



City of Ann Arbor

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

Wednesday, February 22, 2012

6:00 PM

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

1 CALL TO ORDER

Chair Kuhnke called the meeting to order at 6:03 p.m.

2 ROLL CALL

C. Kuhnke called the roll.

Present: 6 - Wendy Carman, Chair Carol A. Kuhnke, Sabra Briere, Alex Milshteyn, Perry Zielak, and Ben Carlisle

Absent: 2 - Candice Briere, and Erica Briggs

3 APPROVAL OF AGENDA

Approval of the agenda with the amendment of postponing request ZBA12-002 – 1421 Culver Road. Kuhnke said the request came after an objection was raised by a neighbor and the petitioner would like to try to work the matter out with their neighbor.

S. Briere asked if the petitioner would have to pay additional fees if the item was postponed.

M. Kowalski responded, No.

C. Kuhnke asked if there was any public comment regarding Z12-002 - 1421 Culver Road petition.

No Public Comment.

A motion was made by Councilmember Briere, seconded by Milshteyn, that the Agenda be Approved with the amendment to postpone the hearing of ZBA12-002 - 1421 Culver Road until the April 2012 Zoning Board of Appeals meeting. On a voice vote, the Chair declared the motion carried.

4 APPROVAL OF MINUTES

4-a 11-1448 Zoning Board of Appeals Meeting Minutes of July 27, 2011

W. Carman noted that she was listed as C. Carman instead of W. Carman.

A motion was made by Zielak, seconded by Milshteyn, that the amended Minutes be Approved by the Commission and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.

Yeas: 5 - Carman, Chair Kuhnke, Councilmember Briere, Milshteyn, and Zielak

Nays: 0

Absent: 2 - Briere, and Briggs

Recused: 1 - Carlisle

4-b [12-0116](#) December 7, 2011 Draft ZBA Meeting Minutes

A motion was made by Carman, seconded by Councilmember Briere, that the Minutes be Postponed to the Zoning Board of Appeals and should be returned by 3/28/2012. On a voice vote, the Chair declared the motion carried.

4-c [12-0246](#) January 25, 2012 Draft ZBA Meeting Minutes

A motion was made by Carman, seconded by Councilmember Briere, that the Minutes be Postponed to the Zoning Board of Appeals and should be returned by 3/28/2012. On a voice vote, the Chair declared the motion carried.

5 APPEALS AND ACTIONS

5-a [12-0247](#) ZBA12-001 - 2309 Brockman Boulevard
Jerome Winegarden is Requesting Permission to Alter a Non-conforming Structure in Order to Permit the Expansion of An Existing Single-Family Residential Structure.

SUMMARY:

Jerome Winegarden is requesting permission to alter a non-conforming structure (Chapter 55, Zoning, Section 5:87), from the Zoning Board of Appeals in order to allow expansion of an existing single-family structure within the required rear open space.

BACKGROUND:

The subject parcel is located on Brockman, just north of E. Stadium and contains a 2,414-square foot, single-family dwelling constructed in 1940. The parcel is conforming for lot size (11,645 sf; required is 10,000 sf) and zoned R1B (Single-Family). The existing house is non-conforming because the house encroaches into the required rear setback 7 feet. The required rear setback is 40 feet, and the house is setback 33 feet from the rear property line.

The petitioner is proposing to construct a 6 foot 4 inch by 20 foot 4 inch, 130-square foot addition to the existing house. The proposed addition will be located behind the existing garage and will not be built any closer to the rear property line than the existing enclosed porch along the rear of the house. The new addition will be 33 feet (required setback is 40 feet) from the rear property line and 6 feet from the side property line (required setback is 5 feet) and will match the roofline of the existing house.

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.

The proposed addition is minimal in size (130 sf) and extends 6 feet 4 inches from the rear of the existing garage into the rear setback. The addition will not extend any closer to the rear property line than the existing structure. The property is adjacent to the Tappan School parking lot to the rear (east), will be over 6 feet from the closest side (north) property line and will not be visible from the street. The addition will only be visible by the adjacent neighbor to the north and this neighbor has submitted a signed letter of support for the project.

QUESTIONS TO STAFF BY THE BOARD:

W. Carman asked if there was any documentation available, indicating when the rear porch had become enclosed.

M. Kowalski said, to his knowledge, there were no records showing if the enclosure was an add-on and he was not able to find any documentation on previously granted variances for the porch. He said the property owner or architect might be able to speak to the matter.

W. Carman commented that there might be missing records that would tell them when the porch was enclosed. She asked if the neighbor to the north, 2307 Brockman had submitted a letter of support for the petition.

M. Kowalski responded yes.

PRESENTATION BY THE PETITIONER:

Jerome Winegarden, 2309 Brockman, owner of the parcel, presented his request to the Board. He explained that they need to correct previously installed drains due to water infiltration in the basement. He said that he estimates that the porch was added in 1985, with the request at the time that it might be covered. He explained that previous owners had then enclosed the whole structure. He said they have owned the house for seven (7) years, and have been unaware that there was a property line issue.

Winegarden explained that in 1985, previous owners had also wrongly graded the backyard causing much run-off to the neighboring parcel, which they hope to be able to correct with this project.

B. Carlisle asked if they had considered pulling the garage further forward.

Winegarden responded that they didn't want to make a huge impact on the house through changes to the front of the house.

Mary Kalmes, 538 Glendale Circle, architect for the project said the compelling reason for the addition placement was that they wouldn't have a window in the kitchen if they moved it further forward. She also explained the proposed re-grading for the rear yard.

AUDIENCE PARTICIPATION:

None

BOARD DISCUSSION:

C. Kuhnke noted the following list of exhibits presented to the Board:

Email from Jane Wood, 2307 Brockman Blvd, in support of project.

Communication from property owners, Shipan, 2300 Brockman, in support of project.

Communication from property owners, Schoch, 2311 Brockman, in support of project.

W. Carman asked if the existing rear porch doesn't have permission to be enclosed, then the project would need a variance, which she wasn't in favor of, instead, wanting it to stay nonconforming. She said she didn't want to mislead anyone into thinking the reason they would approve it was because there was something already there, that makes it okay to extend, when what is currently there, isn't legal.

M. Kowalski agreed, since there were no variances on file for this project. He acknowledged that it would be a different request than what was before the Board this evening. He said if the Board could grant the permission to alter, then it would remain a nonconforming structure. He explained that a variance would make it conforming, and the department would have to re-notice the request for the variance.

Kalmes commented that previous owners had received building permits from the City in 1985. She added that in previous years, she believed there had been discrepancies as to what the City's zoning regulations would allow. She said that sometimes they would allow owners to build porches 6 feet into the front yard setback as long as it wasn't enclosed. She said that on the building permits for this project, it shows the porch as a screened-in porch, and then someone put windows in it. She presented the building permit to the Board, showing that a zoning approval had been granted for the porch, but with the clear marking that the porch must not be enclosed.

A. Milshteyn said he was in favor of the project since it wouldn't be intruding in any way, and since he was well acquainted with the neighboring parcel, he believed that the improvements would greatly assist the area. He asked if the present part of their project could be approved so they could begin construction with the stipulation that the Board hear the request for a variance next month.

W. Carman reiterated that whomever put the windows into the house didn't follow the rules. She said if the request was for a variance she wouldn't have an issue with the request.

The Board discussed the issue of needing to re-notice for the variance.

B. Carlisle said he was in favor of postponing the issue for another month to allow staff to gather more information and re-notice for a variance if they needed to do so.

C. Kuhnke said she was comfortable moving in either direction on the petition.

A motion was made by Carman, seconded by Milshteyn, in petition ZBA12-001; 239 Brockman Boulevard, that the Zoning Board of Appeals grant permission to alter a nonconforming structure to permit construction of a twenty (20) feet, four (4) inches by six (6) feet, four (4) inches addition to the east of the garage into the required rear yard open space, per submitted plans, given the following findings of fact:

- a) The proposed addition is minimal in size.
- b) The addition will correct some water issues through re-grading as well as re-doing the rear entry ramp with associated drainage.

- c) The addition will not be visible to the neighbor to the north.
- d) The neighbor has signed a letter of support for the project.
- e) The rear of the lot is a parking lot for Tappan School, which will also reduce any detrimental effects on the neighboring property.

On a voice vote, the vote was as follows with the Chair declaring the motion carried.

Petition granted.

Yeas: 6 - Carman, Chair Kuhnke, Councilmember Briere, Milshteyn, Zielak, and Carlisle

Nays: 0

Absent: 2 - Briere, and Briggs

5-b [12-0248](#) ZBA12-002 - 1421 Culver Road
 H. Scott Diels is Requesting One Variance from Chapter 55(Zoning) Section 5:57 (Averaging an Existing Front Setback Line), of 11 feet for Expansion of An Existing Residential Structure into the Front Setback; 31 feet is Required (Averaged Front Setback).

Postponed to the Zoning Board of Appeals due back on 4/25/2012

6 OLD BUSINESS

None

7 NEW BUSINESS

None

8 REPORTS AND COMMUNICATIONS

9 AUDIENCE PARTICIPATION - (3 Minutes per Speaker)

None

10 ADJOURNMENT

A motion was made by Zielak, seconded by Councilmember Briere, that the meeting be Adjourned at 6:43 p.m.. On a voice vote, the Chair declared the motion carried.

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