



**APPROVED MINUTES OF THE REGULAR MEETING OF  
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR  
December 15, 2010**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, December 15, 2010 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, A2, MI

The meeting was called to order at 6:00 p.m. by Vice Chairperson Kathryn Loomis

**ROLL CALL**

Members Present: **(8)** D. Gregorka, C. Briere, E. Briggs, K. Loomis  
J. Boggs, W. Carman, A. Milshteyn and S. Briere  
(arr. @ 6:16 p.m.)

Members Absent: **(1)** C. Kuhnke

Staff Present: **(1)** M. Kowalski (arr. @ 6:19 p.m.)

**A – APPROVAL OF AGENDA**

A-1 - The Agenda was approved as presented.

**B - APPROVAL OF MINUTES -**

**B-1** Draft Minutes of the August 25, 2010 Regular Session (*No September Session*)

**Changes:**

**Line 126:** “Mr. **Jason** Horvath” and it should read Mr. **Paul** Horvath;

**Line 177:** states “The Motion passed unanimously;” there were **two Nay** votes, so it should not be **unanimous**. Motion should reflect passage with Nay and Yea vote tally.

**Line 371:** the standard “Per Submitted Plans” verbiage was removed? Discussion by the board on why this was done as ‘per submitted plans’ should always be included as a part of any variance that the Board allows;

*(Per a request by the Board regarding clarification of the August 25<sup>th</sup> minutes, Staff mentioned in the previous minutes that the verbiage ‘per submitted plans’ was removed. This was a preventative measure that the Board asked for, as the plans that the petitioner submitted to the board that evening were not accurate after discussion by the board to remove certain items from those submitted plans -- in order to approve the variance, the verbiage the Board put forth actually ‘changed’ what they would allow the petitioner to do and hence, the submitted plans which were now inaccurate.*

*Staff would respectfully suggest that the statement by the Board should probably have included a caveat such as..... “Per revised plans that will be submitted to the Building Department upon application of any permits and as a condition of this variance.”*

Because administrative staff is not present at these meetings and the Staff Planner was also not present, this could not be explained at the time, and **the Vice Chair moved without opposition to postpone approval of these until the next meeting.**

**B-2** Draft Minutes of the 2010-10-28 Regular Session (*No November Session.*)**Changes:**

Line Roll Call: States that K. Loomis ~~was not present~~ but should read that she *was present. (Note: D. Gregorka's name was inserted twice, and one of those should have read K. Loomis. Total present count was 9 and did not reflect that anyone was absent.)*

**MOTION**

Moved by W. Carman, Seconded by D. Gregorka, **"To Approve the October 27, 2010 Regular Session Minutes as Amended."**

**On a Voice Vote – MOTION TO APPROVE AS AMENDED – PASSED - Unanimous**

**C - APPEALS & ACTION****C-1 ZBA10-012 – 1511 Wells Avenue****Description and Discussion**

Brian Howard is requesting Permission to Alter a Non-Conforming Structure as described in **Chapter 55, (Zoning), Section 5:87, (Structure Nonconformance).**

Petitioner is proposing to remove a small non-conforming two-story addition on the rear of the house that is 2 feet from the east side(alley) property line and construct a new two-story addition 3.33 feet from the east side property line and 12 feet from the west property line. The addition measures approximately 20 wide by 23 feet long. The first floor of the addition will vary in setback from 5.33 feet for approximately 14 feet and then moving to 3.33 feet for the remaining 9 feet along the side yard alley. The second story will remain a consistent 3.33 feet from the side yard property line for the entire length of the addition and will cantilever over the 14 foot long section of the first floor that is 5.33 feet from the property line.

The parcel is non-conforming for lot area (8,500 sf. required, 4,355 sf. existing) and the house is non-conforming for the east side yard setback (5 feet required, 0 provided). The addition will match the existing architectural form of the house, however it will be setback an additional 1.3 feet from the majority of the existing house and over 3 feet farther than the section of the house that is setback 0 feet. No part of the addition will extend any closer to the side property lines than the existing structure. The footprint of the existing house will be expanded 23 feet toward the rear of the site, but will remain out of the required rear setback.

**Questions to Staff by the Board**

*General discussion by the Board regarding the drawings and clarification.*

**Presentation by the Petitioner**

Brian Howard, petitioner and architect representing the owners of this property was present to speak on behalf of the appeal. He stated that they hope to change the home to make it more livable for the new residents. He explained the plan at length.

105 **Questions to the Petitioner by the Board**

106

107 D. Gregorka – What is the public alley currently used for? (Ms. Ann Pitcher, co-owner stated  
108 that the alleyway can be accessed; you can go left; you can also enter from Lincoln and there  
109 are a few people who access their garages that way.)

110

111 **Public Comment** - None.

112

113 **Discussion by the Board**

114

115 D. Gregorka – Asked staff to recreate the information table regarding the non-conforming  
116 information. (Staff and the Board discussed the small size constraints of the lot.)

117

118 S. Briere – Mentioned the new storm drainage rules that will apply. Staff stated that they will  
119 have to apply to that when submitting the building applications and plans. (*This is a new*  
120 *regulation that came from City Council*).

121

122 **MOTION**

123

124 Moved by W. Carman, Seconded by C. Briere, “**In the case of ZBA10-012, 1511 Wells**  
125 **Avenue, the Board grants Permission to Alter a Non-Conforming Structure to permit a**  
126 **20 x 23 foot two-story addition, 3.33 feet from the East property line, per submitted**  
127 **plans, given the following findings of fact:**

128

- 129 1. **The alteration complies as nearly as practicable with the requirements of the**
- 130 **Zoning Chapter;**
- 131 2. **The addition will intrude 1.33 feet less than the existing condition;**
- 132 3. **The alteration will not have a detrimental effect on surrounding properties;**
- 133 4. **The addition is not visible from the front of the home; and**
- 134 5. **It leaves the rear setback of at least 50 feet.”**

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136 **On a Voice Vote – MOTION TO APPROVE – PASSED – UNANIMOUS**  
137 **Variance Granted**

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140 **C-2 ZBA10-013 – 536 S. Forest Avenue**

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142 **Description and Discussion**

143

144 Richard Henes is requesting **Permission to Alter a Non-conforming Structure** in order to  
145 permit the addition of 12 residential dwelling units within an existing non-conforming multiple-  
146 family structure.

147

148 *The structure known as ‘University Towers’ is located at South Forest and South University*  
149 *and is zoned D1 (Downtown Core) and South Forest Overlay. The building was built in 1965*  
150 *and is 18 stories (199 feet) tall. It currently contains 240 residential apartments and 13,900*  
151 *square feet of office use. The total floor area of the building is 218,257 square feet, which is a*  
152 *Floor Area Ratio (FAR) of 885%. There is no onsite parking required for the 400% FAR*  
153 *allowed by right; however 111spaces are required for the remaining floor area. The landlord*  
154 *does lease 25 parking spaces in the Forest Avenue parking structure that are available for*  
155 *tenant use. The building is non-conforming for height (150 Max, 199 feet existing) and Floor*  
156 *Area Ratio (700% Max [with residential premiums], 885% existing).*

157

158 History:

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160 *The property was rezoned from C2A (Campus Business) to D1 (Downtown Core) in 2009. The*  
161 *building was built before the 700% Maximum FAR was established, and there was no height*  
162 *limit in effect at the time. The FAR limits were reduced in the late 1960's and the height limit*  
163 *was established with the new D1 zoning initiated by the City in 2009.*

164  
165 Current proposal:

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167 The owner of the property wishes to convert the existing second floor office space (13,900 sf)  
168 to 12 residential dwelling units. The units will be provided in a mixture of 8 three-bedroom  
169 units, 3 two-bedroom units and 1 one-bedroom unit for total of 31 additional bedrooms. The  
170 new units will be constructed along the exterior wall with the remaining interior space  
171 converted to common area to be available to all residents of the building. The footprint of the  
172 building will not be expanded and there will be no new floor area added, only the conversion of  
173 existing space from office to residential use. The parking requirement would remain the same  
174 for the proposed change in use.

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176 Questions to Staff by the Board

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178 *General discussion by the Board regarding the need for Permission to Alter a Non-Conforming*  
179 *Structure.*

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181 Presentation by the Petitioner

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183 Richard Henes, designer on the project, was present to speak on behalf of the appeal. He  
184 summarized his proposal and stated that the owner wants to convert the living space on the  
185 second floor as opposed to office space and expounded on that topic.

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187 Questions to the Petitioner by the Board

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189 General questions to the petitioner regarding current office rentals and usage.

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191 Public Comment - None.

192  
193 Discussion by the Board

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195 W. Carman (To M. Kowalski) - If they don't build this, how long is the Permission to Alter a  
196 Non-Conforming Structure valid? (M. Kowalski – Brenda printed off the last year's issues that  
197 had not started construction. The Board has the right to rescind it after that point, but  
198 otherwise, it will remain in effect.

199  
200 S. Briere – Is there any precedence for rescinding these?

201  
202 W. Carman – It used to be that it automatically expired; however, we've changed the rules to  
203 how it's stated now that we have to rescind it.

204  
205 M. Kowalski – Stated that Permission to Alter a Non-Conforming Structure is not mentioned in  
206 the rules. I would have to look into that.

207  
208 D. Gregorka – Clarified that this is done because if construction is not done within the year,  
209 situations change, neighbor input could change, etc.

210 **MOTION**

211

212 Moved by D. Gregorka, Seconded by A. Milshteyn, “**In the case of ZBA10-013, 536 S. Forest**  
 213 **Avenue, the Board grants Permission To Alter A Non-Conforming Structure in order to**  
 214 **permit the addition of residential dwelling units to this existing multiple family**  
 215 **residential structure, per the attached plans and given the following findings of fact:**

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1. **The alteration complies as nearly as practicable with the requirements of the Zoning Chapter because there is no addition to the floor area or external modifications and the additional spaces are just adding to the residential space of the building; and**
2. **The alteration will not have a detrimental effect on neighboring properties because the additional use is actually less intense given that the residential units will have space for 31 residents as opposed to the current 50 that use the current office space.”**

**On a Voice Vote – MOTION TO APPROVE – *PASSED – UNANIMOUS***  
***Permission To Alter A Non-Conforming Structure – Granted***

**C-3 ZBA10-015 – 2428 Placid Way**

**Description and Discussion**

Michael Harrigan is requesting one Variance from **Chapter 55 (Zoning) Section 5:27 (R1B, Single-Family)**, of **13 feet 6 inches** from the rear setback of 40 feet, to permit construction of an addition 26 feet, 4 inches from the rear property line.

The petitioner is proposing to remove a 362 square foot concrete patio and construct a 320 square foot covered and screened porch attached to the rear of the house. The porch addition measures 16 feet by 20 feet and will be constructed 18 feet from the north side property line and 26 feet 4 inches from the rear property line; Note: the property is located on a Cul de Sac. The addition will encroach 13 feet 6 inches into the rear setback. The screened porch would be attached to the family room and will be designed to match the architectural form and roof lines of the existing house. There is also an existing door wall that provides access to the rear yard and existing patio.

**Questions to Staff by the Board** (None)

The chair noted that the Board had received a petition from nine neighbors stating that they had no objection to the proposal.

*General discussion by the Board regarding the need for a variance.*

**Presentation by the Petitioner**

Michael Harrigan, owner of the property, was present to speak on behalf of the appeal. He summarized his proposal and stated that they would like to have a livable screened in porch.

D. Gregorka – Off of the back lot line, what is back there? (The pictures show a bike path and a walking path in the commons area between us and the adjacent neighbors.) You showed other screened in porches in the area. Are those within the 40’ setback? (I believe one is not in variance, but one to the right of that had to request a variance.)

263 W. Carman – Is that 2420 Placid Way, Matt? (I thought it was 2410 that had the variance.  
 264 Discussion states that this is 2420 Placid Way.) If the variance in the 80's, they could choose  
 265 which was the side setback.  
 266

267 **Questions to the Petitioner by the Board**

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 269 **Public Comment** - None.  
 270

271 **Discussion by the Board**

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 273 D. Gregorka – (Compared the most impacted neighbors.)  
 274

275 W. Carman - So this is a similar request to where parkland was in the rear of the requested  
 276 home. This has that common space. It's really a question of whether you make up for that  
 277 with the public land in the rear. (The Board examined the document from the homeowners  
 278 association.)  
 279

280 Further discussion by the Board regarding how these lots are smaller, but are still conforming.  
 281 Many of these developments were built on the edges of cul de sacs and it limits what can be  
 282 done; however, this is a quite common occurrence throughout many areas of the city.  
 283

284 Staff stated in response to a Board question regarding this request whether or not the  
 285 surrounding examples could be precedent setting. Staff replied that it is not, as each property  
 286 has to be examined on its own merit, and the other structures were built during a time when  
 287 the ZBA rules and Zoning rules were different.  
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289 **MOTION**

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 291 Moved by D. Gregorka, Seconded by S. Briere, **“In the case of ZBA10-015, 2428 Placid  
 292 Way, the Board grants a Variance from Chapter 55 (Zoning) Section 5:27, the Board  
 293 grants a variance of 13 feet 6 inches from the rear setback of 40 feet, to permit  
 294 expansion of an existing residential structure with the addition of a screened porch into  
 295 the rear setback per the attached plans and the following findings of fact:**  
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1. The rear of this property is buffered by a common area and the expansion of this structure will still be no closer than 80 feet to the rear of the structure across the common area;
  2. That the screened porch itself is a reasonably sized addition;
  3. That this is a common situation with cul de sacs and adjoining property and although there are similar situations within the city, they are probably a minority in the city;
  4. There is support for the surrounding neighbors and those immediately next door as well as the homeowners association; and,
  5. The location of this structure on the lot is the only practical place to put the screened in porch.”

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 309 **On a Voice Vote – MOTION TO APPROVE – *PASSED* – 1 Nay, 7 Yeas**  
 310 ***Variance - Granted***

311  
 312 ***Nays (1) – W. Carman***

313 ***Yeas (7) - D. Gregorka, C. Briere, E. Briggs, J. Boggs, A. Milshteyn and S. Briere***  
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316 **D. OLD BUSINESS –**

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 318 **D-1** Final Review and Approval of the Rules of the ZBA  
 319 *(Amended at the July 2010 Regular Session)*  
 320

321 The Chair asked the Board if their rules had been sufficiently reviewed and asked for further  
 322 comments. Seeing none, the Chair asked for a motion to approve.  
 323

324 **MOTION**

325  
 326 Moved by S. Briere, Seconded by C. Briere, **“That the Rules of the ZBA, amended at the**  
 327 **July 2010 Regular Session be approved.”**  
 328

329 **On a Voice Vote – MOTION TO APPROVE – PASSED**  
 330

331 **E. NEW BUSINESS**

332  
 333 **E-1** Proposed Meeting Schedule for the ZBA for 2011  
 334

335 Approved as amended with the last column stating “City Council Chambers” be changed to  
 336 show that due to construction, the meetings from January through June will be at a different  
 337 location.  
 338

339 **F. REPORTS & COMMUNICATIONS – None.**  
 340

341 **AUDIENCE PARTICIPATION – GENERAL – None.**  
 342

343 **ADJOURNMENT**

344  
 345 Moved by S. Briere, Seconded by A. Milshteyn, **“That the meeting be adjourned.”**  
 346

347 **On a Voice Vote – MOTION TO ADJOURN - PASSED - UNANIMOUS**  
 348

349 Adjournment – 8:15 p.m. **(Submitted by: Brenda Acquaviva, Administrative Specialist V**  
 350 **– Zoning Board of Appeals)**  
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 353  
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355 Carol Kuhnke, Chairperson  
 356 (For K. Loomis, former Vice Chair)  
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358 Dated 9-28-11  
 359 ZBA Minutes

358 \*Note: The complete record of this meeting is available in video format at  
 359 <http://a2govtv.pegcentral.com/index.php> or is available for a nominal fee by contacting CTN at  
 360 (734) 794-6150.