CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONFIRMATION OF A QUORUM

APPROVAL OF AGENDA

APPROVAL OF MINUTES – Meeting Minutes of February 14, 2022

OLD BUSINESS

NONE

NEW BUSINESS

1. APPLICATION PBA-02-22; 2233 Earlmont – Dimensional variance requests to construct a new house to be attached to the existing detached garage that encroaches into the required 5 ft. side yard setback and creates a combined side yard setback of less that the required 15 ft.

   Dale GoodCourage, 2233 Earlmont, Parcel #25-17-108-004, south side of Earlmont, between Berkley Avenue and Henley Avenue, is requesting two (2) dimensional variances: 1) to construct a new house to be attached to the existing detached garage that will encroach into the required 5 ft. side yard setback; and, 2) to construct a new house to be attached to the existing detached garage where the total of the two side yards is less than the required 15 ft.

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.

You can watch the meeting on Channel 10 for both Comcast and WOW, at http://www.youtube.com/CityofBerkley or http://www.berkleymich.org/livestream.
THE REGULAR MEETING OF THE BERKLEY CITY ZONING BOARD OF APPEALS WAS CALLED TO ORDER AT 7:00 PM, MONDAY, FEBRUARY 14, 2022 BY CHAIR MCALPINE

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:
Ryan J. Gesund
Sue McAlpine
Joseph V. Krug
Erick McDonald
Kevin Wilner
Miles Uhlar (Arrival 7:10pm)
Maria Ward
Mark Riley (Alternate)

ABSENT:
NONE

ALSO, PRESENT:
Megan Masson-Minock, Interim Community Development Director
Dennis Hennen, City Council Liaison
Matt Baumgarten, City Manager

APPROVAL OF AGENDA
Motioned to approve the agenda by Mr. Gesund and supported by Ms. Ward

AYES: Gesund, Krug, McAlpine, McDonald, Riley, Ward, Wilner
NAYS: NONE
ABSENT: Uhlar
MOTION CARRIED

* * * * * * * * *

APPROVAL OF MINUTES
Motion to approve the minutes of January 11, 2022 by Ms. Ward and supported by Mr. Gesund with the revision of:

1. Page 6 third paragraph down, Alpine to be changed to McAlpine
2. Page 7 top of page, Alpine changed to McAlpine

AYES: Gesund, Krug, McAlpine, McDonald, Riley, Ward, Wilner
NAYES: NONE
ABSENT: Uhlar
MOTIONED CARRIED

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OLD BUSINESS

1. APPLICATION PBA-11-21: 1940 Franklin - Appeal, interpretation and-or use variance as to whether the definition of a home occupation includes a Federally Licensed Firearms Dealer.

Chair McAlpine called a recess at 7:08 p.m.
Chair McAlpine called the meeting back to order at 7:10 p.m.
Interim Community Development Director Masson-Minock gave a summary of the previous meeting actions and requests for more information coming from the board on this specific public hearing. Community Development Director Masson-Minock reiterated the board had the option to affirm, modify, or reverse the letter from the city manager, which would set a precedent moving forward. She also reviewed the motion that had been drafted for discussion.

Ms. Ward asked for a point of clarification on what specific actions would be taken place by the board.

**Petitioner:**
Steve Nowak
1490 Franklin
Berkley, MI 48072

Petitioner, Mr. Nowak stated all the changes that have been made since the last meeting, and provided an overview of the recent information that was included. Chair McAlpine suggested revisiting some social media posts, as some may imply that sales happen.

The board asked petitioner, Mr. Nowak, for clarification on direct sales. In which Mr. Nowak stated that direct sales have not happened.

Chair McAlpine opened the floor up for public comment.
Chair McAlpine closed the floor up for public comment.

The board discussed their various thoughts on what they agreed with the draft presented before them. The board also discussed the findings from the attorney’s letter and took that into consideration.

Co-Chair Uhlar asked City Manager, Matt Baumgarten, about the conversations and the nature of the conversations that were had with previous Community Development Director, Erin Schlutow, that were stated in this letter to the applicant from the City Manager.

City Manager, Matt Baumgarten, clarified that the process of how they conducted the business was applied to the standard set forth by the ordinance, which is where former Community Development Director, Erin Schlutow and City Manager felt it did not meet that ordinance.

The board discussed the decision on just action or activity and prompted discussion on what the ordinance states and if it needs to be rewritten.

The board discussed that if this motion is passed, and the City makes this more restrictive what the action would be on ATF’s part and what they can be dependent upon, and the duties of the city.

Councilmember Hennen, stated that he found an Instagram account for Wolverine State Armory shows a post on February 19, 2020 that has implication of direct sales. The petitioner, Mr. Nowak stated that this post is gun parts sold on auction sites online and shipped out not sold directly from the house.

City Manager, Matt Baumgarten, stated that this is different and wanted to differentiate an eBay business etc., then actually owning or having a home-based business to fulfill orders and send with off-site mailing, where here the transfer has to happen on premise.
Chair McAlpine stated that the board has 90 days to decide on a final conclusion which would be April 11th.

Motion by Mr. Gesund supported by Co-Chair Uhlar. A recommendation was made to add to the last condition that: the City also monitors any change of ownership for that particular property, and if that does transpire that the appropriate step would be that we contact ATF to let them know that there's a change of ownership for that particular piece of property; and the City will commit to notifying the ATF if Mr. Nowak name is removed from the deed on the property. Both Mr. Gesund and Co-Chair Uhlar were friendly to that amendment of the motion.

The City of Berkley Board of Zoning Appeals finds that a modification of the administrative decision by City Manager Matt Baumgarten to deny Wolverine State Armory is a home occupation based upon the definition of home occupation in section 138-32 of ordinances is warranted based on the following findings:

1. At the public hearing held on January 11, 2022, additional information was provided by the applicant, his business partner, residents of the adjacent neighborhood and the general public.

2. Based on the testimony by the business owner at the public hearing, Wolverine State Armory is paid for facilitating paperwork for transfer of ownership of firearms between his customers and a third party.

3. The Type 1 Federally Licensed Firearms Dealer allows both direct sales of firearms and the transfer of ownership.

4. The City of Berkley will restrict a home-based business of this nature to transfers only for compliance with the definition of a home-based business.

5. Residents from neighboring properties testified at the public hearing that Wolverine State Armory does not generate more vehicular or foot traffic than single-family homes in the neighborhood.

6. While the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) cannot restrict direct sales for this type of license, the ATF, if made aware of municipal restrictions on licenses, will look for compliance with those restrictions as part of its inspections and license renewal processes.

7. The City shall require the following for Wolverine State Armory or any Type 1 Federally Licensed Firearms Dealer operating in the City as a home occupation:

   a. Advertising of any nature may not include direct sales.

   b. Annual submittal of paperwork noting the number and type of transactions.

   c. The City of Berkley will monitor compliance with the modification to the best of its ability.

   d. The City of Berkley will monitor any change of ownership for that particular property and will notify the ATF if Mr. Nowak's name is removed from the deed of the property at 1490 Franklin.

AYES: Gesund, Krug, McAlpine, McDonald, Uhlar, Wilner
NAYES: Ward
ABSENT: NONE
NEW BUSINESS

1. **APPLICATION PBA-01-22: 2740 Gardner** - Dimensional variance requests to construct an addition on a non-conforming structure that encroaches into the required minimum 15 ft. separation distance and encroaches into the required 35 ft. rear yard setback.

Interim Community Development Director Masson-Minock summarized the history of the house and the previous building permits with that address. She noted that per the request of one of the Board members, the distance between the dwellings checked by the Building Official that day and verified as in compliance with the 15-foot separation of dwellings. The applicant is not proposing to extend the house beyond the existing wall into the side yard setback. Interim Community Development Director Masson-Minock summarized the standards of review by which the ZBA would discuss the dimensional variance request.

**Petitioner:**
Michael Ely
3865 Galloway Bay Dr
Troy, MI 48098

Petitioner, Mr. Ely provided an overview of the renovation of this particular property. He is asking for the rear variance to make this addition ADA compliant.

Interim Community Development Director Mason-Minock asked the applicant specific questions on the particular structure of the house currently.

The board asked and discussed with the applicant alternatives and questions on ADA compliance. The board also discussed with the applicant, the specific details on the blueprints, on what is present and what would need to be added.

Chair McAlpine asked Interim Community Development Director Mason-Minock on what the board is specifically deciding on. She replied that the board is deciding on whether the addition as proposed should be allowed based on finding about the property or the building itself, and the case has been noticed for two variances. Interim Community Development Director Mason-Minock stated the various options the board can do, including tabling the matter and asking the petitioner come back for the second variance.

**Homeowner**
(Speaking on behalf of her brother)
Jiehan Alonzo
686 Mohegan St
Birmingham, MI 48009

Ms. Alonzo gave an overall summary of the living situation with the three current residents in the household. She also stated the obstacles and challenges the residents currently face with the structured house as is.

Chair McAlpine opened the floor up for public comment at 8:44 p.m.
Chair McAlpine closed the floor for public comment at 8:44 p.m.

Chair McAlpine opened the floor for discussion amongst the board members.

There were no responses from the neighbors or correspondence.
Ms. Ward reviewed the five-point rule, in order to approve a variance all five of these rules need to be addressed. Ms. Ward expressed this is a hardship case, in order for the family to be able to continue to live in the existing dwelling, that this would be necessary.

Motion from Ms. Ward and supported by Krug to approve the variance of 7 ft. 6 in. from the required 35-foot rear yard setback to 27 ft. 6 in. rear yard setback, with a finding that the case meets all criteria for a variance, with the condition that, when the plans are submitted to the building department, the design is appropriate for the ADA requirements.

AYES: Gesund, Krug, McAlpine, McDonald, Uhlar, Ward, Wilner
NAYES: NONE
ABSENT: NONE

MOTIONED CARRIED

The next item for discussion was the variance request for the separation distance between dwellings.

Ms. Ward asked Interim Community Development Director Mason-Minock, should there be an automatic granting of this variance, due to a city mistake.

Community Development Director Mason-Minock explained that this was not an error and explained the process of the building inspector for site plans that are submitted to the city. This was done because Mr. Krug asked for dimensions and confirmation.

Ms. Ward motioned to move to table the side variance until proper inspections can be made and measurements done to legitimize the actual distance between the two dwellings of 2740 Gardner and of 2758 Gardner. This motion was supported by Wilner.

AYES: Gesund, Krug, McAlpine, McDonald, Uhlar, Ward, Wilner
NAYES: NONE
ABSENT: NONE

MOTIONED CARRIED

OTHER BUSINESS

NONE

STAFF/BOARD MEMBER REPORT

Community Development Report was included in the packet. Interim Community Development Director Masson-Minock reported that the application for the dimensional variance heard in January for the new construction on Royal had been withdrawn.

LIAISON REPORT

Councilmember Hennen provided that prior to tonight’s discussions that the home-business ordinance needs a fresh look. He also provided resources the board can look into for framework structure.
Councilmember Hennen also provided that the council approved the rezoning on South Coolidge, from Coolidge district to Gateway District. This is closer to what the master plan calls for, and will be compatible with proposed future land use maps.

Councilmember Hennen provided an update on the Marihuana ordinance in the city. The council directed staff to prepare an ordinance amendment to increase the number of licenses from three to five. He thanked everyone for volunteering their Valentine’s Day evening here, as well as the spouses of the board.

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PUBLIC COMMENT

NONE

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With no further business, the meeting was adjourned at 9:01 p.m.
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.

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: Dale GoodCourage Phone: [Redacted]
Address: 2233 Earlmont, Berkley MI 48072
Email: [Redacted]

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

Current Tenant/Current Owner

PROPERTY OWNER INFORMATION (if different from Applicant)

Name: Same Phone: [Redacted]
Address: [Redacted]
Email: [Redacted]

PROPERTY DESCRIPTION

Address: 2233 Earlmont, Berkley MI 48072
Parcel #: 25-17-108-004 Zoning Classification: [Redacted]
Current Use of Property: Residential Living
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:

1. Combined side yard min 18'-0" reduction to 12'-11/2".

2. Min side yard reduction 5'-0" to 4'-7/2" (East side)

Has the City denied a permit 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 may affect the West side of the encroaching 2'6''.

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: Residential Living

Requested Use of Property: Same Use/Same Owner

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

Type text here

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.

Need the Additional Space to keep the Existing Driveway in place as well as the Existing Foundation and achieve the necessary Garage Placement and Square Footage. DUE TO EXISTING POSITION OF HOUSE TO \textsc{West}. Propertyline not being Square, 6\textquoteleft \textquoteleft Min at Rear of Garage not at front. Off by 4\textquoteleft\textquoteleft. Require combined side yard reduction because of existing position of house.
2. Explain how the need for the variance is not the result of actions of the property owner or previous property owners.

Existing Foundation and Driveway remain. Newly Remodeled home will fit within the characteristics of the existing neighborhood.

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.

Proposed plan will be used to accommodate an in-law section not possible with existing placement of foundation that will stay intact.

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

This will only affect the side of the encroaching 4.5' request reduction. This is the minimum to achieve the minimum garage Entry.

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

It will not affect any other properties. Stepped 1st Floor to 2nd Floor at East Side. West Side setback is actually more in proposed than existing garage setback. Achieve 5' min at most of new 2nd floor addition.
II. INTERPRETATION OF ZONING ORDINANCE

Provide Section numbers of Zoning Ordinance to be interpreted: Sec. 138-526

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

1. Variance of Side Yard Setbacks on West side of home, Min 5'-0", proposed = 5'-0" min & 4'-7 1/2" for section of new addition due to existing home not square to property line.

2. Combined Side Yard Setback minimum of 15'-0"
   Proposed = 12'-1 1/2" or 2'-10 1/2" reduction.

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.

This will only affect the West side of the shoreline.
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)*

DG 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.

DG 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)*

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

DG 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.

DG 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.

Dale GoodCourage  
Applicant Name (print)  
02/07/22  
Applicant Signature  
Date

Applicant Name (print)  
Applicant Signature  
Date

Dale GoodCourage  
Property Owner Name (print)  
02/07/22  
Property Owner Signature  
Date

City of Berkley - ZBA Application  
Updated 07.01.2021  
7 | Page
Received 2-11-22 Receipt # 12003986 Meeting Date Case # PBA-02-22

Fee: Residential $400
     Commercial $600
     Mural   $300

Current Property
PROJECT ZONING DATA:

BUILDING AUTHORITY: CITY OF BERKLEY
ZONING: R-1D (SINGLE-FAMILY RESIDENTIAL)
SETBACKS:
- FRONT = 25' MIN (UNCHANGED - EXISTING)
- SIDES = 15' MIN TOTAL BOTH SIDES (5' MIN SIDE)
- REAR = ACCESSORY = 5' AND NO LESS THAN 18" & FIRE-RATED
- HEIGHT (MAX) = 30' MAX (PRIMARY)
SUPPLEMENTAL:
- ACCESSORY = 15' (SECONDARY) MEASURED FROM GRADE TO MID-POINT ROOF
LOT AREA: 8,000 SF (EXISTING)
LOT COVER: 35% MAX LOT COVERAGE
BLDG SIZE: 854 SF (EXISTING HOUSE) + 175 SF (EXIST. GARAGE)
ACCESSORY = 800 SF MAX PER ORDINANCE
USE GROUP:
R-1D - RESIDENTIAL USE GROUP
CONSTRUCTION TYPE: 5B (WOOD FRAMED)

SITE INFORMATION:
- TOTAL LOT AREA: 7,500 SF
- TOTAL COVERAGE PERMITTED = 35% (7,500) = 2,625 SF MAX
- LOT COVERAGE CALCULATION:
  - HOUSE AREA (1ST FLOOR): 854 SF (EXIST.)
  - ACCESSORY - GARAGE (1-CAR): 175 SF (EXISTING GARAGE)
  - TOTAL COVERED AREA (1ST FLOOR AREA ONLY) = 1,029 SF
  - TOTAL COVERAGE: 1,029 / 7,500 = 13.72% (EXISTING)

PROJECT SITE DATA:

SITE PLAN EXISTING & DEMO WORK

LOT PLAN

EXISTING SITE PLAN

ARCHITECTURAL SITE PLAN - NEW
**PROJECT ZONING DATA:**

- **BUILDING AUTHORITY:** CITY OF BERKLEY
- **ZONING:** R-1D (SINGLE-FAMILY RESIDENTIAL)
- **EXISTING HOUSE:**
  - 854 SF (FL - 1ST)
  - 176 SF (EXIST. GARAGE)
- **EXISTING GARAGE:** 609 SF
- **EXISTING MUD RM:**
- **EXISTING KITCHEN:**
- **EXISTING PANTRY:**
- **EXISTING 1/2 BATH:**
- **EXISTING LIVING RM:**
- **EXISTING DINING RM:**

**SITE INFORMATION:**

- **TOTAL LOT AREA:** (60 X 125) = 7,500 SF
- **TOTAL COVERAGE PERMITTED:** = 35% (7,500) = 2,625 SF MAX

**LOT COVERAGE CALCULATION:**

- **HOUSE AREA (1ST FLOOR):**
  - 854 SF (EXIST.) + 290 SF (NEW) = 1,144 SF
  - TOTAL COVERED AREA (1ST FLOOR AREA ONLY) = 1,753 SF
- **ACCESSORY - GARAGE (2-CAR):** 609 SF (NEW PROPOSED ATTACHED GARAGE)

**TOTAL COVERAGE:**

- **1ST FLOOR COVERED AREA:** 23.37%
- **TOTAL LOT COVERAGE (INCL. ACCESSORY):** 34.6%

**TOTAL PROJECT SIZE:**

- **1ST FLOOR:** 854 SF + 290 SF NEW = 1,144 SF
- **2ND FLOOR:** 0 SF + (1,088 SF + 1,027 SF) = 2,115 SF
- **TOTAL AREA (NEW - PROPOSED):** = 3,259 SF
- **1ST FLOOR GARAGE (2-CAR):** 609 SF
- **TOTAL AREA ACCESSORY:**) = 609 SF

**NO VARIANCE NEEDED WITH GARAGE (<800 SF)**

**(2) VARIANCES REQUIRED:**

1. MIN SIDE YARD (5') - REDUCTION OF 4.5" (PROPOSED 4'-7 1/2" - N.W.)
2. COMBINED SIDE YARD MIN (15' REQUIRED) - (PROPOSED 12'-1 1/2")

**PROJECT SITE DATA:**

- **SITE INFORMATION:**
  - **TOTAL COVERAGE:** 1,144 SF (EXIST. HOUSE) + 290 SF (NEW) = 1,434 SF
  - **ACCESSORY - GARAGE (2-CAR):** 609 SF (NEW PROPOSED ATTACHED GARAGE)

**TOTAL COVERAGE:**

- **1ST FLOOR COVERED AREA:** 1,753 SF / 7,500 SF = 23.37%
- **TOTAL LOT COVERAGE (INCL. ACCESSORY):** 34.6%
- **TOTAL PROJECT SIZE:**
  - **1ST FLOOR:** 854 SF + 290 SF NEW = 1,144 SF
  - **2ND FLOOR:** 0 SF + (1,088 SF + 1,027 SF) = 2,115 SF
  - **TOTAL AREA (NEW - PROPOSED):** = 3,259 SF

**VARIANCES REQUIRED:**

- **SIDE YARD REQUIREMENTS:
  - MIN (5' REQUIRED)
  - PROPOSED 4'-7 1/2" - N.W.
  - REDUCTION OF 4.5" (PROPOSED 4'-7 1/2" - N.W.)
  - COMBINED MIN 15' REQUIRED (PROPOSED 12'-1 1/2")
F.F. = 682.28
BACK DOOR
F.F. = 680.25
EXISTING HOUSE
2233 EARLMONT RD
TAX ID: 25-17-108-004
(854 SF/FL - 1ST)
EXISTING GARAGE
(176 SF)
F.F. = 680.18
F.F. = 681.25
F.F. = 683.12
EARLMONT ROAD
(60' R.O.W)
Porch
Lot 111
TAX ID: -25-17-108-003
2253 EARLMONT RD, BERKLY
Lot 109
TAX ID: -25-17-108-005
2213 EARLMONT RD, BERKLY
PROPERTY LINE (60')
PROPERTY LINE (125')
PROPERTY LINE (125')
PROPERTY LINE (60')
BASEMENT
BEDRM #1
BATH RM
BEDRM #2
BEDRM #4
HALLWAY
CL.
DINING
MASTER SUITE
MASTER BATH
W.I.C.
W.I.C.
BEDRM / OFFICE
BED RM
WASH.
WASH.
DRYER
LAUNDRY
LIVING
KITCHEN
REF.
ARCHITECTURAL SITE PLAN - NEW
SCALE: 1/8"=1'-0"
©
10426 KINGSTON AVE
HUNTINGTON WOODS
MI. 48070
P: 248.227.5860
PROJECT ZONING DATA:
BUILDING AUTHORITY: CITY OF BERKLEY
ZONING: R-1D (SINGLE-FAMILY RESIDENTIAL)
HEIGHT (MAX) = 30' MAX (PRIMARY)
= ACCESSORY = 15' H
(MEASURED FROM GRADE TO MID-POINT ROOF)
SETBACKS:
FRONT = 25' MIN (UNCHANGED - EXISTING)
SIDES = 15' MIN TOTAL BOTH SIDES (5'-0" MIN SIDE)
= (ACCESSORY = 5' AND NO LESS THAN 18" & FIRE-RATED)
REAR = 35' MIN, (ACCESSORY = 5'-0")
LOT AREA: = 60'X125' = 7,500 SF (EXISTING)
LOT COVER: = 35% MAX LOT COVERAGE
BLDG SIZE: = 854 SF (EXISTING HOUSE) + 175 SF (EXIST. GARAGE)
= (ACCESSORY) 800 SF MAX PER ORDINANCE
USE GROUP:
R-1D - RESIDENTIAL USE GROUP (EXIST.)
CONSTRUCTION TYPE: 5B (WOOD FRAMED)
SITE INFORMATION:
TOTAL LOT AREA: (60 X 125) = 7,500 SF
TOTAL COVERAGE PERMITTED = 35% (7,500) = 2,625 SF MAX
LOT COVERAGE CALCULATION:
HOUSE AREA (1ST FLOOR): 854 SF (EXIST.) + 290 SF (NEW) = 1,144 SF
ACCESSORY - GARAGE (2-CAR): 609 SF (NEW PROPOSED ATTACHED GARAGE)
TOTAL COVERED AREA (1ST FLOOR AREA ONLY) = 1,753 SF
TOTAL COVERED: 1,753 / 7,500 = 23.37% 1ST FLOOR COVERED AREA
TOTAL COVERED: 2,115 SF + 290 SF EAST 1 STORY ADDITION + 189 SF N. PORCH
= 2,594 SF TOTAL COVERED
2,594 SF / 7500 SF = 34.6% TOTAL LOT COVERAGE (INCL. ACCESSORY)
TOTAL PROJECT SIZE:
1ST FLOOR: 854 SF + 290 SF NEW = 1,144 SF
2ND FLOOR: 0 SF + (1,088 SF + 1,027 SF) = 2,115 SF
TOTAL AREA (NEW - PROPOSED): = 3,259 SF
1ST FLOOR GARAGE (2-CAR)
= 609 SF
TOTAL AREA ACCESSORY: = 609 SF
NO VARIANCE NEEDED WITH GARAGE (<800 SF)
(2) VARIANCES REQUIRED:
1. MIN SIDE YARD (5') - REDUCTION OF 4.5" (PROPOSED 4'-7 1/2" - N.W.)
2. COMBINED SIDE YARD MIN (15' REQUIRED) - (PROPOSED 12'-1 1/2")
PROJECT SITE DATA:
SITE INFORMATION:
TOTAL PROJECT SIZE:
1ST FLOOR: 854 SF + 290 SF NEW = 1,144 SF
2ND FLOOR: 0 SF + (1,088 SF + 1,027 SF) = 2,115 SF
TOTAL AREA (NEW - PROPOSED): = 3,259 SF
1ST FLOOR GARAGE (2-CAR)
= 609 SF
TOTAL AREA ACCESSORY: = 609 SF
NO VARIANCE NEEDED WITH GARAGE (<800 SF)
(2) VARIANCES REQUIRED:
1. MIN SIDE YARD (5') - REDUCTION OF 4.5" (PROPOSED 4'-7 1/2" - N.W.)
2. COMBINED SIDE YARD MIN (15' REQUIRED) - (PROPOSED 12'-1 1/2")
This page shows the exterior style we like. Not all the fireplace steaks. Just one on the side of the house where the drop down living room will be.

This page shows the exterior color and trim we would be looking at. Then possible front door options or ideas that we are thinking.

**TO FF 1st FLOOR**
ELEV. 102'-0"

**TO FF 2nd FLOOR**
ELEV. 112'-0"

**MAX ROOF MID-POINT**
ELEV. ±130'-0"

**GRADE (VARIES)**
ELEV. 100'-0"

**TO FF BASEMENT FLOOR**
ELEV. 94'-0"

**TO U/S CEILING**
ELEV. 121'-0"

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**SCALE:**
EXTERIOR ELEVATION - NORTH
1/4" = 1'-0"

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HUNTINGTON WOODS
MI. 48070
P: 248.227.5860

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**SCALE:**
EXTERIOR ELEVATION - SOUTH
1/4" = 1'-0"
NOTE: EXISTING BASEMENT FOUNDATION WALLS TO BE SALVAGED, EXIST. FOUNDATIONS 8" CMU BLOCK ON 12" CONCRETE DRAINAGE TRENCH FOOTED AT 42" DEEP W/#5 REBAR 48" OC VERT & (2) #5 TOP AND BOTTOM RINGS.

NEW CONCRETE SLAB (PORCH).

STAINED CONCRETE FLOOR.

ALL WOOD TRIM TO BE PAINTED OFF-WHITE (TYP) NATURAL CEDAR FINISH BRACKET, TYP.

ALL SOFFITS TO BE 4" T&G, NATURAL CEDAR FINISH, TYP.

ALL EXPOSED RAFTERS & TAILS TO BE OFF-WHITE, TYP.

ALL WINDOW HEADERS EXPOSED ROUGH CEDAR 14"X4" DEEP, NATURAL CEDAR FINISH, TYP.

CONT. RIDGE VENT TYP.

NEW BRICK CHIMENY, DARK IRON SPOT BRICK, 1/3 RUNNING BOND DARK CHARCOAL MORTAR, LIMESTONE CAP.

STANDING SEAM METAL ROOF - NATURAL ZINC COLOR (DARK GRAY), 12" WIDE X 1.5" H.

MECHANICAL SEAM.

MAIN ROOF TO BE ARCHITECTURAL DIMENSIONAL SHINGLE, HIGHLAND SLATE OR SIM.

STANDING SEAM METAL ROOF - STANDARD PRECISION DRAIN MECHANICAL SEAM.

STANDING SEAM METAL ROOF - STANDARD PRECISION DRAIN MECHANICAL SEAM.

MAIN FINISH TO BE SMOOTH STUCCO ASSEMBLY, DARK CHARCOAL GRAY (TYP).

ALL NEW WINDOWS TO BE ANDERSON 100 SERIES (OR SIM.), WHITE FRAMES AND LOW-E GLASS (TYPICAL).

STANDING SEAM METAL ROOF - NATURAL ZINC COLOR (DARK GRAY), 12" WIDE X 1.5" H.

MECHANICAL SEAM.

MAIN ROOF TO BE ARCHITECTURAL DIMENSIONAL SHINGLE, HIGHLAND SLATE OR SIM.

EGRESS STAIRS BEYOND OPENING TO REAR YARD.

GARAGE DOORS BEYOND.
MEMORANDUM

To: Berkley Zoning Board of Appeals

From: Megan Masson-Minock; Interim Community Development Director

Subject: PBA-02-22; 2233 Earlmont – Request for dimensional variances to construct a new house that encroaches into the required 5 ft. side yard setback and creates a combined side yard setback of less that the required 15 ft.

Date: March 9, 2022

APPLICANT: Dale GoodCourage

LOCATION: South side of Earlmont, between Berkley Avenue and Henley Avenue

PARCEL ID: # 25-17-108-004

REQUEST: The applicant is requesting a dimensional variances to construct a single-family home that is proposed to be 4 ft. 7 ½ in. from the side lot line to the west, creating a combined side yard setback of 12 ft. 1 ½ in.

REQUIRED: The Schedule of Regulations in Section 138-526 of the Zoning Ordinance requires a minimum 5 ft. side yard setback and a minimum of 15 ft. for the total of two side yard setbacks in the R-1D District.

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

The building file on 2233 Earlmont has records for improvements to a single-family home dating back to 1970. In 1982, a building permit for a 12-foot by 12-foot shed in the approximate location of the existing garage was issued with a 3-foot setback from the side lot line to the west. There is no documentation of the expansion of the shed/garage to the current size either in the building file or the City’s electronic records. The garage location is nonconforming, as Section 138-55 requires accessory buildings or structures to be located at least 5 feet from a side lot line, unless proper fire separation has been installed.

AERIAL PHOTOGRAPH

Source: Oakland County Parcels Plus
SCOPE OF PROJECT

The property owner is proposing to demolish the existing home and detached garage and then build a 2-story single-family house with an attached garage at the southwest corner of the building. As shown on sheet A2.1 of the submitted plans, the applicant is proposing to utilize the existing foundation of the current house. The garage is proposed to be connected to the house via the second story, which will be cantilevered over the driveway. The proposed home would propose to be 4 ft. 7 ½ in. from the side lot line to the west, creating a combined side yard setback of 12 ft. 1 ½ in.

SUMMARY OF REQUEST

The applicant is proposing to construct a single-family house that does 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.
   The Zoning Ordinance requires a minimum 5 ft. side yard setback in the R-1D District.

   As noted on the plans dated as revised on November 30, 2021, the proposed dwelling is four (4) feet, seven and a half (7 ½) inches from the side lot line to the west. The applicant is requesting a variance of four and half (4 ½) inches from the five (5) foot required side yard setback.

2. Minimum of 15 ft. for the total of the side yard setbacks.
   The Zoning Ordinance requires a minimum of 15 ft. for the total of the side yard setbacks in the R-1D District.

   As noted on the plans dated as revised on November 30, 2021, the total of the side yards of the proposed dwelling would be twelve (12) feet and one and a half (1 ½) inches. The applicant is requesting a two (2) foot, ten and a half (10 ½) inch variance.

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. Minimum Side Yard Setback is 5 ft.

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

   The applicant states in their application that the need for the variance is due to location of the existing foundation to be used for the proposed new construction. The foundation walls are not precisely parallel to the western side lot lines. The proposed second story to be cantilevered over the driveway is the portion of the proposed building that would encroach into the side yard setback. The Zoning Board of Appeals will need to decide if the location of the existing foundation is a unique physical condition of the 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 the result of actions of the property owner. A single-family home in compliance with the setbacks for the principal residence exists on the lot.

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 using the property for a permitted purpose and will not render conformity with those regulations unnecessarily burdensome. Again, a single-family home in compliance with the setbacks for the principal residence exists on the lot.

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 variance requested four and a half inches (4 ½) inches and follows the line established by the existing foundation walls.

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

The requested variance will not adversely impact the surrounding properties. The request is for a variance of less than a half foot, where the separation from existing dwelling to the west would be 19 ft. 9 ½ in. from the proposed single-family home.

2. **Minimum of 15 ft. for the total of the side yard setbacks.**

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

The applicant states in their application that the need for the variance is due to location of the existing foundation to be used for the proposed new construction. While the foundation wall location could be seen as a unique physical condition of the property for the variance from the side yard setback, it does not carry the same weight in deliberation of the variance for the total of the yards. The setback from the eastern side lot line could enlarged to meet this requirement by the reduction of the width or elimination of the one-story living room area on the eastern portion of the proposed single-family dwelling.

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 actions of the property owner. A single-family home in compliance with the setbacks for the principal residence exists on the lot.
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 using the property for a permitted purpose and will not render conformity with those regulations unnecessarily burdensome. Again, a single-family home in compliance with the setbacks for the principal residence exists on the lot.

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 may be the minimum variance necessary to do justice to the property owner. While a single-family home can be built on the site that complies with the combined side yard setback requirement, a decrease of the width of the one-story living room area on the eastern portion of the proposed single-family dwelling may create a room that is not functional. In addition, a decrease in the width of that single-floor addition would change the architectural balance of the front façade.

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

The requested variance will may adversely impact the surrounding properties. The proposed single-family house is taller and wider than many of the older homes on surrounding properties. However, the design relatively matches the height and width of the newly constructed house on the block. The Zoning Board of Appeals should decide whether the width of the proposed house would 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  
John Lipchik, Building Official  
Dale GoodCourage
Notice
Meeting of the Berkley
Zoning Board of Appeals

Notice is hereby given, that there will be a meeting of the Zoning Board of Appeals to be held at the City of Berkley in the Council Chambers, 3338 Coolidge, Berkley, Michigan on Monday, March 14, 2022 at 7:03 p.m. or as near thereto as the matter may be reached.

Application Number PBA-02-22
Dale GoodCourage, 2233 Earlmont, Parcel #25-17-108-0049, south side of Earlmont, between Berkley Avenue and Henley Avenue, is requesting two (2) dimensional variances: 1) to construct a new house to be attached to the existing detached garage that will encroach into the required 5 ft. side yard setback; and, 2) to construct a new house to be attached to the existing detached garage where the total of the two side yards is less than the required 15 ft.

1. The new house to be attached to the existing detached garage is proposed to be 4 ft. 7 ½ in. from the side lot line to the west.

2. The new house to be attached to the existing detached garage is proposed to have two side yards totaling 12 ft. 1 ½ in.

Berkley City Code
Berkley City Code, Chapter 138 Zoning,

1. Berkley City Code, Chapter 138 Zoning, Article V, Division 17, Sec.138-526, Schedule of Regulations table requires minimum 5 ft. side yard setback in the R-1D District. The applicant is requesting a 4 ½ in. side yard setback variance for the new house to be attached to the existing detached garage.

2. Berkley City Code, Chapter 138 Zoning, Article V, Division 17, Sec.138-526, Schedule of Regulations table requires minimum 15 ft. for the total of two side yard setbacks in the R-1D District. The applicant is requesting a 2 ft. 10 ½ in. combined side yard setback variance for the new house to be attached to the existing detached garage.

Comments on the granting of the above variance may be made in person on the night of the meeting or in writing. All written comments must be in the hands of the Berkley Building Department before 6:00 p.m. on the date of the Public Hearing.

MEGAN MASSON-MINOCK
INTERIM COMMUNITY DEVELOPMENT DIRECTOR
THE THOMAS H WESNER LIVING TRUST
2233 EDGEWOOD BLVD
BERKLEY MI 48072 1886

JONATHAN E MILLER
2293 EDGEWOOD BLVD
BERKLEY MI 48072 1886

DALE GOODCOURAGE
2233 EARLMONT RD
BERKLEY MI 48072 1878

JUDITH A GILBERT
2273 BEVERLY BLVD
BERKLEY MI 48072 1862

BENJAMIN F VANDELINDER
CARA E VANDELINDER
2173 BEVERLY BLVD
BERKLEY MI 48072 1829