



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
MARCH 26, 2008**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, March 26, 2008 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:07 p.m. by Acting Chairperson Kathryn Loomis.

ROLL CALL

Members Present: (6) C. Kuhnke, C. Carver, C. Briere, R. Eamus, K. Loomis and W. Carman

Members Absent: (3) D. Tope, D. Gregorka and R. Suarez

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

A – APPROVAL OF AGENDA

A-1 The Agenda was Amended to postpone the Closed Session for the April 2008 Regular Session when additional members would be present. The Agenda as Amended was approved without objection.

B - APPROVAL OF MINUTES

B-1 Approval of Draft Minutes of the February 27, 2008 Regular Session.

Moved by C. Carver, Seconded by K. Loomis, **“that the minutes of the February 27, 2008 Regular Session be approved as presented.”**

On a Voice Vote – MOTION PASSED – UNANIMOUS

C - APPEALS & ACTION

C-1 1304 S. University - TABLED

At the March 18, 2008 City Planning Commission meeting, the Planning Commission tabled the site plan proposal for the University Village site plan. Accordingly, the consideration of the variance request at the Zoning Board of Appeals is being tabled pending Planning Commission action.

C-2 338 Mulholland Avenue - 2008-Z-008

George Kachadoorian is requesting variance from Chapter 55 (Zoning) Section 5:59, of 2 feet for construction of a detached garage.

Description and Discussion:

George Kachadoorian, requests one variance to allow the construction of a one-car detached garage 1 foot from the side property line as normally required. Accessory buildings, including detached garages, are required to be 3 feet from the side and rear property lines. The subject property is located in the R2A Two-Family Dwelling District.

54 *A single-family dwelling and driveway leading to the existing garage currently exist on the*
 55 *property. The driveway is constructed directly along the northern property line. The existing*
 56 *10-foot by 18-foot garage is located 4 feet from the side property line and 2 feet 6 inches from*
 57 *the rear property line. The petitioner proposes to construct a new 14-foot by 20-foot one car*
 58 *garage 1 foot from the side property line and 3 feet from the rear property line. The new*
 59 *garage location will align with the existing driveway and allow for safer access and increase*
 60 *usability of the garage. In addition, a large tree is located in the middle of the rear yard and*
 61 *the petitioner wishes to minimize any intrusion into the critical root zone of the tree. Moving*
 62 *the garage foundation closer to the side property line will minimize the impact to the root zone*
 63 *of the tree.*

64
 65 The petitioner is requesting a variance of 2 feet in order to construct a detached garage of
 66 minimal size on a very narrow non-conforming lot. Staff believes the request is the minimum
 67 necessary. This home is also located in the Old West Side Historic District, and has received
 68 approval from the Historic District Commission for the garage as well as a small conforming
 69 addition to the home.

70

71 **Questions to Staff by the Board**

72

73 C. Carver (To M. Kowalski) – Is staff in support of this? (Yes. It's a non-conforming lot for lot
 74 area as well as width. The subject lot is only about 40 ft. wide and a little over half the size of
 75 a 'normal' conforming R2A lot.) If City Council wants accessory structures to be 3 feet from
 76 the side, why is the city in favor of this? (Because this is such a small lot 4800 sq. ft. – very
 77 narrow and small for its district and similar variances have been granted for parcels in
 78 Historic areas on such small width lots.)

79

80 **Petitioner Presentation**

81

82 Mr. Rob Pulcipher, owner, was present to speak on behalf of the appeal. He stated that the
 83 existing garage is extremely small. To fit a car in there and anything else has been difficult.
 84 We also have a large sugar maple tree centrally located in the yard. The reason we're
 85 pushing the garage as far away is to stay away from the root system of the landmark sugar
 86 maple tree. We've also had a lot of positive feedback from our neighbors. The next door
 87 neighbor on the property that this affects has provided a written statement that she approves.

88

89 **Questions of the Petitioner by the Board**

90

91 W. Carman – As you probably realize, anything we approve goes with the property, and
 92 whether your neighbor moves away or not, I don't believe that one foot is enough room to
 93 maintain or even build your garage without going on your property. I'd like to be convinced
 94 that you couldn't move this over by 2 feet to maintain that garage. (Petitioner stated that this
 95 was a good point, but thinks that they will be able to maintain it without problems. We're
 96 trying not to lose the sugar maple tree and keeping the garage shifted as far north as we
 97 can.)

98

99 C. Carver – You actually could build it 2 ft. from the side setback? (Petitioner – Due to the
 100 root ball of the landmark Sugar Maple tree and the jog that would be created coming up the
 101 driveway, it would create a problem. We have never parked in the garage partially because
 102 of this. It's an awkward space.)

103

104 W. Carman – Can you provide information about the overhang? I don't believe you can put
 105 up a ladder in that space without going onto your neighbor's property. (Petitioner – Stated

106 that he didn't think they would need a ladder on that side to do maintenance because it's a
107 one-story garage.

108
109 **Public Comment** – None. (*A letter of support from the affected neighbor was read into the*
110 *record.*)

111
112

113 **Discussion by the Board**

114

115 R. Eamus – Also has difficulty with the situation, but what happens in these historic districts
116 makes it very difficult to maintain these houses on these small sites and make them 'livable.'
117 Chuck asked that if the city wants 3 ft. setbacks, why is the city in favor on the staff report of
118 1 ft. here. The difference is that this is a historic district and you want people to maintain
119 those homes. This home was built in 1913, it's on a small lot and the expectation was not
120 that you would have a 'suburban' type of environment where you have today's setbacks from
121 your neighbors. As long as the HDC and the neighbors are in favor of it, I would agree with it.
122

123

124 C. Carver – If this is in a quandary over this tree and the city wanted to save trees, I'd think
125 they would put that in the ordinance. Since this hasn't been done, the intent is to find
126 practical difficulty and undue hardship. Whether it has trees or not is irrelevant to this board.
127 I'm in favor of giving some help if they can build it 2 ft. from the setback. You have to
128 trespass on your neighbors' property to build it and maintain it.

129

130 **NOTE:** (Staff stated that trees are addressed in Chapter 57, *Subdivision and Land Use*
131 *Control*. It is a part of the city code, and landmark trees are a part of that code that city
132 council has approved. The Historic District Commission has purview over all elements
133 outside a historic district home, including natural features and landmark trees. This affects
134 what the HDC will approve, which in turn affects what a petitioner can be limited to when
135 attempting to renovate or build a new structure, and must ask for permission from other city
136 boards and commissions. While it is not an initial concern for ZBA rulings, it is important to
137 note the correlation.)

138

139 K. Loomis – Stated that she didn't think that natural features being considered were totally
140 irrelevant. Whether or not you're cutting down trees or impacting the tree's health is certainly
141 something that has an effect on the neighborhood, which is something I think we should take
142 into consideration.

143

144 C. Carver – Worried that more petitioners will use the 'tree defense,' and once that begins, it
145 will just increase.

146

147 W. Carman – Has spent years on the Natural Features Ordinance Committee trying to save
148 trees, but I'm not convinced that moving this proposed garage over by 1 ft. would put enough
149 of this into the drip line of this tree to cause it to die. More importantly will be where you park
150 your trucks while you're building the garage than the corner of the building that would
151 encroach. My concern remains providing enough space to maintain the property without
152 going on the neighboring property, and would like to see it moved over as much as possible.
153 Anything more would be better than the 4 ft. that you have that building over now. It's our
154 obligation not to grant a variance than is absolutely necessary and make your property
155 useable.

156

157 R. Eamus – Stated that the drawing provided show that most of the garage is outside of the
158 root zone. If you turn the garage, you could pull into it on a slant, but you'd have to grant a
side and a rear variance. Is that possible?

159 *The Board asked the Architect to answer some questions.* Mr. George Katchadoorian was
 160 present to speak on behalf of the appeal. Mr. Katchadoorian stated that they didn't want to
 161 destroy existing as well as new root system with construction of the garage. This structure is
 162 about as small as you can get and still get a car in there.

163
 164 He added that in addition to other information regarding the garage, the 2003 Michigan
 165 Residential Building code requires a one-hour fire rating for buildings that are within one foot
 166 of a property line (drywall inside and outside of that wall) and we have to limit the roof
 167 overhand to 4 in. and the small eave detail requires a couple of layers of drywall (it is also
 168 one hour fire rated).

169
 170 R. Eamus – Confirmed to architect that they are proposing to build the foundation the same
 171 on the south side (no changes), but the side closest to the neighbors will change? (We're not
 172 moving it any closer, but because of the deterioration on the south, it will have to be replaced.
 173

174 K. Loomis – (To Architect) – You don't think that you can get a car in here if you made it
 175 smaller? (Most garage doors are 9 ft. wide. A full sized and/or older cars cannot fit within the
 176 structure.) This is a close case as it is close to the neighboring parcel; however it is in a
 177 small site in an historic district and they have legitimate concerns why they can't move it over.
 178

179 C. Carver – It's very close to the property line, and I'm in a quandary of what to decide and
 180 would like input from other Board members.

181
 182 C. Kuhnke – I'm affected by the fact that this petitioner is by 'two masters' – being the ZBA
 183 and the HDC. Given that the HDC is insisting that they have to save the tree and they're not
 184 going to excavate, that they can put the garage where they plan, the idea of denying them 1
 185 ft. that is going to require digging up one foot of tree roots is compelling to me.

186
 187 **MOTION**

188
 189 Moved by K. Loomis, Seconded by C. Carver, **Based on the following findings of fact and**
 190 **in accordance with the established standards for approval, the Zoning Board of**
 191 **Appeals hereby grants a variance from Chapter 55 Section 5:59 (Accessory Buildings)**
 192 **of 2 feet from the required side setback of 3 feet to permit construction of a detached**
 193 **garage 1 foot from the side property line, per the submitted plans and the following**
 194 **findings of fact:**

- 195
 196 a) **The alleged hardships are peculiar to the property and results from conditions**
 197 **which do not exist generally throughout the City;**
- 198 b) **The lot is non-conforming for area and width; in particular, the subject property**
 199 **is only 40 feet wide;**
- 200 c) **The alleged hardships or practical difficulties or both which will result from a**
 201 **failure to grant the variance includes substantially more than mere**
 202 **inconvenience, inability to obtain a higher financial return or both;**
- 203 d) **The subject property is narrower than the standard lot requirement. The**
 204 **narrowness of the driveway and available width between the house and the**
 205 **property line, limit the area to move the garage and allow for adequate**
 206 **maneuvering room;**

- 207 e) **Allowing the variance will result in substantial justice being done, considering**
 208 **the public benefits intended to be secured by this chapter, the individual**
 209 **hardships that will be suffered by failure of the Board to grant a variance and**
 210 **the rights of others whose property would be affected by allowance of the**
 211 **variance;**
- 212 f) **The circumstances of the variance request are not self-imposed. This is a**
 213 **platted lot in a division that was established prior to the current Zoning Code;**
- 214 g) **The variance request is the minimum necessary to achieve reasonable use of**
 215 **the structure. A larger garage is necessary on this property to accommodate**
 216 **the size of today's automobiles, and the minimal width of the property."**

217 **On a Voice Vote – MOTION PASSED – 5 Yeas, 1 Nay** (*Variance Granted*)

218
 219 **(YEA)** – C. Kuhnke, K. Loomis, C. Carver, R. Eamus and C. Briere (5)
 220 **(NAY)** – W. Carman (1)

221
 222
 223 **C-3 1320 Traver Street - 2008-Z-009**

224
 225 Nathaniel Meyer is requesting permission to alter a non-conforming structure
 226 and one variance from **Chapter 55 (Zoning) Section 5:30**, of 6 feet for
 227 expansion of an existing residential structure.
 228

229 **Description and Discussion:**

230
 231 The petitioner is proposing to construct an 800 square foot second-story addition above
 232 the existing first floor. The house is non-conforming for front, side and rear setbacks. The
 233 existing house encroaches 4 feet into the rear setback, one foot 3 inches into the side
 234 (northeastern) setback and 5 feet 9 inches into the front setback. The house is also
 235 located on a non-conforming lot, the subject parcel is 4,950 square feet and the required
 236 area is 8,500 square feet. The proposed second floor addition will overhang the first floor
 237 by 2 feet 4 inches in the front and 2 feet 4 inches in the back of the house. The overhang
 238 in the front of the house will not encroach any closer than the existing covered front porch
 239 of the house. However, the proposed second-story addition will extend 2 feet 4 inches
 240 further into the rear setback, decreasing the rear setback to 24 feet from 26 feet 4 inches,
 241 30 feet is required. The extension of the house further into the rear setback requires a
 242 variance of 6 feet from the required rear setback.
 243

244 **Questions to Staff by the Board**

245
 246 (*More discussion by the Board and staff on Variances vs. Non-Conforming issues.*)
 247

248 **Petitioner Presentation**

249
 250 Mr. Nathaniel Meyer, owner and petitioner was present to speak on behalf of the appeal. He
 251 stated that there are no neighbors behind him but there is a railroad/right of way. He
 252 explained why he wanted to build the 2 ft. 4 in. cantilever off the back of the house. The
 253 current first floor is set up so that there is only one plausible location for the staircase into the
 254 addition. As you go up into the second floor I'm proposing, that would leave a 7 ½ ft. area to
 255 the back side of the house, which would be an extremely small bedroom in the back. This
 256 cantilever will allow me to build a more reasonable sized bedroom – 9 ft. 10 in. wide

257 bedroom. He stated that he tried to design it so that this wouldn't be necessary, but the only
 258 practical way to build the second floor is what is presented to the Board.
 259

260 All the neighbors to the north own the property all the way back to the railroad – I'm the first
 261 parcel that doesn't own it all the way back. There are structures surrounding me that go 30 to
 262 40 ft. behind me, so it won't be anything out of the ordinary to have the 2 ft. 4 in. cantilever off
 263 the back. There is an existing deck attached by the house, and it wouldn't intrude upon
 264 anything that isn't already intruded upon by the deck. I've spoken to all the neighbors and
 265 they are happy that I've purchased it and am fixing it up. It has a huge blue tarp on the roof
 266 and has been vacant for a year.
 267

268 Questions of the Petitioner by the Board

269
 270 K. Loomis – What are the minimum 'permissible' dimensions for a bedroom. (Petitioner/Staff
 271 – 7 ½ ft. is the minimum.)
 272

273 C. Carver – Is this going to be a rental? (No, I'll be living here.)
 274

275 C. Kuhnke – Why wouldn't you build the stairs up and out from the right (south) side instead?
 276 (That would be possible, but everywhere else would also be non-conforming – this was the
 277 least of impositions on my neighbors – this is why I opted to make the second story addition.)
 278

279 Public Comment – None.
 280

281 Discussion by the Board

282
 283 (Discussion between staff and the Board about the railroad right of way – M. Kowalski stated
 284 he went back to the 1950s, and this whole area was like that?)
 285

286 C. Kuhnke – It almost looks as though the railroad was getting ready to build something
 287 there. (M. Kowalski – I didn't contact the railroad. They're unlikely to sell it.)
 288

289 R. Eamus – I had the same thought about the build-able envelope. This plan will keep down
 290 the impervious service and will not increase the footprint of the property.
 291

292 MOTION

293
 294 Moved by W. Carman, Seconded by R. Eamus, "In the matter of 1320 Traver Street,
 295 **Appeal Number 2008-Z-009, that based on the following findings of fact and in**
 296 **accordance with the established standards for approval, the Zoning Board of Appeals**
 297 **hereby grants permission to alter a non-conforming structure based on submitted**
 298 **plans and the following findings of fact:**
 299

300 a) The alteration complies as nearly as practicable with the requirements of the
 301 Zoning Chapter in that it does not intrude further than the front setback other
 302 than the existing entryway and extends minimally into the rear setback where
 303 there is no rear neighbor;
 304

305 b) The alteration will not have a detrimental effect on neighboring property
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307 **On a Voice Vote** – MOTION PASSED – **UNANIMOUS** (Permission to Alter a Non-
 308 Conforming Structure – Granted)
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- D. **UNFINISHED BUSINESS** – None.
- E. **NEW BUSINESS** - None.
- F. **REPORTS & COMMUNICATIONS**
- G. **AUDIENCE PARTICIPATION – GENERAL** – None.

ADJOURNMENT

Moved by K. Loomis, Seconded by R. Eamus, "that the meeting be adjourned."

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

Chairperson Carol Kuhnke adjourned the meeting at 6:59 p.m.

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



C. Kuhnke, Chairperson

4-23-08

Dated ZBA Minutes