PUBLIC NOTICE
City of Berkley, Michigan
ELECTRONIC Meeting of the Zoning Board of Appeals
Monday, April 12, 2021
7:00 PM
Information: (248) 658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
CONFIRMATION OF A QUORUM
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting of March 8, 2021
OLD BUSINESS
NEW BUSINESS

1. APPLICATION PBA-04-21; 2928 Robina – Variance Request to Construct Second Story Addition That Encroaches into the Front Yard Setback.
Joseph Novitsky, JSN Architecture, on behalf of Gloria and Sander Dijkers, 2928 Robina, Parcel ID #25-18-210-018, east side of Robina north of Wiltshire, is requesting a variance to construct a second story addition that encroaches into the front yard setback.

2. APPLICATION PBA-05-21; 2344 Royal – Variance Requests to Construct an Addition into the Front Yard Setback, Area of Accessory Structures, and Lot Coverage
Lorrenna Black, 2344 Royal Ave, Parcel # 25-18-329-018, east side of Royal Ave north of Oxford Rd, is requesting three (3) dimensional variances: 1) to construct an addition that encroaches into the front yard setback, 2) the combined area of all proposed accessory structures exceeds 800 sq. ft. or one-half of the ground floor of the main building, and 3) total lot coverage exceeds maximum 35% permitted lot coverage.

OTHER BUSINESS
STAFF / BOARD MEMBER REPORT
LIAISON REPORT
PUBLIC COMMENTS
ADJOURN

Notice: Official Minutes of the Zoning Board of Appeals are stored and available for review at the Office of the City Clerk. The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling: City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.

If you would like to Join Zoom Meeting: https://berkleymich.zoom.us/j/99706528278
Meeting ID: 997 0652 8278
Phone: +1 312 626 6799 US (Chicago)
You can also watch the meeting: http://www.berkleymich.org/livestream/zba_livestream.php
THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, MARCH 8, 2021 VIA ZOOM ELECTRONIC MEETING BY CHAIR PAUL EVANS.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city’s government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen on-demand on the city’s YouTube channel: https://www.youtube.com/user/cityofberkley.

PRESENT:  
Steve Allen, Berkley, Michigan  
Ryan Gesund, Berkley Michigan  
Joe Krug, Berkley Michigan  
Sue McAlpine, Berkley Michigan  
Miles Uhlar, Berkley Michigan  
Maria Ward, Berkley Michigan  
Paul Evans, Berkley Michigan

ABSENT:  
None

ALSO PRESENT:  
Troy Faik, 1919 Robina  
Tim McLaughlin, Flame Furnace Co.  
John & Sara Giarmarco, 2650 Ellwood  
Robert Williams, 1920 Robina  
Erin Schlutow, Community Development Director  
Dennis Hennen (joined at 7:46pm), City Council Liaison  
Matthew Baumgarten, City Manager

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APPROVAL OF AGENDA  
It was moved by Ms. Ward to approve the agenda, with the modification to move Old Business after New Business. Motion supported by Ms. McAlpine.

AYES:  
Gesund, Krug, McAlpine, Uhlar, Ward, Allen, Evans

NAYS:  
None

ABSENT:  
None

MOTION CARRIED

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APPROVAL OF MINUTES

It was moved by Mr. Allen to approve the minutes of February 8, 2021, as presented. Motion supported
by Mr. Krug.

AYES: Krug, McAlpine, Uhlar, Ward, Allen, Gesund, Evans
NAYS: None
ABSENT: None

MOTION CARRIED

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NEW BUSINESS

1. APPLICATION PBA-02-21; 2650 Ellwood – Variance Request to Install Generator in Side Yard

Flame Furnace Co, on behalf of John and Sara Giarmarco, 2650 Ellwood, Parcel ID #25-18-152-036, east side of Ellwood Ave, north of Catalpa Dr., is requesting a variance to install a generator in the side yard of the residential property.

Community Development Director Schlutow summarized the February 28, 2021 review letter, and read the five standards of review by which the ZBA would discuss the request.

Tim McLaughlin, Flame Furnace Co, spoke on behalf of the property owners and summarized their request and need to place the generator in the side yard.

Ms. Ward asked about the day and time for testing the generator. Mr. McLaughlin noted that the test date and time could be scheduled.

Mr. Allen asked about a vacated alley along the south property line.

Mr. Krug noted that the side yard of the subject property abuts a rear yard of the adjacent property.

Ms. McAlpine asked about screening of the generator.

Mr. Allen asked if there was an alternate location on the property that the generator could be located. Mr. McLaughlin noted that alternate locations were reviewed, but clearance requirements, proximity to driveway prevented rear yard location.

Chair Evans opened the Public Hearing at 7:20pm.

Sara Giarmarco, 2650 Ellwood, noted that they had written permission from neighbor on Catalpa. Ms. Giarmarco also noted that they plan to remove the rear deck and replace in the future and don’t want the generator location to be in the middle of the yard. Ms. Giarmarco also noted that the backyard does get wet and the side yard is flatter and dryer.

Chair Evans closed the Public Hearing at 7:25pm.

Mr. Allen went through the standards of review and noted that the request is self-created. He also noted that there are other places in the rear yard the generator could be placed.
Ms. Ward noted that the house is large on a small property. The previous property owner created the problem of the small back yard area. She noted that there are some extenuating circumstances, but the house is overbuilt on a small piece of property.

Mr. Krug noted that the configuration of the properties is a good set up. The side yard abutting a rear yard, and the generator will be separated from the house on Catalpa.

Mr. Gesund stated concerns related to the removal of the deck and future plans to build something else that could encompass a pedestal arrangement for the generator.

Mr. Allen noted that it would be a good fit on the side yard; however, there is concern that the issue is self-created and does not meet the standard.

Ms. McAlpine stated concerns for approving the request when the layout of the rear yard may change in the future.

Tim McLaughlin inquired about standards for air conditioning units. Director Schlutow noted that air conditioning units are permitted in the side yard.

Motion by Mr. Allen to deny PBA-02-21, variance request at 2650 Ellwood to install a generator in the side yard, given that the standards of review have not been met. Motion supported by Ms. Ward.

**AYES:** McAlpine, Uhlar, Ward, Allen, Gesund, Evans

**NAYS:** Krug

**ABSENT:** None

2. **PBA-03-21; 1919 Robina – Variance Request for Minimum Lot Size**

Troy Faik, 1919 Robina Ave, Parcel ID #25-18-454-028, west side of Robina Ave, north of Eleven Mile Rd, is requesting a variance for minimum lot size in order to split the existing property into two separate parcels. New Parcel 1 is proposed to be 4,377.45 sq. ft. The applicant is requesting a lot size variance of 22.55 sq. ft.

Community Development Director Schlutow summarized the February 28, 2021 review letter, and read the five standards of review by which the ZBA would discuss the request.

Mr. Uhlar asked about the minimum lot size requirement and when that went into effect. He also inquired if there was a possibility that when the parcels were previously split, if there was an error in the survey.

Mr. Faik summarized his request and noted his interest in splitting the existing parcel in order to sell the split parcel for future development.

Chair Evans opened the Public Hearing at 7:45pm.

Robert Williams, 1920 Robina, stated that he does not have an objection to the approval of the request.
Chair Evans closed the Public Hearing at 7:47pm.

Mr. Allen noted that he had reviewed the materials and felt that the standards of review have been met.

Chair Evans noted that there is a practical difficulty and it does not appear that there would be a negative impact on adjacent properties.

Mr. Uhlar notes that it doesn’t seem like it would impact the neighbors, but doesn’t see that the request meets standard #3. The property owner can continue to live on the property, as is.

Mr. Gesund asked about the future development and if it is possible for a developer to return to the ZBA for additional variances.

Ms. Ward noted that she had internet connection issues and did not hear Mr. Uhlar’s comment and asked him to repeat.

Mr. Uhlar repeated his statement.

Ms. Ward agreed with Mr. Uhlar that Standard #3 has not been met.

Ms. McAlpine agreed with Mr. Uhlar and Ms. Ward.

Mr. Allen noted it is within rights to sell property, as long as it meets requirements. He stated that the property owner is requesting relief in order to do that.

Mr. Krug agreed with Mr. Allen.

Mr. Uhlar noted that it is easy to sell a big lot.

Chair Evans noted it is possible to have a home and not worry about density concerns.

Ms. McAlpine agreed with Mr. Uhlar that the property can still be sold.

Ms. Ward requested to ask Mr. Williams the size of his property across the street.

Mr. Williams noted his property is 80 ft. wide, but is also two lots. He noted that the intent when the area was platted to have two lots. He also noted that this was placing a burden on the current property owner in prohibiting the land to be used as intended.

Ms. Ward noted concern for the neighborhood and the possibility that a new home would not be in the character of the neighborhood.

Ms. McAlpine noted that the ZBA must review the case based on the five standards of review and stated that the third standard had not been met. The homeowner may consider tabling the request to explore other options.

Board members reviewed the standards of review and the layout of the subject property.

Mr. Williams noted that there is a second driveway on the property, demonstrating that the second driveway was planned for a house.

Councilmember Hennen spoke on the accuracy of property surveys.
Motion by Ms. Ward to deny PBA-03-21, variance request at 1919 Robina for minimum lot size, given that standard #3 has not been met, and the property owner can continue to use the property for a permitted purpose. Motion supported by Ms. Gesund.

AYES: Uhlar, Ward, Gesund, McAlpine, Evans
NAYS: Allen, Krug
ABSENT: None

Board agreed to take a brief recess.
Recess began at 8:16pm.
Meeting resumed at 8:24pm.

OLD BUSINESS

3. RULES OF PROCEDURE

Chair Evans noted that it was beneficial for staff to read the Standards of Review as part of the staff report. Board members agreed.

Board discussed other updates to the Rules of Procedure.

Motion by Mr. Allen to approve the updated 2021 Rules of Procedure. Motion supported by Mr. Gesund.

AYES: Ward, Allen, Gesund, Krug, McAlpine, Uhlar, Evans
NAYS: None
ABSENT: None

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OTHER BUSINESS

None

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STAFF / BOARD MEMBER REPORT

Community Development Director Schlutow highlighted the Housing and Corridor videos that have been loaded on the City website. The videos and accompanying surveys are part of the community engagement for the Master Plan. She also invited the Board and public to attend the virtual Open House on March 25, 2021.
Mr. Gesund asked if it would be possible to ask WOW to attend the next City Council meeting to discuss and address the recent service interruptions. Councilmember Hennen stated that he has already made such a note.

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LIAISON REPORT

Councilmember Hennen noted it is good to review the monthly report sent by the Community Development Director, which covers the progress of on-going projects in the City.

* * * * * * *

PUBLIC COMMENTS

None.

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Motion by Mr. Allen to adjourn the meeting. Motion supported by Mr. Gesund.

AYES: Allen, Gesund, Krug, McAlpine, Uhlar
NAYS: None
ABSENT: Ward, Evans (service interruptions)

With no further business, Vice-Chair adjourned the meeting at 8:40pm.
The Zoning Board of Appeals (ZBA) meets the second Monday of the month. The meetings are held in the Council Chambers at City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072. Fee: $300

The ZBA shall hear requests for use and dimensional variances, appeals of administrative decisions, interpretation of zoning map and text, and interpretations of commercial message for proposed murals.

**Please be advised:** The ZBA may grant a variance where undue hardship or practical difficulty for the property exist. A want or desire (bigger structure, more profit, etc.) is not sufficient grounds for a variance. The ZBA does not have the power to legislate or create new regulations. The Board’s purpose is to provide some relief from the Zoning Ordinance depending on the unique circumstances of the property.

### APPLICANT INFORMATION

Name: Joseph Novitsky - JSN Architecture  
Phone: 248-433-2030

Address: 3856 12 Mile, Berkley, MI 48072

Email: joe@jsn-aia.com

Relationship to Property (current tenant, representative, future tenant, current owner, future owner):

Architect

### PROPERTY OWNER INFORMATION (if different from Applicant)

Name: Gloria and Sander Dijkers  
Phone: 517-281-9491

Address: 2928 Robina, Berkley, MI 48072

Email: gloria.dijkers@gmail.com

### PROPERTY DESCRIPTION

Address: 2928 Robina

Parcel #: 25-18-210-018  
Zoning Classification: R-1D

Current Use of Property: Residence
NATURE OF REQUEST

Check which applies:

☑ Variance from Zoning Ordinance (Section I)

☐ Interpretation of Zoning Ordinance (Section II)

☐ Administrative Review / Appeal of Decision (Section III)

☐ Determination of Commercial Message of Mural / Work of Art (Section IV)

Description of Request: ______________________________________________________________

Dimensional variance for the front setback for a new second floor over an existing, non-conforming residence.

Has the City denied a related to the proposed work?  ☐ Yes  ☑ No

Please fill out ONLY the section below that applies to your request.

I. VARIANCE FROM ZONING ORDINANCE

Please provide a written response to each question below that relates to the variance that is being requested. DO NOT COMPLETE BOTH SECTIONS.

A. Use Variance

The Zoning Board of Appeals may grant a use variance (i.e. use of the land not permitted in a particular district) upon finding that an undue hardship exists.

Current Use of Property: ______________________________________________________________

Requested Use of Property: __________________________________________________________

1. Explain how the building or land cannot be reasonably used for any of the uses permitted by right or by special land use permit in the current zoning district.

__________________________________________________________________________________

City of Berkley - ZBA Application
Updated 02.21.2021
2. Explain how the need for the variance is due to unique circumstances or physical conditions of the property.

3. Explain how the proposed use will not alter the essential character of the neighborhood.

4. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

B. Dimensional Variance (Non-Use Variance)
   The Zoning Board of Appeals may grant a dimensional variance (i.e. height, setback, lot coverage, etc) upon finding that undue hardship or practical difficulty exists.

   1. Explain how the need for the variance is due to unique circumstances of physical conditions of the property.

      At some point, the front porch was added to the living area (1995?). They wish to 'fill-in' the void between the second story rear addition and porch by adding a second story to the original home and giving back 1/2 of the porch. We do not endorse a second floor over the porch.
2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

This residence was built in 1935. The zoning setbacks obviously had different requirements for the setbacks back then, resulting in the current location of the building.

3. Explain how strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

The street has many houses that do not conform the current 25 foot front setback. Most of them on this street are between 15 feet and 20 feet. By bringing the front porch back to the original front of the building, it will be in keeping with the context and texture of the neighborhood.

4. Explain how the requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.

The original front porch was closed in prior to when the current homeowners bought this house. Part of the scope of this project is to 'reopen' half the old porch and return the original front facade. The scope also includes adding a second story above the primary original structure. By matching the new second story to the newer rear story addition the house shape, image and livability will be greatly enhanced for the owner and community.

5. Explain how the requested variance will not adversely impact the surrounding properties.

The requested variance will not adversely impact the surrounding properties because it will be lessening the impact of the residence by bringing it back to original front facade and opening up the original porch. It will give relief to the texture of the street as well and improve value will support rising taxable values in the immediate neighborhood.
II. INTERPRETATION OF ZONING ORDINANCE

Provide Section numbers of Zoning Ordinance to be interpreted: __________________________________________

Please describe the request and what needs to be clarified or interpreted by the ZBA.

III. ADMINISTRATIVE REVIEW / APPEAL OF DECISION

Describe the circumstances of each case and provide the minutes of the public meeting noting the denial to be appealed.
IV. DETERMINATION OF COMMERCIAL MESSAGE (MURAL/WORK OF ART)

Describe the proposed mural/work of art. Applicant should include renderings of the proposed design. The ZBA shall determine if the proposed work contains a commercial message.

** Applicant and artist must provide signed *Mural Installation and Maintenance Agreement* prior to the public meeting.

SUBMIT THE FOLLOWING:

Provide 15 copies of survey, plot plan or site plan with this application that shows the subject property complete with boundary lines and dimensions, existing building locations, all proposed buildings, easements, utilities, and any site improvements/changes. Setbacks, height of structures, lot coverage, etc. should also be included, if applicable.

A PDF file of the application and supporting documents must also be submitted at the time of application.

PLEASE NOTE: The applicant, or a designated representative, MUST BE PRESENT at the meeting in which the case is being reviewed or the request may be postponed due to lack of representation.

We encourage applicants to make a presentation of the proposed request to the Zoning Board of Appeals, if applicable. To assist this effort, we have available for your use a projector, laptop computer and screen. ZBA meetings are recorded and televised.
PROPERTY OWNER’S APPROVAL (Initial each line)

☐ I hereby authorize and give permission for the City of Berkley to install one or more temporary signs on my property, in order to notify the public of the required public hearing related to the above request(s) before the ZBA.

☐ I hereby authorize the employees and representatives of the City of Berkley to enter upon and conduct an inspection and investigation of the above referenced property in relation to the above request.

APPLICANT’S ENDORSEMENT: (Initial each line)

☒ All information contained herein is true and accurate to the best of my knowledge.

☒ I acknowledge that the ZBA will not review my request unless all information in the application has been submitted to the satisfaction of the Community Development Director.

☒ I acknowledge that the City and its employees shall not be held liable for any claims that may arise as a result of acceptance, processing or review of this application.

If an application is withdrawn more than three (3) weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than three (3) weeks prior to the meeting, no refund will be given.

JOSEPH S. NOVITK
Applicant Name (print) Applicant Signature Date 3.3.2021

Gloria Dijkers
Property Owner Name (print) Property Owner Signature Date 3.3.2021
March 23, 2021

To Whom it May Concern:

We write in support of Gloria and Sander Dijkers’ plan to renovate and expand their home. We have reviewed the contractor’s plans detailing the depth and breadth of the expansion, and are impressed with the work proposed.

Specifically, the expanded second floor and associated façade improvements will perfectly fit within the character of our neighborhood, increase property values, and (I’m sure) create a more livable space for the Dijkers’ growing family. The Dijkers’ home is prominently visible from our front window and we look forward to seeing the new improvements.

We have no concerns about how the addition’s impact on the home’s overall setback from the street and sidewalk. Many homes on our street and surrounding neighborhood have setbacks close to the sidewalk and it has no adverse impact in the least. Flatly, the setback is not a concern to us at all, especially given the home’s corner location and the fact the proposed addition simply brings the second floor roofline in harmony with the front wall.

We are happy to endorse the Dijkers’ proposal and plan to attend the ZBA meeting should anyone on the board have specific questions for us.

Respectfully,

Matthew and Adrianne Penney
2983 Robina Avenue
In no uncertain terms, we the neighbors of Sander and Gloria Dijkers, support this plan and petition request.

Name: Mike and Kelsey Gaines
Address: 2913 Robina Avenue Berkley, Michigan 48072
Signature: [Signature]
Date: 3/20/21

Name: David and Pilar Stibitz
Address: 2927 Robina Avenue Berkley, Michigan 48072
Signature: [Signature]
Date: 3/23/21

Name: Shaun and Jessica Clements
Address: 2941 Robina Avenue Berkley, Michigan 48072
Signature: [Signature]
Date: 3/20/21

Name: Anne Glissman
Address: 2955 Robina Avenue Berkley, Michigan 48072
Signature: [Signature]
Date: 3/20/21

Name: Scott and Rebecca Riggs
Address: 2969 Robina Avenue Berkley, Michigan 48072
Signature: [Signature]
Date: 3/20/21

Name: Matt and Adrianne Penney
Address: 2983 Robina Avenue Berkley, Michigan 48072
Signature: [Signature]
Date: 3/1/21
In no uncertain terms, we the neighbors of Sander and Gloria Dijkers, support the request.
March 23, 2021

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We write in support of Gloria and Sander Dijkers’ plan to renovate and expand their home. We have reviewed the contractor’s plans detailing the depth and breadth of the expansion, and are impressed with the work proposed.

Specifically, the expanded second floor and associated façade improvements will perfectly fit within the character of our neighborhood, increase property values, and (I’m sure) create a more livable space for the Dijkers’ growing family. The Dijkers’ home is prominently visible from our front window and we look forward to seeing the new improvements.

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We are happy to endorse the Dijkers’ proposal and plan to attend the ZBA meeting should anyone on the board have specific questions for us.

Respectfully,

Matthew and Adrianne Penney
2983 Robina Avenue
Letter of support
1 message

Rebecca Riggs <rriggs@bloomfield.org>
To: gloria.dijkers@gmail.com

To Whom It May Concern,

Please accept this letter of support for Gloria and Sander Dijkers to complete improvements on their home on Robina. We have lived on Robina for over 20 years, and we feel a tremendously strong sense of community and connection with our neighbors. I can say confidently that everyone, myself included, strongly supports this renovation. Gloria and Sander have been communicative with us throughout the entire process and are making wonderful improvements to the home, which will have a positive impact on the value of all of our homes. The plans look outstanding, and the aesthetic will mesh well with the character of our street.

Please feel free to reach out to me with questions regarding this project.
Kind regards,
Rebecca Riggs
2969 Robina Ave
248-376-5646

International Academy
www.iatoday.org

International Academy, a 2018 National Blue Ribbon School
MEMORANDUM

To: Berkley Zoning Board of Appeals
From: Erin Schlutow; Community Development Director
Subject: PBA-04-21; 2928 Robina – Variance request to construct a second story addition that encroaches into the front yard setback
Date: April 5, 2021

APPLICANT: Joe Novitsky, on behalf of Gloria and Sander Dijkers
LOCATION: Northeast corner of Robina and Wiltshire
PARCEL ID: # 25-18-210-018
REQUEST: The applicant is requesting an 8 ft. 2 in. variance to encroach into the front yard setback for a second story addition.
REQUIRED: The Schedule of Regulations in Section 138-526 of the Zoning Ordinance states the minimum front yard setback in the R-1D District is 25 ft.

ZONING AND LAND USE

The subject property is zoned R-1D, Single Family Residential.

<table>
<thead>
<tr>
<th>Property</th>
<th>Zoning District</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Site</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
<tr>
<td>West</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
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<tr>
<td>East</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
<tr>
<td>North</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
<tr>
<td>South</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
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</table>
BACKGROUND

The subject property is located at the northeast corner of Robina and Wiltshire, and includes South 30 ft. of Lot 368 and all of Lot 369. The residence is located on a corner lot, measured 80 ft. wide, at the front property line.

According to Oakland County, the single-family home was constructed in 1920 and is a legal non-conforming structure, as it does not meet the current front yard setback, as established in Section 138-526 of the Zoning Ordinance. The existing structure is 10 ft. 10 in. from the front property line. As you can see from the aerial below and the accompanying site plan, provided by the applicant, there are several homes along Robina that do not meet the front yard setback requirement.

Non-Conforming Structure

Over the years, previous owners and the current owners have constructed additions to increase the floor area to support their needs, in compliance with the Zoning Ordinance. A second story addition at the rear of the house was constructed in 1995, and a three-season room was constructed in 2019.

The applicant and homeowner are requesting a variance to construct a second story addition towards the front of the dwelling, that will encroach 8 ft. 2 in. into the required 25 ft. front yard setback. The second story addition will be setback six (6) ft. from the front of the house, for a welcoming front entrance, as shown on the submitted plans.

The proposed addition will not extend beyond the existing footprint of the structure.

Section 138-154 notes that non-conforming structures may be maintained, added to or enlarged, if the such addition conforms to the regulations of the applicable zoning district. Such addition or enlargement shall be treated as a separate building in determining conformity to all requirements in the Zoning Ordinance.

Therefore, in order to construct the second story addition, as proposed, a variance from the front yard setback is needed.

STANDARDS FOR REVIEW

Per Section 138-606 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a dimensional variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-606, unless it shall make findings based upon the evidence presented to it in each specific case that:
A. *The need for the variance is due to unique circumstances or physical conditions of the property.*

The request for a variance is due to the desire of the property owner to construct a second story addition on the existing non-conforming structure. The single-family dwelling was built at the north end of the subject property, with a driveway abutting. The layout of the property and proximity of the driveway and garage does not allow an expansion of the dwelling that would comply with the zoning ordinance.

B. *The need for the variance is not the result of actions of the property owner or previous property owners.*

The need for a variance is not the result of the property owner’s actions, or previous property owners. The single-family dwelling was constructed in 1920 and is a legal on-conforming structure. The applicant and homeowner are requesting the variance to construct the addition within the existing footprint.

C. *Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.*

Strict compliance with the ordinance will render conformity with regulations unnecessarily burdensome. In order to construct an addition on the existing non-conforming dwelling that conforms to the front yard setback would reduce the size of the second story addition, which would not serve the homeowners.

Additionally, there is no other option on the property to construct an addition and increase the floor area. The location of the driveway and garage prohibit a first-floor addition. Re-location of the driveway and garage would be burdensome to the homeowner.

D. *The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.*

The requested variance is the minimum variance necessary to do justice to the property owner. The property owner is requesting to construct an addition within the existing footprint of the dwelling. The owner is not requesting to extend the second story addition beyond the existing footprint of the dwelling.

E. *The requested variance will not adversely impact the surrounding properties.*

The requested variance will not adversely impact the surrounding properties. The second story addition will be constructed within the existing footprint and will not incur additional variances or encroachments into any setbacks.

Several neighbors have signed a petition, circulated by the homeowner, in favor of the requested variance. A separate email was also received by a neighbor in support. These are included in your packet.
Summary

For a variance to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-606 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to determine if there are unique characteristics of the property and whether a lesser variance would be acceptable.

If you have any questions regarding this case, please do not hesitate to contact me.

Thank you.

Cc: Matthew Baumgarten, City Manager
Victoria Mitchell, City Clerk
John Staran, City Attorney
Kim Anderson, Building Clerk
joe@jsn-ala.com, Joe Novitsky, JSN Architecture
Gloria.dijkers@gmail.com, Gloria Dijkers
ZONING BOARD OF APPEALS APPLICATION

The Zoning Board of Appeals (ZBA) meets the second Monday of the month. The meetings are held in the Council Chambers at City Hall, 3338 Coolidge Highway, Berkley, Michigan 48072. Fee: $300

The ZBA shall hear requests for use and dimensional variances, appeals of administrative decisions, interpretation of zoning map and text, and interpretations of commercial message for proposed murals.

**Please be advised:** The ZBA may grant a variance where undue hardship or practical difficulty for the property exist. A want or desire (bigger structure, more profit, etc.) is not sufficient grounds for a variance. The ZBA does not have the power to legislate or create new regulations. The Board's purpose is to provide some relief from the Zoning Ordinance depending on the unique circumstances of the property.

**APPLICANT INFORMATION**

Name: Lorrena Black  
Phone: 915-269-2168

Address: 2344 Royal Ave, Berkley MI 48072

Email: lorrena.black@gmail.com

Relationship to Property (current tenant, representative, future tenant, current owner, future owner):

Current owner

**PROPERTY OWNER INFORMATION (if different from Applicant)**

Name:  
Phone:

Address:

Email:

**PROPERTY DESCRIPTION**

Address: 2344 Royal Ave, Berkley, MI 48072

Parcel #:  
Zoning Classification:

Current Use of Property: Single family home
NATURE OF REQUEST
Check which applies: ☑ Variance from Zoning Ordinance (Section I)
☐ Interpretation of Zoning Ordinance (Section II)
☐ Administrative Review / Appeal of Decision (Section III)
☐ Determination of Commercial Message of Mural / Work of Art (Section IV)

Description of Request:
Lot coverage variance: over 35% coverage by 628SF including house and pool. Accessory structure size variance. Over by 414SF for garage and pool together.

Has the City denied a related to the proposed work? ☐ Yes ☑ No

Please fill out ONLY the section below that applies to your request.

I. VARIANCE FROM ZONING ORDINANCE

Please provide a written response to each question below that relates to the variance that is being requested. DO NOT COMPLETE BOTH SECTIONS.

A. Use Variance

The Zoning Board of Appeals may grant a use variance (i.e. use of the land not permitted in a particular district) upon finding that an undue hardship exists.

Current Use of Property: ________________________________

Requested Use of Property: ________________________________

1. Explain how the building or land cannot be reasonably used for any of the uses permitted by right or by special land use permit in the current zoning district.

   ______________________________________________________

City of Berkley · ZBA Application
Updated 02.21.2021
2. Explain how the need for the variance is due to unique circumstances or physical conditions of the property.

3. Explain how the proposed use will not alter the essential character of the neighborhood.

4. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

B. Dimensional Variance (Non-Use Variance)

The Zoning Board of Appeals may grant a dimensional variance (i.e. height, setback, lot coverage, etc) upon finding that undue hardship or practical difficulty exists.

1. Explain how the need for the variance is due to unique circumstances of physical conditions of the property.

Variance request is due to the fact that the existing design and spec layout limits the full use of the house with a family of (6), currently has a small disconnected kitchen, disconnected dining and living areas, small bedrooms and no master bedroom. Without complete demo and rebuilding the entire house or moving to another house or city, we analyzed the amount of addition needed to the physical structure and feel that the addition is modest and comparable to other additions in the Berkley and minimally affects the front of the house. The added pool is what the main lot coverage increase is requested for and this is not an addition nor a vertical structure - this does not adversely affect the neighborhood; it permits us to grow in place and remain part of the community.
2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

The need for variance is due to the original design and lack of planned space for a larger family of this bungalow style home. Houses are impossible to find that fit our families needs in Berkley and we are requesting these revisions to permit us to stay in the community, which we love.

3. Explain how strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

Strict conformance would not permit us to construct proper living space for our size family. The size of existing house plus the requested addition is not a overly huge house when complete, it is a similar size permitted in neighboring communities. Conformance would also not even permit us to build just the pool, which we are requesting. Other communities do not count pools as accessory structures, as it is not impermeable area, it will absorb the rain during storms and permit natural evaporation without burdening the storm water system. We don't feel this should be counted as part of the overall lot coverage.

4. Explain how the requested variance is the minimum variance necessary to do substantial justice to applicant as well as other property owners.

We analyzed numerous variations of design, size of addition and layout to minimize size of final addition and vetted these variations with our builder. We feel it is modest and efficient addition. The pool is also not a huge pool, but the right size and a modest size for our size lot.

5. Explain how the requested variance will not adversely impact the surrounding properties.

The requested addition will be contextual with our neighbors, minimally affecting the front of house and preserving the original bungalow character and keeping the presence of house along Royal minimal and low. The addition is completely in the rear yard and an up and straight back addition. The materials proposed will also be contextual and simple. We have the support of each of our neighbors whom also confirm that it will not adversely affect their properties, but will actually improve values.
II. INTERPRETATION OF ZONING ORDINANCE

Provide Section numbers of Zoning Ordinance to be interpreted: ____________________________

Please describe the request and what needs to be clarified or interpreted by the ZBA.

III. ADMINISTRATIVE REVIEW / APPEAL OF DECISION

Describe the circumstances of each case and provide the minutes of the public meeting noting the denial to be appealed.
IV. DETERMINATION OF COMMERCIAL MESSAGE (MURAL/WORK OF ART)

Describe the proposed mural/work of art. Applicant should include renderings of the proposed design. The ZBA shall determine if the proposed work contains a commercial message.

** Applicant and artist must provide signed Mural Installation and Maintenance Agreement prior to the public meeting.

SUBMIT THE FOLLOWING:

Provide 15 copies of survey, plot plan or site plan with this application that shows the subject property complete with boundary lines and dimensions, existing building locations, all proposed buildings, easements, utilities, and any site improvements/changes. Setbacks, height of structures, lot coverage, etc. should also be included, if applicable.

A PDF file of the application and supporting documents must also be submitted at the time of application.

PLEASE NOTE: The applicant, or a designated representative, MUST BE PRESENT at the meeting in which the case is being reviewed or the request may be postponed due to lack of representation.

We encourage applicants to make a presentation of the proposed request to the Zoning Board of Appeals, if applicable. To assist this effort, we have available for your use a projector, laptop computer and screen. ZBA meetings are recorded and televised.
PROPERTY OWNER'S APPROVAL *(Initial each line)*

I hereby authorize and give permission for the City of Berkley to install one or more temporary signs on my property, in order to notify the public of the required public hearing related to the above request(s) before the ZBA.

I hereby authorize the employees and representatives of the City of Berkley to enter upon and conduct an inspection and investigation of the above referenced property in relation to the above request.

APPLICANT'S ENDORSEMENT: *(Initial each line)*

All information contained herein is true and accurate to the best of my knowledge.

I acknowledge that the ZBA will not review my request unless all information in the application has been submitted to the satisfaction of the Community Development Director.

I acknowledge that the City and its employees shall not be held liable for any claims that may arise as a result of acceptance, processing or review of this application.

If an application is withdrawn more than three (3) weeks prior to the meeting date, 90% of the fee will be refunded. If the application is withdrawn less than three (3) weeks prior to the meeting, no refund will be given.

Applicant Name (print)  
Applicant Signature  
Date

Applicant Name (print)  
Applicant Signature  
Date

Property Owner Name (print)  
Property Owner Signature  
Date
Received _______ Receipt # __________ Meeting Date ________ Case # PBA-05-21
Fee: $300
PROJECT ZONING DATA:

BUILDING AUTHORITY: CITY OF BERKLEY
ZONING: R-1D (SINGLE-FAMILY RESIDENTIAL)

SETBACKS:
- FRONT = 25' MIN (UNCHANGED - EXISTING)
- SIDES = 10' MIN TOTAL WITH 2 SIDE (5' MIN SIDE)
- ACCESSORY = 2' AND NO LESS THAN 18" & FIRE-RATED
- REAR = 30' MAX (PERMITS)
- ACCESSORY = 15' H

HEIGHT (MAX):
- EXISTING = 30' MAX (PERMITS)
- ACCESSORY = 15' H (MEASURED FROM GRADE TO MID-POINT ROOF)

LOT AREA:
- EXISTING = 4,800 SF
- ACCESSORY = 480 SF

LOT COVERAGE:
- EXISTING = 33.33% MAX LOT COVERAGE
- ACCESSORY = 35% MAX LOT COVERAGE

BLDG SIZE:
- 1ST FLOOR: 1,042 SF (EXISTING) + 654 SF (NEW) = 1,696 SF
- 2ND FLOOR: 654 SF (NEW) = 654 SF
- TOTAL: 2,350 SF

USE GROUP:
- R-1D - RESIDENTIAL USE GROUP (EXIST.)

CONSTRUCTION TYPE:
- 5B (WOOD FRAMED)

SITE INFORMATION:
- TOTAL LOT AREA: (50 X 130) = 6,500 SF
- TOTAL COVERAGE PERMITTED = 35% (6,500) = 2,275 SF MAX

LOT COVERAGE CALCULATION:
- HOUSE AREA (1ST FLOOR): 1,042 SF (EXIST.) + 654 SF (NEW) = 1,696 SF
- ACCESSORY - GARAGE (2 CAR): 680 SF (NEW);
- TOTAL COVERED AREA (1ST FLOOR) = 2,376 SF
- TOTAL COVERAGE = 2,376 / 6,500 = 36.55% (101 SF VARIANCE REQ'D)
- TOTAL COVERAGE INCLUDING POOL = 2,367 SF + 456 SF POOL / 6,500 SF = 43.4% (557 SF TOTAL VARIANCE REQ'D)

TOTAL PROJECT SIZE:
- 1ST FLOOR: 1,042 SF + 654 SF NEW
- 2ND FLOOR: 654 SF + 455 SF NEW
- TOTAL AREA: 2,849 SF
- 1ST FLOOR GARAGE (+ POOL RM): 680 SF
- 2ND FLOOR GARAGE (STORAGE): 282 SF
- TOTAL AREA ACCESSORY: 962 SF

PROJECT SITE DATA:

SITE INFORMATION:
- TOTAL SITE AREA: 6,500 SF
- TOTAL COVERAGE PERMITTED = 35% (6,500) = 2,275 SF MAX

LOT COVERAGE CALCULATION:
- HOUSE AREA (1ST FLOOR): 1,042 SF (EXIST.) + 654 SF (NEW) = 1,696 SF
- ACCESSORY - GARAGE (2 CAR): 680 SF (NEW);
- TOTAL COVERED AREA (1ST FLOOR) = 2,376 SF
- TOTAL COVERAGE = 2,376 / 6,500 = 36.55% (101 SF VARIANCE REQ'D)
- TOTAL COVERAGE INCLUDING POOL = 2,367 SF + 456 SF POOL / 6,500 SF = 43.4% (557 SF TOTAL VARIANCE REQ'D)
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Erin Schlutow; Community Development Director

Subject: PBA-05-21; 2344 Royal – Request for three (3) dimensional variances: 1) Construct addition in the front yard setback, 2) Accessory structures exceed the maximum square footage, 3) Lot coverage exceeds maximum area

Date: April 5, 2021

APPLICANT: Lorrena Black
LOCATION: East side of Royal, North of Oxford
PARCEL ID: # 25-18-329-018

REQUEST: The applicant is requesting a three (3) dimensional variances:

1. Variance to construct addition to the main house that encroaches 6 ft. 3 in. into the front yard setback

2. Variance of 570 sq. ft. to exceed the maximum permitted combined floor area of all accessory buildings and structures

3. Variance of 8.56% to exceed the maximum lot coverage for all structures

REQUIRED: 1. The Schedule of Regulations in Section 138-526 of the Zoning Ordinance states the minimum front yard setback in the R-1D District is 25 ft.

2. Section 138-54 Lot Coverage, states that the combined floor area of all accessory buildings and structures shall not exceed 800 square feet or one-half of the ground floor of the main building, whichever is greater.

3. The Schedule of Regulations in Section 138-526 of the Zoning Ordinance regulates the maximum percentage of lot coverage for all structures at 35%.
ZONING AND LAND USE

The subject property is zoned R-1D, Single Family Residential.

<table>
<thead>
<tr>
<th>Property</th>
<th>Zoning District</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Site</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
<tr>
<td>West</td>
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<tr>
<td>East</td>
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<td>Single family detached dwelling</td>
</tr>
<tr>
<td>North</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
<tr>
<td>South</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
</tbody>
</table>

SUMMARY OF REQUESTS

The applicant and homeowner are proposing several property enhancements that do not conform to the Zoning Ordinance. Below is a summary of each request in detail and each will be analyzed separately below under the Standards of Review.

1. Minimum Front Yard Setback is 25 ft.

   According to Oakland County, the single-family home was built in 1941. It is believed that the house was originally constructed with an open front porch that expanded almost the entire width of the front of the house, except for the existing corner cut out that is still open today. Since 1981, an open and unenclosed front porch is permitted to encroach into the front yard setback. At some point, it is not known when, the open porch was enclosed and a bay window added. The Building Department has several permits on file from 1970’s and 1980’s that specify an addition was constructed, but details were not provided.

   A mortgage report from 1991 shows the framed addition, submitted as part of permit application for a fence. While it is unclear as to when the front porch was enclosed, the documents we have on file suggest that it was done legally with permits and inspections. Therefore, the dwelling on the subject property would be considered a legal non-conforming structure.

   The proposed addition into the front yard setback is intended to square off the house and extend the southwest corner of the house to be in line with the existing front façade. The proposed addition will not extend beyond the front façade.

   Section 138-154 notes that non-conforming structures may be maintained, added to or enlarged, if the such addition conforms to the regulations of the applicable zoning district. Such addition or
enlargement shall be treated as a separate building in determining conformity to all requirements in the Zoning Ordinance.

Therefore, the applicant is requesting a 6 ft. 3 in. front yard setback variance in order to construct the addition, as proposed.

2. Combined Floor Area Exceeds Maximum Area
   The maximum permitted combined floor area of all accessory buildings and structures shall not exceed 800 sq. ft. or one-half the ground floor of the main building, whichever is greater.

   After the proposed addition to the main building, the ground floor area is proposed to be 1,696 sq. ft. Based on the above noted ordinance, the combined floor area of all accessory structures shall not exceed 848 sq. ft. The applicant is proposing to construct a new two-story garage (680 sq. ft. + 282 sq. ft.) and swimming pool (456 sq. ft.) with a combined floor area proposed to be 1,418 sq. ft. Therefore, the applicant is requesting a variance of 570 sq. ft. to exceed minimum combined floor area for all accessory buildings and structures.

3. Lot Coverage
   The maximum percentage of lot coverage for all structures is 35%. The applicant is proposing a lot coverage of 43.56%. Therefore, the applicant is requesting an 8.56% variance for total lot coverage.

STANDARDS FOR REVIEW

Per Section 138-606 of the Zoning Ordinance, the applicant must demonstrate a practical difficulty in order to be granted a dimensional variance. The Zoning Board of Appeals shall not vary the regulations of Section 138-606, unless it shall make findings based upon the evidence presented to it in each specific case that:

1. Front Yard Setback Variance
   
   A. The need for the variance is due to unique circumstances or physical conditions of the property.

      The request for a variance is due to the desire of the property owner to increase the square footage of the dwelling. The enclosure of the front porch of the dwelling has added floor space enjoyed by the homeowner and the need for the variance is to square off an existing room to serve a better purpose.

   B. The need for the variance is not the result of actions of the property owner or previous property owners.

      The need for a variance is not the result of actions of the property owner. The homeowner is requesting to expand the front corner of the house that was not originally part of the front porch to continue the front façade of the house.
The enclosure of the front porch occurred prior to purchase of the home, and was permitted and approved by the Building Department.

C. **Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.**

Strict compliance with the ordinance will prevent the homeowner from expanding the footprint of the dwelling. It is not possible to modify the proposed addition on the front of the house to meet the standards of the ordinance, as the house currently extends into the front yard setback.

D. **The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.**

The requested variance is the minimum variance necessary to do justice to the property owner. The property owner is not requesting to extend beyond the front of the house, but only to square off the front corner that is currently open.

E. **The requested variance will not adversely impact the surrounding properties.**

The requested variance will not adversely impact the surrounding properties. The proposed front addition will only serve to square off the front of the house that currently extends into the front yard setback. This will not have an impact on neighbors’ properties.

2. **Combined Floor Area Exceeds Maximum Area**

A. **The need for the variance is due to unique circumstances or physical conditions of the property.**

The request for a variance is due to the desire of the property owner to size of the yard and needed to maximize area for the family. The floor area of the accessory structures, includes both floors of the proposed garage and the swimming pool. These are two separate structures, and the swimming pool is proposed to be in-ground and will not be visible from the street.

B. **The need for the variance is not the result of actions of the property owner or previous property owners.**

The need for a variance is the result of the property owner’s desire to maximize floor area for the family. The homeowner has noted desire to stay in the community, and the new garage and pool will meet their needs.

C. **Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.**
Strict compliance with the ordinance will not prevent the property owner from utilizing the existing property as single family residential. It will be burdensome on the family to reduce the size of the accessory structures in order to comply with the Zoning Ordinance.

D. The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.

The requested variance is the minimum variance necessary to do justice to the property owner. The property owner worked with city staff prior to the public hearing to ensure that the least number of variances were requested. A few revisions were made that reduced the number of variances being requested by the ZBA.

Additionally, the property owner and architect worked on the project for several months and reduced the size of the pool and garage, so as to minimize the size variance requested.

E. The requested variance will not adversely impact the surrounding properties.

The requested variance will not adversely impact the surrounding properties. The property owner has consulted with neighbors, and have noted their support for the project.

Additionally, the accessory structures will be located in the rear yard. The in-ground swimming pool will not be visible from the street. Therefore, the requested variance will not adversely impact the surrounding properties.

3. Lot Coverage

A. The need for the variance is due to unique circumstances or physical conditions of the property.

The request for a variance is due to the size of the lot and the desire of the property owner to maximize floor area in the main house and accessory structures that serve the family.

B. The need for the variance is not the result of actions of the property owner or previous property owners.

The need for a variance is the result of the property owner’s desire to maximize floor area for the family. The homeowner has noted desire to stay in the community, and the new garage and pool will meet their needs.

C. Strict compliance with the ordinance will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

Strict compliance with the ordinance will not prevent the property owner from utilizing the existing property as single family residential. It will be burdensome for the property owner to conform to the Zoning Ordinance, as it would reduce the size of the addition or accessory structures that are
proposed to serve the family. Without the variance, the proposed project would have to be modified significantly.

D. The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners.

The requested variance is the minimum variance necessary to do justice to the property owner. The property owner worked with city staff prior to the public hearing to ensure that the least number of variances were requested. A few revisions were made that reduced the number of variances being requested by the ZBA.

E. The requested variance will not adversely impact the surrounding properties.

The requested variance will not adversely impact the surrounding properties. The property owner has consulted with neighbors, and have noted their support for the project.

The addition to the main structure and the accessory structures will be located in the rear yard. The in-ground swimming pool will not be visible from the street. Therefore, the requested variance will not adversely impact the surrounding properties.

Summary

For a variance to be approved by the Zoning Board of Appeals, it shall meet the standards of Section 138-606 of the Zoning Ordinance, based on findings of fact. We request the Zoning Board of Appeals to determine if there are unique characteristics of the property and whether a lesser variance would be acceptable.

If you have any questions regarding this case, please do not hesitate to contact me.

Thank you.

Cc: Matthew Baumgarten, City Manager
    Victoria Mitchell, City Clerk
    John Staran, City Attorney
    Kim Anderson, Building Clerk
    Lorrena.black@gmail.com