



**APPROVED MINUTES OF
THE REGULAR MEETING OF THE
ZONING BOARD OF APPEALS
OF THE CITY OF ANN ARBOR
APRIL 25, 2007**

The Regular Session of the Zoning Board of Appeals was held on Wednesday, April 25, 2007 at 6:00 p.m. in City Council Chambers, 100 N. Fifth Avenue, Ann Arbor, Michigan.

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

II. **ROLL CALL**

Members Present: (8) C. Kuhnke, R. Emaus, D. Tope, C. Carver,
D. Gregorka, C. Briere, R. Suarez and K. Loomis

Members Absent: (1) W. Carman

Staff Present: (4) M. Lloyd, C. Cheng, M. Kowalski and
B. Acquaviva

Point of Order – Charles Carver – (To Chair) – Requested that item number 2 and item number three be switched in order on the agenda due to the fact that if the Administrative Appeal is granted, there would be no need for a variance – *(Agreed by the Chair - the Administrative Appeal of 2007-Z-009 ADMIN is changed in order of hearing on this agenda).*

III. **APPROVAL OF MINUTES**

Approval of Draft Minutes of the March 28, 2007 Regular Session.

Corrections: (Line 204, Clarify Statement; Line 219 – Strike “34” feet and insert “44” feet).

Moved by C. Carver, Seconded by D. Gregorka, “**that the minutes of the March 28, 2007 Regular Session be approved as amended.**”

On a Voice Vote – MOTION PASSED - UNANIMOUS

IV. **APPEALS & ACTION – UNFINISHED** - None.

V. **APPEALS & ACTION – NEW**

1. **2007-Z-008– 411 Washtenaw Avenue
Chapter 55, Zoning, Section 5:87, (Structure Nonconformance):**

Summary: Michael Van Goor is requesting permission to alter a non-conforming structure.

A variance of 15 feet 1 inch in order to allow a rear setback of 24 feet 11 inches for expansion of the existing house into the rear setback (40 feet is required by City Code.)

53 **Description and Discussion:**

54

55 The subject parcel is located at 411 Washtenaw Avenue, south of Geddes. The parcel is
56 zoned R4C (Multiple-Family Residential District). The house was built in 1910 and is 964
57 square feet.

58

59 The petitioner is proposing to add a second story containing 4 bedrooms to the existing
60 house. The house is non-conforming for front, side and rear setbacks. Currently, the
61 house has three bedrooms, but will lose one bedroom in order to accommodate stairs
62 for the second level. The footprint of the house will be reduced 65 square feet by
63 eliminating an entryway vestibule on the south side. The new entry will be on the east
64 side of the house, facing Washtenaw. If this request is approved, the house will have a
65 total of 6 bedrooms as permitted by City Code. Three parking spaces will be provided;
66 City Code requires 1½ spaces.

67

68 A similar request for this property was approved by the Zoning Board of Appeals in
69 July, 2006. The house has been sold and the new owner wishes to change the interior
70 design of the house and eliminate the eastern entryway. The previous approval was
71 based on "submitted plans" so this revised proposal is required to obtain ZBA approval.

72

73 **Standards for Approval:**

74

75 The Zoning Board of Appeals has all the power granted by State law and by Section 5:98,
76 from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

77

78 **(a). *The alteration complies as nearly as practicable with the requirements of the***
79 ***Zoning Chapter.***

80

81 The footprint of the existing house will not be expanded and will be slightly reduced;
82 the petitioner is asking to modify an existing non-conforming structure. After adding
83 3 bedrooms the structure will continue to be used as a single-family home and is
84 generally consistent with other surrounding uses.

85

86 Staff considers this request to be minimal in context of the surrounding land uses.
87 The expansion will allow the petitioner to improve their property while respecting the
88 intent of the Zoning Ordinance.

89

90 **(b). *The alteration will not have a detrimental effect on neighboring property***

91

92 The subject parcel lies on Washtenaw in an area heavily occupied by student rental
93 housing and larger apartment buildings. The existing house is surrounded on all
94 sides by much larger multi-family buildings of at least 2 stories. This existing small
95 single-family house is unique in this area.

96

97 Staff does not feel that the requested variance would negatively affect any
98 surrounding property. As stated previously the surrounding uses are more intense
99 and this addition will be a positive architectural modification to the structure. The
100 proposed expansion will also help to fix structural problems with the existing house.

101

102 **Recommendation:**

103 The alteration complies as nearly as practicable with the requirements of Chapter 55
104 and it will not have a detrimental effect on neighboring properties. Therefore, staff
105 recommends approval of the request to alter a non-conforming structure.

106 **Questions to Staff**

107

108 D. Gregorka – (To M. Kowalski) – How many bedrooms in total, six? (two currently, an
109 additional four?). M. Kowalski – They currently have three existing bedrooms in the home.
110 They're taking one out to put the stairs in (which leaves 2), then add 4 which is the same
111 total of six bedrooms.

112

113 C. Carver – (To M. Kowalski) – Is there any limit to how many bedrooms a single family
114 home can have? M. Kowalski (No). There is a limit to how many you can rent – you can
115 rent to six unrelated people per Zoning code of R4C, Multi-family. (Carver) – Does the
116 Housing Code have a different amount of people you can rent to? (No).

117

118 Carver – This petition came back before us because our last variance to them stated “per
119 attached plans,” and those had to be revised which is why they are here currently. When
120 they were here the last time, what did we allow them to do? (M. Kowalski)– We allowed
121 them to alter the existing building – at that time they only had a second story to it, and they
122 were building four bedrooms in total. There is no change in the *total* amount of bedrooms,
123 only the change in how they're arranged.

124

125 **Petitioner Presentation**

126

127 Michael Van Goor of Van Goor Architects was present to speak on behalf of the appeal.
128 Mr. Goor went over the past appeal granted to this home in 2006 and detailed the changes
129 that they are currently requesting. (*Petitioner also submitted revised elevation drawings at*
130 *the meeting*).

131

132 **Questions of the Petitioner by the Board**

133

134 C. Carver – This will have six bedrooms, and the upper bedroom is only for one person?
135 This is a large bedroom for one person. How many square feet are in this room?
136 (M. Van Goor stated the room is 15' 2" x 30' 8" or roughly 450 sq. feet

137

138 K. Loomis – The plans that we received have the square footage and it appears to be 496
139 from wall-to-wall (probably including the closet) and 321 within the five-foot area.

140

141 M. Van Goor – The owner felt that in order to maintain marketability with other properties in
142 the area, that they wanted to change from the design of the six bedroom previous layout to
143 offer something different.

144

145 R. Eamus – The steepness on the stairway – is there code on the rise and run and is it
146 regulated? (Petitioner – It is regulated. The maximum rise is 8 ¼ inches, the run is 9
147 inches. The maximum headroom is 6 ft., 8 in., and we are at 6'8 at the wall).

148

149 **Audience Participation** - None.

150

151 **Discussion by the Board**

152

153 C. Carver – We gave him permission previously for six bedrooms in 2006, and he's asking
154 for the same, but it's looks like only for rental income. This is not something we're allowed
155 to consider. I'm not in favor of this, but open to opinion by the Board.

156

157 K. Loomis – The size of the upper bedroom is not a concern to me. I've lived in rental
158 housing in Ann Arbor and people have occupied rooms of 400 plus square feet.

159 They used that for a single bedroom for themselves and paid additional rent for that - used
160 more like a studio apartment with a living area, and I can see that as being 'more
161 marketable'. I could understand your concerns a bit more If there hadn't been a change in
162 ownership (which there has) since the last variance, then I might be concerned. This is a
163 new owner who wants to make it fresh and with their own ideas.

164
165 D. Gregorka – Looking at this particular proposal apart from the past, I like the fact that
166 they are reducing a small portion of the footprint of the non-conformance, it fits with the
167 neighborhood. We've had similar proposals before. (*Discussion amongst the board*
168 *regarding the size of the upper room*).

169
170 **Questions by the Board** - None.

171
172 **Written Communications** - None.

173
174 **MOTION #1**

175
176 Moved by K. Loomis, Seconded by D. Tope, “that in the case of Appeal Number
177 2007-Z-008, 411 Washtenaw Avenue, petitioner be granted permission to alter
178 a non-conforming structure based on the following findings of fact and in
179 accordance with the established standards for approval:

180
181 a. Per the attached plans, the alteration complies as nearly as
182 practicable with the requirements of the chapter.

183
184 b. The alterations will not have a detrimental effect on neighboring
185 property.”

186
187 **On a Voice Vote – MOTION PASSED – Yea (7) – Nay (1) – Absent (1)**

188
189 ***Permission to Alter a Non-Conforming Structure Granted***

190 (**Note: Order of Agenda was changed to have item number three heard prior to item*
191 *number two.*)

192
193 **3. 616 West Summit Street – 2007-Z-009 ADMIN**

194
195 **Summary:** William Malone is requesting an Administrative Review of the Zoning
196 Administrator’s interpretation of **Chapter 55, Section 5:61, “Application to Lots of**
197 **Record.”**

198
199 **Description and Discussion:**

200
201 The petitioner purchased the property in July 2002. The parcel is zoned R2A and is 10,350
202 square feet and 50 feet wide. The minimum width for an R2A lot is 60 feet, minimum lot
203 area is 8,500 square feet and the minimum lot area per dwelling is 4,250 square feet. As a
204 result, the parcel is nonconforming and is subject to the regulations of 5:61, Application to
205 Lots of Record. The petitioner has proposed to demolish the existing single-family house
206 and construct a duplex.

207
208 **Case History:**

209
210 *In March 2007, the petitioner applied for a building permit for the subject property in order*
211 *to construct the previously mentioned duplex.*

212 *The building permit was subsequently denied based on Chapter 55, Section 5:61 and the*
213 *petitioner decided to appeal the Zoning Administrator's interpretation of 5:61 to the ZBA.*
214 *The petitioner also has applied for a variance from the minimum required lot width to be*
215 *heard if the Zoning Administrators decision is upheld by the ZBA. The petitioner states that*
216 *Section 5:61 should be interpreted to allow a duplex to be constructed on the subject*
217 *parcel and that Zoning staff has applied this section in error.*

218
219 **Case specifics:**

220
221 *Chapter 55, Section 5:61, Application to Lots of Record: " Where the owner of a*
222 *nonconforming lot of record does not own and cannot reasonably acquire sufficient land to*
223 *enable him to conform to the requirements of this chapter relating to lot area, lot width, or*
224 *both, such lot of record may be used by such owner as a building site, provided that such a*
225 *use shall be limited to the permitted principal use that directly corresponds to the area,*
226 *height, and placement characteristics of the lot of record. Except, that if a lot of record*
227 *cannot conform to any minimum area, height, and placement regulations of the zoning*
228 *ordinance, then the lot of record may be developed only for single-family residential use."*

229
230 *The requirements of the R2A (Two-Family) zoning district are, 8,500 square feet lot area*
231 *minimum and at least a 60-foot lot width. The subject parcel is zoned R2A (Two-Family)*
232 *and is 10,350 square feet, which is 1,850 square feet larger than the minimum required lot*
233 *area for the R2A residential zoning district. However, the subject parcel is 50 feet wide*
234 *and cannot meet the minimum required width (60 feet) for a R2A parcel. The petitioner is*
235 *proposing to construct a duplex. Under the existing R2A zoning standards, duplexes are*
236 *an allowed principal use.*

237
238 *As indicated above, the lot is a non-conforming lot of record that cannot comply with area*
239 *requirements for any of the principal permitted uses, which are residential. According to*
240 *Section 5:61, if a parcel cannot comply with the minimum area, height and placement*
241 *regulations of any of the principal permitted uses, "the lot of record may be developed only*
242 *for single-family residential use."*

243
244 *An example of where Section 5:61 may permit something other than a single-family*
245 *residential development is a nonconforming lot of record of 8500 square feet and 60 feet*
246 *wide in an area zoned R4C/D (Multiple-Family Dwelling District). The R4C/D district*
247 *requires a minimum lot size of 14,000 square feet and width of 120 feet and has the same*
248 *permitted principal uses as the R4C. In this case the owner of the 8,500 square foot*
249 *nonconforming lot of record could not build to R4C/D standards because he does not meet*
250 *the minimum lot size or width for that district. However, he could build a duplex, because*
251 *the permitted principal uses of R2A do directly correspond to the area, height and*
252 *placement requirements of the nonconforming lot, i.e. it requires 8,500 square feet of area*
253 *and 60 feet in width.*

254
255 *Zoning staff has consulted with City Planners, former Zoning Administrators and office staff*
256 *in order to confirm the intent and interpretation of this section.*

257
258 **Questions to Staff**

259
260 K. Loomis – (To M. Kowalski) – There was information in the petitioners application
261 regarding a meeting he held with you in July of 2006. Do you recall that meeting or do you
262 agree with their interpretation of that meeting? (M. Kowalski) – I don't recall that specific
263 meeting. My interpretation of the code has always been consistent; I haven't changed my
264 view. There could have been a meeting.

265 D. Gregorka – The lot is 50 feet wide, doesn't meet the minimum, and this is why you
266 denied it, correct? (M. Kowalski – Yes). Is there any other issue that you're aware of with
267 respect to the interpretation? (No. From my point of view, no).

268

269 **Petitioner Presentation**

270

271 Mr. William Malone was present to speak on behalf of the Administrative Appeal. He
272 stated that the point of contention is the paragraph following the lot width and area for that
273 district - which states "where the owner of a non-conforming lot of record does not own and
274 cannot reasonably acquire sufficient land to enable him to conform to the requirements of
275 this chapter relating to lot area, lot width or both, such lot of record may be used by such
276 owner as a building site, provided that such a use shall be limited to the permitted principal
277 use that directly corresponds to the area, height and placement characteristics of the lot of
278 record."

279

280 Mr. Malone states that through meetings with his architect and builder, this clearly states
281 that there is an exception to build when the lot is in non-conformance if it is appropriate for
282 the Zone, which in this case is two family. The supporting statement that the city uses is "if
283 it cannot comply with *the* minimum height and placement regulations of any of the
284 permitted principal uses," and that's not what the code states. He stated that he believed
285 that the disagreement is the use of the word "any" – and by using 'any' and 'and' in the last
286 sentence of that paragraph, it shows that only one of the conditions needs to be met and
287 not all three.

288

289 He summed up his presentation by saying that he believes that they meet all three criteria
290 regardless; the lot is well over the minimum 8500 sq. foot area for two-family construction,
291 the height of the of the proposed structure is within the code as are the setback
292 regulations. He stated that he felt that the authors of the code intended this language
293 specifically for cases like his, otherwise it would not be there.

294

295 **Questions by the Board of the Petitioner**

296

297 C. Carver – What deficiencies would the lot have before you would be forced to build a
298 single-family home? At what point does that last sentence come into play in your thinking?
299 (Petitioner – The minimum area, height and placement regulations – if I can't meet any of
300 those, then I can only do single-family construction). So, because you're deficient ten feet,
301 you qualify to build a duplex there? (Correct, because of the addition of the last
302 paragraph).

303

304 R. Eamus – How many rooms are you planning to build in each unit? (Three bedrooms).
305 So, you could build a single-family home with six bedrooms? (Theoretically, yes). Why
306 isn't that acceptable? (I've made significant investment in this project, and to start anew
307 would leave me at a significant financial loss – the property has already been partially
308 demolished, based on a meeting that I had with Chris Cheng and Matt Kowalski in 2006).

309

310 **Audience Participation** – None.

311

312 **Written Communications** –

313

- 314 1. Matthew Gutchess, 993-995 Fountain Street, Ann Arbor, MI 48103 – **In**
315 **Support** (Noted by the Chair that the communication was not specific as to
316 whether it supported 2007-Z-009 ADMIN. Appeal, 2007-Z-009 Variance appeal
317 or both).

- 318 2. Michael Andes, 621 West Summit Street, Ann Arbor, MI 48103 - In Support of
319 the Variance Request.

320
321 **Discussion by the Board**

322
323 R. Eamus – To follow up on Charles’ reasoning, if this lot were only ten feet wide and
324 20,000 sq. feet large in area, you could build a duplex on it (you could take that to
325 absurdity and make it one foot wide). As we stated when this issue arose previously, the
326 phrase applies to the whole of the area width and height – all three together. This area
327 doesn’t meet the three requirements of the R2A district so it’s not zoned for a duplex. It’s
328 clear to me and clear to the city.

329
330 D. Gregorka – I agree with Ron on this. We had one like this within the last couple of
331 months with a very similar situation, and I think the city interpretation is correct.

332
333 **MOTION**

334
335 Moved by C. Carver, Seconded by D. Gregorka, “that in the case of Appeal Number
336 2007-Z-009 ADMIN., 616 West Summit Street, that the Zoning Administrator was in
337 error for denying a duplex to be constructed on this property.”

338
339 **On a Voice Vote – MOTION FAILED - *UNANIMOUS (Administrative Appeal Denied)***

340
341
342 **2. 616 West Summit Street – 2007-Z-009**

343
344 **Summary:** William Malone is requesting one variance from **Chapter 55, Zoning, Section**
345 **5:30(R2A), (Area, Height and Placement Regulations):**

346
347 A variance of 10 feet from the R2A (Two-Family) minimum lot width requirements in
348 order to allow construction of a duplex unit on a non-conforming width lot. City Code
349 permits a non-conforming lot of record to be developed only for single-family residential
350 use.

351
352 **Description and Discussion:**

353
354 The subject parcel is located on West Summit Street, west of Fountain Street. The parcel
355 is zoned R2A (Two-Family Dwelling District). The existing parcel is 10,350 square feet.
356 The minimum lot size for the R2A zoning district is 8,500 square feet and the minimum lot
357 area per dwelling unit is 2,175 square feet. The minimum required lot width for the R2A
358 district is 60 feet and the subject parcel is 50 feet.

359
360 The petitioner is proposing to demolish the existing single-family home and construct a
361 duplex on a non-conforming lot. The driveway is proposed along the eastern edge of the
362 property and will utilize a six-foot access easement over the adjacent parcel. City code,
363 Chapter 55, permits a non-conforming lot to be used only for single-family residential use.

364
365 **Standards for Approval:**

366
367 The Zoning Board of Appeals have all the power granted by State law and by Section 5:99,
368 Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The
369 following criteria shall apply:

370 (a). ***That the alleged hardships or practical difficulties, or both, are exceptional***
371 ***and peculiar to the property of the person requesting the variance, and result***
372 ***from conditions which do not exist generally throughout the City.***
373

374 The subject parcel is non-conforming in width, a condition that is not unique in
375 certain areas of the City. Many parcels that are zoned Two-Family and are non-
376 conforming in total size are used as single-family structures.
377

378 (b). ***That the alleged hardships or practical difficulties, or both, which will result***
379 ***from a failure to grant the variance, include substantially more than mere***
380 ***inconvenience, inability to attain a higher financial return, or both.***
381

382 The parcel can be used to construct a single-family house occupied by a maximum
383 of six unrelated people. Failure to grant the variance will still allow the property
384 owner to construct a six-bedroom rental unit on a non-conforming parcel.
385

386 (c). ***That allowing the variance will result in substantial justice being done,***
387 ***considering the public benefits intended to be secured by this Chapter, the***
388 ***individual hardships that will be suffered by a failure of the Board to grant a***
389 ***variance, and the rights of others whose property would be affected by the***
390 ***allowance of the variance.***
391

392 The proposed structure will be significantly larger in mass than surrounding
393 structures. While there are surrounding parcels of similar density, the surrounding
394 houses retain a single-family home appearance.
395

396 (d). ***That the conditions and circumstances on which the variance request is***
397 ***based shall not be a self imposed hardship or practical difficulty.***
398

399 The need for the requested variances is a self-imposed hardship.
400 The existing structure could be demolished and a new single-family house could be
401 constructed without the need for a variance. The need for a 6-foot easement on the
402 adjacent property indicates that the subject parcel is too narrow to support the
403 proposed duplex with adequate access.
404

405 (e). ***A variance approved shall be the minimum variance that will make possible a***
406 ***reasonable use of the land or structure***
407

408 A new house can be built and fully utilized as a single-family house without the need
409 for a variance. Denial of the variance will not prevent the property owner from
410 renting the property as a six bedroom single-family residence.
411

412 **Recommendation:**

413
414 The proposed variance request does not meet all of the Standards of Approval and
415 staff recommends denial of the variance from Chapter 55, Zoning, Section 5:33(R4B),
416 Area, Height and Placement Regulations.
417

418 **Questions to Staff**

419
420 C. Carver (To M. Kowalski) – This is two lots that have been combined into one?
421 (I researched back to the 1960's and it appears they were one parcel even then, although
422 it looks like they could have been separate at one time).

423 C. Carver – (Referring to drawings) This looks like two single-family homes being built on
424 one lot. If you have touching garages, that makes it a duplex? (M. Kowalski – Yes). The
425 ‘access easement’ – does the petitioner currently have the access easement? (Not to my
426 knowledge at this time). Do we have to make the motion contingent on getting the
427 easement? (If you were to approve it, yes, and you would be approving it based on the
428 submitted plan).

429

430 **Petitioner Presentation**

431

432 Marc Rueter of Reuter and Associates Architects was present to speak on behalf of the
433 appeal. Mr. Rueter stated that one of staff’s objections was that this project would violate
434 the massing in the size of the neighborhood (he presented drawings of the neighboring
435 homes and passed out a dimensional drawing of what the structure would look like).
436 *(*Note: Appeals personnel were not provided with these drawings, so they are not a part of*
437 *the permanent record).* Mr. Reuter points out that their design shows that it actually has
438 the affect of being more in character with the neighborhood than most.

439

440 As far as the easement goes, the interpreter, Matt, is stating that we had to place an
441 easement on the adjacent property so that we could get a driveway back there. The intent
442 was to save on permeable area and to provide a joint driveway for Avalon House, which is
443 immediately to the right. The net affect of this easement is that it makes the lot effectively
444 wider – we’re adding another six feet to a fifty-foot wide lot (will be 56 ft.) as we can place
445 the drive to one side. This benefits Avalon House as well as my petitioner, as Avalon will
446 not have to maintain the driveway completely and they get more yard space back.

447

448 C. Carver – Since you’re tearing the existing house down and have basically a vacant lot,
449 for us to grant a variance, there has to be some hardship or practical difficulty. What
450 would those be? (M. Rueter – The lot is quite a large lot, it’s just not configured in the
451 optimal shape for a regular duplex, so the hardship is that it’s a very unusual lot).

452

453 William Malone – (Owner) – Mr. Malone outlined the hardships associated with the case;
454 L-shaped property (unusual), it is officially recorded in the property Léger as having a
455 75 foot width, as it is a different width in the back than in the front. *(*Please refer to all*
456 *notes in the Administrative Appeal presentation for more information).* He noted that all
457 open space requirements would be met and that the house as is is currently an eyesore.
458 The minimum variance possible – we’re doing a six-foot easement with the neighbor
459 (Avalon Housing), we have a verbal agreement with Avalon (will be per the site plan).
460 They will get a new driveway from it at no cost to them. That six-foot easement leaves us
461 with a four-foot shortfall in width, and that would be the minimum variance. Anything else
462 given from the neighbor as in “acquiring land” would make their lot non-conforming, so
463 purchasing additional land besides the easement is not an option.

464

465 **Questions of the Petitioner by the Board**

466

467 R. Eamus – Is it your intention to also grant an easement with your neighbor, Avalon
468 Housing for their driveway? Shared access easement on both? (Petitioner – Yes, and the
469 driveway is free to them). *(Discussion amongst the Board and staff as to what is*
470 *considered a side or rear setback).*

471

472 D. Gregorka – Clarification – The intention is to get an easement with Avalon that has
473 been verbally discussed but nothing in writing, is that correct? (Petitioner – Yes).

474 **Public Commentary** – None.

475

476 **Discussion by the Board**

477

478 D. Tope – Finds the requirement of the intent of the ordinance (and asking the owner to
479 acquire adjacent property) – that this is substantially met by the granting of a ‘use
480 easement’ (and I would require a recorded easement to be a part of the approval if we do
481 approve it) - using the surface of that property, and that is essentially what the sixty-foot
482 requirement does. It provides the use of that width for the structure that is built on a lot.
483 Maybe you could get them to agree on a ten-foot shared easement and you’ve met the
484 requirements.

485

486 The practical difficulty is met by the shape of this lot. If a variance weren’t granted, in this
487 neighborhood, the limited use of this lot would not be beneficial to the neighborhood.
488 I especially like the sharing of the use access with the neighboring property. I am inclined
489 to support this variance request “per submitted plans” and “the recording of a legal
490 easement of record of 6-10 feet from the adjacent property to the east.”

491

492 C. Carver – I’ve always believed that if a petitioner has a vacant lot that you build
493 according to the lot requirements. On the positive side, if you spun this lot one hundred
494 eighty degrees, the seventy-five foot width would be on the street. He’s got ten thousand
495 over ten thousand square feet, and it would be wrong to say that all you can have is a
496 single-family home. He’s going to demolish the current house that is in disrepair. This is
497 an exception to the rule and I will probably support this variance.

498

499 R. Suarez – I will support the variance. I am familiar with that neighborhood, and I don’t
500 think that a six-bedroom home would be beneficial to the neighborhood. Two smaller units
501 that would allow ‘starting families’ a nice home would provide more benefit, assuming that
502 the easement is a condition of the variance.

503

504 D. Gregorka – (Asks Staff Questions regarding measurement of front setback) – It says
505 “Average – 24 foot setback? Was that verified? Looking at the houses next to it, I wonder
506 if it were verified. – (M. Kowalski – No, we did not measure it. It is what they had written
507 on their plans. Since we denied the permit and it was a non-conforming lot, we didn’t go
508 any further).

509

510 M. Lloyd – Suggests that the Board mentions the setback if they approve this. Compliance
511 with the front setback must be met or wait until the site plan was revised to approve it. If
512 you approve it per the site plan (which you normally do), then you would be approving it
513 with the site plan as you see it tonight. In order to overcome that deficiency, you would
514 want to incorporate language to cover that.

515

516 D. Gregorka – I understand that, but that really troubles me. If we grant the variance and
517 we’re just looking at lot width, and we say “per attached plans,” meaning – this is the
518 development we’re looking at, the assumption is that all the other requirements in the
519 ordinance are met and we’re not giving a ‘blessing’ to the front, rear or side setbacks (or
520 anything else).

521

522 M. Lloyd – City staff will check that, and I’m mentioning that the plan that you have before
523 you is what you normally identify as what you’re approving – and subject to that plan, is
524 what you’ve identified, which is the 24’ setback).

525

526 D. Gregorka – What does the city do if they find out that the setback is not correct. Does
527 the city just plow ahead if we've already granted a variance and go with submitted plan?
528

529 M. Lloyd – We would inform the applicant that they would need to meet the setback
530 requirement - that would be absolute. For purposes of the normal processes that the ZBA
531 follows with regard to the site plan in order to eliminate any confusion or issues, we would
532 recommend that there be clarity in that approval this evening, or if nothing else, that we go
533 on record in front of the applicant this evening that it indicates that the front setback
534 requirement will need to be met along with all the other requirements of the ordinance.
535

536 C. Carver – If we approved 26' and he shows a 24' setback, then he's made a
537 misrepresentation to us, and based on that the city can deny him a building permit
538

539 D. Tope – Each time we approve a variance, we give specific language relating specifically
540 to that particular plan. We don't relate to every single detail. When we say to allow a 50'
541 lot width as shown on the attached plan, that is all we're talking about; his responsibility is
542 to meet every other requirement, otherwise we'll be 'fly-specking' everything.
543

544 R. Eamus – One reason I asked about the front and rear setbacks, some of the issues that
545 have come before us were land divisions, and there have been questions about what was
546 the front, what was the back, etc. I agree with Donna's statement about granting the
547 easement being the difference. I don't think this parcel configuration is common
548 throughout the city. The overall building site configuration should not change, it should
549 conform where necessary. *(Further discussion by the Board regarding setbacks,
550 requirements for the parcel, etc.)*
551

552 **MOTION**

553
554 Moved by D. Tope, Seconded by C. Carver, **“that based on the following findings of
555 fact and in accordance with the established standards for approval, the Zoning
556 Board of Appeals hereby grants a variance of 10' from Chapter 55, Section 5:30
557 (R2A – Two Family) to allow a lot width of 50' as shown on submitted plan, and
558 acquiring a legal easement of record of 6' or greater from the adjacent property to
559 the east.**
560

- 561 a. **The alleged hardships are peculiar to the property and results
562 from conditions which generally do not exist throughout the city;**
563
564 b. **The alleged hardships or practical difficulties or both which
565 result as a failure to grant the variance, will result in substantially
566 more than mere inconvenience and an ability to attain a higher
567 financial return or both;**
568
569 c. **The variance, if granted, will not significantly affect surrounding
570 properties;**
571
572 d. **The circumstances of the variance request are not self-imposed;**
573
574 e. **The variance request is the minimum necessary to achieve
575 reasonable use of the structure.”**
576

577 **On a Voice Vote – MOTION PASSED – *UNANIMOUS- Variance Granted***
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VI. UNFINISHED BUSINESS

None.

VII. NEW BUSINESS

None.

VIII. REPORTS & COMMUNICATIONS

The Annual Zoning Board of Appeals Organizational Meeting followed the Regular Session of the Zoning Board of Appeals.

IX. AUDIENCE PARTICIPATION - GENERAL

None.

X. ADJOURNMENT

Moved by D. Tope, Seconded by D. Gregorka, "that the meeting be adjourned."

On a Voice Vote – MOTION PASSED - UNANIMOUS

Chairperson Carol Kuhnke adjourned the meeting at 7:27 p.m.

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



Carol Kuhnke, Chairperson

5-23-07

Dated ZBA Minutes