PUBLIC NOTICE
City of Berkley, Michigan
Regular Meeting of the Zoning Board of Appeals
Monday, July 12, 2021
7:00 PM – City Hall
Council Chambers
Information: (248) 658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
CONFIRMATION OF A QUORUM
APPROVAL OF AGENDA
APPROVAL OF MINUTES – Meeting Minutes of May 10, 2021
OLD BUSINESS
NEW BUSINESS

1. **APPLICATION PBA-06-21; 3497 Tyler** – Variance requests to Construct a Rear Addition on a Non-Conforming Dwelling that does not meet the required sideyard setbacks, does not meet the minimum separation distance between dwellings and exceeds lot coverage.

Jim Terbrueggen, on behalf of Scott Merian, 3497 Tyler, Parcel #25-07-451-034, west side of Tyler Ave north of Twelve Mile Rd, is requesting three (3) dimensional variances: 1) to construct an addition on a non-conforming structure that does not meet the required side yard setback; 2) to construct an addition on a non-conforming structure that encroaches into the required minimum 15 ft. separation distance; and, 3) the dwelling and garage improvements will exceed the maximum lot coverage.

2. **APPLICATION PBA-07-21; 1260 Larkmoor** – Variance requests to Construct Rear Addition on a Non-Conforming Dwelling that does not meet the minimum required sideyard setbacks and is located closer than 15 ft. from adjacent dwelling.

Lori Drouillard is requesting two (2) dimensional variances at 1260 Larkmoor Blvd., Parcel #25-17-408-051, for proposed first story rear addition on a non-conforming structure that does not meet the side yard setback requirements and is located less than 15 ft. from adjacent dwelling, located at 1278 Larkmoor Blvd.

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.
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
               Erick McDonald (joined at 7:10pm)

ABSENT:        Paul Evans

ALSO PRESENT:  Lorrena Black, 2344 Royal
               Major Clarence Black, 2344 Royal
               Erin Schlutow, Community Development Director
               Matthew Baumgarten, City Manager

* * * * * * * * *
It was moved by Mr. Allen to excuse the absence of Chair Paul Evans. Motion supported by Ms. Ward

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

APPROVAL OF AGENDA
It was moved by Mr. Gesund to approve the agenda. Motion supported by Mr. Allen.

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

MOTION CARRIED
* * * * * * * * *

APPROVAL OF MINUTES
It was moved by Mr. Allen to approve the minutes of April 12, 2021, as presented. Motion supported by Ms. Ward.

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

MOTION CARRIED

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OLD BUSINESS

1. **APPLICATION PBA-05-21; 2344 Royal – Variance Requests to Construct an Addition into the Front Yard Setback, Area of Accessory Structures, and Lot Coverage.**

Lorrena Black, 2344 Royal Abe, 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.

Community Development Director Schlutow provided a summary of the project and requested variances. The application was tabled at the April 12, 2021 regular meeting after the public hearing in order for the homeowner to provide additional information and to work with City staff to reduce the requested variances, if possible. Director Schlutow noted that after discussions, the homeowner did not make any changes to the plans and the scale and scope of the requested variances remains the same.

Mr. Allen asked about the garage elevations.

Major Clarence Black addressed the Zoning Board of Appeals and noted that he is on active duty overseas and his wife is a retired veteran. He stated that the proposed project is their master plan for their home and is asking for what they want for their dream home.

Ms. Ward asked if it was discussed whether to shrink the size of the pool to be a lap pool. Ms. Black noted that the pool size was shrunk to be a lap pool.

Ms. McAlpine read the instructions for the public to comment on the requested variances.

No public comment.

Mr. Gesund asked about the items that were discussed at the previous months meeting: changing the size of the pool and providing information related to the need for the pool. He noted that there had not been any changes to the project. He thanked the Blacks for their service to the country and noted that the Board also has an oath to fulfill and there is nothing in the ordinance that gives consideration for military service.

Mr. McDonald discussed each requested variance.
Mr. Uhlar thanked the Blacks for their service but felt that the presentation was not appropriate.

Ms. Ward noted that for the size of the lot it was an ambitious project. She stated that the variance for the addition in the front yard setback would work, but the size of the pool does not fit with the size of the lot.

Ms. McAlpine discussed separating the requested variances in order to make a decision for each item.

Variance #1: Construct an addition that encroaches into the front yard setback.

Mr. Allen stated he would be in favor of this, as it would be in line with the existing front of the house.

Ms. Ward noted she would support the motion.

Mr. Allen stated it would be beneficial to read the standards for approval aloud.

Director Schlutow read the five standards aloud.

Motion by Mr. Gesund, read by Ms. Ward, in the matter of PBA-05-21 the request for variance to construct an addition that encroaches into the front yard setback of residential property at 2344 Royal, zoned Single Family Residential, to be approved based on the findings of fact that the five standards of review have been met. The request is due to unique circumstances of the property. The need for the variance is not the result of the property owner or previous property owners. Strict compliance with the ordinance will prohibit the property owner for using the property for intended use or will render conformity with those regulations unnecessarily burdensome. The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners. The requested variance will not adversely impact the surrounding properties. Motion supported by Ms. Ward.

Mr. Uhlar noted that the addition would increase the nonconformity and does not meet standard #3.

Mr. McDonald agreed with Mr. Uhlar that the presentation was inappropriate.

Major Black asked for clarification on the comments from Mr. McDonald.

Mr. McDonald noted that he is in favor of the first variance.

AYES: Ward, Allen, Gesund, Krug, McDonald, McAlpine
NAYS: Uhlar
ABSENT: Evans

Variance #2: Exceed the permitted combined floor area of all accessory buildings and structures.

Motion by Ms. Ward to deny the variance request for accessory buildings and structures to exceed the maximum permitted area, based on findings of fact that the standards for review have not been met. The need for the variance is not due to unique circumstance or physical conditions of the property. The need for the variance is the result of actions of the property owner or
previous property owners. Strict compliance will not unreasonably prevent the property owner from using the property for a permitted purpose. The requested variance is not the minimum variance to do substantial justice to the applicant. The requested variance will adversely impact the surrounding properties. Motion supported by Mr. Krug.

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

Variance #3: Proposed lot coverage to exceed maximum permitted area for all structures
Motion by Mr. Uhlar to deny the variance request for maximum lot coverage for all structures, based on findings of fact that were articulated for variance request #2. Motion supported by Ms. Ward.

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

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NEW BUSINESS
None.

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OTHER BUSINESS
None

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STAFF / BOARD MEMBER REPORT

Director Schlutow noted she had recently shared with the Board members their attendance records as well as their hours of continued education. There is a virtual Zoning Board of Appeals training opportunity on June 30, 2021 and that would be the last day of the fiscal year in which to complete the required education hours.
LIAISON REPORT

None.

PUBLIC COMMENTS

None.

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

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

With no further business, the meeting was adjourned at 7:46pm.
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.

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APPLICANT INFORMATION

Name: Jim Terbrueggen
Phone: (810) 584-7364

Address: 10775 S. Saginaw St. Grand Blanc MI 48439

Email: jim@triumpheng.com

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

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PROPERTY OWNER INFORMATION (If different from Applicant)

Name: Scott Marian
Phone: 586.662.0006

Address: 3497 Tyler Avenue Berkley MI 48072

Email: yourhomeyourmarket@gmail.com

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PROPERTY DESCRIPTION

Address: 3497 Tyler Avenue Berkley MI 48072

Parcel #: 25-07-451-034 Zoning Classification: R-1D

Current Use of Property: Existing 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:

Requesting a variance for dwelling separation difference and property coverage.

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: Existing family residence

Requested Use of Property: Family residence

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.

   It is designed to maintain the existing building lines in order to maintain the buildings value and functionality.
2. Explain how the need for the variance is due to unique circumstances or physical conditions of the property.

This variance will follow existing established set back lines established when the original structure was approved and built.

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

The proposed addition is to the rear of the property, therefore not visible to the street view.

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

The Variance is required in order to maintain the current structures look, use and foundation.

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.

The requested variances were all ready in place once before to allow the existing dwelling to be built within the required 15' between buildings. All we are requesting is that the board allow us to continue using that variance in order to build this addition for this expanding family dwelling. This expansion of the dwelling and out building will exceed lot coverage ordinance. However, by allowing this second variance for lot coverage you will be increasing the value of the neighboring properties and the ascetics of the neighborhood. This allowance will let the property owner remove vehicles from the drive and securely store house hold items as necessary, reducing clutter from the property.
2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

The Variance is required in order to maintain the current structures look, use and foundation.

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.

If we adhere to the ordinance we will not be able to build the addition in the most cost effective and functional manor for the family.

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

The Variance is required in order to maintain the current structures look, use and foundation.

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

The addition and updates to this property will add to the ascetics of the neighborhood by allowing for better storage and a safer storage for the property. Also it will update the look of this classic American home, promoting sales, and Inspire other properties to freshen or update their look increasing the areas value.
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.
Received 5/28/21  Receipt #   Meeting Date   Case #  ZBA-06-21
Fee:  $300
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
Know what's below before you dig.

Call
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Erin Schlutow; Community Development Director

Subject: PBA-06-21; 3497 Tyler – Request for three (3) dimensional variances: 1) Construct addition to the non-conforming structure that does not meet side yard setback, 2) Proposed addition does not meet minimum 15 ft. separation between dwellings, 3) Proposed addition and new garage exceed maximum lot coverage

Date: July 8, 2021

APPLICANT: Jim Terbrueggen, on behalf of Scott Merian

LOCATION: West side of Tyler Ave, north of Twelve Mile Rd

PARCEL ID: # 25-07-451-034

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

1. Variance to construct addition to the main house that is proposed to be 4ft from the north property line.

2. Variance to construct addition that is proposed to be 12 ft. 8 in. from adjacent dwelling to the north and 13 ft. 3 in. from adjacent dwelling to the south.

3. Variance to construct addition and garage that is proposed to cover 41% of the residential lot.

REQUIRED: 1. The Schedule of Regulations table in Section 138-526 of the Zoning Ordinance states the minimum side yard setback in the R-1D District is 5 ft.

2. The Schedule of Regulations in Section 138-527(d) of the Zoning Ordinance requires minimum separation distance of at least 15 feet between dwellings.

3. The Schedule of Regulations table limits the total area of all structure to 35% lot coverage.
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>Two-unit dwelling</td>
</tr>
<tr>
<td>West</td>
<td>R-1D, Single Family Residential</td>
<td>Single family detached dwelling</td>
</tr>
<tr>
<td>East</td>
<td>RM, Multiple Family Residential</td>
<td>Parking lot and Apartment complex</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>

BACKGROUND

According to Oakland County, the home located at 3497 Tyler was built in 1927. Based on aerial imagery, the house and garage have remained unchanged.

City records for 3497 Tyler Ave show that the existing structure has been used as a two-dwelling structure since at least 1992. There is also a Landlord License on file from 1977 but does not reference the number of units. The two-unit home has been considered a legally non-conforming structure, as it is no longer permitted for multiple family dwellings in the R-1D Single Family District.

The former property owners had maintained the rental license and use of the two-dwelling structure from 1992 until 2017, which allowed the non-conforming use to continue. In January 2017, City staff sent notifications to the property owner that the Landlord License and Rental Certificate had expired and the application needed to be resubmitted to continue as a rental property.

In September 2019, City staff sent notification to the property owner that the non-conforming multiple family use was no longer permitted to continue, as it had been vacant longer than 180 days and the non-conforming use cannot be re-established. The property owner was notified that the structure may not be used for a use other than what is permitted in the R-1D District or they have the option to request a use variance from the Zoning Board of Appeals.

SCOPE OF PROJECT

In April 2021, the new homeowner applied for a building permit and submitted plans to convert the two-unit structure to a single-family residential dwelling. This includes the construction of a two-story addition to the rear of the existing structure, and demolish the existing garage and replace with new structure.
There were several discussions between the architect and the Building Official related to the scope of the project. The existing principal structure does not conform to setback requirements or separation distances between the adjacent dwellings. The proposed addition is intended to follow the building line to the west, which will increase the non-conformities of the structure.

Per Section 138-154, a nonconforming building may be added to or enlarged if 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 of the requirements.

**SUMMARY OF REQUESTS**

The applicant and homeowner are proposing to construct a two-story addition on the rear of the existing house and a new garage 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 Side Yard Setback is 5 ft.**

   According to Oakland County, the single-family home was built in 1927. Based on aerial imagery, the house and garage have remained unchanged since initial construction.

   The residential structure is a legal non-conforming structure, in that it was constructed in compliance with building regulations and requirements, but does not meet the current requirements of the Zoning Ordinance.

   **Therefore, the applicant is requesting a 1 ft. side yard setback variance in order to construct the addition, as proposed.**

2. **Separation Distance Between Dwellings**

   The Zoning Ordinance requires a minimum separation distance of at least 15 feet between dwellings.

   As noted on sheet C3.0, the subject dwelling, as currently configured does not conform to the minimum separation distance requirement to the property to the north or south. The proposed addition will follow the existing building line, which will encroach into the required minimum separation distance.

   **Therefore, the applicant is requesting a 2 ft. 4 in. separation distance for the proposed addition to adjacent dwelling to the north and a 1 ft. 9 in. separation distance for the proposed addition to adjacent dwelling to the south.**

3. **Lot Coverage**

   The maximum percentage of lot coverage for all structures is 35%. The applicant is proposing a lot coverage of 41%.

   **Therefore, the applicant is requesting an 6% 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. **Side 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 homeowner’s desire to increase the livable area of the existing non-conforming dwelling. The legal non-conforming residential structure does not conform to the current setback or separation requirements, but complied when the structure was built. The homeowner is requesting to expand the livable area that is in line with the existing structure. Conforming to the side yard setback requirement would require a one (1) foot jut along the north side of the building, which would make it awkward for the homeowner.

   **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 construct an addition on the rear of the house that will be in line with the existing dwelling. The side yard setback non-conformity will not increase beyond the established encroachment by the existing house.

   **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. To be in compliance with the ordinance would require the homeowner to move the addition one (1) foot south, which would be awkward and burdensome for the layout the house.

   **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 existing side yard setback line of the dwelling, but is asking to continue the existing building line for the proposed addition.

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

   The requested variance will not encroach closer into the side yard setback than the house is currently situated. The City has not received any correspondence from neighbors related to the requested variances.
2. Separation Distance Between Dwellings

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 an addition on the rear of the dwelling that will not meet the minimum separation distance between the north and south dwellings. The proposed addition has been designed to follow the existing building line of the structure and will not encroach closer to the dwellings to the north and south of the subject property.

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 or previous property owners. The dwelling on the subject property was built in 1927 and the dwelling to the north (3501 Tyler) was built in 1958 and the dwelling to the south (3481 Tyler) was built in 1941. The non-conforming structure at the subject property was built with approvals in compliance with all separation distance requirements. If the addition had been built at that time, it would also have been in compliance with the requirements.

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 be unnecessarily burdensome to the property owner, as they are looking to expand the livable area of the dwelling in line with the existing dwelling. There will be an increase in the non-conformity, as it will continue along the property line, but it will not encroach closer to the adjacent dwellings.

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 asking to encroach closer to the adjacent dwellings than the existing dwelling is already situated.

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

The requested variance will not encroach closer to the adjacent dwellings than the house is currently situated. The City has not received any correspondence from neighbors related to the requested variances.
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, the proposed interior renovations that would eliminate the two-dwelling non-conformity and will provide livable space for the homeowner.

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 increase floor area for the family while eliminating the non-conforming interior layout of the house.

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 property owner from expanding the home and will require the continuance of the non-conforming structure that includes two separate units. This will prevent the property owner for using the structure for a permitted purpose. It would not be possible for a family to occupy one side of the existing dwelling.

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 asking to exceed permitted lot coverage in order to construct the addition that will return the house to a single-family residential dwelling.

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

The requested variance related to lot coverage may not be evident from the neighbor’s viewpoint. There will still be green space at the rear of the property for passive or active family space. The City has not received any correspondence from neighbors related to the requested variances.

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
    David Reilly, Building Official
    Jim Terbrueggen, jim@triumpheng.com
    Scott Merian, yourhomeyourmarket@gmail.com
ZONING BOARD OF APPEALS APPLICATION

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**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: Lori Drouillard
Phone: 248-978-4164
Address: 1260 Larkmoor, Berkley, Michigan 48072
Email: lori kristin@hotmail.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: 1260 Larkmoor, Berkley, Michigan 48072
Parcel #: LARK-001260-0000-01
Zoning Classification: Residential
Current Use of Property: Resident
NATURE OF REQUEST

Check which applies:  ✔️ Variant 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: Applicant seeks a dimensional variance to expand on an existing non-conforming use variance to remodel Applicant's kitchen.

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.

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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.

A residential building exists on the subject property and is being used as Applicant's primary residence. At the time the residential building was built, it conformed to all applicable ordinances and regulations. Years later, the City altered its ordinances, and the existing residential building was grandfathered in. Applicant seeks a dimensional variance to expand her kitchen.
2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

As stated above, the residential building on the subject property was conforming to all applicable ordinances at the time of construction. Years later, the City altered its ordinances, which resulted in the residential building to become "non-conforming."

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 purpose of the property (and building) is for residential; no other use but for residential. To deny the variance would obsolete any improvements Applicant intends to make to the property. If the variance is granted, the design and use of the kitchen will be in line with new homes and existing homes being remodeled.

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

Applicant seeks a limited dimensional variance to only expand her existing kitchen. The expansion will exist within the boundaries of Applicant's property, and more importantly, the proposed expansion will remain within the building envelop granted by the existing structure located on the property. Stated differently, the existing grandfathered non-conforming condition will not exceed the extent of the existing variance/ the proposed variance will not expand further into the setback.

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

The property and building have existed in the area for numerous years without injury to any neighbors’ property rights or the general public. Further, the requested variance will be harmonious within the existing neighborhood and subject property as it would not change any of the sight lines and/or street view and/or facade. Applicant is unaware of any opposition or complaint made to the property and existing building.
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.

Richard D. Linnell  /s/ Richard D. Linnell  06/07/21
Applicant Name (print)  Applicant Signature  Date

Applicant Name (print)  Applicant Signature  Date

Lori Drouillard  /s/ Lori Drouillard  06/07/21
Property Owner Name (print)  Property Owner Signature  Date

City of Berkley - ZBA Application
Updated 02.21.2021
Office Use Only

Received 6.10.21  Receipt #  Meeting Date 7.12.21  Case # PBA-07-31
Fee: $300

City of Berkley - ZBA Application
Updated 02.21.2021
I POURED CONCRETE FOOTING AND INSTALLED AMERICAN HAMMERS AT EVERY SUPPORT POINT.

UNFINISHED SUBFLOOR AND PERIMETER WALLS.

PROVIDE 30# FELT UNIFIED AND UNIFACED.

PROVIDE ELECTRICAL SMOKE DETECTION AND WATER ALARM SYSTEM.

PREPARE TO BE CURBED AT ALL SUPPORT POINTS.

VERIFY ELECTRICAL SERVICE IN ACCORDANCE WITH ALL PROPOSED LOCATIONS.

VERIFY FIREPLACE OPTIONS SUBMANUAL WORK.

PREPARE TO BE CURBED AT ALL SUPPORT POINTS.

PROVIDE CONTINUOUS DRAINAGE TILES AND BASEMENT TILES.

SURE TO INSTALL INTERIOR SUMP PUMPS AS REQUIRED.

SURE TO INSTALL SUPPORT WALLS AND SIDING.

WHERE RAILS ARE SHOWN, INSTALL 1-1/2" TO 1-3/4" RAILS.

WHERE SHOWED, INSTALL COPPER FLASHING, COUNTERFLASHING, AND PLISH.

COMING FROM INTERIOR TO CURB, INSTALL COPPER FLASHING, COUNTERFLASHING, AND PLISH.

VERIFY ELECTRICAL SERVICE IN ACCORDANCE WITH ALL PROPOSED LOCATIONS.

VERIFY FIREPLACE OPTIONS SUBMANUAL WORK.

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VERIFY FIREPLACE OPTIONS SUBMANUAL WORK.

PREPARE TO BE CURBED AT ALL SUPPORT POINTS.

PREPARE TO BE CURBED AT ALL SUPPORT POINTS.
DETAILED RIDGE

WALL SECTION

RESIDENTIAL ADDITION

WALL SECTION UN

PROJECT: Three Rivers, 103
DATE: PLAN: 5/7/2021
ARCHITECT: Todd Drouillard AIA

ARCHITECT: Todd Drouillard AIA

ARCHITECT: Todd Drouillard AIA

ARCHITECT: Todd Drouillard AIA

ARCHITECT: Todd Drouillard AIA

MEMORANDUM

To: Berkley Zoning Board of Appeals
From: Erin Schlutow; Community Development Director
Subject: PBA-07-21; 1260 Larkmoor – Request for two (2) dimensional variances: 1) Construct first story rear addition to the non-conforming structure that does not meet side yard setback, 2) Proposed addition does not meet minimum 15 ft. separation between dwellings,

Date: July 8, 2021

APPLICANT: Lori Drouillard

LOCATION: North side of Larkmoor, between Cass Blvd and Stanford Rd

PARCEL ID: # 25-07-408-051

REQUEST: The applicant is requesting a two (2) dimensional variances:

1. Variance to construct first story rear addition to the non-conforming single-family dwelling that is proposed to be 3 ft. 3 in. from the west property line.

2. Variance to construct first story rear addition to the non-conforming single-family dwelling that is proposed to be 13 ft. 7 in. from adjacent dwelling.

REQUIRED: 1. The Schedule of Regulations table in Section 138-526 of the Zoning Ordinance states the minimum side yard setback in the R-1D District is 5 ft.

2. The Schedule of Regulations in Section 138-527(d) of the Zoning Ordinance requires minimum separation distance of at least 15 feet between dwellings.
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>
</tr>
<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>
</tbody>
</table>

BACKGROUND

According to Oakland County, the home located at 1260 Larkmoor was built in 1918 with an addition constructed on the rear of the house in 1998. The property was previously on a double lot and was split and a new single-family dwelling was constructed at 1950 Larkmoor in 2014.

The home at 1960 Larkmoor was constructed in compliance with ordinances that were in place at the time. The single-family dwelling on the subject property is a legal non-conforming structure. The dwelling is less than five ft. from the west property line and less than 15 ft. from the dwelling at 1978 Larkmoor.

SCOPE OF PROJECT

The property owner submitted a building permit to construct a rear addition that would be in line with the addition that was constructed in 1998. The addition would increase the non-conformity, but would not encroach further into the side yard setback.

Per Section 138-154, a nonconforming building may be added to or enlarged if 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 of the requirements.

SUMMARY OF REQUESTS

The applicant and homeowner are proposing to construct a two-story addition on the rear of the existing house and a new garage 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 Side Yard Setback is 5 ft.**
   According to Oakland County, the single-family home was built in 1918 and a rear addition was constructed in 1998.

   The residential structure is a legal non-conforming structure, in that it was constructed in compliance with building regulations and requirements, but does not meet the current requirements of the Zoning Ordinance.

   Therefore, the applicant is requesting a 1 ft. 9 in. side yard setback variance in order to construct the addition, as proposed.

2. **Separation Distance Between Dwellings**
   The Zoning Ordinance requires a minimum separation distance of at least 15 feet between dwellings.

   As shown on the submitted site plan, the existing dwelling as currently configured does not conform to the minimum separation distance requirement to the property to the west. The proposed addition will follow the existing building line, which will encroach into the required minimum separation distance.

   Therefore, the applicant is requesting a 1 ft. 5 in. separation distance for the proposed addition to adjacent dwelling to the west.

**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. **Side 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 homeowner’s desire to increase the livable area of the existing non-conforming dwelling. The legal non-conforming residential structure does not conform to the current setback or separation requirements, but complied when the structure was built. The homeowner is requesting to expand the livable area that is in line with the existing structure. Conforming to the side yard setback requirement would require a 1 ft. 9 in. jut along the west side of the building, which would make it awkward for the homeowner.

   **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 construct an addition on the rear of the house that will be in line with the existing
dwelling. The side yard setback non-conformity will not increase beyond the established encroachment by the existing house.

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. To comply with the ordinance would require the homeowner to move the proposed addition 1 ft. 9 in. east, which would be awkward and burdensome for the layout the house, as the addition is small and reducing the size may not make the project worthwhile to the property owner.

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 existing side yard setback line of the dwelling, but is asking to continue the existing building line for the proposed addition.

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

The requested variance will not encroach closer into the side yard setback than the house is currently situated. The City has not received any correspondence from neighbors related to the requested variances.

2. **Separation Distance Between Dwellings**

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 construct an addition on the rear of the dwelling that will not meet the minimum separation distance between the subject dwelling and the dwelling to the west. The proposed addition has been designed to follow the existing building line of the structure and will not encroach closer to the dwellings to the west of the subject property.

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 or previous property owners. The dwelling on the subject property was built in 1918 and the dwelling to the west (1278 Larkmoor) was built in 1928. The non-conforming structure at the subject property was built with approvals in compliance with all separation distance requirements. If the addition had been built at that time, it would also have been incompliance with the requirements.
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 be unnecessarily burdensome to the property owner, as they are looking to expand the livable area of the dwelling in line with the existing dwelling. There will be an increase in the non-conformity, as it will continue along the property line, but it will not encroach closer to the adjacent dwellings.

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 asking to encroach closer to the adjacent dwellings than the existing dwelling is already situated.

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

The requested variance will not encroach closer to the adjacent dwellings than the house is currently situated. The City has not received any correspondence from neighbors related to the requested variances.

**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  
    David Reilly, Building Official  
    Lori Drouillard, lorikristin@hotmail.com