corner Lots	Platted or of record after August 8, 1984	Front yard regulations apply to each street side of the corner lot. The rear yard requirements for a corner lot apply to the open space which is opposite and most distant from the front lot line as designated in the plat and/or in the request for a building permit
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Figure 5: City Staff's Figures for Witmire Setbacks

address	Witmire setbacks (per GIS)				proposed new (+4')
	first	second	third	average	
1464	19.9	20.8	19.9	20.2	
1454	19.3	19.2	19.7	19.4	
1444	22.4	23.8	23	23.1	
1436	22.9	22.5	23	22.8	
1430	22.8	23.19	23.4	23.1	19.1
dist max/min	3.6	4.6	3.7	3.7	
dist min/1430	3.5	3.99	3.7	3.7	
mortgage survey (1430): shows 28.125' setback currently.					
mortgage survey (1454): shows 37.5'					

STANDARDS**§122-370(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 attempting to add a first floor laundry addition within the allowed setback and still have sufficient room to accommodate their needs as they age in place. At the rear of the house there appears to be a brick patio, a brick wall and a pond much farther back in the site. It is unclear as to whether or not any other locations, such as at the rear of the property, would be viable for the addition and if the applicant has explored these possibilities.

- (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.*

The applicant has noted that they intend to age in place and as such they need to have a laundry facility on the first floor in order to accommodate this. It is unclear as to whether this variance will convey a special privilege on the applicant since as far as staff is aware this is the first variance that involves the established front setback rule. However if a neighbor that was at the lowest setback in the range requested a substantial variance in the same district, it may be more difficult to approve that request as that would substantially lower the established range. It should be noted that 1.3' is not all that substantial.

- (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 owner did not create the existing setbacks on the property or the regulations in regards to them. Nor was the property owner responsible for the current location of the laundry facilities. However as mentioned before, it is unclear as to what other options were explored in regards to this addition.

- (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.*

As the variance is only for 1.3' it is not expected that the granting of this variance will be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.

- (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.*

It is unclear as to whether the allowance of the variance will result in substantial justice being done.

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

As the variance is only for 1.3' and the applicant has indicated that additional amount is needed in order to make the addition to the front useful, this is the minimum variance possible.

STAFF RECOMMENDATION

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit the garage addition to encroach on the front setback requirement at 1430 Witmire, with the following findings:

1. The applicant has shown insufficient practical difficulty under §122-370(b)(1).
2. It is unclear that this 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 the zoning ordinance §122-370(b)(2).

3. It is unclear as to whether the allowance of the variance will result in substantial justice being done.

Cynthia Kochanek
Preservation Planner, Community & Economic Development Division

c.c. File
 Applicant



**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 <i>Faith Shepard</i>		
Address <i>1430 Witnure St</i>		
City <i>Ypsilanti</i>	State <i>MI</i>	Zip <i>48197</i>
Phone / Fax <i>734-717-0039</i>	E-Mail <i>faithshep@gmail.com</i>	

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

Property

Name of project <i>1430 Witnure St. Garage Extension</i>	
Address <i>1430 Witnure St</i>	
List all parcel identification numbers included in development:	
Legal description of property (may be attached):	
Current Zoning: <i>Residential</i>	Current Use: <i>Single family</i>
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 <i>I would like to add ~5ft. to the front of my garage vs. 3.5 ft. which is being authorized by Planning & Dev. Dept.</i>
--

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

Sec 122-422 (b) (2)

How the proposed project is contrary to ordinance:

The proposed project is contrary to the ordinance by 1.5 ft. The method used to determine front setback while consistent across properties is not accurate. I physically measured existing setback at the 4 house on my block and 50% are under 25 ft. setback. My project is in compliance.

Practical difficulties which prevent compliance:

My husband (who is disabled) and I are seniors as we age in place we need accommodations for a 1st fl. laundry room. If we add 3.5 ft vs 5.0 ft this would not be sufficient to add a laundry area. I would also be wasting material on space that does not accommodate all of our needs.

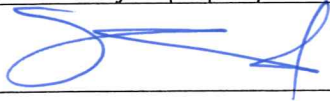
Unique circumstances regarding the property (i.e. shape, topography, etc) which prevent compliance:

My property is the first house on my street (both sides) my garage faces the backyard of the house on the corner of Cornell. Extending my garage does not obstruct any residents view or alter the look of my block.

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:

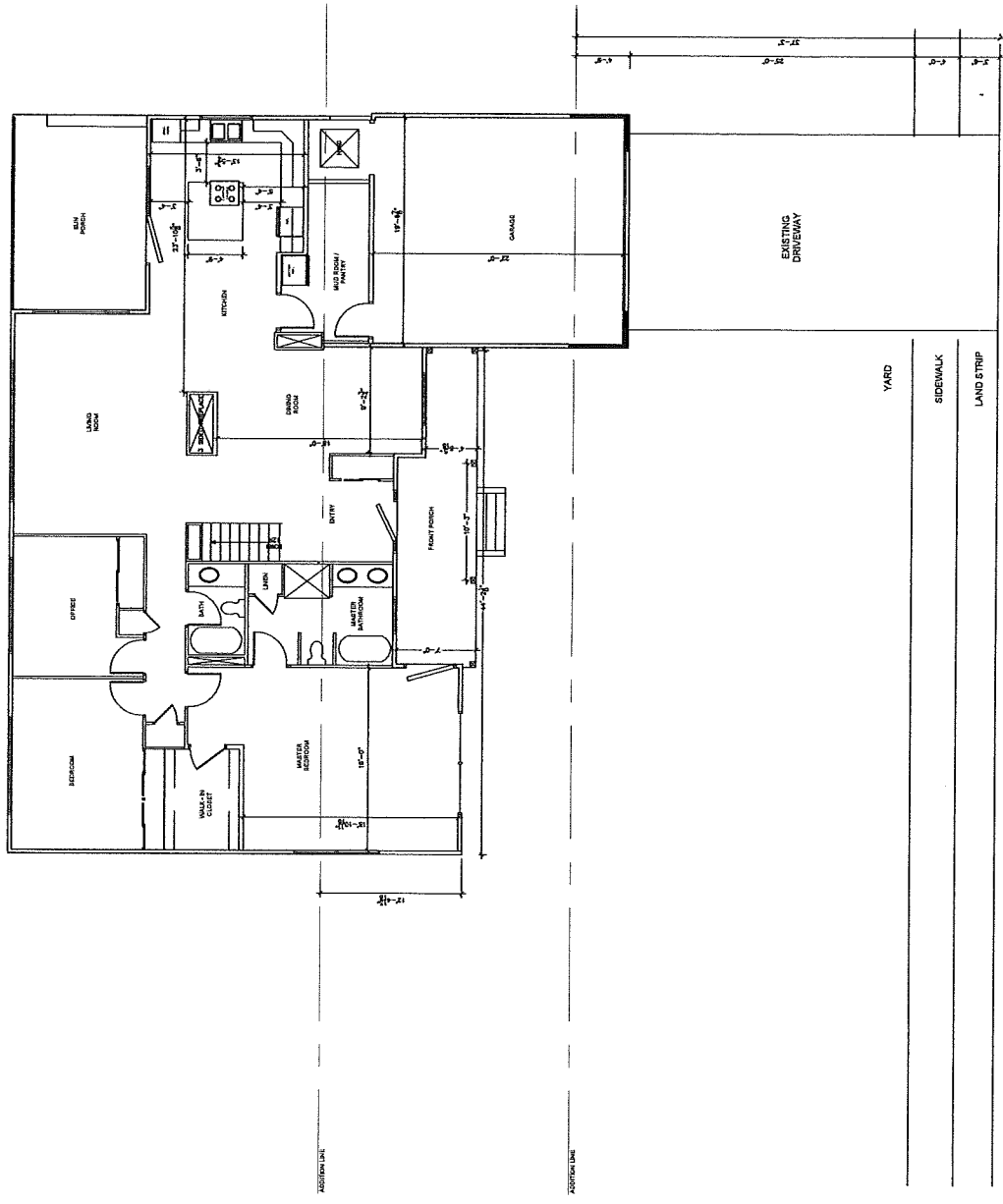


Date:

8/22/17

Print Name:

Faith Shepard



FIRST FLOOR PLAN
 SCALE 1/8" = 1'-0"



KEM-TEC LAND SURVEYORS

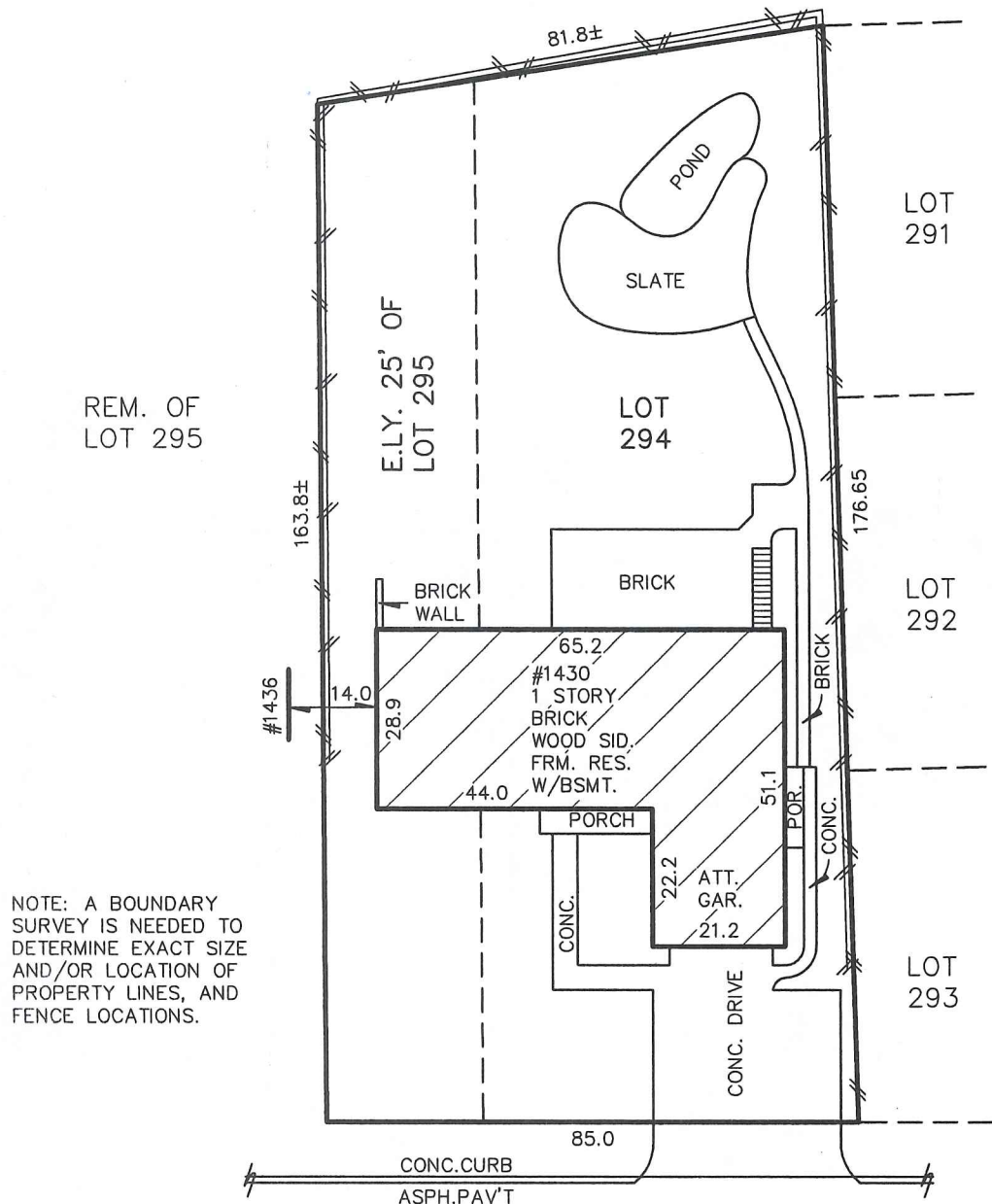
MORTGAGE SURVEY

Certified to: FAITH SHEPPARD

Applicant: FAITH SHEPPARD

Property Description:

Lot 294 and the Easterly 25 feet of Lot 294; COLLEGE HEIGHTS SUBDIVISION NUMBER ONE, a part of the S. 1/2 of Section 5, Ypsilanti Township, Washtenaw County, Michigan, as recorded in Liber 6 of Plats, Page 44 of Washtenaw County Records.



NOTE: A BOUNDARY SURVEY IS NEEDED TO DETERMINE EXACT SIZE AND/OR LOCATION OF PROPERTY LINES, AND FENCE LOCATIONS.

WITMIRE ST. 50' WD.

CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.



THIS SURVEY DRAWING IS VOID IF THE PROFESSIONAL SEAL IS NOT IN BLUE INK.

JOB NO: 17-02637

SCALE: 1"=30'

DATE: 07/13/17

DR BY: LAO



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City of Ypsilanti

Community and Economic Development

28 July 2017

Faith Shepard
1430 Witmire
Ypsilanti, MI 48197

RE: Front setback, 1430 Witmire

Dear Ms Shepard:

We have reviewed the mortgage survey supplied by you for 1430 Witmire, as well as the data on file for the other homes on that block face, to make a determination regarding front setbacks. Per Section 122-422(b)(2) of the Zoning Code of Ordinances, the front yard setback is determined as such:

"Where an existing front yard setback line has been established by existing residential dwellings occupying 50 percent or more of the frontage within the same block on the same side of the street, the depth of the front yard must be within the range so established."

Or, in more general terms, no closer to the front property line than your closest-to-the-front neighbor on the same block face, and no further back from the front property line than the furthest-from-the-front neighbor on the same block face.

The mortgage survey for your property indicates that the front of the house is approximately 28.125' from the front property line. A mortgage survey from a neighboring property at 1454 shows that they are approximately 37.5' from the property line. 1454, per measurements on our GIS system, is approximately three feet closer to the property line than your home at 1430; thus, this survey is not considered in our measurements.

After consultation with the Building Department, staff measured the setback in GIS three times at each property location. Unfortunately, in each instance, the proposed addition would encroach into the required front setback range- that is, it would be closer to the front property line than the furthest-forward house on the street by an average of 3", ranging between 6" and 1", but in no case conforming.

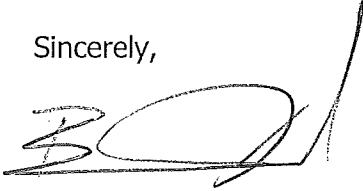
Our determination in this case is that a four-foot addition to the front of the existing home at 1430 Witmire would encroach upon the front setback, and is not permissible.

I have enclosed two forms with this letter; one to file an Appeal of Administrative Decision, and one for a Dimensional Variance. In an appeal of administrative decision under §122-371, the determination of staff would be appealed to the Zoning Board of Appeals, and must be submitted within 60 days of this decision. In a request for a variance, you would be requesting that the Zoning Board of Appeals make an exception from the ordinance in your case, and is

measured against the standards found in §122-370(b). If your completed application is received by the fourth Wednesday of a given month, it will be placed on the following month's agenda. For more information about the Zoning Board of Appeals, please visit cityofypsilanti.com/zba.

Please contact me at 734-483-9646 or bwessler@cityofypsilanti.com with any questions. The entire text of the Zoning Ordinance is available on our website, at <http://www.cityofypsilanti.com/zoning>.

Sincerely,

A handwritten signature in black ink, appearing to read 'BW', with a long, sweeping horizontal line extending to the right.

Bonnie Wessler
City Planner, Community & Economic Development Division

CC: File

Encl: Appeal of an Administrative Decision application
Non-Use Variance application

Witmire setbacks (per GIS)

address	first	second	third	average	proposed new (+4')
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1454	19.3	19.2	19.7	19.4	
1444	22.4	23.8	23	23.1	
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dist min/1430	3.5	3.99	3.7	3.7	

mortgage survey (1430): shows 28.125' setback currently.

mortgage survey (1454): shows 37.5'