



# City of Ann Arbor

301 E. Huron St.  
Ann Arbor, MI 48104  
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## Meeting Minutes Zoning Board of Appeals

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Wednesday, April 25, 2012

6:00 PM

City Hall, 301 E. Huron Street, 2nd Flr.

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### CALL TO ORDER

*Vice Chair Briggs called the meeting to order at 6:04 p.m.*

### ROLL CALL

*Vice Chair Briggs called the roll and welcomed the newest Zoning Board of Appeals member, Maureen Sertich.*

**Present:** 7 - Candice Briere, Wendy Carman, Sabra Briere, Erica Briggs, Alex Milshteyn, Perry Zielak, and Maureen Sertich

**Absent:** 2 - Chair Carol A. Kuhnke, and Ben Carlisle

### APPROVAL OF AGENDA

**A motion was made by Milshteyn, seconded by Zielak, that the Agenda be Approved as presented. On a voice vote, the Vice Chair declared the motion carried.**

**Amendment made by S. Briere, seconded by W. Carman to move the Yearly Organizational Meeting items to the end of the Agenda. Unanimously approved.**

### APPROVAL OF MINUTES

**12-0585** March 28, 2012 Draft ZBA Meeting Minutes

**A motion was made by Zielak, seconded by C. Briere, that the Minutes be Postponed to the Zoning Board of Appeals. On a voice vote, the Vice Chair declared the motion carried.**

### APPEALS AND ACTIONS

**12-0586**

ZBA12-005; 1117 South State Street  
Michael Van Goor is Requesting Permission to Alter a Non-Conforming Structure in order to permit the construction of a new foundation for an existing single-family residential structure. The structure currently is non-conforming due to inadequate rear setback, front setback, and minimum lot area. During the foundation replacement, the building will be shifted south to the side setback line to allow the opportunity for a future addition to the north. The non-conforming front and rear setback dimensions will remain unchanged by the foundation shift.

*Matt Kowalski gave the staff report.*

*DESCRIPTION:*

*The subject parcel is located on South State Street, just north of McKinley Avenue and across the street from The University of Michigan's Yost Arena. The existing structure is a 1,406-square foot, single-family dwelling constructed in 1915. The parcel is zoned R4C (Multiple-Family).*

*The parcel is nonconforming for lot size (7,680 sf; required is 8,500 sf). The existing structure is non-conforming because it encroaches into the required front and rear setbacks. The required front setback is 25 feet, and the house is setback 17 feet from the front property line (8 foot existing encroachment). The required rear setback is 30 feet, and the house is setback 27 feet 9 inches from the rear property line (2 foot 3 inch encroachment).*

*The petitioner is proposing to lift the house and construct a new foundation 5 feet 6 inches closer to the south property line. The structure will then be moved to the new foundation, which will be located at the 12 foot required south side setback. The front and rear setbacks will remain exactly as they are currently (17 and 27 feet 9 inches respectively), and the north side setback will increase from 34 feet 7 inches to 40 feet 4 inches. The ceiling height in the basement will be increased to provide the minimum height required by Building code for the addition of bedrooms.*

*After renovations to the interior, the relocated structure will contain a total of six bedrooms: two in the basement and four on the second floor. The first floor will be living and dining area, including a kitchen. The structure will remain single-family with a maximum occupancy of six unrelated people.*

*There are no changes proposed to the footprint of the existing structure, with the exception of a small porch and steps added to the exterior rear of the structure.*

*STANDARDS FOR APPROVAL**Permission to Alter a Non-Conforming Structure:*

*The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:*

*The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.*

*As presented, the footprint of the existing house will not be expanded; the petitioner is asking to alter an existing non-conforming structure by moving it 5 feet 6 inches to the south. The encroachment into the front and rear setback will remain exactly the same and the north setback will be increased by 5 feet 6 inches. Given the design of the existing house, it would be impractical to remove portions of the building to comply with either the front or rear setback requirement.*

*After renovations and relocation, the structure will be used as a single-unit student rental home and is generally consistent with other surrounding uses. The addition of bedrooms will not increase the maximum occupancy of the house (6 people) permitted in the R4C Zoning District. The proposed renovations will bring the structure into conformance with all Building and Housing codes.*

*QUESTIONS TO STAFF BY THE BOARD:*

*W. Carman asked staff if the petitioner were raising the height of the ceiling in the*

*basement to add bedrooms, but didn't have to do foundation work, would they still have to come before the ZBA.*

*M. Kowalski answered No, not for a single-family residential structure. He explained that if it were for a two, three, or multi-family structure, then they would be required to come before the ZBA.*

*S. Briere asked if egress windows would be required for basement bedrooms if the residence was not rental property.*

*M. Kowalski responded, yes, egress windows are required for basement bedrooms, and he believed egress windows would be required for any habitable space. He deferred the building code issue to the architect.*

**PRESENTATION BY THE PETITIONER:**

*Mike Van Goor, Architect for the project was present to answer any questions from the Board. He explained that if the basement space were habitable space the building code required egress windows. He noted that their project was proposing window wells. Van Goor explained their project and the need for building repairs.*

*S. Briere stated that her thumb-nail calculations showed that if the petitioner rotated the house 90 degrees, they would be creating a structure that would be in-conformance with the code. She asked the petitioner if they had considered altering the front entrance to having it on the side of the building.*

*Van Goor responded that they aren't increasing any non-conformity and they hadn't considered rotating the building since they would like to maintain the existing streetscape and the alignment of the house with the other houses on the block, rather than create something that wasn't agreeable with the rest of the neighborhood.*

*W. Carman asked about the existing floor plan.*

*Van Goor explained that the plans showed all existing interior walls that were proposed to remain or be removed. He said the kitchen has been expanded to make it a more useable space and the second floor will get a more useable bathroom, as well as added closets in the bedrooms.*

*W. Carman asked if the existing house had five bedrooms, pointing out that the house showed five legal bedroom size rooms.*

*Van Goor responded that after the proposed changes they would have six bedrooms.*

*W. Carman said that in viewing the proposed plans it looked like they would have three additional bedrooms in the basement, since the room that was labeled study on the plans was large enough to be a bedroom.*

*Van Goor stated that they would have two bedrooms in the basement, with a utility room in the back.*

*M. Kowalski clarified that the petitioner had revised their layout plans after their original submittal, and the layout being presented on the PowerPoint presentation were the active plans. He reviewed the proposed floor layout with the Board.*

*Van Goor explained that they had originally planned to create a utility area under the porch area, but it proved not to be practical, so they revised their plans to show all*

utility equipment moved into the area, previously labeled as a study.

A. Milshteyn asked if they approved the proposed plan as presented, would the current zoning code allow the owner to build additional units to the structure.

M. Kowalski responded, No, not under the current zoning, since the lot is non-conforming. He said since they are zoned R4C they are allowed a total of six occupants.

A. Milshteyn asked the petitioner what he meant by his comment that they could add onto the house in the future.

Van Goor stated that they could still add onto the house as a single-family structure; however, no such plans had been worked out at this time.

S. Briere said that the R4C zoning is currently going through changes and the City Council has been told that they will be receiving a report from the R4C/R2A Study Committee this month. She asked if there are recommendations for increased density [smaller units on the same footprint, allowing more people on the same lot] how would those changes be affected by anything the ZBA decided tonight.

M. Kowalski responded that any recommended code changes coming through the R4C/R2A Committee would need to go through the ordinance review process which is a lengthy process. He noted that there was a possibility that this specific lot could become conforming in the future, but there was currently no way of knowing that. He explained that as long as the lot remains a non-conforming lot the owner is not able to add another unit to the structure without ZBA approval. Kowalski said that the proposed shifting of the building has no bearing on the R4C/R2A recommendations.

#### AUDIENCE PARTICIPATION:

Daniel Jones, Co-owner of the property, said that in laying out the floorplan he had considered the best possible living arrangements for this particular structure. He stated that he had considered shifting it broadside to State Street but the traffic on State Street is very heavy and the girth of the house would face a lot of traffic. He explained that for him it was very important to try to draw as much sunlight into the house and through keeping the house facing south they felt they would have a better living environment.

#### BOARD DISCUSSION:

A. Milshteyn asked if the owner would be required to come before the ZBA if they were only rebuilding the foundation.

M. Kowalski said, No.

S. Briere asked, given the condition of the foundation, if the petitioner decided to demolish the existing house would they be able to use the same footprint to build a new house.

M. Kowalski answered, No, since once the house is gone, the owner would need to conform to the existing zoning classification.

W. Carman commented that the petitioner is adding habitable space by raising the foundation and creating additional bedrooms in the basement, and because the lot itself is non-conforming they needed to come before the ZBA.

*M. Kowalski explained that the house in question is considered a 1-unit, single-family structure in the R4C zoning district, that is a registered rental house which is allowed to house up to six unrelated persons. He said the non-conforming lot size does not affect the occupancy.*

*S. Briere explained that if the petitioner lived in the house with their family, and it wasn't rental property, they could add additional bedrooms in the basement and raise the foundation without coming before the ZBA.*

*A. Milshteyn asked why the petitioner would come before the ZBA asking for permission to alter a non-conforming structure, when they had the option of rebuilding the foundation but leaving the structure in the same location.*

*W. Carman commented that once the petitioner completes the changes the lot will still be considered too small.*

*E. Briggs noted that the proposed plans indicate six bedrooms and one study, and it will be up to the rental inspection department to monitor the use of the study.*

*W. Carman noted that the proposed study is large enough to be used as a bedroom, and the use of study rooms as bedrooms in rental properties has become prevalent throughout the city and is a concern.*

*D. Jones added that the doors leading into the study are glass and create more of an open separation from the dining room and study than with a solid wood door. He said they don't want any over occupancy issues and they have a reputation to uphold. He said that the proposed changes would make the house look more like it did originally.*

*S. Briere asked if there would be financial harm to the petitioner if they moved the house while redoing the foundation and then moved the house back to the original footprint.*

*D. Jones said they are willing to take a bet and move the house to one side with the thought that the zoning could change in the future, adding that since the property is rental property there is a revenue component to the issue. He said they also have to work with the soil material on the lot which is compressed clay, so it is better to get the house out of the earth which will give them a longer foundation life than keeping it buried where it currently is.*

*W. Carman asked if the house foundation was made out of rock.*

*Van Goor said it was concrete with river-rock in it.*

*W. Carman asked if moving the house up on the foundation would require them to move the house to the side, as proposed.*

*D. Jones said No.*

*E. Briggs asked if moving the house would make the structure any less non-conforming.*

*M. Kowalski responded, No.*

**Motion made by W. Carman, seconded by P. Zielak, in case ZBA12-005, 1117 South State Street, that the Zoning Board of Appeals grant permission to alter a non-conforming Structure, per submitted plan and given the following**

**findings of fact:**

- a. The alteration complies as nearly as practicable with the requirements of the Zoning Chapter.
- b. The alteration will not have a detrimental effect on neighboring property
- c. The property is non-conforming due to insufficient lot size.
- d. The structure is non-conforming due to encroachments both in the front and rear setbacks.
- e. The change will move this structure without creating a larger footprint or changing the existing non-conformities.
- f. The changes will permit the construction of two bedrooms in the basement by raising the basement ceiling height which will increase inhabitable space to the structure but the structure will continue to have a six person maximum occupancy.

**COMMISSION DISCUSSION:**

*M. Sertich asked for clarification that the motion was to approve the moving of the structure as well as reconstructing the foundation of the house.*

*W. Carman said, Yes.*

*S. Briere clarified that all motions are always written in the affirmative.*

**On a roll call, the vote was as follows with the Vice-Chair declaring the motion carried.**

**Petition granted.**

**Yeas:** 5 - Briere, Carman, Briggs, Zielak, and Sertich

**Nays:** 2 - Councilmember Briere, and Milshteyn

**Absent:** 2 - Chair Kuhnke, and Carlisle

**YEARLY ORGANIZATIONAL MEETING****12-0587**

Election of Vice Chairperson for the Zoning Board of Appeals

*Vice Chair Briggs informed the Board that she will be stepping down from the Board as soon as the City Planning Commission appoints a new representative to the Zoning Board of Appeals.*

*Briggs asked for nominations for Vice Chair.*

**A. Milshteyn was unanimously voted in as Vice Chairperson for the Zoning Board of Appeals. On a voice vote, the Vice Chair declared the motion carried.**

**12-0588**

July 2012 - June 2013 Zoning Board of Appeals Meeting Schedule

**Approved**

**12-0589**

Review of the ZBA Rules and Procedures

*M. Kowalski stated that staff is requesting that the Board postpone taking action on this agenda item in order to allow a review from the City Attorney's office to see if any changes are needed. He explained that the Attorney's Office is doing a review of all City Boards and Commissions to make sure they are current with State and Federal statutes as well as bringing them into similar formatting with other City bylaws.*

*M. Kowalski asked for volunteers whom would be willing to work with the City Attorney's office on the review of the bylaws and provide recommendations to them.*

*W. Carman volunteered.*

*E. Briggs suggested that it would be a good idea for C. Kuhnke to be involved as well in the Bylaw review.*

**A motion was made by Zielak, seconded by Briere, that the Review of the ZBA Rules and Procedures be Postponed to the Zoning Board of Appeals and should be returned by 6/27/2012. On a voice vote, the Vice-Chair declared the motion carried.**

**OLD BUSINESS****NEW BUSINESS****REPORTS AND COMMUNICATIONS**

*W. Carman asked for an update on the ZORO draft from the City Attorney's office.*

*S. Briere asked for a briefing on the R4C/R2A recommendation process.*

*M. Kowalski stated that the draft recommendation had been emailed out today to the Committee and is scheduled to go on the May 8, City Planning Commission working session agenda.*

*S. Briere asked the date of the next Advisory Committee meeting.*

*M. Kowalski said there are no Advisory Committee meetings scheduled at this time; however, he noted that there will be a review period.*

*W. Carman said as a member of that committee she would not like the report to move on to City Planning Commission as long as there are objectionable issues.*

**AUDIENCE PARTICIPATION - (3 Minutes per Speaker)****ADJOURNMENT**

**A motion was made by Zielak, seconded by Milshteyn, that the meeting be Adjourned at 6:56 p.m. On a voice vote, the Vice Chair declared the motion carried.**

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