

1. Zoning Board Of Appeals Meeting Agenda

Documents:

[01- ZBA AGENDA 1-24-18.PDF](#)

2. Zoning Board Of Appeals Meeting Packet

Documents:

[1-24-18 ZBA MEETING PACKET.PDF](#)

Agenda
Zoning Board of Appeals
Wednesday, January 24, 2018 - 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

- November 29, 2017

IV. Purpose of Meeting

V. Old Business

- None

VI. New Business

- 75 Catherine- Variance
Public Hearing

VII. Adjournment

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**ZONING BOARD OF APPEALS
MEETING MINUTES
NOVEMBER 29, 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,

Absent: J. Talaga (excused)

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

III. APPROVAL OF MINUTES

Commissioner Garcia moved to approve the minutes of September 27, 2017 (Support: H. Khan) 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. Ms. Kochanek stated that this is a request for approval of a variance from the driveway width requirement in Sec 122-683(b). The parcel is 0.24 acres on the north side of Pearl St, just east of Normal St, with frontage on Pearl St. The parcel is currently vacant. The house that previously existed on the site was demolished in 2006. No special use permits or variances have previously been approved for this property. A site plan was approved by Planning Commission for a new four unit apartment building on this site in September. One of the conditions of the approval was that the applicant seek a variance for the driveway width.

The applicant has proposed a one-way drive at 10' instead of the 20', or two-way drive required by the zoning ordinance in Sec 122-683(b) for ingress and egress. The plans originally submitted to the Planning Commission had a 13' wide drive without an access path, which is required by the zoning ordinance. Both staff and the Planning Commission required the driveway width, which was already not large enough to accommodate two-way traffic, to be decreased to accommodate a 5' access path.

Ms. Kochanek detailed the land use and surrounding area, which is CN-Core Neighborhood. She also referred to the ingress and egress section of the zoning ordinance regarding the requirements of off-street parking layout and construction for all other uses. She listed the various standards for variances in detail noting that a variance from the literal enforcement of this ordinance may be granted by the Zoning Board of Appeals only if all of the standards are met. Staff recommends denial of the variance request with the noted finding that the alleged practical difficulties on which the variance request is based have in part been created by a person presently having an interest in the property under Sec 122-370(b)(3).

Commissioner Symanns asked staff about her response to the practical difficulty standard to which staff responded that it is mainly because of the owner's decision to have a 3-4 unit building instead of 1-2 unit. A 1-2 unit would only require a 10' driveway width.

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

Todd Ballou, 3300 Berry Road – is the architect for the project. He stated that they had looked at various options for this property – tried to flip the structure on the site but the west side of the site is higher, referring to the grade of the property. He asked about a mirror/signage which was recommended by the Planning Department to assist with ingress and egress, and to the preferred location of same. Some discussion was held on how this would help with ingress and egress and he had no problem with this request, however, he stated that the person leaving the property would probably have the right-of-way.

Commission Garcia moved to close the public portion of the hearing (Support: H. Khan) and the motion carried unanimously.

Commissioner Garcia moved that the Zoning Board of Appeal approve the variance from Sec 122-683(b) to permit a one-way driveway with a 10' width at 708 Pearl, with the following findings and condition:

Findings:

1. Such variance is necessary for the preservation and enjoyment of a substantial property right enjoyed by other property owners in the same district, per Sec 122-380(b)(2).

2. The granting of this variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which this property is located, per Sec 122-370(b)(4).
3. This variance is the minimum variance that will make possible a reasonable use of the land, buildings, or structure, per Sec 122-370(b)(6).

Condition:

1. Signage and/or a mirror is required to be installed for safe usage of the drive as proposed.

The motion was supported by Commissioner Khan and carried 3:1. Chairman Albers opposed.

2. 2018 Schedule of Meetings.

Commissioner Garcia moved to approve the 2018 Schedule of Meetings (Support: J. Symanns) and the motion carried unanimously.

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 7:32 p.m.



January 16, 2018

**Staff Review of Variance Application
Aspen Gardens Phase 3
75 Catherine**

GENERAL INFORMATION

Applicant:	Anthony LaRussa AZ Holdings, L.L.C. 75 Catherine St. Ypsilanti, MI 48197
Project:	Aspen Gardens Phase 3
Application Date:	December 20, 2017
Location:	Southeast corner of the intersection of Catherine St and Chidester St.
Zoning:	Production, Manufacturing & Distribution (PMD)
Action Requested:	Approval of a variance from the front, street side and rear setback requirements in §122-432(b)
Staff Recommendation:	Denial (front, street side and rear setback)

PROJECT AND SITE DESCRIPTION

Parcel #11-11-39-402-001 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 square foot 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 of 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.

Zoned **PMD- Production, Manufacturing & Distribution**, 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 (MMFLA), which now allows for commercial growing and processing of medical marijuana, instead of the smaller caregiver model. Aspen Gardens is pursuing a commercial grow license from the State.

Figure 1: Subject Site Location



Figure 2: Site Close-up (2015)



Figure 3: Site Aerial (1949)



Figure 3: photograph of site (Google image)



Northwest corner of property looking southeast from corner of Chidester & Catherine



Southwest corner of property looking northeast from Chidester



East side of property looking west from Catherine



North side of the property looking south from Catherine

Figure 4: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	Nursing Home Vacant Land	HC- Historic Corridor C- Center
EAST	Vacant Land Waterworks Park	CN- Core Neighborhood P-Park
SOUTH	Single and Multi-family uses Chidester Place	CN- Core Neighborhood
WEST	Garage	CN- Core Neighborhood

ORDINANCE**§122-432****Sec. 122-432. Non-use and Dimensional Regulations. (PMD)****(a) OVERALL SITE REGULATIONS**

Also subject to Article VI

(1) Maximum Lot Coverage

All impervious surfaces	90%
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(2) Parking Location and Setbacks

Front & street side yard	10 feet
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Side and rear yards	10 feet
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From adjacent R-1, CN-SF, CN-Mid, CN, MD districts	15 feet
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(3) Minimum Lot Width

Determined by the use and the required off-street parking, loading, screening and yard setbacks

(4) Minimum Lot Area

Determined by the use and the required off-street parking, loading, screening and yard setbacks

(5) Outdoor Lighting

See Section 122-609

(6) Landscaping

See section Article VI, Division 3 for additional guidelines regarding landscaping.

Conflicting Land Use Screening	From adjacent R-1, CN-SF, CN-Mid, CN, MD, HHS districts	Section 122-634. Screening must be a solid wall or fence constructed of face brick, poured-in-place simulated face brick, precast brick face panels having simulated face brick, stone, or wood.
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Greenbelt	• Must be provided along the front yard and any street side yard. • Must be landscaped with a minimum of one (1) tree for every thirty (30) feet of frontage. No evergreens. • No less than 10' deep • Remainder must be landscaped in grass, ground cover, shrubs and other natural landscape materials. • Access drives from public rights-of-way through required greenbelts are permitted, but such drives may not be subtracted from the dimension used to determine the minimum number of trees required.	
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(b) PRINCIPAL STRUCTURES AND ATTACHED ACCESSORY STRUCTURES

Also subject to Article VI

Height

Maximum height	60 feet	See exceptions in §122-613.
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Minimum Setbacks

Front yard	25 feet	Minimum setbacks increase by one foot for each foot a building or structure exceeds 30 feet in height.
Side yard	15 feet	
Street Side yard	15 feet	
Rear yard	20 feet	
From adjacent R-1, CN-SF, CN-Mid, CN, MD, HHS	25 feet	

(c) DETACHED ACCESSORY STRUCTURES

Also subject to Article VI, Division 4

(1) Height

Maximum height	60 feet	Subject to §122-613
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(2) Size of Accessory Buildings

Maximum Floor Area	No limitations other than maximum lot coverage.
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(3) Fences

Front Yard	No more than 6' height and 50% opacity	- Opacity is measured by the observation of any two (2) square yard area of fence between one (1) foot above the ground level and the top of the fence. The observation is from a direction - Subject to §122-635 - Subject to §122-675
Side, Street Side, and Rear Yards	10' height max, no opacity restriction	

(4) Minimum Setbacks

Front yard	25 feet	Minimum setbacks increase by one foot for each foot a building or structure exceeds 30
Side yard	15 feet	
Street Side yard	15 feet	
Rear yard	20 feet	
From adjacent R-1, CN-SF, CN-Mid, CN, MD, HHS	25 feet	

(d) SIGNS			
Also subject to Article VI, Division 5			
(1) Signs – Residential Uses			
Freestanding Signs (temporary)	Maximum Area	10 sf	Permit not required
	Maximum height	3 feet	
	All Setbacks:	0 feet; Subject to §122-675	
Freestanding signs (permanent)	not permitted		n/a
Building-mounted signs (temporary)	Maximum Area	1/2 sf per foot of building frontage or 12 sf, whichever is less	Permit not required.
Building-mounted signs (permanent)	Maximum Area	1 sf	Permit not required.
Billboards	Location	adjacent to and visible from I-94, as defined by the Highway Advertising Act of 1972.	Permit required.
	Maximum Area	672 sf	
	Maximum Height	65'	
	Other restrictions	Subject to §122-675	
(2) Signs – Non-residential Uses & Group Living			
Freestanding Signs (temporary)	Maximum Area	10 sf per sign	Permit required
	Maximum height	8 feet	
	All setbacks:	0 feet; Subject to §122-675	
	max # signs	no more than 1 per 20' frontage on primary face and 1 per 50' on secondary face	
Freestanding Signs (permanent)	Maximum Area	16 sf	Permit required
	Maximum Height	6 feet	
	Front Setback	3 feet; Subject to §122-675	
	Side, street side, and rear setback	10 feet; Subject to §122-675	
	Maximum # signs	1, unless a lot has more than 100' on two frontages; then allowed a second sign on the secondary frontage at 8sf.	
Building-mounted signs (temporary)	Maximum Area	1 sf per foot of building frontage or 100 sf, whichever is less	Permit required.
Building-mounted signs (permanent)	Maximum Area	1 sf per foot of building frontage or 100 sf, whichever is less	Permit required.
Billboards	Location	Must be adjacent to and visible from I-94, as defined by the Highway Advertising Act of 1972.	Permit required.
	Maximum Area	672 sf	
	Maximum Height	65'	
	Other restrictions	Subject to §122-675	

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 design the additions to function practically within the site and that the intention is to follow the existing lines of the non-conforming building thus creating a simpler construction.

- Front setback: The applicant plans to continue the front line of the building which is currently in conformance with the front yard setback but with the angled lot line on Catherine the setback for the proposed addition will range from 28.09' down to 12.79'. The applicant argues that angling the (north) wall will be detrimental to the function of the building.
- Street side setback: In the case of the southern addition that impedes on the street side setback, the applicant argues that the building will provide the required screening of the parking area and from the conflicting land uses. It should be noted that the south addition is setback from Chidester St (street side) by 5.12' which is setback more than the existing structure.
- Rear setback: In the case of the southern addition that impedes on the rear setback, the applicant argues that the building will provide the required screening of the parking area and from the conflicting land use. It should be noted that a fence currently exists for screening between the conflicting land uses and is proposed to remain, connecting to the southwest corner of the building.

(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 their proposal is consistent with the requirements for single story commercial buildings located in the surrounding CN properties. The owner of the property requested that the property be rezoned from CN to PMD in 2017. This rezoning was needed in order to provide for the opportunity for expansion. There are two types of industrial in the City; the industrial park areas on the outskirts of the City and the GC/PMD zoned industrial areas like 75 Catherine that are in and around residential the areas of the City.

(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 structure, its location on the property nor the property layout. The property owner is requesting the expansion of the structure. It is unclear as to what other options were explored in regards to the additions.

- Front setback: There is a practical difficulty in maintaining a 25' setback on the front of the property when the front property line is angled and the front line of the building has already been established by the existing structure; a condition that existed prior to the current owner.
- Street side setback: The applicant appears to have made some adjustments to the street side setback of the building since it is not just a continuation of the existing line of the building, which is at or over the existing property line. There is concern that an additional setback of 9.88' may affect the parking and storm water management on the site.
- Rear setback: The south end of the garage portion of the structure is proposed to align with the south line of the parking area. This is not a zoning requirement nor has this been done to align with any previously established building line. It is unclear as to why the garage needs to be this length or if the project will suffer from a reduction of the length of the building to accommodate the required setback.

(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.

- Front setback: In regards to the variance for the front setback it is not expected that the granting of this variance will be detrimental to the public welfare or injurious to other property as Catherine is a fairly busy street with only the river on the other side of the street.
- Side street setback: In regards to the variance for the street side setback it is not expected that the granting of this variance will be detrimental to the public welfare or injurious to other property since the property is separated from the properties to the west by Chidester St.
- Rear setback: The rear setback may be detrimental to the neighbor to the south, which brings this use and any potential future use of this industrial zoned property closer to that residence.

(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.

- Front setback: Yes- the allowance of the variance will result in substantial justice being done due to the existing front line of the structure and the irregular shape of the front of the parcel.
- Side street setback: No- the allowance of the variance will not result in substantial justice being done. Essentially the proposed building and the current fencing will appear similar in their presentation to the street but the required setback is the same standard that any other PMD property would be held to. However were this a

single story commercial structure in GC, this building would be required to be within a 5' to 15' setback and have a frontage build out of 50-100%.

- Rear setback: No- the allowance of the variance will not result in substantial justice being done in regards to the rear setback.

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

- Front setback: This is not the minimum possible variance. The required front setback could be met by altering the addition or the existing building layout maintained without the addition.
- Street side setback: This is not the minimum possible variance. The required street side setback could be met with the addition or the existing building layout maintained without the addition.
- Rear setback: This is not the minimum possible variance. It is not clear as to why the 8.75' variance from the rear setback is necessary. If the screening fence is to run from the southwest corner of the building and along the back property line that should be sufficient screening for the parking from the ROW and the conflicting land uses. Meeting the rear setback at the required 25' should be possible.

STAFF RECOMMENDATION (front setback)

Staff recommends the Zoning Board of Appeals **deny** the variance request from the front yard setback requirement in §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 have in part been created by the person presently having an interest in the property under the terms of the zoning ordinance §122-370(b)(3).
2. 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).

STAFF RECOMMENDATION (street side setback)

Staff recommends the Zoning Board of Appeals **deny** the variance request from the street side yard setback requirement in §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 have in part been created by the person presently having an interest in the property under the terms of the zoning ordinance §122-370(b)(3).
2. 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).

STAFF RECOMMENDATION (rear setback)

Staff recommends 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).

Cynthia Kochanek
Preservation Planner, Community & Economic Development Division

c.c. File
 Applicant

