



**APPROVED MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF APPEALS OF THE CITY OF ANN ARBOR
AUGUST 27, 2008**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, August 27, 2008 at 6:08 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

The meeting was called to order at 6:05 p.m. by Chairperson Carol Kuhnke

ROLL CALL

Members Present: (6) C. Carver, C. Briere, D. Gregorka, K. Loomis,
C. Kuhnke, W. Carman (arr. 6:13 p.m.)

Members Absent: (3) D. Tope, R. Suarez and One Vacancy

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

D. Gregorka (To Chair) – Considering that we only have five members present, and the petitioners need at least five affirmative votes to pass their application, do we want to give the petitioners the opportunity to table their issue until another session? Since we've offered this in the past, I wanted to raise the issue.

C. Kuhnke – That is fair to offer that to the petitioners, except that we would still receive public commentary regarding those issues. Given that we need five affirmative votes (according to the ZBA by-laws) to approve any variance, and being that there are only five members present, we know that three can't make it, we're expecting one more but she's not present yet. We'll offer to 715 Pomona that they can ask to table their application if they wish to do so. (Public commentary will still take place). Is the petitioner here? (Yes). Would you like to table this? (No).

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.

Not Available at time of Meeting – Postponed to the September Regular Session.

C - APPEALS & ACTION

C-1 715 Pomona Road – ZBA08 - 001

H. Scott Diels is requesting permission to alter a non-conforming structure as described in Chapter 55, Zoning, Section 5:87, Structure Nonconformance and one variance from Chapter 55 Section 5:27 (R1C, Single-Family) of 24 feet 8 inches from the rear setback of 30 feet to permit construction of an addition 4 feet 6 inches from the rear property line. The parcel is an irregular triangle shape which results in a rear setback measured from an estimated rear lot line which is 10 feet in length entirely within the within the lot (per Chapter 55, Section 5:1(27)).

54 **Description and Discussion**

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56 The petitioner is proposing to construct a 405 square foot addition to the rear of the house
57 and over the existing detached garage. Due to the slope of the land the addition to the
58 rear of the house will be at ground level and extend above the existing detached garage.
59 The garage currently conforms to zoning standards as accessory structure, because there
60 is no habitable space within or above it. Once there is habitable space above the garage it
61 is required to conform to zoning standards of principal structures which is 30 feet for the
62 rear. The footprint of the garage will not increase.

63
64 The house is non-conforming for a small area of the rear bedroom, which falls into the
65 original required 30 foot rear setback. If constructed, the new addition will be located 5
66 feet 3 inches from the northern side property line and 8 feet from the southern side
67 property line. The house will not encroach any further into the southern side or rear
68 required setbacks.

69
70 **Questions to Staff by the Board**

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72 C. Carver (to M. Kowalski) – The study is going over the existing garage? (Yes). The
73 bedroom will now be a new building and most of that will be in the rear setback? (Yes). Is
74 the city in favor of this? What is the city's position?

75
76 M. Kowalski – The city doesn't have a 'formal' position, but he does have a case for an
77 irregular shaped lot; the building footprint over the garage is existing, he's not going out
78 closer to the property line in that area, and technically, the side setback is respected on the
79 other side, but the rear setback is the variance request. They're not going any closer to the
80 property line). Would the city's position be the same if there were no existing garage and
81 they wanted to build this there? (Probably not).

82
83 K. Loomis – The 'dashed' line on the diagram is showing the front setback as well. They
84 have a large buildable area off the kitchen and dining area. (Yes). Is there one large tree
85 there? (M. Kowalski – Yes – Petitioner states there is a large blue spruce tree). Is it a
86 landmark tree? (Petitioner states it's a 60 year old tree – Staff states that this species is part
87 of what determines a landmark tree as well as diameter).

88
89 **Petitioner Presentation**

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91 Mr. Scott Diels, architect on the project, passed out two additional letters of support from the
92 surrounding neighbors (seven letters in total). He stated that the lot is irregularly shaped. He
93 stated that the neighboring garages obscure the proposed addition.

94
95 **Questions of the Petitioner by the Board**

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97 C. Carver – This is a great intrusion into the setback. (He asked the petitioner why the Board
98 should approve this). The petitioner stated that because the lot is irregularly shaped and
99 there are other unique conditions, it has additional problems.

100
101 D. Gregorka – How many square feet is the proposed addition? (Four to five hundred sq. ft.
102 The existing house is around one thousand sq. ft.) There is room to build in the building
103 envelope on both sides. Did you consider putting into the existing available building
104 envelope? (We would still need a variance, and were trying to take advantage of the solar
105 heat gain from the positioning of the addition).

107 K. Loomis – Just to verify, you don't know if this is a landmark tree? (Petitioner - No).

108

109 **Public Comment** - None.

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111 **Discussion by the Board**

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113 K. Loomis – I'm not convinced that there is a hardship. The variance request is very large
114 and there is buildable area on the property other than this and I'm not certain there is a
115 practical hardship. From the neighbors' perspective, I can see why they would think that this
116 is less intrusive, but I'm not sure that this proposal meets other standards that we have to
117 use. There are lesser variances they could request to achieve their goals.

118

119 D. Gregorka – I have a few concerns; on the plus side, the lot is unusual in terms of the
120 building envelope allowed – the back corner is the most isolated from surrounding neighbors.
121 There is room in the side setbacks. I would be more likely to support this if the master
122 bedroom were in the back and the study located somewhere else. I don't think this is the
123 minimum variance he needs.

124

125 C. Carver – I will not be supporting this as this is not the minimal variance that is required
126 under the ordinance. It's not the minimal amount that will make reasonable use of the land or
127 the structure.

128

129 **MOTION**

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131 Moved by K. Loomis, Seconded by C. Carver, "In regard to Appeal Number ZBA08-
132 001, 715 Pomona Road, that the Board grant permission to alter a non-
133 conforming structure based on the following findings of fact and in accordance
134 with the established standards for approval, Chapter 55, Section 5:87;

135

136 a) The alteration complies as nearly as practicable with the requirements of the
137 Zoning Chapter because the buildable area of the parcel is reduced due to
138 the irregular shape of the lot; and

139

140 b) The alteration will not have a detrimental effect on neighboring property (per
141 the attached plans)."

142

143 **On a Voice Vote – MOTION FAILED - UNANIMOUS**

144 *(Permission to alter a non-conforming structure – Denied)*

145

146 *(Since the Board had denied Permission to Alter the Non-Conforming Structure, there was
147 no need to address the variance request of the petitioner).

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149

150 **C-2 2207 Jackson Avenue – ZBA08-002**

151

152 **Dean Kahremanis, on behalf of Mark Zahn, is requesting one variance from Chapter 59**
153 **(Off-Street Parking), Section 5:167 (Required Parking): A variance of 9 parking spaces**
154 **in order to allow a new building to be constructed with 20 parking spaces total.**
155 **(29 total spaces are required by code).**

