



**APPROVED MINUTES OF THE REGULAR SESSION OF
THE HOUSING BOARD OF APPEALS OF THE CITY OF ANN ARBOR, MI
100 NORTH FIFTH AVENUE - SECOND FLOOR – CITY COUNCIL CHAMBERS
September 1, 2009**

The meeting was called to order at 1:35 p.m. by Chair Sandi Smith

ROLL CALL

Members Present: (6) S. Smith, C. Christiansen, K. Busch, L. Wessinger,
M. Goldstein and A. Stuart (arr. 1:43 p.m.),

Members Absent: (1) D. Fleece

Staff Present: (3) N. Sylvester, D. Warsinski and B. Acquaviva

A. APPROVAL OF AGENDA –

Moved by L. Wessinger, Seconded by C. Christiansen, **“To Approve the Agenda as Presented” - Approved as Presented without Objection.**

B. APPROVAL OF MINUTES

B-1 Draft Minutes of the December 2, 2008 Regular Session

Corrections:

Pg. 2, Line 57/58 – reword to make the meaning clear. (exception as in **“all other windows *with the exception of...*”**)

Pg. 5, Line #204 - insert **“that”** instead of **“it.”**

Moved by L. Wessinger, Seconded by K. Busch, **“To approve the December 2, 2008 Draft minutes as amended.”**

On a Voice Vote – MOTION PASSED – UNANIMOUS

C. APPEALS & ACTION

C-1 213 North Thayer Street – HBA09-001

The owner of this property, Thomas VanderMey, requests the following variance from the requirements of **Chapter 105, the Ann Arbor Housing Code:**

Section 8:503 (3)(b), which requires that at least 50% of the required floor area of every habitable room with a sloped ceiling to have a minimum seven foot ceiling height.

Staff Report

N. Sylvester - This is a combination apartment/rooming house building with one apartment on the first floor, four rooming units on the second floor and 2 rooming units on the third floor. In addition, there is an existing study room, room #7, on the third floor. In 1992, the prior owner obtained a Housing Board of Appeals variance for third floor rooming unit #5 (due to inadequate ceiling height and room width) so that it could be used as a rooming unit.

54 At that time room #7 was not approved for use as a rooming unit because it provided the only
55 access to the fire escape and no locking device was allowed on the entry door.
56

57 In 2005, the fire escape was replaced (with building permit) and relocated to the end of the
58 hallway so that it was no longer necessary to pass through room #7 to access it. The current
59 owner, Mr. VanderMey, is requesting this variance for ceiling height so that room #7 can be used
60 as a rooming unit.
61

62 Due to the roofline, room #7 on the third floor has a sloped ceiling. At the five foot ceiling height
63 the room measures approximately 82 square feet, exceeding the 80 square foot requirement for a
64 rooming unit; however, less than 50% of the required floor area has a ceiling height of seven feet.
65

66 Please note that in 2005 hardwired interconnected smoke alarms were installed (with electrical
67 permit) throughout the entire building. The variance would approve this room that does not have
68 seven foot ceilings over fifty percent of the floor area to be habitable space. Staff recommends
69 approval with conditions.
70

71 Questions of Staff by the Board

72
73 D. Warsinski (Fire Investigator) – There are hardwired, interconnected smoke detectors
74 throughout? (N. Sylvester – Yes). That includes the bedrooms? (Yes). Will this room be
75 retrofitted with a hard-wired detector as well? (It already does).
76

77 Petitioner Presentation

78
79 L. Wessinger – Commented that the house is in excellent condition and has a new fire escape.
80 Looking at that room in comparison to the room across from it that the Board approved in 1992
81 (with the same conditions), I think that it is something we should approve (with the conditions set
82 forth by staff in the staff report).
83

84 N. Sylvester – Stated a clarification on her staff report. She said that the window on the second
85 floor was not a casement type, but a double-hung window, with sash and cords, so asked that
86 recommendation #3 on her report be revised with this information.
87

88 Petitioner – Thanked the Board for their consideration of her requested variance
89

90 MOTION

91
92 Moved by K. Busch, Seconded by C. Christiansen to ***grant a variance from the ceiling height***
93 ***requirements of Section 8:503 (3)(b) of Chapter 105 (Ann Arbor City Housing Code) to***
94 ***allow the existing sloped ceiling height in third floor north room (a.k.a. “5-B” to remain as***
95 ***is (for use as a rooming unit), contingent on the following:***
96

97 ***1. Installation of a 1 3/4” solid core door at the entry to the room with approved hardware***
98 ***so that the door self closes and latches;***
99

100 ***2. Installation of an approved deadbolt, privacy lock and peephole on the entry door;***
101

102 ***Contingencies to be met prior to room #7 being occupied as a rooming unit.”***
103

104 ***On A Voice Vote – MOTION TO APPROVE – PASSED - UNANIMOUS***

105 D. OLD BUSINESS

106
107 D-1 1928 Geddes Road – 2008-H-002

108
109 STAFF UPDATE:

110
111 B. Acquaviva – Stated that she had contacted the petitioner. I had turned this over to Jeff Ellis as
112 I felt that due to the petitioners opinion of this matter, that I was meeting resistance and that Mr.
113 Ellis would be more qualified to handle this. I've provided you with the emails that were a part of
114 that conversation.

115
116 Basically, the petitioner keeps insisting that they need another inspection to tell them what is not
117 meeting code, and inspector Pat Boan, myself and Jeff Ellis have informed Mr. Lutes that this
118 inspection had been done, would not be re-done and that he needed to attend today's meeting
119 and provide the Board with the reports that were previously requested regarding fund raising
120 efforts and progress on that issue as well as current compliance progress.

121
122 N. Sylvester – Stated that although she was not the original inspector on this property, she did an
123 inspection this morning to look at this property, and that the rotted sills on the outside of the
124 dwelling have still not been scraped or painted. There are six or so windows that were cited on
125 the original inspection. From the outside, nothing has been taken care of. We would appreciate
126 some guidance from the Board on how you would like us to proceed.

127
128 Because she was not the original inspector on this case, Ms. Sylvester asked for clarification from
129 the Board on what was originally granted to this applicant?

130
131 *(The following is copied from the original appeal:)*

132
133 *The petitioner, Alan Lutes, agent for this property, requests the following variances from the*
134 *requirements of Chapter 105, the Ann Arbor Housing Code:*

- 135
136 1. *Section 8:514, which allows for the petitioner to request*
137 *a time extension to make necessary corrections for code violations.*
138 2. *Section 8:509(2), which requires all openings to be weather tight, in good repairs and*
139 *sound working condition.*

140
141 **Background & Staff Reports**

142
143 *R. Fulton - This is a fraternity house and has been inspected as a rental property several times.*

144
145 ***Request #1:** Due to the prohibitive cost of replacing of all the non-compliant windows (est.*
146 *\$287,000), the petitioner is asking for a time extension to secure funding for the project.*
147 *(30 Months from now which would take us to April 2012). (Staff Recommendation is to grant the*
148 *extension. R. Fulton stated that there should also be a stipulation set forth as a part of the time*
149 *extension*

150
151 ***Request #2:** The petitioner is requesting that maintenance of the windows be deferred until the*
152 *windows are replaced.*

153
154 **MOTION** *(of what was GRANTED on Original Appeal)*

155

156 *Moved by L. Wessinger, Seconded by C. Christiansen, "In regard to Appeal number 2008-*
157 *H-002, 1928 Geddes Road, the Board grants a time extension from Section 8:514 and*
158 *Section 5:409(2), that we allow the petitioner 120 day time extension in which to work with*
159 *the original inspector (Pat Boan), to determine what work must be done on specific*
160 *windows cited in the last inspection, once weather permits – with the following conditions:*

- 161
- 162 *➤ Petitioner must provide a report to the Board no later than 120 days for an update*
- 163 *on fundraising issues; and,*
- 164 *➤ Petitioner would not be required to re-apply.*
- 165

166 ***On a VOICE VOTE – MOTION TO GRANT THE TIME EXTENSION – PASSED – UNANIMOUS***
167 ***(Time extension of 120 days is GRANTED)."***

168

169 **Discussion by the Board**

170

171 K. Busch (To N. Sylvester) – The petitioner was asking for a 30 month extension, which is beyond
172 what is allowable. This would have put them past an entire rental inspection cycle without ever
173 being approved. We could not grant that type of extension anyway – the longest we can grant is
174 120 days, which is what we approved for them. We told them that the only other alternatives
175 were to make the repairs, and/or make some repairs and return to us in another 120 days and file
176 for an additional time extension if this is what they think they needed. Their argument is that they
177 were going to be throwing good money after bad, as they're supposed to fundraise and get this
178 money for complete window replacement, so why should they fix them now.

179

180 My argument was, if they have to pay \$500.00 to get a variance every three or four months, that's
181 not any better of a use of their funds than anything else.

182

183 B. Acquaviva – Stated that the petitioner seems to be saying that due to the language in the
184 variance, that Inspector Boan should come back out and 're-inspect' this property before they
185 have to make any repairs. The petitioner was told by both Inspector Boan and J. Ellis that
186 nothing had changed from the initial inspection on the petitioner's part, and that they didn't need
187 an additional inspection. It was clearly spelled out in the Inspector's Housing Inspection report
188 what did or did need to be repaired.

189

190 N. Sylvester – With the Board's permission, I'd like to have the Housing Bureau pursue having
191 the minimum amount of work completed. We want to make certain that the windows in question
192 are able to be locked, reasonably weather tight, and have the exterior work done. The painting
193 may not be as urgent – there are some large areas of rotted wood on the sills, and not that much
194 work that we're talking about, and I think they should be instructed to get the work done and the
195 Board follow that up.

196

197 L. Wessinger – Did they ever meet again with the original inspector, Pat Boan to determine what
198 work must be done on specific windows cited in the last inspection once the weather permits?

199

200 N. Sylvester – They did have a conversation several months ago and she went through the report
201 again by phone and stated that this is the work that needs to be done. They are on the report as
202 well as the citation on the exterior about scraping and painting. It's very clear where the rot is. I
203 could see it on the walk that I did around the outside of the building.

204

205 L. Wessinger – We stated, and it is reported in the minutes, that we wanted a report on progress
206 being made.

207 Staff stated that there were no such reports provided to them as was stated above.
208

209 L. Wessinger – They're not going to get this money – they're still at pledges for \$160,000.00, and
210 that is where they were in December of 2008 when we first met.

211
212 C. Christiansen – Their information also said that they had \$160,000.00 pledged in December,
213 and in the latest statement he says "The owners have received additional funding pledges which
214 now total more than \$160,000.00. That is what they had in December, and they've collected
215 \$40,000.00 Does that mean they have \$40,000.00 total on the \$160,000.00 pledged? That's not
216 clear here.

217
218 L. Wessinger – Maybe they should take that \$40,000.00 and make the repairs that the city deems
219 are necessary. (It won't cost that much, however).
220

221 K. Busch – My point is, the money shouldn't matter one bit. We're not requiring them to change
222 out any windows, we're saying - you have a small handful of windows that have to have the
223 minimal repairs to up to minimum. If they want to have a campaign to tear out all of the old
224 windows and replace them all with new, great! That was my argument about granting the 120
225 days initially. Get the bare minimum repairs done, we'll allow you to make these bare minimum
226 repairs, then we're out of your hair and you can do what you want.
227

228 Us being in the middle of how much money do you have – do you have it – don't you have it –
229 seems to me like a big waste of time for both of us. Let's get it fixed.
230

231 C. Christiansen – In their original report, they stated that they had \$30,000.00 just to do the
232 repairs – so use that money to fix this!
233

234 L. Wessinger stated that it wouldn't cost \$30,000.00 to do those repairs. Also, in terms of the
235 cycles and the fact that they're going to miss an entire cycle, I think that this is something they
236 should be paying for. This is something more administrative and not our bailiwick. Jeff Ellis will
237 have to take his position on that and resolve that issue.
238

239 N. Sylvester – Should we have an official motion from this Board stating that this work has to be
240 completed? To be very generous, I would say that it should be completed by the very end of
241 October. They have to take care of the windows in question which are very specific on the report
242 as well as the exterior work
243

244 K. Busch – To me, that's the motion that we already made – months ago – stating that they have
245 120 days to do these repairs. We'll tell you what those are specifically and you get them done.
246 From our side of it, whenever that meeting took place, if there was some confusion? Fine. We'll
247 say there was some confusion, and from today on, we're reiterating what we said in December.
248

249 Here is what you have, here is what you need to do, and get it done. Anything beyond that is
250 beyond our scope.
251

252 S. Smith – I agree. To reiterate, it was supposed to be 120 days past the December 2, 2008
253 meeting and it's well past that time period. I think that we could say that even though the
254 petitioner isn't here, we've met, and this needs to be done as it's well past the approved time
255 period. We want this done now within 'X' time period, and it's up to the city on how they want to
256 proceed with that.
257

258 N. Sylvester – I think that what I’m hearing is “The Board is not granting any further extensions,
259 so it’s up to the Housing Bureau to handle it.” (The Board – That’s correct.)
260

261 Board question to staff – What would your next step be, Nancy? (We would give them this
262 information, and if this work isn’t done within a reasonable time frame, we would start ticketing.
263

264 B. Acquaviva – According to Jeff Ellis’s emails, he gave them until the third of September or he
265 was going to start enforcement.. (Nancy stated she would talk to Jeff about this.)
266

267

268 **E. NEW BUSINESS**

269

270 Staff passed out new fee information sheets (passed by City Council) to the Board. There was
271 discussion amongst the Board about how increasing these fees may be deterring people from
272 doing the right thing and filing the paperwork as it is approaching a saturation point.
273

274

275 **F. REPORTS & COMMUNICATIONS**

276

277 Received the reports and locations on new meeting places and times.

278

279 **G. AUDIENCE PARTICIPATION – GENERAL - None.**

280

281 **ADJOURNMENT**

282

283 Moved by C. Christiansen, Seconded by A. Stuart, “**that the meeting be adjourned.**”

284

285 **On a Voice Vote – MOTION TO ADJORN PASSED - UNANIMOUS**

286 Chair Sandi Smith adjourned the meeting at 2:15 p.m.

287

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