

**Zoning Board of Appeals
January 28, 2015 Regular Meeting**

STAFF REPORT

Subject: ZBA14-019; 436 Third Street

Summary: Ed Smith is requesting Permission to Alter a Non-Conforming Structure and 1 variance in order to modify the existing non-conforming structure in order to add two residential units to the rear structure for a total of four units in two structures on the site:

- 1) Off-Street Parking variance (Chapter 59, Section 5:167) of 5 spaces; 6 spaces are required; one space is provided on site.

Description and Discussion:

A similar request was presented and denied by the ZBA in November 2014. While the requested actions from the ZBA are the same, Permission to Alter a Non-Conforming Structure and Off-Street Parking variance of 5 spaces, the details of the project and design have changed. Since the November meeting, the petitioner has met with neighbors, consulted with City staff, and reviewed comments from the past ZBA meeting. The petitioner has submitted a detailed chart with an analysis of the existing occupancy limits and the allowable occupancy after proposed modifications.

The current plan was modified in order to help address the concerns expressed by the ZBA and neighbors. The previous proposal included two three-bedroom apartments in the rear building with an added dormer constructed on the rear of the building. The proposed dormer has been removed from the plan and both apartments have now been reduced in size and are now only two bedrooms each. Some of the previous space that was used as living area will now be dedicated for storage use for residents of the apartments. This space will not be connected directly to either apartment.

The request is discussed in detail below:

The subject parcel is located in the Old West Side Historic District at 436 Third Street, north of Jefferson. The parcel is zoned R4C (Multiple-Family Residential District). There are two primary structures located on the parcel, a 3,200 square foot residential structure containing four rental units in the front and a 3,600 square foot commercial industrial structure used as a workshop in the rear. The residential structure was built in 1869 as a single-family house. The majority of the commercial structure in the rear was constructed as a carriage house with a cinder block addition constructed in approximately 1940. It has been in continuous use as commercial/industrial use since that time.

The residential structure in the front is proposed to be converted from 4 units to a single-family dwelling and one studio apartment. The petitioner has stated the ultimate plan is to convert this structure to a single-family house, as originally constructed. The rear commercial structure is proposed to be converted from the existing non-residential use to a residential use as a duplex. There is only one legal parking space located on the site. Existing tenants park on the street or 'stack' cars in the drive. After completion of proposed construction, there will be four residential units on the site; currently there are 5 units on the site, one commercial unit and four residential units. There will be 6 parking spaces required for four residential units on the site. The petitioner is requesting a variance from Chapter 59(off-street parking) for 5 of the required parking spaces.

There is no new building floor area proposed, the footprints of the existing buildings will not change. All modifications will involve the reconfiguration of interior floor spaces. The rear building is currently non-conforming for side and rear setbacks and also exceeds the minimum 35% maximum coverage for buildings in the rear open space.

The plan received Historic District Commission (HDC) approval in November. The proposed changes will not require additional action by the HDC.

Permission to Alter a Non-Conforming Structure Standards for Approval

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

- (a). ***The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.***

The petitioner is asking to modify an existing non-conforming structure located in the rear of the parcel. The existing use of this structure as a workshop and commercial is a non-conforming use in the R4C District. After construction, the structure will be used as a two-family home (duplex). There are currently five units on the site; four units of residential in the front structure and one unit of commercial in the rear structure. The footprint of all existing structures will not be expanded; no part of any structures will be built closer to the property line than currently existing. Conversion of the rear building to residential will bring the use of the structure into conformance; however the building will remain non-conforming for side and rear setbacks. After the proposed modifications, the parcel will contain a total of four residential units, same as the current residential number. The petitioner has indicated that in the future they would like to reduce the number of units to a total of three with the front structure being converted from a single-family and studio, to an owner-occupied single-family home. The conversion to all residential use will be more consistent with surrounding residential uses. The adjacent property to the west is an eight unit apartment building with other multiple-family uses located in the adjacent neighborhood.

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The conversion of uses and planned modifications will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance and eliminating an existing non-conforming use (commercial workshop). Staff does not feel that the requested alterations would negatively affect any surrounding property.

Chapter 59 (Off-Street Parking) Variance - Standards for Approval

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power, from the City of Ann Arbor Zoning Ordinance and Chapter 59, Section 5:566. The following criteria shall apply:

The Zoning Board of Appeals shall have authority to interpret this chapter and may in specific cases and after public notice and hearings in accordance with Chapter 55 of this Code grant variances and exceptions to these requirements, providing such variance or exception is in harmony with the general purpose and intent of the requirements. The procedural requirements for appeals under Chapter 55 shall be applicable to appeals under this chapter.

The parcel currently contains five units; four units of residential in the front and one unit of commercial in the rear structure. The petitioner is proposing to eliminate the commercial workshop and convert the rear structure to two units of residential and convert the front structure from 4 residential units to two, and possibly one in the future. After modifications there will be the same number of residential units (four) on the site that exist currently and no commercial workshop.

Parking code requires a minimum of 1.5 parking spaces per unit for a total of 6. There is currently only one legal space provided on the site, however as many as three cars could fit in the drive in a 'stacked' configuration. This does not meet code requirements because all of the cars cannot be moved without moving the remaining cars in the drive. The existing drive was primarily used for parking and loading/unloading for the commercial workshop in the rear building. There is public parking available on-street and this is currently where the residential tenants park their cars. All current and future tenants will be aware of the parking situation and will have to plan accordingly. The site is in close proximity to downtown and easily accessible by walking or biking. The petitioner will construct four bicycle lockers in the backyard to encourage non-motorized transportation.

Respectfully submitted,



**Matthew J. Kowalski, AICP
City Planner**