

1. ZBA May 2018 Agenda

Documents:

[01- ZBA AGENDA 5-23-18.PDF](#)

1.I. ZBA May 2018 Packet

Documents:

[02-1-24-2018 DRAFT ZONING MINUTES.PDF](#)

[534 N HURON-DOOR AND FRONTAGE VARIANCE REVIEW.PDF](#)

[534 N HURON-SETBACKS VARIANCE REVIEW-BW.PDF](#)

[2018-05 ZBA PACKET ALL.PDF](#)

Agenda
Zoning Board of Appeals
Wednesday, May 23, 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
Tom Roach	P	A

III. Approval of Minutes

- January 24, 2018

IV. Purpose of Meeting

V. Old Business

- None

VI. New Business

- 528, 530 and 534 N Huron- Variances
 - Front Setback
 - Parking Setback
 - Commercial Frontage Requirements
 - Primary entrance facing street
- Public Hearing*

VII. Adjournment

**ZONING BOARD OF APPEALS
MEETING MINUTES
January 24, 2017
CITY COUNCIL CHAMBER
7:00 P.M.**

I. 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

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

III. APPROVAL OF MINUTES

Commissioner Garcia moved to approve the minutes of November 29, 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. 75 Catherine – Variance

Ms. Kochanek stated that this is a request for approval of a variance front the front, street side and rear setback requirements in Sec 122-432(b). This property 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 sq. ft. 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 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.

The property is zoned PMD, 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 which now allows for commercial growing and processing of medical marijuana, instead of the smaller caregiver model. Aspens Gardens is pursuing a commercial grow license from the State.

Ms. Kochanek reviewed all of the standards for variances pointing out the various differences in all the requested setbacks as well reviewing the land use and surrounding area. Staff recommended denial of this request noting various findings.

Committee Talaga asked about the potential square footage that would be lost in the reconfiguration, to which Ms. Kochanek responded.

Commissioner Talaga moved to open the public portion of the hearing (Support: H. Khan) and the motion carried unanimously.

Anthony LaRussa, 112 Watson, Apt 2, Detroit – applicant stated that the building was not rezoned because they wanted to expand, it was done because of the State's requirements conforming with their new regulations, although they would probably have had to do it eventually so are doing it ahead of schedule. They would be willing to sacrifice the rear setback. He would like the front setback since it affects the functionality of the building.

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

Commissioner Talaga asked staff about notices being sent out to neighbors and Ms. Kochanek responded that notices were sent to parties within the 300 ft requirement. Staff has not received any emails, letters or phone calls regarding this request.

Much discussion was held on the pros and cons of each setback with responses from staff, after which, motions were made on each.

Commissioner Symanns moved that the Zoning Board of Appeals approve the variance request of 12.21' from the front yard setback requirement in Sec 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 has not been created by any person presently having an interest in the property under the terms of the zoning ordinance Sec122-370(b)(3).
2. 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, per Sec122-370(b)(4).

The motion was supported by Commissioner Talaga. A roll call vote was taken with a vote of 5:0.

Commissioner Talaga moved that the Zoning Board of Appeals approve the variance request of 9.88' on the street side yard setback requirement in Sec122-432(b) for 75 Catherine St/Aspen Gardens with the following findings:

1. The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property under the terms of the zoning ordinance Sec122-370(b)(3).
2. 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, per Sec122-370(b)(4).

The motion was supported by Commissioner Khan. A roll call vote was taken with a vote of 5:0.

Commissioner Symanns moved that 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).

The motion was supported by Commissioner Talaga. A roll call vote was taken with a vote of 5:0.

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 7:48 p.m.



May 14, 2018

**Staff Review of Variance Application
534 N Huron- Party Store Expansion
528, 530 and 534 N Huron**

GENERAL INFORMATION

Applicant:	Tom Tamou 3102 Farmdale Dr Sterling Heights, MI 48314
Project:	534 N Huron- Party Store Expansion
Application Date:	April 25, 2018
Location:	Southeast corner of the intersection of N Huron and W Forest Ave
Zoning:	NC- Neighborhood Corridor
Action Requested:	Approval of a variance from the following: • §122-477, requiring adherence to commercial frontage standards, to permit 3% transparency on Huron, a distance from ground to window of greater than 2.5', and a distance between openings of greater than 2' • §122-607(a), requiring that the building entrance face the street
Staff Recommendation:	Denial (both §122-477 and §122-607(a))

PROJECT AND SITE DESCRIPTION

The total for the three parcels is 0.434 acres; this includes 528 N Huron, 530 N Huron and 534 N Huron St addresses, parcels # 11-11-40-105-029, 11-11-40-105-021 and 11-11-40-105-022. These parcels are on the southeast corner of the intersection of N Huron and W Forest Ave with frontage on N Huron and W Forest. There is an existing ~1,200 square foot commercial building at 530 N Huron that partially encroaches on the 528 N Huron parcel and a ~2,700 square foot commercial building on the 534 N Huron parcel. The existing building has no window/door openings on the W Forest St side and no window openings on the N Huron St side with an angled entrance door at the southwest corner of the building.

Zoned **NC- Neighborhood Corridor**, the applicant is proposing a 3,520 square foot addition to the existing 2,774 square foot building for a total of 6,294 square feet at the northwest corner of the parcels. The plans also call for a demolition of the existing 1,200 square foot structure at 530 N Huron. Parking is proposed to the south of the structure with the entrance

off of the parking lot on the south side of the building, a variance from §122-607(a), requiring that the building entrance face the street. The building is addressed to N Huron with frontage on both N Huron and W Forest. The proposed structure also does not comply with the required commercial private frontage required in §122-477 and fully listed §122-484 as it has only 3% ground floor transparency on the N Huron side, not the required 60% and no transparency on the W Forest side of the building. The distance between openings is proposed at 2.5' up to 24.5' when the max is 2' and the height to the bottom of the window is 6' rather than the required 2.5'.

This application was tabled at the April 18th Planning Commission meeting in order to provide time for the applicant to seek the variances necessary for the proposed plans. There are a total of four variances that the applicant is seeking, two are addressed on this review and two on a subsequent review. *Note: the three parcels will need to be combined in order to accommodate the proposed use as a parking lot cannot be a primary use in Neighborhood Corridor.*

Figure 1: Subject Site Location



Figure 2: Site Close-up (2015)



Figure 3: Google image of site-looking southeast

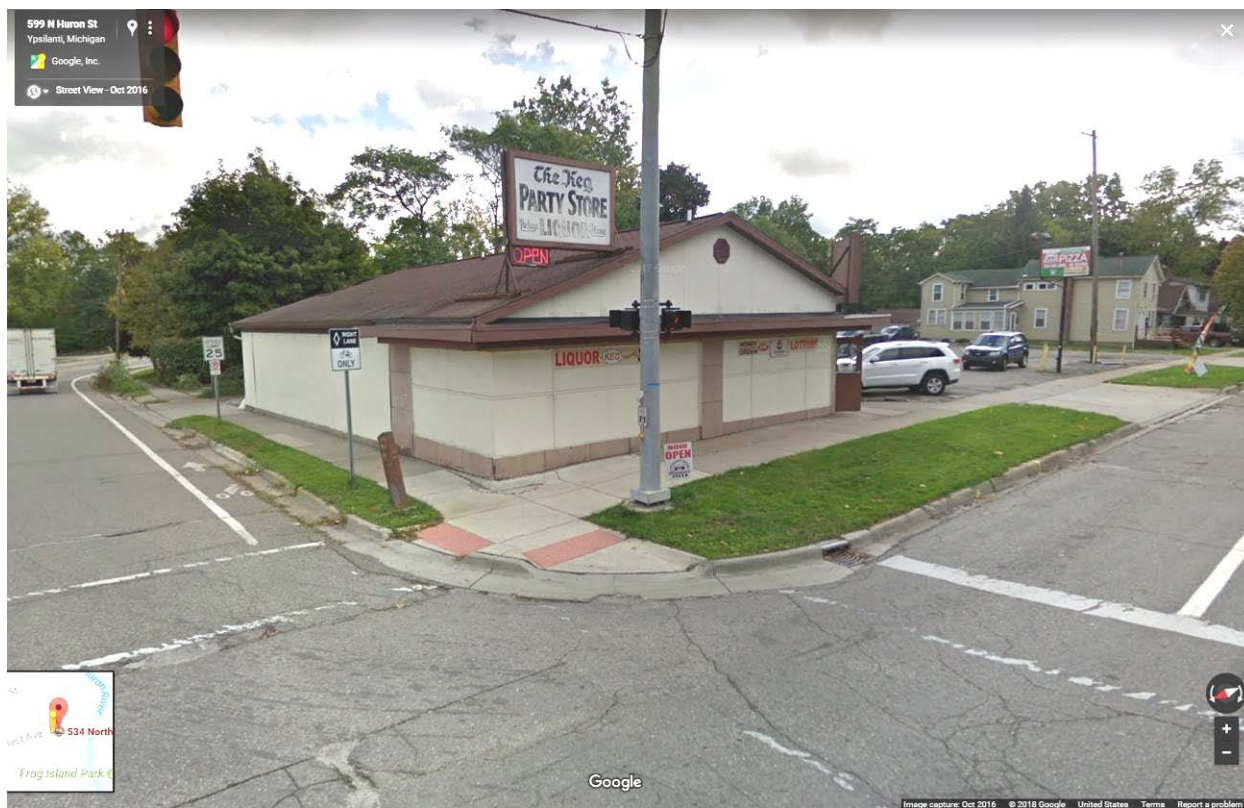


Figure 4: Google image of site-looking north east from N Huron



Figure 5: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	DPS Yard Multi-family residential	GC- General Corridor CN-Core Neighborhood
EAST	Single Family residential Rehab Center	NC-Neighborhood Corridor NC-Neighborhood Corridor
SOUTH	Single & Multi-family residential	CN-Core Neighborhood
WEST	Single Family residential	NC-Neighborhood Corridor

ORDINANCE**§122-477 (§122-484) and §122-607(a)****Sec. 122-477. SC Single Story Commercial Building**

SC SINGLE STORY COMMERCIAL BUILDING

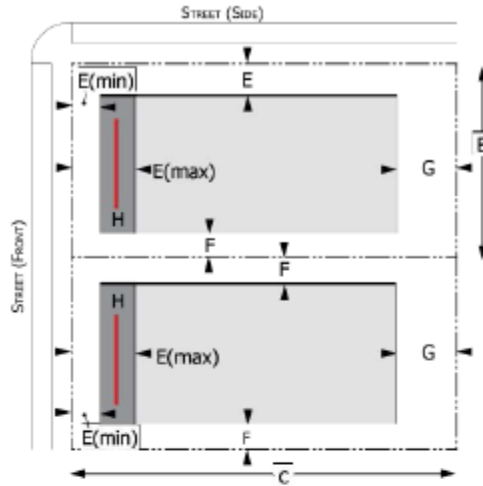
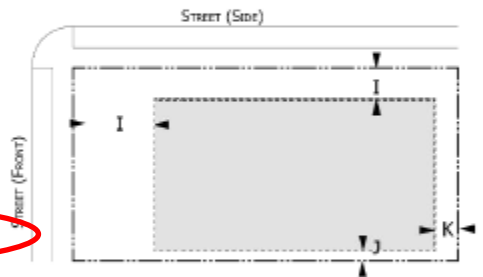
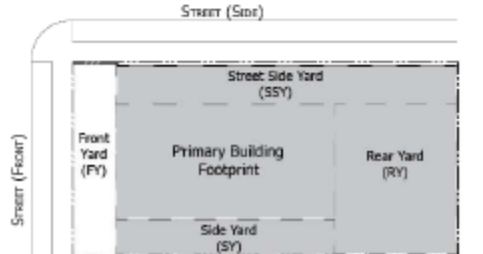
These are generally designed for a single commercial use, located in lots that accommodate accessory parking, loading, and waste disposal areas.

LOT REQUIREMENTS		MIN	MAX
A	Lot size (sf)	7,500	90,000
B	Lot width (ft)	50	300
C	Lot depth (ft)	100	300
D	Lot coverage (%)	--	60
BUILDING ENVELOPE		MIN	MAX
E	Street setback (front or side) (ft)	5 ⁽¹⁾	15 ⁽²⁾
F	Side setback (interior lot line) (ft)	0	--
G	Rear setback (ft)	15 ⁽²⁾	--
H	Frontage buildout (%)	50	100
ACCESSORY BUILDING ENVELOPE		MIN	MAX
I	Street setback (ft)	30	--
J	Side setback (ft)	10	--
K	Rear setback (ft)	10	--
L	Building footprint (sf)	--	800
BUILDING HEIGHT		MIN	MAX
M	Principal building (stories)	1	1
N	Accessory structure(s) (ft)	--	15
PARKING LOCATION		Permitted in the side, street side, and rear yards.	
PRIVATE FRONTAGES		Commercial required.	

- (1) If located on Washtenaw Avenue, must build no more than ten feet from future right-of-way line as defined in the ReImagine Washtenaw plan.
 (2) When adjacent to existing detached single-family homes, the rear setback shall be a minimum of 25 feet.



EXAMPLE

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

Sec. 122-484. Commercial**C****COMMERCIAL**

The façade is set back from the front lot line per applicable street setback requirements, typically at or near the front lot line with the entrance at sidewalk grade. The façade may include an awning, shed roof, or gallery (a lightweight colonnade with no habitable building space above it) that covers the sidewalk and may extend into the right-of-way. The façade has a substantial amount of glazing at the sidewalk level. Recessed entrances are acceptable.

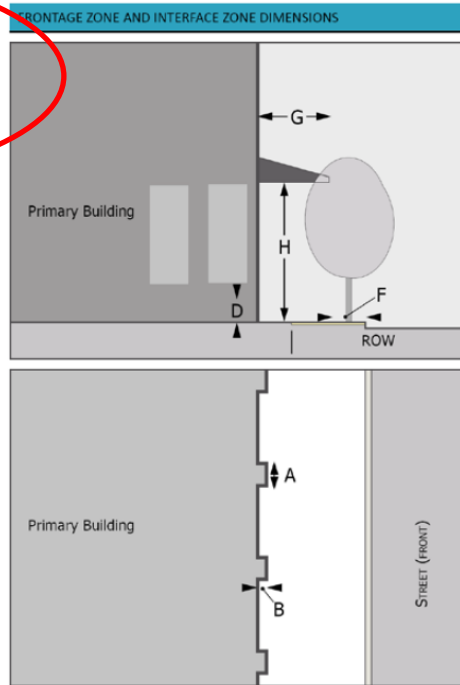
FAÇADE DIMENSIONS		MIN	MAX
A	Distance between openings (ft)	--	2
B	Door recess (ft)	--	5
C	Ground floor transparency (%)	60	--
D	Height to bottom of window (ft)	--	2.5

YARD REQUIREMENTS

E Must be landscaped/permeable, with a path at least 6 feet wide connecting the building entrance to the sidewalk.

OPTIONAL AWNING OR GALLERY

F	Setback from curb (ft)	2	--
G	Clear depth - awning (ft)	4	10
	Clear depth - gallery (ft)	8	10
H	Clear height (ft)	8	--

**Sec. 122-607. Building Entrances, Rights of Way, and Easements.**

(a) **Building entrance must face street.** No principal building can be placed on a lot unless the building is situated in such a manner that the front entry into the building faces the street to which the property is addressed.

STANDARDS

§122-370(b)

The applicant notes on their application the following practical difficulties:

In regards to the commercial frontage design standards:

“The security of the store demands we NOT place glass on the street. Break-in's occur with any glass.”

“Glass in a liquor store is NEVER placed, as a result of many break-ins.”

In regards to the entrance off the parking area rather than the Huron Street frontage:

“The ONE door must face the parking – it is simply a requirement of good business.”

“The safety and security of the store and patrons demands one door to the parking area.”

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.

§122-477 –There are no conditions or circumstances which are unique to the property. Windows along street frontages are not physically challenging to construct. The applicant notes not physical difficulty in meeting the commercial frontage standards, but rather security challenges related to the proposed use.

§122-607 (a)—There are no conditions or circumstances unique to the property which would prevent an entrance on Huron Street, or a continuation of a similar configuration as to what exists- a door on the 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.

§122-477 – This is the same standard that anyone applying for a site plan review in NC would be held to. Notably, other convenience and liquor stores, including the recently approved and remodeled Sam's Citgo, include many windows. Sam's was approved under the current standards.

§122-607 (a)— This is the same standard that anyone applying for a site plan review in NC would be held to, and specifically something that the zoning ordinance seeks to discourage.

- (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.*

§122-477 – Security concerns are a challenging thing to attribute creation to, as often perception plays a significant role. The applicant has not created these concerns, but again, the zoning ordinance was specifically designed to avoid the appearance of “blank walls,” as these often foster a feeling of insecurity in pedestrians passing by.

§122-607 (a)— The zoning ordinance requires parking to the side or rear, and the primary entrance to face the street. This is specifically designed to encourage and support pedestrian traffic. The applicant has not created the auto-centric culture which dominates most of southeastern Michigan.

- (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.*

§122-477 – Staff does not expect that the ground floor transparency, distance between openings or the height to the bottom of the windows as proposed will be directly detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. However, such a variance would not help to foster a walkable neighborhood, which is one of the aims of the zoning ordinance and these specific requirements. Walkable neighborhoods promote physical activity and connected neighborhoods, both of which have been shown to have a positive effect upon public health.

§122-607 (a)— Staff does not expect that locating the door as proposed will be directly detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. However, such a variance would not help to foster a walkable neighborhood, which is one of the aims of the zoning ordinance and this specific requirement. Walkable neighborhoods promote physical activity and connected neighborhoods, both of which have been shown to have a positive effect upon public health.

- (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.*

§122-477 – Staff does not believe that substantial justice will be done, nor that the individual circumstance outweighs the public benefit intended to be secured by the zoning ordinance in this case.

§122-607 (a)— Staff does not believe that substantial justice will be done, nor that the individual circumstance outweighs the public benefit intended to be secured by the zoning ordinance in this case.

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

§122-477 – This is not the minimum variance; additional windows in the proposed size could be located at a greater frequency on the N Huron St side; larger fixed windows could be added on this side in order to address the commercial façade requirements.

§122-607 (a)— This is not the minimum variance. The applicant could attempt to angle the door as it is presently on the building.

STAFF RECOMMENDATION-commercial frontage

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit a variance from §122-477, requiring adherence to commercial frontage standards, to permit 3% transparency on Huron, a distance from ground to window of greater than 2.5', and a distance between openings of greater than 2' at 528-534 N Huron, with the following findings:

1. The applicant has failed to show practical difficulty, as required under 122-307(b)(1).
2. The applicant has failed to show *that such a variance is necessary for the preservation and* enjoyment of a substantial property right enjoyed by other property owners in the same district, as required under 122-307(b)(2).
3. The granting of the variance will be detrimental to the public welfare, in that it will not aid in fostering a walkable community, per 122-307(b)(4).
4. The applicant has failed to show that substantial justice would be done in the granting of this variance, as required under 122-307(b)(5).
5. The applicant has failed to show that this is the minimum variance that will make possible a reasonable use of the land, buildings, or structure, as required under 122-307(b)(6).

STAFF RECOMMENDATION-building entrance on street

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit a variance from §122-607(a), requiring that the front entry into the building face the street to which the property is addressed at 528-534 N Huron, with the following findings:

1. The applicant has failed to show practical difficulty, as required under 122-307(b)(1).
2. The applicant has failed to show *that such a variance is necessary for the preservation and* enjoyment of a substantial property right enjoyed by other property owners in the same district, as required under 122-307(b)(2).
3. The granting of the variance will be detrimental to the public welfare, in that it will not aid in fostering a walkable community, per 122-307(b)(4).
4. The applicant has failed to show that substantial justice would be done in the granting of this variance, as required under 122-307(b)(5).
5. The applicant has failed to show that this is the minimum variance that will make possible a reasonable use of the land, buildings, or structure, as required under 122-307(b)(6).

Bonnie Wessler
City Planner, Community & Economic Development Division

c.c. File
 Applicant



May 14, 2018

**Staff Review of Variance Application
534 N Huron- Party Store Expansion
528, 530 and 534 N Huron**

GENERAL INFORMATION

Applicant:	Tom Tamou 3102 Farmdale Dr Sterling Heights, MI 48314
Project:	534 N Huron- Party Store Expansion
Application Date:	April 25, 2018
Location:	Southeast corner of the intersection of N Huron and W Forest Ave
Zoning:	NC- Neighborhood Corridor
Action Requested:	Approval of a variance from the following: • §122-683, requiring a 10' setback of parking from neighboring lots, to permit a 3' setback • §122-477, requiring a street setback of between 5-15'
Staff Recommendation:	Denial of the street setback Tabling of the parking setback to allow further Planning Commission review

PROJECT AND SITE DESCRIPTION

The total for the three parcels is 0.434 acres; this includes 528 N Huron, 530 N Huron and 534 N Huron St addresses, parcels # 11-11-40-105-029, 11-11-40-105-021 and 11-11-40-105-022. These properties are on the southeast corner of the intersection of N Huron and W Forest Ave with frontage on N Huron and W Forest. There is an existing ~1,200 square foot commercial building at 530 N Huron that partially encroaches on the 528 N Huron parcel and a ~2,700 square foot commercial building on the 534 N Huron parcel.

Zoned **NC- Neighborhood Corridor**, the applicant is proposing a 3,520 square foot addition to the existing 2,774 square foot building for a total of 6,294 square feet at the northwest corner of the parcels. The plans also call for a demolition of the existing 1,200 square foot structure at 530 N Huron. Parking is proposed to the south of the structure adjacent to the building and the 3-unit residence to the south on N Huron. The existing structure is nonconforming in regards to street setbacks on the N Huron and W Forest street sides; only the N Huron St side is an expansion of the existing nonconforming setback thus the applicant is

looking for a variance from §122-477 which requires a 5'-15' setback. The applicant is also proposing parking at a 3' setback instead of a 10' setback from the neighboring lot, an exception to §122-683(d).

This application was tabled at the April 18th Planning Commission meeting in order to provide time for the applicant to seek the variances necessary for the proposed plans. There are a total of four variances that the applicant is seeking, two are addressed on this review and two on a subsequent review. *Note: the three parcels will need to be combined in order to accommodate the proposed use as a parking lot cannot be a primary use in Neighborhood Corridor.*

Figure 1: Subject Site Location



Figure 2: Site Close-up (2015)



Figure 3: Google image of site-looking southeast



Figure 4: Google image of site-looking north east from N Huron



Figure 5: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	DPS Yard Multi-family residential	GC- General Corridor CN-Core Neighborhood
EAST	Single Family residential Rehab Center	NC-Neighborhood Corridor NC-Neighborhood Corridor
SOUTH	Single & Multi-family residential	CN-Core Neighborhood
WEST	Single Family residential	NC-Neighborhood Corridor

ORDINANCE**§122-477 and §122-683(d)****Sec. 122-477. SC Single Story Commercial Building**

SC SINGLE STORY COMMERCIAL BUILDING

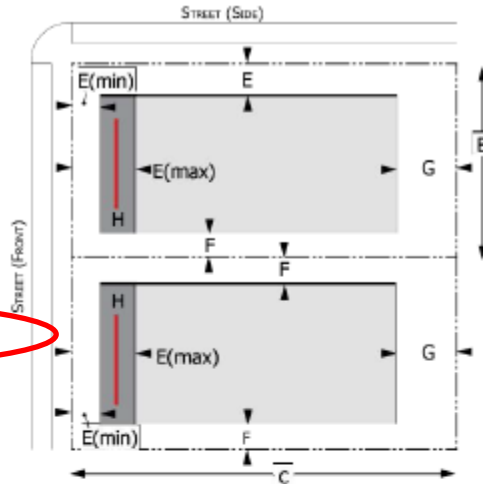
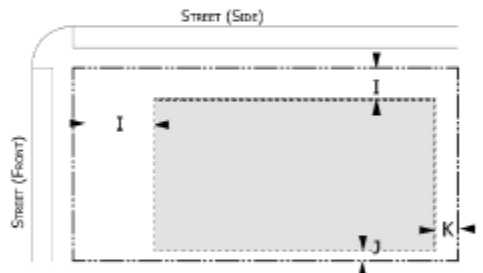
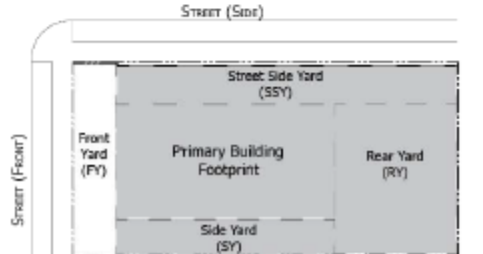
These are generally designed for a single commercial use, located in lots that accommodate accessory parking, loading, and waste disposal areas.

LOT REQUIREMENTS		MIN	MAX
A	Lot size (sf)	7,500	90,000
B	Lot width (ft)	50	300
C	Lot depth (ft)	100	300
D	Lot coverage (%)	--	60
BUILDING ENVELOPE		MIN	MAX
E	Street setback (front or side) (ft)	5 ⁽¹⁾	15 ⁽²⁾
F	Side setback (interior lot line) (ft)	0	--
G	Rear setback (ft)	15 ⁽²⁾	--
H	Frontage buildout (%)	50	100
ACCESSORY BUILDING ENVELOPE		MIN	MAX
I	Street setback (ft)	30	--
J	Side setback (ft)	10	--
K	Rear setback (ft)	10	--
L	Building footprint (sf)	--	800
BUILDING HEIGHT		MIN	MAX
M	Principal building (stories)	1	1
N	Accessory structure(s) (ft)	--	15
PARKING LOCATION		Permitted in the side, street side, and rear yards.	
PRIVATE FRONTAGES		Commercial required.	

- (1) If located on Washtenaw Avenue, must build no more than ten feet from future right-of-way line as defined in the ReImagine Washtenaw plan.
 (2) When adjacent to existing detached single-family homes, the rear setback shall be a minimum of 25 feet.



EXAMPLE

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

Sec. 122-683 (d) Setback from adjacent lot. Parking areas are required to be 10' from any adjacent lot. Planning Commission may waive this requirement in whole or in part with a finding that the lot shares a common access and common parking with the adjoining lot, or that stormwater, landscaping, and other similar concerns have been adequately addressed with other methods.

STANDARDS

§122-370(b)

The applicant notes on their application the following practical difficulties:

In regards to the setback requirements:

“The existing store is 3’ off the property line and we are asking for 7’ variance to extend the non-conformity.”

“The existing building exists, and we were asked to “keep it” in this district and so extending the existing building is a by-product of “changed ordinances over time””.

In regards to the parking lot setback:

“Ten feet of the lot prevents the physical use of the lot for it is an “L” shape and the parking and drive lanes do not then fit in the 46’ wide “L”.”

“...the proposed 6’ privacy fence will shield all parking lot lights from affecting the immediate neighbors. The new parking lot can be fitted with curbs to control any and all run-off.”

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.

§122-477 --The applicant notes that practical difficulty is found in attempting to expand the building in the same location and that the current store is 3’ off the property line. Staff agrees.

§122-683(d)—The applicant notes that 10’ off of the lot line for parking prevents the physical use of the lot as an “L” shape thus preventing the parking and the drive lanes from fitting on the lot as required. The ordinance already allows for Planning Commission waiver of some or all of the setback if other concerns are met; the ordinance also provides for Planning Commission waiver of a significant portion of parking spaces.

(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.

§122-477 – It is a current requirement of the zoning code that property owners build relatively close to the front property line. Many buildings in the downtown core, which this is quite close to, have 0’ front setbacks.

§122-683(d)— The ordinance already allows for Planning Commission waiver of some or all of the setback if other concerns are met; the ordinance also provides for Planning Commission waiver of a significant portion of parking spaces. A variance is not necessary.

- (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.*

§122-477 – The owner did not create the location of the building on the northwest of the lot.

§122-683(d)— The applicant has not shown that other options have been explored and discarded.

- (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.*

§122-477 – Staff does not expect the extension of the building to the south along the existing setback to be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

§122-683(d) — Under the ordinance, Planning Commission is empowered to make this determination.

- (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.*

§122-477 – The allowance of the variance will result in substantial justice being done since the pushing back of the building addition to the required 5" would result in a jog east, making for a more challenging site and building layout, and the applicant is asking to maintain the existing building line for the addition.

§122-683(d) — The individual hardships in seeking a waiver from Planning Commission do not outweigh the public benefit intended to be secured.

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

§122-477 – This is the minimum variance to continue the building frontage.

§122-683(d) — Under the ordinance, Planning Commission is empowered to make a determination of waiver, with specific findings prescribed by the ordinance.

STAFF RECOMMENDATION-Street setback

Staff recommends the Zoning Board of Appeals *deny* the variance request to permit the building addition to encroach on the street setback requirement in §122-477 at 528-534 N Huron, with the following findings:

1. 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).
2. This 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-parking setback

Staff recommends the Zoning Board of Appeals *table the* variance request to permit the parking within the 10' setback from neighboring lots as required in §122-683 back to the Planning Commission as the Planning Commission may choose to waive this requirement in whole or in part with a finding that the lot shares a common access and common parking with the adjoining lot, or that stormwater, landscaping, and other similar concerns have been adequately addressed with other methods.

Cynthia Kochanek
Preservation Planner, Community & Economic Development Division

Bonnie Wessler
City Planner, Community & Economic Development Division

c.c. File
 Applicant
 Architect

Agenda
Zoning Board of Appeals
Wednesday, May 23, 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
 Tom Roach	 P	 A

III. Approval of Minutes

- January 24, 2018

IV. Purpose of Meeting

V. Old Business

- None

VI. New Business

- 528, 530 and 534 N Huron- Variances
 - Front Setback
 - Parking Setback
 - Commercial Frontage Requirements
 - Primary entrance facing street
- Public Hearing*

VII. Adjournment

**ZONING BOARD OF APPEALS
MEETING MINUTES
January 24, 2017
CITY COUNCIL CHAMBER
7:00 P.M.**

I. 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

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

III. APPROVAL OF MINUTES

Commissioner Garcia moved to approve the minutes of November 29, 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. 75 Catherine – Variance

Ms. Kochanek stated that this is a request for approval of a variance front the front, street side and rear setback requirements in Sec 122-432(b). This property 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 sq. ft. 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 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.

The property is zoned PMD, 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 which now allows for commercial growing and processing of medical marijuana, instead of the smaller caregiver model. Aspens Gardens is pursuing a commercial grow license from the State.

Ms. Kochanek reviewed all of the standards for variances pointing out the various differences in all the requested setbacks as well reviewing the land use and surrounding area. Staff recommended denial of this request noting various findings.

Committee Talaga asked about the potential square footage that would be lost in the reconfiguration, to which Ms. Kochanek responded.

Commissioner Talaga moved to open the public portion of the hearing (Support: H. Khan) and the motion carried unanimously.

Anthony LaRussa, 112 Watson, Apt 2, Detroit – applicant stated that the building was not rezoned because they wanted to expand, it was done because of the State's requirements conforming with their new regulations, although they would probably have had to do it eventually so are doing it ahead of schedule. They would be willing to sacrifice the rear setback. He would like the front setback since it affects the functionality of the building.

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

Commissioner Talaga asked staff about notices being sent out to neighbors and Ms. Kochanek responded that notices were sent to parties within the 300 ft requirement. Staff has not received any emails, letters or phone calls regarding this request.

Much discussion was held on the pros and cons of each setback with responses from staff, after which, motions were made on each.

Commissioner Symanns moved that the Zoning Board of Appeals approve the variance request of 12.21' from the front yard setback requirement in Sec 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 has not been created by any person presently having an interest in the property under the terms of the zoning ordinance Sec122-370(b)(3).
2. 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, per Sec122-370(b)(4).

The motion was supported by Commissioner Talaga. A roll call vote was taken with a vote of 5:0.

Commissioner Talaga moved that the Zoning Board of Appeals approve the variance request of 9.88' on the street side yard setback requirement in Sec122-432(b) for 75 Catherine St/Aspen Gardens with the following findings:

1. The alleged practical difficulties on which the variance request is based have not been created by any person presently having an interest in the property under the terms of the zoning ordinance Sec122-370(b)(3).
2. 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, per Sec122-370(b)(4).

The motion was supported by Commissioner Khan. A roll call vote was taken with a vote of 5:0.

Commissioner Symanns moved that 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).

The motion was supported by Commissioner Talaga. A roll call vote was taken with a vote of 5:0.

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 7:48 p.m.



May 14, 2018

**Staff Review of Variance Application
534 N Huron- Party Store Expansion
528, 530 and 534 N Huron**

GENERAL INFORMATION

Applicant:	Tom Tamou 3102 Farmdale Dr Sterling Heights, MI 48314
Project:	534 N Huron- Party Store Expansion
Application Date:	April 25, 2018
Location:	Southeast corner of the intersection of N Huron and W Forest Ave
Zoning:	NC- Neighborhood Corridor
Action Requested:	Approval of a variance from the following: • §122-477, requiring adherence to commercial frontage standards, to permit 3% transparency on Huron, a distance from ground to window of greater than 2.5', and a distance between openings of greater than 2' • §122-607(a), requiring that the building entrance face the street
Staff Recommendation:	Denial (both §122-477 and §122-607(a))

PROJECT AND SITE DESCRIPTION

The total for the three parcels is 0.434 acres; this includes 528 N Huron, 530 N Huron and 534 N Huron St addresses, parcels # 11-11-40-105-029, 11-11-40-105-021 and 11-11-40-105-022. These parcels are on the southeast corner of the intersection of N Huron and W Forest Ave with frontage on N Huron and W Forest. There is an existing ~1,200 square foot commercial building at 530 N Huron that partially encroaches on the 528 N Huron parcel and a ~2,700 square foot commercial building on the 534 N Huron parcel. The existing building has no window/door openings on the W Forest St side and no window openings on the N Huron St side with an angled entrance door at the southwest corner of the building.

Zoned **NC- Neighborhood Corridor**, the applicant is proposing a 3,520 square foot addition to the existing 2,774 square foot building for a total of 6,294 square feet at the northwest corner of the parcels. The plans also call for a demolition of the existing 1,200 square foot structure at 530 N Huron. Parking is proposed to the south of the structure with the entrance

off of the parking lot on the south side of the building, a variance from §122-607(a), requiring that the building entrance face the street. The building is addressed to N Huron with frontage on both N Huron and W Forest. The proposed structure also does not comply with the required commercial private frontage required in §122-477 and fully listed §122-484 as it has only 3% ground floor transparency on the N Huron side, not the required 60% and no transparency on the W Forest side of the building. The distance between openings is proposed at 2.5' up to 24.5' when the max is 2' and the height to the bottom of the window is 6' rather than the required 2.5'.

This application was tabled at the April 18th Planning Commission meeting in order to provide time for the applicant to seek the variances necessary for the proposed plans. There are a total of four variances that the applicant is seeking, two are addressed on this review and two on a subsequent review. *Note: the three parcels will need to be combined in order to accommodate the proposed use as a parking lot cannot be a primary use in Neighborhood Corridor.*

Figure 1: Subject Site Location



Figure 2: Site Close-up (2015)



Figure 3: Google image of site-looking southeast



Figure 4: Google image of site-looking north east from N Huron



Figure 5: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	DPS Yard Multi-family residential	GC- General Corridor CN-Core Neighborhood
EAST	Single Family residential Rehab Center	NC-Neighborhood Corridor NC-Neighborhood Corridor
SOUTH	Single & Multi-family residential	CN-Core Neighborhood
WEST	Single Family residential	NC-Neighborhood Corridor

ORDINANCE**§122-477 (§122-484) and §122-607(a)****Sec. 122-477. SC Single Story Commercial Building**

SC SINGLE STORY COMMERCIAL BUILDING

These are generally designed for a single commercial use, located in lots that accommodate accessory parking, loading, and waste disposal areas.

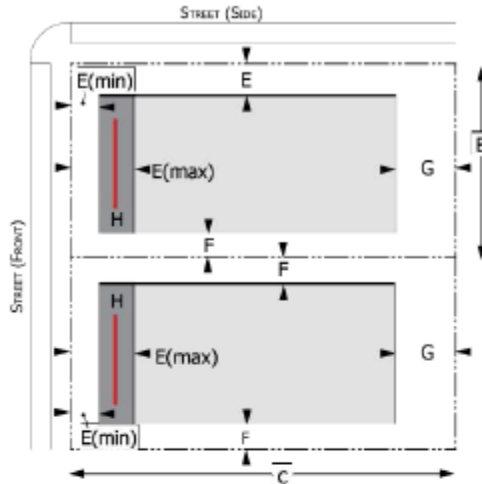
LOT REQUIREMENTS		MIN	MAX
A	Lot size (sf)	7,500	90,000
B	Lot width (ft)	50	300
C	Lot depth (ft)	100	300
D	Lot coverage (%)	--	60
BUILDING ENVELOPE		MIN	MAX
E	Street setback (front or side) (ft)	5 ⁽¹⁾	15 ⁽²⁾
F	Side setback (interior lot line) (ft)	0	--
G	Rear setback (ft)	15 ⁽²⁾	--
H	Frontage buildout (%)	50	100
ACCESSORY BUILDING ENVELOPE		MIN	MAX
I	Street setback (ft)	30	--
J	Side setback (ft)	10	--
K	Rear setback (ft)	10	--
L	Building footprint (sf)	--	800
BUILDING HEIGHT		MIN	MAX
M	Principal building (stories)	1	1
N	Accessory structure(s) (ft)	--	15
PARKING LOCATION		Permitted in the side, street side, and rear yards.	
PRIVATE FRONTAGES		Commercial required.	

- (1) If located on Washtenaw Avenue, must build no more than ten feet from future right-of-way line as defined in the ReImagine Washtenaw plan.
 (2) When adjacent to existing detached single-family homes, the rear setback shall be a minimum of 25 feet.

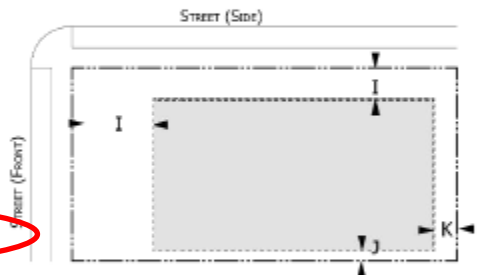


EXAMPLE

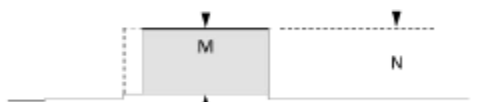
LOT REQUIREMENTS AND BUILDING ENVELOPE



ACCESSORY BUILDING ENVELOPE



BUILDING HEIGHT



PARKING LOCATION



Sec. 122-484. Commercial**C COMMERCIAL**

The façade is set back from the front lot line per applicable street setback requirements, typically at or near the front lot line with the entrance at sidewalk grade. The façade may include an awning, shed roof, or gallery (a lightweight colonnade with no habitable building space above it) that covers the sidewalk and may extend into the right-of-way. The façade has a substantial amount of glazing at the sidewalk level. Recessed entrances are acceptable.

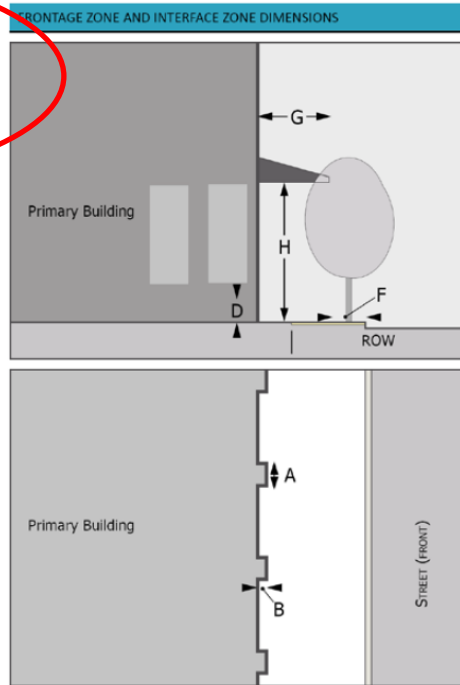
FAÇADE DIMENSIONS		MIN	MAX
A	Distance between openings (ft)	--	2
B	Door recess (ft)	--	5
C	Ground floor transparency (%)	60	--
D	Height to bottom of window (ft)	--	2.5

YARD REQUIREMENTS

E Must be landscaped/permeable, with a path at least 6 feet wide connecting the building entrance to the sidewalk.

OPTIONAL AWNING OR GALLERY

F	Setback from curb (ft)	2	--
G	Clear depth - awning (ft)	4	10
	Clear depth - gallery (ft)	8	10
H	Clear height (ft)	8	--

**Sec. 122-607. Building Entrances, Rights of Way, and Easements.**

(a) **Building entrance must face street.** No principal building can be placed on a lot unless the building is situated in such a manner that the front entry into the building faces the street to which the property is addressed.

STANDARDS

§122-370(b)

The applicant notes on their application the following practical difficulties:

In regards to the commercial frontage design standards:

“The security of the store demands we NOT place glass on the street. Break-in's occur with any glass.”

“Glass in a liquor store is NEVER placed, as a result of many break-ins.”

In regards to the entrance off the parking area rather than the Huron Street frontage:

“The ONE door must face the parking – it is simply a requirement of good business.”

“The safety and security of the store and patrons demands one door to the parking area.”

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.

§122-477 –There are no conditions or circumstances which are unique to the property. Windows along street frontages are not physically challenging to construct. The applicant notes not physical difficulty in meeting the commercial frontage standards, but rather security challenges related to the proposed use.

§122-607 (a)—There are no conditions or circumstances unique to the property which would prevent an entrance on Huron Street, or a continuation of a similar configuration as to what exists- a door on the 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.

§122-477 – This is the same standard that anyone applying for a site plan review in NC would be held to. Notably, other convenience and liquor stores, including the recently approved and remodeled Sam's Citgo, include many windows. Sam's was approved under the current standards.

§122-607 (a)— This is the same standard that anyone applying for a site plan review in NC would be held to, and specifically something that the zoning ordinance seeks to discourage.

- (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.*

§122-477 – Security concerns are a challenging thing to attribute creation to, as often perception plays a significant role. The applicant has not created these concerns, but again, the zoning ordinance was specifically designed to avoid the appearance of “blank walls,” as these often foster a feeling of insecurity in pedestrians passing by.

§122-607 (a)— The zoning ordinance requires parking to the side or rear, and the primary entrance to face the street. This is specifically designed to encourage and support pedestrian traffic. The applicant has not created the auto-centric culture which dominates most of southeastern Michigan.

- (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.*

§122-477 – Staff does not expect that the ground floor transparency, distance between openings or the height to the bottom of the windows as proposed will be directly detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. However, such a variance would not help to foster a walkable neighborhood, which is one of the aims of the zoning ordinance and these specific requirements. Walkable neighborhoods promote physical activity and connected neighborhoods, both of which have been shown to have a positive effect upon public health.

§122-607 (a)— Staff does not expect that locating the door as proposed will be directly detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. However, such a variance would not help to foster a walkable neighborhood, which is one of the aims of the zoning ordinance and this specific requirement. Walkable neighborhoods promote physical activity and connected neighborhoods, both of which have been shown to have a positive effect upon public health.

- (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.*

§122-477 – Staff does not believe that substantial justice will be done, nor that the individual circumstance outweighs the public benefit intended to be secured by the zoning ordinance in this case.

§122-607 (a)— Staff does not believe that substantial justice will be done, nor that the individual circumstance outweighs the public benefit intended to be secured by the zoning ordinance in this case.

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

§122-477 – This is not the minimum variance; additional windows in the proposed size could be located at a greater frequency on the N Huron St side; larger fixed windows could be added on this side in order to address the commercial façade requirements.

§122-607 (a)— This is not the minimum variance. The applicant could attempt to angle the door as it is presently on the building.

STAFF RECOMMENDATION-commercial frontage

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit a variance from §122-477, requiring adherence to commercial frontage standards, to permit 3% transparency on Huron, a distance from ground to window of greater than 2.5', and a distance between openings of greater than 2' at 528-534 N Huron, with the following findings:

1. The applicant has failed to show practical difficulty, as required under 122-307(b)(1).
2. The applicant has failed to show *that such a variance is necessary for the preservation and* enjoyment of a substantial property right enjoyed by other property owners in the same district, as required under 122-307(b)(2).
3. The granting of the variance will be detrimental to the public welfare, in that it will not aid in fostering a walkable community, per 122-307(b)(4).
4. The applicant has failed to show that substantial justice would be done in the granting of this variance, as required under 122-307(b)(5).
5. The applicant has failed to show that this is the minimum variance that will make possible a reasonable use of the land, buildings, or structure, as required under 122-307(b)(6).

STAFF RECOMMENDATION-building entrance on street

Staff recommends the Zoning Board of Appeals **deny** the variance request to permit a variance from §122-607(a), requiring that the front entry into the building face the street to which the property is addressed at 528-534 N Huron, with the following findings:

1. The applicant has failed to show practical difficulty, as required under 122-307(b)(1).
2. The applicant has failed to show *that such a variance is necessary for the preservation and* enjoyment of a substantial property right enjoyed by other property owners in the same district, as required under 122-307(b)(2).
3. The granting of the variance will be detrimental to the public welfare, in that it will not aid in fostering a walkable community, per 122-307(b)(4).
4. The applicant has failed to show that substantial justice would be done in the granting of this variance, as required under 122-307(b)(5).
5. The applicant has failed to show that this is the minimum variance that will make possible a reasonable use of the land, buildings, or structure, as required under 122-307(b)(6).

Bonnie Wessler
City Planner, Community & Economic Development Division

c.c. File
 Applicant



May 14, 2018

**Staff Review of Variance Application
534 N Huron- Party Store Expansion
528, 530 and 534 N Huron**

GENERAL INFORMATION

Applicant:	Tom Tamou 3102 Farmdale Dr Sterling Heights, MI 48314
Project:	534 N Huron- Party Store Expansion
Application Date:	April 25, 2018
Location:	Southeast corner of the intersection of N Huron and W Forest Ave
Zoning:	NC- Neighborhood Corridor
Action Requested:	Approval of a variance from the following: • §122-683, requiring a 10' setback of parking from neighboring lots, to permit a 3' setback • §122-477, requiring a street setback of between 5-15'
Staff Recommendation:	Denial of the street setback Tabling of the parking setback to allow further Planning Commission review

PROJECT AND SITE DESCRIPTION

The total for the three parcels is 0.434 acres; this includes 528 N Huron, 530 N Huron and 534 N Huron St addresses, parcels # 11-11-40-105-029, 11-11-40-105-021 and 11-11-40-105-022. These properties are on the southeast corner of the intersection of N Huron and W Forest Ave with frontage on N Huron and W Forest. There is an existing ~1,200 square foot commercial building at 530 N Huron that partially encroaches on the 528 N Huron parcel and a ~2,700 square foot commercial building on the 534 N Huron parcel.

Zoned **NC- Neighborhood Corridor**, the applicant is proposing a 3,520 square foot addition to the existing 2,774 square foot building for a total of 6,294 square feet at the northwest corner of the parcels. The plans also call for a demolition of the existing 1,200 square foot structure at 530 N Huron. Parking is proposed to the south of the structure adjacent to the building and the 3-unit residence to the south on N Huron. The existing structure is nonconforming in regards to street setbacks on the N Huron and W Forest street sides; only the N Huron St side is an expansion of the existing nonconforming setback thus the applicant is

looking for a variance from §122-477 which requires a 5'-15' setback. The applicant is also proposing parking at a 3' setback instead of a 10' setback from the neighboring lot, an exception to §122-683(d).

This application was tabled at the April 18th Planning Commission meeting in order to provide time for the applicant to seek the variances necessary for the proposed plans. There are a total of four variances that the applicant is seeking, two are addressed on this review and two on a subsequent review. *Note: the three parcels will need to be combined in order to accommodate the proposed use as a parking lot cannot be a primary use in Neighborhood Corridor.*

Figure 1: Subject Site Location



Figure 2: Site Close-up (2015)



Figure 3: Google image of site-looking southeast



Figure 4: Google image of site-looking north east from N Huron



Figure 5: Land Use and Zoning of Surrounding Area

	LAND USE	ZONING
NORTH	DPS Yard Multi-family residential	GC- General Corridor CN-Core Neighborhood
EAST	Single Family residential Rehab Center	NC-Neighborhood Corridor NC-Neighborhood Corridor
SOUTH	Single & Multi-family residential	CN-Core Neighborhood
WEST	Single Family residential	NC-Neighborhood Corridor

ORDINANCE**§122-477 and §122-683(d)****Sec. 122-477. SC Single Story Commercial Building**

SC SINGLE STORY COMMERCIAL BUILDING

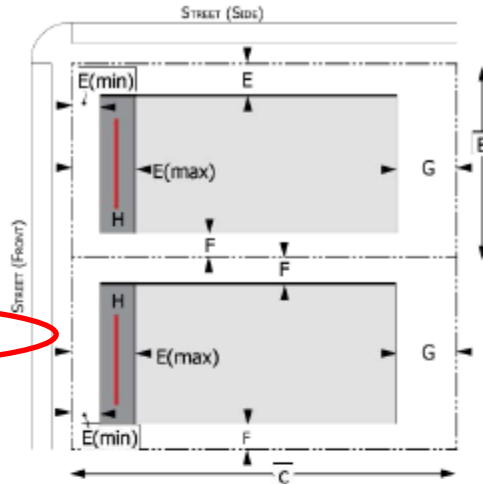
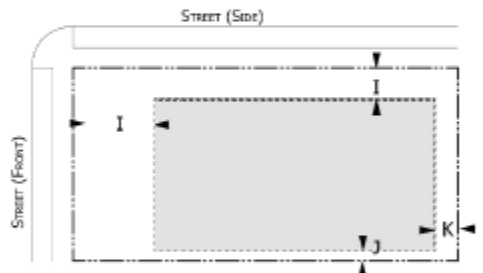
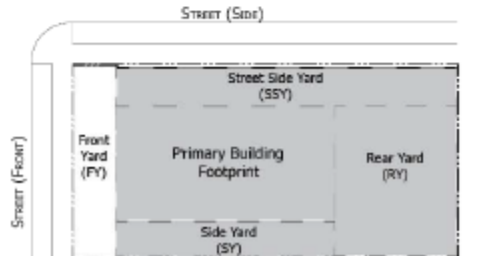
These are generally designed for a single commercial use, located in lots that accommodate accessory parking, loading, and waste disposal areas.

LOT REQUIREMENTS		MIN	MAX
A	Lot size (sf)	7,500	90,000
B	Lot width (ft)	50	300
C	Lot depth (ft)	100	300
D	Lot coverage (%)	--	60
BUILDING ENVELOPE		MIN	MAX
E	Street setback (front or side) (ft)	5 ⁽¹⁾	15 ⁽²⁾
F	Side setback (interior lot line) (ft)	0	--
G	Rear setback (ft)	15 ⁽²⁾	--
H	Frontage buildout (%)	50	100
ACCESSORY BUILDING ENVELOPE		MIN	MAX
I	Street setback (ft)	30	--
J	Side setback (ft)	10	--
K	Rear setback (ft)	10	--
L	Building footprint (sf)	--	800
BUILDING HEIGHT		MIN	MAX
M	Principal building (stories)	1	1
N	Accessory structure(s) (ft)	--	15
PARKING LOCATION		Permitted in the side, street side, and rear yards.	
PRIVATE FRONTAGES		Commercial required.	

- (1) If located on Washtenaw Avenue, must build no more than ten feet from future right-of-way line as defined in the ReImagine Washtenaw plan.
 (2) When adjacent to existing detached single-family homes, the rear setback shall be a minimum of 25 feet.



EXAMPLE

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

Sec. 122-683 (d) Setback from adjacent lot. Parking areas are required to be 10' from any adjacent lot. Planning Commission may waive this requirement in whole or in part with a finding that the lot shares a common access and common parking with the adjoining lot, or that stormwater, landscaping, and other similar concerns have been adequately addressed with other methods.

STANDARDS

§122-370(b)

The applicant notes on their application the following practical difficulties:

In regards to the setback requirements:

“The existing store is 3’ off the property line and we are asking for 7’ variance to extend the non-conformity.”

“The existing building exists, and we were asked to “keep it” in this district and so extending the existing building is a by-product of “changed ordinances over time””.

In regards to the parking lot setback:

“Ten feet of the lot prevents the physical use of the lot for it is an “L” shape and the parking and drive lanes do not then fit in the 46’ wide “L”.”

“...the proposed 6’ privacy fence will shield all parking lot lights from affecting the immediate neighbors. The new parking lot can be fitted with curbs to control any and all run-off.”

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.

§122-477 --The applicant notes that practical difficulty is found in attempting to expand the building in the same location and that the current store is 3’ off the property line. Staff agrees.

§122-683(d)—The applicant notes that 10’ off of the lot line for parking prevents the physical use of the lot as an “L” shape thus preventing the parking and the drive lanes from fitting on the lot as required. The ordinance already allows for Planning Commission waiver of some or all of the setback if other concerns are met; the ordinance also provides for Planning Commission waiver of a significant portion of parking spaces.

(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.

§122-477 – It is a current requirement of the zoning code that property owners build relatively close to the front property line. Many buildings in the downtown core, which this is quite close to, have 0’ front setbacks.

§122-683(d)— The ordinance already allows for Planning Commission waiver of some or all of the setback if other concerns are met; the ordinance also provides for Planning Commission waiver of a significant portion of parking spaces. A variance is not necessary.

- (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.*

§122-477 – The owner did not create the location of the building on the northwest of the lot.

§122-683(d)— The applicant has not shown that other options have been explored and discarded.

- (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.*

§122-477 – Staff does not expect the extension of the building to the south along the existing setback to be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

§122-683(d) — Under the ordinance, Planning Commission is empowered to make this determination.

- (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.*

§122-477 – The allowance of the variance will result in substantial justice being done since the pushing back of the building addition to the required 5" would result in a jog east, making for a more challenging site and building layout, and the applicant is asking to maintain the existing building line for the addition.

§122-683(d) — The individual hardships in seeking a waiver from Planning Commission do not outweigh the public benefit intended to be secured.

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

§122-477 – This is the minimum variance to continue the building frontage.

§122-683(d) — Under the ordinance, Planning Commission is empowered to make a determination of waiver, with specific findings prescribed by the ordinance.

STAFF RECOMMENDATION-Street setback

Staff recommends the Zoning Board of Appeals *deny* the variance request to permit the building addition to encroach on the street setback requirement in §122-477 at 528-534 N Huron, with the following findings:

1. 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).
2. This 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-parking setback

Staff recommends the Zoning Board of Appeals *table the* variance request to permit the parking within the 10' setback from neighboring lots as required in §122-683 back to the Planning Commission as the Planning Commission may choose to waive this requirement in whole or in part with a finding that the lot shares a common access and common parking with the adjoining lot, or that stormwater, landscaping, and other similar concerns have been adequately addressed with other methods.

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c.c. File
 Applicant
 Architect