

**ZONING BOARD OF APPEALS
MEETING MINUTES
September 27, 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
Nan Schuette, Executive Director

III. APPROVAL OF MINUTES

Commissioner Garcia moved to approve the minutes of August 23, 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. 1430 Witmire – Variance

Ms. Kochanek, Preservation Planner, stated that this is a request for approval of a variance from the front setback requirement in Sec122-422(b)(2). The property 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 sq. ft. 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

more 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 yard 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 Sec. 122-422(b)(2).

Ms. Kochanek stated the standards for variances as listed in the ordinance. She added that staff is recommending denial of this request with findings as noted in staff report dated September 19, 2017.

Commissioner Talaga stated he was confused since the new ordinance required 25' and previously it required something else. Ms. Kochanek responded that it is an either or situation– the zoning ordinance either requires a 25' setback or if 50% of the structures on the north side of Witmire have a closer setback, then you use the established range. A lot of the people on Witmire are closer to the street than the 25'. She included the City Planner's letter who assumed it was a 4' addition instead of 5'.

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

Faith Sheppard, 1423 Witmire – stated she had begun this process 10 months ago – her husband is disabled and since they are older and plan on staying at this location for many years, they want to install a first floor laundry. They are not asking for much of a difference – the city indicated they needed a 25' setback – the architect physically measured and it came in at 29'9". She submitted plans to Kurt Weiland, with the Ypsilanti Building Department, who reviewed them and stated that the plans were fine but he was concerned about the setback. Ms. Sheppard spoke with both city planners who explained about the 25' setback and showed her the GIS results but asked Ms. Sheppard to physically measure the area. As stated above, it was measured and found to be 29'9" which indicated they could go out 4'9". They were told to get a survey to find the stake. Ms. Sheppard stated she was not prepared to spend approximately \$1500 on an architectural survey and she couldn't find the stake because it was covered by the cement driveway. She was also advised to get a mortgage survey, which is much cheaper than that of a full survey with stakes. She brought in the mortgage survey and also that of her neighbor's, to the Planning Department and everyone agreed it was

inadequate. Basically, she is only asking for 1.3' Commissioner Symanns asked to clarify if the applicant needs 5' or 4'9". Ms. Sheppard stated she can live with 4'9".

Ms. Sheppard measured her neighbor's setback who had roughly the same setback as her – there are only five houses on the street. The two neighbors on the end had approximately 24-1/2' from the sidewalk – her yard does not have a sidewalk. Commissioner Symanns asked if the 18'4" would be from the "implied" sidewalk and Ms. Sheppard agreed. Commissioner Symanns asked if the neighbors knew about the proposed project, to which Ms. Sheppard responded that they had received notices from the Planning Department and were supportive. Chairman Albers asked the applicant if they had considered putting the addition at the rear of the home. Ms. Sheppard stated the design of their home is such that the back is a lower level walk-out and they are unable to go wider in order to accommodate the proposed plan. Commissioner Symanns also asked if there was any other practical space, to which Ms. Sheppard responded that there was no other option. Commissioner Garcia asked if the walkway down the side of the home would be changed, to which Ms. Sheppard responded that it would not.

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

Further discussion was held by the board members. Commissioner Symanns stated it is an average setback of 23.1' the closest neighbor's is 24'4". Ms. Kochanek stated that if the ZBA were to allow it and another neighbor wanted to do something – we are basically adjusting the range from 18'3" to the high end according to GIS, which is different than what we are getting back from the two surveys. Chair Albers noted that it is important to ensure we are not setting a precedent for anyone else in the city. Ms. Kochanek stated that this would apply to anyone in the city. Commissioner Talaga asked if there was an answer as to why there is such a difference in the measurement that the applicant is getting and the ones obtained from GIS. Ms. Kochanek responded that sometimes the GIS is not as reliable as an actual physical survey. Commissioner Symanns noted that they are basically requesting 1.3'. Commissioner Talaga asked about a margin of error in GIS but Ms. Kochanek stated she is not aware what that may be. Both Commissioners Talaga and Garcia did not see a problem with this request. Commissioner Symanns also agreed.

Commissioner Talaga moved that the Zoning Board of Appeals approve the variance to permit the garage addition to encroach on the front setback requirement at 1430 Witmire by 5' with the following findings:

1. The applicant has shown sufficient practical difficulty under Sec122-370(b)(1).
2. It is clear 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 Sec 122-370(b)(2).
3. 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 motion was supported by Commissioner Garcia. A roll call vote was taken and carried unanimously 5:0.

VII. ADJOURNMENT

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

The meeting adjourned at 7:37 p.m.