



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
JANUARY 23, 2008**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, January 23, 2008 at 6:03 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: (8) C. Carver, C. Briere, R. Eamus,
C. Kuhnke, D. Gregorka, R. Suarez,
K. Loomis (arrived @ 6:07 p.m.) and W. Carman
(arrived @ 6:08 p.m.)

Members Absent: (1) D. Tope

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 December 19, 2007 Regular Session.

Moved by D. Gregorka, Seconded by C. Carver, **“that the minutes of the December 19, 2007 Regular Session be approved as presented.”**

On a Voice Vote – MOTION PASSED – UNANIMOUS

C - APPEALS & ACTION

C-1 620 North Fourth Avenue – 2008-Z-001

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

Description and Discussion:

The petitioner is proposing to extend an 8 foot wide covered front porch 2 feet 9 inches into the averaged front setback of 11 feet 6 inches. The house is non-conforming for the front setback, which is 8 feet 9 inches at its closest point, 11 feet 6 inches is required. The existing porch will be repaired and extended slightly along the front of the house. The porch will wrap around the side of the house and continue out of the setback.

Staff does not feel that the requested variance would negatively affect any surrounding property. As stated previously, the surrounding uses are similar in massing. Staff has received several letters of support for this proposal from surrounding neighbors.

54 **Questions to Staff by the Board**

55
56 D. Gregorka – Basically, we’re looking at just the corner of the porch, as the rest of the porch
57 is existing? (M. Kowalski – Yes. They’re proposing to extend the porch to wrap it around).

58
59 *(Dialogue between the Board and Staff regarding Non Conforming Uses and Variances and*
60 *why we have not received a decision from the city attorney’s office. The Board reiterated the*
61 *need for the attorney’s office to provide a decision on these issues).*

62
63 **Petitioner Presentation**

64
65 Mr. Michael Klement, architect on the project, and Mr. John Beranak and Ms. Karen Park,
66 owners of this property, were present to speak on behalf of the appeal. Mr. Klement stated
67 that the area in question is approximately 30 square feet of front porch that falls into the non-
68 conforming area. The owners are expanding the house in the rear, but primarily because
69 they wanted to keep the appearance of the front façade with the enhancement of a wrap
70 around porch and the elimination of an existing unnecessary curb cut. The current porch is 8
71 feet long, but only four feet wide.

72
73 **Questions of the Petitioner by the Board**

74
75 W. Carman – Asked if the remaining curb cut is shared. (Owner – No).
76 *It was established that the curb cut does belong to their residence and cannot be affected by*
77 *other properties and/or neighbors.*

78
79 **Public Comment**

80
81 The Chair mentioned for the record that the Board received 12 letters of support for this
82 request.

83
84 **Discussion by the Board**

85
86 **MOTION**

87
88 Moved by D. Gregorka, Seconded by C. Carver, “In the matter of ZBA Appeal Number
89 **2008-Z-001, 620 North Fourth Avenue, the alteration complies as nearly as practicable**
90 **with the requirements of the zoning chapter and based on the following findings of fact**
91 **and in accordance with the established standards for approval, the Zoning Board of**
92 **Appeals hereby grants permission to alter a non-conforming structure;**

- 93
94 a) **This is a minimal encroachment; most of the porch is being built over where**
95 **the existing porch was, and there is only approximately an additional 20**
96 **square feet into the front setback;**
97
98 b) **There is very strong neighborhood support; and**
99
100 c) **The motion is also subject to the adherence of the approved plans submitted**
101 **by the petitioner.”**

102
103 **On a Voice Vote – MOTION TO APPROVE – PASSED – UNANIMOUS**
104 **(Permission to Alter a Non-Conforming Structure – Granted)**

105
106

C-2 207 East Kingsley Street – 2008-Z-002

Lincoln Poley is requesting two variance from Chapter 55 Section 5:28 (R4C, Multiple-Family):

1. A variance of 13 feet 9 inches from the averaged front setback of 24 feet 9 inches in order to permit a front setback of 11 feet.
2. A variance of 10 feet from the rear setback of 30 feet in order to permit a rear setback of 20 feet.

Description and Discussion:

The petitioner is proposing to construct one single-family house on a 66 foot by 66 foot (4,356 square foot) lot. The lot is non-conforming for the R4C district (8,500 square feet is required). A single-family house is permitted on a non-conforming lot without approval from the ZBA, if all other provisions of the zoning code are met. However, averaging of existing front setbacks requires an 8 foot 3 inch setback along E. Kingsley and a 24 feet 9 inch setback along N. Fourth. The petitioner is requesting to deviate from this.

- 1) Front setback variance - The petitioner would like to construct the house with an 11 foot setback from N. Fourth. This setback would be consistent with the structure immediately adjacent to the north, which is setback 11 feet 5 inches. However, the structure two parcels to the north on Fourth, which is also included in the averaged front setback, is setback 38 feet due to its location at the angled intersection of Beakes and N. Fourth. This large setback results in a required front setback of 24 feet 9 inches for the subject parcel along Fourth Avenue.
- 2) Rear setback variance - The petitioner is requesting a 20-foot rear setback due to the limited buildable area of the site. The variance of 10 feet would place the structure consistent with adjacent houses along E. Kingsley.

Questions to Staff by the Board

D. Gregorka – (To M. Kowalski) – I didn't see any plans in this packet. Did the petitioner submit any? (I did not request detailed floor plans because it was not an addition but a new building.) Part of the request includes the size of the house. Floor plans would assist in showing us how much setback encroachment you propose.

C. Carver – Concurs with D. Gregorka. We are supposed to grant the most minimal variance possible, and we have no basis to determine what that is.

R. Eamus – What is the buildable envelope? (M. Kowalski – The entire parcel is 28 x 36). *The petitioner stated it is around 1000 sq. feet for the buildable envelope.*

Petitioner Presentation

Mr. Lincoln Poley, (architect) and Mr. Tom Fitzsimmons (owner) were present to speak on behalf of the appeal. Mr. Poley stated that he tried to investigate the setbacks in the neighborhood and incorporate that information into his application. Regarding the lack of floor plans, we have a potential resident that may not accept what we put forth if the variances cannot be granted. 1000 square feet is challenging to be able to build what is currently in the neighborhood - we would need more area to do that. (Mr. Poley gave examples of other homes in the area with minimal to small front and rear setbacks).

159 Parking for the home would be included under the home, which would allow for a bit more
 160 free space in the backyard.

161

162 Mr. Fitzsimmons – Restated the variance requests and explained that they are trying to build
 163 a 'viable' single family home on the site.

164

165 D. Gregorka – Are there elevations for this project? (Fitzsimmons – We are nowhere near
 166 developing elevations or other detail on this project.) How about square footage? (Around
 167 1400 sq. ft. floor plate if the garage is not enclosed for the ground level). So, with the first
 168 floor, second floor, around 4000 sq. feet of living space? (More or less, depending on what
 169 we can fit on the second floor.)

170

171 W. Carman – (*Questions the footage area*) - 1900 sq. ft. times 3 (*floors*), minus the garage
 172 square footage is over 4000 sq. feet. I think your argument for the small setbacks within the
 173 neighborhood are compelling, but I would like to see the garage pushed back farther as you
 174 have limited sight and could run over someone before you backed out of the driveway, and
 175 for that reason, because there are no plans, I can't figure out how to allow for that. You're
 176 comparing other houses in the neighborhood, but they are all very small houses compared to
 177 your very large house proposal.

178

179 (*The board discussed how they were supposed to make a decision based on the fact that*
 180 *there were no elevations, floor plans or other needed information to make an informed*
 181 *judgment.*)

182

183 *Mr. Fitzsimmons stated that there were only there to get variances on 2 setbacks so that they*
 184 *could decide to build. He also stated that they were directed by staff to do this. *It was*
 185 *revealed by staff after this discussion that the petitioner was informed by staff that they*
 186 *needed floor plans to submit an informed petition, but told them that if they chose to, they*
 187 *could submit without it. This should not be the case as a building permit/zoning permit (which*
 188 *would include complete plans) has to be rejected in order to have something to appeal in the*
 189 *first place, so this petition should have been through the building review process first.*

190

191 **Public Commentary**

192

193 C. Kuhnke – Stated that there was one letter of support from the North Central Property
 194 Owners Association.

195

196 **Questions to Staff by the Board** – None.

197

198 **Questions of the Petitioner by the Board**

199

200 C. Carver – Stated that he could not vote on the issue without details on the project.

201

202 W. Carman – Reaffirmed that she could not support the petition under these circumstances.

203

204 K. Loomis – It's not just the setbacks but the overall look of the home and how close it is to
 205 the street and then in comparison with the rest of the block. It will obviously need variances,
 206 but to what extent?

207

208 R. Suarez – I'm not sure that I need plans for the entire house, but part of the plans could at
 209 least explain how pedestrians could be safe on the sidewalk.

210

211 D. Gregorka – Suggested postponing the appeal to allow time for the petitioner to provide the
 212 necessary information without additional cost for another appeal.
 213

214 L. Poley – If we provide you with some preliminary plans, what happens if the owner wants to
 215 change that or configurations, would we come back? (C. Carver – We're going to approve
 216 your construction 'per attached plans,' so the owner would have to come back to the ZBA for
 217 an approved change.)
 218

219 **Discussion by the Board**

220
 221 **MOTION #1**
 222

223 Moved by D. Gregorka, Seconded by W. Carman, **'that Appeal Number 2008-Z-002, 207**
 224 **East Kingsley Street be postponed until such time that the petitioner can return to the**
 225 **Board with more complete plans and information to allow an informed decision. This**
 226 **postponement will not exceed one year from this meeting date.'**
 227

228 **(Motion #1 withdrawn by Gregorka/Carman so that the Board can engage in further*
 229 *discussion).*
 230

231 R. Suarez – I had concerns about how cars would exit the driveway and pedestrian safety.
 232 He suggested that the rest of the Board come forward with any additional requests for
 233 information at this time.
 234

235 D. Gregorka – Reiterated that the Board has asked for elevations, floor plans and massing,
 236 consistency with the neighborhood homes as well as egress details.
 237

238 R. Eamus – I don't need an inside floor plan, but detail on how you plan to make it pedestrian
 239 friendly. Outside massing is a concern. Will this be a two story sheer wall or an open
 240 porch? I need to see how it's going to fit into the neighborhood. You have to show massing
 241 that agrees with the neighborhood.
 242

243 K. Kuhnke – Concurs with R. Eamus. Massing information on this structure is imperative.
 244

245 C. Carver – I will need to see something that demonstrates the amount of variance that
 246 they're asking for.
 247

248 W. Carman – I think it's important to get information about what the square footage will be.
 249 There is a big discrepancy in the 2800 square feet that they began talking about and the
 250 4000 plus square feet that I've calculated here.
 251
 252

253 **MOTION #2**
 254

255 Moved by D. Gregorka, Seconded by R. Eamus, **'that Appeal Number 2008-Z-002, 207**
 256 **East Kingsley Street be postponed until such time that the petitioner can return to the**
 257 **Board with more complete plans and information per the discussion held on this issue**
 258 **so as to allow an informed decision from the Board. This postponement will not**
 259 **exceed one year from this meeting date.'**
 260

261 **On a Voice Vote – MOTION TO POSTPONE – PASSED – UNANIMOUS** (*Appeal*
 262 *Postponed and to be heard no later than the first meeting in January, 2009.*)
 263

C-3 1201 South Main Street - 2008-Z-003

The University of Michigan is requesting two variances from Chapter 47 Section 4:20 (Curb Cuts and Driveway Approaches).

1. A variance of 15 feet in order to allow a driveway width of 45 feet.
2. A variance of 40 feet in order to allow a curb cut of 100 feet.

Description and Discussion:

The University of Michigan is proposing large-scale construction on the football stadium. A temporary curb cut for construction access does currently exist at this location. Due to the limited access to the stadium suitable for large construction vehicles, an expanded curb cut is needed from West Stadium Boulevard. The proposed improvements requiring the variance will be temporary for use only during construction at the stadium by construction traffic, not the general public. The requested modifications will be removed and the curb and ROW extension will be repaired after construction is completed within two years. City Code does not recognize temporary modifications, so a variance is needed in order to permit the construction. Due to the size of the vehicles that will utilize the curb cut and in order to avoid having the trucks swing out into additional traffic lanes, the enlarged curb cut and drive opening is needed. City Traffic Engineering and Planning staff supports the variance request.

Petitioner Presentation

Mr. Jim Costeva, Director of Community Relations for the University of Michigan was present to speak on behalf of the appeal. He stated that the staff report covers the issue very well and that the wider curb cut would allow large vehicles to turn into the area without encroaching on an adjacent lane in order to swing wide to make the turn and impeding traffic.

Questions to Staff by the Board – None.

Questions of the Petitioner by the Board – None.

Public Commentary – None.

Discussion by the Board**MOTION**

Moved by D. Gregorka, Seconded by W. Carman, “that in the case of Appeal Number 2008-Z-003, 1201 South Main 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 two variances from Chapter 47 Section 4:20 (Curb Cuts and Driveway Approaches)

1. A Temporary Variance of 15 feet from the required maximum driveway width of 30 feet in order to permit a 45 foot wide driveway.
2. A Temporary Variance 40 feet from the maximum curb cut width of 60 feet, in order to permit a 100 foot curb cut, in accordance with attached plans.

316 These variances shall be in effect ONLY UNTIL THE CURRENT STADIUM
317 CONSTRUCTION PROJECT IS COMPLETE and in accordance with the following
318 findings of fact:

- 319
- 320 a) These variances are required to improve Site Safety; and
- 321 b) That the variance will only be necessary for a limited period of time.”

322 On a Voice Vote – MOTION TO APPROVE – **PASSED – UNANIMOUS**
323 (**Variances Granted**)

- 324
- 325 D. **UNFINISHED BUSINESS** – None.
- 326
- 327 E. **NEW BUSINESS** - None.
- 328
- 329 F. **REPORTS & COMMUNICATIONS** - Recorded under Appeals
- 330
- 331 G. **AUDIENCE PARTICIPATION – GENERAL** – None.
- 332

333 **ADJOURNMENT**

334

335 Moved by W. Carman, Seconded by R. Suarez, “that the meeting be adjourned.”

336

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

338

339 Chairperson Carol Kuhnke adjourned the meeting at 8:00 p.m.

340

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

343

344

345 Kathryn L. Loomis

346 Kathryn Loomis, Acting Chairperson

2/27/08

Dated ZBA Minutes