



**City of Ann Arbor**  
**Formal Minutes**  
**Zoning Board of Appeals**

301 E. Huron St.  
Ann Arbor, MI 48104  
[http://a2gov.legistar.com/  
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

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Wednesday, January 28, 2015

6:00 PM

City Hall, 301 E. Huron Street, 2nd Flr.

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**A**      **CALL TO ORDER**

*Chair Milshteyn called the meeting to order at 6:04 p.m.*

**B**      **ROLL CALL**

*Chair Milshteyn called the roll.*

**Present:** 8 - Candice Briere, Alex Milshteyn, Perry Zielak, Ben Carlisle, Nickolas Buonodono, Evan Nichols, David DeVarti, and Kirk Westphal

**Absent:** 1 - Heather Lewis

**C**      **APPROVAL OF AGENDA**

**Moved by Zielak, seconded by Briere, that the Agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.**

**D**      **APPROVAL OF MINUTES**

**[15-0101](#)**      December 17, 2014 ZBA Minutes with Live Links

**Moved by Zielak, seconded by Nichols, that the Minutes be Approved by the Board and forwarded to the City Council. On a voice vote, the Chair declared the motion carried.**

**E**      **APPEALS AND HEARINGS**

**ROLL CALL**

*Arrival of Lewis at 6:05 p.m.*

**Present:** 9 - Candice Briere, Alex Milshteyn, Perry Zielak, Ben Carlisle, Nickolas Buonodono, Heather Lewis, Evan Nichols, David DeVarti, and Kirk Westphal

- E-1     [15-0102](#)     ZBA14-012; 3600 Plymouth Road - PUBLIC HEARING ONLY  
Michael Boggio is requesting one variance from Chapter 55 (Zoning) Section 5:10.23 (3)(b) C3 - Fringe Commercial, a variance to permit a drive-thru facility between the public right-of-way (US-23) and the principal building. Agenda item postponed.

*PUBLIC HEARING:*

*Chair Milshteyn explained that this item would be returning before the ZBA after it has been heard before the City Planning Commission.*

*He opened the public hearing for 3600 Plymouth Road.*

*Noting no speakers, the Chair declared the public hearing closed.*

- E-2     [15-0103](#)     ZBA14-018; 722 Spring Street  
Doug Selby, is requesting two variances from Chapter 55 (Zoning):
1. A variance from Section 5:30 (R2A Two-Family) of 5 feet from the minimum required lot width of 60 feet for construction of a residential duplex on a 55 foot wide lot.
  2. A variance from Section 5:57 (Averaging an Existing front setback line) of 4 feet 6 inches for expansion of an existing residential structure into the front setback; 23 feet is required (Averaged Front Setback).

*Matt Kowalski presented the following staff report:*

*DESCRIPTION AND DISCUSSION:*

*The subject parcels are 720 and 722 Spring Street, both lots are legally established parcels and zoned R2A (Two-family).*

- *The lot addressed as 720 Spring Street is currently vacant and is 4,399 square feet (non-conforming for lot area, required area is 8,500 square feet) with a lot width of 15 feet at the front setback line, required lot width is 60 feet. This is a buildable lot according to the zoning code.*
- *The lot addressed as 722 Spring Street currently has a single-family house constructed on it and is 8,851 square feet (conforming for lot area, required area is 8,500 square feet) with a lot width of 40 feet, required lot width is 60 feet.*

*The petitioner is proposing to combine the parcels addressed as 720 and 722 Spring Street and construct a duplex on the combined parcel. The resulting new parcel will have a total lot area of 12,976 square feet (8,500 square feet required) and a lot width of 55 feet at the front setback line (60 feet required). The parcel will be 65 feet wide for over half of the depth, however because zoning code measures lot width at*

*the front setback line, the parcel is still considered non-conforming for lot width. Although zoned for duplex (R2A) only a single-family home could be constructed on either the original lots or the combined lot without a variance. As such, a variance of 5 feet from the required lot width is required to construct a duplex.*

*The petitioner is also requesting a variance of 4 feet 6 inches from the average front setback of 23 feet for the construction of a covered front porch on the new structure proposed. The front wall of the principal structure would be located at 26 feet, the front of the proposed covered porch would be 18 feet 6 inches from the front property line.*

*If the variance is granted, the applicant will be required to submit a lot combination prior to construction of the duplex. Approval of the requested variance does not indicated approval of the lot combination.*

#### *Standards for Approval - Variance*

*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. The following criteria shall apply:*

*(a). That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City.*

*1. Lot Width Variance: The propose lot is 12,976 sq ft and would be 55 feet wide at the front and 65 feet in the rear. The lot will have an excess of 4,476 square feet greater than the minimum lot size of 8,500 square feet, but 5 feet less than the required lot width of 60 feet at the front setback line. Approximately 50 feet past the front setback line of 25 feet, the lot widens to a conforming width of 65 feet, 5 feet greater than required width. This is a unique condition in the area.*

*2. Front Setback Variance: There is a significant slope to the rear of the property and several landmark trees that the petitioner has committed to protect through the construction of the duplex. Although the trees are not protected by City code, the plans presented are designed to minimizing impact on the critical root zone of the trees.*

*(b). That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.*

1. *Lot Width Variance: The variance is being requested in order to facilitate the combination of two legal lots into one lot for construction of a duplex. If the variance is not granted, both existing lots can still be used to construct one single-family house on each lot. This would result in more site grading and additional impervious surface as well as the removal of significant landmark trees. As two separate lots, each would be entitled to a curb cut on Spring. The proposed project will only have one curb cut.*

2. *Front Setback Variance: The proposed house could be constructed without a front porch or the footprint could be adjusted to move the structure to the rear removing the trees and increasing grading required.*

(c). *That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.*

1. *Lot Width Variance: The construction of a duplex on a combined parcel with a width of 55 feet will not have a detrimental effect on the surrounding neighborhood. As mentioned a single-family house could be constructed on each of the existing two lots. This could result in the addition of impervious surface including a drive to serve the house, removal of landmark tree and placement of a house toward rear of the lot which would be inconsistent with existing development and more of a visual impact to the surrounding neighbors. There are other legal non-conforming duplexes in the immediate area.*

2. *Front Setback Variance: Although structures within 100 feet have an average setback of 23 feet the surrounding neighborhood is a unique mix of structures with varying setbacks, some with setbacks less than the setback requested. The addition of a covered but unenclosed porch is a positive aesthetic addition to the house and will help add activity to the front yard. A front porch is consistent with many structures in the surrounding neighborhood. Moving the structure back to add a front porch that conforms to setback requirements would require the removal of a significant tree that currently adds an intangible benefit to the City.*

(d). *That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.*

1. *Lot Width Variance: The current configurations of the lots containing 720 and 722 Spring Street have existed prior to 1963. They are both considered legal non-conforming lots.*

2. *Front Setback Variance: The slope of the rear yard and locations of landmark trees on the site are not self imposed. However, the trees could be removed and the structure moved to closer to the rear of the site.*

*(e). A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure*

1. *Lot Width Variance: The two existing lots can be used to construct a single family home on each lot. This may have more impact than one structure on the combined lots. The combination of the lots will create a single parcel that is 4,476 square feet greater than the required lot area of 8,500 square feet required for the construction of a duplex, but 5 feet narrower than required (60 feet) at the front setback. The new parcel is 214 feet deep from the street; the lot width will be 55 feet for the first 96 feet and 65 feet in width for the rear 118 feet. The lot width is consistent with the adjacent lots.*

2. *Front Setback Variance: A variance of 4 feet 6 inches for a proposed setback of 18 feet 6 inches is being requested in order construct a building while preserving a significant landmark tree on the site. The depth of the proposed porch will be 7 feet 6 inches which is consistent with other porches in the neighborhood. While not calculated in the averaged setbacks, several house just outside the measuring area have similar front setbacks of 18 feet or less.*

#### *QUESTIONS BY BOARD TO STAFF:*

*Zielak asked if there had been any recent changes to the code for front setbacks related to porches.*

*Kowalski said no, but that there was ongoing discussion.*

*DeVarti asked if City staff had walked the site.*

*Kowalski said, yes.*

*DeVarti stated that there are a number of large diameter trees on the site that have been tagged for removal. He said there is a large elm tree that he doesn't see surviving and is history within 10 years. He asked if City urban forestry staff had taken a look at the tree, noting that it would be good for them to give an analysis of the tree. He said he is in favor of front porches as he believes there is a benefit to the community to do that, but in this case where they are going to be tearing that down he wanted to know why they couldn't move it somewhat and be asking for*

*less of a setback variance.*

*Westphal asked staff if they knew when this house was purchased and if the current zoning was in place at that time.*

*Kowalski said he didn't know when it had been purchased, but that the zoning had not changed in this neighborhood since the '60s.*

*Westphal asked for clarification that the house could be built smaller and not require variances.*

*Kowalski said yes.*

*Westphal asked if the building could be built towards the side lot lines.*

*Kowalski said, yes, that the lot is a buildable lot, adding that it would be tight but they could do it.*

*DeVarti asked if the petitioner would have to combine the lots in order to build the proposed building.*

*Kowalski said yes.*

*Westphal asked if the petitioner could build an L-shaped structure once the lots are combined.*

*Kowalski said, yes, that the petitioner could fill up all the land up to the required setbacks.*

*Zielak asked about the lack of plans for this proposed parcel, and what restrictions could they use.*

*Kowalski said they could tie their motion to the building footprint that exists.*

**PRESENTATION BY PETITIONER:**

*Doug Selby, 3250 W. Liberty Road, Ann Arbor, was available to respond to the Board's enquiries and explain the application.*

*DeVarti said he spoke to someone in the neighborhood who said the neighbors are hopeful that 718 Spring Street remains open and undeveloped. He asked Selby if when they purchase that parcel would they develop it and then access it through the driveway that they will use for the proposed duplex.*

*Selby said once the new structure is put in, you couldn't. He said it's his sister who is the owner of the lot and her intent is to live in the rear unit and they want to buy the 718 parcel to protect their views, and have a nice forestry urban setting.*

**PUBLIC HEARING:**

*Robert Schubach, 726 Spring Street, Ann Arbor, spoke in support of the project.*

*Roland Kovacs, 704 Spring Street, Ann Arbor, spoke in support of the project.*

*John Swerdlow, 727 Spring Street, Ann Arbor, spoke in support of the project.*

*Scott Phillips, 723 Spring Street, Ann Arbor, spoke in support of the project.*

*Aaron Hula, 714 Spring Street, Ann Arbor, spoke in support of the project.*

*Robin Grosshubsch, 719 Spring Street, Ann Arbor, spoke in support of the project and saving the trees.*

*Martha Hill, 741 Spring Street, Ann Arbor, spoke in support of the project and saving the trees.*

*Noting no further speakers, the Chair declared the public hearing closed.*

**LIST OF EXHIBITS PRESENTED:**

*Chair Milshteyn noted that the Board had received the following communications regarding the request;*

*Aaron Hula, 714 Spring Street, Ann Arbor; Support*

*Charlotte DeVries, 734 Spring Street, Ann Arbor; Opposed*

*Petition signed by neighbors at 729, 726, and 723 Spring Street; Support*

**BOARD DISCUSSION:**

*The members of the Board took into consideration the presented petition and discussed the matter.*

*Nichols said variances were only to be granted to meet the minimal necessary and that the front setback could be achieved with minimizing the carport, so he couldn't support the front setback.*

*DeVarti said he walked the site earlier today, and any damage to the root system of the elm could damage it. He said the open porch is a tremendous asset to the community and should be something that they should be supporting. He said he would be supporting the project.*

*Zielak said he believes the front setback request on this parcel is a*

*zoning problem and not a design problem, and should be a no-brainer to be approved. He said the front setback issue is something that the Zoning Board of Appeals has requested that the Planning Commission review for possible amendments.*

*Westphal said unfortunately the request needed to match all the criteria for granting variances and the front setback could be met by shrinking the footprint since the request is a tear down. He said if the issue was something that staff needed to review in a wider aspect then that should be added the long list, and he would be in favor of that discussion but the request does not meet the current criteria.*

*DeVarti asked if the south curb cut would be removed and the north one left in place.*

*Selby said that was correct.*

*DeVarti said that would be an additional benefit to saving the trees.*

*Carlisle asked if the trees they were trying to save where the ones opposite to the cantilevered bedroom.*

*Selby said yes.*

*Carlisle asked if, per their landscape architect or arborist, that moving the structure back by 4 feet, 6 inches would that cause significant hardship to the tree and eventually kill it.*

*Selby said the over all opinion was that anything they could do not to cut into the tree zone would be a benefit so therefore they are intending to use the existing foundation.*

*Nichols said he strongly believed that it was not the role of the ZBA to take up issues of the zoning code and affectively changing zoning code by giving variances in a uniform way when issues come before them. He said that is not why this ZBA was created and he felt staff should review that part of the code. He reiterated that the structure could be made smaller in order to meet the setback requirement.*

*Briere asked if the porch as well as the structure would be included in the setback.*

*Kowalski said it would only be the porch that would extend into the setback.*

*Briere said they could still build the house without the porch and meet*



*the code.*

*Kowalski said yes, or build a smaller porch.*

*Westphal clarified that they could still have the same size porch if they made the principal structure smaller and it would not interfere with any of the tree roots, and meet the required setback requirement.*

*Kowalski said, correct.*

*Milshteyn asked staff about the possibility of setting a precedent if owners could purchase a few feet from their neighbors and then come before the ZBA.*

*Kowalski said he didn't think so in this case, because the lots had remained the same since the 60s as a platted lot since before our zoning code was in place.*

**Front Setback Variance:**

**Moved by Zielak, seconded by DeVarti, in Petition ZBA14-018; 720-722 Spring Street, based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:57 (Averaging Existing Front Setback) of 4 feet 6 inches from the required front setback of 23 feet, per submitted plans.**

- a) The alleged practical difficulties are peculiar to the property and result from conditions which do not exist generally throughout the City**
- b) That the practical difficulties, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.**
- c) The variance, if granted, will not significantly affect surrounding properties.**
- d) The circumstances of the variance request are not self-imposed.**
- e) The variance request is the minimum necessary to achieve reasonable use of the structure.**

**On a roll call, the vote was as follows with the Chair declaring the motion carried. Vote: 6-3  
Variance Granted.**

**Yeas:** 6 - Chair Milshteyn, Zielak, Carlisle, Buonodono, Lewis, and DeVarti

**Nays:** 3 - Briere, Nichols, and Councilmember Westphal

**Lot Width Variance:**

**Moved by Zielak, seconded by C. Briere, in Petition ZBA14-018; 720-722 Spring Street, based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby GRANTS a variance from Chapter 55, Section 5:30 (R2A) of 5 feet from the minimum lot width of 60 feet, in order to permit construction of a duplex on a 55 foot wide lot, per submitted plans.**

- a) **The alleged practical difficulties are peculiar to the property and result from conditions which do not exist generally throughout the City**
- b) **That the practical difficulties, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.**
- c) **The variance, if granted, will not significantly affect surrounding properties.**
- d) **The circumstances of the variance request are not self-imposed.**
- e) **The variance request is the minimum necessary to achieve reasonable use of the structure.**

**On a roll call, the vote was as follows with the Chair declaring the motion carried. Vote: 8-1**

**Variance Granted.**

**Yeas:** 8 - Briere, Chair Milshteyn, Zielak, Carlisle, Buonodono, Lewis, Nichols, and DeVarti

**Nays:** 1 - Councilmember Westphal

**ROLL CALL**

*Buonodono departed at 7:05 p.m.*

**Present:** 8 - Candice Briere, Alex Milshteyn, Perry Zielak, Ben Carlisle, Heather Lewis, Evan Nichols, David DeVarti, and Kirk Westphal

**Absent:** 1 - Nickolas Buonodono

**E-3**     [15-0104](#)

ZBA14-019; 436 Third Street

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.

*Matt Kowalski presented the following staff report:*

**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 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.*

*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.*

**QUESTIONS BY BOARD TO STAFF:**

*Carlisle asked what could be done to assure that the units would remain as two, two-bedroom units, and thereby not adding to the parking issues.*

*Kowalski responded that the ZBA could grant their approval with conditions.*

*DeVarti said his issue with the request back in November was the parking variance. He added that he had spoken with the petitioner after the meeting at that time and was curious to know if they have done anything to address the need for parking.*

*Westphal asked about the HDC approval related to parking, and how the Board could be sure that the units weren't being allowed to be moved to the rear unit while they add more to the front unit.*

*Kowalski said that there is no more on-site parking allowed, and that the occupancy could be regulated by certificate of occupancies granted from the building department.*

**PRESENTATION BY PETITIONER:**

*Clay Scott, 436 Third Street, was available to respond to the Board's enquiries and explain the application.*

*Tresna Taylor, 359 Metty Drive 4A, Architect for Damian Farrell Design Group, was also available to explain the application.*

*Edward Smith, 436 Third Street, owner, was available to explain the application.*

*Damian Farrell, 359 Metty Drive 4A, Damian Farrell Design Group explained the occupancy code.*

**PUBLIC HEARING:**

*Nancy Layton, former employee of Stafford Carpentry, the commercial*

*business in the rear building said with the commercial business transformed into residential units there would be 10-15 parking spaces gained, so she was in support of granting the requests.*

*Greg McGuire, 436 Second Street, Ann Arbor, spoke in favor of the request.*

*Ethel Potts, 1014 Elder Blvd. Ann Arbor, spoke in support of the conversion from commercial to residential.*

*Noting no further speakers, the Chair declared the public hearing closed.*

*LIST OF EXHIBITS PRESENTED:*

*Chair Milshteyn noted that the Board had received the following communications regarding the request;*

*Margaret Hart, 420 West Jefferson, Ann Arbor; Opposed*

*Scott Kunst, 536 Third Street, Ann Arbor; Support*

*Elyce Rotella and George Alter, 500 West Jefferson Street, Ann Arbor;*

*Support*

*Greg McGuire, 436 Second Street, Ann Arbor with attached signatures;*

*Support*

*Jim Cantrall, 431 Fourth Street, Ann Arbor; Support*

*John Stafford, 438 Third Street, Ann Arbor; Support*

*Phil Weiss and Peter Schork, Ann Arbor State Bank, 125 West William,*

*Ann Arbor; Support*

*Chris LeMessurier, 443 Third Street, Ann Arbor; Support*

*BOARD DISCUSSION:*

*The members of the Board took into consideration the presented petition and discussed the matter.*

*Zielak said he still had concern with the parking issue.*

*Westphal asked if the land area requirement was a concern to staff.*

*Kowalski said no, since it was part of the structure non-conformance. He said if they were dealing with a new structure and a site plan then it would be a concern. He said the reduction in total units and conversion to residential is making the uses conforming.*

*Westphal asked about the impact on residential parking permits for this parcel.*

*Kowalski said he believed they would be entitled to the same number of*

*parking permits as they are now, which he believed to be 5 permits.*

*Westphal commended the petitioner's outreach to the neighbors and expressed that he felt the conversion from commercial to residential along with the reduction in residential units it would be more beneficial to the neighborhood.*

*DeVarti said he was still troubled with the parking variance and felt that losing a commercial use in a residential area takes away from the character of the neighborhood; however expressed his support for the conversion because he felt there was a need for it.*

*DeVarti said he received a phone call from someone who had previously written a letter, who renewed his concern about the lack of parking in the neighborhood. He said he is familiar with the parking issues in that neighborhood and that parking permits are hunting licenses. He said he had told them to go the DDA to see if they could get some spaces in the Fingerle lot as committed spaces. He said he would have to vote against the parking variance because of the parking poor neighborhood, but would be voting for the change in use of the structure.*

*Nichols said he had been convinced that the parking variance is a valid one, in moving away from the business use and into a residential use. He was also in support of the change in use.*

**Moved by Zielak, seconded by Nichols, in Petition ZBA14-019; 436 Third; Permission to alter a nonconforming structure, based on the following findings of fact and in accordance with the established standards for approval, the Zoning Board of Appeals hereby grants permission to alter a non-conforming structure, per submitted plans.**

**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.**

**On a roll call, the vote was as follows with the Chair declaring the motion carried. Vote: 8-0**

**Variance Granted.**

**Yeas:** 8 - Briere, Chair Milshteyn, Zielak, Carlisle, Lewis, Nichols, DeVarti, and Councilmember Westphal

**Nays:** 0

**Absent:** 1 - Buonodono



Moved by DeVarti, seconded by Zielak, in Petition ZBA14-019; 436 Third;Chapter 59 Variance, Off Street Parking variance of 5 spaces: The Zoning Board of Appeals shall have authority to interpret chapter 59 Requiring off-street parking 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 off street parking requirements, providing such variance or exception is in harmony with the general purpose and intent of the requirements, per submitted plans.

a) The variance requested is in harmony with the general purpose and intent of the requirements of this Chapter.

*COMMISSION DISCUSSION:*

*Westphal asked for clarification on the motion.*

*DeVarti stated that he made the specific references to limiting the parking spaces to 5 because of the limited available parking in the area.*

**On a roll call, the vote was as follows with the Chair declaring the motion carried. Vote: 7-1**

**Variance Granted.**

**Yeas:** 7 - Briere, Chair Milshteyn, Zielak, Carlisle, Lewis, Nichols, and Councilmember Westphal

**Nays:** 1 - DeVarti

**Absent:** 1 - Buonodono

**F UNFINISHED BUSINESS**

**G NEW BUSINESS**

**H REPORTS AND COMMUNICATIONS**

**15-0105** Various Correspondences to the ZBA

**Received and Filed**

**I PUBLIC COMMENTARY - (3 Minutes per Speaker)**

*Ethel Potts, stated that she was surprised by the first motion on this last hearing, in that they did not include the standards for approval as she would have liked to hear what standards the request was approved on. She said now she will never know.*

*Nichols said that he felt the ZBA had a duty to everybody that brings a petition before their body, to approach the issue from an impartial standpoint and he is troubled by the idea of communicating with a party that is interested in a petition that could potentially be before them. He said he felt that was a troubling trend, a trend that could possibly bring decisions made by this body into circuit court challenge and he felt as a general policy we should avoid that and if for some reason we happen to have those conversations that member should think of recusing themselves from those matters.*

## **J      ADJOURNMENT**

**Moved by Zielak, seconded by Briere, that the meeting be Adjourn at 7:52 p.m. On a voice vote, the Chair declared the motion carried.**

*Community Television Network Channel 16 live televised public meetings are also available to watch live online from CTN's website, [www.a2gov.org/ctn](http://www.a2gov.org/ctn), on "The Meeting Place" page (<http://www.a2gov.org/livemeetings>).*

*Live Web streaming is one more way, in addition to these listed below, to stay in touch with Ann Arbor City Council and board and commission actions and deliberations.*

- *Video on Demand: Replay public meetings at your convenience online at [www.a2gov.org/government/city\\_administration/communicationsoffice/ctn/Pages/VideoOnDemand.aspx](http://www.a2gov.org/government/city_administration/communicationsoffice/ctn/Pages/VideoOnDemand.aspx)*
- *Cable: Watch CTN Channel 16 public meeting programming via Comcast Cable channel 16.*

*The complete record of this meeting is available in video format at [www.a2gov.org/ctn](http://www.a2gov.org/ctn), on "The Meeting Place" page (<http://www.a2gov.org/livemeetings>), or is available for a nominal fee by contacting CTN at (734) 794-6150.*

**Alex Milshteyn**  
**Chairperson of the Zoning Board of Appeals**

**Mia Gale**  
**Recording Secretary**