

**Zoning Board of Appeals
November 19, 2014 Regular Meeting**

STAFF REPORT

Subject: ZBA14-013; 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:

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 duplex at this time. The petitioner has stated the ultimate plan is to convert the 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

ZBA14-013; 436 Third Street

and also exceeds the minimum 35% maximum coverage for buildings in the rear open space.

The petitioner is required to have Historic District Commission(HDC) approval prior to proceeding with modifications to the existing structure. The petition is scheduled for the November 13 HDC meeting. A summary of HDC action will be provided at the November 19 ZBA meeting.

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 remaining non-conforming for side and rear setbacks. After the proposed modifications, the parcel will contain a total of four residential units, same as 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 duplex 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.

The conversion of uses and planned modifications will allow the petitioner to improve their property while respecting the intent of the Zoning Ordinance. 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.

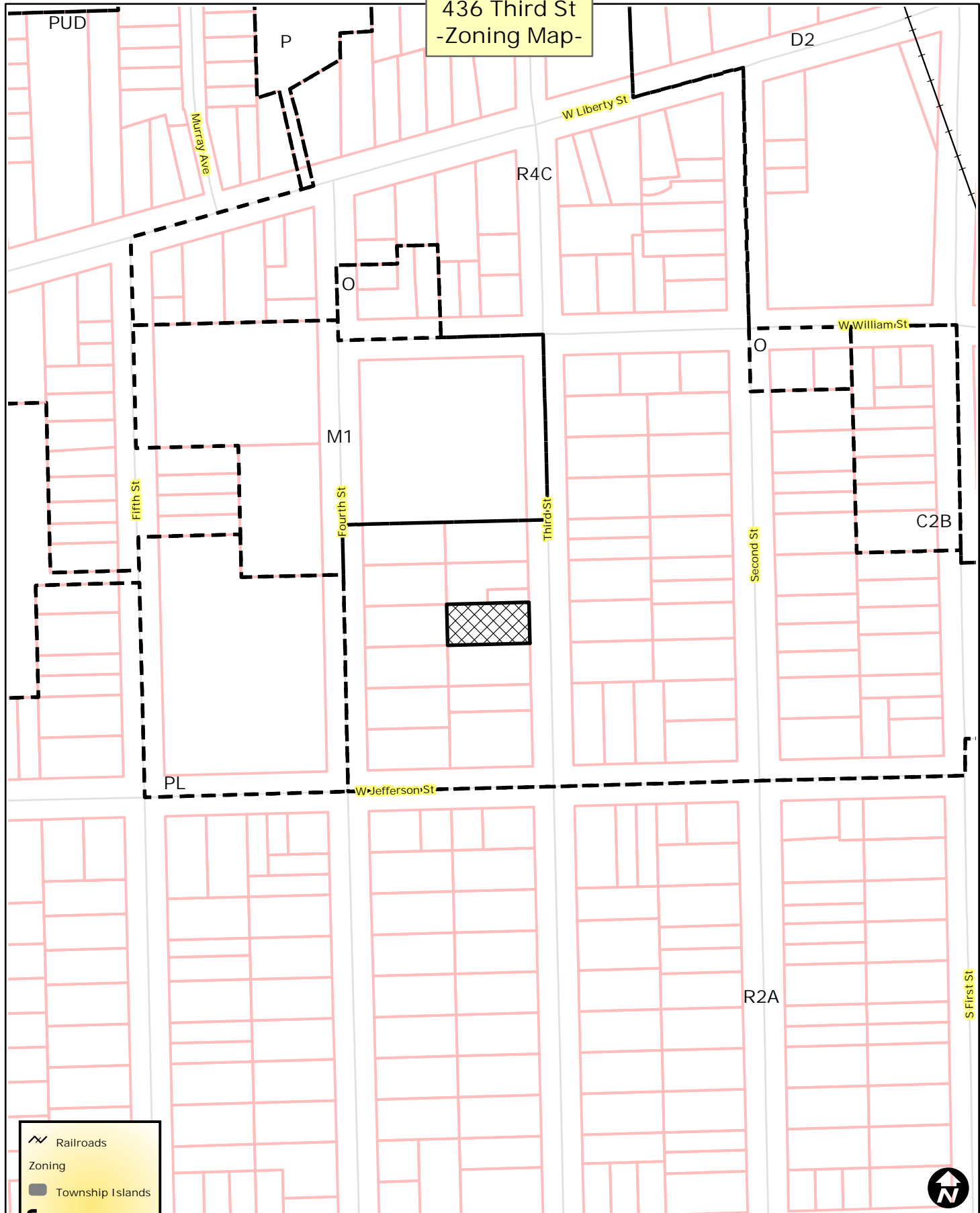
Parking code requires a minimum of 1.5 parking spaces per unit for a total of 6. There is currently only one legal space provided on the site, however as many as three cars could fit in the drive in a 'stacked' configuration. This does not meet code requirements because all of the cars cannot be moved 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**

436 Third St -Zoning Map-



Legend




- Railroads
- Zoning**
- Township Islands
- Zoning Districts
- Parcels
- Huron River



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 Map Created: 10/21/2014

436 Third St -Aerial Map-






-  Railroads
-  Parcels
-  Huron River



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436 Third St
-Aerial Map-



-  Railroads
-  Parcels
-  Huron River



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Map Created: 10/21/2014

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, Suite 4A, Ann Arbor 48103
 Daytime Phone: 734 998 1331
 Fax: 734 213 2953
 Email: ttaylor@dfdgonline.com
 Applicant's Relationship to Property: Architect

Section 2: Property Information

Address of Property: 436 Third St. Ann Arbor 48103
 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
Chapter 55, Section 5:34
Chapter 55, Section 5:59

Example: Chapter 55, Section 5:26

Required dimension: PROPOSED dimension:

<u>Parking: 6 cars</u>	<u>1 car</u>
<u>30' Rear, 5' side setbacks</u>	<u>existing - zero lot line @ REAR - 15" setback @ SIDE</u>
<u>35% max coverage</u>	<u>existing 44% coverage</u>
<u>3' setback</u>	
<i>Example: 40' front setback</i>	<i>Example: 32'</i>

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

See attached sheet.

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...)

Ann Arbor Zoning Board of Appeals

436 Third Street

Application for Variance

Section 3:

Description of Work

The existing property has two major structures:

- A 3,200 sq. ft. 2-story house at the front of the lot which was built in 1869. The house is currently subdivided into four rental units.
- A 3,600 sq. ft. 2-story commercial building at the back of the lot. Part of it was the original carriage house. Sometime prior to WWII, a concrete block addition was built and it has been in continuous use as a commercial building since that time.

The long term plan for the property is to restore the house to its original condition as single-family home for the owner. The owner is willing to give up the commercial use of the back building if it could be converted into a duplex to maintain some income property on the site. There will never be more than four residential units on the site, and eventually, there will only be three.

Reason for Variance Request

Rear Open Space and Setbacks

We are requesting variances for setbacks and rear open space because the existing site is non-conforming.

Parking

The current practice of the residents parking on the street is "grandfathered in" since the driveway has been in continual used by the commercial building since it was built.

We are requesting a variance for off-street parking because the existing space between the house and commercial building is limited. It is not physically possible to get the required number of off-street parking spaces (4 units = 6 cars) on the site.

We propose to provide 1 parking space in the existing 1-car garage and to keep the open space as a yard for the benefit of the residents. The residents would manage the use of the driveway privately and continue to park on the street.

We further propose to exceed the requirements for bike parking by providing four bike storage lockers to be located in the rear yard. Since the main house will be owner-occupied, the duplex has been designed to appeal to professional couples/small families. We feel that providing storage for bikes, strollers, wagons, etc. is a desirable amenity that supports active lifestyles in this very walk-able and bike-able neighborhood.

We have provided an alternate site plan which shows our best attempt to comply with the parking requirements. At most, it would be possible to provide parking for 3 cars (1 in the garage, and 2 in the yard) but this would require an additional variance: Chapter 59, Section 5.168.6 for the required aisle width and maneuvering space, and it would eliminate a significant portion of the rear open space on this lot.

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?

This is a unique property. Existing conditions prevent compliance.

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

The Alternate site plan shows our best attempt to comply with parking requirements. Providing off-street parking for these proposed units would likely increase the profitability for the owner, but access

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

No change. Maintain existing.

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 size and access.

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

No. Historical building pre-date current zoning.

(Continued on attached page)

Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property 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)

Section 4.2 (continued)

into and out of these parking spaces would be awkward and difficult.

The owner would prefer to implement the Proposed site plan which preserves the yard as an open space for the residents even though this may be less profitable.

Existing Condition

Code Requirement

Lot area _____

Lot width _____

Floor area ratio _____

Open space ratio _____

Setbacks Rear = 0, side = 1' _____ 30' rear, 5' side _____

Parking none _____ 6 cars (4 units @ 1 1/2 cars/unit) _____

Landscaping _____

Other Rear open space 44% coverage _____ 35% max coverage _____

and 3' setback

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

Convert existing commercial building into a duplex.

This would be changing to a less-intense use which is more consistent with the neighborhood. Eventually, the Main House (currently divided into 4 rental units) will convert back to single-family use.

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:

We are removing the commercial use from the property. Residential use is more consistent with 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 from commercial to Residential use

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

ttaylor@dfdgonline.com

Email Address

Tresna Taylor

Signature

Tresna Taylor

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.

Tresna Taylor

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.

Tresna Taylor

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.**

Debra Williams

Signature

On this 22nd day of October, 2021, 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.

DEBRA WILLIAMS
Notary Public for Michigan
My Commission Expires Jun. 14, 2021

Notary Commission Expiration Date

Debra Williams

Notary Public Signature

Debra G. Williams

Print Name

Staff Use Only

Date Submitted: _____

Fee Paid: _____

File No.: _____

Date of Public Hearing _____

Pre-filing Staff Reviewer & Date _____

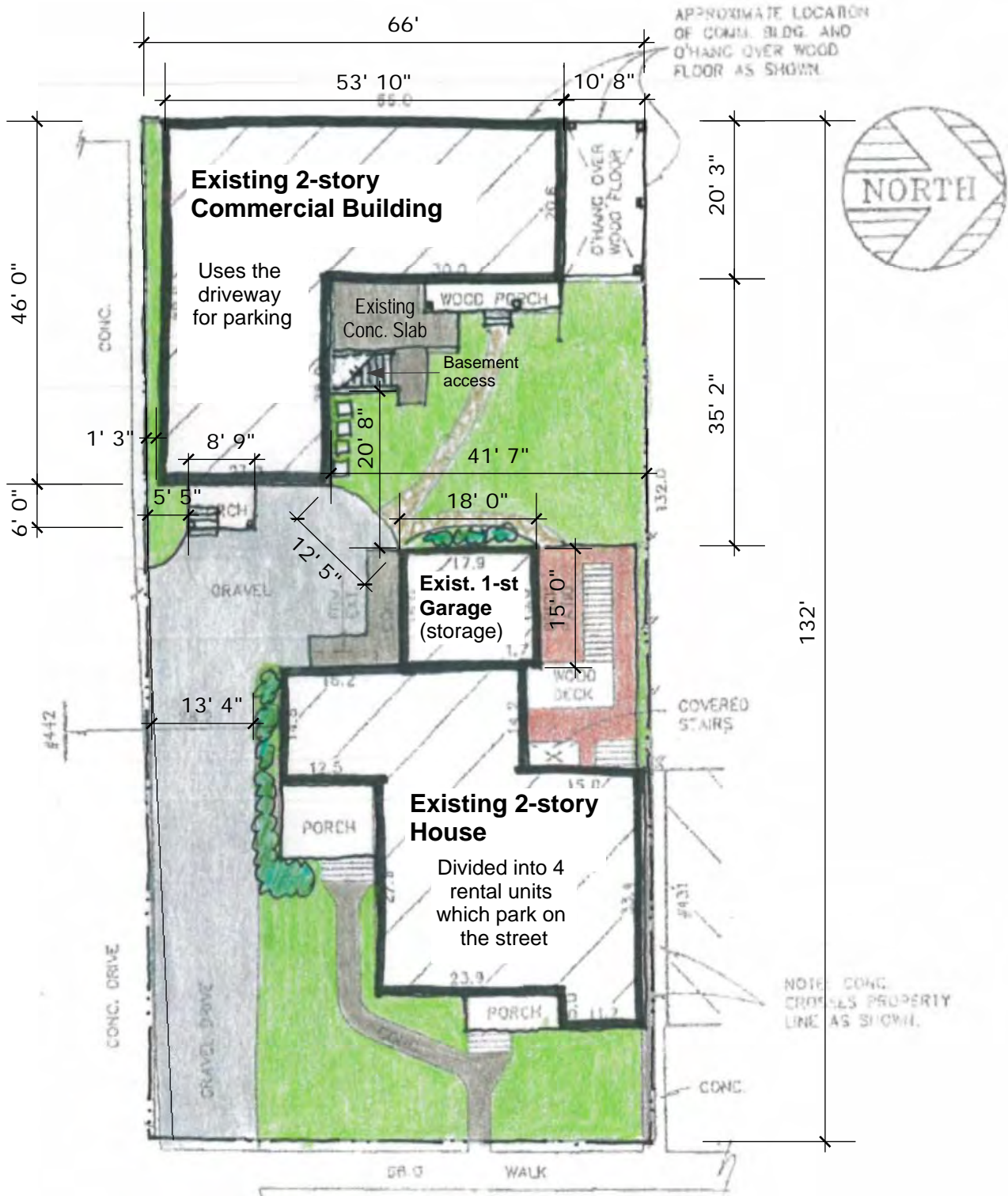
ZBA Action: _____

Pre-Filing Review: _____

Staff Reviewer & Date: _____

436 Third Street

Area of Property= .20 acres



Existing Site Plan

Scale: 0 20' 40'



436 Third Street



Proposed Site Plan



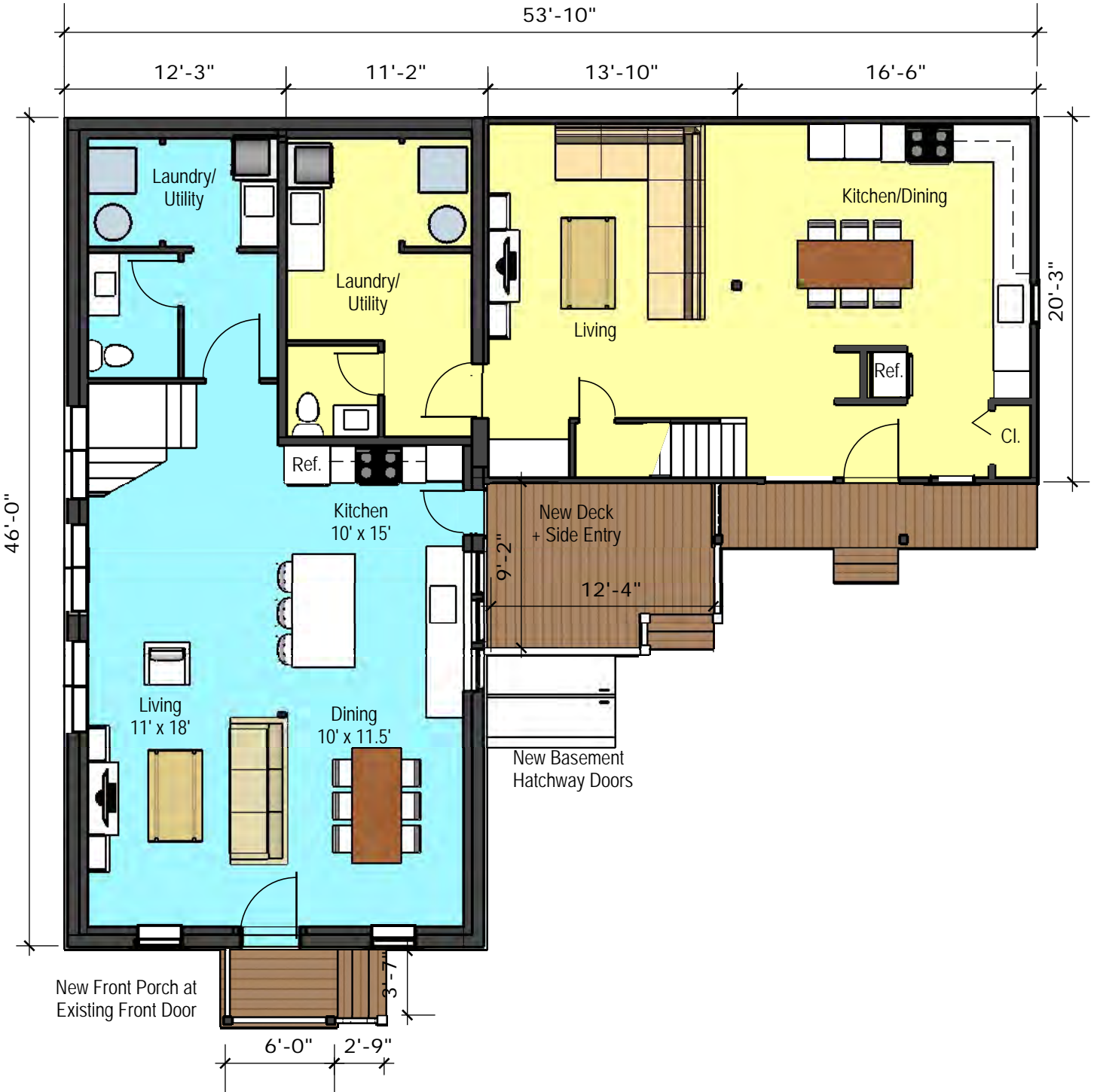
436 Third Street



Alternate Site Plan



436 Third Street



Proposed 1st Floor Plan

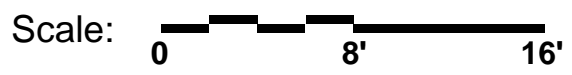
Scale: 0 8' 16'



436 Third Street



Proposed 2nd Floor Plan



436 Third St



436 Third St



436 Third St



436 Third St



436 Third St



LETTER OF AUTHORIZATION

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.



Ed Smith
Smithcrew MI. LLC

From: Maureen Jenkins <mojen@comcast.net>
Date: November 12, 2014, 10:50:59 PM EST
To: "mkowalski@a2gov.org" <mkowalski@a2gov.org>
Subject: ZBA14-013 426 Third St.

I am writing in regard to ZBA14-013 at 436 Third St. It is my understanding that the new owners of the Stafford property want to convert it from commercial to residential usage and desire a zoning variance allowing just one off street parking space for up to six cars (4 units). My husband and I are owners of 427 Third St. We are very concerned about how this change will impact our neighborhood's already problematic parking situation. Even after paying for residential parking stickers, it is often difficult to find an available parking space on our block. I have been told that the city does not have the resources to enforce the one hour parking limit. I took photos last week to illustrate the current parking situation.

Standing in front of our house looking south. The only open space is in front of a fire hydrant.



View of 426 Third showing no available parking spaces on a typical morning.



Allowing a zoning variance in this case would make a difficult parking situation even worse and may set a poor precedent for turning out buildings into residential (or mother-law) apartments in an already dense neighborhood.

Maureen Jenkins

To Whom It May Concern / Zoning Board of Appeals,

We understand that the owners of 436 3rd St are seeking to change an out building from commercial to residential use and a variance to allow only one offstreet parking space when normally six are required.

Our family resides at 429 3rd St. We would like to add our voices to those of neighbors who are concerned what five additional vehicles on the street would mean. As I'm sure you are aware by now, this block is singularly crowded for a residential block, as it houses three large apartment buildings and the Argus commercial building. It is also walking distance to downtown. Even though it has alternate side time limited parking, it is filled up on a regular basis during working hours.

Those of us with residential parking permits really need them, because the side of the street without time limits fills up every day. The only way to park near our house on the street during the day is almost always to utilize a permit on the time limited side or risk getting ticketed. For the \$50/yr we now pay for a permit, we expect it to allow us to park somewhat near our home. Should 436 3rd produce five more cars on our street, all with residential parking permits and filling up the time limited side, it is very likely we would regularly have to park more than a block from our home, despite having a permit.

We wish these new owners well and applaud their desire to convert the main house back into a single-family, non-divided dwelling. But, we believe that the parking variance they are requesting on this particular street will impose undue hardship on their neighbors. I therefore strongly urge the ZBA to reject their request for the parking variance.

There may also be questions concerning conversion of this barn-like "commercial" building into residential rental units when others are regularly prohibited from converting garages and other out buildings to residential and rental use. I am no expert in Ann Arbor zoning, but simply urge a consistent application of the law regarding garages and out buildings.

But, most importantly, we do not believe the parking variance should be approved. Please contact me should you have any questions or want more information. Thank you.

Respectfully,

Dan Rubenstein

Email: rubenstn@umich.edu

Mobile: 734-730-7463