



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
SEPTEMBER 24, 2008**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, September 24, 2008 at 6:09 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:09 p.m. by Chairperson Carol Kuhnke

ROLL CALL

Members Present: (5) C. Briere, D. Gregorka, C. Kuhnke, W. Carman (arr. @ 6:04 p.m.) and D. Tope (arr. @ 6:13 p.m.)

Members Absent: (4) C. Carver, K. Loomis, R. Suarez and One Vacancy

Staff Present: (2) M. Kowalski and B. Acquaviva

C. Kuhnke – (Offered the Petitioners a chance to Table their appeal until there is a larger quorum of members than the current five present. She informed the petitioners that they would need five affirmative votes (according to the ZBA by-laws) to approve any variance, *(Neither petitioner was interested in tabling their appeal).*

A – APPROVAL OF AGENDA

A-1 The Agenda was approved as presented without objection.

B - APPROVAL OF MINUTES

B-1 Approval of Draft Minutes of the June 25, 2008 Regular Session.

CHANGES – Line 272 “discrete” not “discreet”; Line 557 – curb cuts (plural), not curb cut (singular).

Moved by D. Gregorka, Seconded by W. Carman, “**that the minutes of the June 25th, 2008 Regular Session be Approved as Amended**”

C - APPEALS & ACTION

C-1 512, 516 & 522 N. Maple Road & 2330, 2340, 2344, 2350 & 2390 Dexter Road – ZBA08 – 004

Chelsea Land Company requesting two variances from **Chapter 47 Section 4:20 (Curb Cuts and Driveway Approaches):**

1. A variance of 20 feet in order to permit a turning radius of 35 feet, 15 feet is required.
2. A variance of 16 feet in order to permit a curb cut of 76 feet, 60 feet is maximum permitted.

Description and Discussion

The subject site is 2.6 acres in total size and is on the Northeast corner of North Maple and Dexter Road. The site is currently zoned C3 (Fringe Commercial District), C1B (Community Convenience Center) and P (Parking District). The parcel is proposed to be rezoned to a C1B (Community Convenience Center) to allow construction of 2 new commercial buildings on the site and 90 parking spaces. The proposed plan received a recommendation of approval for the site plan and zoning from City Planning Commission on June 3rd, 2008 (PC minutes and staff report attached). If the ZBA approves the variance requests, the plan will proceed to City Council for final approval of the site plan and zoning.

The two new commercial buildings will contain a total of 25,219 square feet. On the east side of the site, a 17,469-square foot grocery store¹ is proposed. On the west side of the site a, 7,750-square foot general retail building is proposed. This general retail building could contain up to four businesses. The grocery store entrance is proposed at the southwest corner of the building, to be equally accessible from the central parking lot and the Dexter Avenue sidewalk. All existing buildings on site will be demolished and all seven existing curb cuts will be closed. Two new access drives will be created, one at the northwest corner to North Maple Road and one at the southeast corner to Dexter Avenue. The driveway to Dexter Road requires two variances, one for curb cut width and one for turning radius, as detailed above. The subject driveway leads to the parking lot for both buildings and will be used for all delivery trucks to the proposed grocery store. Engineering staff have examined the variance application and have no objection to the proposed variance.

Questions to Staff by the Board

(The Board had questions regarding the traffic and turning lanes. It was discussed to ask the petitioner about this).

Petitioner Presentation

Kathy Keeneth of Perimeter Engineering was present to speak on behalf of Chelsea Land Company. She stated that staff has covered the request. She pointed out the curb cuts and explained the lane questions that the Board had, as well as a descriptive narrative of the request. It is intended to have the truck traffic enter and exit just one drive.

Questions of the Petitioner by the Board

D. Tope – Asked about the shaded area in the drawing. *(Petitioner explained the legend of the drawing and discussed it with the Board to their satisfaction).*

W/ Carman – Stated that she supports what the petitioner is doing, but doesn't understand why there isn't a 'deceleration' lane for people coming into the site. *(Petitioner stated that the 'taper' will function slightly as a deceleration lane and the road is scheduled to be reconstructed and resurfaced within the next two or three years by the city, so they will have to continue to work together and coordinate traffic solutions). (Discussion with staff and W. Carman on Capitol Improvements charges related to this in the future).*

(Mr. David Kapazanski of Aldi Corporation was also present to speak on behalf of the appeal).

101 Mr. Kapazanski (Aldi, Inc.) – At Aldi we have our own warehouse and bring all of our products
 102 from our warehouse, so we can control our truck traffic. There will be a milk delivery truck,
 103 and we can't guarantee which direction they will be coming from, but they tend to service full-
 104 service grocery stores with larger trucks and would more likely come in the same entrance.
 105 Those trucks are not rated (for the road) to come in any other way
 106

107 **Public Comment** – One phone communication from a neighboring business (in support) was
 108 read into the record.
 109

110 **Discussion by the Board**
 111

112 D. Tope – Stated that this is a perfect example of a unique “Practical Difficulty” and a
 113 hardship that is more than just a mere inconvenience, which directly impacts the public
 114 health, safety and welfare, especially at such a busy intersection, so I fully support this.
 115

116
 117 **MOTION**
 118

119 Moved by D. Gregorka, Seconded by D. Tope, “In the case of Appeal Number
 120 **ZBA08-004, 512 North Maple Road, based on the following findings of fact and in**
 121 **accordance with the established standards for approval, Chapter 47 (Streets),**
 122 **Section 4:20, the Zoning Board of Appeals hereby grants:**
 123

- 124 1. A variance of 20 feet from the required 15 foot maximum turning radius
 125 for a driveway onto Dexter Road in order to permit a turning radius of
 126 35 feet; and
 127
 128 2. A variance of 16 feet from the required 60 foot maximum curb cut width
 129 for a curb cut 76 feet wide, per attached plans.
 130

131 **Findings of fact:**
 132

- 133 a. The number of curb cuts is reduced from 7 to 2;
 134 b. This change in radius and curb cut size will allow large delivery
 135 vehicles from infringing on eastbound lanes from leaving the site; and
 136 c. A standard curb cut at this location would represent an unnecessary
 137 hardship with no public benefit.”
 138
 139

140 **On a Voice Vote – MOTION PASSED – UNANIMOUS (Variances Granted)**
 141
 142

143 **C-2 1123 South Forest Avenue – ZBA08-005**
 144

145 Rueter Associates is a requesting a rehearing in order to permit alteration to a non-
 146 conforming structure as described in **Chapter 55, (Zoning), Section 5:87, (Structure**
 147 **Nonconformance).**
 148

149 **Description and Discussion**
 150

151 The petitioner is proposing to construct a two-story addition with a single-car attached garage
 152 to the house containing 272 square feet on the first floor and 206 square feet on the second
 153 for a total of 478 square feet.

154 The proposed additions will be constructed on the rear of the house. However, because the
 155 house is located on a corner lot, the area of the addition is considered a front yard due to the
 156 frontage along Minerva. After construction of the addition, the house will be 1,974 square
 157 feet, not including the single-car attached garage. The proposed addition will contain a family
 158 room and the attached garage on the first floor, closet space and a master bath on the
 159 second floor and attached deck in the rear yard. The second story addition will extend over
 160 the front half of the garage only, the addition will not extend over the first floor family room
 161 addition. The house is non-conforming for the front setback along Minerva Road. The existing
 162 rear, side and Forest Avenue front setbacks will not be impacted by this proposal. The
 163 Minerva Road required front setback, resulting from averaging, is 13 feet 3 inches. The
 164 existing structure is 7 feet 6 inches at its closest point to the front property line; the new
 165 addition will be 8 feet 4 inches at its closest point.

167 C. Kuhnke – (Offered the Petitioner another chance to Table their appeal until there is a
 168 larger quorum of members than the current five present. She informed the petitioners that
 169 they would need five affirmative votes (according to the ZBA by-laws) to approve any
 170 variance, *(The petitioners were not interested in tabling their appeal)*.

171

172 **Questions to Staff by the Board** - None.

173

174 **Petitioner Presentation**

175

176 Barbara Luke, owner of the home was present to speak on behalf of the appeal, as well as
 177 her architect, Mr. Marc Rueter. Ms. Luke stated that she has totally renovated this home and
 178 has preserved the original 'Arts and Crafts' style of architecture in the process. There was a
 179 garage in the far left corner of the yard that was 'sinking,' so she had it demolished.
 180 Petitioner is interested in building an attached garage due to the weather conditions in
 181 Michigan.

182

183 Marc Rueter – Stated that one of the difficult problems with this site is trying to do a fairly
 184 minimum sized garage (13' 8" on the inside), which allows for a car and a bicycle or garbage
 185 cans; too much smaller than that and you can't swing the doors open to get out. We also
 186 looked at the floor plan and the family room that is to the right of the garage is approximately
 187 15 wide, with an exit to the rear yard and deck. That exit takes up about 3 feet for circulation
 188 and leaves a 12' x 12' family room which we feel is minimal. The laundry room (although it
 189 sticks out a bit) replaces the existing porch. This is set back so to add a 'hyphen' to link the
 190 new addition to the old, preserving the nice bracket detail on the house.

191

192 He stated that the areas would be screened by hedges that are already on site.

193

194 **Questions of the Petitioner by the Board** – None.

195

196 **Public Comment**

197

198 1. **Mr. James L. Ferguson, 1310 Minerva, A2, MI** - He asked what the setback was
 199 supposed to be at the front of the home. He stated that he wasn't clear as to what
 200 the petitioner was asking for and what the setbacks were supposed to be. (Staff
 201 explained that this is 'averaged'). He stated that he doesn't understand why an
 202 existing non-conforming structure such as this should be allowed to add additional
 203 structures onto it making it more non-conforming. He stated that he would like to
 204 preserve the aesthetics of Minerva Street, as it's very narrow with postage stamp
 205 sized front lawns.

206 W. Carman – Informed the Board, petitioner and public what the surrounding averaged
207 setbacks were.

208
209 *(The Board discussed the issue of setbacks and the variance request with Mr. Ferguson and*
210 *the petitioner, and the laws that are taken into account when potentially granting permission*
211 *to alter a non-conforming structure).*

212
213 **2. Email Communication** – Mary Durfee, a neighbor, who stated she had no
214 objection to a garage on the lot, but would object to a bedroom or apartment
215 addition if that would increase the number of individuals who could occupy the
216 structure.

217
218 **Discussion by the Board**

219
220 D. Tope (To M. Kowalski) – Can you address the email concern? Does this increase the
221 amount of persons who can occupy this space? (From the proposed floor plans, no, but no
222 matter how many bedrooms you have, the code specifies that this dwelling can't have any
223 greater than four unrelated persons, so the request wouldn't affect the occupancy at all).

224
225 W. Carman – Is there any addition over the garage? (M. Rueter – The master bedroom and
226 bathroom proposed would be about half over the garage). If you had turned the family room
227 perpendicular, could you have moved the garage over? (The main objective on this design is
228 to get as much light into the kitchen as possible. If we were to move the garage over, we still
229 have to have the circulation path there, so it's not a matter of actual square feet, but
230 circulation within the house).

231
232 K. Kuhnke – If you turned the family room and then moved the garage over, you would lose
233 any access into the family room from the hall? (M. Rueter – Yes. We would have to open up
234 a new space from the kitchen to the family room, and this room has beautiful granite counters
235 and new cabinetry that are existing that they don't want to remove).

236
237 D. Tope – I'm hearing possibilities, and I'll explore that. (Reiterated former information).
238 I'm looking at the proposal and thinking that if you move that exterior wall (the north wall
239 pointing west) over past the door, there is your area for bikes, garbage cans, etc. Move it
240 over so that the garage space for the car is minimal, and you've gained your footage off the
241 sidewalk and you've gained your storage space. You would have to also add a door.

242
243 D. Gregorka – I don't have a big concern with the plan other than the fact that the next door
244 neighbor that isn't in support of this. Apparently there hasn't been any discussion between
245 the petitioner and the neighbors. (Suggested tabling until next month so that neighbors and
246 the petitioner can discuss possible solutions).

247
248 D. Tope – Agrees. We would be allowing a two story façade the entire length of your
249 addition. On a small street like Minerva, that is a big presence. That speaks against this
250 particular plan. We should find a way to avoid that.

251
252 **MOTION**

253
254 Moved by D. Gregorka, Seconded by W. Carman, **“to table the issue until the October 22,**
255 **2008 Regular Session.”**

256
257 **On a Voice Vote – MOTION TO TABLE - PASSED – UNANIMOUS**

258

259 D. **OLD BUSINESS** – None.

260

261 E. **NEW BUSINESS** - None.

262

263 F. **REPORTS & COMMUNICATIONS** - Included under each appeal.

264

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

266

267 **ADJOURNMENT**

268

269 Moved by D. Gregorka, Seconded by W. Carman **that the meeting be adjourned.”**

270

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

272

273 Chairperson Carol Kuhnke adjourned the meeting at 7:09 p.m.

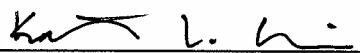
274

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

277

278

279

280 
Kathryn Loomis, Acting Chairperson

10/22/08
Dated ZBA Minutes