



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
JULY 25, 2007**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, July 25, 2007 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:02 p.m. by Chairperson Carol Kuhnke.

ROLL CALL

Members Present: (5) C. Kuhnke, C. Carver, D. Gregorka, C. Briere, and R. Eamus

Members Absent: (4) K. Loomis, W. Carman, D. Tope and R. Suarez

Staff Present: (4) M. Lloyd, M. Kowalski, J. Kahan and B. Acquaviva

A – APPROVAL OF AGENDA

A-1 C. Carver mentioned that the applicants will need five affirmative votes of the Board to grant an appeal. The current Board in attendance at this meeting is five. The chair clarified this with the participants, and stated that even though there is a quorum, she offered them a choice to table their matter to the next regular session of the Board, in order to have a wider panel of opinions and votes. The public will still be allowed to speak on any issue (public hearings).

B - APPROVAL OF MINUTES

B-1 Approval of Draft Minutes of the June 27, 2007 Regular Session.

Moved by D. Gregorka, Seconded by, C. Carver “**that the minutes of the June 27, 2007 Regular Session be approved as presented.**”

On a Voice Vote – MOTION PASSED – UNANIMOUS

C - APPEALS & ACTION

C-1 2807 Maplewood – 2007-Z-012

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

The subject parcel is located at 2807 Maplewood. The parcel is zoned R1C (Single-Family Residential District) and is located on the corner of Maplewood and Norwood. The house was built in 1920 and is 820 square feet.

The petitioner is proposing to construct a 20-foot by 28-foot (560 square feet) addition to the house containing a bathroom, bedroom and family room. After construction of the house the house will be 1,332 square feet. The building addition will follow existing rooflines and align with the existing house floor plan. The house is non-conforming for the front setback along Norwood Street. The required front setback is 25 feet and the existing house is located 12 ½ feet from the edge of the Right of Way. However, the house is 25 feet from the edge of the Norwood

53 pavement and there is no sidewalk along Norwood Street. The proposed modification will
 54 remain 12 ½ feet from the ROW and 25 from the edge of Norwood.

55

56 **Standards for Approval**

57

58 The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from
 59 the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

60

61 **(a). *The alteration complies as nearly as practicable with the requirements of the***
 62 ***Zoning Chapter.***

63

64 The footprint of the existing house will be expanded to the east by 20 feet. After
 65 construction the addition will be over 50 feet from the eastern (rear) property line and will
 66 have an existing detached garage between the addition and the adjacent property. The
 67 addition will not encroach closer to the southern (side) property line than the existing
 68 building. The total square footage of the existing house is 772 square feet and the
 69 proposed modification will increase total square footage by 560 square feet. The size of
 70 the structure will remain consistent with other surrounding houses.

71

72 The expansion will allow the petitioner to improve their property while respecting the
 73 intent of the Zoning Ordinance.

74

75 **(b). *The alteration will not have a detrimental effect on neighboring property***

76

77 The subject parcel lies in an area of single-family homes. The existing house will be
 78 enlarged, but the existing rooflines and façade will be continued along the new addition.
 79 The house will remain 25 feet from the edge of Norwood street, over 50 feet from the
 80 eastern property line and over 26 feet from the southern property line.

81

82 Staff does not feel that the requested variance would negatively affect any surrounding
 83 property. As stated previously the surrounding uses are similar in density.

84

85 **Audience Participation** - None.

86

87 **Discussion by the Board to Staff**

88

89 C. Carver – This is not increasing the non-conformance of the structure, why is this issue here?
 90 (M. Kowalski – Because the addition is still going into the front setback – it’s extending the non-
 91 conformity.) Then why isn’t a variance being asked for? (Because they’re not getting any closer
 92 – they’re not making it *more* non-conforming.)

93

94 The other issue before us needs a variance, why doesn’t this one? (Because the other issue is
 95 going *farther back into* the rear setback.) If they don’t need a variance, why are they here?

96 They’re either here because they’re making alterations to a single-family home (which doesn’t
 97 need our permission OR if they’re building into the setback, they need a variance. (They can
 98 make alterations to a single-family home without ZBA approval, as long as that alteration
 99 complies with the zoning ordinance, which this would not.)

100

101 **Petitioner Presentation**

102

103 Matt Neuman and Kerri Mose, owners of 2807 Maplewood were present to speak on behalf of
 104 the appeal. They stated that the contractor did the excavation for the addition, and they are

105 currently waiting to pour the foundation. The home has been like this since April of this year as
 106 they were not aware there were any problems with needing a variance.

107
 108 C. Carver – It looks like you started construction (from the pictures) and the city stopped you?
 109 (Yes. – There was a grading permit that was granted)

110
 111 – **Administrative Note: Building department records show that the owner was cited for**
 112 **not pulling a permit, The permit was not applied for until May 8, 2007, and not approved**
 113 **by the Grading Inspector for work until July 26, 2007 – the day after this particular**
 114 **meeting. The applicant has been cited since that time for no silt fencing on either side of**
 115 **the property (required on the grading plan) on July 30th and 31, 2007.)**

116
 117 C. Carver – So, the building department granted you a permit, knowing you needed a variance?
 118 **(No permits issued –Grading permit was applied for, but nothing issued).**

119 Discussion by the Board

120
 121
 122 C. Carver and D. Gregorka, both stated that with the large neighborhood support and the scope
 123 of work being done that they would be in support of the variance.

124 Written Communications

125
 126
 127 Neighbors Lynn Sohacki (2735 Maplewood), Robert and Jennifer Levine (2807 Maplewood),
 128 John and Gertrude Fischer (2808 Maplewood), Ralph and Lidia Iannelli (2822 Maplewood),
 129 Matthew and Jennifer Bjurman (2821 Maplewood) and other signers totaling 17 on the
 130 submitted petition were in favor of granting the variance.

131 MOTION

132
 133
 134 Moved by C. Carver, Seconded by D. Gregorka, “**that in the case of Appeal Number**
 135 **2007-Z-012, 2807 Maplewood Drive that permission to grant alterations to a non-**
 136 **conforming structure according to the submitted plans. Even though the footprint of the**
 137 **home will increase, it will not encroach any further into the setback and will have no**
 138 **detrimental effect on surrounding properties.”**

139
 140 **On a Voice Vote – MOTION PASSED – UNANIMOUS (Permission to Alter a Non-**
 141 **Conforming Structure - Granted)**

142 143 144 **C-2 504 Walnut Street – 2007-Z-013 - REMOVED FROM AGENDA**

145
 146 Chair Carol Kuhnke offered anyone from the public a chance to speak on this issue during a
 147 public hearing. No speakers were present to speak on the appeal.

148 149 150 **C-3 Barton Green, ZBA 07-Z-14 (address currently unassigned) Located** 151 **West side of Pontiac Trail, North of Skydale**

152
 153 Jeff Kahan, Planner II, City of Ann Arbor, was present to speak on behalf of the appeal.
 154 Mr. Kahan worked on this particular project. He stated that the project is located west of Pontiac
 155 Trail, south of DhuVarren road and is 32 acres in size. The city has requested public right-of-
 156 way in order to link the existing building (neighboring) with one next to it.

158 **Summary:** WDG-DK LLC is requesting three variances from Chapter 47, Streets:
159

- 160 1. A variance of 15 feet from Section 4:20(3)(a) in order to allow a private drive connection
161 at the intersection of a public street, a 15 foot offset is required.
- 162 2. A variance of 7 feet from Section 4:20(4)(c)(iii) in order to permit a curb opening of 67
163 feet, 60 foot maximum is required.
- 164 3. A variance of 10 feet from Section 4:20(4)(c)(vii) in order to permit a turning radius of 25
165 feet, 15 foot radius maximum is required.

166
167 **Description and Discussion:**
168

169 The subject parcel is located on the west side of Pontiac Trail, south of Dhu Varren Road. The
170 parcel is zoned R4A (Multiple-Family Dwelling District) and is 32 acres in total size. City
171 Planning Commission approved the Barton Green project site plan on June 5th, 2007. The plan
172 is scheduled to proceed to City Council on August 6th for final approval. The proposed plan is
173 for the construction of 260 multiple-family units designed as townhomes and flats with a
174 clubhouse recreation center.
175

176 The variances are being requested to facilitate the connection of a proposed private drive to
177 proposed public streets. The plan was originally submitted with a traffic circle at the intersection
178 of Letitia Street and Barton Green Drive. The traffic circle was eliminated at the request of City
179 staff and Planning Commission in order to reduce the amount of impervious surface on the site.
180 In place of the traffic circle, a T-intersection is proposed. Letitia Street and Barton Green Drive
181 east of Letitia are proposed public streets, while Barton Green Drive west of Letitia Street will be
182 private. Chapter 47 prohibits an opening to be closer than 15 feet to the right-of-way line or
183 extension of right-of-way lines at intersecting streets, and limits turning radius and curb cut
184 widths to dimensions smaller than required of public streets. As Barton Green Drive will function
185 similar to a public street, and the variances are requested as a result of Planning Commission
186 and City staff comments, staff supports the variances as requested.
187

188 **Standards for Approval**
189

190 The Zoning Board of Appeals have all the power granted by State law and by Section 5:99,
191 Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following
192 criteria shall apply:
193

- 194 **(a). *That the alleged hardships or practical difficulties, or both, are exceptional and***
195 ***peculiar to the property of the person requesting the variance, and result from***
196 ***conditions which do not exist generally throughout the City.***
197

198 The subject parcel has a combination of public and private roads on site; this is unusual
199 for a site. City staff requested that Letitia Street be dedicated as a public street and the
200 City Planning Commission approved plan indicates a T-intersection for intersection of
201 Letitia Road and Barton Green Drive.
202

- 203 **(b). *That the alleged hardships or practical difficulties, or both, which will result from a***
204 ***failure to grant the variance, include substantially more than mere inconvenience,***
205 ***inability to attain a higher financial return, or both.***
206

207 A public private intersection could be constructed on the site, but would result in street
208 intersection that would have two roads joining a street offset by 15 feet.

209 This would result in a dangerous traffic condition and is not supported by City staff, the
 210 petitioner or City Planning Commission and would not be considered good planning
 211 practice.
 212

- 213 **(c). That allowing the variance will result in substantial justice being done, considering**
 214 **the public benefits intended to be secured by this Chapter, the individual**
 215 **hardships that will be suffered by a failure of the Board to grant a variance, and the**
 216 **rights of others whose property would be affected by the allowance of the**
 217 **variance.**

218
 219 The proposed intersection requiring the variance is interior to the Barton Green site and
 220 will be installed when the project begins construction. The existing single family homes to
 221 the south will not have direct access to the site will not be affected by the granting of
 222 these variances. The site to the north is under development and will be connected to the
 223 Barton Green site by Letitia Road. The intersection as proposed would fulfill goals of the
 224 Northeast Area Plan by promoting interconnection of neighborhoods while reducing
 225 impervious surfaces.
 226

- 227 **(d). That the conditions and circumstances on which the variance request is based**
 228 **shall not be a self imposed hardship or practical difficulty.**

229
 230 The need for the requested variances is not a self-imposed hardship. The petitioner had
 231 originally proposed a roundabout or traffic circle for the intersection, which would not
 232 require a variance. The roundabout was eliminated at the request of City Staff and
 233 replaced with a T-intersection, which requires the three variances requested.
 234

- 235 **(e). A variance approved shall be the minimum variance that will make possible a**
 236 **reasonable use of the land or structure**

237
 238 The requested variances are minimal and will help increase safety and facilitate efficient
 239 use of the land. At the request of City staff the site has a mixture of public and private
 240 roads, if all of the proposed streets were public, variances would not be required. Public
 241 Services and Community Services Staff support the requested variances.
 242

243 **Discussion by the Board to Staff**

244
 245 D. Gregorka – I don't have any issues with what is being proposed, however, it seems the
 246 reason the petitioner is here is because they have followed the city's recommendations in terms
 247 of how to design, etc., and this is what the city has asked them to do, but because there are
 248 some exceptions on what is in the Code. (J. Kahan – I would like to point out that staff from
 249 both Public Services and Community Services support these variance requests.)
 250

251 C. Carver – I don't see under Chapter 47 (Streets) where we need to grant this, we're falling
 252 back to Chapter 55 (Zoning), but regardless, I don't have any objections to this.
 253

254 Where Green Road hits Narrow Gage Way, that becomes a private road – why didn't that need
 255 all those variances there? (J. Kahan – I can't speak to that. That preceded my involvement with
 256 the city.)
 257

258 D. Gregorka – There is just a question of whether we should be looking at two standards with
 259 Chapter 47 or if we should be dealing with five standards from Chapter 55. (M. Lloyd – It's a
 260 very good question – I think we should utilize or apply the five standards based on the State
 261 Enabling Legislation for Zoning Board items, and they are clearly spelled out.)

262 C. Kuhnke – It's incorporated in Chapter 55. (M. Lloyd – Yes, and I would suggest that this
263 points us in that direction.)

264
265 Will the intersection of the private road be obvious to anyone driving through here? (J. Kahan –
266 I suspect that since they would both meet consistent width standards, it probably won't be
267 readily apparent; there will be street signage that will indicate the different streets, so you'd have
268 to look at the street signs to make that determination.)

269
270 The description of a curb cut isn't necessarily describing a 'curb' that is going to be there.
271 You're not going to run up a 'bump' like a drive. (J. Kahan – Correct.) (M. Lloyd – I think the
272 curb cut is actually just the area going from the public street to the private street, but technically,
273 it's a curb cut.)

274
275 Petitioner – I'm Jim Ahnert from Midwest Consulting. I don't have much to add to what Jeff
276 Kahan stated. The roundabout was a choice of the developer, but we chose to go with the
277 recommendation of city staff to remove that and go with the 'T' intersection. As you can see, the
278 'T' intersection is the most logical solution rather than the roundabout.

279
280 C. Carver - You're here because, in effect, the city has asked you to change the plan design?
281 (Yes.)

282
283 **Audience Participation** - None.

284
285 **Written Communications** – None.

286
287 **Discussion by the Board**

288
289 R. Eamus – When this issue came before the Planning Commission, there were a lot of people
290 who requested this plan – for various reasons and so when the issue came back for the second
291 time, we recommended that this option be selected, and we told them that they would also need
292 a variance and we had to vote on the variance – this was fairly technical in what the variance is
293 requesting, but I think that the Commission and staff indicated that the request for these
294 variances is due to a technical nature and that the street actually works better this way. We
295 went forward with it, and suggested it be forwarded to the Zoning Board of Appeals.

296
297 D. Gregorka – This plan makes sense, and I'm willing to make a motion as long as no one else
298 has anything else to add to the discussion.

299
300 C. Kuhnke – I'll just remind the Board that we have only five members present, and that all must
301 vote in the affirmative to pass the motion.

302
303 **MOTION**

304
305 Moved by D. Gregorka, Seconded by C. Carver, **“that in the case of Appeal Number**
306 **2007-Z-014, a.k.a. Barton Green, that based on the following findings of fact and in**
307 **accordance with the established standards for approval, the Zoning Board of Appeals**
308 **hereby grants the following variances:**

- 309
310 **1. A Variance of 15 feet from Section 4:20(3)(a) in order to allow a private drive**
311 **connection at the intersection of a public street, where a 15 foot offset is required.**
312 **2. A Variance of 7 feet from Section 4:20(4)(c)(iii) in order to permit a curb opening of**
313 **67 feet, 60 foot maximum is required.**

314 **3. A variance of 10 feet from Section 4:20(4)(c)(vii) in order to permit a turning radius**
 315 **of 25 feet, 15 foot radius maximum is required.**
 316

317 **The findings of fact include that the city has requested this configuration, which makes**
 318 **the most practical use of the area for this development and the public. There is no**
 319 **opposition to this proposal by the public.”**
 320

321 **On a Voice Vote – MOTION PASSED – UNANIMOUS (Variances Granted)**
 322

323
 324 **C-4 405 Awixa Road – 2007-Z-015**
 325

326 **Summary:** David Lewis is requesting permission to alter a non-conforming structure as
 327 described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance and one variance
 328 from Chapter 55 Section 5:27 (R1B, Single-Family) of 6 feet 6 inches from the previously
 329 approved rear setback of 25 feet to permit construction of an enclosed porch 16 feet 6 inches
 330 from the rear property line.
 331

332 The property was granted a variance in 1992 to extend 15 feet into the rear setback, so
 333 currently it sits at 25 feet from the rear lot line. The house is non-conforming prior to the first
 334 variance being granted. There is a small corner of the existing home that falls within the
 335 estimated rear lot line. The house was built in 1926 and is approximately 2000 square feet.
 336

337 The variance, if granted, will permit the addition of a 267 square foot enclosed porch. If
 338 constructed, the new addition will be located approximately 10 feet 10 inches from the eastern
 339 property line and approximately 16 feet 7 inches from the southern or side property line. The
 340 size of the structure will remain consistent with surrounding houses. The existing house will be
 341 enlarged, but the proposed porch will not be visible from the street. Due to the triangular shape
 342 of the parcel, there are only two adjacent neighbors. We did receive one letter in support of this
 343 request, and one letter in opposition. The property is an unusual triangular shape, which results
 344 in an estimated rear lot line. This is an unusual condition for a parcel in the city. A patio
 345 currently sits in this same area, which can be constructed and enlarged without the need for a
 346 variance.
 347

348 **Petitioner Presentation**
 349

350 David Lewis was present to speak on behalf of the appeal. He clarified with Chair C. Kuhnke
 351 that if they chose to table the appeal that they would be allowed to do so.
 352

353 C. Kuhnke – Stated that they would be allowed that option, but that the public hearing would still
 354 take place to accommodate the public to speak in either support or opposition.
 355

356 D. Lewis – After conferring with the homeowner, the petitioners opted to table the issue if the
 357 homeowner would be allowed to rebut any public comment.
 358

359 C. Kuhnke – Stated that the Board would entertain that, but that once the motion to table has
 360 been proposed, no further comment would be allowed.
 361

362 **Audience Participation**
 363

364 **Barbara Beeson** – 401 Awixa Drive, Ann Arbor, MI 48104 – (Spoke in Opposition) –
 365 Ms. Beeson stated that she is the next-door neighbor and that they have lived in Ann Arbor for
 366 thirty years and they worked hard to move into a neighborhood with a little more space between

367 the houses. In spite of that, we supported the previous request to make a significant variance to
 368 this house. The new owner wants to put an addition on the addition that we supported the last
 369 time, and although we like our neighbors, we would respectfully request that this additional
 370 variance be denied to preserve the character of the neighborhood and the privacy of our yard.

371

372 **Thomas Collet** – 405 Awixa Road, Ann Arbor, MI 48104 - (Property Owner – Spoke in
 373 Support) – In terms of my statement as a citizen, I'd like to echo the comments that my neighbor
 374 made. I moved here in 1999 and chose this neighborhood because I wanted to live on a street
 375 that does not have 'rectangular' roads. I lived in Chicago prior to this, and this was very
 376 appealing to me. Our commitment is to do what is in keeping with the neighborhood, which is
 377 why we engaged an architect – to make sure that there is no 'damage' to the neighborhood.

378

379 We have been using the patio in the location of the proposed porch so far so really, our intention
 380 is not to change the nature of the neighborhood or create hassle for the neighbors, but we would
 381 like to make the space more useable. We have had conversations with our neighbors, offering
 382 to shield lighting – which we understand is an issue – put up additional greenery, so we hope
 383 that we can settle this in a way where both parties are satisfied.

384

385 **Discussion by the Board**

386

387 Moved by C. Carver, Seconded by D. Gregorka, "to table Appeal Number 2007-Z-015,
 388 405 Awixa Road until the August 22, 2007 Regular Session."

389

390 **On a Voice Vote – MOTION TO TABLE – UNANIMOUS (Appeal Tabled until 8/22/07).**

391

392 D. **UNFINISHED BUSINESS** – None.

393

394 E. **NEW BUSINESS** – None.

395

396 F. **REPORTS & COMMUNICATIONS** - Stated during session

397

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

399

400 **ADJOURNMENT**

401

402 Moved by D. Gregorka, Seconded by C. Carver, "that the meeting be adjourned."

403

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

405

406 Chairperson Carol Kuhnke adjourned the meeting at 7:53 p.m.


407

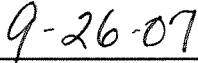
408 (Submitted by: **Brenda Acquaviva, Administrative Support Specialist V –**

409

410 **Zoning Board of Appeals**)

411

412 
 Carol Kuhnke, Chairperson


 Dated ZBA Minutes