



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
January 28, 2009**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, January 28, 2009 at 7:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, A2, MI. The meeting was called to order at 7:03 p.m. by Chairperson Carol Kuhnke.

ROLL CALL

Members Present: (6) J. Carlberg, C. Briere, W. Carman, K. Loomis, C. Kuhnke and S. Briere.

Members Absent: (3) C. Carver, D. Gregorka and D. Tope

Staff Present: (2) C. Cheng and B. Acquaviva

A - APPROVAL OF AGENDA

A-1 Without Opposition, the Agenda was Approved as Presented.

B - APPROVAL OF MINUTES

B-1 Approval of Draft Minutes of the November 19, 2008 Regular Session.

Moved by J. Carlberg, Seconded by K. Loomis, **"To approve the minutes of the November 19, 2008 Regular Session as Amended.**

C - APPEALS & ACTION

C-1 1200 Bydding Street – ZBA09-001

Theresa Angelini is requesting one variance from Chapter 55 Section 5:27 (R1B, Single-Family) of 9 feet 4 inches from the rear setback of 40 feet to permit construction of an addition 30 feet 8 inches from the rear property line.

Description and Discussion

The subject parcel is located at 1200 Bydding Road. The parcel is zoned R1B (Single-Family Residential District) and is located on the northwest corner of Bydding and Robin. The house was built in 1951 and is 1132 square feet.

The petitioner is proposing to construct a 1290 square foot addition to the rear of the house. The rear addition includes a new entryway and bathroom connecting to a larger section that will be separated from the existing house by a courtyard. This courtyard creates an 18 foot separation between the existing house and the majority of the new addition. The purpose of the courtyard is to allow a small landscaped area and natural light to still reach interior rooms of the existing house. The addition will contain a family room, home office and a small art studio.

The house has an attached garage that extends into the front setback of Robin. A variance was obtained in 1981 for this encroachment, so the existing house is not non-conforming.

54 **Questions to Staff by the Board**

55
56 W. Carman (to C. Cheng) – How is the setback calculated? (C. Cheng – It is from the public
57 right-of-way. I would take it perpendicular.) Was it in conformance when built? (Yes)
58 Because it looks like it intrudes about four feet into the setback.
59

60 **Petitioner Presentation**

61
62 Ms. Theresa Angelini, architect on this project was present to speak on behalf of the appeal.
63 She stated that the current owners did not own this home when the original variance was
64 granted. In regard to the variance previously granted for this property, it does look as if things
65 were measured a bit differently. To the best of our knowledge, this was submitted in
66 conformance at the time.
67

68 She stated that Chris had done a thorough staff report and wished to comment on some of
69 that. It was discussed a bit differently than we would have liked to interpret it. We're
70 proposing to construct a 1,290 square foot addition to the rear of the house. The rear addition
71 includes all the things mentioned in the application and staff report. We feel that there is a bit
72 of misconception that the courtyard is creating the variance (per the staff report).
73

74 It's important to consider that the back spaces are connected to each other and the design
75 does incorporate the courtyard. The addition is to provide some open space for the owners to
76 share. The existing is 'boxy' little rooms, and they would like to see each other when they work
77 together and spend time together. The second goal is to provide living spaces on one level for
78 handicapped accessibility. They have aging parents and they're preparing for that. The space
79 also needs to replace the 'missing basement;' there is no basement here, so all those things
80 that others use for basement space – laundry room, furnace room, family room – they need to
81 make a space for these things.
82

83 It is also the intention to create an addition that reinforces the pattern and scale of the of the
84 regular rectangular ranch homes in the neighborhood. Massing, uncomplicated roof
85 structures, etc. Another goal is to allow natural light to reach both the rooms in the existing
86 house and the addition and to provide a small protected landscape area to be viewed from the
87 house in the addition and also provide privacy both for the interior and exterior spaces. Living
88 on a corner lot there is basically no privacy. We also want to create an addition that provides a
89 retaining wall buffer to deflect drainage around the house.
90

91 We feel that there are hardships associated with this property. It is a corner lot with two front
92 setbacks of 40 feet. Once added together with the 40 foot rear setback and the 5 foot side
93 setback, you end up with 125 feet of setbacks. Compared with generic setbacks for an R1B
94 lot, that is 84 feet of setback. This is 33 percent more restrictive than an R1B lot. This site
95 compared with adjacent R1B sites (12 lots) – this property is not larger that might make up for
96 that. The shape of the property is a quadrilateral with no parallel sides. It's most restrictive in
97 the back due to the setback and the available space (which angles in). The house is placed 58
98 feet back from the Bydding property line and is wasted space. There is a 5 foot increase in the
99 grade from the front to the back of the parcel. The existing house is small at 1100 sq. feet and
100 is built on a slab with no basement. In summary, we feel that this meets the first standard for
101 hardships and practical difficulties that are peculiar to the property. The second standard of
102 'the alleged hardships or practical difficulties or both which will result from a failure to grant the
103 variance include substantially more than inconvenience, ability to attain a financial return or
104 both – staff response seemed to focus on the courtyard, and we'll address that next.
105

106 We think that this question, while rather awkwardly phrased – “If the variance is not granted,
 107 will the resulting alleged hardships or practical difficulties resulting from this include
 108 substantially more than a mere inconvenience and an ability to attain a higher financial return,”
 109 we think that yes, failure to grant this variance will result in a hardship for the owners that is
 110 more than mere inconvenience.

111
 112 The owners have lived in this house for over 24 years and know what they need and what the
 113 limitations of the house and the site are. They also don’t want to make a financial investment
 114 in something that is compromised enough to not meet their needs, is ugly or is not considerate
 115 to their neighbors. We have explored at least 25 schemes on how to deal with this site. This
 116 proposal is what we consider to be the best option. *(She explained further).*

117
 118 She went on to refute the staff report, saying that it states that ‘somehow, the courtyard
 119 scheme is driving the need for this variance, and this is a misunderstanding that the courtyard
 120 is contributing to a wasteful scheme and that we are carelessly locating it over the setback line.
 121 Instead, this is a very thoughtful response to create a simple building footprint in keeping with
 122 the original house, providing the owners with the desired layout with no negative impact on the
 123 neighbors and the proposed design solves the needs of the owners within the limitations of the
 124 site with the most minimal request for a variance. *(She went on to show how other alternatives
 125 don’t work).*

126
 127 **Questions to the Petitioner by the Board**

128
 129 W. Carman (to T. Angelini) – Why can’t you slide this exactly as it is but five feet ‘north’ (not
 130 exactly north, but for sake of discussion, call it north) – it would take away the aesthetic value
 131 of the front lines of the building, but it would lessen the intrusion into the setback. (T. Angelini
 132 – There is a large tree there which we would like to respect, and we need to connect the
 133 kitchen door – there isn’t any other way to connect that. If you want to be able to see into the
 134 courtyard). It wouldn’t do anything to the kitchen door or the bath.

135
 136 T. Angelini – The problem comes in that we have to leave a clear office space for circulation so
 137 we’re not walking through the office space or other spaces to get into the addition.

138
 139 W. Carman – Did I understand correctly that this section of the house is actually partially
 140 ‘banked’ into the hill? (T. Angelini - Yes, it is, because the grad in the back is five feet different,
 141 and we want everything on the same level so that it is handicapped accessible.) Did I
 142 understand that part of this addition is ‘banked’ into the hill? (Yes, it is.)

143
 144 J. Carlberg – How far are you excavating into this hill to create your building platform. (T.
 145 Angelini – It’s a slab-on-grade, so, 4 or 5 feet down to get to the floor level.) Don’t you have to
 146 go farther than that due to the necessity of the construction? (A little bit. 2 feet? 3 feet?) And
 147 you’re proposing to build a wall that will be both the side of the building and have enough
 148 strength to hold the earth? (Yes, just like any basement wall.)

149
 150 So, you’re going to drain down the hill by having pea-gravel and other drainage? (Yes. This
 151 actually provides a buffer and is easier to direct water around it and somehow catch it once it
 152 has arrived down the hill and at the back of the house.) Water is going to go down the hill
 153 toward the house? (Right. It can be diverted around it.) By what means? (By the swail of the
 154 grade. We still have the majority of the land at the back of their property, and it doesn’t need a
 155 whole lot. Looking at the topography, it will be where it is naturally going downhill.)

156
 157 The part that troubles me about your design is that the courtyard is what makes your house
 158 intrude into the rear setback. You do have a very large lot in square feet and it’s not a regular

