



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
June 22, 2011**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, June 22, 2011 at 6:00 p.m. in City Council Chambers, located at 301 East Huron, A2, MI. The meeting was called to order at 6:00 p.m. by Chairperson Carol Kuhnke.

ROLL CALL

Members Present: **(8)** C. Briere, E. Briggs, J. Boggs, C. Kuhnke, P. Zielak, D. Gregorka, S. Briere and C. Carman (arr. @ 6:10 p.m.)

Members Absent: **(1)** A. Milshteyn

Staff Present: **(1)** M. Kowalski

A – APPROVAL OF AGENDA

A-1 - The Agenda was approved as presented.

B - APPROVAL OF MINUTES -

B-1 Draft Minutes of the May 25, 2011 Regular Session (*Not available*)

C - APPEALS & ACTION

C-1 ZBA11-009 – 2860 Ember Way

Description and Discussion

Michael Raschke is requesting one Variance from **Chapter 104 (Fences), Section 8:434**, in order to permit a maximum 6 foot, 100% opaque fence in the front open space. (*A maximum of 4 feet, 50% opacity is permitted.*)

The subject parcel has additional frontage on Packard Road, and as such is subject to two front setbacks. The parcel is zoned R2A (Two-Family Dwelling District), which requires a 25-foot front setback from Packard Road Right of Way line as well as 25-foot front setback from Ember Way. Although Packard Road is considered a front property line (per the Zoning Code), there is no access to the road or sidewalk for the subject property or adjacent parcels.

The following requirements are excerpts from **Chapter 104, Section 8:434(1)**:

(1) Fences located in residential districts:

- (a) In the required front open space shall not exceed 4 feet in height and 50% opacity
- (b) Shall not exceed 6 feet in height and 80% opacity in any part which is 25 feet behind the front setback line.
- (c) Shall not have a height of greater than 8 feet at locations other than those described in subsections (a) and (b).

52 The petitioner is requesting permission to construct a 6 foot high 100% opaque privacy fence
 53 within the required front open space of Packard Road. The fence would extend 94 feet along
 54 the Packard Road frontage. Although the zoning ordinance considers Packard Road a front, it
 55 does function as the 'rear yard' of the house and there is no ability to access Packard or the
 56 sidewalk along Packard from the subject property or adjacent parcels. The fence would be
 57 installed 8 feet from the edge of the Packard Road sidewalk, along the top of the existing
 58 vegetated berm. The fence standards (Chapter 104) were established in 1963.

59
 60 As stated earlier, although the zoning code considers the area along Packard as a frontage,
 61 the parcel, or adjacent parcels, have no ability for vehicular access to Packard Road. The
 62 parcel is located just to the east of the Packard Road and Stone School intersection and does
 63 have significant traffic flow on a daily basis. Due to the fact that there are no driveways along
 64 Packard Road and the fence will be set back 8 feet from the Packard Road sidewalk, the fence
 65 should not interfere with the safety of pedestrians and/or the visibility of vehicular traffic on
 66 Packard. The fence will be screened by existing vegetation and will be located on top of an
 67 existing berm, approximately 3 feet in height. A four foot high, 50% opaque fence could be built
 68 in the same area as the subject fence without the need for a variance.

69
 70 *Note: W. Carman arrived during the staff presentation, approximately 6:10 p.m.*

71

72 **Questions to Staff by the Board**

73

74 S. Briere – Asked if the other fences in the area are also in the same situation. Mr. Kowalski
 75 stated that in his research, there were none in the immediate area, but along other places on
 76 Packard Road, there were some within the front setback. It was unknown if those had been
 77 permitted or not.

78

79 **Presentation by the Petitioner**

80

81 Mr. Michael Raschke, owner and petitioner was present to speak on behalf of the appeal. He
 82 stated that the noise from busses and other traffic on Packard road make it difficult to enjoy the
 83 back yard. He stated that he has notified all of his neighbors and asked for their input. He
 84 stated that he received two letters back, both in support; one from 2850 Ember Way and one
 85 from 2860 Gladstone.

86

87

88 **Questions to the Petitioner by the Board**

89

90 D. Gregorka – Asked why the petitioner could not accept a fence that is code compliant.
 91 Petitioner stated that due to the 50 percent opaque rule and 4 foot height restriction, the noise,
 92 trash and dust will only be alleviated by 50 percent. He stated that he feels that he is being
 93 penalized unfairly since his property is considered to have 'two' frontages on it. Since there
 94 will never be a drive or a through street created there, it will never impede traffic.

95

96 W. Carman – What is the height of the berm there? (About 3 feet)

97

98 **Public Comment** – None.

99

100 **Discussion by the Board**

101

102 J. Boggs – This is an issue because it has two frontages? If one were the rear, and it is the
 103 rear for the homeowner, this wouldn't be a problem.

104

105 E. Briggs – Stated that she visited the site, and doesn't think you could see it in the summer,
 106 but once the vegetation dies, it would be very apparent. Is there anything different about this
 107 situation that would justify this fence?
 108

109 D. Gregorka – It's an unfortunate situation. There is no difference with this property to other
 110 properties that backs up to Packard. At some point, there should be discussion about
 111 changing the ordinance if that was the general opinion, but there don't appear to be any
 112 special circumstances with this property that would allow for a variance under our guidelines.
 113

114 W. Carman – There are some places in the city where there are safety issues that this might
 115 apply, but this neighborhood was built with the berm between the homes and Packard to
 116 minimize any noise or other problems. This was planned that way and If we grant a variance
 117 we could set a precedent.
 118

119 J. Boggs – Suggested that it might be more affordable to create additional landscaping.
 120

121 *(Additional discussion by the board regarding other fences in the area).*
 122

123 **MOTION**

124
 125 Moved by *D. Gregorka*, Seconded by *C. Briere*, “**In the case of ZBA11-009, 2860 Ember**
 126 **Way, the Zoning Board of Appeals hereby grants a Variance from Chapter 104, Section**
 127 **8:434 of 2 feet in height and 50 percent opacity in order to permit a six foot fence to be**
 128 **built on top of an existing three foot berm with 100 percent opacity to be placed within**
 129 **the front setback. Based on the following findings of fact and in accordance with the**
 130 **established standards for approval (per submitted plans);**
 131

132 a) **Petitioner believes that a 4 foot fence with 50 percent opacity will not provide**
 133 **adequate protection from noise and debris from Packard Road.**

134 **NOTE: J. Boggs stated that he realized that he is the Manager of the realtor who has this**
 135 **property up for sale, and should, therefore, abstain from voting on this issue.**

136 **On a Voice Vote – MOTION TO APPROVE – FAILED – 6 Nay, 1 Yea, 1 Abstain, 1 Absence**

137 **(Nay) D. Gregorka, C. Kuhnke, W. Carman, P. Zielak, C. Briere & E. Briggs;**

138 **(Yea) S. Briere; (Abstain) J. Boggs; (Absence) A. Milshteyn**

139 **Variance Denied**
 140
 141

142 **C-2 ZBA11-010 – 2002 Scottwood Avenue**

144 **Description and Discussion**

145
 146 Roger Young is requesting one variance from Chapter 55 Section 5:27 (R1B, Single-Family) of
 147 18 feet 3 inches from the rear setback of 40 feet to permit construction of an addition 21 feet 9
 148 inches from the rear property line.
 149

150 **The Chair noted at this time that this petition has been *withdrawn by the petitioner.***

151 **C-3 ZBA11-011 – 109 East Summit Street**

152
153 **Description and Discussion**

154
155 Jonathan Weber is requesting one Variance from **Chapter 59 (Off-Street Parking), Section**
156 **5:167 (Required Parking)**, of 2 parking spaces and Permission to Alter a Non-conforming
157 Structure in order to permit the previous conversion of an existing single-family residential
158 structure into a duplex.

159
160 Chair C. Kuhnke stated that the board has been asked by the petitioner to postpone this
161 hearing. Although we have no obligation to do it, it makes sense to table this until further
162 notice. (No objections).

163
164 **MOTION**

165
166 Moved by D. Gregorka, Seconded by J. Boggs, **“To table ZBA11-011, 109 East Summit**
167 **Street until further notice.”**

168
169 **On a Voice Vote – MOTION TO TABLE – PASSED – UNANIMOUS**

170 **Appeal Tabled**

171
172
173 **C-4 ZBA11-012 – 215 Beakes Street – Administrative Review**

174
175 **Description and Discussion**

176
177 David Santacroce is requesting Zoning Board of Appeals approval in order to change one non-
178 conforming use to another non-conforming use as described in Chapter 55, Section 5:86(1).

179
180 The subject 3,680 square foot building is located at 215 Beakes Street and is zoned R4C. The
181 building was built in approximately 1930 and is currently operating as a garage for repair,
182 storage, parking of vehicles, as well as some use as a warehouse for storage of files and
183 documents. Historical records indicate the building has been used for vehicle repair and
184 storage for at least 40 years. As indicated above the property is zoned R4C (Multiple-Family
185 Residential) and all current and documented uses of the building are not permitted uses within
186 the R4C zoning district. The petitioner would like to use the structure for offices; however an
187 office use is also not permitted in the R4C zone. As a result, the petitioner is requesting
188 permission to change from one non-conforming use to another non-conforming use.

189
190 The petitioner is also requesting a variance from Chapter 59, Section 5:167 (Required Parking)
191 of the 11 parking spaces that are required based on the use of the building as an office. The
192 amount of required parking for an office use is 1 space per 333 square feet of total floor area
193 minimum; or 3,680 (total square building footage) divided by 333, which equals 11 parking
194 spaces required minimum.

195
196 Zoning staff believes the proposed office use will be less detrimental to surrounding properties
197 and the general public than the current use of the facility. The building is located directly on
198 Beakes adjacent to residential uses and has been used continuously as a vehicle
199 repair/storage facility for at least 40 years. The change of use to office will significantly reduce
200 the potential safety hazard from traffic entering from and exiting onto Beakes that results from
201 the historical use of the building. The proposed office use is more compatible with the
202 adjacent residential neighborhood than the existing automotive/storage uses.

203 If permission is granted by the Zoning Board of Appeals, staff would request (and the petitioner
204 has agreed) that any office use specifically EXCLUDE medical and dental uses.

205
206 The parcel currently has no exterior parking available on site and, since the existing building
207 occupies the entire parcel, there is no space available to add parking. The parcel is
208 approximately one block from the DDA boundary, which is parking exempt. There are
209 numerous public/private parking options available within 3-4 blocks of the parcel, including the
210 Ann-Ashley parking structure. The proximity to the Kerrytown district and downtown make this
211 location attractive for potential office uses that do not necessarily require a large amount of
212 parking on site and can take advantage of the availability of public parking, including on-street
213 parking (2-hour limit), public transit (AATA), and non-motorized transit options.

214
215 In addition, this facility could be used as a 'satellite' office for a business already operating
216 (and parking) downtown that needs additional office space in close proximity to the main office.
217 The uniqueness of the building could also lend itself to an atypical office use (e.g. architecture
218 studio), which would utilize more office space per employee, thus resulting in fewer total
219 employees than the typical office use the parking code was written to address.

220
221 **Questions to Staff by the Board**

222
223 *The board discussed at length the lack of parking and the current use of the building, as well*
224 *as what improvements could or could not be done to the building.*

225
226 **Presentation by the Petitioner**

227
228 Mr. David Santacroce was present to speak on behalf of the appeal. He stated that he owns
229 the home in back of this building and had purchased it mainly to make it a less intrusive use in
230 neighborhood and had done extensive work to the exterior of the building. He stated that his
231 intention is to sell the building, but wants to reclassify the use on this prior to sale so that no
232 repair shop or similar high demand parking need would remain. He proposed office use and/or
233 artisan/craftsperson studio.

234
235 **Questions to the Petitioner by the Board – None.**

236
237

238 **Public Comment**

239
240 Chair C. Kuhnke stated that staff had received several letters in support of the petition; among
241 those were letters from the North Central Property owners association; 709 N. Fifth, 520 N.
242 Fifth, 620 N. Fourth, 711 N. Fourth and 603 N. Fifth.

243
244 The chair asked if anyone wanted to speak to this petition – *(None.)*

245
246

247 **Discussion by the Board**

248 *The board was in general agreement that they were glad to see that although this would be*
249 *one non-conforming use to another non-conforming use, the parking would be less intense and*
250 *more beneficial to the neighborhood.*

251 **MOTION #1**

252

253 Moved by *E Briggs*, Seconded by *D. Gregorka*, “In the case of ZBA11-012, 215 Beakes
 254 Street, the Zoning Board of Appeals hereby grants Permission To Change the current
 255 Non-conforming use (of a vehicle repair facility) to another Non-conforming use,
 256 (OFFICE, with the exception of Medical, Dental, *Veterinary, Bank, Coiffure or Funeral
 257 Home), based on the findings of fact:

258

259 a. That the new use will have a less detrimental effect on the neighboring
 260 properties than the current use (vehicle repair).

261

262 On a Voice Vote – MOTION TO APPROVE – **PASSED – UNANIMOUS**

263 **Permission To Change one Non-Conforming use to another Non-Conforming Use –**
 264 **Granted**

265

266 ***Friendly amendment – S. Briere/D. Gregorka**

267

268 **MOTION #2**

269

270 Moved by S. Briere , Seconded by P. Zielak , “In the case of ZBA11-012, 215 Beakes Street,
 271 the Zoning Board of Appeals hereby grants a Variance in exception to the parking
 272 requirements because the Variance is in harmony with the general purpose and intent
 273 of the requirements, *and*;

274

275 a. * There is no open parking on the site;

276

277 b. There is a multitude of public transportation; and,

278

279 c. It is within one block of the parking exempt district.

280

281 ***Friendly amendment – Moved by D. Gregorka, Seconded by P. Zielak.**

282

283 On a Voice Vote – MOTION TO APPROVE – **PASSED – UNANIMOUS**
 284 **Variance Granted**

285

286 D. **OLD BUSINESS** – None.

287

288 E. **NEW BUSINESS** –

289

290 E-1 Election of Vice-Chair Nominate Erica Briggs/Support by D. Gregorka –
 291 Unanimous

292

293 E-2 Annual Rules Review – No Changes.

294

295

296 F. **REPORTS & COMMUNICATIONS** – Covered under ‘Appeals & Action’

297

298 **AUDIENCE PARTICIPATION – GENERAL** – None.

299

300 **ADJOURNMENT**

301

302 Moved by J. Boggs, Seconded by C. Briere, “That the meeting be adjourned.”

303

304 **On a Voice Vote** – MOTION TO ADJOURN - **PASSED - UNANIMOUS**

305

306 Adjournment – 7:27 p.m. (**Submitted by: Brenda Acquaviva, Administrative Specialist V**
307 **– Zoning Board of Appeals**)

308

309

310

311

312

313 _____
C. Kuhnke, Chairperson

Dated

_____ ZBA Minutes

314

315 *Note: The complete record of this meeting is available in video format at
316 <http://a2govtv.pegcentral.com/index.php> or is available for a nominal fee by contacting CTN at
317 (734) 794-6150.