



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
NOVEMBER 28, 2007**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, November 28, 2007 at 6:04 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:04 p.m. by Chairperson Carol Kuhnke.

ROLL CALL

Members Present: (9) W. Carman, C. Carver, C. Briere,
R. Suarez, C. Kuhnke, K. Loomis and D. Tope,
R. Eamus (arrived at 6:05 p.m.) and D. Gregorka
(arrived at 6:12 p.m.)

Members Absent: (0)

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

A – APPROVAL OF AGENDA

A-1 The Agenda was approved as presented without objection.

B - APPROVAL OF MINUTES

B-1 Approval of Draft Minutes of the October 24, 2007 Regular Session.

Moved by D. Tope Seconded by, K. Loomis, **“that the minutes of the October 24, 2007 Regular Session be approved as presented.”**

On a Voice Vote – MOTION PASSED – UNANIMOUS

C - APPEALS & ACTION

C-1 4001 South State Street – 2007-Z-024

Summary: Paul Martin is requesting four variances from Chapter 47 Section 4:20 (Curb Cuts and Driveway Approaches).

1. A variance of 4 feet 6 inches in order to allow a driveway setback of 0 feet.
2. A variance of 18 feet in order to allow a driveway width of 48 feet.
3. A variance of 48 feet in order to allow a curb cut of 108 feet.
4. A variance of 15 feet in order to allow a turning radius of 30 feet.

Description and Discussion:

The subject parcel is located at the corner of South State Street and Ellsworth Road in Pittsfield Township. Although the parcel is located within Pittsfield Township. Ellsworth Road is under the jurisdiction of the City of Ann Arbor and as a result any work within the Ellsworth Road Right of Way (ROW) is required to be approved by the City.

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52 *The petitioner is proposing to demolish the existing gas station on the site and construct a*
 53 *new gas station and convenience store. This gas station is being planning to coordinate with*
 54 *the construction of a shopping center adjacent to the parcel along Ellsworth. Access to this*
 55 *site is being proposed via one curb cut on South State Street and one curb cut on Ellsworth*
 56 *Road. Only Ellsworth Road is under the jurisdiction of the City. The curb cut proposed for*
 57 *Ellsworth Road will be shared with the adjacent shopping center when constructed. Use of a*
 58 *shared curb cut is encouraged by City staff and is considered a good access management*
 59 *technique. However, the consolidation of drives between projects does require an increased*
 60 *number of cars to use the limited access points. As a result, an additional turning lane is*
 61 *required in the drive and increased widths are needed in order to accommodate the*
 62 *additional traffic and possibility of large gasoline trucks turning into and out of the site. The*
 63 *project has been approved by Pittsfield Township as well as the owner of the strip mall who*
 64 *will share driveway access.*

65

66 **Questions to Staff by the Board**

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68 W. Carman – Is there currently another existing curb cut closer to State Street (on Ellsworth)
 69 that will be closed? (M. Kowalski – Yes. There are currently two. They are eliminating one
 70 and combining the other with the adjacent site).

71

72 C. Carver – The petitioner has asked for variances under Chapter 47 (the street ordinance)?
 73 (M. Kowalski – Yes). Why are we using Chapter 55 standards when Chapter 47 has its own
 74 standards? (M. Kowalski – The memo we were provided with previously stated that we use
 75 the standards under 5:99, so the variance standards are the same for every variance that the
 76 ZBA grants).

77

78 Let's say we turn this petitioner down and he appeals to the court; he states that he's covered
 79 under Chapter 47 but the ZBA used the standards for Chapter 55, the judge would send it
 80 back to be evaluated under Chapter 47. We continually have this disagreement. (It does
 81 state in Chapter 47 (for variance and exceptions) that all appeals under Chapter 47 shall be
 82 made in accordance with the procedures outlined under sections 5:99 and 5:102 of Chapter
 83 55). It also states that we can grant a variance if there is a hardship or practical difficulty.
 84 So, the city now states that whatever comes before us, we're going to use Chapter 55
 85 standards? (Yes).

86

87 **Petitioner Presentation**

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89 Mr. Paul Martin of Marathon Petroleum Co., representing Speedway America was present to
 90 speak on behalf of the appeal. He stated that as outlined in the staff report, they are
 91 requesting four variances (as outlined). The reason for the request is that they are necessary
 92 because they are sharing drive access with their neighbor. There was a traffic study
 93 performed which recommended having two exit lanes so that cars would not have wait a long
 94 time to get out of the site.

95

96 We also have transport trucks delivering petroleum products which require a larger turning
 97 radius to enter the site and to prevent trucks from impeding cars exiting the site. We propose
 98 to close two curb cuts which are both closer to the intersection on Ellsworth and moving
 99 physically as far away from the intersection as possible.

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101 **Questions of the Petitioner by the Board** – None.

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Public Commentary – None.

Discussion by the Board

W. Carman – *(In regard to the discussion regarding which Chapter applies to the variances requested, she read the standards of Chapter 47)* She stated that in her view, they should be passing the motion with additional wording that states we've investigated and believe that this is in general purpose and harmony with Chapter 47. I believe we're required to have our variances in league with Chapter 55 and Chapter 47.

D. Tope – Stated that the language is comprehensive because the language covers both Chapters and it is better to include both. She suggested that W. Carman make a friendly amendment to all the motions to cover any questions that the Board

(Further discussion by the Board regarding interpretation of Chapters 47 and 55. The chair stated that this has previously been reviewed by staff and the city attorney's office and this is the way we've been instructed to interpret these ordinances. It was also suggested that this be discussed further in a future working session with the Board. The chair also requested that staff once again revisit this situation and advise by the next session as to how both ordinances are to be read together).

MOTION

Moved by R. Eamus, Seconded by C. Carver, **“In the matter of Appeal Number 2007-Z-024, 4001 South State Street, that based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby grants a variance from Chapter 47, Section 4:20 (Curb Cuts and Driveway Approaches) of 4 feet 6 inches from the required driveway setback of 4 feet 6 inches, 18 feet from the required maximum driveway width of 30 feet in order to permit a 48 foot wide driveway. (as per submitted plans).**

- a) **The alleged hardships are peculiar to the property and result from conditions and uses which do not exist generally throughout the City.**
- b) **That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return or both and could impact public health and safety;**
- c) **The variance will not significantly affect surrounding properties (will actually benefit the parcel to the east);**
- d) **The circumstances of the variance request are not self-imposed, but are consistent with provisions in Chapter 47;**
- e) **The variance request is the minimum necessary to achieve reasonable use of the structure, AND**
- f) **Given that the variance is in harmony with the general purpose and intent with Chapter 47.” (Friendly Amendment by W. Carman, accepted by R. Eamus and C. Carver).**

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

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MOTION to RECONSIDER

Moved by D. Tope, Seconded by D. Gregorka, “to reconsider the former motion and place on the table for amendment.” (Accepted by R. Eamus, C. Carver)

On a Voice Vote – MOTION TO RECONSIDER - UNANIMOUS

MOTION (Placed Back on Table for Amendment)

Amend above motion to include: **“18 feet from the required maximum driveway width of 30 feet in order to permit a 48 foot wide driveway; 48 feet from the maximum curb cut width of 60 feet in order to permit a 108 foot curb cut AND 15 feet from the required turning radius of 15 feet in order to permit a 30 foot turning radius.”**

MOTION AS AMENDED WILL READ:

Moved by R. Eamus, Seconded by C. Carver (as amended by W. Carman, D. Tope and Seconded by D. Gregorka), “In the matter of Appeal Number 2007-Z-024, 4001 South State Street, that based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby grants four variances from Chapter 47, Section 4:20 (Curb Cuts and Driveway Approaches) to allow:

1. A variance of 4 feet 6 inches in order to allow a driveway setback of 0 feet.
2. A variance of 18 feet in order to allow a driveway width of 48 feet.
3. A variance of 48 feet in order to allow a curb cut of 108 feet.
4. A variance of 15 feet in order to allow a turning radius of 30 feet.
 - a) The alleged hardships are peculiar to the property and result from conditions and uses which do not exist generally throughout the City;
 - b) That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return or both and could impact public health and safety;
 - c) The variance will not significantly affect surrounding properties (will actually benefit the parcel to the east);
 - d) The circumstances of the variance requests are not self-imposed, but are consistent with provisions in Chapter 47 AND
 - e) The variance requests are the minimum necessary to achieve reasonable use of the structure, given that the variances are in harmony with the general purpose and intent with Chapter 47 (as per submitted plans).”

On a Voice Vote – MOTION AS AMENDED - PASSED – UNANIMOUS (Variances Granted)

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C-2 1115 Spring Street – 2007-Z-025

The petitioner requests one variance from Chapter 55 (Zoning) Section 5:59 (Accessory Buildings) of 11 inches to allow a side setback of 2 feet 1 inch for construction of a detached garage; 3 feet is required.

Description and Discussion:

John Robbins, owner of this property requests one variance to allow the construction of a one-car detached garage less than 3 feet from the side property line as normally required. The subject property is located in the R2A Two-Family Dwelling District. The driveway is constructed directly along the northern property line. The previous detached garage was completely destroyed in a fire in April 2007. The petitioner wishes to construct a new garage within the same footprint as the existing garage utilizing the existing foundation from the previous garage.

A single-family dwelling and driveway leading to a concrete foundation currently exist on the property. The proposed garage will have the same dimensions as the previous garage measuring 14 feet wide by 20 feet deep. The garage will be located 2 feet 1 inch from the side property line at the closest point. The new garage would not extend any farther in any direction that the previous garage.

Questions to Staff by the Board – None.

Public Commentary – The chair mentioned that the Board received one letter of support from the next door neighbor at 1117 Spring Street in support of the appeal.

Petitioner Presentation

Mr. John Robbins and his wife were present to speak on behalf of the appeal. He stated that he and his wife wished to replace the garage that was there that was destroyed by fire. It would be placed on the original foundation that was still existing. The garage would be of the same footprint and dimensions, but a bit higher to incorporate some storage space.

C. Carver – If we grant this variance, you would be within two feet of the neighboring property. You would be trespassing onto your neighbors property. Couldn't you just move the foundation over 11 inches and not need a variance? (Petitioner – Yes, but we would have to take out the existing foundation at considerable expense to us and would then be out of line with the current driveway, as indicated on the site plan. He also indicated that they have additional letters of support from the neighbors in the rear and opposite side of the property, as well as the affected neighbor).

Questions to Staff by the Board – None.

246 **Discussion by the Board**

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248 **MOTION**

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250 Moved by K. Loomis, Seconded by C. Briere, “with regard to Appeal Number
251 **2007-Z-025, 1115 Spring Street, that based on the following findings of fact and in**
252 **accordance with the established standards for approval, the Zoning Board of**
253 **Appeals hereby grants a variance from Chapter 55, Section 5:59 (Accessory**
254 **Buildings) of 11 inches from the required side setback of 3 feet to permit**
255 **construction of a detached garage 2 feet 1 inch from the side property line (as per**
256 **submitted plans).**

257

258 a) **The alleged hardships are peculiar to the property and results from conditions**
259 **which do not exist generally throughout the City where the lot is only 46 feet**
260 **wide;**

261 b) **That the alleged hardships or practical difficulties, or both, which will result**
262 **from a failure to grant the variance, include substantially more than mere**
263 **inconvenience, inability to attain a higher financial return, or both, where**
264 **removing the existing foundation and constructing a new one would be a**
265 **significant hardship and the narrowness of the available width between the**
266 **house and the property line limits the area available for a garage;**

267 c) **The variance, if granted, will not significantly affect surrounding properties.**
268 **The garage will be in the same location that it has been for many years and the**
269 **neighbors are in support of this petition;**

270 d) **The circumstances of the variance request are not self-imposed because the**
271 **house was constructed prior to current zoning standards which limit the area**
272 **available for the garage, AND**

273 e) **The variance request is the minimum necessary to achieve reasonable use of**
274 **the structure.”**

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

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C-3 5 Hermina Court – 2007-Z-026

Joanne Keeling 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 52,403 square feet in total size and is located at the corner of Fifth at 5 Hermina Court, north of Miller Road. The parcel is zoned R1C (Single-Family Residential District). The house was built in 1975 and is 1080 square feet.

The petitioner is proposing to add a second story addition containing 4 bedrooms to the existing house. The southwest corner of the house extends into the rear yard setback 3 feet 8 inches. As a result, the house is non-conforming for the rear setback. The addition will follow the existing building lines of the house and will not extend any closer to the property lines. The addition will add approximately 1000 square feet of living space to the house.

Questions to Staff by the Board – None.

Petitioner Presentation

Joanne and Wayne Keeling, owners of this property, were present to speak on behalf of the appeal. Ms. Keeling stated that they would like to stay in the area, but they have two small children and will need more room. After dialogue with contractors, the best solution was to build up and within the current footprint. When the house was originally built in 1975, it was built 3 feet too close to the adjacent church parking lot (which didn't exist at the time the home was constructed).

Questions of the Petitioner by the Board –

D. Gregorka – Asked the petitioner if any of the neighbors were in support of their petition. (Staff clarified that we had received one letter of support). The petitioners stated that they have also had dialogue with their neighbors regarding the proposed project.

Public Commentary – None.

Discussion by the Board**MOTION**

Moved by D. Gregorka, Seconded by W. Carmen, **“in the case of Appeal Number 2007-Z-026, 5 Hermina Court, that based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby grants permission to alter a non-conforming structure (*per submitted plans*).**

- a) **The alteration complies as nearly as practicable with the requirements of the Zoning Chapter because this particular parcel is odd shaped and only a small portion of the rear corner of the house sits approximately 3 feet into the rear setback;**
- b) **The amount of non-conformance will essentially not be increased by the proposed addition because it's being built on top of the existing building;**

- 332
333 c) The alteration will not have a detrimental effect on the neighboring
334 properties for the same reasons and the surrounding neighbors are in
335 support of this petition.
336

337 *(per submitted plans)* – FRIENDLY AMENDMENT by W. CARMAN, accepted by D.
338 Gregorka (as outlined above).
339

340 On a Voice Vote – MOTION AS AMENDED - PASSED – UNANIMOUS
341 *(Permission to Alter a Non-Conforming Structure - Granted)*
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344 **C-4 405 Awixa Road – 2007-Z-027**
345

346 David Lewis, architect on this project, is requesting permission to alter a non-conforming
347 structure and one variance from Chapter 55 of 5 feet from the average front setback of 40
348 feet. The front setback for the R1B zoning is 30 feet; however, because the averaging of
349 existing front setbacks is applied, the resulting front setback is increased to 40 feet.
350

351
352 **Description and Discussion:**
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354 The petitioner is proposing to construct a 2,060 square foot two-story addition to the front of
355 the house. The footprint of the new addition, including the garage will be 1,507. The parcel is
356 an irregular shape is subject to the averaging of existing front setbacks. The averaging of
357 existing setback results in a setback slightly greater than 40 feet, but Section 5:57(Averaging
358 of Front Setbacks) limits the maximum required setback to 40 feet. The new two-story
359 addition will encroach 5 feet into the front setback for a small section of the garage and a
360 portion of a new bedroom. The addition will be constructed approximately 50 feet from the
361 edge of Awixa Road. The total square footage of new structure within the front setback will be
362 193 square feet. All other sections of the addition will comply with required setbacks.
363

364 The house is non-conforming for a small area of the living room, which falls into the original
365 required 40 foot rear setback. If constructed, the new addition will be located 6 feet from the
366 eastern side property line and 35 feet from the front property line. The house will not
367 encroach any further into the southern side or rear required setbacks. This property does
368 currently have a variance granted for the rear setback from 1992 for an addition.
369

370 **Questions by the Board to Staff**
371

372 C. Carver – What is the zoning? (M. Kowalski – R1B). Don't we have a duplex by the time
373 we finish with this proposed plan? We have a kitchenette and a bathroom added above the
374 garage, it looks like a duplex to me. When does it become a duplex? (When it's a
375 completely separate, locked off unit, it could become a duplex; however, from the building
376 plans we were presented with, it wasn't considered a duplex at this time. It's not an
377 accessory apartment – it's not a separate unit. It was reviewed by the Building Official and
378 this came up in my discussion).
379

380 D. Tope – It's an *Au Pair* suite.
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382 W. Carman – Looking at the first floor floor plan, how do you get to the rest of the house from
383 this suite? (M. Kowalski – We need the petitioner to clarify the ingress and egress).
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Petitioner Presentation

David Lewis, Architect for this project, was present to speak on behalf of the appeal. He explained the entrance and exit routes to the home to answer the questions that the Board had involving the addition. He stated that there is no intention to make this addition a separate unit, and if having the kitchenette is a critical component, they are happy to discuss an alternative. The homeowner would like to have an au pair, and would like to provide amenities for her.

C. Carver – What, in your view, would need to be done to make this an ‘apartment?’ (Petitioner – You would need to have a separate access that would go from the street into the unit without going through the other persons house). How many square feet is the proposed au pair suite? (Five hundred square feet).

C. Kuhnke – The plan I’m looking at says 862 square feet. (Petitioner – That’s the elevation).

C. Carver – If you had a two car garage as opposed to a three car garage, you wouldn’t have to go into the front setback, is that correct? We’re trying to evaluate how we can approve this with the least amount of disturbance into the setbacks. (Petitioner – We would still require the front setback variance, as the third car is going into behind the garage and if you moved it back, you’d be running into the side yard setback, and we’ve already had to ‘notch’ the garage a bit to fit it into the front setback).

D. Gregorka – It appears that you’ve worked hard to come up with an alternate plan here, and I commend you for what you’ve done. This is significantly changed from the last appeal, but I had a similar question regarding the garage. Why couldn’t you move or slide the whole garage up parallel by 5 feet? (Petitioner – It would reduce the size of the foyer, which is really a mud room, and there is a point where it becomes unuseable as it would be too small. The topography of the site is fairly steep, and there are concerns with not ‘re-grading’ the whole side of the hill. We’re trying to be sensitive to the existing topography).

Front setbacks are a sensitive issue, and that would remove the encroachment into the front setback by relocating the garage a bit, and it would be easier to deal with. (Petitioner – The size of the lot is irregular as well as the topography, and we’re trying to design this with as little disruption as possible).

C. Carver – Stated that sometimes you just have to build what the size of the lot will support.

R. Suarez – You’re 5 feet over on one end, but the other side is different. (Petitioner -Yes, we’re 4 feet 9 inches for bedroom 1 and 2 feet 9 on bedroom 2 – over the setback. I think that it’s significant, but it’s not – they’re going not going over by 5 feet completely.

D. Tope – What is the total square footage of the new construction. (Petitioner – Including the garage, 2000 sq. feet). What is the existing square footage? (It’s about 2400 square feet).. I have a significant problem with encroaching within the front setback to add nearly another house and I have a real problem with the kitchenette in that new space.

W. Carman – There appear to be 5 places in which it encroaches (Petitioner – There are 3 – 190 square feet total). What about these other areas, they look as though they are due to the lines on this pla between lot 35 and lot 36.

437 *(Discussion between the Board and the Petitioner about the lot lines – they are actually one*
 438 *parcel).*

439
 440 The petitioner once again offered to delete the plans for the kitchenette if it would be a huge
 441 sticking point for granting the variance.

442
 443 Seth Penchanski – (Architect) We want to cooperate to get this built. The homeowners each
 444 have two girls and this is why we ask for the variances. Each bedroom is intended to house
 445 two girls with two beds and two dressers and two desks. They're not extravagant when you
 446 look at the floor plan and the size. In terms of the square footage of the plan, 840 square feet
 447 of the addition is the garage. The important part is the bedroom which will keep all 4 girls
 448 together and also share a large bathroom. We've had dialogue with the neighbors and
 449 they're all happy with the style and design we've presented.

450
 451 *(Discusssion at length between the Board and the Architect regarding front setbacks and*
 452 *averaging of front setbacks).*

453

454 **Audience Participation**

455

456 C. Kuhnke – Read three letters of support from the public into the record. *(407, 401 and 402*
 457 *Awixa Road).*

458

459 **Discussion by the Board**

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461 R. Eamus – The purpose of the front setback is the 'intent.' This house is on a curve and it
 462 follows the curvature around and guarantees that on both sides of Awixa, and this house is
 463 further set back than most. This follows the 'intent' and is a minimal encroachment into the
 464 front setback. In addition, would make this an independent apartment, it would need a
 465 separate entrance, which it does not. If it has a stove and oven (sic – Stove and
 466 Refridgerator), this would make it qualify more as an apartment – if it had a separate
 467 entrance.. It is a difficult site due to the contours of the land. It appears tastefully done and
 468 I'm in favor of this.

469

470 *(Discussion amongst the Board regarding setbacks and appearances and intent).*

471

472 C. Kuhnke – I agree with Ron and I think that the encroachments are minimal – they're
 473 corners, and they've tucked this into the setback as much as they can. While the kitchenette
 474 in the au pair suite might seem extravagant, it doesn't extend the intrusion into the setback,
 475 nor does the third car in the garage. This wouldn't be anyones 'choice' on how to construct a
 476 three car garage. I think they've done a very good job on a difficult lot which has a long front
 477 setback extending all the way across the curve and a shortened back yard due to the pie
 478 shaped lot.

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480 D. Gregorka – (To M. Kowalski) If someone has a kitchenette in a walk out basement in their
 481 house, is that a duplex? If they have a door from their basement that goes upstairs, is that
 482 now a duplex? (I would have to investigate in greater detail). I feel this has similar conditions
 483 as many other homes in Ann Arbor.

484

485 C. Kuhnke – You could lock this off and concievably make it a duplex, but I don't think this is
 486 built with that intention. It's built with the intention that a person can walk into the foyer and
 487 walk any way they wish through the house, including into the au pair suite.

488

489 D. Gregorka – The kitchenette does not concern me. The living area increase isn't huge. My
490 main concern is the garage – that they could redesign this to take the garage out of the front
491 setback, and it appears the petitioner may be willing to look at that.
492

493 W. Carman – I believe the intrusions are minimal. I think that if they move the garage, they
494 would either have to re-grade considerably or they're making the garage more prominent
495 because it will be raised up, so I'm not opposed to that, but I agree with Dave that there is
496 what appears to be a little apartment over the garage which could become rental property in
497 a town where rental property is a big issue. While they may not have any intentions of doing
498 this, when we give this variance, we give it to the property forever and so for my support, we
499 would have to take out the kitchenette.
500

501 C. Carver – I think there is a potential for this to become a duplex, and I agree with Dave and
502 Wendy that this garage could be repositioned. Even if the kitchenette wasn't on the plan, I
503 think this is a big encroachment into the front setback. I have no other objections to the rest
504 of the plan.
505

506 D. Tope – This site has already been granted one variance and it's being expanded, so I
507 think that additional variances being requested now are not the 'minimal' necessary – the
508 bedrooms are minimal as they're not a long encroaching expanse, but the garage is
509 unreasonable (given the fact that they currently have an existing variance). An accessory
510 apartment is allowed, it's called the 'mother-in-law' apartment; that is not what this is. It's not
511 intended to house a non-family member. I have a big problem with potentially creating a
512 problem down the road. If they are willing to remove the kitchenette aspect, I would require
513 that to support the variance.
514

515 R. Suarez – In the case of the garage, I don't see how you're going to move it back any
516 further. As far as the future owner of the house, it's not cost effective to think about making
517 this an apartment that you would rent for profit. In the future, it might support an elderly
518 member of the family and they need someone to offer assisted living instead of an au pair
519 living there. I also don't have a problem with a kitchenette in either case. I'll be supporting
520 this variance.
521

522 D. Gregorka – Suggested that this be tabled until the next meeting so that the petitioner can
523 adjust his plans and/or have the Board discuss this.
524

525 C. Kuhnke – I think some of this is supported just the way it has been presented.
526

527 *(The Board discussed getting the opinions of all the members to evaluate a straw poll as to*
528 *how they should proceed with the request).*
529

530 K. Loomis – Originally, I had concerns as to whether this is a 'minimal' variance. I don't have
531 an issue with the kitchenette. The more that I look at this, the more I feel this is a reasonable
532 proposal. I'm not sure that eliminating the garage addition would help. Ron accurately
533 pointed out the large slope going on and this would make the garage more prominent and
534 less desirable architecturally.
535

536 C. Briere – In general, I agree with Katy that at first glance, the addition seems quite large,
537 but the more you study it, I've come to agree that if you move other things around to
538 accommodate this, then you end up with unusable areas. As to sight line down the road, I
539 agree with Ron that the 'intent' of the setback requirement is met, and I'll support this.
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541

542
543 **MOTION #1 - (Permission to alter a nonconforming structure):**
544

545 Moved by K. Loomis, Seconded by D. Tope, “with regard to Appeal Number 2007-Z-027,
546 **405 Awixa Road, that based on the following findings of fact and in accordance with**
547 **the established standards for approval, the Zoning Board of Appeals hereby grants**
548 **permission to alter a non-conforming structure (per submitted plans).**
549

- 550 a) **The alteration complies as nearly as practicable with the requirements of the**
551 **Zoning Chapter;**
552
553 b) **The maximum extension of 5 feet into the front setback is minimal given the**
554 **constraints of the lot;**
555
556 c) **The proposed plans comply with the intent of the ordinance and that they**
557 **meet the standard requirements for the R1B District if averaging of the front**
558 **setbacks weren’t required and due to the curvature of the road, the addition**
559 **will not appear especially close to the road, AND**
560
561 d) **The alteration will not have a detrimental effect on neighboring properties**
562 **where the addition does not intrude into the side setback and the Board has**
563 **received three letters of support.**
564

565 **DISCUSSION**
566

567 D. Gregorka – Stated that he feels that there are two standards that are clearly not met. 1.
568 This is self-imposed as there is a way to alter the plan in such a way that you would not need
569 a variance. 2. It’s not the minimum necessary to achieve ‘reasonable’ use of the structure.
570 Is reasonable use of the structure having a 3 car garage? I don’t think so.
571

572 K. Loomis – Stated that she felt that Daves point were well taken, but those concerns should
573 be addressed when proposing the motion for the variances and not permission to alter a non-
574 conforming structure.
575

576 **On a Roll Call Vote – MOTION PASSED – 5 Yea, 4 Nay – (Permission to Alter a Non-**
577 **Conforming Structure – Granted).**
578

579 Yea (5) – K. Loomis, C. Briere, K. Kuhnke, R. Eamus and R. Suarez
580 Nay (4) – C. Carver, D. Gregorka, W. Carman and D. Tope.
581

582 **MOTION #2 - (Variance):**
583

584 Moved by K. Loomis, Seconded by D. Tope, “with regard to Appeal Number 2007-Z-027,
585 **405 Awixa Road, that based on the following findings of fact and in accordance with**
586 **the established standards for approval, the Zoning Board of Appeals hereby grants a**
587 **variance from Chapter 55 Section 5:27 (R1B, Single-Family) of 5 feet from the required**
588 **averaged front setback of 40 feet to permit expansion of the existing house, 35 feet**
589 **from the front property line in accordance with the submitted plans.**
590

- 591 a) **The alleged hardships are peculiar to the property and results from conditions**
592 **which do not exist generally throughout the City. This is an unusual lot with**
593 **limited buildable area, especially in the rear and a significant slope on the**
594 **topography that also constrains the use of the property;**

594

- 595 **b) That the alleged hardships or practical difficulties, or both, which will result**
 596 **from a failure to grant the variance, include substantially more than mere**
 597 **inconvenience, inability to attain a higher financial return, or both;**
- 598 **c) The variance will not significantly affect surrounding properties and the**
 599 **proposed addition does not intrude into the required side setbacks. There is**
 600 **also support from the surrounding neighbors;**
- 601 **d) The circumstances of the variance request are not self-imposed (the main**
 602 **house was built before current zoning) AND,**
- 603 **e) The variance request is the minimum necessary to achieve reasonable use of**
 604 **the structure.**

605 **On a Roll Call Vote – MOTION PASSED – 5 Yea, 4 Nay – (Variance Granted).**
 606

607 Yea (5) – K. Loomis, C. Briere, K. Kuhnke, R. Eamus and R. Suarez
 608 Nay (4) – C. Carver, D. Gregorka, W. Carman and D. Tope.

609 D. Tope – Stated that for the record, when the building plans for this project are submitted for
 610 approval, I would request that the Building Official take an in-depth look at the kitchenette so
 611 that this complies to the exact specifications submitted so that our concerns are addressed.

612 **D. UNFINISHED BUSINESS – None.**
 613

614 **E. NEW BUSINESS – 2008 Schedule of Meetings**
 615

616 **F. REPORTS & COMMUNICATIONS - Recorded under Appeals**
 617

618 **G. AUDIENCE PARTICIPATION – GENERAL – None.**
 619

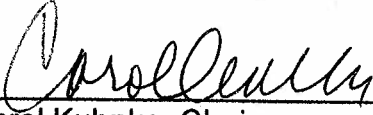
620 **ADJOURNMENT**
 621

622 Moved by D. Gregorka, Seconded by C. Carver, **“that the meeting be adjourned.”**

623 **On a Voice Vote – MOTION PASSED - UNANIMOUS**
 624

625 Chairperson Carol Kuhnke adjourned the meeting at 7:35 p.m.
 626

627 **(Submitted by: Brenda Acquaviva, Administrative Support Specialist V –**
 628 **Zoning Board of Appeals)**
 629

630 
 631 _____
 Carol Kuhnke, Chairperson

Date: 12-19-07