



**APPROVED MINUTES OF THE REGULAR MEETING OF  
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR  
SEPTEMBER 23, 2007**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, September 23, 2007 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:05 p.m. by Chairperson Carol Kuhnke.

**ROLL CALL**

Members Present: (8) C. Carver, R. Eamus, D. Gregorka,  
C. Briere, R. Suarez, D. Tope, C. Kuhnke and  
K. Loomis

Members Absent: (1) W. Carman

Staff Present: (2) M. Kowalski and B. Acquaviva

**A – APPROVAL OF AGENDA**

**A-1** The Agenda be approved as presented without objection.

**B - APPROVAL OF MINUTES**

**B-1** Approval of Draft Minutes of the August 22, 2007 Regular Session.

Moved by D. Tope, Seconded by, K. Loomis, **“that the minutes of the August 22, 2007 Regular Session be approved as presented.”**

**On a Voice Vote – MOTION PASSED – UNANIMOUS**

**C - APPEALS & ACTION**

**C-1 2700 Kimberley Road – 2007-Z-017**

Michael Fry is requesting permission to alter a non-conforming structure as described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance

**Description and Discussion:**

The subject parcel is located at 2700 Kimberley. The parcel is zoned R1C (Single-Family Residential District) and is located on the corner of Kimberley and Columbia. The house was built in 1963 and is 1056 square feet.

The petitioner is proposing to construct a 24 foot by 24 foot (576 square feet) attached garage and 8 foot by 11 foot breezeway (88 square feet) addition to the house, for a total of 1144 square feet. The house is non-conforming for the front setback along Columbia. The proposed garage will not be constructed any closer to the front property line along Columbia than the existing structure. The required front setback is 25 feet and the existing house is located 24 feet from the edge of the Right of Way. However, the averaged existing setback from the adjacent house along Columbia results in a required front setback of 33 feet. The house is 40 feet from the edge of the pavement and there is no sidewalk along Columbia.

53 The proposed attached garage will remain 24 feet from the ROW and 40 from the edge of  
54 Columbia.

55

56 **Questions to Staff by the Board**

57

58 C. Carver – Is this garage going to be connected to the house? (M. Kowalski – Yes. The  
59 breezeway is in the center and that will be enclosed).

60

61 D. Tope – What is the width of the garage facing Columbia versus the width of the house?  
62 (M. Kowalski – It's 24 feet, the same as the house). There is no curb and gutter, what are the  
63 capital improvements planned for this. There is no sidewalk plan to be put in? (No).

64

65 D. Gregorka – Even without capital improvements, the city has a pedestrian/bike plan that  
66 says that everything will have a sidewalk. Is that the case? (M. Kowalski – That's the overall  
67 master plan – with new developments, we have them put in sidewalks, but I know of no plan  
68 to go back into existing neighborhoods and have them put in sidewalks).

69

70 If there wasn't a breezeway, and this was a detached garage, would a variance still be  
71 required? (M. Kowalski – A variance would be required as it is still in the front 'open space';  
72 you wouldn't be able to put an accessory structure there).

73

74 K. Loomis – How far is the front edge of the garage from the street. (M. Kowalski – 24' –  
75 From the property line. It should be 33' with averaging).

76

77 D. Gregorka – So it's staff's opinion that he only needs permission to alter a non-conforming  
78 structure and not a variance? (M. Kowalski – That's correct).

79

80 *(Board discussion on variances versus permission to alter a non-conforming structure. It was  
81 agreed that the Board should have a future working session regarding these subjects).*

82

83 **Petitioner Presentation**

84

85 Mike Fry was present to speak on behalf of the appeal. He stated that this would allow the  
86 present homeowner or future homeowners to have somewhere to put a garage on the house  
87 that would not occupy the entire yard. The neighbors are in support of the submitted  
88 changes. It would eliminate the cars from being parked in that gravel driveway which is  
89 where that sidewalk might go that you spoke of. This would open the right of way for  
90 pedestrians and driver view.

91

92 D. Gregorka – Why not just push the garage back another 9' and then you wouldn't be  
93 encroaching into the setback. You would still need to come before us, but you'd be within the  
94 setback for the new structure. (Petitioner – The biggest reason is the size of the house and  
95 the layout of the land. If I were to push it back to the setback, the whole length of the kitchen  
96 and the bedroom windows would be blocked by the garage, and the driveway would have to  
97 be in the back, so you eliminate any backyard).

98

99 **Audience Participation – None.**

100

101 **Discussion by the Board**

102

103 K. Loomis – This is a reasonable request and given the way the home is currently  
104 constructed, he has good reason for putting this where requested (substantially eliminating  
105 the backyard). I don't see a problem with granting this.

106 D. Gregorka – I’m having some problems with it because it’s building in the front setback.  
107 Granted, it is already in the front setback, but this doubles the size of the building that sits in  
108 the front setback. There is enough land to build a two car garage on this parcel – attached or  
109 detached. There are different places to put it – on either side of the house, so I’m not in favor  
110 of granting this.

111  
112 D. Tope – The first standard that we look at is “The Alteration Complies as Nearly as  
113 Practicable with the Requirement of the Zoning Chapter.” This is not even as nearly as close  
114 as ‘practicable.’ I think that I would like to see this moved back along that broad stretch of  
115 Columbia Avenue – whether it has curb and gutters tomorrow or curb and gutters in ten  
116 years, people walking along there should be given as ‘nearly as practicable’ the feeling that  
117 the setback requirements are there to give, and that’s a setback of 33’. It’s averaged along  
118 the street, 100’ within each side of the house.

119  
120 R. Suarez (To M. Kowalski) – The distance from the front to the back is 75’? (From the  
121 Columbia Avenue frontage, yes). The setback of 33’ is just about halfway back of the whole  
122 property. I think factoring that with when we look at variances for basements, we go in with  
123 light meters and look at how much light is coming through and if moving this back will block  
124 light from the kitchen and other rooms, this will produce a bad result for whoever will live  
125 there, relative of someone walking by, and I’m not sure someone would notice a 9’ difference.  
126 Otherwise, I will be supporting this.

127  
128 C. Carver – I agree with Dave Gregorka that I’m hesitant to give variances to build in the front  
129 setback, and I see the petitioner’s point about blocking the light if built farther back, but he  
130 can move it back and further toward the rear and this won’t block the light coming into the  
131 house. If his only alternative was to build it where it is, I would agree with the petitioner and  
132 vote for this, but there are other places he can build it. I empathize with the two front  
133 setbacks, but probably won’t support this.

134  
135 D. Gregorka (to R. Suarez) – Another thing to look at, the way the garage is proposed; it does  
136 actually block light from the dining room and kitchen. If it moved back, it would block light for  
137 the bedrooms and bathroom – it’s kind of a trade-off.

138  
139 D. Tope – By adjusting things to better address the nonconformity would be complying ‘nearly  
140 as practicable,’ I’m not asking him to comply completely. I think that is unreasonable, but I  
141 think there is a reasonable solution here. I would encourage him to request a tabling of the  
142 motion and come back with something that takes into account the comments here rather than  
143 go to a vote.

144  
145 C. Carver – I think the city has a policy to eliminate as much non-conformity as possible and  
146 this is one of our charges here to keep in mind when we vote on this. This would increase  
147 the non-conformity.

148  
149 R. Eamus – They’re not asking for a variance, but a petition to alter a non-conforming  
150 structure. I think 33’ on a corner is a hardship. Take 33’ away from a 75 foot frontage – it’s  
151 quite extreme; I’m not in favor of 33’ frontage. This still puts it 40’ away from the road. Living  
152 in a house that was modified in a similar way with a detached garage and because of the  
153 ordinances, leaves me (in my own every day experience) to know that this is an undesirable  
154 experience. You come down the stair with your bag and your lunch and you slide on the ice.  
155 Having the connection in the breezeway is not a detriment to the neighbors or the  
156 neighborhood. This is in scale and nearly as practicable for what they’re trying to do.

157

158 C. Brier – In general, I do agree with Ron Eamus stated, based on where the existing house  
 159 sits on the lot and how large the average setback is for the front. I do have a question about  
 160 the shed. Will the shed remain as well? (Petitioner – Not certain what the homeowners’  
 161 plans are for that).

162

163 **MOTION**

164

165 Moved by K. Loomis, Seconded by D. Tope “to grant permission to alter a Non-  
 166 Conforming Structure for Appeal Number 2007-Z-017, 2700 Kimberley Road.

167

168 a. The proposed alteration complies as nearly as practicable with the  
 169 requirements of the zoning chapter, where the construction of the garage will  
 170 not go any further into the front setback than the existing structure;

171

172 b. The expansion will allow the petitioner to improve their property while  
 173 respecting the intent of the zoning ordinance.

174

175 c. The alteration will not have a detrimental effect on the neighboring property,  
 176 per the attached plans.”

177

178 ***On a Roll Call Vote – MOTION PASSED – Yea (5), Nay (3)***  
 179 ***(Permission to Alter a Non-Conforming Structure – Granted)***

180

181 **Nay – C. Carver, D. Gregorka and D. Tope (3)**

182

183 **Yea – R. Eamus, C. Kuhnke, K. Loomis, R. Suarez and C. Briere (5)**

184

185 **Absent – W. Carman (1)**

186 **C-2 1502 White Street – 2007-Z-018**

187

188 Chris Boehnke is requesting permission to alter a non-conforming structure as  
 189 described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance and one  
 190 variance from Chapter 55 Section 5:27 (R4C, Multiple-Family) of 2 feet 6 inches from  
 191 the required rear setback of 30 feet for conversion of the existing attached garage to  
 192 living space.

193

194 **Description and Discussion:**

195

196 The petitioner is proposing to convert the existing 374 square foot attached garage to two  
 197 bedrooms for a total of 4 bedrooms in the house. The parcel is an irregular shape due to East  
 198 Stadium Boulevard ROW acquisition through the property in 1931. The current structure was  
 199 built in 1948 before the current zoning standards were established. The house is  
 200 nonconforming for the front setback along Stadium Boulevard. The existing setback is 2 feet  
 201 from the ROW, but approximately 40 feet from the pavement of Stadium Boulevard; the  
 202 required front setback is 25 feet.

203

204 The existing garage is located 27 feet 6 inches from the rear property line; the required rear  
 205 setback for the R4C zone is 30 feet. The garage is not nonconforming since garages are  
 206 allowed to be placed in the required rear open space. However, conversion of the garage  
 207 space to living space would require a variance because it would place living space within the  
 208 required rear open space, which is not permitted. As a result, a variance of 2 feet 6 inches is  
 209 being requested for the conversion of the garage. There is a deck built on to the house  
 210 previously that has no permits and is in the right of way and will have to be removed.

211 **Questions to Staff by the Board**

212

213 C. Carver – I'm confused about the difference between the rear setback and the rear open  
 214 space. You state that this is not non-conforming as garages are allowed to be in the rear  
 215 open space – are garages allowed to be in the rear setback? (M. Kowalski – Yes. Attached  
 216 garages are allowed in the rear setback, as long as there is no 'living space' in them. They  
 217 are deemed 'accessory structures' whether attached or detached).

218

219 C. Carver – When you have a lot that has two front setbacks, how do you determine which  
 220 one has the rear setback? (M. Kowalski – The rear is the line most distant from the front.  
 221 Whichever has the longest front). Since this is a rental, do you have any concerns that this  
 222 might become a duplex? (It has crossed our mind, yes, but that is why we have our Housing  
 223 Inspectors. They are very adept at catching these kinds of things. Right now, what he is  
 224 proposing would fit into the housing code.

225

226 D. Gregorka – Mentioned that there are recent plans by the city to start widening Stadium  
 227 Blvd., including sidewalks and bike paths, so this will be a consideration in this issue.

228

229 **Petitioner Presentation**

230

231 Chris Boehnke, owner, was present to speak on behalf of the appeal. He stated that he is  
 232 trying to make this home more livable. This home is very small (about 850 sq. ft.) The two  
 233 existing rooms measure about 8' x 10'. He stated that he attempted to convert the basement  
 234 to 'livable space,' and obtained a permit for an egress window. Everything worked out with  
 235 the exception of a header that reduced the head height going down the stairway, so that was  
 236 actually denied, so I'm trying to find another way of making this house more attractive  
 237 whether sold or rented.

238

239 He stated that this home was a foreclosure and vacant since 2003, and had a hole in the roof  
 240 and was raining inside of the home. The hardwood floors had to be removed due to mold  
 241 and that he invested a lot of money trying to make this a nice home so that people wouldn't  
 242 live in the garage, which people (homeless) were doing, which would be a bad thing for the  
 243 neighborhood. I'm trying to do this the easiest way possible without a lot of changes to the  
 244 property. I wouldn't attempt to convert this home to a duplex.

245

246 *(Administrative Note: After Mr. Boehnke stated that he was 'denied' for livable space in the*  
 247 *basement, staff investigated and discovered that Mr. Boehnke had not submitted an appeal*  
 248 *to the Building Board of Appeals for the head height issue on the stairs to the basement. He*  
 249 *was informed by staff that he could submit the appeal and ask the Board for assistance and a*  
 250 *variance to solve this matter – otherwise, he was told by the Housing Inspector that if the*  
 251 *house is rented in its current state, he would have to take the improvements to the basement*  
 252 *out and restore it to non-habitable space so there is no possibility of people using that space).*

253

254 **Questions to Staff by the Board**

255

256 K. Loomis – I drove past there, and it looks like its rented now – is it? (Yes.) I'm not entirely  
 257 clear why you need extra rooms to rent as this is just financial gain. (You can consider it  
 258 financial gain. As a two bedroom home, I purchased the home at \$155,000.00 and if you do  
 259 the math on what a room rents for (between \$400 and \$500) and compare the rent with the  
 260 mortgage payment, you end up losing a lot of money. I don't see the negative side of this  
 261 being a business, and I'm trying to improve the neighborhood. I would like to reside the  
 262 house and improve its looks, but I don't see the point if I can't support it.

263

D. Gregorka – Regardless of what happens here, what happens to the current deck?

264 (M. Kowalski – Now that we know about the deck, it will have to be removed regardless).  
 265

266 C. Carver – We don't have to make that a condition of the variance if we approve this. (M.  
 267 Kowalski – It would be better if you did). I thought we couldn't give conditional variances.  
 268 Years from now when someone looks at it, we'll wonder has that deck been removed or not.  
 269 I don't like to give conditional variances, so I don't see why it doesn't come down. (*Talk*  
 270 *amongst the Board regarding the deck*). *The petitioner stated that he would remove the deck*  
 271 *and that the deck was installed prior to his purchase.*  
 272

273 C. Kuhnke – What difference does it make to the neighborhood if it remains a single story.  
 274 Does it have any effect to the neighborhood? (M. Kowalski – No, he has enough room for off  
 275 street parking, and this will no longer be a garage, but living space).  
 276

277 D. Gregorka – In this case, it is permission to alter a non-conforming structure, and the city's  
 278 position is that we also need to grant a variance. (M. Kowalski – Correct. It's converting the  
 279 garage to living space, so now it's a 'building' or habitable space).  
 280

281 D. Tope – It's permission to alter an existing non-conforming structure, and if we give that  
 282 permission, if it burns, more than 70 percent of the value, it cannot be rebuilt; but if we give a  
 283 variance for the garage, does that allow the garage to be rebuilt and not the rest of the  
 284 structure? I have problems with that. (C. Carver – They could rebuild the house, but they'd  
 285 have to make it conform). This is something else to put on our working agenda.  
 286

287 **Audience Participation – None.**  
 288

289 **Discussion by the Board**  
 290

291 C. Carver – I have no problems with this, it's already in existence. This is a house that needs  
 292 to be fixed up on Stadium Blvd.  
 293

294 R. Eamus – (To M. Kowalski) – Can they park in the alley behind it? (No, there is no way to  
 295 access that alley). So we're basically being asked to give a 2' variance from the rear  
 296 setback, where the rear setback is essentially an alley that is not used. (M. Kowalski –  
 297 Correct. It's still a public alley, it has not been vacated, but it's not used as an alley and it's  
 298 closed off at Stadium).  
 299

300 D. Gregorka – I'll support this. In reality, we're looking at a variance which borders on a  
 301 vacated 16' wide alley. In actuality, there probably is no variance here. It does have some  
 302 financial advantage, but most projects people invest in do have a financial advantage.  
 303

304 C. Kuhnke – Would the petitioner have to come back again if he wanted to build 'up' on the  
 305 top of the garage? (M. Kowalski – Yes. It would still be a non-conforming structure).  
 306

307 **MOTION #1**  
 308

309 Moved by K. Loomis, Seconded by R. Suarez, **“With regard to petition 2007-Z-018, 1502**  
 310 **White Street, that permission to alter a non-conforming structure be granted. The**  
 311 **alteration complies as nearly as practicable with the requirements of the zoning**  
 312 **chapter, where the footprint of the existing house will not be expanded. The alteration**  
 313 **will not have a detrimental effect on the neighboring property and there appears to be**  
 314 **adequate parking without the garage, per the attached plans.”**  
 315

316 **On a Voice Vote – MOTION PASSED – UNANIMOUS**

317 **(Permission to Alter a Non-Conforming Structure - Granted).**

318

319 **MOTION #2**

320

321 Moved by K. Loomis, Seconded by D. Tope, “With regard to petition 2007-Z-018, 1502  
322 White Street, that a variance from Chapter 55, Section 5:27, of 2’6” of the required rear  
323 setback of 30 feet for the conversion of the existing attached garage to living space:

324

325 a. The alleged hardships or practical difficulties or both are exceptional and  
326 peculiar to the property of the person requesting the variance and results  
327 in conditions that do not occur generally throughout the city;

328

329 b. The alleged hardships or practical difficulties or both which will result  
330 from failure to grant the variance include substantially more than just a  
331 mere inconvenience, inability to obtain a higher financial return or both;

332

333 c. Allowing the variance will result in substantial justice being done,  
334 considering the public benefits, intended to be secured by the Chapter,  
335 the individual hardships that will be suffered by failure of the Board to  
336 grant a variance and the rights of others whose property would be  
337 affected by allowance of the variance;

338

339 d. That the conditions and circumstances on which the variance request is  
340 based are not a ‘self-imposed hardship’ or practical difficulty;

341

342 e. The variance is the minimum variance that will make possible reasonable  
343 use of the land or structure, per the attached plans.”

344

345 **On a Voice Vote – MOTION PASSED – UNANIMOUS (Variance Granted)**

346

347

348 **C-3 2209 Vinewood Boulevard – 2007-019**

349

350

351 The subject parcel is located at 2209 Vinewood. The parcel is zoned R1B (Single-  
352 Family Residential District) and is located on Vinewood, east of Washtenaw. The  
353 house was built in 1940 and is 1710 square feet.

354

355 **Description and Discussion:**

356

357 The petitioner is proposing to construct a 29 foot 8 inch by 6 foot 3 inch (321 square feet)  
358 two-story addition to the house. The house is non-conforming for the rear setback, which is  
359 35 feet 9 inches at its closest point, 40 feet is required. The addition will fill in the area  
360 between the existing attached garage and the enclosed porch. The existing house is built on  
361 a slight angle on the lot so the completed addition will be slightly farther (36 feet 4 inches)  
362 from the rear property line at the closest point. The proposed addition will not be constructed  
363 any closer to any property line than the existing structure.

364

365 **Questions for Staff**

366

367 D. Gregorka (To M. Kowalski) – Is there any way to tell if the enclosed porch was built after  
368 the home? (It looks like the enclosed porch was built with the home, so that pre-dates our  
369 zoning ordinance).

370 **Petitioner Presentation**

371

372 Lincoln Poley, architect, and the homeowner, Gwen Alexander were present to speak on  
 373 behalf of the petition. Mr. Poley stated that he has a PowerPoint presentation that shows the  
 374 rear of the property. He stated that the main reason for the addition is that the kitchen is very  
 375 small – 10' x 10' 7", but the useable space (due to a walkway) is only about 7' x 10' 7". For a  
 376 home in this neighborhood, it's a very small kitchen, and the dining room is about average.  
 377

378 On the second floor, we're looking at putting in a second bathroom, as there are three  
 379 bedrooms and only one bath. The other issue is that this is a fairly modest addition in a  
 380 neighborhood that has very large homes. We're trying to make it more livable for the  
 381 homeowner. The homeowner has also talked to some of the neighbors, and they do not  
 382 have any opposition to this.  
 383

384 **Discussion by the Board**

385

386 D. Gregorka – (To M. Kowalski) – This is an addition that has living space that is encroaching  
 387 into the setback like the issue before this, but we don't need a variance on this one?  
 388 (Correct, because it's not going any *further* than the existing structure currently sits – the  
 389 garage in the former one was being converted to living space).  
 390

391 I think this is a reasonable proposal and has minimal effect on the neighborhood.  
 392

393 **MOTION**

394

395 Moved by K. Loomis, Seconded by R. Eamus, "that petition number 2007-Z-019, 2209  
 396 Vinewood Boulevard, that permission be granted to alter a Non-Conforming Structure:  
 397

- 398 a. The alteration complies as nearly as practicable with the requirements of  
 399 the zoning chapter;  
 400  
 401 b. The proposed addition does not expand or come any closer to the lot line  
 402 than the existing structure does;  
 403  
 404 c. The alteration will not have a detrimental effect on the neighboring  
 405 property, per the attached plans."  
 406

407 **On a Voice Vote – MOTION PASSED – UNANIMOUS**  
 408 **(Permission to Alter a Non-Conforming Structure – Granted).**  
 409

410

411

D. **UNFINISHED BUSINESS** – None.

412

413

E. **NEW BUSINESS** – None.

414

415

F. **REPORTS & COMMUNICATIONS**

416

417

G. **AUDIENCE PARTICIPATION – GENERAL** – None.

418

419

**ADJOURNMENT**

420

421

Moved by D. Gregorka, Seconded by R. Eamus, "that the meeting be adjourned."  
 422



423 **On a Voice Vote – MOTION PASSED - UNANIMOUS**

424

425 Chairperson Carol Kuhnke adjourned the meeting at 7:50 p.m.

426


427 **(Submitted by: Brenda Acquaviva, Administrative Support Specialist V –**  
428 **Zoning Board of Appeals)**

429

430

431

432

  
\_\_\_\_\_  
Carol Kuhnke, Chairperson

10-24-07  
Dated ZBA Minutes