

**APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE**  
**ZONING BOARD OF APPEALS**

**Section 1: Applicant Information**

Name of Applicant: Damian Farrell Design Group PLLC  
Address of Applicant: 359 Metty Drive, 4A  
Daytime Phone: 734 998 1331  
Fax: \_\_\_\_\_  
Email: ttaylor@dfdonline.com  
Applicant's Relationship to Property: Architect

**Section 2: Property Information**

Address of Property: 436 Third St.  
Zoning Classification: R4C  
Tax ID# (if known): 09.09.29.312.012  
\*Name of Property Owner: Ed Smith, Smithcrew MI, LLC

*\*If different than applicant, a letter of authorization from the property owner must be provided.*

**Section 3: Request Information**

Variance

Chapter(s) and Section(s) from which a variance is requested:

Chapter 59, Section 5:167

Required dimension:

Parking: 6 cars

PROPOSED dimension:

1 car

*Example: Chapter 55, Section 5:26*

*Example: 40' front setback*

*Example: 32'*

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

See Attached Project Statement

**Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)**

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

## Project Statement 436 Third St.

The property at 436 Third St has two main buildings with a total of five units: a beautiful, old main house that is currently divided into four rental units, and a former carriage house and ice cream factory at the back of the lot that is a grandfathered single commercial unit. This historic property is “grandfathered-in” with a non-conforming parking arrangement: all rental residents park on the street and the driveway is set aside for commercial use.

The commercial occupancy of the back building is non-conforming in this R4C zoning district. We would like to change it from a commercial use to a residential use by moving two rental units out of the main house and converting the back building into a duplex.

This would allow the house to be restored as a single-family, owner-occupied residence, though we would use the single-story suite on the north side of the house as an attached efficiency apartment for the use of visiting friends and family. (This suite was an addition to the original house and had been used at one time as a dentist office.) The total number of residential units on the site would remain at four, but the commercial use would be permanently removed.

This application is our second request for approval from the ZBA. We have considered the comments from our first application and we have met with neighbors to discuss their concerns. This second application will show that we have made significant attempts to address issues where it is in our power to do so. We have, for example, eliminated a large proposed dormer on the west side of the commercial building which would have overlooked the neighboring backyard.

On the issue of density and maximum occupancy, we have reduced the size of the duplex units so that they are now two bedroom units. The attached chart illustrates how our current proposal would actually be less intense than a scenario where adding two more bedrooms maximizes the rental potential of the main house. (This is a realistic scenario, which would involve only minor renovation of the house and could be done without ZBA approval.)

We would like to be clear, however, that maximizing the rental potential is not the driving motive for this project. While the income from the rental units is needed to help finance their restoration efforts, the owners’ overall intent is to make this property **a great place to live**. Because the main house will be owner-occupied, their preference would be to rent the duplex units to small families or professional couples like themselves, and not to fill the maximum number of bedrooms with as many graduate students as possible.

On the issue of parking, we still need to request a variance of 5 spaces for the 6 that are required. Due to space limitations, 1 car is the maximum number of legal parking spaces we are able to provide on the site. By removing the commercial occupancy, however, the driveway would become available for residents to use, but cars “stacked” in the driveway would not constitute legal parking spaces and therefore cannot be counted to fulfill the parking requirement.

We investigated the possibility of removing the existing 1-car attached garage to improve vehicle access and maneuverability. The Historic District Coordinator explained that this would not be permitted because the garage was built within the period of significance for this neighborhood. It would also be out of line with the HDC mandate that cars should not be allowed to park in the rear open space.

We understand that the request for a parking variance is the most contentious part of our application. The irony here is that whether or not the request is approved, residents will continue to park on the street. If our application is rejected due to the potential for increased parking demand, it will in essence mean the continuation of the non-conforming commercial use of the back building and its associated traffic, in addition to the continuation of resident street parking.

Our proposal to convert that building to a duplex would permanently remove the commercial occupancy and make the property more conforming to R4C zoning. It would also mean that a beautiful old house would be restored to its former glory as a grand, old single-family home. The Historic District Commission supports our proposal, and it is our hope that members of the ZBA will as well.

# 436 Third St.

## Existing

## Proposed

<b>Parking</b>	<p>Grandfathered condition is non-conforming.</p> <p>Driveway is dedicated to Commercial use.</p> <p>5 resident parking permit stickers available for tenants. Residents park on the street.</p>			<p>1 car parks in attached garage.</p> <p>Commercial parking eliminated.</p> <p>Driveway becomes available for resident use</p> <p>Requesting a variance of 5 cars for the 6 that are needed in R4C.</p> <p>5 resident parking permit stickers available for tenants.</p>		
<b>Back Building</b>	Unit			Unit	Max. Occupancy by Housing Code *	Max. Practical Occupancy **
	1 Commercial Unit: non-conforming occupancy			2 BR	5 adult renters	4 adult renters
			2 BR	4 adult renters	4 adult renters	
<b>Front House</b>	Unit	Max. Occupancy by Housing Code *	Max. Practical Occupancy **	Unit	Max. Occupancy by Housing Code *	Max. Practical Occupancy **
	2 BR	6 adult renters	4 adult renters	3 BR house	6 adult renters	2 adult owners
	1 BR	2 adult renters	2 adult renters	1 Studio	2 adult renters	2 adults
	1 BR	3 adult renters	2 adult renters			
	1 Studio	3 adult renters	2 adult renters			
+2 extra possible bedrooms	+4 extra renters	+ 3 extra renters				
<b>Total on site</b>	Max. Occupancy by Housing Code *		Max. Practical Occupancy **	Max. Occupancy by Housing Code *		Max. Practical Occupancy **
	1 Comm. Unit 4 bedrooms 14 adult renters 1 Studio		<b>10 adult renters</b>	No Commercial 7 bedrooms 17 adult renters 1 Studio		<b>12 adults: owners and renters</b>
	+2 extra possible bedrooms	+4 extra possible renters	<b>+ 3 extra possible renters</b>			

\* Occupancy based on bedroom square footage according to Housing Code Chapter 105, Section 8:503, Minimum Space and Facility Requirements.

\*\* Practical occupancy anticipates the way a unit would actually be used and assumes that a maximum of 2 adults would share a bedroom, regardless of square footage.

1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?

There are practical difficulties to complying with the ordinance. This is a very unique property. Given the space and access conditions, 1 car is the maximum number of parking spaces we can provide.

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)

It is physically impossible to provide more than 1 legal parking space on this property.

3. What effect will granting the variance have on the neighboring properties?

Granting the variance will have NO change on the current practice of residents parking on the street. Commercial parking and traffic would be eliminated.

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?

Existing buildings constrain available space and access.

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

Historic buildings on this property are non-conforming. The Historic District Commission has mandated that cars should not park in the rear open space.

#### Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property Residential and Commercial

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

- (1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:
  - a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
  - b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3, or R4 district.
  - c. The structure is considered non-conforming due to the following reasons

(continued . . . . .)

Existing Condition

Code Requirement

Lot area \_\_\_\_\_

Lot width \_\_\_\_\_

Floor area ratio \_\_\_\_\_

Open space ratio \_\_\_\_\_

Setbacks \_\_\_\_\_

Parking 4 residential units park on the street 6 parking spaces on site

Landscaping (Driveway for commercial use)

Other Commercial occupancy RAC - Residential Multi-Family  
does not permit commercial use.

Describe the proposed alterations and state why you are requesting this approval:

See attached Project Statement

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

Removing a non-conforming commercial use and restoring  
a chopped-up house to a primarily single-family home  
will improve the neighborhood.

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit a change in

occupancy from Commercial to Residential, and  
a variance for parking, which would make the  
property more consistent with the neighborhood and more  
conforming to RAC zoning.

**Section 6: Required Materials**

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on 8 1/2" by 11" sheets. (Continued.....)

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

**Section 7: Acknowledgement**

**SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734 998 1331 \_\_\_\_\_  
 Phone Number \_\_\_\_\_ Signature  
 ttaylor.edfdgonline.com \_\_\_\_\_ Tresna Taylor \_\_\_\_\_  
 Email Address \_\_\_\_\_ Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

\_\_\_\_\_  
 Signature

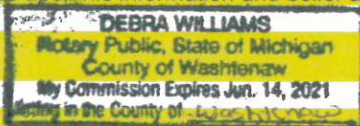
Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.

\_\_\_\_\_  
 Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**

\_\_\_\_\_  
 Signature

On this 29th day of December, 2014, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.



\_\_\_\_\_  
 Notary Public Signature  
 Debra G-Williams  
 Print Name

Notary Commission Expiration Date

Print Name

**Staff Use Only**

Date Submitted: \_\_\_\_\_ Fee Paid: \_\_\_\_\_  
 File No.: \_\_\_\_\_ Date of Public Hearing \_\_\_\_\_  
 Pre-filing Staff Reviewer & Date \_\_\_\_\_ ZBA Action: \_\_\_\_\_  
 Pre-Filing Review: \_\_\_\_\_  
 Staff Reviewer & Date: \_\_\_\_\_

LETTER OF AUTHORIZTION

Re: 436 Third Street, Ann Arbor, Michigan

17 OCT 14

To Whom It May Concern:

I, Edward F. Smith Jr., authorize Damian Farrell or his designated employee of Damian Farrell Design Group, PLLC to appear before the Zoning Board of Appeals on my behalf regarding my property at 436 Third Street in Ann Arbor.

A handwritten signature in black ink, appearing to read "Ed Smith", written in a cursive style.

Ed Smith  
Smithcrew MI. LLC